BIRMINGHAM CITY COMMISSION AGENDA
JULY 20, 2020
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.
VIRTUAL MEETING

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk Designee

III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS.

ANNOUNCEMENTS:

- All city offices remain closed to the public. All departments are accessible via phone and email. Payments may be dropped off using the convenient drop box, located behind City Hall and accessible via the Police Department parking lot off Henrietta Street.
- The Baldwin Library is open to the public. Building capacity is limited, and people are asked to limit their stay to 45 minutes. Public computer use is restricted to 30 minutes. Masks and social distancing are required. The Library is open on its regular schedule, seven days a week, and is also offering Curbside Pickup service to patrons during limited hours, which are listed on the Library's website. The expanded and renovated Youth Room will probably be opened to the public within the next several days. This will be the culmination of an eleven-month building project. The exterior landscaping will be completed in August.
- We encourage everyone to sign up for our email distribution system to receive the latest information from the City. You can do this by going to our website and clicking on the box in the lower right corner of your screen to sign up.
- The Clerk's Office reminds all registered voters that you may request an application for an Absent Voter ballot for the August 4, 2020 Primary election by downloading the application found in the Voting section of the Clerk's Office page at www.bhamgov.org/. You can return it to the Clerk's office by mail, email, fax, or by dropping it off in the city's drop box located behind City Hall in the Police Department parking lot. Please return your absentee ballot to the Clerk's office no later than 8p.m. on Election Day but preferably earlier than the deadline. Finally, if you are interested in working as an Election Inspector in Birmingham in the upcoming elections, please contact our office at elections@bhamgov.org or 248-530-1880.

IV. PUBLIC COMMENT

V. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

A. Resolution approving the City Commission meeting of July 13, 2020.

B. Resolution approving the warrant list, including Automated Clearing House payments, dated July 15, 2020 in the amount of $1,316,111.01.

C. Resolution setting Monday, August 10, 2020 at 7:30 PM for a public hearing date for August 10, 2020 to consider a Final Site Plan and Special Land Use Permit Amendment at 310 E. Maple to allow the change in name from Pernoi to Casa Pernoi.

D. Resolution approving the service agreement with Next in the amount of $120,380 for services described in Attachment A of the agreement for fiscal year 2020-2021, account number 101-299.000-811.0000, and further directing the Mayor and City Clerk to sign the agreement on behalf of the City. (complete resolution in agenda packet)

E. Resolution approving the CARES Act Interlocal Agreement between Oakland County and the City of Birmingham and authorizing the Mayor to sign the agreement on behalf of the City.

F. Resolution approving the contract with Davey Resource Group, Inc. for Professional Services to develop a Tree Manual and Standards of Practice for a total project cost not to exceed $11,950.00. Funds are available from the Parks - Other Contractual Services account #101-751.000-811.0000 for these services. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

G. Resolution approving the purchase of one (1) 2020 GMC Sierra 2500 HD from Todd Wenzel Buick GMC through the Oakland County cooperative purchasing contract #005222 in the amount of $32,549.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006.971.0100.

H. Resolution approving free on-street parking July 22 - July 28, 2020 for the "Back to Birmingham" Sale promoted by the Birmingham Shopping District in replacement of the Day on the Town event, possibly foregoing approximately $48,000 of revenue to the Automobile Parking System.

I. Resolution awarding the project for Restoration and Preservation of the Hunter House-Exterior Carpentry, Trim and Paint to L.G.K. Building, Inc., contingent upon meeting all insurance requirements, in the amount of $62,950.00, to be charged to the Hunter House Other Contractual Services account, #101-804.001-811.0000 and further; to approve the appropriation and amendment to the fiscal year 2020-2021 General Fund budget as follows:

General Fund

Revenues:

101-000.000-400.0000	Draw from Fund Balance	$62, 950
Total Revenue		$62, 950

Expenditures:

101-804.001-811.0000	Hunter House – Other Contractual Service	$62, 950
Total Expenditures		$62, 950

J. Resolution awarding the contract for Restoration and Preservation of the Hunter House-Drainage and Masonry to L.G.K. Building, Inc., contingent upon meeting all insurance requirements, in the amount of $51,750.00, to be charged to the Hunter House Capital Projects Account, 401-804.001- 977.0000 and further; to approve the appropriation and amendment to the fiscal year 2020-2021 General Fund budget as follows:

General Fund

Revenues:

401-000.000-400.0000	Draw from Fund Balance	$51,750
Total Revenue		$51,750

Expenditures:

401-804.001-977.0000	Capital Projects-Hunter House	$51,750
Total Expenditures		$51,750

VI. UNFINISHED BUSINESS

A. Public Hearing to consider the Special Land Use Permit Amendment and Final Site Plan and Design Review – Lutheran Church of the Redeemer, 1800 W. Maple

1. Resolution approving the Special Land Use Permit Amendment and Final Site Plan and Design Review for 1800 W Maple – Lutheran Church of the Redeemer to expand the sanctuary and narthex and make related improvements as recommended by the Planning Board on April 22, 2020. (complete resolution in agenda packet)

B. Public Hearing to consider the proposed rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5

1. Resolution approving the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5 as recommended by the Planning Board on May 27, 2020.

VII. NEW BUSINESS

A. Resolution adopting an ordinance to amend Part II of the City Code, Chapter 62-Historical Preservation, Article II.- Museum Board, Sec. 62-26 establishment; composition, to include an alternate member, and directing the City Clerk to certify and publish the amended ordinance on behalf of the City.

B. Resolution submitting a Parks and Recreation Bond Proposal in the amount of $11,250,000 at the general election to be held on Tuesday, November 3, 2020

AND

Resolution engaging VanDyke*Horn to perform communication services as outlined in their July 1, 2020 communication bond proposal in the amount of $30,000 charged to Other Contractual Services Account #101-170.000-811.00.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

A. Commissioner Reports
B. Commissioner Comments
C. Advisory Boards, Committees, Commissions' Reports and Agendas
D. Legislation
E. City Staff

INFORMATION ONLY

XI. ADJOURN

PLEASE NOTE: Due to building security, public entrance during non-business hours is through the Police Department – Pierce St. entrance only.

NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).

BIRMINGHAM CITY COMMISSION MEETING
JULY 13, 2020
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.
VIRTUAL MEETING

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk Designee, called the roll.

PRESENT: Mayor Boutros
Mayor Pro-Tem Longe
Commissioner Baller
Commissioner Hoff
Commissioner Host Commissioner Nickita
Commissioner Sherman

ABSENT: Commissioner Hoff

Administration: City Manager Valentine, City Attorney Currier, Finance Director Gerber, Planning Director Ecker, DPS Director Wood, HR Manager Myers, IT Manager Brunk, Management Intern Fairbairn, City Clerk Designee Bingham

III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS.

INTRODUCTION OF GUESTS:

- Congresswoman Haley Stevens, member of the U.S. House of Representatives 11th Congressional District addressed the City Commission, commended the Mayor, City Commission, and City Manager Valentine on their leadership of the City during the unprecedented COVID19 pandemic. She provided an update on Washington's response to the pandemic as well. Mayor Boutros thanked Congresswoman Stevens for facilitating weekly meetings with the Municipalities that she represents in response to COVID19.

ANNOUNCEMENTS:

- All city offices remain closed to the public. All departments are accessible via phone and email. Payments may be dropped off using the convenient drop box, located behind City Hall and accessible via the Police Department parking lot off Henrietta Street.
- We encourage everyone to sign up for our email distribution system to receive the latest information from the City. You can do this by going to our website and clicking on the box in the lower right corner of your screen to sign up.
- The Baldwin Library is now open to the public again. Building capacity is limited, and people are asked to limit their stays to 45 minutes. Public computer use is restricted to 30

minutes. Masks and social distancing are required. The Library is open its regular schedule, seven days a week, and is also offering Curbside Pickup service to patrons during the following hours: Mondays through Thursdays, 11:00 a.m. to 7:00 p.m.; Fridays and Saturdays, 9:30 a.m. to 5:30 p.m. and Sundays, 1:00 p.m. to 4:00 p.m. Find more details about Curbside Pickup and the Library's reopening plan at www.baldwinlib.org/reopening.

- Absent Voter ballots for the August 4, 2020 Primary election are available now from the Clerk's office for all registered voters. Download the application found in the Voting section of the Clerk's Office page at www.bhamgov.org/. You can return your application for an absent voter ballot to the Clerk's office by email, fax, or by dropping it off in the city's drop box located behind City Hall in the Police Department parking lot. Ballots can be returned by drop box or mail, return postage is 55 cents. Finally, if you are interested in working as an Election Inspector in Birmingham in the upcoming elections, please contact our office at elections@bhamgov.org or 248-530-1880.
- As part of the City's COVID-19 operational incentives, the City has expanded online service offerings so that most City forms and payments may be submitted online. View a complete list of payments and forms that may be submitted online at www.bhamgov.org/formsandpayments.
- The City Commission would like to thank Darlene Gehringer and Kevin Desmond for their years of service to the city serving as members of the Greenwood Cemetery Advisory Board.
- The City would like to congratulate Bonnie Menthen on her recent retirement and thank her for the 39 years of service that she provided to the residents of Birmingham.
- Mayor Pro-Tem Longe's Birthday.

APPOINTMENTS:

06-113-20 APPOINTMENT OF CHRIS CONTI TO THE RETIREMENT BOARD

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To concur with the Mayor's recommendation to appoint Chris Conti to the Retirement Board, as the resident member who is not eligible to participate in the retirement system, to serve a three-year term to expire July 1, 2023.

ROLL CALL VOTE:	Yeas,	Mayor Pro-Tem Longe
		Commissioner Baller
		Commissioner Host
		Commissioner Nickita
		Commissioner Sherman
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

06-114-20 APPOINTMENT OF DAN HAUGEN TO THE MUSEUM BOARD

NOMINATION: Nomination by Mayor Pro-Tem Longe:
To appoint Dan Haugen to the Museum Board as a regular member to serve a three-year term to expire July 5, 2022.

ROLL CALL VOTE:	Yeas,	Mayor Pro-Tem Longe
		Commissioner Baller
		Commissioner Host
		Commissioner Nickita
		Commissioner Sherman
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-115-20 APPOINTEMENT OF CAITLIN ROSSO TO THE MUSEUM BOARD

NOMINATION: Nomination by Commissioner Host:
To appoint Caitlin Rosso to the Museum Board as a regular member to serve a three-year term to expire July 5, 2022.

ROLL CALL VOTE:	Yeas,	Commissioner Host
		Commissioner Nickita
		Commissioner Sherman
		Mayor Pro-Tem Longe
		Commissioner Baller
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-116-20 APPOINTMENT OF MARTY LOGUE TO THE MUSEUM BOARD

NOMINATION: Nomination by Commissioner Nickita:
To appoint Marty Logue to the Museum Board as a regular member to serve a three-year term to expire July 5, 2022.

ROLL CALL VOTE:	Yeas,	Commissioner Nickita
		Commissioner Sherman
		Mayor Pro-Tem longe
		Commissioner Baller
		Commissioner Host
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-117-20 APPOINTMENT OF DONOVAN SHAND TO THE CABLE BOARD
The Commission interviewed Mr. Donovan Shand for appointment to the Cable Board.

NOMINATION: Nomination by Commissioner Sherman:
To appoint Donovan Shand to the Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2023.

ROLL CALL VOTE:	Yeas,	Commissioner Sherman
		Commissioner Nickita
		Mayor Pro-Tem Longe
		Commissioner Baller
		Commissioner Host
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-118-20 APPOINTMENT OF ROBERT LAVOIE TO THE STORM WATER UTILITIES APPEAL BOARD.

The Commission interviewed Robert Lavoie for appointment to the Storm Water Utilities Appeal Board.

Commissioner Baller pointed out the number of times that the appeal board met, and felt that he should apply to a board that would use his expertise more frequently.

NOMINATION: Nomination by Commissioner Baller:
To appoint Robert Lavoie to the Storm Water Utilities Appeal Board as a regular member to serve a three-year term to expire January 31, 2023.

ROLL CALL VOTE:	Yeas,	Commissioner Baller
		Commissioner Sherman
		Mayor Pro-Tem Longe
		Commissioner Nickita
		Commissioner Host
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-119-20 APPOINTMENT OF SOPHIE FIERRO-SHARE TO THE ETHICS BOARD

Commissioner Nickita acknowleged the high level of professionalism displayed by the current board in performing their duties and expressed that the City is very fortunate to have the current combination of board members.

NOMINATION: Nomination by Commissioner Nickita:
To appoint Sohpie Fierro-Share as a regular member to the Board of Ethics to serve a three-year term to expire June 30, 2023.

ROLL CALL VOTE:	Yeas,	Commissioner Nickita
		Mayor Pro-Tem Longe
		Commissioner Baller
		Commisisoner Host
		Commissioner Sherman
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

Mayor Boutros advised the new appointees that they would be sworn in by appointment at the City Clerk's Office at a later date.

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

07-120-20 CONSENT AGENDA

The following items were removed from the Consent Agenda:

Commissioner Baller: Item A – Resolution to approve the City Commission Joint Commission/Planning Board Meeting of June 15, 2020.

Item F - Resolution extending the term of the Ad Hoc Unimproved Street Study Committee through December of 2020.

Item G – Resolution extending the term of the Ad Hoc Joint Senior Service Committee through December 31, 2020.

Item I – Resolution approving the fertilizer/chemical purchases for Lincoln Hills and Springdale Golf Courses from Harrell's for $22,000, Target Specialty Products for $22,000, and Great Lakes Turf for $8,000. The total purchase from all vendors will not exceed a total of $52,000. Funds to be charged to account #s 584/597-753.001-729.0000.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Baller:
To approve the Consent Agenda excluding Items A, F, G, and I.

ROLL CALL VOTE:	Yeas,	Commissioner Sherman
		Commissioner Baller
		Commissioner Host
		Commissioner Nickita
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

B. Resolution approving the City Commission regular meeting minutes of June 22, 2020.

C. Resolution approving the warrant list, including Automated Clearing House payments, dated June 24, 2020 in the amount of $559,055.75.

D. Resolution approving the warrant list, including Automated Clearing House payments, dated July 1, 2020 in the amount of $944,763.43.

E. Resolution approving the warrant list, including Automated Clearing House payments, dated July 8, 2020 in the amount of $276,057.39.

H. Resolution approving the purchase of 36A Hot asphalt mix at $76.50/ton (2020-2021) and $76.50/ton (2021-2022) and UPM cold patch (delivered) at $123.00/ton (2020-2021) and $123.00/ton (2021-2022) from Cadillac Asphalt LLC for a two year period for the fiscal

years 2020-2022 to be charged to accounts #202-449.003-729.0000, #203-449.003-729.0000, #590-536.002- 729.0000 and #591-537.005-729.0000.

J. Resolution setting Monday, August 10, 2020 at 7:30 PM for a public hearing as prescribed in Section 50-42 of the Birmingham City Code for the property located at 1365 Chapin; and to notify the owner and other interested parties of the same.

K. Resolution approving the agreement for Election Services between Oakland County and the City of Birmingham and further; authorizing Alexandria Bingham, the City Clerk Designee, to sign
the agreement on behalf of the City of Birmingham.

L. Resolution approving the appointment of election inspectors, absentee voter counting board inspectors, receiving board inspectors and other election officials as recommended by the City Clerk for the August 4, 2020 State Primary Election pursuant to MCL 168.674(1) and to grant the City Clerk authority to make emergency appointments of qualified candidates should circumstances warrant to maintain adequate staffing in the various precincts, counting boards, and receiving boards.

M. Resolution confirming the City Manager's authorization for the emergency expenditure regarding the replacement of the two (2) lead water services within the Maple Road project area in the amount not to exceed $12,438.00 to be paid to D'Angelo Brothers Inc. from the Water Fund account #591-537.004-981.0100, pursuant to Sec. 2-286 of the City Code.

N. Resolution approving the contract with Angelo Iafrate Construction Company for the installation of the Mast Arms for the Maple Road project in the amount of $81,072.00, to be charged to the Major Street Fund (Traffic Control) 202-303.001-977.0100.

V. UNFINISHED BUSINESS

07-121-20 LOCATION OF PUBLIC COMMENT ON THE AGENDA

City Manager Valentine introduced Management Intern Fairbairn to present this item.

- City Manager Valentine expressed based on legal opinion it is not recommended to,
  1) split Public Comment into two sections on the Agenda, or
  2) have Public Comment at the beginning of the meeting because there cannot be any limitations to the time allotted to this process.

- Commissioner Baller expressed that option #4 is preferable.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To revise pc section to move pc prior to consent agenda on the Agenda.

Commissioner Sherman expressed that having the Public Comment section at the beginning of the Agenda did not change the length or quality of the comments and can support placing it permanently in that spot, with instructions for the novice public.

Mayor Pro-Tem Longe agrees with moving the public comment to the beginning of the agenda. She further stated that the guidelines are too restrictive and less likely to be used.

Commissioner Sherman clarified that the guidelines were the same as what the Mayor read at the beginning of Public Comment during the trial period.

Commissioner Baller stated that he is unclear of what guidelines are on the table for discussion. He also does not agree with the Commission not answering questions about topics not on the agenda, and thinks this should be another discussion.

Commissioner Host asked for clarification of Commissioner Sherman's comment; he does not believe that it should be part of the motion.

Mayor Boutros does not want to set time limits on an individual comment and does not foresee issues with the way that public comment is currently handled. He went further to agree with Commissioner Sherman in terms of following the rules of procedures. He added that he could read what is expected from the public during public comment as usual and not complicate the issue.

Commissioner Nickita inquired about reviewing feedback from the test phase. He expressed that the only issue is whether the City's business would be handled in a timely manner. He suggested monitoring and review on a regular basis to insure that City Business is not negatively impacted.

Mayor Boutros pointed out that public comment has not prolonged any meetings in the past.

Public Comment
David Bloom, resident, thanked the Commission for taking this issue up for discussion, and acknowledged the eloquent way that Mayor Boutros expressed his thoughts on this subject. He is pleased that people would be able to speak their minds freely as long as they are not being disruptive.

ROLL CALL VOTE:	Ayes,	Commissioner Baller
		Commissioner Host
		Commissioner Nickita
		Commissioner Sherman
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

VI. NEW BUSINESS

07-122-20 POSTPOSE PUBLIC HEARING FOR SLUP AMENDMENT AT 1800 W MAPLE

City Manager Valentine presented this item recommending postponement of the public hearing to allow for proper noticing to the public.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Sherman:
To postpone the public hearing for the Special Land Use Permit Amendment and Final Site Plan and Design Review for 1800 W Maple – Lutheran Church of the Redeemer to expand the sanctuary and narthex and make related improvements to July 20, 2020 to ensure proper noticing of all affected properties.

ROLL CALL VOTE:	Ayes,	Commissioner Baller
		Commissioner Sherman
		Commissioner Host
		Commissioner Nickita
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-123-20 POSTPONE PUBLIC HEARING OF REZONING 469-479 S OLD WOODWARD

Postponing the public hearing would allow for proper noticing of the public.

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Sherman:
To postpone the public hearing of the rezoning of 469 – 479 S. Old Woodward to July 20, 2020 to ensure proper noticing of all affected properties.

ROLL CALL VOTE:	Ayes,	Commissioner Nickita
		Commissioner Sherman
		Commissioner Baller
		Commissioner Host
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff
	Recusal,	Mayor Pro-Tem Longe

07-124-20 RFP REVISIONS FOR ARCHITECTURAL & DESIGN SERVICES FOR N WILLITS AND W OF N OLD WOODWARD

Planning Director Ecker presented this item based on previous requests from the Commission.

Mayor Boutros concluded that more discussion is required for this item and asked if the Commission would desire a joint workshop with the Planning Board.

Commissioner Baller expressed that he needs more time to review the item and agreed that there should be in-depth discussion whether it be with the Planning Board in the form of a workshop or by appointing a committee to research.

Commissioner Nickita asked what needs to be done to clarify the RFP to get what the City desires in terms of Planning.

Planning Director Ecker replied that staff would like clear direction as to what is expected especially policy elements. It would be left open for a consultant to create the conceptual plan with input from the public and the City Commission.

Mayor Pro-Tem Longe agreed with the direction of the Mayor, suggesting a workshop to include the Planning Board and the community to decide on the best use of this property.

Commissioner Nickita would like to hear the Planning Board's ideas for collaboration. He added the importance of the different circumstances that exist now. Previously additional parking was

the driver, now there are many unknowns that will affect the future development of Downtown Birmingham.

Commissioner Baller pointed out that the draft RFP presumes that staff would handle the RFP. He suggested collectively building a decision tree and asked why staff wrote the RFP as opposed to other options.

City Manager Valentine answered that the RFP was a product of the Commission's direction and supports a larger discussion before moving forward. He recommended staff bring back framework for the Commission to develop a process.

No action was taken on the suggested resolution:
To direct staff to make revisions to the draft RFP for Architectural & Design Services for Public Property North of Willits and West of N. Old Woodward as discussed at the July 13, 2020 meeting and bring it back to the City Commission for further review and comment;

OR

To approve the draft RFP for Architectural & Design Services for Public Property North of Willits and West of N. Old Woodward and direct staff to prepare an outline for an ad hoc committee to review and provide comments on the draft RFP.

07-125-20 PARKS AND RECREATION LOCAL BALLOT PROPOSAL

City Manager Valentine presented this item.

Commissioner Baller commended staff for quickly advancing this request and asked the following:

- Would the information provided in this report be the same information used at the next meeting?
- Difference between the priority list and the bond priority list.
- How would the new bond effect the existing debt and upcoming debt retirement?

City Manager Valentine expressed that the report would be similar unless the Commission directs otherwise. He went on to say that the priority list did not include bonding cost, inflation, and consideration for other projects that are planned. The bond priority is phased to consider the aforementioned. The bond amount would be based on concept plans with the ability to issue up to that amount. The issuances would be based on detailed plans. He affirmed that the new bond would be balanced out by upcoming debt retirement.

Commissioner Nickita asked for verification on the Commissions' flexibility to use the funding.

City Manager Valentine responded that the details are flexible in designing the parks within budget.

Commissioner Sherman asked if bonding issues were defined in terms of project scope in the past and asked when would there be another opportunity for a ballot proposal.

Mayor Pro-Tem Longe acknowledged the level of effort that went into this bond proposal including professional consulting, public input, and conceptual design.

Patrick McGow, Bonding Consultant, responded that the 2021 August or November ballot would be the next opportunity for this proposal. However, May 2021 could be selected as a special election.

Commissioner Sherman pointed out the criticism from the residents in allegedly rushing through the parking deck project last year. He commented that he does not see the difference between the timing of this bond proposal and the parking deck proposal.

Mayor Boutros asked about risks associated with moving forward in November as opposed to postponing until 2021.

City Manager Valentine explained that it would be more efficient to take advantage of the November ballot. Postponing would impose additional cost and responsibility to the City.

City Clerk Designee Bingham pointed out that if the bond were on the November ballot, more people would see it as opposed to a special election where voter turnout is traditionally low.

Mayor Boutros agreed with Ms. Bingham and supported Commissioner Sherman's sentiment.

Commissioner Baller asked if there is enough time to promote the bond for November.

MOTION: Motion by Commissioner Host, seconded by Mayor Pro-Tem Longe:
Resolution to set the date of July 20, 2020 to consider approval of a local ballot proposal to be presented at the November general election for a parks and recreation bond in support of the Parks and Recreation Master Plan.

Commissioner Baller commented on the impact of the new bond on the upcoming debt retirement.

City Manager Valentine responded with a total of $16M additional capacity for bonding.

ROLL CALL VOTE:	Ayes,	Commissioner Host
		Mayor Pro-Tem Longe
		Commissioner Baller
		Commissioner Nickita
		Commissioner Sherman
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-126-20 REQUEST TO MEET IN CLOSED SESSION

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Sherman
Resolution to meet in closed session to discuss an Attorney/Client communication pursuant to Section 8(h) of the Open Meetings Act.

ROLL CALL VOTE:	Ayes,	Commissioner Nickita
		Commissioner Sherman
		Commissioner Baller
		Commissioner Host
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

VII. REMOVED FROM CONSENT AGENDA

07-127-20 (ITEM A) JOINT COMMISSION/PLANNING BOARD MEETING OF JUNE 15, 2020

Commissioner Baller removed this item from the Consent Agenda to address the following:

- Page 6, lot combination review process, he expressed that his comments were highlighted as opposed to the other comments.
- He offered if in the new age of virtual meetings should the minutes include the virtual transcript.

Commissioner Nickita commented that the minutes should be prepared according to established guidelines and recommended procedures.

City Manager Valentine explained that motions and the vote are the only requirements for the minutes under the Open Meetings Act. He further pointed out that this community decided that more comment is better. He went on to support leveraging technology to streamline the process.

Commissioner Sherman noted that these minutes are more detailed than usual, and supports using best practices.

Mayor Pro-Tem Longe supports linking the transcript on Vimeo.

City Clerk Designee Bingham expressed that she would prefer documenting actions only and suggested ways to integrate technology to link the actual transcript and video replay.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Nickita:
To approve the City Commission Joint Commission/Planning Board Meeting of June 15, 2020.

ROLL CALL VOTE:	Ayes,	Commissioner Baller
		Commissioner Nickita
		Commissioner Host
		Commissioner Sherman
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-128-20 (ITEM F) AD HOC UNIMPROVED STREET STUDY COMMITTEE

Commissioner Baller removed this item from the Consent Agenda because the pace of the committee have been stalled and requested clarification as to the reasons.

Mayor Pro-Tem Longe suggested discussion at the upcoming Commission workshop.

City Manager Valentine provided clarification and background information for this request.

Commissioner Sherman commented that the committee responded to the Commission's request for additional information and pointed out that the project scope proved larger than initially expected.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Sherman:
To extend the term of the Ad Hoc Unimproved Street Study Committee through December of 2020.

Public Comment

Paul Reagan, resident, agreed with Commissioner Baller in terms of the time spent by committees on City projects and expressed his belief that the system is not operating efficiently.

ROLL CALL VOTE:	Ayes,	Commissioner Baller
		Commissioner Sherman
		Commissioner Host
		Commissioner Nickita
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-129-20 (ITEM G) AD HOC JOINT SENIOR SERVICE COMMITTEE

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To extend the term of the Ad Hoc Joint Senior Service Committee through December 31, 2020.

ROLL CALL VOTE:	Ayes,	Commissioner Baller
		Commissioner Host
		Commissioner Nickita
		Commissioner Sherman
		Mayor Pro-Tem Longe
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

07-130-20 (ITEM I) FERTILIZER/CHEMICAL PURCHASES FOR LINCOLN HILLS AND SPRINGDALE GOLF COURSES

Commissioner Baller removed this from the Consent Agenda to express concern about the dollar amount, chemicals used by the company, and the damaging effects to the environment.

DPS Director Wood addressed Commissioner Baller's concerns.

Commissioner Host supported DPS Director Wood's pesticide application based on his experience with the PGA Advisory Board of Michigan.

Mayor Pro-Tem Longe suggested referring this topic to the Parks and Recreation Board and the Golf Course sub-committee for re-review.

Commissioner Nickita reminded the Commission that the processes in place are due to trial and error and not a lack of concern about the environment and community.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To approve the fertilizer/chemical purchases for Lincoln Hills and Springdale Golf Courses from Harrell's for $22,000, Target Specialty Products for $22,000, and Great Lakes Turf for $8,000.

The total purchase from all vendors will not exceed a total of $52,000. Funds to be charged to account #s 584/597-753.001-729.0000.

Mayor Boutros affirmed Commissioner Nickita's comments and commended DPS for their diligence and good work.

ROLL CALL VOTE:	Ayes,	Commissioner Baller
		Commissioner Host
		Commissioner Sherman
		Mayor Pro-Tem Longe
		Commissioner Nickita
		Mayor Boutros
	Nays,	None
	Absent,	Commissioner Hoff

VIII. COMMUNICATIONS

A. Communication from Coco Siewert
B. Letter from Mr. Wolf
C. Letter from Ms. Bongiorno

IX. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Dan Haugan, 1694 E Melton Road, apologized for missing his interview for reinstatement on the Museum Board and thanked the Commission for his reappointment.

David Bloom, resident, thanked the Commission for their decision to move Public Comment to the beginning of the Agenda. He requested larger tables at Shain Park, data supporting City Manager Valentine's severance package, and a new contract for City Attorney services.

X. REPORTS

A. Commissioner Reports
   1. Notice of intent to appoint to APC
B. Commissioner Comments
   - Mayor Pro-Tem Longe recommended forwarding the letter from Ms. Bongiorno to the Parks and Recreation board.
   - Commissioner Baller asked the Commission to direct City Manager Valentine to investigate on-line civic engagement activities and bring back for consideration.
   - Commissioner Nickita agreed with Commissioner Baller on the importance of civic engagement and supports moving forward with the idea.
   - Mayor Pro-Tem Longe agreed.
   - Commissioner Host agreed.
   - Commissioner Sherman agreed, as well.
   - Mayor Boutros addressed Commissioner Comments being used for motions and asked how the Commission would like to proceed.
     - Attorney Currier addressed the issue and rendered an opinion.
     - Commissioner Baller prefers to use motions to direct the administration.
     - Commissioner Sherman would like to invite Ms. Siewert in for an educational session.
     - Commissioner Nickita agreed with a session with Ms. Siewert for an expert opinion on best practices.

- Commissioner Host agreed with hosting Ms. Siewert.
- Mayor Pro-Tem Longe recommended the session on parliamentary procedure with Ms. Siewert.
- Commissioner Baller suggested implementing communication practices to avoid miscommunication in the future.
- City Manager Valentine expressed his take-away for direction from the Commission.

- Commissioner Host reported on the Ad Hoc Senior Services Committee progress. He suggested that the City encourage neighborhood gatherings to help individuals feel less secluded during the COVID19 crisis. He further asked for RFP information on Annual Audits, Pension Fund, and Legal Services. Again, he would like to have the Agenda packets on Wednesdays to allow time for proper research, and a workshop schedule.
- Commissioner Baller agreed with Commissioner Host, requested a response to the timing of the Agenda Packets, and recommended workshops.
- Commissioner Nickita reflected that discussion on the timing of Agenda packets have been had and deferred to City Manager Valentine explain the process.
  - City Manager Valentine expressed that it takes time to compile the information provided in the packet and would need direction on how much information is needed to make quality decisions. Concerning the update on the Ad Hoc Senior Services committee, other communities are involved and require additional time. Relative to RFP's, which are done as current contracts expire, some are in the process of evaluating service providers.

C. Advisory Boards, Committees, Commissions' Reports and Agendas

D. Legislation

E. City Staff

1. Letter from Tim Currier in regards to making motions during Commissioner Comments.

INFORMATION ONLY

Mayor Boutros convened into closed session at 11:04 p.m. with no action expected.

XI. ADJOURN

Mayor Boutros adjourned the meeting at 11:40 p.m.

City of Birmingham
Warrant List Dated 07/15/2020

Check Number	Early Release	Vendor #	Vendor	Amount
PAPER CHECK				
274231	*	008649	ROBERT ABRAHAM JR.	425.00
274232	*	007510	GRANT ANKNEY	425.00
274233	*	008009	TREVOR BAKER	425.00
274234	*	009149	WILLIAM BALCONI	425.00
274235	*	009042	RANDY BEARDEN	425.00
274236	*	009041	STEVE BONORA	425.00
274237	*	000598	CHRISTOPHER CATON	425.00
274238	*	007638	MARSHALL CRAWFORD	425.00
274239	*	003204	MARK DELAUDER	425.00
274240	*	006999	CHRISTOPHER DEMAN	425.00
274241	*	007289	BRIAN FREELS	425.00
274242	*	008648	HUNTER GILLICK	425.00
274243	*	008105	JASON GRANROTH	425.00
274244	*	003824	THOMAS I. HUGHES	425.00
274245	*	008874	JARED IMLAY	425.00
274246	*	007244	CHRISTOPHER JUDKINS	425.00
274247	*	007511	ADAM KNOWLES	425.00
274248	*	009043	IAN MCLAUGHLIN	425.00
274249	*	007306	MARK MISCHLE	425.00
274250	*	009096	RYAN NEUVILLE	425.00
274251		009205	NICHOLAS WILLSON	425.00
274252		009204	OWEN BACHUSZ	425.00
274253	*	003963	DAVID PAPANDREA	425.00
274254	*	008875	JESSICA RAK	425.00
274255	*	007897	JEFFREY SCAIFE	425.00
274256	*	007898	JEFFREY SCHEMANSKY	425.00
274257	*	006591	MICHAEL SLACK	425.00
274258	*	007899	NICHOLAS SLANDA	425.00
274259	*	003466	ALAN SOAVE	425.00
274260	*	007245	NICK SOPER	425.00
274261	*	009044	JOEL TOMASZEWSKI	425.00
274262	*	009036	TIMOTHY WILCZEK	425.00
274263	*	007900	RYAN WISEMAN	425.00
274265		007745	ALL COVERED	2,172.60
274266		008304	AMERINET	7,415.20
274268		000500	ARTECH PRINTING INC	1,087.00
274269	*	006759	AT&T	269.78
274270	*	008368	ATOMIC CLEANING SYSTEMS INC.	321.80
274272		001122	BOB BARKER CO INC	532.65
274273	*	MISC	BASEBALL TIPS, INC.	2,465.00
274274		MISC	BCM HOME IMPROVEMENT	100.00
274276	*	002231	BILLINGS LAWN EQUIPMENT INC.	168.53

City of Birmingham
Warrant List Dated 07/15/2020

Meeting of 07/20/2020

Check Number	Early Release	Vendor #	Vendor	Amount
274277	*	001086	TERESA KLOBUCAR- PETTY CASH	829.28
274278	*	001086	TERESA KLOBUCAR- PETTY CASH	528.15
274279		003526	BOUND TREE MEDICAL, LLC	630.90
274280	*	007772	BRIXNSTONE LLC	2,000.00
274281		MISC	BRYCZ, LAWRENCE M	100.00
274282		MISC	CALCATERRA, JOE	1,000.00
274283	*	000595	CARRIER & GABLE INC	342.59
274284	*	000444	CDW GOVERNMENT INC	290.91
274285		008243	CHARTER TOWNSHIP OF BLOOMFIELD	7,200.00
274286		008306	CHARTER TOWNSHIP OF BLOOMFIELD	489.52
274287		MISC	CHRISTOPHER THOMAS CONSTRUCTION LLC	500.00
274288		000605	CINTAS CORPORATION	27.78
274288	*	000605	CINTAS CORPORATION	219.06
274289	*	008955	COMCAST	79.14
274290	*	007774	COMCAST BUSINESS	258.35
274291		000979	COMERICA BANK	4,809.21
274292	*	000627	CONSUMERS ENERGY	241.71
274293	*	002668	CONTRACTORS CLOTHING CO	237.62
274294	*	MISC	COUNTY LINE NURSERIES, INC	29,750.00
274295		MISC	CREATIVE BRICK PAVING & LANDSCAPING	200.00
274296		009145	CREATIVE COLLABORATIONS	3,800.00
274297	*	004386	CYNERGY PRODUCTS	491.40
274300		008641	DINGES FIRE COMPANY	559.76
274301		009130	DOG WASTE DEPOT	366.30
274302		000190	DOWNRIVER REFRIGERATION	485.64
274303	*	006700	DRV CONTRACTORS, LLC	463,882.50
274304	*	000179	DTE ENERGY	760.39
274305	*	000179	DTE ENERGY	59.52
274306	*	000179	DTE ENERGY	1,038.91
274307	*	000179	DTE ENERGY	1,078.23
274308	*	000179	DTE ENERGY	62.73
274310	*	007505	EAGLE LANDSCAPING & SUPPLY	231.00
274311	*	007538	EGANIX, INC.	720.00
274312	*	009100	ENZO WATER SERVICE	500.00
274313	*	008666	F J LAFONTAINE & SONS	7,503.00
274315	*	007289	BRIAN FREELS	25.00
274316		001056	GALLS, LLC	114.93
274317		008755	GEARGRID CORPORATION	1,975.00
274318		MISC	HOROWITZ, MICHAEL	100.00
274319	*	000342	IBS OF SE MICHIGAN	667.70
274320		MISC	JACQUELINE BRIANA HERON	20.00
274321		008564	JERRY'S TIRE INC	242.00
274323		004085	KONE INC	29,767.54

City of Birmingham
Warrant List Dated 07/15/2020

Meeting of 07/20/2020

Check Number	Early Release	Vendor #	Vendor	Amount
274324		MISC	KYLE MCCANHAM	60.00
274325		MISC	L & P CUSTOM BUILDERS LLC	1,900.00
274326		006817	LEXISNEXIS RISK DATA MANAGEMENT INC	135.55
274328		004498	LIFELOC TECHNOLOGIES, INC.	490.00
274329		MISC	LISA NAST	150.00
274330	*	008417	M-1 STUDIOS LLC	14,970.00
274331	*	009203	MARK ANDY PRINT PRODUCTS INC	423.57
274332		MISC	MATHEWS ELECTRIC INC	120.00
274333		000888	MCKENNA ASSOCIATES INC	36,075.76
274334		004738	MGFOA	120.00
274334	*	004738	MGFOA	120.00
274337	*	008490	MMRMA	4,091.00
274338		007163	MOBILE HEALTH RESOURCES	1,839.74
274339		001194	NELSON BROTHERS SEWER	235.00
274340		007755	NETWORK SERVICES COMPANY	87.30
274341	*	000481	OFFICE DEPOT INC	2,283.07
274343		001325	P.K. CONTRACTING INC	8,713.36
274344		MISC	PARFITT, CHRIS	100.00
274345		MISC	PELLA WINDOWS & DOORS, INC.	500.00
274346		MISC	PRM CUSTOM BUILDERS LLC	6,000.00
274347		007797	QUADIENT LEASING USA, INC.	422.64
274348		005379	RED WING BUSINESS ADVANTAGE ACCT	695.99
274349		008852	REDGUARD FIRE & SECURITY	300.00
274350		MISC	SCOTT MCINTYRE	199.99
274351		008815	SHI INTERNATIONAL CORP.	3,761.00
274352	*	004202	SHRED-IT USA	131.14
274353		MISC	SORRENTIA HARRIS	200.00
274354	*	005351	STATE OF MICHIGAN	30,690.06
274355		008713	STEFAN SYTS	174.90
274356		009201	STEPHEN SHUKWIT	1,350.00
274357		004544	STRYKER SALES CORPORATION	1,440.86
274359		MISC	THREE C'S LANDSCAPING	100.00
274360	*	008371	TREDROC TIRE SERVICES	391.00
274361		005806	ULINE	184.87
274362	*	008941	UPTOWN MARKET OF BIRMINGHAM	152.63
274363		MISC	VASIL NESTOROVSKI	100.00
274364	*	000158	VERIZON WIRELESS	76.02
274365	*	000158	VERIZON WIRELESS	770.53
274366	*	000158	VERIZON WIRELESS	152.94
274367	*	000158	VERIZON WIRELESS	1,060.15
274368	*	000158	VERIZON WIRELESS	628.17
274369	*	006491	VILLAGE AUTOMOTIVE	911.21
274370	*	009010	WCI CONTRACTORS INC	2,570.00

City of Birmingham
Warrant List Dated 07/15/2020

Meeting of 07/20/2020

Check Number	Early Release	Vendor #	Vendor	Amount
274371		009010	WCI CONTRACTORS INC	38,766.68
274372	*	000299	WEINGARTZ SUPPLY	359.95
274373		001438	WINDER POLICE EQUIPMENT	1,517.04
274374		009128	WITMER PUBLIC SAFETY GROUP INC	225.97
			SUBTOTAL PAPER CHECK	$758,491.42
EFT TRANSFER				
" "		008857	5.11 TACTICAL OPS CENTER	1,979.68
" "		008732	AMAZON.COM, INC	1,180.99
" "		MISC	CLASSWARD LLC/EMTPREP	99.99
" "		007414	DISPLAYS2GO	182.94
" "		MISC	GALLOUP	115.12
" "		MISC	GODADDY	18.17
" "		MISC	HOMEWOOD SUITES BY HILTON	127.53
" "		MISC	OC TEES INC	600.00
" "		MISC	POLYJOHN ENTERPRISES CORP	2,455.49
" "		000646	STATE OF MICHIGAN	(2,450.00)
" "		MISC	SUNNY COMMUNICATIONS	136.21
" "		008734	SURVEYMONKEY	349.00
" "		MISC	SWIFTPAGE	1,440.00
			SUBTOTAL EFT TRANSFER	$6,235.12
ACH TRANSACTION				
2593	*	008847	ABS- AUTOMATED BENEFIT SVCS, INC	16,439.71
2594	*	002284	ABEL ELECTRONICS INC	133.96
2595	*	007345	BEVERLY HILLS ACE	65.47
2596	*	006683	BIRMINGHAM LAWN MAINTENANCE	98.00
2597		008840	BIRMINGHAM PUBLIC SCHOOLS-TAXES	24,183.84
2598	*	000542	BLUE WATER INDUSTRIAL PRODUCTS INC	115.50
2599	*	009106	CITY OF BIRMINGHAM #240	1.94
2600		004232	DEARBORN LITHOGRAPH INC	3,573.00
2601	*	000565	DORNBOS SIGN & SAFETY INC	136.00
2602	*	001077	DUNCAN PARKING TECH INC	11,202.75
2603	*	000592	GAYLORD BROS., INC	22.02
2604		003938	HART PAVEMENT STRIPING CORP	64,000.00
2604	*	003938	HART PAVEMENT STRIPING CORP	1,000.00
2605		000331	HUBBELL ROTH & CLARK INC	17,019.10
2606	*	000261	J.H. HART URBAN FORESTRY	10,907.88
2607	*	003458	JOE'S AUTO PARTS, INC.	78.32
2608	*	005550	LEE & ASSOCIATES CO., INC.	1,155.48
2610	*	006359	NYE UNIFORM COMPANY	291.00
2611		008843	OAKLAND COUNTY TREASURER- TAX PYMNT	42,949.24
2612	*	003554	RKA PETROLEUM	5,517.89
2613	*	000478	ROAD COMM FOR OAKLAND CO	22,979.64

Meeting of 07/20/2020

City of Birmingham
Warrant List Dated 07/15/2020

Check Number	Early Release	Vendor #	Vendor	Amount
2614	*	001181	ROSE PEST SOLUTIONS	339.00
2615	*	000254	SOCRRA	75,379.00
2616	*	001097	SOCWA	248,028.74
2617	*	001255	TEKNICOLORS INC	46.99
2618		004692	TRANSPARENT WINDOW CLEANING	5,720.00
			SUBTOTAL ACH TRANSACTION	$551,384.47
			GRAND TOTAL	$1,316,111.01

All bills, invoices and other evidences of claim have been audited and approved for payment.



Mark Gerber
Finance Director/ Treasurer

*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **July 10, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **To set a Public Hearing for a Final Site Plan & Special Land Use Permit Amendment at 310 E. Maple – Pernoi Bistro**

INTRODUCTION:
On July 3, 2020, the owners of Nuova Holdings LLC, DBA Pernoi Bistro submitted an application for a Special Land Use Permit Amendment to request a name change from Pernoi to Casa Pernoi.

BACKGROUND:
No changes are proposed to the layout, design, ownership or operation of the restaurant. Minor menu changes are proposed.

LEGAL REVIEW:
As there are no changes to the layout or operation of the establishment, the City Attorney has directed that this request for a name change only proceed directly to the City Commission for review.

FISCAL IMPACT:
There is no fiscal impact for this agenda item.

SUMMARY:
The Planning Division requests that the City Commission set a public hearing date for **August 10, 2020** to consider approval of the Final Site Plan and Special Land Use Permit Amendment to allow the name change from Pernoi to Casa Pernoi.

ATTACHMENTS:
Please find attached the following documents for your review:

- DRAFT Special Land Use Permit Amendment Resolution
- Application letter submitted by applicant
- Plans and photos of additional signage to effect name change

SUGGESTED RESOLUTION:
To set a public hearing date for August 10, 2020 to consider a Final Site Plan and Special Land Use Permit Amendment at 310 E. Maple to allow the change in name from Pernoi to Casa Pernoi.

CASA PERNOI
310 E. MAPLE
SPECIAL LAND USE PERMIT AMENDMENT
2020

WHEREAS, Pernoi filed an application in 2019 pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the south side of E. Maple between Old Woodward and Woodward Avenue;

WHEREAS, The land is zoned B-4, Business Residential, and is located within the Downtown Birmingham Overlay District, which permits bistros with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The Planning Board on June 12, 2019 reviewed the application for a Special Land Use Permit and Final Site Plan and Design Review for the proposed Pernoi bistro and recommended approval of the same for 310 E. Maple – Pernoi pending receipt of the following items and approval of those items by the Planning Department and the Chairman of the Planning Board:

1. An aerial photo of the site and at least 200 feet of the surrounding area.
2. Removal of all isinglass and other enclosure systems from the outdoor dining area and the addition of a trash receptacle.
3. Confirmation that no existing or proposed curbing will be present in the outdoor dining area.
4. Submission of complete and consistent signage plans for review by the Planning Department and the Chair of the Planning Board to determine all sign requirements have been met.

WHEREAS, The applicant complied with all of the conditions noted by the Planning Board;

WHEREAS, The owner of Pernoi bistro has now applied for a Special Land Use Permit Amendment to change the bistro's name from Pernoi to Casa Pernoi and to add related signage through administrative approval, the Birmingham City Commission has reviewed the Casa Pernoi Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that Pernoi's application for a Special Land Use Permit Amendment authorizing the name change from Pernoi to Casa Pernoi and the operation of a

bistro at 310 E. Maple in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted to allow the operation of a bistro at 310 E. Maple with the following conditions:

1. Casa Pernoi shall abide by all provisions of the Birmingham City Code; and
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest including, but not limited to, violations of the state law or Birmingham City Code.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Casa Pernoi and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Casa Pernoi to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Alexandria Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on August 10, 2020.

_____

Alexandria Bingham, Acting City Clerk

LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON
KELLY A. ALLEN
ROBERT M. GOLDMAN
JESSICA A. HALLMARK
GREGORY K. NEED
G. HANS RENTROP

39572 Woodward, Suite 222
Bloomfield Hills, Michigan 48304
Telephone (248) 540-7400
Facsimile (248) 540-7401
www.ANAfirm.com

OF COUNSEL:
KEVIN M. CHUDLER
KATHERINE A. TOMASIK

June 18, 2020

Via Electronic Mail

Jana Ecker, Planning Director
City of Birmingham
151 Martin St.
Birmingham, MI 48009

Re: Nuovo Holdings, LLC
D/B/A Pernoi
320 E Maple Rd.
Request For Administrative Approval of Name Change

Dear Ms. Ecker:

Pernoi is changing its name from "Pernoi" to "Casa Pernoi". Since this is a Bistro License, we are requesting administrative approval to make this minor change.

There are minor menu changes. The restaurant will continue to operate as an Italian restaurant. There will be no changes to the interior layout.

The application for a sign permit has been submitted to the City. Attached to this letter is a photo of what the sign change will look like. The licensee is simply adding the word "Casa" to the existing sign.

Please call us if you have any questions or require any additional information.

As always, we appreciate your assistance!

Very truly yours,

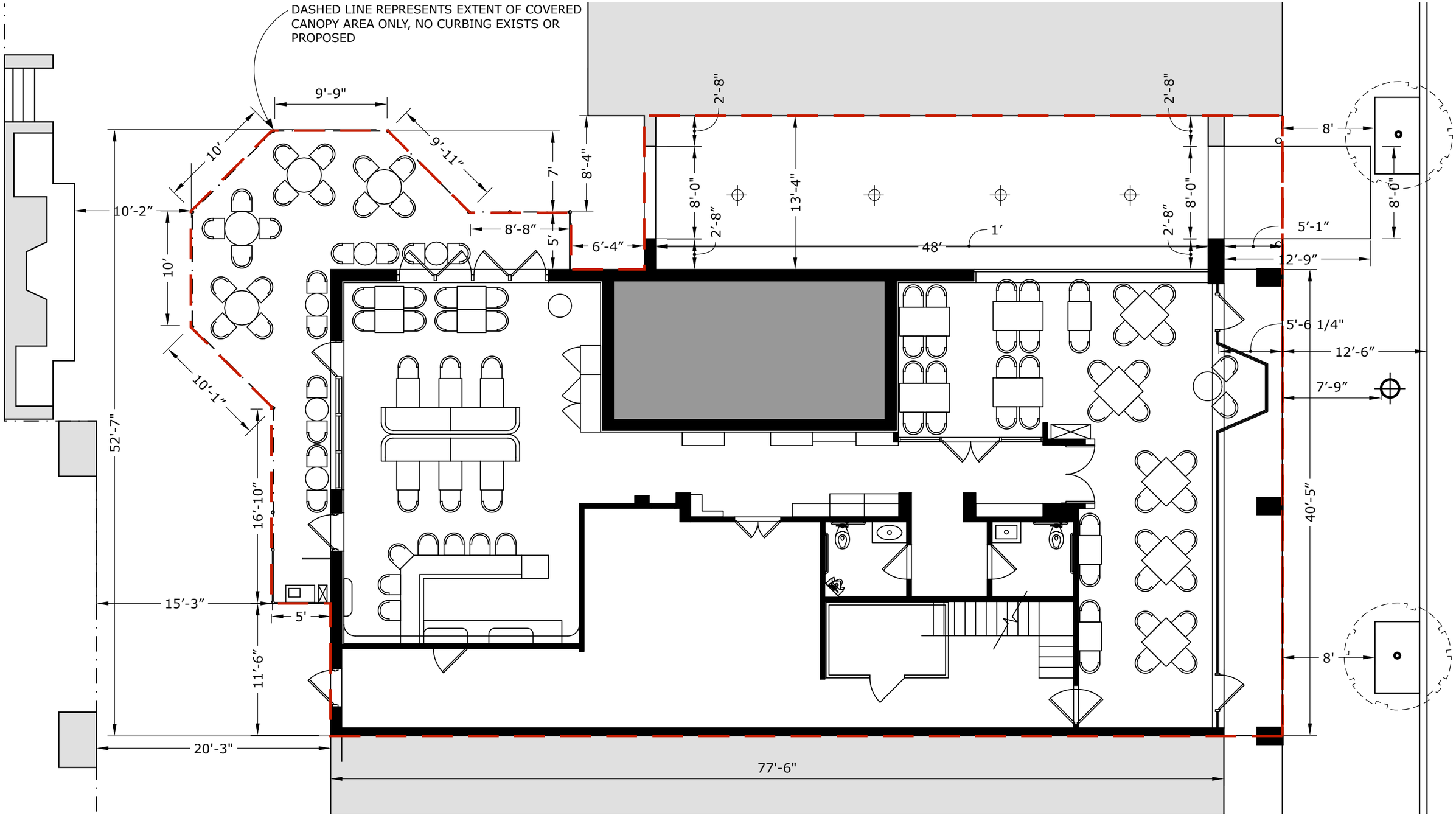
ADKISON, NEED, ALLEN, & RENTROP, PLLC

Kelly A. Allen

/kjf
Enclosure
Cc: Joe Valentine, City Manager

m:\delsignore, luciano\birmingham\corres\2020-06-18 ltr to city re name change.docx

PREVIOUSLY APPROVED PLANS (NO CHANGES) -



PERNOI - SITE PLAN

A | 006 | *scale: 1/8"=1'*

310 E. MAPLE ST
BIRMINGHAM, MI
48009

NOTES: NO CHANGES TO EXTERIOR AREAS, ALL EXISTING LIGHTING, SIDEWALKS, AND VIA ELEMENTS TO REMAIN AS-IS. PATIO CANOPY TO REMAIN WITH THE REMOVAL OF ENCLOSURE SYSTEMS ONLY.

KYLE EVANS DESIGN
NOT FOR CONSTRUCTION, DESIGN INTENT ONLY

PROPERTY LINE & LEASED AREA

N

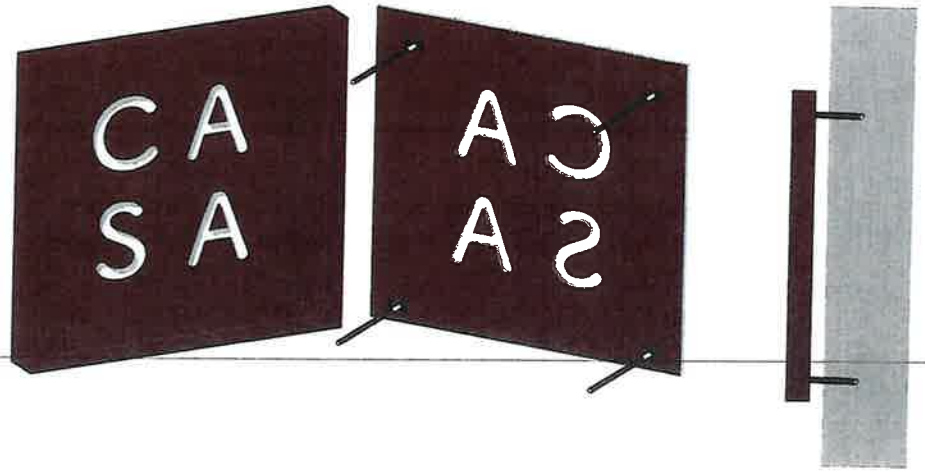
NOTE: TEMPORARY COVID19 PLANS IN EFFECT THROUGH OCT 31, 2020



pernoi

1/4 In Engraved Aluminum
2.5 In Side Thick Pin Mounted





ACCEPTANCE OF ARTWORK The drawing above is an artistic interpretation ONLY, elements may vary based on field measurements. This color proof is intended for verification of spelling, layout, color and composition. (PLEASE HELP AVOID UNNECESSARY COSTS BY CHECKING THIS PROOF VERY CAREFULLY) Signature constitutes authorization to proceed with specifications and conditions of this document as specified. All artwork and designs are property of New Generation Signs (Isigns) and may not be used without the expressed written permission of New Generation Signs.

Approval Matthew Lisk, Kyle Evans Design Date 06/16/20

NGS New Generation Signs
Ph 586-759-5706 Fax 586-759-5724
11391 E 8 mile rd warren , michigan 48089


CA
SA
pernoi
The Italian Dish
Boutique
PLEASE KEEP SAFE DISTANCE
JOHN DEERE
DEERE
SOCIAL
BOYD
OPEN

City of Birmingham
A Walkable Community

MEMORANDUM

Finance Department

DATE: **July 6, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Mark Gerber, Director of Finance/Treasurer**

SUBJECT: **Next 2020-2021 Service Agreement**

INTRODUCTION:
The City contracts with outside agencies which provide services that benefit the community and are not provided by City operations. These contracts are reviewed on an annual basis along with a description of services to be provided in the next fiscal year and a summary of services provided in the current fiscal year.

BACKGROUND:
The City Commission previously approved a master service agreement to be used by various outside agencies that are requesting and have previously received funding from the City. Next has completed the required agreement and Attachments A and B, which provides a description of the services to be provided and the direct benefit of their services to the City and how the money is being spent in the current fiscal year.

LEGAL REVIEW:
The City attorney has reviewed and approved the contract with Next.

FISCAL IMPACT:
Next is requesting funding totaling $120,380 for fiscal year 2020-2021. This is an increase of $12,440, or 11.5%, in funding from fiscal year 2019-2020. Funding has been approved in the fiscal year 2020-2021 budget in account 101-299.000-811.0000 for this expenditure.

SUMMARY:
Based on the services that Next provides and the direct benefit to the City, it is recommended that the City Commission approve Next's funding request in the amount of $120,380.

ATTACHMENTS:
1. Contract with Next for fiscal year 2020-2021
2. Attachment A – Summary of Services to be Provided – Fiscal Year 2020-2021
3. Attachment B – Summary of Services Provided – Fiscal Year 2019-2020

SUGGESTED RESOLUTION:
To approve the service agreement with Next in the amount of $120,380 for services described in Attachment A of the agreement for fiscal year 2020-2021, account number 101-299.000-811.0000, and further direct the Mayor and City Clerk to sign the agreement on behalf of the City.

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this _30___ day of June, 2020 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Next, Your Place to Stay Active & Connected_____, whose address is _2121Midvale, Birmingham MI 48009_____ ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $_120,380.00__ to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. SERVICE PROVIDER shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. SERVICE PROVIDER agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: SERVICE PROVIDER shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: SERVICE PROVIDER shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence for combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: SERVICE PROVIDER shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $ 1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

F. Proof of Insurance Coverage: SERVICE PROVIDER shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.

1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this

Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Pierre Boutros, Mayor

By: _____
Cheryl Arft, City Clerk

[SERVICE PROVIDER]

By: _____
Christine Braun

Its: Executive Director, Next

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Department Head
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

ATTACHMENT A

I. Name of Organization: Next, Your Place to Stay Active & Connected

II. Funding Request: $120,380.00

III. Amount of funding received from City in current fiscal year: $107,944.00

IV. Organization's Purpose or Mission:

The mission of Next, is to identify and meet the needs of older adults by soliciting and coordinating community resources to provide educational recreational and social programs; support outreach searches; and volunteer opportunities.

V. Description of Services to be provided (Scope of Work):

Extensive quality programming for community residents to include lifelong learning and wellness, fitness, creative arts and social enrichment. In addition, Next provides comprehensive support services to assist residents who need additional support to age in place. This might include but not limited to Meals on Wheels, transportation, free tax preparation, health screenings and legal assistance, low income assistance with home and yard maintenance, home loans for major repairs along with information and referrals.

VI. Explain the value of the services to the City of Birmingham:

As Birmingham's aging population continues rapidly grow, Next provides vital enrichment opportunities while supporting independence to area residents. Strong communities are built and sustained when there is a diverse population of engaged citizens. A partnership between the city and Next is important to provide a wide variety of high quality activities, and supportive services to Birmingham residents in order to live comfortably in the City.

VII. Provide a list of the other funding sources: (List below. Attach additional sheet if necessary.)

Facility use, in-kind donation Birmingham Public Schools 36% of Next operating budget, additional sources of revenue as part of the operating budget: business donations 11%, transportation 10%, fundraisers 8% program fees 7%, membership dues 5% of the Next operating budget.

VIII. Provide a detailed list of services provided in the 2018-2019 Fiscal Year (July 1, 2019 – June 30, 2020). Include the following for each quarter:

- Date & Timeframe of each service provided
- Explanation of the service provided
- Number of Birmingham residents in attendance/effected by service
- Explanation of how the funds were used

(Use Attachment B to record the services. Attach additional sheets if necessary.)

NOTE: Organizations receiving funding are required to provide invoices to the City for services coinciding with the timing of the delivery of those services.

Submitted by: Christine Braun_____ Title: __Executive Director, Next_____
(Print Name)

Signature: Christine Braun Date: ___June 30, 2020 _____

Name of Organization: Next

ATTACHMENT B

First Quarter (July 1, 2019 – September 30, 2019)

Date of Service	Duration of Service (timeframe)	Explain the services provided	Number of Birmingham residents in attendance or affected by the service	Breakdown of funds used for Program/Service
7/1- 9/30 2019	On going	Transportation to area doctors, hospitals, grocery stores, Next, etc	1115 rides given to Birmingham residents	$6,687
7/1-9/30 2019	On going	Meals delivered to homes	1218 meals delivered to Birmingham residents	$1,070
7/1-9/30 2019	On going	Outreach support to area residents	2329 units of service to Birmingham residents	$8,292
7/1-9/30 2019	On going	Programs- In house: weekly speakers, daily fitness and creative art classes, health education classes, enrichment and social opportunities	2000 plus members- over 750 from Birmingham	$5,350
7/1-9/30 2020	On-going	Travel – overnight & daytrips	174	$3,477

Second Quarter (October 1, 2019 – December 31, 2019)

Date of Service	Duration of Service (timeframe)	Explain the services provided	Number of Birmingham residents in attendance or affected by the service	Breakdown of funds used for Program/Service
10/1-12/30 2019	On going	Transportation to area doctors, hospitals, grocery stores, Next, etc	1115 rides given to Birmingham residents	$6,687
10/1-12/30 2019	On going	Meals delivered to homes	1218 meals delivered Birmingham residents	$1,070
10/1-12/30 2019	On going	Outreach support to area residents	2329 units of service to Birmingham residents	$8,292
10/1-12/30 2019	On going	Programs- In house: weekly speakers, daily fitness and creative art classes, health education classes, enrichment and social opportunities	2000 plus members- over 750 from Birmingham	$5,350
10/1-12/30 2019	On-going	Travel – overnight & daytrips	174	$3,477

Name of Organization: Next

ATTACHMENT B

Third Quarter (January 1, 2020 – March 31, 2020)

Date of Service	Duration of Service (timeframe)	Explain the services provided	Number of Birmingham residents in attendance or affected by the service	Breakdown of funds used for Program/Service
1/1-3/31 2020	On going	Transportation to area doctors, hospitals, grocery stores, Next, etc	1115 rides given to Birmingham residents	$6,687
1/1/-3/31 2020	On going	Meals delivered to homes	1218 meals delivered to Birmingham residents	$1,070
1/1-3/31 2020	On going	Outreach support to area residents	2329 units of service to Birmingham residents	$8,292
1/1-3/31 2020	On going	Programs- In house: weekly speakers, daily fitness and creative art classes, health education classes, enrichment and social opportunities	2000 plus members- over 750 from Birmingham	$5,350
1/1-3/31 2020	On-going	Travel – overnight & daytrips	174	$3,477

Fourth Quarter (April 1, 2020 – June 30, 2020)

Date of Service	Duration of Service (timeframe)	Explain the services provided	Number of Birmingham residents in attendance or affected by the service	Breakdown of funds used for Program/Service
4/1-6/30 2020	On going	Transportation to area doctors, hospitals, grocery stores, Next, etc	1115 rides given to Birmingham residents	$6,687
4/1-6/30 2020	On going	Meals delivered to homes	1218 meals delivered to Birmingham residents	$1,070
4/1-6/30 2020	On going	Outreach support to area residents	2329 units of service to Birmingham residents	$8,292
4/1-6/30 2020	On going	Programs- In house: weekly speakers, daily fitness and creative art classes, health education classes, enrichment and social opportunities	2000 plus members- over 750 from Birmingham	$5,350
4/1-6/30 2020	On-going	Travel – overnight & daytrips	174	$3,477

BIRMARE-01 LJOLLIFF

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/6/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Megan Fischer	
Hershey Insurance Group, Inc. 2855 Coolidge Highway Ste 204 Troy, MI 48084	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Philadelphia Insurance Co.	18058
INSURED	INSURER B : Citizens Insurance Company of America	31534
Birmingham Area Seniors Coordinating Council dba NEXT 2121 Midvale Street. Birmingham, MI 48009	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		PHPK2039627	11/1/2019	11/1/2020	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
	X Prof $1Mil/$2Mil						MED EXP (Any one person)	$ 20,000
	X Abuse $500k/$500k						PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO	X		PHPK2039627	11/1/2019	11/1/2020	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 4,000,000
	EXCESS LIAB CLAIMS-MADE			PHUB694118	11/1/2019	11/1/2020	AGGREGATE	$ 4,000,000
	DED X RETENTION $ 10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A		W2B7925648	1/9/2020	1/9/2021	E.L. EACH ACCIDENT	$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing.

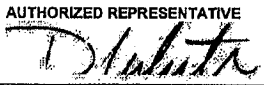
CERTIFICATE HOLDER

City of Birmingham
P.O. Box 3001
Birmingham, MI 48012

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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City of Birmingham
A Walkable Community

MEMORANDUM

Finance Department

DATE: **July 2, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Mark Gerber, Finance Director**

SUBJECT: **Cares Act Interlocal Agreement**

INTRODUCTION:
The attached interlocal agreement between Oakland County and the City will allow the City to submit COVID-19 related expenditures to the County for reimbursement under the CARES act.

BACKGROUND:
The County was allocated $219,438,710 under the Coronavirus Aid, Relief, and Economic Security Act's (CARES Act) Coronavirus Relief Fund (CRF) to respond directly to the emergency as well as expenditures incurred to respond to second-order effects of the emergency. At its June 4, 2020 meeting the Oakland County Board of Commissioners established the Oakland Together Local Government Partnership Program and allocated $35,000,000 of the CARES funding for this program. The Board of Commissioners also established an oversight committee which will determine the amount of funding available to each community based on criteria such as population and the number of COVID-19 cases. The City must submit documentation of its COVID-19 related expenditures to the County for approval and reimbursement. Before expenditures will be considered, an agreement between the County and City must be approved.

LEGAL REVIEW:
Reviewed with no issues.

FISCAL IMPACT:
Year-to-date the City has spent approximately $290,000 on COVID-19 related response activities. The City will seek reimbursement from FEMA Public Assistance Grant first and then submit what isn't covered to the County under the CARES funding.

SUMMARY:
It is recommended that the City Commission approve the interlocal agreement between the County and the City.

ATTACHMENTS:

- CARES Act Interlocal Agreement between Oakland County and the City of Birmingham.

SUGGESTED RESOLUTION:
To approve the CARES Act Interlocal Agreement between Oakland County and the City of

Birmingham and authorized the Mayor to sign the agreement on behalf of the City.

AGREEMENT FOR CARES ACT DISTRIBUTION BETWEEN
OAKLAND COUNTY AND
CITY OF BIRMINGHAM

This Agreement (the "Agreement") is made between Oakland County, a Municipal and Constitutional Corporation, 1200 North Telegraph Road, Pontiac, Michigan 48341 ("County"), and the City of Birmingham ("Public Body"), 151 Martin Street, Birmingham, Michigan 48009. County and Public Body may be referred to individually as a "Party" and jointly as "Parties".

PURPOSE OF AGREEMENT. County and Public Body enter into this Agreement pursuant to the Urban Cooperation Act of 1967, 1967 Public Act 7, MCL 124.501 *et seq.,* for the purpose of County distributing a portion of its CARES Act funds to Public Body. County has allocated a portion of its CARES Act funds to be distributed to CVTs within Oakland County, which will be used to assist CVTs in meeting certain areas of need caused by the COVID-19 pandemic.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

1. **DEFINITIONS**. The following words and expressions used throughout this Agreement, whether used in the singular or plural, shall be defined, read, and interpreted as follows:

   1.1. **Agreement** means the terms and conditions of this Agreement and any other mutually agreed to written and executed modification, amendment, Exhibit and attachment.

   1.2. **Claims** mean any alleged losses, claims, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, liabilities, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are incurred by or asserted against County or Public Body, or for which County or Public Body may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.

   1.3. **Confidential Information** means all information and data that County is required or permitted by law to keep confidential, including records of County' security measures, including security plans, security codes and combinations, passwords, keys, and security procedures, to the extent that the records relate to ongoing security of County as well as records or information to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs relating to ongoing security measures, capabilities and plans for responding to violations of the Michigan Anti-terrorism Act, emergency response plans, risk planning documents, threat assessments and domestic preparedness strategies.

   1.4. **County** means Oakland County, a Municipal and Constitutional Corporation, including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, volunteers, and/or any such persons' successors.

   1.5. **Day** means any calendar day beginning at 12:00 a.m. and ending at 11:59 p.m.

1.6. **Public Body** means the City of Birmingham including, but not limited to, its council, its Board, its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, subcontractors, attorneys, volunteers, and/or any such persons' successors.

1.7. **Public Body Employee** means any employees, officers, directors, members, managers, trustees, volunteers, attorneys, representatives of Public Body, licensees, concessionaires, contractors, subcontractors, independent contractors, agents, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal, representative or official capacities), and/or any persons acting by, through, under, or in concert with any of the above who use or have access to the Oakland Together CVT funds provided under this Agreement. "Public Body Employee" shall also include any person who was a Public Body Employee at any time during the term of this Agreement but, for any reason, is no longer employed, appointed, or elected in that capacity. "Public Body Employee" does not include an individual resident of Public Body who receives an authorized distribution of Oakland Together CVT funds.

1.8. **CARES Act funds** means the money distributed to the County by the United States Department of Treasury pursuant to section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act.

1.9. **CVTs** means Cities, Villages, and Townships.

1.10. **Oakland Together CVT funds** means that portion of the CARES Act funds which the County has allocated to CVTs within Oakland County.

1.11. **Expenditure Submission Form** means the form which Public Body must complete and submit to the Office of the County Executive (OCE) prior to any disbursement of Oakland Together CVT funds to Public Body.

1.12. **OCE** means the Office of the Oakland County Executive, which includes the Chief Deputy and other Deputy County Executives.

1.13. **Oversight Committee** means the committee established by the Oakland County Board of Commissioners in the resolution allocating the Oakland Together CVT funds.

2. **COUNTY RESPONSIBILITIES.**

2.1. OCE will review Public Body's Expenditure Submission Form(s) to determine whether Public Body is eligible to receive a distribution of Oakland Together CVT funds. This determination will be in the OCE's discretion pursuant to the "Coronavirus Relif Fund Guidance for State, Territorial, Local and Tribal Government" or other guidenace issued by the Federal Government. OCE may request any supporting documentation it deems necessary to fully evaluate Public Body's eligibility.

2.2. If OCE determines that Public Body is eligible to receive a distribution, County will distribute the eligible amount to Public Body.

2.3. County is not obligated or required to distribute any Oakland Together CVT funds to Public Body if OCE determines that Public Body is not eligible to receive the funds, or if the amount of Oakland Together CVT funds available are not sufficient to fulfill Public Body's Expenditure Submission Form.

2.4. After November 30, 2020, County will not accept any further Expenditure Submission Forms from Public Body, and County will retain the balance of any Oakland Together CVT funds for which Public Body was originally eligible, but which are not covered by an approved Expenditure Submission Form.

2.5. If County retains the balance of Oakland Together CVT funds not covered by an approved Expenditure Submission Form under Section 2.4, County may redistribute any or all of that amount to other eligible CVTs or as otherwise deemed appropriate by OCE.

2.6. OCE will work in collaboration with the Oversight Committee in determining Public Body's eligibility for Oakland Together CVT funds, and the amount of said funds to be distributed to Public Body.

3. **PUBLIC BODY RESPONSIBILITIES.**

3.1. Public Body may be eligible to receive a portion of Oakland Together CVT funds. Public Body shall complete and submit an Expenditure Submission Form to OCE and receive OCE approval prior to the receipt of any Oakland Together CVT funds.

3.2. In its first Expenditure Submission Form, Public Body shall only apply for Oakland Together CVT funds to pay for expenditures or programs already made by Public Body, or for funds to pay Public Body's required 25% "cost share" or "local match" required to obtain a FEMA grant.

3.3. Public Body shall follow all guidance established by the United States Treasury Department, and the County, when expending Oakland Together CVT funds, including, but not limited to, Section 601(d) of the Social Security Act and the "Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Governments."[1]

3.4. Public Body shall not submit an Expenditure Submission Form for any expense which is eligible to be covered by a FEMA (Federal Emergency Management Agency) Public Assistance Reimbursement. Public Body may use Oakland Together CVT funds to pay the required 25% "cost share" or "local match" required to obtain a FEMA grant.

3.5. Public Body shall only expend Oakland Together CVT funds to pay for expenses incurred due to the COVID-19 public health emergency, and which expenses were not accounted for in Public Body's most recently approved budget as of March 27, 2020.

3.6. Public Body shall only expend Oakland Together CVT funds for expenses incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

3.7. Public Body shall not use Oakland Together CVT funds as revenue replacement.

3.8. Public body shall not redistribute Oakland Together CVT funds, except Public Body shall be allowed to provide direct assistance to individual residents of Public Body, and pay vendors and service providers, as permitted by the CARES Act.

3.9. Public Body shall not expend Oakland Together CVT funds in any manner that Public Body did not include in a submitted and approved Expenditure Submission Form.

3.10. If Public Body receives an amount of funding from the federal or state government to cover expenses for which Public Body received Oakland Together CVT funds, Public Body shall return that amount of Oakland Together CVT funds to County.

3.11. Public Body shall keep records of all expenditures of Oakland Together CVT funds sufficient to demonstrate that said expenditures were in accordance with the guidance documents included in Section 3.3 for a period of 10 (ten) years, at a minimum.

3.12. Public Body shall produce said records of expenditures upon request by County or OCE, or as required by any future audit of the CARES Act program.

[1] This document is available at https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf

3.13. Public Body shall submit records to OCE within 30 (thirty) days after expenditure of Oakland Together CVT funds with a detailed description of how the funds were expended and how the expenditure of funds complied with the CARES Act guidance unless Public Body has already submitted said records with its Expenditure Submission Form.

3.14. In the event it is determined by OCE, or any other audit under the CARES Act program, that Public Body expended an amount of Oakland Together CVT funds in violation of the CARES Act requirements or this Agreement, Public Body shall be required to return that amount of money to County.

3.15. In any case where Public Body is required to return an amount of money to County under this Agreement, Public Body agrees that unless expressly prohibited by law, County or the Oakland County Treasurer, at their sole option, shall be entitled to set off from any other Public Body funds that are in County's possession for any reason, including but not limited to, the Oakland County Delinquent Tax Revolving Fund ("DTRF"), if applicable. Any setoff or retention of funds by County shall be deemed a voluntary assignment of the amount by Public Body to County. Public Body waives any Claims against County or its Officials for any acts related specifically to County's offsetting or retaining of such amounts. This paragraph shall not limit Public Body's legal right to dispute whether the underlying amount retained by County was actually due and owing under this Agreement.

3.16. Nothing in this Section shall operate to limit County's right to pursue or exercise any other legal rights or remedies under this Agreement or at law against Public Body to secure payment of amounts due to County under this Agreement. The remedies in this Section shall be available to County on an ongoing and successive basis if Public Body becomes delinquent in its payment. Notwithstanding any other term and condition in this Agreement, if County pursues any legal action in any court to secure its payment under this Agreement, Public Body agrees to pay all costs and expenses, including attorney fees and court costs, incurred by County in the collection of any amount owed by Public Body.

3.17. Public Body shall respond to and be responsible for Freedom of Information Act requests relating to Public Body's records, data, or other information.

4. **DURATION OF INTERLOCAL AGREEMENT.**

4.1. This Agreement shall be effective when executed by both Parties with resolutions passed by the governing bodies of each Party. The approval and terms of this Agreement shall be entered in the official minutes of the governing bodies of each Party. An executed copy of this Agreement and any amendments shall be filed by the County Clerk with the Secretary of State.

4.2. This Agreement shall remain in effect until January 31, 2021, or until cancelled or terminated by any of the Parties pursuant to the terms of the Agreement. Public Body shall comply with the record keeping, reporting, audit response, and fund return requirements of Section 3 after the termination of this Agreement if necessary.

5. **ASSURANCES**.

5.1. **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third party, and for the acts of its employees arising under or related to this Agreement.

5.2. **Responsibility for Attorney Fees and Costs.** Except as provided for in Section 3.16, in any Claim that may arise from the performance of this Agreement, each Party shall seek its own

legal representation and bear the costs associated with such representation, including judgments and attorney fees.

5.3. **No Indemnification.** Except as otherwise provided for in this Agreement, neither Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents in connection with any Claim.

5.4. **Costs, Fines, and Fees for Noncompliance.** Public Body shall be solely responsible for all costs, fines and fees associated with any misuse of the Oakland Together CVT funds and/or for noncompliance with this Agreement by Pubic Body Employees.

5.5. **Reservation of Rights.** This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.

5.6. **Authorization and Completion of Agreement.** The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

5.7. **Compliance with Laws.** Each Party shall comply with all federal, state, and local ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Agreement.

6. **TERMINATION OR CANCELLATION OF AGREEMENT**.

6.1. County may terminate or cancel this Agreement at any time if it determines that Public Body has expended Oakland Together CVT funds in violation of CARES Act requirements or this Agreement. Either OCE or the Board of Commissioners is authorized to terminate this Agreement under this provision. If County terminates or cancels this Agreement, Public Body shall be liable to repay County the amount of money expended in violation of CARES Act requirements or this Agreement. County may utilize the provisions in Sections 3.15 – 3.16 to recoup the amount of money owed to County by Public Body.

6.2. Public Body may terminate or cancel this Agreement at any time if it determines that it does not wish to receive any Oakland Together CVT funds. If Public Body terminates or cancels this Agreement, it shall immediately return to County any and all Oakland Together CVT funds it has already received.

6.3. If either Party terminates or cancels this agreement they shall provide written notice to the other Party in the manner described in Section 13.

7. **DELEGATION OR ASSIGNMENT**. Neither Party shall delegate or assign any obligations or rights under this Agreement without the prior written consent of the other Party.

8. **NO THIRD-PARTY BENEFICIARIES**. Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity.

9. **NO IMPLIED WAIVER**. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement.

No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.

10. **SEVERABILITY**. If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.

11. **PRECEDENCE OF DOCUMENTS.** In the event of a conflict between the terms and conditions of any of the documents that comprise this Agreement, the terms in the Agreement shall prevail and take precedence over any allegedly conflicting terms and conditions.

12. **CAPTIONS**. The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural, any reference to gender, and any use of the nominative, objective or possessive case in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.

13. **NOTICES**. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (i) the date of actual receipt; (ii) the next business day when notice is sent express delivery service or personal delivery; or (iii) three days after mailing first class or certified U.S. mail.

    13.1. If Notice is sent to County, it shall be addressed and sent to: Oakland County Executive, 2100 Pontiac Lake Rd., Waterford, MI, 48328, and the Chairperson of the Oakland County Board of Commissioners, 1200 North Telegraph Road, Pontiac, MI, 48341.

    13.2. If Notice is sent to Public Body, it shall be addressed to: City Manager, 151 Martin Street, Birmingham, Michigan 48009.

14. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE**. This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

15. **SURVIVAL OF TERMS**. The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their nature: Definitions (Section 1); Assurances (Section 5); No Third-Party Beneficiaries (Section 8); No Implied Waiver (Section 9); Severability (Section 10); Precedence of Documents (Section 11); Governing Law/Consent to Jurisidiction and Venue (Section 14); Survival of Terms (Section 15); Entire Agreement (Section 16), and the record keeping, reporting, audit compliance, and fund return provisions of Section 3.

16. **ENTIRE AGREEMENT**.

    16.1. This Agreement represents the entire agreement and understanding between the Parties regarding the Oakland Together CVT funds With regard to the Oakland Together CVT funds, this Agreement supersedes all other oral or written agreements between the Parties.

16.2. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, Pierre Boutros, Mayor hereby acknowledges that he/she has been authorized by a resolution of the City of Birmingham, a certified copy of which is attached, to execute this Agreement on behalf of Public Body and hereby accepts and binds Public Body to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
Pierre Boutros, Mayor, City of Birmingham

WITNESSED: _____ DATE: _____
Cheryl Arft, Acting City Clerk

IN WITNESS WHEREOF, David Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
David Woodward, Chairperson
Oakland County Board of Commissioners

WITNESSED: _____ DATE: _____
Oakland County Board of Commissioners
County of Oakland

City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: **July 10, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Lauren A. Wood, Director of Public Services**
Carrie A. Laird, Parks and Recreation Manager

SUBJECT: **Tree Manual & Standards of Practice**

INTRODUCTION:
The City of Birmingham has been a Tree City USA community for 41 years – one of Michigan's longest. Throughout this time, Birmingham has a history of allocating significant attention to the management and maintenance of community trees. A comprehensive tree preservation ordinance was adopted in 2003. More recently, the City completed a full inventory of public trees in 2012. Thereafter, the City authored a Public Tree Management Plan. The City continues to update its tree inventory annually as trees are planted or removed.

The City relies on the expertise of City staff and a Forestry contractor (Certified Arborists) for tree maintenance concerns. As staff retire or are re-assigned, the City may lose some of its expertise. Additionally, while the City's tree ordinance provides significant authority for the City to regulate the care and maintenance of trees, it lacks specific guidance in plain English for residents and contractors to understand how best to comply with City policies and ensure proper care and protection for community trees.

For these reasons, the City recognizes that it needs to formalize and consolidate its approach to tree management. Placing City requirements as it pertains to trees, nationally accepted best practices in tree maintenance, and recommendations on tree care and management in one place, would help to ensure all City staff have easy and regular access to City procedures and policies, while providing better guidance to community residents, business-owners and contractors in the care and protection of community trees.

Last fall, the City of Birmingham received a grant through the Department of Natural Resources (DNR), Community Forestry Grant program for this project. The project outcomes and deliverables anticipated include providing clear guidance to residents and contractors and better support City staff in forestry operations in the form of a Tree Manual and Standards of Practice. The manual will include guidelines, best practices, and specifications to support tree planting, tree pruning, tree removal decisions and risk management, and tree preservation during construction activities across the community. It will provide references and appendices as appropriate and cite the most recent industry-accepted best practices and standards. The grant amount is $5,975.00, with a match required of $8,475.00, which includes staff participation and oversight. The deadline for this grant project is tentatively September of 2020, however under the current COVID-19 situation; the DNR office is willing to extend the deadline if necessary, as we originally anticipated starting this project by now.

BACKGROUND:
The intent of the Tree Manual is to align City tree maintenance guidelines with community goals and priorities, establish clear guidance in the requirements, practices and enforcement of tree maintenance, and provide the City with valuable tools to help enforce City tree policies.

A request for proposals for Professional Services to develop a Tree Manual and Standards of Practice was posted to the Michigan Inter-governmental Trade Network (MITN). Bids were opened on May 22, 2020. Two (2) bidders responded and the result of the sealed bids follows in the table below.

Bidder	Total Cost	Deviations/Additions
Davey Resource Group, Inc.	**$11,950.00**	**No**
Owen Tree Service, Inc.	$24,160.00	Yes

The recommended consultant will host a kick-off meeting and a minimum of two progress meetings, to review items and adjust as needed. They will interview stakeholders including City staff and Contractor directly responsible for tree management, City Departments who regularly interact with or affect trees such as Community Development, and any all other stakeholders. There will be an input session to discuss recommendations and develop consensus. A draft version will be provided for a review period and ultimately a final version of a Tree Manual Standards of Practice created.

Davey Resource Group, Inc. (DRG) is able to perform the work as specified. Their attached proposal outlines their understanding of this project and presents their qualifications and experience. DRG has a team of experts with familiarity in municipal tree management (a requirement specified for this project) to develop written deliverables and provide guidance best suited to meet the City's goals. DRG's team consists of International Society of Arboriculture (ISA) Certified Arborists, Geographic Information Systems (GIS) and Information Technology (IT) specialists, and ecological scientists. They have experience working with a variety of clients, including municipalities, parks, commercial complexes, and utilities and the knowledge, certifications, and training required to complete this project on time and budget.

LEGAL REVIEW:
The City Attorney has completed a review of this contract agreement and approved with signature.

FISCAL IMPACT:
This project was included in the FY 2020-2021 approved budget. Funds are available in the amount of $11,950.00 from the Parks - Other Contractual Services account #101-751.000-811.0000 for these services.

PUBLIC COMMUNICATIONS:
The Department of Public Services (DPS) will promote this project by sharing with various Boards and Committees, and methods of gathering public comment through a website survey or email form.

SUMMARY:
The Department of Public Services recommends awarding the Professional Services to Develop Tree Manual Standards of Practice project to Davey Resource Group, Inc.; they are the lowest responsible and responsive bidder and we are very satisfied with their project proposal.

Davey Resource Group (DRG) has extensive experience working with communities all over Michigan, including Birmingham. In 2012, DRG conducted Birmingham's tree inventory. DRG has also worked with our City to update our tree inventory and conduct training sessions for staff on our tree inventory software program. They have worked with other local municipalities in a variety of capacities, including Ferndale, Milford and East Grand Rapids. They have performed well over 500 municipal forestry projects.

Upon award, the consultant will host a phone or video-based project kick-off meeting with key City contacts to outline project timeline, expectations and approach.

To Recap:

- The City of Birmingham wishes to formalize its standards of practice regarding trees into a printed version, a Manual or playbook for Forestry, taking into account such items as the tree preservation ordinance, industry standards and best practices and protocols in place regarding the City of Birmingham's Forest.
- This manual will provide specific guidance and instructions in the care and maintenance of trees across Birmingham. It will be available for interested residents, contractors, builders, City staff and others and be available on the City website or upon request.
- The City received a grant through the MDNR to accomplish this project in the amount of $5,975.
- Scope of work includes a review of current policies, procedures and documents as they pertain to tree management and maintenance. Interviews with City staff and a review of national, regional, and local trends, practices and policies in urban forestry is part of this process.
- The project also includes stakeholder meetings, guided by City staff and consultant. Public input gathering by way of survey and staff liaisons to appropriate Boards and Committees.
- A draft manual will be compiled for the City to review for a period of at least 30 days.
- The manual is projected to contain the following sections:
    - -Tree Planting and Care
    - -Tree Protection Guidelines
    - -Tree Pruning Standards
    - -Tree Removal Policies
    - -Tree Permits
    - -Species List- Recommended species for planting and prohibited species
- The Department of Public Services recommends awarding the project to Davey Resource Group (DRG) as they are the lowest responsive and qualified bidder.

ATTACHMENTS:

- Attachment A - Agreement including the required Insurance Certificate
- Attachment B - Bidder's Agreement
- Attachment C - Cost Proposal
- Attachment D - Project Information Sheet
- Attachment E - Iran Sanctions Act Vendor Certification Form
- Davey Resource Group Proposal

SUGGESTED RESOLUTION:

To approve the contract with Davey Resource Group, Inc. for Professional Services to develop a Tree Manual and Standards of Practice for a total project cost not to exceed $11,950.00. Funds are available from the Parks - Other Contractual Services account #101-751.000-811.0000 for these services. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

ATTACHMENT A - AGREEMENT

Professional Services- Develop Tree Manual & Standards of Practice

This AGREEMENT, made this _____day of _____, 2020, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Davey Resource Group, Inc., having its principal office at 295 South Water Street #300, Kent, OH 44240 (hereinafter called "Consultant"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Public Services Department, is desirous professional services to develop a Tree Manual and Standards of Practice in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Consultant has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to perform tree supply and planting.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to develop a Tree Manual and Standards of Practice for the City of Birmingham and the Consultant's cost proposal dated May 20, 2020 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Consultant for the performance of this Agreement in an amount not to exceed $11,950.00, as set forth in the Consultant's May 20, 2020 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Consultant shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Consultant and the City agree that the Consultant is acting as an independent Consultant with respect to the Consultant 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Consultant nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Consultant shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Consultant shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Consultant acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Consultant recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Consultant agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Consultant shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Consultant further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Consultant agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Consultant without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Consultant agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly

related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Consultant shall inform the City of all claims or suits asserted against it by the Consultant's employees who work pursuant to this Agreement. The Consultant shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Consultant shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Consultant shall maintain during the life of this Agreement the applicable types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance:

For Non-Sole Proprietorships: Consultant shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

For Sole Proprietorships: Consultant shall complete and furnish to the City prior to the commencement of work under this Agreement a signed and notarized Sole Proprietor Form, for sole proprietors with no employees or with employees, as the case may be.

B. Commercial General Liability Insurance: Consultant shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Consultant shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the

following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Consultant will provide service that are customarily subject to this type of coverage.

F. Pollution Liability Insurance: Consultant shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted.

G. Owners Contractors Protective Liability: The Consultant shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage.

H. Cancellation Notice: Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

I. Proof of Insurance Coverage: Consultant shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Consultant to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the

City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Consultant and any entity or person for whom the Consultant is legally liable, agrees to defend,with counsel chosen by Consultant and reasonably acceptable to the Idemnified Parties, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which are caused by Consultant's negligent or willful acts or omissions during the performance of this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham. This Paragraph shall survive the expiration or earlier termination of this Agreement for a period of two (2) years.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Consultant, the City shall have the right to terminate this Agreement without further liability to the Consultant if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Consultant fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Carrie Laird
851 S. Eton St.
Birmingham, MI 48009
claird@bhamgov.org
248-530-1714

CONSULTANT:
Davey Resource Group, Inc.
Attn: Lee Mueller
295 South Water Street #300
Kent, OH 44240

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in a federal or state court with jurisdiction over Oakland County, Michigan or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in a federal or state court with jurisdiction over the Oakland County, Michigan.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

CONSULANT

By: _____

Its: Lee Mueller, Market Manager

CITY OF BIRMINGHAM

By: _____
Pierre Boutros
Its: Mayor

By: _____
Cheryl Arft
Its: Acting City Clerk

Approved:

Lauren A. Wood, Director of Public Services
(Approved as to substance)

Mark Gerber, Director of Finance
(Approved as to financial obligation)

Timothy J. Currier, City Attorney
(Approved as to form)

Joseph A. Valentine, City Manager
(Approved as to substance)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 06/29/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh USA Inc.
200 Public Square, Suite 3760
Cleveland, OH 44114-1824
Attn: Cleveland.CertRequest@marsh.com

104550 RESOU Fergus

CONTACT NAME:
PHONE (A/C, No, Ext): **FAX (A/C, No):**
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Old Republic Insurance Company	24147
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Davey Resource Group, Inc.
295 S. Water Street, Suite 300
Kent, OH 44240

COVERAGES **CERTIFICATE NUMBER:** CLE-006574846-02 **REVISION NUMBER:** 2

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X COMMERCIAL GENERAL LIABILITY			MWZY 314042 19	09/01/2019	09/01/2020	EACH OCCURRENCE	$	5,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$	5,000,000
							MED EXP (Any one person)	$	5,000
							PERSONAL & ADV INJURY	$	5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$	5,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$	5,000,000
	OTHER:							$	
A	AUTOMOBILE LIABILITY			MWTB 314041 19	09/01/2019	09/01/2020	COMBINED SINGLE LIMIT (Ea accident)	$	5,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$	
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$	
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$	
								$	
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$	
	DED RETENTION $							$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N	N/A		MWC 314040 19 (AOS)	09/01/2019	09/01/2020	X PER STATUTE OTH-ER		
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBEREXCLUDED? (Mandatory in NH) N						E.L. EACH ACCIDENT	$	5,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$	5,000,000
							E.L. DISEASE - POLICY LIMIT	$	5,000,000
A	EXCESS GENERAL LIABILITY			MWZX 314044 19	09/01/2019	09/01/2020	EACH OCCURRENCE		7,500,000
							AGGREGATE		7,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof is (are) included as Additional Insured(s) as respects General Liability and Automobile Liability where required by written contract or agreement and only as respects operations performed on their behalf by the Named Insured. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured subject to policy terms and conditions.

CERTIFICATE HOLDER

City of Birmingham
151 Martin Street
Birmingham, MI 48009

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE of Marsh USA Inc.
Luann M. Glavac

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The ACORD name and logo are registered marks of ACORD

AGENCY CUSTOMER ID: CN101565730
LOC #: Cleveland

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Marsh USA Inc.	Davey Resource Group, Inc. 295 S. Water Street, Suite 300 Kent, OH 44240
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Workers Compensation does not apply in MN. Coverage is obtained from Workers Compensation Reinsurance Association (W.C.R.A.) as required by the state. Minnesota Employers Liability is covered by policy number MWC 314040 19.

EXCESS WORKERS COMPENSATION
OLD REPUBLIC INSURANCE COMPANY
POLICY NUMBER: MWXS 314043 19
TERM: 9/1/19 - 9/1/20
WORKERS COMPENSATION - STATUTORY
EMPLOYERS LIABILITY - $1,000,000
The following entities are NOT self insured in these states: The Care of Trees, Wolf Tree, S&S Tree, Wetland Studies and Solutions, Conservation Land Stewardship, DRG Engineering and Arborguard Tree Specialists.

The Excess General Liability policy no. MWZY 314044 19 follows the coverage terms of the primary General Liability policy no. MWZY 314042 19.

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CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
06/03/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
Aon Risk Services Northeast, Inc. Cleveland OH Office 950 Main Avenue Suite 1600 Cleveland OH 44113 USA	PHONE (A/C, No, Ext): (866) 283-7122	FAX (A/C, No.): 800-363-0105
	E-MAIL ADDRESS:	

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	ACE American Insurance Company	22667
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Davey Resource Group, Inc.
295 S Water Street
Suite 300
Kent OH 44240 USA

COVERAGES **CERTIFICATE NUMBER:** 570082007525 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC OTHER:						EACH OCCURRENCE	
							DAMAGE TO RENTED PREMISES (Ea occurrence)	
							MED EXP (Any one person)	
							PERSONAL & ADV INJURY	
							GENERAL AGGREGATE	
							PRODUCTS - COMP/OP AGG	
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB / OCCUR EXCESS LIAB / CLAIMS-MADE DED / RETENTION						EACH OCCURRENCE	
							AGGREGATE	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N / A					PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	
							E.L. DISEASE-EA EMPLOYEE	
							E.L. DISEASE-POLICY LIMIT	
A	E&O-PL-Primary			G21671538015 Claims Made SIR applies per policy terms & conditions	09/01/2019	09/01/2020	Each Claim Aggregate	$5,000,000 $15,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Birmingham
151 Martin Street
Birmingham MI 48009 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast Inc.

Holder Identifier :

Certificate No : 570082007525

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ATTACHMENT B - BIDDER'S AGREEMENT

Professional Services- Develop Tree Manual & Standards of Practice

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

Lee Mueller	May 20, 2020
PREPARED BY (Print Name)	**DATE**
Market Manager	
TITLE	
	Lee.Mueller@davey.com
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
Davey Resource Group, Inc.	
COMPANY	
295 South Water Street #300, Kent OH 44240	248-221-0439
ADDRESS	**PHONE**
The Davey Tree Expert Company	800-445-8733
NAME OF PARENT COMPANY	**PHONE**
1500 North Mantua, Kent OH 44240	
ADDRESS	

ATTACHMENT C - COST PROPOSAL
Professional Services- Develop Tree Manual & Standards of Practice

In order for the bid to be considered valid, this form must be completed in its entirety.:

COST PROPOSAL	
ITEM	**BID AMOUNT**
Kick off Meeting	$ 1,150
Progress Meetings (minimum 2)	$ 1,150 /mtg = $ 2,300 total
Interviews: stakeholders/city staff/others- list below – (1) City staff directly responsible for tree management, (2) City departments who regularly interact with or affect trees, (3) all other stakeholders and/or City depts.	$ 500 /mtg = $ 1,500 total
Input session to discuss recommendations, develop consensus	$ 1,500
Develop DRAFT version of Tree Manual & Standards of Practice	$ 3,500
Final version of Tree Manual & Standards of Practice	$ 2,000
Other:	$
TOTAL	**$11,950**
ADDITIONAL COST PER MEETINGS *(IF NECESSARY)*	**BID AMOUNT**
Cost Per Additional Meetings	$750 / meeting

Firm Name Davey Resource Group, Inc.

Authorized signature

ATTACHMENT D – PROJECT INFORMATION SHEET
Professional Services- Develop Tree Manual & Standards of Practice

Identify those in your firm who would be responsible for this project, duties that would be assigned to each, *and submit copies of their certifications* (i.e. ISA arborist certification) Include educational background of principals and those who will be working on the project. Attach additional sheets, if necessary.

Lee Mueller, Kerry Gray, Gerritt Moeke, Sean Wylie, Sam Heywood, and/or Joe Joyner are likely to be assigned to this project in part, or in whole. Biographies for each member of the DRG team are enclosed in attached document.

Experience: Please indicate below the experience of the individuals listed above from your Firm pertaining to the specific type of work listed. Please restrict projects listed to those projects/services performed by the individuals identified for Birmingham's project. Please list professional service projects similar to work requested for this project.

Under the Self-Evaluation column, please rate how you believe the contact person in charge of the project would rate services if they were contacted by the City of Birmingham and asked to rate overall satisfaction with the services provided by your Firm. Please restrict your Self-Evaluation responses to the terms Excellent, Good, Satisfactory, and Unsatisfactory.

Project	Name of Company/ Municipality	Contact Person	Phone/email	Cost	Self-Evaluation
Ferndale Urban Forestry	City of Ferndale, MI	Erin Quetell	equetell@ferndalemi.gov	$125,000 total	Excellent
Milford Urban Forestry	Village of Milford, MI	Christian Wuerth	cwuerth@villageofmilford.org	$25,200 total	Good
East Grand Rapids Urban Forestry	East Grand Rapids, MI	Doug La Fave	dlafave@eastgr.org	$47,400 total	Excellent
Grand Rapids Tree Ordinance	Grand Rapids, MI	Dotti Clune	dotticlune@gmail.com	$18,500	Satisfactory
Racine Ordinance Review	Racine, WI	Matt Koepnick	Matthew.Koepnick@cityofracine.org	$21,380	Excellent

(If more than 5 projects have been performed, please list the top 5 that you feel are most comparable to the scope of work being requested. Do not list projects over 10 years old.)

Provide the anticipated timeline for completion of the tasks set forth in the Scope of Work (p.9) and a description of the overall project approach. Include a statement that the Consultant will be available according to the proposed timeline expected timeline for meeting the completion date.

To meet the City's timeline requirements, DRG anticipates kicking off the project in June. Initial stakeholder meetings will be scheduled in July, followed by drafting the manual in July/August. The initial draft will be provided to the City in August followed immediately by stakeholder meetings in September to develop consensus and discuss key recommendations. During this time-frame, the City will review and provide comments/edits, leading to a final draft by the end of October, 2020. A Gantt chart is provided in the attached proposal.

Provide any additional information you would like to include which may not be included within this Questionnaire. See attached proposal which describes in detail our understanding and approach.

ATTACHMENT E - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM

Professional Services- Develop Tree Manual & Standards of Practice

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

Lee Mueller	May 20, 2020
PREPARED BY (Print Name)	**DATE**
Market Manager	
TITLE	
	Lee.Mueller@davey.com
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
Davey Resource Group, Inc.	
COMPANY	
295 South Water Street #300, Kent OH 44240	248-221-0439
ADDRESS	**PHONE**
The Davey Tree Expert Company	800-445-8733
NAME OF PARENT COMPANY	**PHONE**
1500 North Mantua, Kent OH 44240	
ADDRESS	
82-1948528 (Davey Resource Group, Inc).	
TAXPAYER I.D.#	

Proposal for:

Professional Services: Develop Tree Manual and Standards of Practice

Prepared for:

The City of Birmingham

851 S Eton
Birmingham, Michigan 48012

Proposal Date: May 20, 2020



DAVEY Resource Group

Prepared by:

Lee Mueller, Market Manager
Davey Resource Group, Inc.
295 S. Water Street, Suite 300, Kent, Ohio 44240
C. 248.221.0439/TF. 800.828.8312

"Solutions through Innovations and Expertise"

Introduction

Trees are an important part of everyday life across Birmingham. The trees along community streets, in parks, around playgrounds, and in backyards create an inviting environment in which one can live, work, and play. Trees improve quality of life by bringing natural elements and wildlife habitats into urban settings; they moderate temperatures, reduce air pollution and energy use, improve water quality, and provide benefit to our well-being. Well cared for, trees can be a source of civic pride.

Urban tree management is dynamic and typically comprises activities such as conducting tree inventories, developing and implementing management plans, writing and enforcing contracts and tight specifications, utilizing annual work plans, and setting budgets. Many communities enact tree and land use planning ordinances and policies and promote tree benefits through public outreach campaigns and events like Arbor Day.

Davey Resource Group, Inc "DRG" fully understands that the City of Birmingham desires to develop concise guidance for tree care and maintenance across the City. Birmingham desires that its tree maintenance policies and procedures align closely with both local goals and nationally-accepted best practices. With clear guidance and established best practices, the City can ensure trees are provided the appropriate care and maintenance to limit liabilities, promote tree retention, ensure tree longevity, and expand tree canopy citywide.

By themselves, however, policies, specifications, and guiding documents cannot assure that community trees will be protected and well-managed; they provide the authorization and standards for management and enforcement activities. If these activities are not integrated into an overall management strategy and accepted by the public and businesses, problems are likely to arise. Without an overall strategy, management can be haphazard, inefficient, and ineffective, and the community forest will suffer. The City of Birmingham appears to have a developed urban forestry program, which bodes well for the effective implementation of clear tree maintenance guidelines and policies.

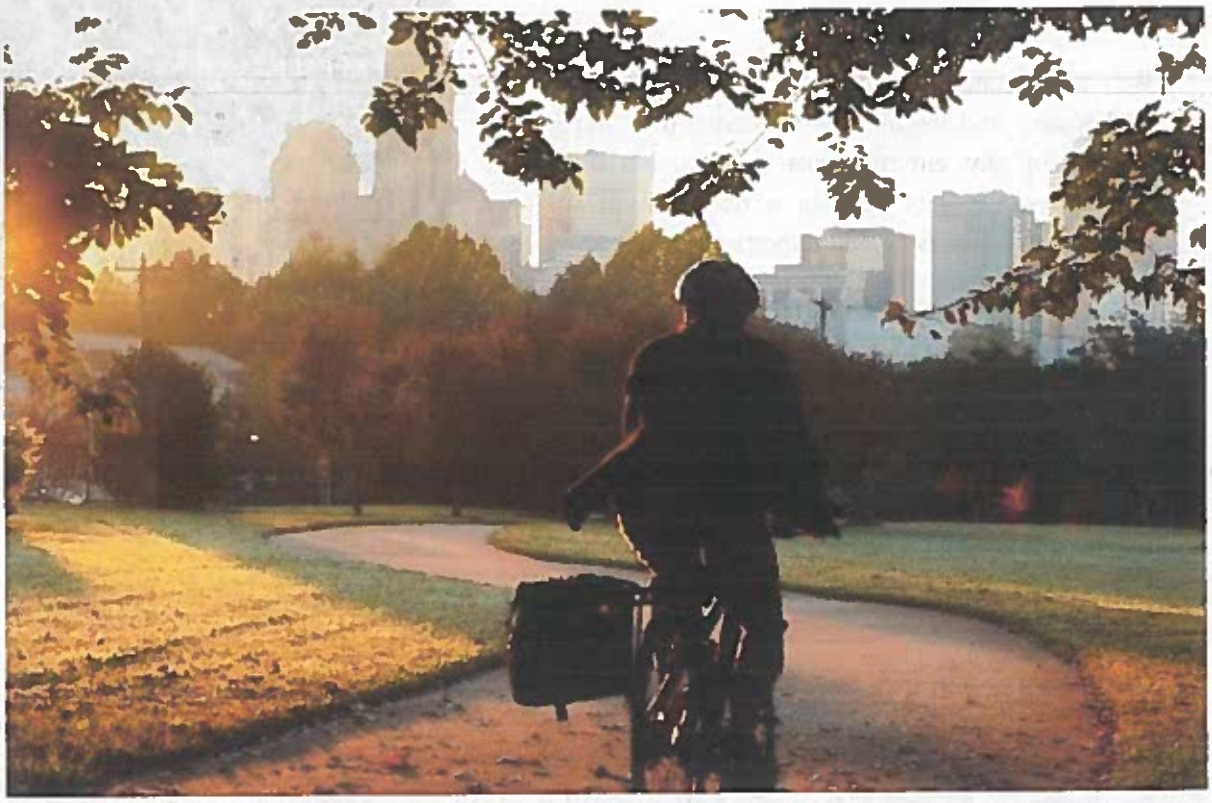
The effectiveness of tree maintenance guidelines and best practices can be influenced by many factors, and DRG's Senior Urban Foresters know these issues and how to get the right answers. Do the citizens, city staff, and public utilities support or oppose various ordinance provisions and other regulations, or are they even aware of them? Can policies be enforced adequately? Will specifications account for environmental limitations that affect tree health, growth, and survival? Will the City have the financial resources to fulfill or enforce specifications as outlined?

DRG has decades of experience working with communities like Birmingham. We support community forestry programs to enhance urban forests and optimize the traits and benefits residents have come to expect from their natural resources. Our experience and knowledge, along with a deep understanding of municipal forestry operations and planning, make us a perfect fit for Birmingham's project.

In this proposal, we confirm our understanding of your project and present our qualifications and experience with performing work relevant to your community. We provide a description of our approach to completing the project and define how our team will best meet your needs. Finally, we include a project schedule and relevant information about the staff we would most likely assign to this project.

About Davey Resource Group, Inc.

For over 25 years, DRG has supported communities in public tree management throughout the United States. We know that information contained in a tree manual and standards of practice is a critical tool to helping you manage your urban forest proactively and better mitigate tree-related risk. DRG uses our team of experts with familiarity in municipal tree management to develop our written deliverables and provide guidance best suited to meet your goals.



Urban Forest Experts

We are pleased to introduce DRG and our team of urban forest experts to the City of Birmingham and present our qualifications for providing consulting services. DRG's team will provide you with solutions you can count on for building and maintaining tree canopy in a manner that not only enhances community aesthetics and public safety but also improves the community's environmental and social well-being through trees.

Our team consists of International Society of Arboriculture (ISA) Certified Arborists, urban and traditional foresters, urban planners, Geographic Information Systems (GIS) and Information Technology (IT) specialists, and ecological scientists. We have experience working with a wide variety of clients, including municipalities, parks, commercial complexes, and utilities, and have the knowledge, certifications, and training required to complete Birmingham's project on time and budget while exceeding Birmingham's expectations.

Natural Resource Management

DRG's Environmental Consulting team is your committed partner for natural resource planning and management. With 22 local offices and a national footprint, we offer a wide and growing variety of consulting services (in addition to urban forestry) including wetlands and stream studies, environmental design and ecosystem restoration, stormwater management and compliance, and invasive species management.

We understand the complex ecosystems, resource challenges, and regulatory concerns that impact the success of any environmental project. No matter the location—dense city core or a remote rural site—we leverage our creativity and expertise to deliver reliable, turn-key environmental consulting services. We combine the latest technologies with time-tested techniques to provide high-quality results in a timely and professional manner.

Facts & Figures

1/2 million
TREES INVENTORIED ANNUALLY

450
URBAN FOREST PLANS DEVELOPED

600+
TREEKEEPER® CLIENTS

100
UTC ASSESSMENTS SINCE 2008

100+
CLIENTS HIRE DRG ANNUALLY

A Trusted Partner and Supporter of Arboriculture

Davey is a trusted partner of the United States Department of Agriculture (USDA) Forest Service and the Arbor Day Foundation, and a long-time supporter of the ISA and its local chapters. Davey is a founding partner with the USDA Forest Service of the i-Tree software.

Davey staff helped to develop and revise the American National Standards Institute (ANSI) standards for arboriculture, including tree risk assessment, and drafted some of ISA's best management practices. Davey also works with the Tree Care Industry Association (TCIA), as safety is priority one for the Davey Company. Recently, DRG created the Urban Forest Program Continuum to help our clients gauge and grow their tree management programs.

DRG's Focused Urban Forestry Services



TREE INVENTORY

Whether inventorying one tree or hundreds of thousands of trees, DRG tailors each inventory to meet your specific program needs and project budget.

TREEKEEPER® SOFTWARE

Developed, maintained, and supported by DRG's in-house IT professionals, TreeKeeper® is easy-to-use, web-based software used to manage, share, and update inventory data.



URBAN FOREST PLANNING

Whether Birmingham needs help managing the city's trees daily or reaching overarching goals for the urban forest, our team has the experience, tools, and ability to help Birmingham achieve both its short- and long-term goals. DRG develops management and master plans as well as storm preparedness, tree protection, woodlot, and invasive species management plans.



GIS

With GIS specialists in-house, we can map the City's urban tree canopy (UTC) cover as well as estimate tree benefits, model canopy grow out, analyze the spatial distribution of available planting space, and predict the impact of threats to the tree canopy.

STAFFING



If Birmingham does not have an urban forester or needs help with program management or projects, DRG's experienced ISA Certified Arborists work on-call, perform project work, or work as part-time or full-time contract staff.

TREE BENEFITS

As a developer of i-Tree, DRG knows how to use i-Tree Tools to highlight the benefits of your trees.

i-Tree

Project Approach

DRG approaches each project with our client's unique goals and challenges in mind. We have provided support for a wide range of communities, park districts, and campuses throughout the U.S. for over 25 years. We understand that having policies designed specifically to your community is a valuable tool that will help you protect, enhance, and expand your community's tree resources and ultimately advance community goals.

The results of this tree manual and standards of practice will:

- Align City tree maintenance guidelines with community goals and priorities;
- Provide the City with valuable tools to help enforce City tree policies;
- Establish clear guidance in the requirements, practices, and enforcement of tree maintenance;
- Promote the valuable role trees play in your community; and
- Ensure compliance with current, industry-accepted best practices and standards.

Managing trees is an undeniable challenge. This project is a significant step towards meeting that challenge and achieving your urban forestry program's goals and objectives.

Tree Manual and Standards of Practice



With well over 500 municipal forestry projects under our belt, our experienced team has developed a project management process that simultaneously reinforces client relationships, provides quality and expert-driven results, and ensures expedient delivery. Consulting urban foresters and ISA Municipal Specialists at DRG have a wealth of experience reviewing, updating, and writing tree ordinances, preservation plans, best management practices, zoning codes, and other related local regulations. With our experience and with our extensive resources of tree ordinances from around the country, we are confident that we can provide a tree manual that provides clear guidance and best practices in the care of Birmingham's trees.

To complete this project, DRG will work hand-in-hand with qualified City staff to author, review, and finalize a **Tree Manual and standards of practice (manual or tree manual)**. The manual will be clearly written to provide specific guidance and instructions in the care and maintenance of trees across Birmingham. This project will include the following tasks:

Task 1. Project Management and Communication

DRG prides ourselves on clear, effective, and timely communications. We understand the success of our partnership depends on a solid foundation of understanding. At the beginning of our project, we will host a phone or video-based project kick-off meeting with key City contacts and stakeholders to outline project timeline, expectations, and approach. At this time, DRG will refine our detailed work plan which will include specific timelines, data requirements, staff assignments, and other important details that pertain to this project. The City will have the opportunity to interact with primary staff assigned to your project and provide your perspective and project expectations.

As the project progresses, DRG will host two (2) additional project progress video or conference calls at critical project checkpoints to ensure the project remains on track and successfully accomplishes City goals. Between meetings, the City will receive project updates and reports on progress via e-mail or phone approximately every two weeks during the project timeline.

Deliverable: Kick-off meeting, 2 progress meetings, project updates every two weeks.

Task 2. Research and Project Review

DRG and its partners are already familiar with the City's program, as we have had the privilege of working on the City's tree inventory, management plan, and staff training. To round out our understanding of the City's urban forestry program, DRG will perform a cursory review of current policies, procedures, and documents as they may pertain to tree management and maintenance. DRG will also likely schedule several one-on-one phone conversations with relevant City staff to gain an understanding of how existing policies are applied and perceived challenges or opportunities.

As part of this process, DRG will also conduct a review and analysis of national, regional, and local trends in tree maintenance practices and policies for structure, procedure, effectiveness, and additional principles of sound urban forestry and environmental sustainability. DRG's strong national and regional presence uniquely qualifies us to perform this task at an extremely high level. With our experience in collaborating alongside hundreds of municipalities throughout the country, we will be able to translate their experiences and procedures into the City's tree manual.

Deliverable: Key findings, questions, and tree manual provisions will be discussed at a progress meeting.

Task 3. Stakeholder Input Session

To best support this project, DRG will conduct one on-site project visit to meet with key City staff and stakeholders. The visit consists of approximately 2-3 round-table meetings and up to four hours of meeting time conducted in one day. Meetings will be conducted with small groups (one to three people) or round-tables (approximately eight people) with invited participants of similar job functions or relationship to the City's urban forestry program and community trees.

Following completion of the initial Tree Manual draft, DRG will hold a second input session to discuss key recommendations and elements included in the Tree Manual. This input session will be a

single one to two hour presentation and meeting to discuss DRG's recommendations and solicit feedback from key City staff and stakeholders. Input will be incorporated into the final manual.

DRG will provide an adept urban forester with facilitation experience. DRG will provide guidance and input on key staff, stakeholders, or others who should be included in meetings. Depending on initial project research and DRG's recommendations, DRG's project team may recommend meetings with outside stakeholders or groups who might be affected by the policy changes. The City of Birmingham will be responsible for securing meeting space, inviting participants, and any other space or technical needs. DRG staff will work with the City to set the agenda, run the meeting, and take meeting notes.

Please note, DRG follows both corporate policies and state guidelines in response to COVID-19, which may require alteration of intended stakeholder input session approach. DRG is prepared to move to a web-based survey or electronic-style meeting (e.g. zoom, gotomeeting) to hold input sessions, if necessary.

Deliverable: Two on-site meetings with key City staff and stakeholders. DRG will summarize meeting notes and key findings.

Task 4. Draft Tree Manual

Using the results of the stakeholder meeting as well as guidance from key City staff, DRG will prepare an initial draft of the City's Tree Manual. The City will be provided a draft of recommended changes for review and comment. The manual will include guidance on issues raised by City staff and comply with the most current nationally-recognized standards and best practices. The City should provide any drawings or specific photographs desired to be included in the manual. The City will be provided one review period of at least 30 days to provide feedback. If multiple departmental staff or stakeholders review the draft, then vetted, consensus additions, deletions, comments, and/or questions should be reported back to DRG by a single City point of contact in written form.

The manual is projected to include the following sections:

- Tree planting and early tree care. Guidelines on the planting and establishment of young trees, including planting procedures, watering, fertilization, and young tree pruning.
- Tree protection guidelines. Best practices for the protection and preservation of trees during construction or infrastructure maintenance activities. Specifications may be leveraged to guide projects on either public or private lands, as appropriate.
- Tree pruning standards. General standards and specifications for the proper pruning of trees. Section will discuss appropriate placement of cuts, types of pruning, and reasons for pruning.
- Tree removal policies. Establishes reasons the City may remove trees (e.g. severe defects, infrastructure maintenance) as well as inappropriate justification for tree removal (e.g. tree is "messy", tree is "too big").
- Tree Permits. This section covers guidelines and obtaining permission to prune, remove, plant, treat, maintain, or otherwise injure public trees.
- Species list. A list of recommended tree species and prohibited species for planting will be provided.

Deliverable: Draft Tree Manual.

Task 5. Final Tree Manual

Once DRG receives the City's comments and edits, our staff will then complete the Tree Manual and provide deliverables including electronic versions of all text and graphics that comprise the new documents. This document will incorporate and address all comments and edits provided by the City and be suitable for submission to the City's internal policy review processes. After which, the City may continue to make minor changes to its manual based on its approval process. DRG's professionals will remain available by phone and email to answer specific questions or provide additional clarification that may arise from our work.

Deliverable: Completed Tree Manual suitable for final legal review and submission to the City's internal approval processes.

Project Schedule, Tasks, and Deliverables

DRG uses a team-based approach to our work, including our management plans, ordinances, and tree inventories. Our team of professionals have complementary backgrounds and skills. They will work together and with the City of Birmingham towards achieving common goals. Collaboration ensures quality of outcomes and a quality work environment. It also ensures that we meet the project timeline and deliver the scope of work per the City's expectations.

The following table illustrates the project's main tasks and their anticipated completion dates. It also summarizes project deliverables.

Task	*Jun.*	*Jul.*	*Aug.*	*Sep.*	*Oct.*	*Deliverable*
Project Management and Communication	■		■		■	***E-mail updates every two weeks. Phone or web-based progress meetings.***
Research and Project Review	■					***Initial commentary on review provided in a progress meeting.***
Stakeholder Input		■		■		***Summary of stakeholder input following each site visit.***
Tree Manual Draft			■			***Draft of Tree Manual for City review.***
City Review Period				■		***City to return comments, edits, or necessary revisions in a single document.***
Prepare final drafts					■	***Final editable documents for the Tree Manual provided in an electronic format.***

Staff Profiles

For this project, we will use a team consisting of business developers, project managers, urban foresters, and our in-house GIS and IT staff. DRG's team approach is part of our Quality Assurance Process. Having a diverse team work on the project allows us to build in as much oversight as necessary and communicate with you as much as possible.

Our business developers and managers ensure that the staff assigned to the project understand the scope and timeline, and meet the experience and credential requirements. They also communicate with you during the project and answer any questions that may arise about our work or the project's scope. DRG's urban foresters work directly with you. Some attend the kick-off meeting and final project meetings. They report on project process and may ask questions or address any concerns. Our consulting team is supported by administrative, GIS, and IT staff as necessary.

The following DRG team members may be assigned to this project. Their experiences and credentials demonstrate that they have the qualifications required to work on this project.

Kerry Gray, M.S. is a senior urban forestry consultant and project manager with DRG. Ms. Gray provides a wide range of experienced input into DRG's urban forest master plans, tree management plans, operations review, ordinance and policy reviews, and similar policy and guiding documents for municipal forestry and natural resource management. Prior to joining DRG, Ms. Gray was the Urban Forestry and Natural Resources Planning Coordinator for the City of Ann Arbor, Michigan. In this role she oversaw and managed the City's urban forest, including: identifying forestry work priorities, developing resource plans, developing the city's urban forest master plan, overseeing tree care contractors, and providing public outreach/education. Ms. Gray also reviewed site plans for compliance with City natural resource protection and landscaping ordinances. She has also worked for the Michigan DNR on emerald ash borer management, and led efforts in resource conservation with the Ingham Conservation District. With this depth of experience, Ms. Gray provides significant support in operations, policies, and program management to a number of DRG's clients. She is an Certified Arborist and Municipal Specialist (MI-3868AM) through the International Society of Arboriculture and is a past chair of the Michigan Urban and Community Forestry Council where she was active in promoting sustainable urban and community forestry activities across Michigan. Ms. Gray holds both a bachelor of science and a master of science in forestry from Michigan State University.

Lee S. Mueller, M.S., C.F., is a project developer and forestry specialist with DRG. Mr. Mueller is responsible for assisting governments, nonprofits, institutions, businesses, forest landowners, utilities, and communities of all types with a range of project development and strategic planning services. Additionally, he excels in developing strategic partnerships, engaging diverse communities, and seeking, writing, and managing private and government grants. Mr. Mueller has served as a staff or board member on a variety of professional and nonprofit organizations dedicated to forestry, arboriculture, and parks and recreation. Before joining DRG, he was instrumental in building and managing an urban forestry outreach and volunteer program that garnered state and national recognition in Grand Rapids, Michigan. In other capacities, Mr. Mueller has managed and implemented a wide range of community forestry projects, including large-scale volunteer tree plantings, private forest management, stormwater mitigation projects, and dendro-remediation of

contaminated soils. Mr. Mueller is Certified Forester, a Certified Arborist (MI-41481), Tree Risk Assessment Qualified, and a Michigan Registered Forester. He holds a master's degree and a bachelor's degree in forestry from Michigan State University. He serves on the Michigan Urban and Community Forestry Council and is a Parks and Recreation Advisory Board Member and Urban Forestry Committee member for the City of Grand Rapids. Mr. Mueller provides an experienced and innovative approach to: community forestry, forest management, ecosystem restoration, parks and recreation planning, staff and volunteer training, nonprofit programs, and community outreach and engagement.

Gerritt Moeke, CCF., is an environmental specialist with DRG. Gerritt assists site managers and project managers in the implementation of urban forestry and ecological restoration projects. Currently, he supports a Michigan Department of Transportation project covering the maintenance of newly planted trees along I-75 and the mitigation of invasives and other undesirable species that threaten the health of the planted trees and shrubs. Gerritt is OSHA 10-hour certified in General Industry Safety and was internally trained in construction oversight by Davey Resource Group alongside TGC engineering. Previously, Gerritt worked in traditional forestry assessing and managing private tracts of forest land in Northern Michigan for a small forest products company. His experience covered the cruising of timber to appraise both the value and the health of forest, planning and implementation of long-term management of northern hardwood forests, the grading and scaling of cut timber, and the sale of veneer quality hardwood logs. Gerritt earned his bachelor of science degree in forestry from Michigan State University with a minor in economics and is currently a Candidate Certified Forester for the Society of American Foresters and an International Society of Arboriculture Certified Arborist (MI-4520A).

Sean Wylie is an urban forestry planner for DRG, primarily assisting the Urban Forestry Planning Team with writing and coordinating urban forest master plans. He also assists with DRG's ecological restoration projects and creates GIS data products, as needed. Some of Mr. Wylie's previous experience includes using GIS analysis to remotely delineate wetlands in Minnesota for a National Wetlands Inventory update, and an ecological study of various experimental treatments for removing invasive plant species at a prairie restoration site in the Manistee National Forest. He has also helped maintain Ann Arbor's urban forest inventory by updating GIS records on trees owned by both the city and on trees owned by the University of Michigan, along with working privately as a tree and shrub health care technician. Mr. Wylie received his bachelor of science degree in natural resources management with a GIS Technology Certificate from Grand Valley State University. He is also an International Society of Arboriculture (ISA) certified arborist (MI-4522A), a certified Michigan Pesticide Applicator (C003180368) with reciprocity in Ohio and Indiana, and has the L-180, S-130, and S-190 from the National Wildfire Certification Group.

Joe Joyner is an arborist within the Environmental Consulting branch of Davey Resource Group. Joe joined Davey in April 2018 tasked with helping to bring a large-scale tree inventory for Baltimore City to a successful close. Joe holds a decade of diverse experience within the arboriculture industry. Previous experience includes tree care operations, risk assessment, historic tree preservation, construction management, code compliance, and business development. Most recently prior to joining the DRG team, Joe worked for a tree care company based out of the Raleigh-Durham (RDU) area of

North Carolina where he played a primary role in developing commercial client relationships and helped lay the groundwork for the company's urban forestry consulting department. As an ISA Certified Arborist (SO-6755A) with an ISA Tree Risk Assessment Qualification (TRAQ), Joe specializes in assisting communities, universities, municipalities, landscape professionals, and other primary stakeholders in devising, developing, and implementing urban forest management plans.

Joe holds a B.A. degree in political science and history from the University of North Carolina at Chapel Hill. He also earned a master's degree in International Policy from the School of Public and International Affairs at the University of Georgia.

Sam Heywood is a project manager with DRG. His duties consist of various aspects of forestry and environmental consulting work, including tree inventories, planting and site restoration projects, and contract forestry. Mr. Heywood is also proficient in crafting technical documents, including urban forestry management plans, urban tree canopy assessments, and forestry grant proposals.

Mr. Heywood has largely focused on tree inventory data collection, quality assurance, and client communication. He has overseen ground operations and trained new staff on large and small projects across the country. Mr. Heywood has experience with various GPS and GIS systems, handheld data collection units, and several different inventory data collection software programs. With DRG, Mr. Heywood has also worked on the Asian Longhorned Beetle Eradication Programs in Massachusetts and Ohio. He has also served as a consulting forester for utility contracts in California and Colorado and is experienced in performing timber appraisals.

Mr. Heywood has presented at multiple academic consortia and is published in an academic journal on the subject of removing invasive tree species. Mr. Heywood has a bachelor's degree in biological sciences with a concentration in ecology and evolution from the University of Cincinnati. He is an International Society of Arboriculture (ISA) "Certified Arborist® and Municipal Specialist® (OH-6441AM), an ISA Tree Risk Assessment Qualification (TRAQ) credential holder, and a 2018 graduate of the Davey Institute of Tree Sciences, Davey's flagship training program.

Related Projects

Client: City of Ferndale, Michigan
Contact: Erin Quetell, 248-336-4361

The City of Ferndale contracted DRG to perform an urban tree canopy assessment (UTC), ordinance review, phased inventory, and management plan. The UTC identified the city's total tree canopy, where tree canopy occurs, and opportunities for improvement. Coupled with the city's tree ordinance review, the city has clear direction and strategies to maximize tree canopy across the community. To date, all 4 inventory phases have been completed. A total of 8,014 trees have been collected. As data are collected, the city immediately handles any maintenance concerns identified. These efforts have raised the visibility of the city's forestry program among city leadership. As a result, Ferndale crafted a series of goals and metrics to advance urban forestry in fiscal year 2018. To move these goals forward, Ferndale has contracted DRG to provide on-site forestry support one day a month for several years. DRG has been supporting city efforts through tree inspections, further ordinance review, resident communication, planting program evaluation, and long-range municipal forestry plans.

Client: Village of Milford
Contact: Bob Calley, 248-685-3055

The Village of Milford is a small, tight-knit community in southwestern Oakland County. With a public works department pulled in multiple directions, Milford was interested in gaining further insight on its tree population and using data to improve operations. DRG helped the community secure a State of Michigan Urban and Community Forestry Grant and conducted a complete inventory of 3,066 trees along public streets and within the village's Central Park. The GIS-based tree inventory included an assessment of tree size, species, condition, risk level, and maintenance need. The village received the tree inventory data in Davey's Treekeeper® 7 Tree Management Software. Village staff have been using Treekeeper® 7 to prioritize maintenance activities based on tree risk. To support staff efforts, DRG presented to the village council and detailed the inventory process, key findings, and management recommendations. DRG provides on-call consulting to address specific tree issues or questions that may arise within the village as well as revisions to the village ordinances. The partnership has allowed the village to utilize forestry expertise to augment staff capacity and expertise.

Client: City of East Grand Rapids, Michigan
Contact: Doug La Fave, 616-940-4817

DRG conducted a street tree inventory in the City of East Grand Rapids. The GIS-based inventory included an assessment of 7,113 trees and stumps. All trees were evaluated for condition, structural soundness, and assigned a risk level to enable the city to prioritize its maintenance needs. DRG's experienced GIS/IT team ensured the city was able to successfully import all inventory data into the city's existing asset management system. The city immediately used their tree inventory to address all priority maintenance issues identified by DRG. DRG's experienced consulting team also presented

inventory findings to the City Council, further establishing the value and importance of monitoring community trees.

Subsequently, the city has engaged DRG in ongoing contract forestry services. DRG's team of professional arborists have provided tree inspections and risk assessments to guide city decisions in the maintenance of specific trees. DRG was also asked to put together a cyclical pruning program and specifications for future tree maintenance contracts. More recently, DRG used inventory data to identify specific tree management concerns, set up a body of work, advertised a contract, managed the bid process, and administered the contract for Fiscal Years 2018, 2019, and 2020 pruning and removal operations in accordance with City policies, ordinances, and procedures.. DRG continues to support the city's forestry efforts through tree assessments, contract management, tree pest and disease concerns, and public outreach.

Client: City of Grand Rapids, Michigan
Contact: Dotti Clune, 616-308-2545

DRG prepared language for use in updating the tree ordinance in the City of Grand Rapids, Michigan. The city had a number of environmental initiatives in partnership with local non-profits, city departments, and city residents that provided a large amount of support for increased tree canopy and urban forest programs. DRG provided language that connected the goals of these initiatives and employed best management practices and technical standards (ANSI A300 Standards) that reflect the latest advancements in the urban forestry field. After several meetings with stakeholders, DRG provided proposed ordinance language along with examples of what many other cities were doing with similar ordinances to increase tree canopy and improve urban forestry programs. This useful tool provided the city and the partnership with the information that helped them fully understand what others were doing and how similar language might help Grand Rapids achieve its goals.

Client: City of Racine, Wisconsin
Contact:Matt Koepnick, 262-636-9131

The City of Racine received an Urban Forestry Grant from the Wisconsin DNR to completely review and revise the City's Tree Ordinance and develop a companion standards and best practices manual. Recognizing DRG's national expertise, the City contracted with DRG to manage the ordinance review and revision process. DRG first dove into the City's existing policies, specifications, as well as plans and documents related to trees, tree management, and the existing tree ordinance. Once complete, DRG hosted an on-site stakeholder meeting to understand how existing policies are applied and what challenges or barriers are felt by City staff and key members of the public. From this understanding, DRG made significant edits to the City's tree ordinance and wrote an accompanying manual to provide clear, concise guidance to City staff and public stakeholders in the requirements and enforcement of the City's tree ordinance. DRG hosted one final stakeholder meeting to help orient participants to the new ordinance and changes and accept any feedback, revisions, or edits prior to finalizing both documents. The ordinance and accompanying manual were delivered to the City of Racine and are in the process of being adopted by the City Commission.

Assumptions and Limitations

1. City of Birmingham will provide DRG with all reports, ordinances, policies, plans and other pertinent background information as needed in a timely manner and free of charge.
2. City of Birmingham will provide daily contact information for the City's project manager.
3. City of Birmingham will designate and make available key City staff for questions, interviews, or discussions in regards to existing tree ordinance and policies.
4. City of Birmingham will designate and make available key stakeholders for involvement in the process and set up/host the needed stakeholder meetings.
5. City of Birmingham will review the draft tree manual in a timely manner consistent with the projected schedule.
6. City of Birmingham will provide any desired drawings or photographs for inclusion in the Tree Protection Specification Manual.
7. City of Birmingham will coordinate and host an informational kick-off meeting at project launch.
8. In the event it is the successful bidder, DRG reserves the right to request revisions to the City's contract and any terms and conditions, as necessary, prior to execution.

Appendix A
Limited Warranty

The Davey Tree Expert Company, its divisions, agents, representatives, operations, and subsidiaries (collectively "Davey") provides this Limited Warranty as a condition of providing the services outlined in the agreement between the parties, including any bids, orders, contracts, or understandings between the parties (collectively the "Services").

Davey provides the Services utilizing applicable standard industry practices and based on the facts and conditions known at the point in time the Services are performed. Facts and conditions related to the subject of the Services may change over time. Davey cannot predict or determine developments concerning the subject of the Services and will not be liable for any developments, changes, or conditions that occur, including, but not limited to, decay or damage by the elements, persons or implements, insect infestation, deterioration, conditions not discoverable using the means and methods used to perform the Services, or acts of God or nature or otherwise. If a visual inspection is utilized, visual inspection does not include aerial or subterranean inspection, testing, or analysis. Davey will not be liable for the discovery or identification of non-visually observable, latent, dormant, or hidden conditions or hazards, and does not guarantee that items will be healthy or safe under all circumstances or for a specified period of time, or that remedial treatments will remedy a defect or condition.

Davey may have reviewed publicly available or other third-party records or conducted interviews, and has assumed the genuineness of such documents and statements. Davey disclaims any liability for errors, omissions, or inaccuracies resulting from or contained in any information obtained from any third-party or publicly available source.

To the extent permitted by law, Davey does not make and expressly disclaims any warranties or representations of any kind, express or implied, with respect to completeness, accuracy, or current nature of the information contained in the Services or the reports or findings resulting therefrom beyond that expressly contracted for by Davey in the agreements between the parties, including but not limited to, performing diagnosis or identifying hazards or conditions not within the scope of the Services or not readily discoverable using applicable standard industry practices. Davey disclaims any warranty of fitness for any particular purpose. Davey's warranty is limited to one year from the date Services are performed. Davey's liability for any claim, damage, or loss, whether direct, indirect, special, consequential, or otherwise, caused by or related to the Services shall be limited to the Services expressly contracted to be performed by Davey.

DAVEY
Resource Group

MEMORANDUM

Department of Public Services

DATE: **July 10, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Lauren A. Wood, Director of Public Services**

SUBJECT: **DPS Vehicle #110 Replacement**

INTRODUCTION:
City vehicle #110 is a 2007 GMC C2500 Sierra Pickup used by the Department of Public Services. Due to its age and condition, the Department of Public Services recommends replacement.

BACKGROUND:
This pickup truck with an 8-ft. dump bed is used extensively year-round by the Parks and Forestry division for the purposes of landscape maintenance, special event support and snow/ice removal at city parks, municipal sites and public right-of-ways.

The scoring system for Pick-ups, Vans and Sedans have six categories. The following table illustrates the breakdown of the scoring system used as justification for the replacement of this vehicle.

Vehicle #110, 2007 GMC C2500

Factor	Description	Points
Age	1 point each year of age.	13
Miles/Hours	1 point each 10,000 miles of usage	5.4
Type of Service	Type 4 – Any vehicle involved in snow removal	4
Reliability	Level 2 – In shop 1 time in 3-month period; 1 breakdown/road call within 3-month period	2
M & R Costs	Level 4 – Maintenance costs are more than 61-80% of replacement costs	4
Condition	Level 3 – Noticeable imperfections in body and paint surface, some rust, worn interior and damage from add-on equipment	3
	Total Points 28+ needs priority replacement	**31.4**

The Department of Public Services recommends replacing this equipment with a 2020 GMC Sierra 2500HD. This model has demonstrated reliability and all-season versatility. Under the Replacement Guidelines, the life expectancy for a pickup is 8-10 years. The new vehicle is available for purchase through Todd Wenzel Buick GMC through the Oakland County cooperative

purchasing contract #005222 for a total expenditure of $32,549.00. Therefore, no other quotes were obtained.

LEGAL REVIEW:
This purchase does not require legal review.

FISCAL IMPACT:
This replacement is included in the Vehicle/Equipment Replacement Schedule, as published in the Fiscal Year 2020-21 budget. Funds for this expenditure – totaling $32,549.00 – are available from the Auto Equipment Fund #641-441.006.971.0100. The old vehicle will be stripped of transferrable equipment and listed on the Michigan Inter-Governmental Trade Network (MITN) for public auction.

PUBLIC COMMUNICATION:
This purchase does not require public communication.

SUMMARY:
The Department of Public Services recommends approving the purchase of one (1) 2020 GMC Sierra 2500 HD with Todd Wenzel Buick GMC, through the Oakland County Purchasing Contract #005222, using funds from the Auto Equipment Fund #641-441.006.971.0100 for a total expenditure of $32,549.00.

ATTACHMENTS:
There are no attachments included in this report

SUGGESTED RESOLUTION:
To approve the purchase of one (1) 2020 GMC Sierra 2500 HD from Todd Wenzel Buick GMC through the Oakland County cooperative purchasing contract #005222 in the amount of $32,549.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006.971.0100.

City of Birmingham
A Walkable Community

MEMORANDUM

Birmingham Shopping District

DATE: **July 16, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Ingrid Tighe, Birmingham Shopping District Executive Director**

SUBJECT: **Free Parking on streets during "Back to Birmingham" Sale**

The Birmingham Shopping District is hosting a "Back to Birmingham" 7-day sale promotion July 22 - July 28 in downtown Birmingham. The BSD is requesting that the city allow free parking on the streets for customers during this promotion.

Every year the Birmingham Shopping District hosts its annual Day on the Town sidewalk sale which attracts thousands from the Metro-Detroit area to shop for high-end, discounted merchandise. Many retailers report that they do 1-2 months worth of sales in just this one day - it is a vital event to our downtown stores and their financial health. However, due to the COVID-19 pandemic, the event is canceled this year. As an alternate solution, the BSD is promoting a "Back to Birmingham" 7-day sale promotion. The hope is that customers will still shop online, curbside, or in-person at our downtown businesses, but this will spread crowds out to allow social distancing and a safe environment for all.

In the past, the City and the BSD provided free parking throughout the downtown at the meters and in the decks for the annual Day on the Town event. This year, the BSD is requesting permission to offer free parking on the street during this 7-day sale period to support the retailers during this new format of "Back to Birmingham."

Offering free parking on the streets during this period would cost the city approximately $48,000 in revenue.

Suggested Resolution:
To approve free on-street parking July 22 - July 28, 2020 for the "Back to Birmingham" Sale promoted by the Birmingham Shopping District in replacement of the Day on the Town event, possibly foregoing approximately $48,000 of revenue to the Automobile Parking System.

City of Birmingham
A Walkable Community

MEMORANDUM

Museum

DATE: **July 20, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Leslie Pielack, Museum Director**
Carlos Jorge, Maintenance Supervisor

SUBJECT: **Contract Agreement: Restoration and Preservation of the Hunter House-Exterior Carpentry, Trim and Paint**

INTRODUCTION:

The Hunter House, built 1822, is the oldest house in Oakland County, and one of the oldest dwellings in all of Michigan. The house is individually listed on the National Register of Historic Places and is in Birmingham's Mill Pond local historic district as well. Moisture damage to the wood elements of the building has accelerated in the last few years, requiring intervention to improve rainwater management as an essential step toward long-term preservation of the structure. Before the necessary repair and repainting can be done on the exterior wood trim and windows, the below ground drainage must be addressed, which is a separate project. When the historic wood siding and windows have been repaired and repainted according to the Secretary of the Interior Standards, it is anticipated that the building will only require minimum maintenance for the next ten to fifteen years.

BACKGROUND:

In recent years, the building has shown signs of water intrusion into some of the original wood components of the structure due to a combination of roofing age and existing drainage issues. In 2019, the roof was replaced according to plans and specifications provided by historic architect, Jackie Hoist of H2A Architects. In addition, H2A provided consultation services to address 1) the need for improved drainage around the building, followed by 2) repair and repainting of deteriorating wood exterior siding and original trim. The projects were separated because each uses a distinct construction specialty area, although the drainage project must precede the exterior repair and repainting project. Both proposed project designs and specifications were reviewed by city staff and also presented to the Historic District Commission on December 4, 2019. They will complete the preservation needs for the building and will improve the moisture management around the building without compromising its historic integrity.

A Request for Proposals was issued for Restoration and Preservation of the Hunter House-Exterior Carpentry, Trim and Paint and three qualified proposals were received. City staff and H2A Architects reviewed the bids. L.G.K. Building, Inc. met all the requirements for the project, was the lowest qualified bid at $ 62,950.00, and has successfully completed historic projects with the city in the past, including at the Allen House. The Museum Board was

informed of the outcome of the bidding process at their meeting on July 9, 2020, and is in agreement with staff recommendations that L.G.K. Building, Inc. be awarded the bid.

Hunter House Preservation/Exterior Carpentry, Trim, and Paint	R&G Painting	L.G.K. Building, Inc.	Summit Co
	$13,500	**$ 62,950**	**$ 87,807**

LEGAL REVIEW:

City Attorney Tim Currier has provided a legal review of the contract agreement for the Preservation/Repair of Hunter House-Exterior Carpentry, Trim, and Paint with L.G.K. Building, Inc.

FISCAL IMPACT:

Insufficient funds were budgeted for this project in the 2019-2020 Hunter House budget because the conditions and serious extent of the moisture damage were unknown at the time. Unused funds were available in the Allen House Other Contractual Services account, 101-804.001-811.0000, which would have permitted the project to be completed in the spring of 2020. However, due to the COVID pandemic shut down, the project was delayed, requiring a budget amendment to make the funds from the 2019-2020 budget available for completion of the project in 2020-2021.

SUMMARY

L.G.K. Building, Inc. has met the requirements and has presented the most qualified and lowest proposal to complete the project. It is therefore recommended that the contract award for Restoration and Preservation of the Hunter House-Exterior Carpentry, Trim and Paint go to L.G.K. Building, Inc., for $62,950.

ATTACHMENTS:

1. Request for Proposals
2. Contract Agreement with insurance documents
3. Letter of recommendation from historic architect Jackie Hoist of H2A Architects regarding contract award.

SUGGESTED RESOLUTION:

To award the project for Restoration and Preservation of the Hunter House-Exterior Carpentry, Trim and Paint to L.G.K. Building, Inc., contingent upon meeting all insurance requirements, in the amount of $62,950.00, to be charged to the Hunter House Other Contractual Services account, #101-804.001-811.0000 and further; to approve the appropriation and amendment to the fiscal year 2020-2021 General Fund budget as follows:

General Fund		
Revenues:		
101-000.000-400.0000	Draw from Fund Balance	$62,950
Total Revenue		$62,950

Expenditures:		
101-804.001-811.0000	Hunter House – Other Contractual Service	$62,950
Total Expenditures		$62,950

REQUEST FOR PROPOSALS
Restoration and Preservation of Hunter House-Exterior Carpentry, Trim, and Paint

Sealed proposals endorsed **"Restoration and Preservation of Hunter House- Exterior Carpentry, Trim, and Paint"**, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until 2:30 p.m., **Wednesday, June 24, 2020** after which time bids will be publicly opened and read.

Bidders will be required to attend a mandatory pre-bid meeting on Thursday, June 11, 2020 at 10:30 a.m. at the Birmingham Museum, located at 556 W. Maple, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Monday, June 8, 2020 by contacting Carlos Jorge at 248-530-1882.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to furnish all materials, necessary equipment and perform all required work necessary for the restoration and preservation of the Hunter House-Exterior Carpentry, Trim, and Paint located in the Birmingham Museum. This work must be performed as specified accordance with the specifications contained in the Request For Proposals (RFP).

The RFP, including the Specifications, may be obtained online from the Michigan Inter-governmental Trade Network at http://www.mitn.info or at the City of Birmingham, 151 Martin St., Birmingham, Michigan, and ATTENTION: Carlos Jorge.

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the City until an agreement has been executed.

Submitted to MITN:	Wednesday, May 27, 2020
Mandatory Pre-Bid Meeting:	Thursday, June 11, 2020 at 10:30 a.m. Birmingham Museum 550 W. Maple, Birmingham, MI 48009
Deadline for Submissions:	2:30 p.m. on Wednesday, June 24, 2020
Contact Person:	Carlos Jorge 151 Martin Street, Birmingham, MI 48012 Phone: 248-530-1882 Email: Cjorge@bhamgov.org

REQUEST FOR PROPOSALS
Restoration and Preservation of Hunter House-Exterior Carpentry, Trim, and Paint

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INTRODUCTION

For purposes of this request for proposals, the City of Birmingham will hereby be referred to as “City” and the private firm will hereby be referred to as “Contractor.”

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional contractors to furnish all materials, necessary equipment and perform all required work necessary for the restoration and preservation the Hunter House-Exterior Carpentry, Trim, and Paint located at the 550 W. Maple Rd., Birmingham, MI 48009 at the Birmingham Museum. This work must be performed as specified in accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP).

During the evaluation process, the City reserves the right to serve the City’s best interest to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a firm will be completed by June 30, 2020. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide the Restoration and Preservation of Hunter House-Exterior Carpentry, Trim, and Paint, in accordance with the specifications outlined by the Scope of Work contained in this RFP.

The Birmingham Museum consists of two buildings located as follows: the Allen House, located at 556 W. Maple St. and the Hunter House, located at 550 W. Maple St. in the City of Birmingham, MI 48009.

MANDATORY PRE-BID MEETING

Prior to submitting a bid, interested firms are required to attend a pre-bid meeting to conduct an on-site visit of the location and access to the project location to make inquiries about the RFP. **Bidders will be required to attend a mandatory pre-bid meeting on Thursday, June 11, 2020 at 10:30 a.m. at the Birmingham Museum, located at 556 W. Maple, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Monday, June 8, 2020 by contacting Carlos Jorge at 248-530-1882.**

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than 2:30 p.m. on Wednesday, June 24, 2020 to:

City of Birmingham
Attn: City Clerk
151 Martin Street
Birmingham, Michigan 48009

One (1) original and one (1) copy of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, **"Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint"**. Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the bidder must be completed on the attached forms contained herein (see Contractor's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.

2. Any request for clarification of this RFP shall be made in writing and delivered to: Carlos Jorge, Maintenance Supervisor, City of Birmingham, 151 Martin Street, Birmingham, MI 48009 or cjorge@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 5 days prior to the deadline for submissions.

3. All proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to respondents and general information sections. All proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the RFP format by the respondent.

4. The contract will be awarded by the City of Birmingham to the most responsive and responsible bidder with the lowest price and the contract will require the completion of the work pursuant to these documents.

5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.

6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and fax number. The company shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.

EVALUATION PROCEDURE AND CRITERIA

The evaluation panel will consist of City staff and any other person(s) designated by the City, who will evaluate the proposals based on, but not limited to, the following criteria:

1. Ability to provide services as outlined.
2. Related experience with similar projects, Contractor background, and personnel qualifications.
3. Quality of materials proposed.
4. Overall Costs.
5. References.

TERMS AND CONDITIONS

1. The City reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems best. The City reserves the right to award the contract to the next most qualified Contractor if the successful Contractor does not execute a contract within ten (10) days after the award of the proposal.

2. The City reserves the right to request clarification of information submitted and to request additional information of one or more Contractors.

3. The City reserves the right to terminate the contract at its discretion should it be determined that the services provided do not meet the specifications contained herein. The City may terminate this Agreement at any point in the process upon notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay Contractor for services rendered to the time of notice, subject to the contract maximum amount.

4. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.

5. The cost of preparing and submitting a proposal is the responsibility of the Contractor and shall not be chargeable in any manner to the City.

6. The successful bidder will be required to furnish a Performance Bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified.

7. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been

provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

8. The Contractor will not exceed the timelines established for the completion of this project.

9. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

CONTRACTOR'S RESPONSIBILITIES

Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
   a. Bidder's Agreement (Attachment B - p. 17)
   b. Cost Proposal (Attachment C - p. 18)
   c. Iran Sanctions Act Vendor Certification Form (Attachment D - p. 19)
   d. Agreement (p. 11 – **only if selected by the City**).
   e. **Contractor will provide COVID-19 Plan (only if selected by the City).**

2. Provide a description of completed projects that demonstrate the firm's ability to complete projects of similar scope, size, and purpose, in a timely manner, and within budget.

3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work (p. 9).

4. The Contractor will be responsible for any changes necessary for the plans to be approved by the City of Birmingham.

5. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.

6. Provide a list of sub-contractors and their qualifications, if applicable.

7. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for projects utilizing the same materials included in the Contractor's proposal.

8. The Contractor will be responsible for the disposal of all material and any damages which occur as a result of any of employees or subcontractors of the Contractor during this project.

9. The contractor will be responsible for getting the building and parking permits at no cost to the contractor.

10. The successful bidder shall provide a Performance Bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified.

11. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

CITY RESPONSIBILITY

1. The City will provide a designated representative to work with the Contractor to coordinate both the City's and Contractor's efforts and to inspect and verify any work performed by the Contractor.

2. The City will provide access to the City of Birmingham during regular business hours or during nights and weekends as approved by the City's designated representative.

SETTLEMENT OF DISPUTES

The successful bidder agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 17 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

INSURANCE

The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 12 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONTINUATION OF COVERAGE

The Contractor also agrees to provide all insurance coverages as specified. Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT

The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to

execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

INDEMNIFICATION

The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 13 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONFLICT OF INTEREST

The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 14 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Contractor that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

PROJECT TIMELINE

It is expected work will begin when the Contract is awarded by the Birmingham City Commission and be completed within six (6) weeks as weather permits.

The Contractor will not exceed the timelines established for the completion of this project.

SCOPE OF WORK

The Contractor shall perform all labor, provide all materials and equipment required for The Preservation and Restoration of the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham, located at 550 W. Maple Rd., Birmingham, MI 48009.

The proposed work to be performed includes preservation and restoration of the existing wood siding, trim, windows and metal porch railing at the service/staff entrance and sidewalk at the Hunter House.

1. The Contractor shall perform the following services in accordance with the requirements defined by the Architectural Drawings and Window Survey and Rehabilitation Scope of Work (Attachment E) or as otherwise noted herein:

    G002 – Details & Specifications Plans
    A101 - Floor Plan —- General Notes
    Window Survey—Hunter House
    Window Rehabilitation Scope of Work

The Contractor will be responsible for the following :

1. – Repair and replace wood components and trim as specified in the architectural specifications and window rehabilitation scope of work, retaining and preserving existing materials as much as possible
2. – Repair and rehabilitate existing windows as specified in the window rehabilitation scope of work, retaining and preserving existing materials as much as possible.
3. – Replace porch handrails as specified to match existing railing.
4. – Spot prime all wood repairs per architect specifications and provide one coat of primer and two coats of paint for all surfaces.
5. - Protect plant materials and repair any disturbed lawn or landscaping surfaces.
6. - Remove all debris and scaffold for a complete scope.

The Contractor will be responsible for any damages to the landscape around the building during the construction.

The Contractor shall remove all debris upon completion of the project.

The Contractor shall be responsible for the disposal of all materials using appropriate containment methods in a safe and legal manner.

The Contractor shall operate in a safe manner for workers and the public and will observe all MIOSHA guidelines.

This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.

ATTACHMENT A - AGREEMENT

Restoration and Preservation of Hunter House-Exterior Carpentry, Trim, and Paint

This AGREEMENT, made this _____day of _____, 2020, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and _____, Inc., having its principal office at _____ (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Maintenance Department, is desirous of having work completed for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish all materials and necessary equipment for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham, and to perform all required work necessary to, and in connection therewith has prepared a request for sealed proposals (“RFP”), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish all materials, necessary equipment and to perform all required work necessary for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposals to furnish all materials, necessary equipment and perform all work necessary for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham and the Contractor’s cost proposal dated _____, 2020 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed _____, as set forth in the Contractor’s _____, 2020 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its sub-contractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or

authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. If applicable.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. If applicable.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be “Name Insured” on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

    1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
    2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
    3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
    4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
    5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Carlos Jorge
151 Martin Street
Birmingham, MI 48009
1-248-530-1882

CONTRACTOR

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute

resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

CONTRACTOR

_____ By:_____

Its:

CITY OF BIRMINGHAM

_____ By:_____
Pierre Boutros
Its: Mayor

_____ By:_____
Alexandria D. Bingham
Its: City Clerk

Approved:

_____	_____
Carlos A. Jorge, Maintenance Supervisor (Approved as to substance)	Mark Gerber, Director of Finance (Approved as to financial obligation)
_____	_____
Timothy J. Currier, City Attorney (Approved as to form)	Joseph A. Valentine, City Manager (Approved as to substance)

ATTACHMENT B-BIDDERS AGREEMENT

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

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In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

PREPARED BY (Print Name)	**DATE**
TITLE	**DATE**
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
COMPANY	
ADDRESS	**PHONE**
NAME OF PARENT COMPANY	**PHONE**
ADDRESS	

ATTACHMENT C - COST PROPOSAL

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

COST PROPOSAL	
ITEM	**BID AMOUNT**
Materials & Equipment for the repair and replacement of wood components and trim	$
Materials & Equipment for the repair and rehabilitation of the windows	
Materials & Equipment for replacement/installation of hand rails	$
Materials & Equipment for priming and painting all surfaces	$
Labor	
TOTAL BID AMOUNT FOR HUNTER HOUSE	$
ADDITIONAL BID ITEMS	
Repair and re-paint shutters	$
Miscellaneous (Attach Detailed Description)	$
GRAND TOTAL AMOUNT FOR THE PROJECT	$

Firm Name_____

Authorized signature_____ Date_____

ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

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Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

PREPARED BY (Print Name)	**DATE**
TITLE	**DATE**
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
COMPANY	
ADDRESS	**PHONE**
NAME OF PARENT COMPANY	**PHONE**
ADDRESS	
TAXPAYER I.D.#	

ATTACHMENT E - ARCHITECTURAL DRAWINGS FOR / Window Survey and Rehabilitation Scope of Work.

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

GENERAL PROJECT NOTES

1. NOTIFY DESIGN PROFESSIONAL OF ANY DISCREPANCIES PRIOR TO BEGINNING OF WORK. COORDINATE DEMOLITION WORK WITH NEW WORK SHOWN ON DRAWINGS. FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS
2. OWNER SHALL HAVE FIRST RIGHT OF REFUSAL ON ALL ITEMS SCHEDULED FOR REMOVAL.
3. TO CALL ATTENTION TO DEMOLITION WHICH IS REQUIRED NOTATIONS ARE MADE IN VARIOUS PLACES ON THE DRAWING; HOWEVER, THESE DRAWINGS ARE NOT INTENDED TO SHOW EACH AND EVER ITEM TO BE REMOVED. THE CONTRACTOR AND THE SUBCONTRACTORS FOR THE VARIOUS TRADES SHALL REMOVE THE MATERIALS RELATED TO THEIR RESPECTIVE TRADES, AS REQUIRED TO PERMIT THE CONSTRUCTION OF THE NEW WORK AS SHOWN. CONTRACTOR IS RESPONSIBLE FOR REMOVING, CAPPING, DISCONNECTING ALL INCIDENTAL ITEMS, AT AREAS OF DEMOLITION
4. CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN THE INTEGRITY AND STRUCTURAL STABILITY. PROVIDE SHORING REQUIRED OF THE BUILDING AND ITS ELEMENTS AND/OR ALL NECESSARY TEMPORARY BRACING
5. USE CAUTION IN SELECTING CUTTING METHODS TO AVOID DAMAGE TO OTHER WORK OR FINISHES TO REMAIN AND WHICH WILL PROVIDE PROPER SURFACES FOR PATCHING AND FINISHING
6. PREPARE FOR NEW WORK BY REMOVING EXISTING SURFACE FINISHES, ONLY AS NECESSARY TO PROVIDE FOR PROPER INSTALLATION OF NEW WORK AND NEW FINISHES.
7. VERIFY LOCATION OF ALL IRRIGATION SYSTEM COMPONENT WITH OWNER PRIOR TO STARTING WORK
8. WHERE NEW WORK ABUTS OR ALIGNS WITH EXISTING, MAKE A SMOOTH AND EVEN TRANSITION. PATCH WORK SHALL MATCH EXISTING ADJACENT WORK IN TEXTURE AND APPEARANCE. WHERE FINISH SURFACES ARE CUT SO THAT A SMOOTH TRANSITION WITH NEW WORK IS NOT POSSIBLE, TERMINATE EXISTING SURFACE ALONG A STRAIGHT LINE AT NATURAL LINE OF DIVISION.
9. THE DRAWINGS ARE INTENDED TO SHOW DESIGN, GENERAL ARRANGEMENT AND EXTENT OF THE WORK AND ARE PARTLY DIAGRAMMATIC. THEY ARE NOT INTENDED TO BE SCALED OR USED FOR ROUGH-IN MEASUREMENTS, NOT TO BE USED AS SHOP DRAWINGS. INADVERTENT DISCREPANCIES OR THE OMISSION OF NOTES OR DETAILS ON ANY DRAWING BUT GIVEN ON ANOTHER DRAWING SHALL NOT BE CAUSE FOR ADDITIONAL CHARGE OR CLAIM.
10. NOTES IN THE SPECIFICATIONS AND NOT SHOWN ON THE DRAWINGS, OR SHOWN ON THE DRAWINGS AND NOT NOTED IN THE SPECIFICATIONS, IS OF LIKE EFFECT - AS IF SHOWN OR NOTED ON BOTH
11. IN CASES OF INCONSISTENCY, THE BETTER QUALITY OR GREATER QUANTITY SHALL BE PROVIDED
12. FIELD VERIFY ALL EXISTING CONDITIONS AND NOTIFY DESIGN PROFESSIONAL AND OWNER OF ANY DISCREPANCIES PRIOR TO BEGINNING WORK
13. CONTRACTOR SHALL PREVENT DAMAGE BY WEATHERPROOFING ALL OPENING CONSTRUCTION. PROVIDE TEMPORARY PROTECTION FOR ALL COMPONENTS OF THE NEW AND EXISTING BUILDING DURING CONSTRUCTION.
14. REPAIR ANY DISTURBED LANDSCAPING AND LAWN SURFACES DUE TO CONSTRUCTION.

BUILDING AND CODE INFORMATION

YEAR BUILT
- ORIGINAL BUILDING 1822
- EXPANSION & RELOCATION C. 1970

HISTORIC DESIGNATIONS
- NATIONAL REGISTER OF HISTORIC PLACES

USE GROUP: B - MUSEUM <50 OCCUPANTS

CONSTRUCTION TYPE: VB

FIRE SUPPRESSION: NONE

SQUARE FOOTAGE

BASEMENT	±690 SF
MAIN LEVEL	±1,070 SF
ATTIC LEVEL	±200 SF
TOTAL	±2,060 SF

MICHIGAN REHABILITATION CODE FOR EXISTING BUILDINGS 2015

MICHIGAN BUILDING CODE 2015 BY REFERENCE

REPAIRS: REMOVALS & REPLACEMENTS CH6

LEVEL 1: REPLACEMENTS CH 7

MEANS OF EGRESS: SECTION 604 & 704

MAINTAIN THE LEVEL OF EGRESS SAFETY

SCOPE OF WORK:

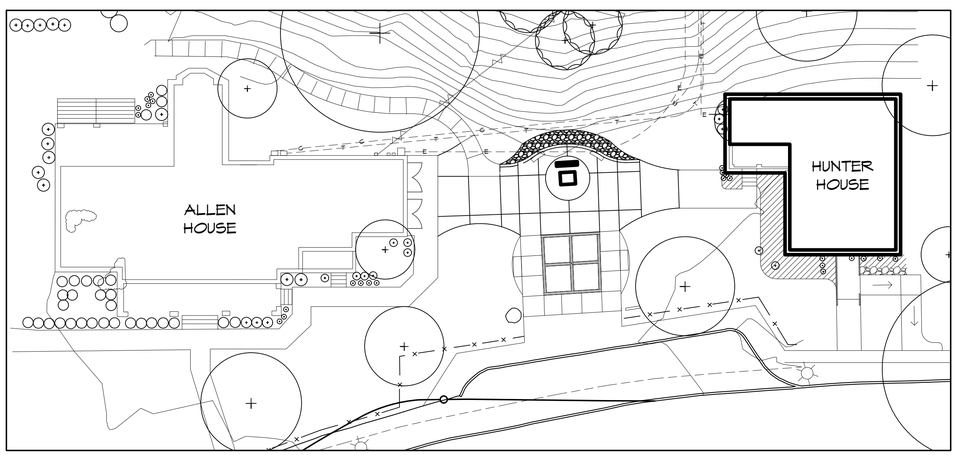
- WATERPROOFING PORTIONS OF BASEMENT
- INSTALL DRAIN-TILE AT 12" BELOW GRADE AND DRAIN-TILE AT FROST-LINE
- REMOVE AND REPLACE DETERIORATED STAIR AND RAIL
- MASONRY RE-POINTING
- WOOD SIDING REPAIR AND REPLACE WHERE ROTTED

OWNER:
CITY OF BIRMINGHAM
151 MARTIN STREET BIRMINGHAM, MI 48012

PROJECT:
EXTERIOR RESTORATION & REPAIRS
JOHN W. HUNTER HOUSE
556 W MAPLE RD BIRMINGHAM, MI 48009

INDEX OF DRAWINGS

G001	TITLE SHEET
G002	SPECIFICATIONS
A100	DEMOLITION PLAN
A101	SITE, FLOOR, & ROOF PLANS
A102	ELEVATIONS
A103	ELEVATIONS



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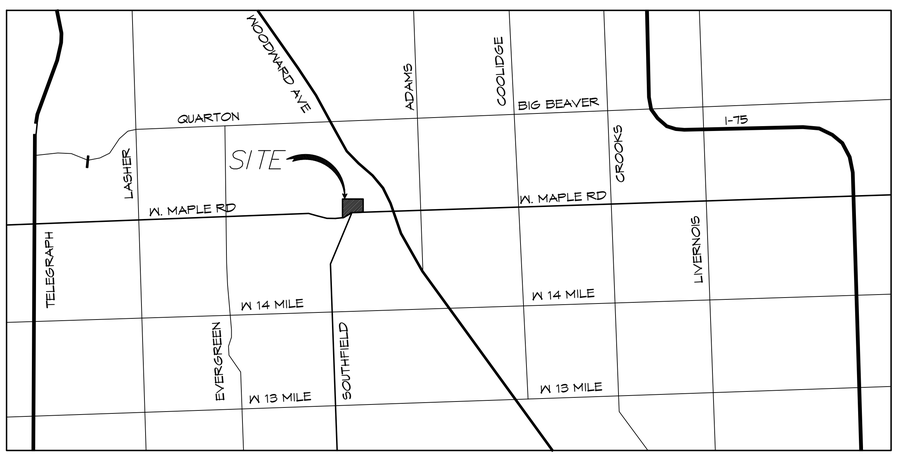
SITE DIAGRAM

N.T.S. XSITE



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LOCATION MAP

N.T.S.

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

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NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	08/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/19

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN KAM/ BNR

CHECKED JSH

SEAL

G001

CAD FILE NO. G001

SHEET 1 OF 6

Z:\Projects\City of Birmingham\19-170 HUNTER HOUSE\CAD\G001.dwg

PLOT DATE: 3/31/2020 4:40 PM

SPECIFICATIONS:

DIVISION 1 - GENERAL REQUIREMENTS:

THESE DOCUMENTS AS INSTRUMENTS OF SERVICE ARE PROPERTY OF H2A ARCHITECTS INC. AND MAY NOT BE USED OR REPRODUCED WITHOUT EXPRESSED WRITTEN CONSENT OF H2A ARCHITECTS EXCEPT AS NECESSARY TO COMPLETE THE WORK HEREIN DESCRIBED FOR A SINGLE USE FOR THIS PROJECT.

THESE NOTES ARE TO BE READ IN CONJUNCTION WITH THESE DRAWINGS. IN THE EVENT OF CONFLICT BETWEEN THE INFORMATION ON THE DRAWINGS AND THESE NOTES, THE MORE STRINGENT REQUIREMENTS SHALL GOVERN.

CONTRACTOR SHALL REVIEW ALL DOCUMENTS AND FIELD CONDITIONS AND NOTIFY DESIGN PROFESSIONAL OF ANY DISCREPANCIES.

THE CONTRACTOR SHALL VERIFY CONDITIONS, ALL QUANTITIES, AND EXTENT OF DETERIORATION AND ROT BOTH ON THE SURFACE AND SUB-SURFACE TO VERIFY RELEVANT CONDITIONS BEFORE BEGINNING THE WORK. THE CONTRACTOR SHALL INVESTIGATE THROUGH REMOVALS AND NOTIFY THE DESIGN PROFESSIONAL OF EXISTING CONDITIONS.

CORRELATION AND INTENT OF DRAWINGS:

ANY DRAWING IN WHICH A PORTION OF THE WORK IS DETAILED OR DRAWN OUT AND THE REMAINDER IS SHOWN IN OUTLINE, THE PART DETAILED OR DRAWN OUT WILL ALSO APPLY TO ALL OTHER LIKE PORTIONS OF THE WORK. WHEN THE WORD 'SIMILAR' APPEARS ON DRAWING, IT HAS A GENERAL MEANING AND IS NOT TO BE INTERPRETED AS MEANING IDENTICAL, AND ALL DETAILS SHALL BE WORKED OUT IN RELATION TO THEIR LOCATION AND CONNECTION TO THE WORK. IN CASE OF INCONSISTENCY BETWEEN DOCUMENTS THE BETTER QUALITY OR BETTER QUANTITY OF WORK SHALL BE PROVIDED. IN CASE OF ANY DISCREPANCY IN FIGURES OR DRAWINGS, THE CONTRACTOR SHALL SUBMIT A WRITTEN REQUEST TO H2A ARCHITECTS FOR CLARIFICATION OR INTERPRETATION. ANY ADJUSTMENT MADE BY THE CONTRACTOR WITHOUT SUCH A DETERMINATION, WILL BE AT THE CONTRACTOR'S OWN RISK AND EXPENSE.

PERMITS:

THE CONTRACTOR SHALL OBTAIN AND PAY FOR ALL NECESSARY PERMITS.

TEMPORARY CONTROLS:

THE CONTRACTOR SHALL PROVIDE TEMPORARY ENCLOSURE FOR THE WORK TO ENSURE THE BUILDING IS WEATHER TIGHT AT ALL TIMES TO AVOID DAMAGES OR INCIDENTAL DAMAGES. COORDINATE ENCLOSURE WITH DRYING/CURING AND VENTILATING REQUIREMENTS FOR WORK.

JOB CONDITIONS:

DISPOSE OF MATERIALS ON A REGULAR BASIS AT A LANDFILL APPROPRIATE TO THE MATERIALS BEING DISPOSED OF. DISPOSE OF HAZARDOUS, DANGEROUS, OR UNSANITARY WASTE IN A LAWFUL MANNER. KEEP SITE CLEAN AND FREE OF DEBRIS AND REFUSE DAILY. DO NOT BURN OR BURY MATERIALS ON SITE.

SUBSTITUTIONS:

WHERE SPECIFIC PRODUCTS ARE LISTED, THE CONTRACTOR SHALL PROVIDE THE PRODUCT NAMED. ONLY IN CASES OF UNAVAILABILITY MAY ANOTHER PRODUCT BE SUBSTITUTED. WHERE PRODUCT IS LISTED WITH 'OR EQUAL' CONTRACTOR MAY PROVIDE A PRODUCT EQUAL IN QUALITY AND PERFORMANCE TO THE NAMED PRODUCT. WHERE PRODUCT PERFORMANCE ONLY IS LISTED, THE CONTRACTOR MAY PROVIDE ANY PRODUCT MEETING THE PERFORMANCE CRITERIA.

DIVISION 2 -REMOVALS:

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE ADEQUATE SHORING AND BRACING DURING CONSTRUCTION TO ACCOUNT FOR ALL FORCES, INCLUDING BUT NOT LIMITED TO: FORCES FROM GRAVITY, EARTH, WIND, AND UNBALANCED FORCES DUE TO CONSTRUCTION SEQUENCE.

PROVIDE, ERECT, AND MAINTAIN TEMPORARY BARRIERS. PREVENT MOVEMENT OR SETTLEMENT. PROTECT ITEMS TO REMAIN. CONDUCT REMOVALS TO MINIMIZE INTERFERENCE WITH ADJACENT FEATURES AND WITH A MINIMUM INTERFERENCE TO PUBLIC OR PRIVATE ACCESS.

DISCONNECT AND REMOVE ITEMS INTERFERING WITH THE UNDERTAKING OF THE WORK. PERFORM REMOVAL OF COMPONENTS AS INDICATED AND IN AN ORDERLY AND CAREFUL MANNER.

CAREFULLY REMOVE WOOD TRIMS INDICATED TO BE REPLACED. WOOD TRIMS AND SILLS MAY BE CUT FOR PARTIAL REPLACEMENTS OR DUTCHMAN REPLACEMENTS.

TAKE ACTIONS TO MINIMIZE DUST AND AIR-BORNE DEBRIS. REMOVE MATERIALS FROM SITE AS WORK PROGRESSES. MAINTAIN WORK AREA IN CLEAN CONDITION. DO NOT BURN OR BURY MATERIALS ON SITE.

DIVISION 4 - MASONRY REPAIRS:

CAREFULLY REMOVE LOOSE AND DAMAGED BRICK. SALVAGE AS MUCH BRICK AS POSSIBLE. REMOVE MORTAR AROUND DAMAGED BRICK AREA BACK TO SOUND MATERIAL. RINSE WITH WATER.

MATCH EXISTING MORTAR STRENGTH, TEXTURE, AND COLOR. PROVIDE TYPE 'O' FOR ALL BRICK VENEER REPAIRS UNLESS OTHERWISE NOTED. PROVIDE TYPE 'S' FOR STONE WALL REPAIRS.

NEW BRICK SHALL BE ASTM C 62, GRADE SW, TYPE FBS, RATED "NOT EFFLORESCED". COLOR TO MATCH EXISTING AND BE APPROVED BY THE ARCHITECT IN ADVANCE.

COURSING SHALL MATCH EXISTING BOND WITH CONCAVE MORTAR JOINTS TO MATCH EXISTING UNLESS NOTED OTHERWISE.

THOROUGHLY BRICK WET SURROUNDING BRICK AND MORTAR PRIOR TO RE-INSTALLATION OF BRICK AND MORTAR. ENSURE SURFACES ARE SATURATED BUT FREE OF STANDING WATER. TIGHTLY PACK MORTAR INTO JOINTS IN THIN LAYERS 1/4 "MAXIMUM. ALLOW LAYER TO BECOME THUMBPRINT HARD BEFORE APPLYING NEXT LAYER. TAKE CARE NOT TO SPREAD MORTAR OVER EDGES ONTO EXPOSED BRICK FACES. TOOL MORTAR WHEN THUMBPRINT HARD.

PRE-HYDRATE MORTAR FOR STONE REPOINTING 60 MINUTES MINIMUM TO 90 MINUTES MAXIMUM

CLEAN MASONRY TO REMOVE EXCESS MORTAR AND DROPPINGS. USE SURE KLEAN 600 BY PROSOCO OR EQUAL.

DIVISION 5 - WOOD

ROUGH CARPENTRY

1. WOOD SPECIES
A. BLOCKING:

SOUTHERN PINE (SP)
No. 2 OR BETTER (SPIB)

2. WOOD BLOCKING OR FRAMING WITHIN 8" OF GRADE OR IN CONTACT WITH CONCRETE SHALL BE PRESSURE TREATED

3. CONTRACTOR SHALL PROVIDE BLOCKING AS NEEDED FOR ALL ANCHORAGE OF TRIMS, MOLDINGS AND OTHER WOOD TRIM FEATURES.

FINISH CARPENTRY

LUMBER MATERIALS:
ALL WOOD FOR EXTERIOR TRIMS AND SILLS SHALL BE GRADED IN ACCORDANCE WITH WWPA 2012, NLGA 2008 ADN WCLIB 102-C GRADING RULES.

WOOD FOR TRIMS, SILLS, BEADBOARD AND MOLDING NOT NOTED AS 'SYNTHETIC WOOD PRODUCTS':

WESTERN RED CEDAR, GRADE A
TRIMS: S1S2E
MAXIMUM MOISTURE CONTENT 19%
MATCH EXISTING SIZES AND SHAPES OF MEMBERS BEING REPLACED

FASTENERS SHALL BE STAINLESS STEEL, APPROPRIATE SIZES AND SHAPES FOR APPLICATION ENSURING ADEQUATE EMBEDMENT.

REPAIR ROTTED COMPONENTS WITH FLEXIBLE EPOXY CONSOLIDANT AND FLEXIBLE EPOXY PATCH EQUAL TO ADVANCED REPAIR TECHNOLOGY FLEX-TEC HV. PREPARE WOOD IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS. EQUIVALENT MANUFACTURERS INCLUDE WEST SYSTEM G/ FLEX.

SIMULATED WOOD TRIM

ALL PLASTIC SIMULATED WOOD TRIM SHALL CONFORM TO: ASTM D570: STANDARD TEST METHOD FOR WATER ABSORPTION OF PLASTICS. ASTM D648: STANDARD TEST METHOD FOR DEFLECTION TEMPERATURE OF PLASTICS UNDER FLEXURAL LOAD IN THE EDGEWISE POSITION. ASTM D696: STANDARD TEST METHOD FOR COEFFICIENT OF LINEAR THERMAL EXPANSION OF PLASTICS BETWEEN 30 DEGREES C AND 30 DEGREES C WITH A VITREOUS SILCA DILATOMETER. ASTM D790: STANDARD TEST METHODS FOR FLEXURAL PROPERTIES OF UN-REINFORCED AND REINFORCED PLASTICS AND ELECTRICAL INSULATING MATERIALS. ASTM D1505: STANDARD TEST METHOD FOR DENSITY OF PLASTICS BY THE DENSITY GRADIENT TECHNIQUE. ASTM E84: STANDARD TEST METHOD FOR SURFACE BURNING CHARACTERISTICS OF BUILDING.

MATERIAL SHALL BE A FREE-FOAM CELLULAR POLYVINYL CHLORIDE (PVC).

MANUFACTURER: TREX COMPANY INC. 800.289.8739. WWW.TREX.COM, OR APPROVED EQUAL.

WARRANTY OF PRODUCT SHALL BE TEN (10) YEARS.

TRIM BOARDS, BEAD BOARD AND MOULDING SHALL MATCH EXISTING SIZE AND SHAPE

FASTENERS: PROVIDE STAINLESS STEEL SIDING NAILS EQUAL TO SLIM-JIM TYPE 304, OR PROVIDE FASTENERS, TYPE AND SIZE AS RECOMMENDED BY MANUFACTURER FOR MAXIMUM CONCEALMENT. RECESS HEADS AND PLUG.

ADHESIVES: PROVIDE PRODUCT AS RECOMMENDED BY MANUFACTURER. MITERED CORNERS SHALL BE BOTH GLUED AND FASTENED.

JOINERY: TRIM SHALL BE INSTALLED WITH MINIMUM NUMBER OF JOINTS PRACTICAL. SCRIBE AND CUT TRIM TO FIT ADJOINING WORK. CUT JOINTS SHALL BE FIT TO EXCLUDE WATER. COPE JOINTS AT RETURN AND MITER OUTSIDE CORNERS.

DIVISION 7 - THERMAL AND MOISTURE PROTECTION:

FLASHINGS, CORNICE CAPS SHALL BE 16 OZ LEAD COATED COPPER, ZINC COATED COPPER, TERNE COATED STAINLESS STEEL OR FREEDOM GRAY TIN-ZINC, T-Z COATED COPPER BY REVERE.

FASTENERS FOR FLASHING SHALL BE STAINLESS STEEL, APPROPRIATE SIZE AND SHAPE FOR ¾" PENETRATION.

FOUNDATION WATERPROOFING MEMBRANE TO BE 'BITUTHENE 4000' BY (GRACE) GCP APPLIED TECHNOLOGIES, OR EQUAL. PROVIDE COMPLETE SYSTEM WITH ALL PRIMER AND ACCESSORIES, AS RECOMMENDED BY MANUFACTURER AND INSTALL AS RECOMMENDED BY MANUFACTURER.

DIVISION 9 - FINISHES:

PAINT

CONTRACTOR SHALL ASSUME LEAD PAINT MAYBE PRESENT. CONTRACTOR SHALL BE RESPONSIBLE FOR PROPER PROCEDURES AND DISPOSAL OF LEAD PAINT. CONTRACTOR SHALL BE LEAD SAFE CERTIFIED THROUGH THE RENOVATION, REPAIR AND PAINTING (RRP) EPA PROGRAM.

ALL PAINTING SHALL CONFORM TO ASTM D16 STANDARD TERMINOLOGY FOR PAINT, RELATED COATINGS, MATERIALS AND APPLICATIONS.

MATERIAL: EXTERIOR GRADE

WOOD:

SOFT PRIME BARE WOOD: AFTER SCRAPING, SPOT PRIME ALL BARE WOOD WITH COVER STAIN OIL PRIMER, BY ZINSSER.
PRIMER ALL SURFACES: PROVIDE 1 COAT OF PRIMER OVER ALL SURFACES. IN SIX, AQUA LOCK ACRYLIC PRIMER, BY BENJAMIN MOORE.
PAINT ALL SURFACES: PROVIDE TWO COATS OF AURA-EXTERIOR ACRYLIC (LOW LUST) BY BENJAMIN MOORE.

METAL:

PRIMER: AFTER PREPARATION, PROVIDE ONE COAT OF ZINC-RICH, ANTI-RUST PRIMER, EQUAL TO RUSTOLEUM V7400 SYSTEM, HEAVY DUTY RUST INHIBITIVE PRIMER COIL BASED PAINT. PROVIDE TWO COATS OF V7400 SYSTEM 340 VOC DTM ALKYD ENAMEL (GLOSS) BY RUSTOLEUM. TWO-YEAR WARRANTY.

FINISH:
BODY - SATIN
FASCIA'S, TRIMS, MOLDINGS, DOORS AND WINDOWS - SEMI-GLOSS
METAL - GLOSS

PREPARE SUBSTRATES IN ACCORDANCE WITH PAINT MANUFACTURERS RECOMMENDATIONS. HAND-SCRAPE TO REMOVE LOOSE OR PEELING PAINT. WASH SURFACES WITH DETERGENT TO REMOVE DIRT GREASE AND OTHER RESIDUE. REMOVE MILDEW STAINS WITH MILDEW REMOVER APPROVED BY PAINT MANUFACTURER. RINSE SURFACE WITH WATER AND ALLOW TO DRY FULLY. DO NOT POWER WASH.

PREPARE METAL SURFACES BY REMOVING PAINT & RUST DOWN TO WHITE METAL. APPLY A ZIN-RICH, ANTI-RUST PRIMER AND TWO COATS OF PAINT AS SPECIFIED. INSTALL IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS

TEST SUBSTRATE WITH MOISTURE METER AND VERIFY CONDITIONS MEET MANUFACTURERS REQUIREMENTS. MOISTURE CHECK SHALL BE DONE IN THE PRESENCE OF THE CITY REPRESENTATIVE PRIOR TO APPLICATOR OF ANY COATING PRODUCTS.

MIX PRODUCTS AS DIRECTED BY MANUFACTURER. APPLY PRIMER OVER PROPERLY PREPARED COATED AND UNCOATED SURFACES. DO NOT PAINT WHEN RAIN OR HEAVY CONDENSATION IS EXPECTED WITHIN 12 HOURS. APPLY WHEN TEMPERATURES ARE BETWEEN 45 DEGREES AND 90 DEGREES AND WILL REMAIN SO FOR 48 HOURS.

APPLY ONTO SEMI-SMOOTH SURFACES WITH HIGH QUALITY 3/8 - ½" NAP ROLLER OR POLYESTER BRUSH. APPLY ONTO ROUGH SURFACES WITH A HIGH QUALITY ¾ - 1" NAP ROLLER.

REFER TO SIMULATED WOOD MANUFACTURERS RECOMMENDATIONS FOR PRIMING & PAINTING SIMULATED WOOD AND PROVIDE PRODUCTS AND EXECUTION AS RECOMMENDED.

DIVISION 31 & 32 - SITE:

RESTORE AND REPAIR ANY AREAS DISTURBED DURING CONSTRUCTION. PROTECT ALL AREAS ADJACENT CONSTRUCTION TO REMAIN.

A SOIL EROSION PERMIT IS REQUIRED FROM THE CITY. PROVIDE SOIL EROSION MEASURES TO COMPLY WITH CITY STANDARDS INCLUDING BUT NOT LIMITED TO SILT FENCE, MUD MATS, AND DRAINAGE STRUCTURE FILTER FABRIC. STOCKPILING OF TOPSOIL FOR REUSE. PROTECT ALL ELEMENTS NOTED TO REMAIN.

EXCAVATE AS REQUIRED ALLOWING SUFFICIENT SPACE FOR WATERPROOFING MEASURES AND UTILITIES.

BACKFILL WITH EXCAVATED MATERIALS EXCEPT WHERE AGGREGATE IS NOTED.

PROVIDE FOUNDATION DRAINAGE WITH MINIMUM 4 INCH DRAIN PIPE WITH FILTER SOCK, EXTEND TO DAYLIGHT.

PROTECT ADJACENT STRUCTURES WHICH MAY BE DAMAGED BY EXCAVATION, WHERE NECESSARY. PROVIDE EXCAVATION SUPPORT AND PROTECTION CAPABLE OF RESISTING SOIL AND HYDROSTATIC PRESSURE AND SUPPORTING SIDEWALLS OF EXCAVATIONS.

PROVIDE DEWATERING AS NECESSARY TO UNDERTAKE THE WORK.

PORTLAND CEMENT CONCRETE PAVING SHALL MEET ASTM C150 AND BE MINIMUM COMPRESSIVE STRENGTH OF 4000 PSI AT 28 DAYS. AIR CONTENT SHALL BE 5 - 8%, SLUMP SHALL NOT EXCEED 3 INCHES. AGGREGATE SHALL MEET CLASS 6A MDOT 2012 STANDARDS. SAND BASE SHALL MEET GRANULAR MATERIAL CLASS II, MDOT 2012 STANDARDS. REINFORCING FABRIC SHALL MEET ASTM A1064. REINFORCING FABRIC SHALL MEET ASTM 1064. FIBER JOINTS SHALL MEET ASTM D1751.

PROVIDE CURING, MEETING ASTM C309, TYPE 2, INSTALL PER MANUFACTURER REQUIREMENTS.

PROVIDE MINIMUM 2 INCHES OF TOPSOIL FOR AREAS EXCAVATED. PROVIDE HYDROSEED CONSISTING OF A MIXTURE OF ANNUAL AND PERENNIAL SEED. CONTRACTOR SHALL WATER THE TURF AREA UNTIL TURF IS ESTABLISHED BUT NOT LESS THAN 30 DAYS.

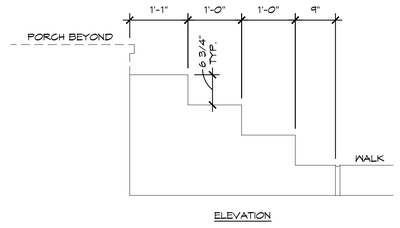
RESTORE AND REPAIR ANY AREAS DAMAGED DURING CONSTRUCTION. PROTECT ALL AREAS ADJACENT TO CONSTRUCTION.

DRAINAGE:

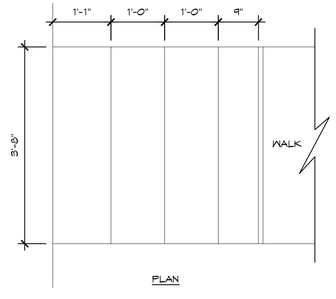
DRAIN TILE: PROVIDE 4" POLYETHYLENE CORRUGATED, PERFORATED, DRAIN PIPE WITH SOCK. PROVIDE WITH 90 DEGREE ELBOWS, TEES AND ALL ACCESSORIES FOR A COMPLETE SYSTEM. PROVIDE 4" POLYETHYLENE CORRUGATED, NON-PERFORATED, DRAIN PIPE FOR EXTENSIONS TO DAYLIGHT.

YARD DRAIN: PROVIDE 9" X 9" POLYOLEFIN CATCH BASIN WITH GREEN GRATE OF SIMILAR MATERIAL, EXTEND FROM DRAIN TO DAYLIGHT WITH 4" POLYETHYLENE, CORRUGATED, NON-PERFORATED DRAIN PIPE.

DRAIN TILE EXTENSIONS TO DAYLIGHT: PROVIDE 4" POLYOLEFIN CORRUGATED, NON-PERFORATED DRAIN PIPE.

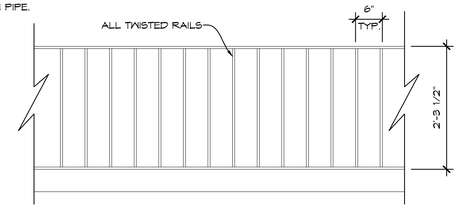


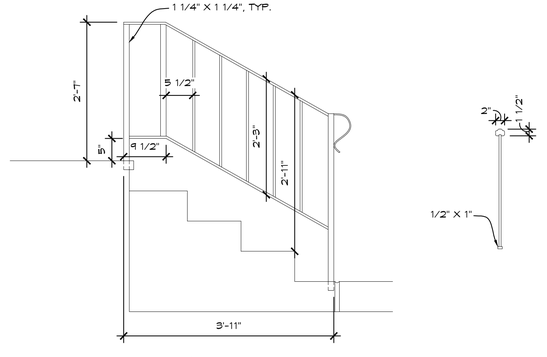
ELEVATION



PLAN

1 PORCH STAIR PLAN & ELEVATION
3/4" = 1'-0" | STRDET01





2 PORCH RAILING DETAILS
3/4" = 1'-0" | STRDET02

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

NO.	DESCRIPTION	DATE
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JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

SPECIFICATIONS

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN BNR

CHECKED JSH

G002

CAD FILE NO. G002.dwg

SCALE 1/8" = 1'-0"

SHEET 2 OF 6

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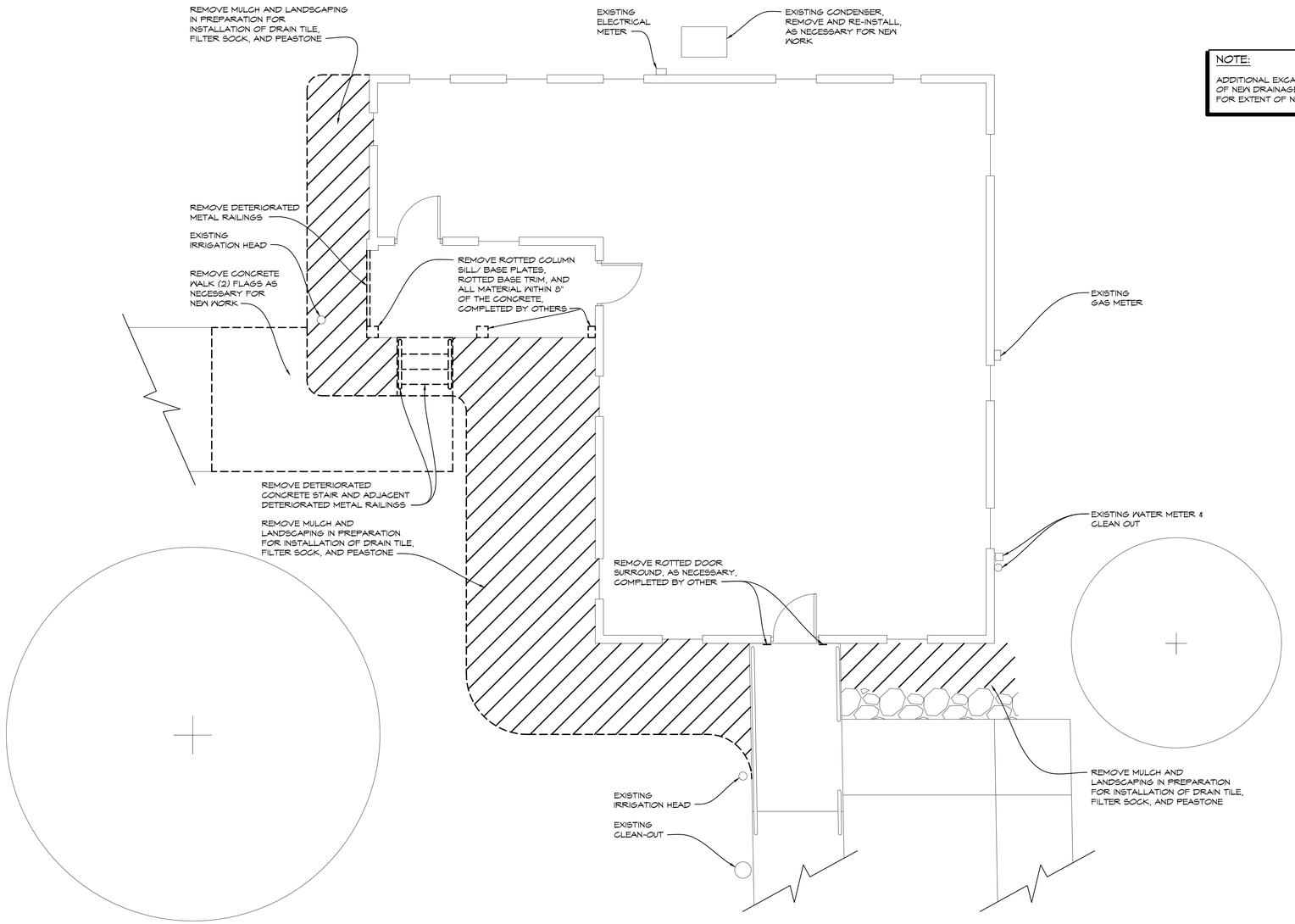
PLOT DATE: 3/31/2020 10:55 AM



NOTE:

ADDITIONAL EXCAVATION REQUIRED FOR INSTALLATION OF NEW DRAINAGE TILE, NOT SHOWN. REFER TO A101 FOR EXTENT OF NEW DRAIN TILE.

N

1 FIRST FLOOR DEMOLITION PLAN

1/4" = 1'-0" | X01

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

GENERAL NOTES

1. NOTIFY DESIGN PROFESSIONAL OF ANY DISCREPANCIES PRIOR TO BEGINNING OF WORK. COORDINATE DEMOLITION WORK WITH NEW WORK SHOWN ON DRAWINGS. FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS
2. OWNER SHALL HAVE FIRST RIGHT OF REFUSAL ON ALL ITEMS SCHEDULED FOR REMOVAL.
3. TO CALL ATTENTION TO DEMOLITION WHICH IS REQUIRED NOTATIONS ARE MADE IN VARIOUS PLACES ON THE DRAWING; HOWEVER, THESE DRAWINGS ARE NOT INTENDED TO SHOW EACH AND EVER ITEM TO BE REMOVED. THE CONTRACTOR AND THE SUBCONTRACTORS FOR THE VARIOUS TRADES SHALL REMOVE THE MATERIALS RELATED TO THEIR RESPECTIVE TRADES, AS REQUIRED TO PERMIT THE CONSTRUCTION OF THE NEW WORK AS SHOWN. CONTRACTOR IS RESPONSIBLE FOR REMOVING, CAPPING, DISCONNECTING ALL INCIDENTAL ITEMS, AT AREAS OF DEMOLITION
4. CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN THE INTEGRITY AND STRUCTURAL STABILITY. PROVIDE SHORING REQUIRED OF THE BUILDING AND ITS ELEMENTS AND/OR ALL NECESSARY TEMPORARY BRACING
5. VERIFY EXACT SIZE AND LOCATION OF WALL, FLOOR AND ROOF OPENINGS REQUIRED OF OTHER TRADES. COORDINATE ALL WORK WITH MECHANICAL AND ELECTRICAL TRADES
6. USE CONSTRUCTION INDUSTRY RECOGNIZED AND ACCEPTABLE CUTTING METHODS TO AVOID DAMAGE TO OTHER WORK OR FINISHES TO REMAIN AND WHICH WILL PROVIDE PROPER SURFACES FOR PATCHING AND FINISHING
7. UNLESS NOTED OTHERWISE, REPAIR ALL WALLS, FLOORS AND CEILINGS AT ALL AREAS DISTURBED BY DEMOLITION - MATCH EXISTING ADJACENT FINISHES
8. VERIFY LOCATION OF ALL IRRIGATION SYSTEM COMPONENT WITH OWNER PRIOR TO STARTING WORK

NO.	DESCRIPTION	DATE
6		
5		
4		
3		
2	FOR CONSTRUCTION	03/30/20
1	FOR BIDS & PERMITS	03/17/20

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

DEMOLITION FLOOR PLAN

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN BNR

CHECKED JSH

A100

CAD FILE NO. A100.dwg

SCALE 1/4" = 1'-0"

SHEET 3 OF 6

PLOT DATE: 3/31/2020 10:57 AM
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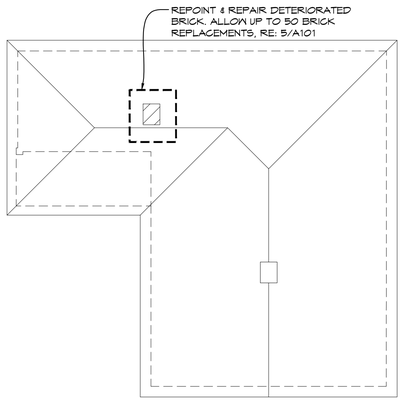
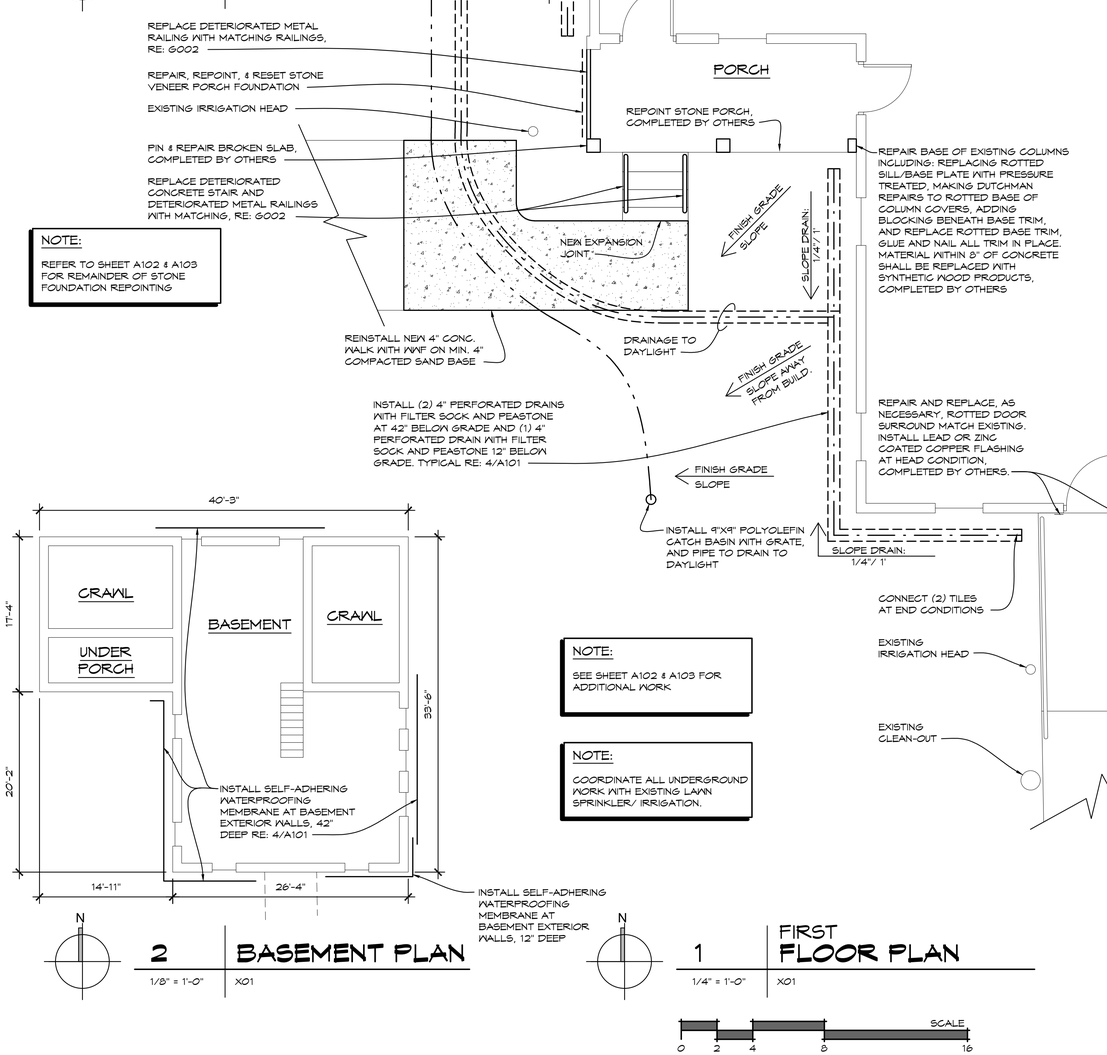
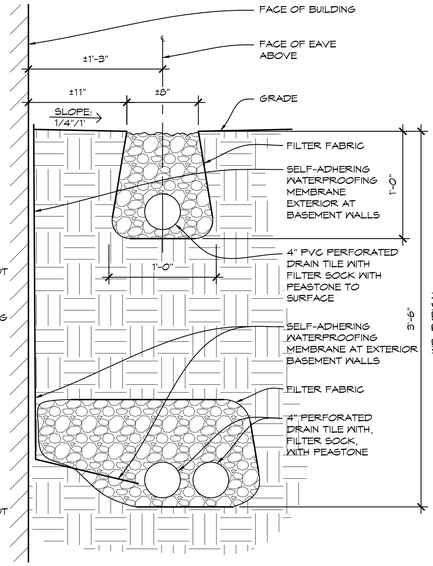


N

3 ROOF PLAN

1/8" = 1'-0" | XROOF





4 TYP. AT BUILDING PERIMETER DRAIN DETAIL

1-1/2" = 1'-0" | DRNDET01

NOTE:
PREP AND PAINT ALL PREVIOUSLY PAINTED SURFACES RE: SPECS

NOTE:
ALL WINDOWS TO BE RESTORED BY OTHERS

N

2 BASEMENT PLAN

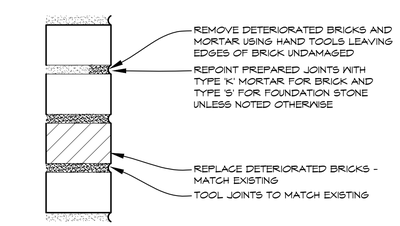
1/8" = 1'-0" | X01

N

1 FIRST FLOOR PLAN

1/4" = 1'-0" | X01

SCALE
0 2 4 8 16



5 TYPICAL BRICK REPOINTING DETAIL

3" = 1'-0" | REPDET01

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9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

GENERAL NOTES

1. UTILITY INFORMATION HAS BE OBTAINED FROM AVAILABLE RECORDS. NO GUARANTEE IS MADE EITHER TO COMPLETENESS OR ACCURACY .
2. SITE PLAN IS SUBJECTED TO ANY FACTS AND/OR EASEMENTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
3. CONTACT "MISS DIG" AT 1-800-482-7171, PRIOR TO EXCAVATION OR DEMOLITION.
4. THE CONTRACTOR SHALL COMPLY WITH ALL RULES, REGULATIONS, AND REQUIREMENTS OF THE STATE OF MICHIGAN 'SOIL EROSION AND SEDIMENTATION CONTROL ACT; NO. 347; PUBLIC ACTS OF 1972 AS PART 91 OF ACT 197, PUBLIC ACTS OF 1974." REFER TO SITE PLAN FOR SOIL EROSION CONTROL MEASURES.
5. VERIFY LOCATION OF ALL IRRIGATION SYSTEM COMPONENT WITH OWNER PRIOR TO STARTING WORK.
6. PROVIDE POSITIVE DRAINAGE AWAY FROM EXISTING BUILDING.
7. CONTRACTOR SHALL MEET AND MATCH ALL EXISTING PAVING SURFACES WITH FLUSH TRANSITION.
8. REPAIR ANY DISTURBED LANDSCAPING AND LAWN SURFACES DUE TO NEW CONSTRUCTION.
9. REMOVE ALL FOUNDATION PLANTINGS AND TURN OVER TO OWNER
10. REMOVE WOODCHIPS/ MULCH AND STOCK PILE AS DIRECTED BY OWNER. REMOVE WEED BARRIER AND DISCARD.
11. OWNER SHALL HAVE FIRST RIGHT OF REFUSAL ON ALL ITEMS SCHEDULED FOR REMOVAL.
12. USE CAUTION IN SELECTING CUTTING METHODS TO AVOID DAMAGE TO OTHER WORK OR FINISHES TO REMAIN AND WHICH WILL PROVIDE PROPER SURFACES FOR PATCHING AND FINISHING.

LEGEND

LINETYPE	DESCRIPTION
——— · ———	DRAIN TILE 12" BELOW GRADE
– – – – – – –	DRAIN TILE 42" BELOW GRADE
——— - - ———	DRAIN PIPE, NON-PERFORATED

NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	09/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/19

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

SITE, FLOOR, & ROOF PLANS

PROJECT NO. 19-170
DATE 3/30/2020
DRAWN KAM/ BNR
CHECKED JSH

A101

CAD FILE NO. A101.dwg
SCALE 1/4" = 1'-0"
SHEET 4 OF 6

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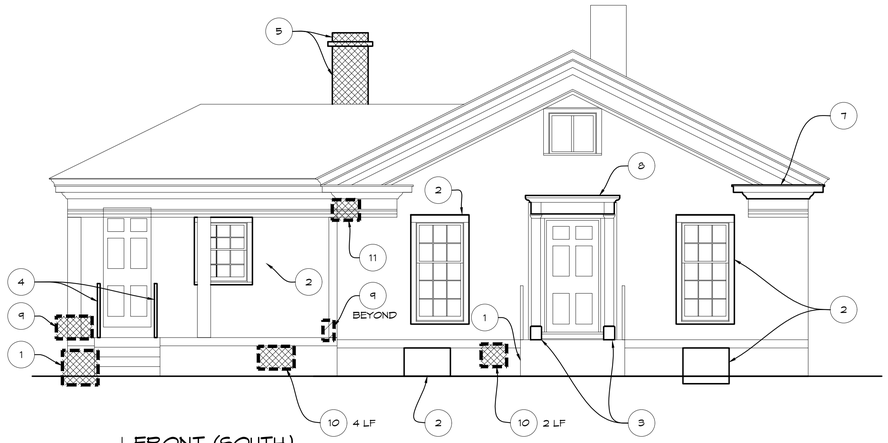
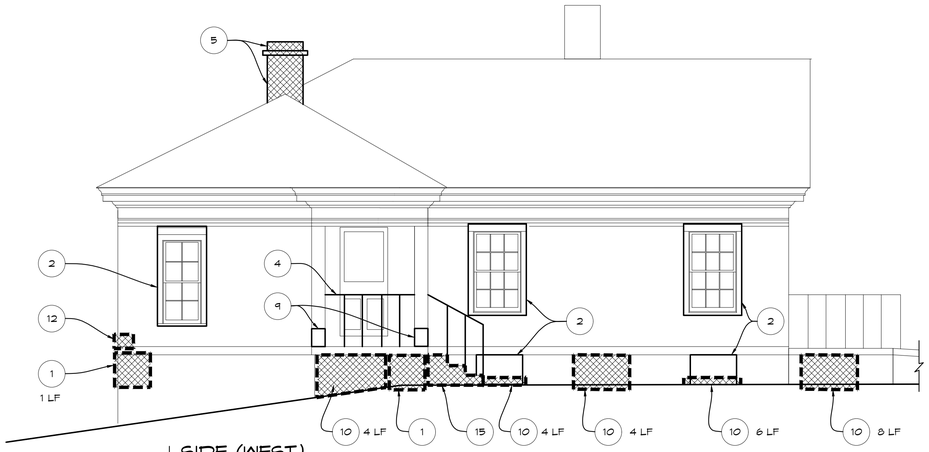
PLOT DATE: 3/31/2020 10:58 AM



2 FRONT (SOUTH) ELEVATION

1/4" = 1'-0" | XELEV

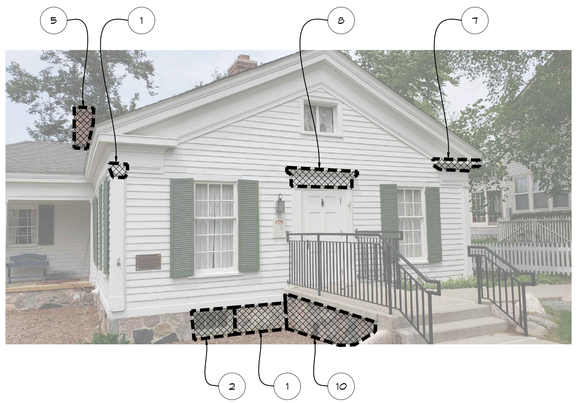
SCALE 0 2 4 8 16

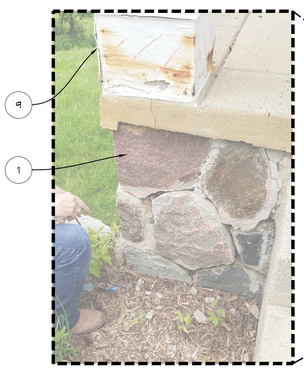


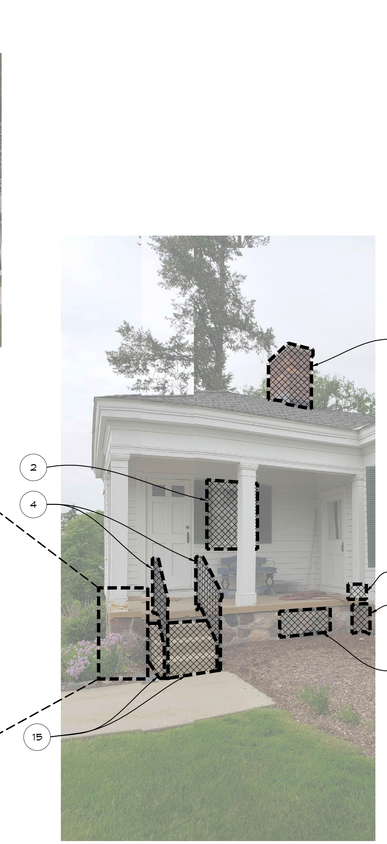
1 SIDE (WEST) ELEVATION

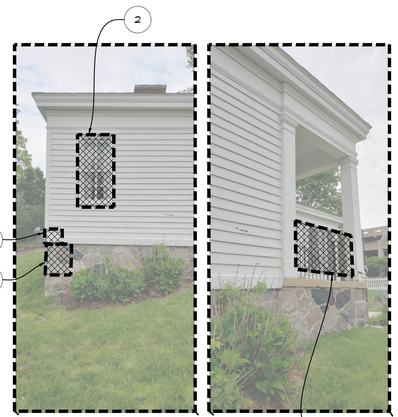
1/4" = 1'-0" | XELEV

SCALE 0 2 4 8 16

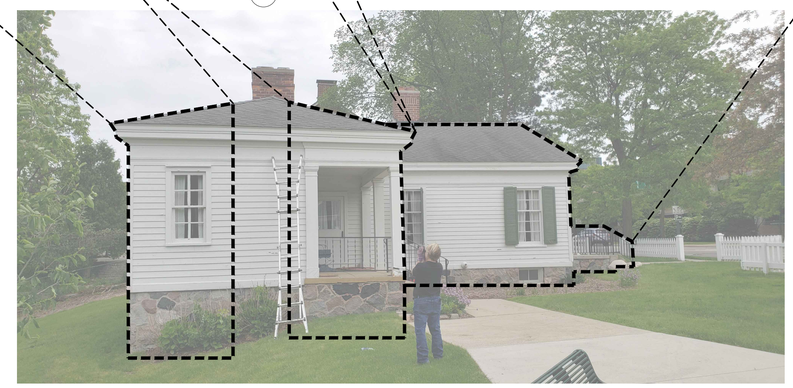












SOUTH ELEV. | WEST ELEV.

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

CONSTRUCTION NOTES

1. REPAIR, REPOINT, & RESET STONE VENEER PORCH FOUNDATION, COMPLETED BY OTHERS
2. ALL WINDOWS TO BE RESTORED BY OTHERS
3. EPOXY REPAIR ROTTED DOOR JAMB MATCH EXISTING, COMPLETED BY OTHERS.
4. REMOVE AND REPLACE DETERIORATED METAL RAILINGS WITH MATCHING RAILINGS
5. REPOINT & REPAIR DETERIORATED BRICK RE: 5/A101. ALLOW UP TO 50 BRICK REPLACEMENTS
6. EXCAVATE AT CORNER CONDITION, REPAIR VERTICAL JOINT
7. REPLACE ROTTED WOOD CAP ON RETURN CORNICE
8. REPLACE CORNICE TRIM TO MATCH EXISTING. INSTALL LEAD OR ZINC COATED COPPER FLASHING, COMPLETED BY OTHERS.
9. REPAIR BASE OF EXISTING COLUMNS INCLUDING: REPLACING ROTTED SILL/BASE PLATE WITH PRESSURE TREATED, MAKING DUTCHMAN REPAIRS TO ROTTED BASE OF COLUMN COVERS, ADDING BLOCKING BENEATH BASE TRIM, AND REPLACE ROTTED BASE TRIM, GLUE AND NAIL ALL TRIM IN PLACE. MATERIAL WITHIN 8" OF CONCRETE SHALL BE REPLACED WITH SYNTHETIC WOOD PRODUCTS, COMPLETED BY OTHERS
10. REPOINT STONE FOUNDATION
11. REPLACE ROTTED WOOD CAP TRIM
12. DUTCHMAN REPAIR, REMOVE, & REPLACE 16" OF ROTTED WOOD SKIRT BOARD, EACH DIRECTION FROM CORNER
13. REPLACE CRACKED STONE
14. RESTORE WOOD DAMAGE WITH WOOD EPOXY
15. REMOVE & REPLACE CONCRETE STAIR MATCH EXISTING

LEGEND

SYMBOL:	DESCRIPTION:
	APPROXIMATE AREA/ LOCATION OF WORK

NOTE: FOUNDATION WORK NOT SHOWN ON ELEVATION DRAWINGS. ONLY ABOVE-GRADE WORK SHOWN HERE. REFER TO A101 FOR BELOW GRADE WORK.

NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	08/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/2019

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

SOUTH AND WEST ELEVATIONS

PROJECT NO. 19-170
DATE 3/30/2020
DRAWN KAM/ BNR
CHECKED JSH

A102

CAD FILE NO. A102.dwg
SCALE 1/4" = 1'-0"
SHEET 5 OF 6

PLOT DATE: 3/31/2020 4:34 PM
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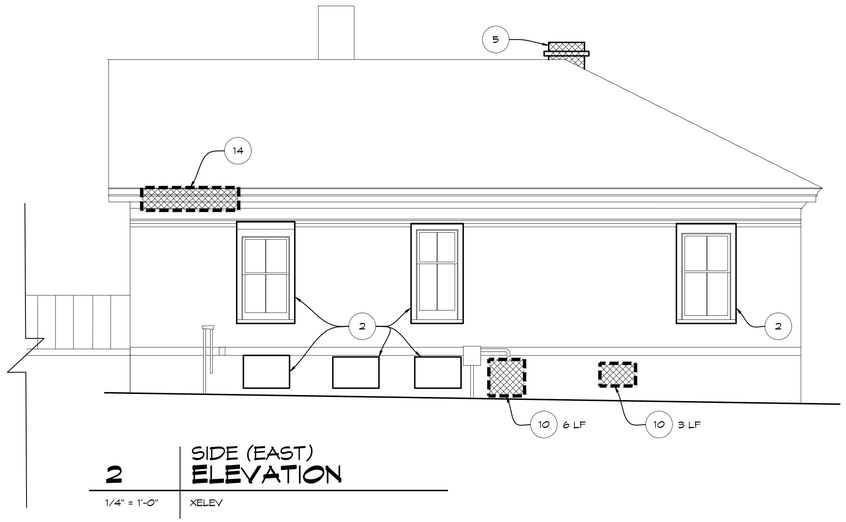
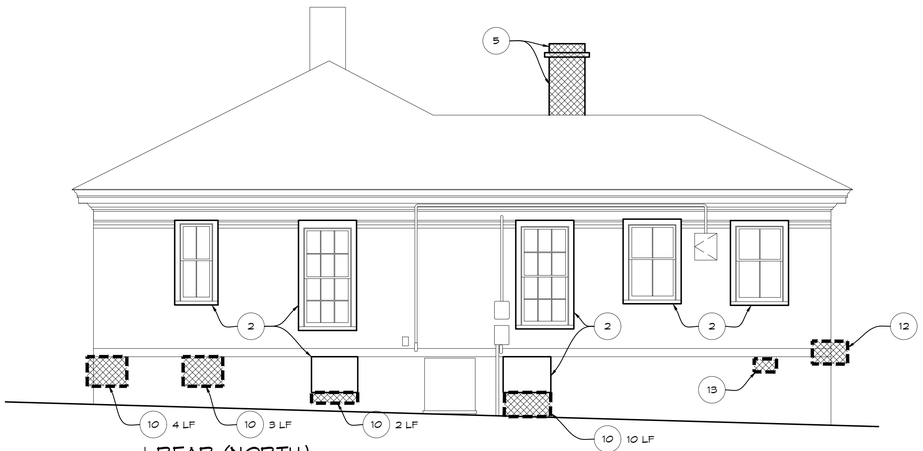


2 SIDE (EAST) ELEVATION

1/4" = 1'-0" | XELEV

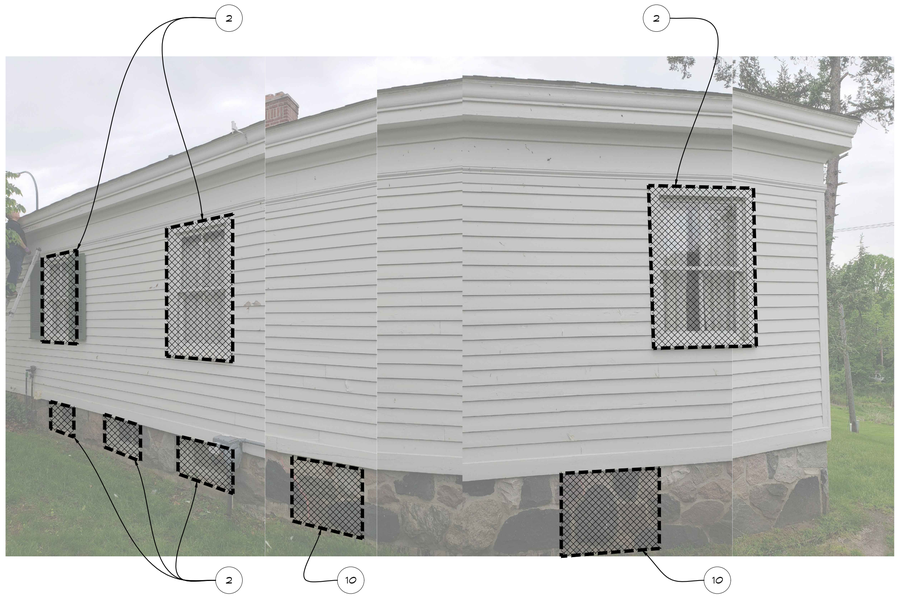
SCALE 0 2 4 8 16



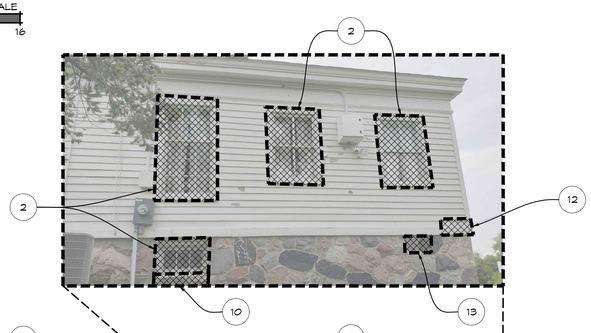
1 REAR (NORTH) ELEVATION

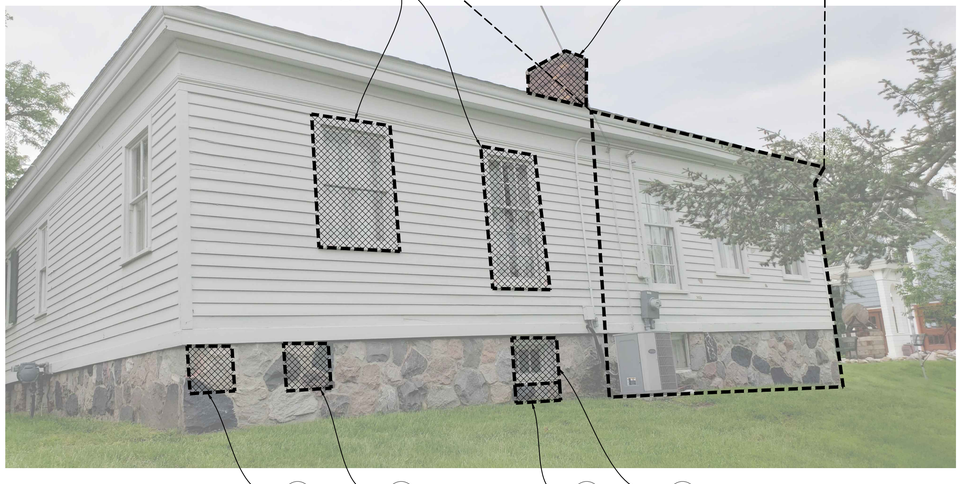
1/4" = 1'-0" | XELEV

SCALE 0 2 4 8 16



EAST ELEV.





NORTH ELEV.

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9100 Lapeer Rd. Suite B
Davison, MI 48423
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CONSTRUCTION NOTES

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9. REPAIR BASE OF EXISTING COLUMNS INCLUDING: REPLACING ROTTED SILL/BASE PLATE WITH PRESSURE TREATED, MAKING DUTCHMAN REPAIRS TO ROTTED BASE OF COLUMN COVERS, ADDING BLOCKING BENEATH BASE TRIM, AND REPLACE ROTTED BASE TRIM, GLUE AND NAIL ALL TRIM IN PLACE. MATERIAL WITHIN 8" OF CONCRETE SHALL BE REPLACED WITH SYNTHETIC WOOD PRODUCTS, COMPLETED BY OTHERS
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LEGEND

SYMBOL:	DESCRIPTION:
	APPROXIMATE AREA/ LOCATION OF WORK

NOTE: FOUNDATION WORK NOT SHOWN ON ELEVATION DRAWINGS, ONLY ABOVE-GRADE WORK SHOWN HERE. REFER TO A101 FOR BELOW GRADE WORK.

NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	08/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/2019

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

EAST AND NORTH ELEVATIONS

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN KAM

CHECKED JSH

A103

CAD FILE NO. X01

SCALE 1/4" = 1'-0"

SHEET 6 OF 6

PLOT DATE: 3/31/2020 4:34 PM
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Window Survey - Hunter House, Birmingham, MI

*Starts at first window to the left of front, main entry, progressing clockwise.

Number	Type	Light	Approx Size	Crck Glass	Paint cond	Glzng cond.	Comment
101	DH, Oriel	6 ovr 9	32 x 65.5	0	fair	poor >80%	ShuttersRacked
102	DH, Oriel	6 ovr 9	32 x 65.5	0	fair	poor >80%	Rot R shutter bottom rail
103	DH, Oriel	6 ovr 9	32 x 65.5	0	fair	poor >80%	R shutter Racked,
							Glazing rebate broken Top Middle
104	DH	6 ovr 6	32 x 42.5	0	good	good<15%	
105	**DH**	**4 ovr 4**	**26 x 54**	**0**	**poor**	**poor >80%**	**Shop Restore, Original**
106	**DH**	**2 ovr 2**	**26 x 54**	**0**	**poor**	**fair >50%**	**Bottom rail wood rot, Bad joinery**
							Wood Rot Sill & L ext casing
107	DH	2 ovr 2	26 x 54	0	fair	fair >50%	Wood Rot R. casing & blind stop
108	DH, Oriel	6 ovr 9	32 x 65.5	0	fair	fair >50%	
109	DH, Oriel	6 ovr 9	32 x 65.5	0	fair	fair >50%	wood rot both casings & blind stops
110	DH	2 ovr 2	33 x 51.5	0	poor	poor >80%	wood rot left sill
111	**DH**	**2 ovr 2**	**33 x51.5**	**0**	**fair**	**fair >50%**	**Meeting Rail Sagging**
112	DH	2 ovr 2	33 x 51.5	0	poor	fair >50%	Woor Rot Full Sill
113	DH	2 ovr 2	33 x 51.5	0	poor	fair >50%	Left Shutter Racked
114	**DH, Oriel**	**6 ovr 9**	**32 x 65.5**	**1**	**poor**	**poor >80%**	**Bad joinery on meeting rail and**
							bottom rail. Sill Split. Wood rot both
							shutters
201	fixed	2 light	32 x 28	0	fair	fair >50%	
basmnt	fixed	2 light		0	gd	0	9 Sashes

Window Rehabilitation – Hunter House, Birmingham, MI
Scope of Work

The scope of work is for exterior only window work and re-painting. Except for the original window sash, all other window sash will be left in place as they are in the current status and work will be done in-sito. Sashes requiring repairs will be removed and repaired on site. The scope excluded interior window sash work, hardware and sash operations. The interior storms are to be left in place during the work.

The paint is assumed to be lead based paint. Additionally, this property is a public space. Therefor, strict adherence to procedures outlined by EPA's RRP guidelines must be followed for all activities. All bidders will outline their procedures for dust and debris collection during working hours and all cleaning activities.

Re-glazing Window Sash (Main Level & second Floor Gabled)

- Loose, cracked, and deformed window glazing will be removed with hand tools.
- Glazing firmly attached to the glass and glazing rebate is to be left in place.
- Intact glazing will be scraped back until all paint is removed and a 1/8" reveal is seen inside in the glazing rebate.
- All bare wood, and intact glazing is to be lightly hand sanded with 80 grit.
- Loose, missing glazing points are to be replaced with new.
- Bare glazing rebates are to prepped with mixture of 60% boiled linseed oil/ 40 % mineral spirits prior to glazing new putty.
- Glazing putty is specified as SARCO dual glaze – Natural tone.
- Glazing line should leave a minimum of 3/32" inside the interior muntin profile to provide space for final painting.
- Excess oil from the glazing process is to be removed before drying.
- New glazing is to be left alone to cure a minimum of 2 week before painting. New glazing putty is not to primed.
- All exterior glass is to be cleaned prior to painting.
- Glass broken during the process is to be replaced with clear annealed glass in same thickness.
- Sashes 106, 110, and 113 need joinery repairs. These are to be repaired in the field.

Paint Prep

- Loose or bubbled paint from the sash, jambs, sills and exterior casing will be scraped using hand tools.
- Remove loose caulk and replace with new latex caulk.
- Open cracks between wood:wood surfaces will be sealed with latex caulk after priming.
- Rough edges between bare wood and intact paint should be sanded to a smooth transition.
- Light sanding of all exterior surfaces with 80 grit. Wet hand sanding preferred. Machine sanding with HEPA vacuum attachment is allowed.

- Any bare wood is to be primed with oil based primer.
- All surface are to be whipped clean of all dust and debris prior to priming or painting.

Original Window Sash Restoration (#105)

- Original sash will be removed for shop restoration
- 10 mil twin wall polycarbonate will be used to provide temporary coverage of window opening. Panel can be removed for daily work activity and must be secured in place at the end of the day.
- Shop Restoration:
    - All glazing and paint are to e removed from the interior and exterior surfaces.
    - Glass is to be removed intact and re-used.
    - Hardware is to be removed, cleaned, and re-installed during installation.
    - Sash joinery is to re-pinned and glued.
    - Defects in the wood, tool marks, etc is to be filled and sanded smooth.
    - Interior, exterior faces, and milled profile are to be sanded smooth to100 grit.
    - Exterior surfaces are to be treated with mixture of 60% boiled linseed oil/40% mineral spirits after final sanding and prior to priming.
    - Glass is to be re-bedded in glazing putty and pinned in place.
    - Glass will be glazed in place using SARCO dual glaze – Natural tone
    - Interior and exterior wood is to primed with oil based primer before installation.
- Sashes are to reinstalled and finish painted in place. New primed, wood parting of the appropriate size may be used when installing sashes.
- Interior stops are to re-used.

Wood Rot Repair – Approved Epoxy's must be from The following companies and may not be interchanged. System 3, West System, Abatron, or Advanced Repair Technology.

- Where identified, the soft, decayed wood is to be removed with hand tools to the point good, un-rotted wood is reached.
- Good wood is to pre-treated with a solution of borate and allowed to dry to less than 12% moisture content before proceeding to next steps.
- The area 5 cm around the rotted wood is to have borate rods inserted into the good wood.
- When good wood will be hardened with clear penetrating epoxy hardener once moisture goals has been achieved and before applying an epoxy patch.
- After 24 hours or manufacturer's recommendation, an epoxy patch will be applied to fill and level the defect.
- Area treated must be sanded smooth, level and unnoticeable with the surrounding wood.
- Prime and finish according to schedule after manufacturer's schedule of cure times.

- The following guideline will be used when Dutchman repairs are used to replace or in conjunction with epoxy repairs.
    - Old wood must be removed a minimum of 5 cm beyond the diseased. Wood.
    - New wood must match original in size and thickness, and species.
    - Cross-cuts must be beveled and not but jointed.
    - All new wood must be back-primed.
    - Cross cuts must be primed prior to fastening. Exception is if the wood to wood joinery will be epoxied.

Priming and Painting

- All wood surfaces must ne clean of dust.
- All glass must be cleaned of dust and oil.
- Caulking should follow priming and be done before finish painting.
- Brush prime all bare exterior wood with one coat of premium oil based coating from Sherwin- Williams or Benjamin Moore.
- Brush paint 2 top coats of premium exterior latex paint in satin sheen from Sherwin Williams or Benjamin Moore.
- Manufacturers instruction for weather temperature, humidity, surface preparation and dry times.

Basement and Gabled Window

- Remove protective covering on basement windows. Install when painted.
- Prep and paint basement windows according to schedule

Alternative 1: Replace rotted drip sill over front entry, column bases with new Accoya.

Alternative 2: Repair and re-paint shutters.

ATTACHMENT A - AGREEMENT

Restoration and Preservation of Hunter House-Exterior Carpentry, Trim, and Paint

This AGREEMENT, made this _____day of _____, 2020, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and L.G.K Building, Inc., having its principal office at 1851 Lone Pine Rd., Bloomfield Hills, MI 48302 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Maintenance Department, is desirous of having work completed for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish all materials and necessary equipment for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham, and to perform all required work necessary to, and in connection therewith has prepared a request for sealed proposals (“RFP”), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish all materials, necessary equipment and to perform all required work necessary for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposals to furnish all materials, necessary equipment and perform all work necessary for the Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint in the City of Birmingham and the Contractor’s cost proposal dated June 24, 2020 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed $ 62,950.00, as set forth in the Contractor’s June 24, 2020 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its sub-contractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:
    A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

    B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

    C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

    D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This

coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. If applicable.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. If applicable.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be “Name Insured” on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.
    1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
    2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
    3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
    4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
    5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such

coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.
15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham	L.G.K Building, Inc.
Attn: Carlos Jorge	Attn: Alex Lek Kalaj
151 Martin Street	1851 Lone Pine Rd.
Birmingham, MI 48009	Bloomfield Hills, MI 48302
1-248-530-1882	1-248-757-315

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have

the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

L.G.K Building, Inc.

_____

By:_____
Alex Lek Kalaj
Its: Principal

CITY OF BIRMINGHAM

_____

By:_____
Pierre Boutros
Its: Mayor

_____

By:_____
Alexandria D. Bingham
Its: City Clerk

Approved:

_____
Carlos A. Jorge, Maintenance Supervisor
(Approved as to substance)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

ATTACHMENT B-BIDDERS AGREEMENT

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

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In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

PREPARED BY (Print Name) Alex Lek Kalaj	**DATE** 6/24/2020
TITLE President	**DATE** 6/24/2020
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS** Lgkbuilding@gmail.com
COMPANY L.G.K Building Inc.	
ADDRESS 1851 Lone Pine Rd. Bloomfield Hills, Mi. 48302	**PHONE** (248) 757-3155
NAME OF PARENT COMPANY N/A	**PHONE**
ADDRESS	

ATTACHMENT C - COST PROPOSAL

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

COST PROPOSAL	
ITEM	**BID AMOUNT**
Materials & Equipment for the repair and replacement of wood components and trim	$ 5,700.00
Materials & Equipment for the repair and rehabilitation of the windows	$ 37,000.00
Materials & Equipment for replacement/installation of hand rails	$ 5,800.00
Materials & Equipment for priming and painting all surfaces	$ 1,850.00
Labor	8,900.00
TOTAL BID AMOUNT FOR HUNTER HOUSE	$ 59,250.00
ADDITIONAL BID ITEMS	
Repair and re-paint shutters	$ 3,700.00
Miscellaneous (Attach Detailed Description)	$ 0.00
GRAND TOTAL AMOUNT FOR THE PROJECT	$ 62,950.00

Firm Name L.G.K Building Inc.

Authorized signature  Date 6/24/2020

ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM

Restoration and Preservation the Hunter House-Exterior Carpentry, Trim, and Paint

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

PREPARED BY (Print Name) Alex Lek Kalaj	**DATE** 6/24/2020
TITLE President	**DATE** 6/24/2020
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS** Lgkbuilding@gmail.com
COMPANY L.G.K Building Inc.	
ADDRESS 1851 Lone Pine Rd. Bloomfield Hills, Mi. 48302	**PHONE** (248) 757-3155
NAME OF PARENT COMPANY N/A	**PHONE**
ADDRESS	
TAXPAYER I.D.# 30-0836796	

June 25, 2020

Leslie Pielack - Museum Director and Carlos Jorge - Building Facilities Superintendent
Birmingham Historical Museum
556 W. Maple Rd.
Birmingham MI 48009

RE: Hunter House, Drainage & Masonry, and Trim & Paint

Dear Ms. Pielack:

Proposals have been received for Drainage & Masonry, and Trim& Painting at the Hunter House. I have reviewed the proposals. L.G.K. Inc. of Bloomfield, Michigan, has submitted a low qualified proposal for both projects.

Alternate and additional items were included in the proposals including addressing the shutter conditions and chimney cap replacement.

The City of Birmingham has worked with L.G. K. in the past with good results. Additionally, L.G. K. has adequately completed historic projects designed by H2A Architects in the past and completed the work in an appropriate manner.

Based upon the above information, including price, qualifications, experience, and work plan, I would recommend an award for:

- Hunter House Drainage and Masonry: L.G. K. Inc. for **$51,750.00.**
- Hunter House Exterior Carpentry, Trim and Paint: L.G.K. Inc. for **62,950.00.**

In accordance with their proposals dated June 24, 2020.

Sincerely,

Project Manager, AIA
Historical Architect 36CFR61

Z:\Projects\City of Birmingham\19-170 HUNTER HOUSE\Correspondence\Letters\Recommendation letter 2020 06 25.docx

City of Birmingham
A Walkable Community

MEMORANDUM

Museum

DATE: July 20, 2020

TO: Joseph A. Valentine, City Manager

FROM: Leslie Pielack, Museum Director
Carlos Jorge, Maintenance Supervisor

SUBJECT: Restoration and Preservation of the Hunter House-Drainage and Masonry

INTRODUCTION:

The Hunter House, built 1822, is the oldest house in Oakland County, and one of the oldest dwellings in all of Michigan. The house is individually listed on the National Register of Historic Places and is in Birmingham's Mill Pond local historic district as well. Moisture damage to the wood elements of the building has accelerated in the last few years, requiring intervention to improve rainwater management as an essential step toward long-term preservation of the structure. A below grade drainage project will make the needed improvements while preserving the house's historic features.

BACKGROUND:

In recent years, the building has shown signs of water intrusion into some of the original wood components of the structure due to a combination of roofing age and existing drainage issues. In 2019, the roof was replaced according to plans and specifications provided by historic architect, Jackie Hoist of H2A Architects. In addition, H2A provided consultation services to address 1) the need for improved drainage around the building, followed by 2) repair and repainting of deteriorating wood exterior siding and original trim. The projects were separated because each uses a distinct construction specialty area, although the drainage project must precede the exterior repair and repainting project. Both proposed project designs and specifications were reviewed by city staff and also presented to the Historic District Commission on December 4, 2019. They will complete the preservation needs for the building and will improve the moisture management around the building without compromising its historic integrity.

A Request for Proposals was issued and four qualified proposals were received. City staff and H2A Architects reviewed the bids. L.G.K. Building, Inc. met all the requirements for the project, was the lowest qualified bid at $ 51,750.00, and has successfully completed historic projects with the city in the past, including at the Allen House. The Museum Board was informed of the outcome of the bidding process at their meeting on July 9, 2020, and is in agreement with staff recommendations that L.G.K. Building, Inc. be awarded the bid.

Hunter House Restoration/Preservation-Drainage and Masonry	L.G.K. Building, Inc	Summit Co	Qualified Construction Corp	Solé Building Co.
	$ 51,750.00	$56,030.00	$ 59,950.00	$133,400.00

LEGAL REVIEW:

City Attorney Tim Currier has provided a legal review of the contract agreement for the Restoration and Preservation of the Hunter House-Drainage and Masonry with L.G.K. Building, Inc.

FISCAL IMPACT:

Funds were not budgeted for this project in the 2019-2020 budget for the Hunter House because the existing conditions and urgent need for the project only became known in December of 2019. Plans to complete the project during the 2019-2020 fiscal year were interrupted and delayed by the COVID pandemic shutdown. Because the project was intended to be awarded in fiscal year 2019-2020, this project was not budgeted in 2020-2021 fiscal year either. A budget amendment is needed to make the funds available for completion of the project in 2020-2021. There are remaining funds available in the Capital Projects Fund from previously completed budgeted museum projects that could fund this project.

SUMMARY

L.G.K. Building, Inc. has met the requirements and has presented the most qualified and lowest proposal to complete the project. It is therefore recommended that the contract award for Restoration and Preservation of the Hunter House-Drainage and Masonry go to L.G.K. Building, Inc., for $51,750.00.

ATTACHMENTS:

1. Request for Proposals
2. Contract Agreement with insurance documents
3. Letter of recommendation from historic architect Jackie Hoist of H2A Architects regarding contract award.

SUGGESTED RESOLUTION:

To award the contract for Restoration and Preservation of the Hunter House-Drainage and Masonry to L.G.K. Building, Inc., contingent upon meeting all insurance requirements, in the amount of $51,750.00, to be charged to the Hunter House Capital Projects Account, 401-804.001-977.0000 and further; to approve the appropriation and amendment to the fiscal year 2020-2021 General Fund budget as follows:

General Fund		
Revenues:		
401-000.000-400.0000	Draw from Fund Balance	$51,750
Total Revenue		$51,750

Expenditures:

401-804.001-977.0000	Capital Projects-Hunter House	$51,750
Total Expenditures		$51,750

REQUEST FOR PROPOSALS
Restoration and Preservation of Hunter House-Drainage and Masonry

Sealed proposals endorsed **"Restoration and Preservation of Hunter House"**, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until 2:00 p.m., **Wednesday, June 24, 2020** after which time bids will be publicly opened and read.

Bidders will be required to attend a mandatory pre-bid meeting on Thursday, June 11, 2020 at 9:00 a.m. at the Birmingham Museum, located at 556 W. Maple, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Monday, June 8, 2020 by contacting Carlos Jorge at 248-530-1882.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to furnish all materials, necessary equipment and perform all required work necessary for the restoration and preservation of the Hunter House-Drainage and Masonry located in the Birmingham Museum. This work must be performed as specified accordance with the specifications contained in the Request For Proposals (RFP).

The RFP, including the Specifications, may be obtained online from the Michigan Inter-governmental Trade Network at http://www.mitn.info or at the City of Birmingham, 151 Martin St., Birmingham, Michigan, and ATTENTION: Carlos Jorge.

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the City until an agreement has been executed.

Submitted to MITN:	Wednesday, May 27, 2020
Mandatory Pre-Bid Meeting:	Thursday, June 11, 2020 at 9:00 a.m. Birmingham Museum 550 W. Maple, Birmingham, MI 48009
Deadline for Submissions:	2:00 p.m. on Wednesday, June 24, 2020
Contact Person:	Carlos Jorge 151 Martin Street, Birmingham, MI 48012 Phone: 248-530-1882 Email: Cjorge@bhamgov.org

REQUEST FOR PROPOSALS
Restoration and Preservation of Hunter House-Drainage and Masonry

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INTRODUCTION

For purposes of this request for proposals, the City of Birmingham will hereby be referred to as “City” and the private firm will hereby be referred to as “Contractor.”

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional contractors to furnish all materials, necessary equipment and perform all required work necessary for the restoration and preservation the Hunter House-Drainage and Masonry located at the 550 W. Maple Rd., Birmingham, MI 48009 at the Birmingham Museum. This work must be performed as specified in accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP).

During the evaluation process, the City reserves the right to serve the City’s best interest to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a firm will be completed by June 30, 2020. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide the restoration and preservation of Hunter House-Drainage and Masonry, in accordance with the specifications outlined by the Scope of Work contained in this RFP.

The Birmingham Museum consists of two buildings located as follows: the Allen House, located at 556 W. Maple St. and the Hunter House, located at 550 W. Maple St. in the City of Birmingham, MI 48009.

MANDATORY PRE-BID MEETING

Prior to submitting a bid, interested firms are required to attend a pre-bid meeting to conduct an on-site visit of the location and access to the project location to make inquiries about the RFP. **Bidders will be required to attend a mandatory pre-bid meeting on Thursday, June 11, 2020 at 9:00 a.m. at the Birmingham Museum, located at 550 W. Maple, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Monday, June 8, 2020 by contacting Carlos Jorge at 248-530-1882.**

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than 2:00 p.m. on Wednesday, June 24, 2020 to:

City of Birmingham
Attn: City Clerk
151 Martin Street
Birmingham, Michigan 48009

One (1) original and one (1) copy of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, **"Restoration and Preservation the Hunter House ".** Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the bidder must be completed on the attached forms contained herein (see Contractor's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.

2. Any request for clarification of this RFP shall be made in writing and delivered to: Carlos Jorge, Maintenance Supervisor, City of Birmingham, 151 Martin Street, Birmingham, MI 48009 or cjorge@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 7 days prior to the deadline for submissions.

3. All proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to respondents and general information sections. All proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the RFP format by the respondent.

4. The contract will be awarded by the City of Birmingham to the most responsive and responsible bidder with the lowest price and the contract will require the completion of the work pursuant to these documents.

5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.

6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and fax number. The company shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.

EVALUATION PROCEDURE AND CRITERIA

The evaluation panel will consist of City staff and any other person(s) designated by the City, who will evaluate the proposals based on, but not limited to, the following criteria:

1. Ability to provide services as outlined.
2. Related experience with similar projects, Contractor background, and personnel qualifications.
3. Quality of materials proposed.
4. Overall Costs.
5. References.

TERMS AND CONDITIONS

1. The City reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems best. The City reserves the right to award the contract to the next most qualified Contractor if the successful Contractor does not execute a contract within ten (10) days after the award of the proposal.

2. The City reserves the right to request clarification of information submitted and to request additional information of one or more Contractors.

3. The City reserves the right to terminate the contract at its discretion should it be determined that the services provided do not meet the specifications contained herein. The City may terminate this Agreement at any point in the process upon notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay Contractor for services rendered to the time of notice, subject to the contract maximum amount.

4. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.

5. The cost of preparing and submitting a proposal is the responsibility of the Contractor and shall not be chargeable in any manner to the City.

6. The successful bidder will be required to furnish a Performance Bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified.

7. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been

provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

8. The Contractor will not exceed the timelines established for the completion of this project.

9. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

CONTRACTOR'S RESPONSIBILITIES

Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
   a. Bidder's Agreement (Attachment B - p. 17)
   b. Cost Proposal (Attachment C - p. 18)
   c. Iran Sanctions Act Vendor Certification Form (Attachment D - p. 19)
   d. Agreement (p. 11 – **only if selected by the City**).
   e. **Contractor will provide COVID-19 Plan (only if selected by the City)**

2. Provide a description of completed projects that demonstrate the firm's ability to complete projects of similar scope, size, and purpose, in a timely manner, and within budget.

3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work (p. 9).

4. The Contractor will be responsible for any changes necessary for the plans to be approved by the City of Birmingham.

5. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.

6. Provide a list of sub-contractors and their qualifications, if applicable.

7. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for projects utilizing the same materials included in the Contractor's proposal.

8. The Contractor will be responsible for the disposal of all material and any damages which occur as a result of any of employees or subcontractors of the Contractor during this project.

9. The contractor will be responsible for getting the building and parking permits at no cost to the contractor.

10. The successful bidder shall provide a Performance Bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified.

11. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

CITY RESPONSIBILITY

1. The City will provide a designated representative to work with the Contractor to coordinate both the City's and Contractor's efforts and to inspect and verify any work performed by the Contractor.

2. The City will provide access to the City of Birmingham during regular business hours or during nights and weekends as approved by the City's designated representative.

SETTLEMENT OF DISPUTES

The successful bidder agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 17 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

INSURANCE

The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 12 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONTINUATION OF COVERAGE

The Contractor also agrees to provide all insurance coverages as specified. Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT

The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award

and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

INDEMNIFICATION

The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 13 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONFLICT OF INTEREST

The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 14 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Contractor that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

PROJECT TIMELINE

It is expected work will begin when the Contract is awarded by the Birmingham City Commission and be completed within four (4) weeks as weather permits.

The Contractor will not exceed the timelines established for the completion of this project.

SCOPE OF WORK

The Contractor shall perform all labor, provide all materials and equipment required for The preservation and restoration of the Hunter House-Birmingham Museum, located at 550 W. Maple Rd., Birmingham, MI 48009.

The proposed work to be performed includes preservation of the infrastructure of the building and restoration of the existing chimney and replacement of the steps in front of the building by the service/staff entrance and the sidewalk at the Hunter House.

A.- Preservation of Hunter House-Drainage

1. The Contractor shall perform the following services in accordance with the requirements defined by the Architectural Drawings (Attachment E) or as otherwise noted herein:

    G001—Site Diagram – Location Map
    G002 – Details & Specifications Plans
    A101 – Floor Plan – Drain Details – General Notes
    A100 – 1st Floor Demolition Plan

B.- Restoration of Hunter House-Masonry

1. The Contractor shall perform the following services in accordance with the requirements defined by the Architectural Drawings (Attachment E) or as otherwise noted herein:

    G002 – Details & Specifications Plans
    A101 - Floor Plan – Roof Plans & Re-pointing Details – General Notes

The Contractor will be responsible for the following:

1. - Supply and install roof protection and scaffold.

2. - Remove damaged brick and inspect the existing concrete cap for cracks or damage and advise the manager in charge.

3. - The Contractor will submit samples of materials before beginning the work.

4. - Install replacement brick to match existing historic brick with all ties, flashing, and incidentals for a complete job as specified on the prints.

5. – Remove all debris and scaffold for a complete scope.

6. - Protect plant materials and repair any disturbed lawn or landscaping surfaces.

The Contractor will be responsible for any damages to the landscape around the building during the construction.

The Contractor shall remove all debris upon completion of the project.

The Contractor shall be responsible for the disposal of all materials using appropriate containment methods in a safe and legal manner.

The Contractor shall operate in a safe manner for workers and the public and will observe all MIOSHA guidelines.

The Contractor shall provide all manuals and/or guarantee information related to this project to the City upon completion of the project.

This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.

ATTACHMENT A - AGREEMENT

Restoration and Preservation of Hunter House-Drainage and Masonry

This AGREEMENT, made this _____day of _____, 2020, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and _____, Inc., having its principal office at _____ (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Maintenance Department, is desirous of having work completed for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish all materials and necessary equipment for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham, and to perform all required work necessary to, and in connection therewith has prepared a request for sealed proposals (“RFP”), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish all materials, necessary equipment and to perform all required work necessary for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposals to furnish all materials, necessary equipment and perform all work necessary for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham and the Contractor’s cost proposal dated _____, 2020 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed _____, as set forth in the Contractor’s _____, 2020 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written

consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its sub-contractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the

additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. If applicable.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. If applicable.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be “Name Insured” on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

    1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
    2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
    3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
    4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
    5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such

coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Carlos Jorge
151 Martin Street
Birmingham, MI 48009
1-248-530-1882

CONTRACTOR

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds

$1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

_____

CONTRACTOR

By:_____

Its:

CITY OF BIRMINGHAM

_____

By:_____
Pierre Boutros
Its: Mayor

_____

By:_____
Alexandria D. Bingham
Its: City Clerk

Approved:

_____
Carlos A. Jorge, Maintenance Supervisor
(Approved as to substance)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

ATTACHMENT B-BIDDERS AGREEMENT

Restoration and Preservation the Hunter House-Drainage and Masonry

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In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

PREPARED BY (Print Name)	**DATE**
TITLE	**DATE**
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
COMPANY	
ADDRESS	**PHONE**
NAME OF PARENT COMPANY	**PHONE**
ADDRESS	

ATTACHMENT C - COST PROPOSAL

Restoration and Preservation the Hunter House-Drainage and Masonry

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

COST PROPOSAL		
PRESERVATION ITEMS		**BID AMOUNT**
Materials & Equipment for the drainage for Hunter House		$
RESTORATION ITEMS		
Materials & Equipment for the Chimney per details on the prints		$
Labor		$
TOTAL BID AMOUNT FOR HUNTER HOUSE		$
ADDITIONAL BID ITEMS		
Install new concrete cap and chimney screen		$
Miscellaneous (Attach Detailed Description)		$
GRAND TOTAL AMOUNT FOR THE PROJECT		$

Firm Name_____

Authorized signature_____ Date_____

ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM

Restoration and Preservation the Hunter House-Drainage and Masonry

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Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

PREPARED BY (Print Name)	**DATE**
TITLE	**DATE**
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
COMPANY	
ADDRESS	**PHONE**
NAME OF PARENT COMPANY	**PHONE**
ADDRESS	
TAXPAYER I.D.#	

ATTACHMENT E - ARCHITECTURAL DRAWINGS

Restoration and Preservation the Hunter House-Drainage and Masonry

GENERAL PROJECT NOTES

1. NOTIFY DESIGN PROFESSIONAL OF ANY DISCREPANCIES PRIOR TO BEGINNING OF WORK. COORDINATE DEMOLITION WORK WITH NEW WORK SHOWN ON DRAWINGS. FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS
2. OWNER SHALL HAVE FIRST RIGHT OF REFUSAL ON ALL ITEMS SCHEDULED FOR REMOVAL.
3. TO CALL ATTENTION TO DEMOLITION WHICH IS REQUIRED NOTATIONS ARE MADE IN VARIOUS PLACES ON THE DRAWING; HOWEVER, THESE DRAWINGS ARE NOT INTENDED TO SHOW EACH AND EVER ITEM TO BE REMOVED. THE CONTRACTOR AND THE SUBCONTRACTORS FOR THE VARIOUS TRADES SHALL REMOVE THE MATERIALS RELATED TO THEIR RESPECTIVE TRADES, AS REQUIRED TO PERMIT THE CONSTRUCTION OF THE NEW WORK AS SHOWN. CONTRACTOR IS RESPONSIBLE FOR REMOVING, CAPPING, DISCONNECTING ALL INCIDENTAL ITEMS, AT AREAS OF DEMOLITION
4. CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN THE INTEGRITY AND STRUCTURAL STABILITY. PROVIDE SHORING REQUIRED OF THE BUILDING AND ITS ELEMENTS AND/OR ALL NECESSARY TEMPORARY BRACING
5. USE CAUTION IN SELECTING CUTTING METHODS TO AVOID DAMAGE TO OTHER WORK OR FINISHES TO REMAIN AND WHICH WILL PROVIDE PROPER SURFACES FOR PATCHING AND FINISHING
6. PREPARE FOR NEW WORK BY REMOVING EXISTING SURFACE FINISHES, ONLY AS NECESSARY TO PROVIDE FOR PROPER INSTALLATION OF NEW WORK AND NEW FINISHES.
7. VERIFY LOCATION OF ALL IRRIGATION SYSTEM COMPONENT WITH OWNER PRIOR TO STARTING WORK
8. WHERE NEW WORK ABUTS OR ALIGNS WITH EXISTING, MAKE A SMOOTH AND EVEN TRANSITION. PATCH WORK SHALL MATCH EXISTING ADJACENT WORK IN TEXTURE AND APPEARANCE. WHERE FINISH SURFACES ARE CUT SO THAT A SMOOTH TRANSITION WITH NEW WORK IS NOT POSSIBLE, TERMINATE EXISTING SURFACE ALONG A STRAIGHT LINE AT NATURAL LINE OF DIVISION.
9. THE DRAWINGS ARE INTENDED TO SHOW DESIGN, GENERAL ARRANGEMENT AND EXTENT OF THE WORK AND ARE PARTLY DIAGRAMMATIC. THEY ARE NOT INTENDED TO BE SCALED OR USED FOR ROUGH-IN MEASUREMENTS, NOT TO BE USED AS SHOP DRAWINGS. INADVERTENT DISCREPANCIES OR THE OMISSION OF NOTES OR DETAILS ON ANY DRAWING BUT GIVEN ON ANOTHER DRAWING SHALL NOT BE CAUSE FOR ADDITIONAL CHARGE OR CLAIM.
10. NOTES IN THE SPECIFICATIONS AND NOT SHOWN ON THE DRAWINGS, OR SHOWN ON THE DRAWINGS AND NOT NOTED IN THE SPECIFICATIONS, IS OF LIKE EFFECT - AS IF SHOWN OR NOTED ON BOTH
11. IN CASES OF INCONSISTENCY, THE BETTER QUALITY OR GREATER QUANTITY SHALL BE PROVIDED
12. FIELD VERIFY ALL EXISTING CONDITIONS AND NOTIFY DESIGN PROFESSIONAL AND OWNER OF ANY DISCREPANCIES PRIOR TO BEGINNING WORK
13. CONTRACTOR SHALL PREVENT DAMAGE BY WEATHERPROOFING ALL OPENING CONSTRUCTION. PROVIDE TEMPORARY PROTECTION FOR ALL COMPONENTS OF THE NEW AND EXISTING BUILDING DURING CONSTRUCTION.
14. REPAIR ANY DISTURBED LANDSCAPING AND LAWN SURFACES DUE TO CONSTRUCTION.

BUILDING AND CODE INFORMATION

YEAR BUILT
- ORIGINAL BUILDING 1822
- EXPANSION & RELOCATION C. 1970

HISTORIC DESIGNATIONS
- NATIONAL REGISTER OF HISTORIC PLACES

USE GROUP: B - MUSEUM <50 OCCUPANTS

CONSTRUCTION TYPE: VB

FIRE SUPPRESSION: NONE

SQUARE FOOTAGE

BASEMENT	±690 SF
MAIN LEVEL	±1,070 SF
ATTIC LEVEL	±200 SF
TOTAL	±2,060 SF

MICHIGAN REHABILITATION CODE FOR EXISTING BUILDINGS 2015

MICHIGAN BUILDING CODE 2015 BY REFERENCE

REPAIRS: REMOVALS & REPLACEMENTS CH6

LEVEL 1: REPLACEMENTS CH 7

MEANS OF EGRESS: SECTION 604 & 704

MAINTAIN THE LEVEL OF EGRESS SAFETY

SCOPE OF WORK:

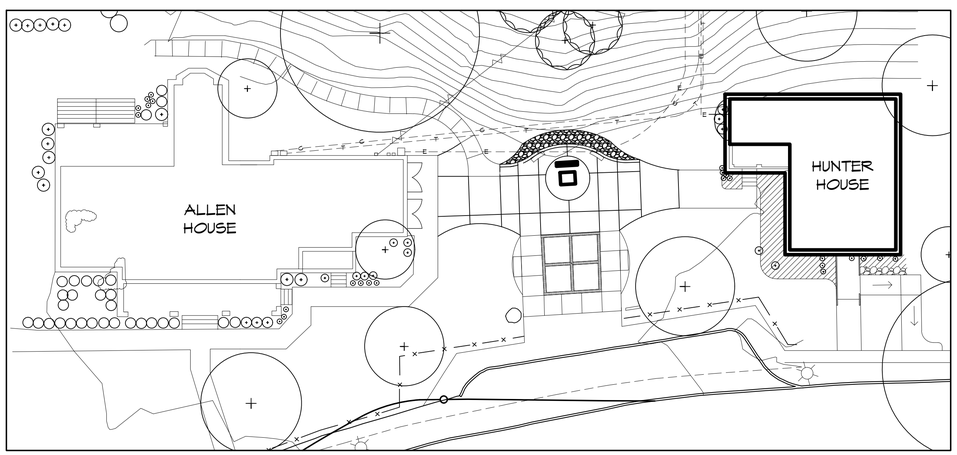
- WATERPROOFING PORTIONS OF BASEMENT
- INSTALL DRAIN-TILE AT 12" BELOW GRADE AND DRAIN-TILE AT FROST-LINE
- REMOVE AND REPLACE DETERIORATED STAIR AND RAIL
- MASONRY RE-POINTING
- WOOD SIDING REPAIR AND REPLACE WHERE ROTTED

OWNER:
CITY OF BIRMINGHAM
151 MARTIN STREET BIRMINGHAM, MI 48012

PROJECT:
EXTERIOR RESTORATION & REPAIRS
JOHN W. HUNTER HOUSE
556 W MAPLE RD BIRMINGHAM, MI 48009

INDEX OF DRAWINGS

G001	TITLE SHEET
G002	SPECIFICATIONS
A100	DEMOLITION PLAN
A101	SITE, FLOOR, & ROOF PLANS
A102	ELEVATIONS
A103	ELEVATIONS



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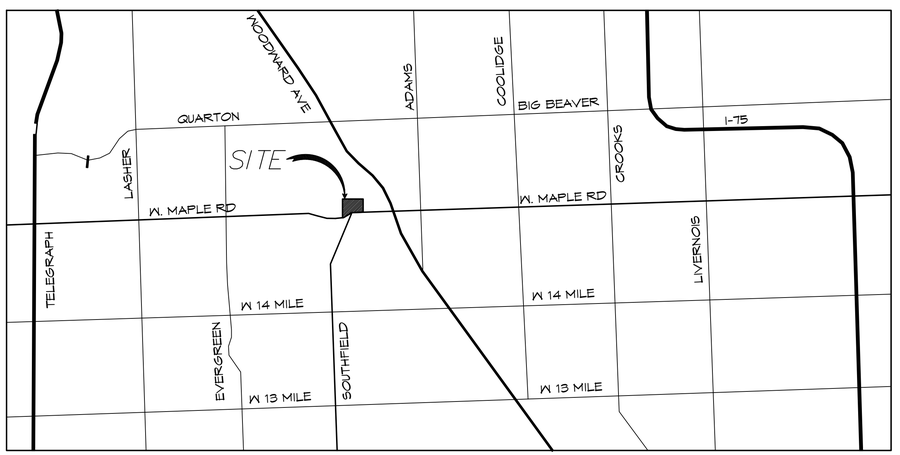
SITE DIAGRAM

N.T.S. XSITE



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LOCATION MAP

N.T.S.

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

OWNER:
CITY OF BIRMINGHAM
151 MARTIN STREET BIRMINGHAM, MI 48012

PROJECT:
EXTERIOR RESTORATION & REPAIRS
JOHN W. HUNTER HOUSE
556 W MAPLE RD BIRMINGHAM, MI 48009

NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	08/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/19

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN KAM/ BNR

CHECKED JSH

SEAL

G001

CAD FILE NO. G001

SHEET 1 OF 6

Z:\Projects\City of Birmingham\19-170 HUNTER HOUSE\CAD\G001.dwg

PLOT DATE: 3/31/2020 4:40 PM

SPECIFICATIONS:

DIVISION 1 - GENERAL REQUIREMENTS:

THESE DOCUMENTS AS INSTRUMENTS OF SERVICE ARE PROPERTY OF H2A ARCHITECTS INC. AND MAY NOT BE USED OR REPRODUCED WITHOUT EXPRESSED WRITTEN CONSENT OF H2A ARCHITECTS EXCEPT AS NECESSARY TO COMPLETE THE WORK HEREIN DESCRIBED FOR A SINGLE USE FOR THIS PROJECT.

THESE NOTES ARE TO BE READ IN CONJUNCTION WITH THESE DRAWINGS. IN THE EVENT OF CONFLICT BETWEEN THE INFORMATION ON THE DRAWINGS AND THESE NOTES, THE MORE STRINGENT REQUIREMENTS SHALL GOVERN.

CONTRACTOR SHALL REVIEW ALL DOCUMENTS AND FIELD CONDITIONS AND NOTIFY DESIGN PROFESSIONAL OF ANY DISCREPANCIES.

THE CONTRACTOR SHALL VERIFY CONDITIONS, ALL QUANTITIES, AND EXTENT OF DETERIORATION AND ROT BOTH ON THE SURFACE AND SUB-SURFACE TO VERIFY RELEVANT CONDITIONS BEFORE BEGINNING THE WORK. THE CONTRACTOR SHALL INVESTIGATE THROUGH REMOVALS AND NOTIFY THE DESIGN PROFESSIONAL OF EXISTING CONDITIONS.

CORRELATION AND INTENT OF DRAWINGS:

ANY DRAWING IN WHICH A PORTION OF THE WORK IS DETAILED OR DRAWN OUT AND THE REMAINDER IS SHOWN IN OUTLINE, THE PART DETAILED OR DRAWN OUT WILL ALSO APPLY TO ALL OTHER LIKE PORTIONS OF THE WORK. WHEN THE WORD 'SIMILAR' APPEARS ON DRAWING, IT HAS A GENERAL MEANING AND IS NOT TO BE INTERPRETED AS MEANING IDENTICAL, AND ALL DETAILS SHALL BE WORKED OUT IN RELATION TO THEIR LOCATION AND CONNECTION TO THE WORK. IN CASE OF INCONSISTENCY BETWEEN DOCUMENTS THE BETTER QUALITY OR BETTER QUANTITY OF WORK SHALL BE PROVIDED. IN CASE OF ANY DISCREPANCY IN FIGURES OR DRAWINGS, THE CONTRACTOR SHALL SUBMIT A WRITTEN REQUEST TO H2A ARCHITECTS FOR CLARIFICATION OR INTERPRETATION. ANY ADJUSTMENT MADE BY THE CONTRACTOR WITHOUT SUCH A DETERMINATION, WILL BE AT THE CONTRACTOR'S OWN RISK AND EXPENSE.

PERMITS:

THE CONTRACTOR SHALL OBTAIN AND PAY FOR ALL NECESSARY PERMITS.

TEMPORARY CONTROLS:

THE CONTRACTOR SHALL PROVIDE TEMPORARY ENCLOSURE FOR THE WORK TO ENSURE THE BUILDING IS WEATHER TIGHT AT ALL TIMES TO AVOID DAMAGES OR INCIDENTAL DAMAGES. COORDINATE ENCLOSURE WITH DRYING/CURING AND VENTILATING REQUIREMENTS FOR WORK.

JOB CONDITIONS:

DISPOSE OF MATERIALS ON A REGULAR BASIS AT A LANDFILL APPROPRIATE TO THE MATERIALS BEING DISPOSED OF. DISPOSE OF HAZARDOUS, DANGEROUS, OR UNSANITARY WASTE IN A LAWFUL MANNER. KEEP SITE CLEAN AND FREE OF DEBRIS AND REFUSE DAILY. DO NOT BURN OR BURY MATERIALS ON SITE.

SUBSTITUTIONS:

WHERE SPECIFIC PRODUCTS ARE LISTED, THE CONTRACTOR SHALL PROVIDE THE PRODUCT NAMED. ONLY IN CASES OF UNAVAILABILITY MAY ANOTHER PRODUCT BE SUBSTITUTED. WHERE PRODUCT IS LISTED WITH 'OR EQUAL' CONTRACTOR MAY PROVIDE A PRODUCT EQUAL IN QUALITY AND PERFORMANCE TO THE NAMED PRODUCT. WHERE PRODUCT PERFORMANCE ONLY IS LISTED, THE CONTRACTOR MAY PROVIDE ANY PRODUCT MEETING THE PERFORMANCE CRITERIA.

DIVISION 2 -REMOVALS:

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE ADEQUATE SHORING AND BRACING DURING CONSTRUCTION TO ACCOUNT FOR ALL FORCES, INCLUDING BUT NOT LIMITED TO: FORCES FROM GRAVITY, EARTH, WIND, AND UNBALANCED FORCES DUE TO CONSTRUCTION SEQUENCE.

PROVIDE, ERECT, AND MAINTAIN TEMPORARY BARRIERS. PREVENT MOVEMENT OR SETTLEMENT. PROTECT ITEMS TO REMAIN. CONDUCT REMOVALS TO MINIMIZE INTERFERENCE WITH ADJACENT FEATURES AND WITH A MINIMUM INTERFERENCE TO PUBLIC OR PRIVATE ACCESS.

DISCONNECT AND REMOVE ITEMS INTERFERING WITH THE UNDERTAKING OF THE WORK. PERFORM REMOVAL OF COMPONENTS AS INDICATED AND IN AN ORDERLY AND CAREFUL MANNER.

CAREFULLY REMOVE WOOD TRIMS INDICATED TO BE REPLACED. WOOD TRIMS AND SILLS MAY BE CUT FOR PARTIAL REPLACEMENTS OR DUTCHMAN REPLACEMENTS.

TAKE ACTIONS TO MINIMIZE DUST AND AIR-BORNE DEBRIS. REMOVE MATERIALS FROM SITE AS WORK PROGRESSES. MAINTAIN WORK AREA IN CLEAN CONDITION. DO NOT BURN OR BURY MATERIALS ON SITE.

DIVISION 4 - MASONRY REPAIRS:

CAREFULLY REMOVE LOOSE AND DAMAGED BRICK. SALVAGE AS MUCH BRICK AS POSSIBLE. REMOVE MORTAR AROUND DAMAGED BRICK AREA BACK TO SOUND MATERIAL. RINSE WITH WATER.

MATCH EXISTING MORTAR STRENGTH, TEXTURE, AND COLOR. PROVIDE TYPE 'O' FOR ALL BRICK VENEER REPAIRS UNLESS OTHERWISE NOTED. PROVIDE TYPE 'S' FOR STONE WALL REPAIRS.

NEW BRICK SHALL BE ASTM C 62, GRADE SW, TYPE FBS, RATED "NOT EFFLORESCED". COLOR TO MATCH EXISTING AND BE APPROVED BY THE ARCHITECT IN ADVANCE.

COURSING SHALL MATCH EXISTING BOND WITH CONCAVE MORTAR JOINTS TO MATCH EXISTING UNLESS NOTED OTHERWISE.

THOROUGHLY BRICK WET SURROUNDING BRICK AND MORTAR PRIOR TO RE-INSTALLATION OF BRICK AND MORTAR. ENSURE SURFACES ARE SATURATED BUT FREE OF STANDING WATER. TIGHTLY PACK MORTAR INTO JOINTS IN THIN LAYERS 1/4 "MAXIMUM. ALLOW LAYER TO BECOME THUMBPRINT HARD BEFORE APPLYING NEXT LAYER. TAKE CARE NOT TO SPREAD MORTAR OVER EDGES ONTO EXPOSED BRICK FACES. TOOL MORTAR WHEN THUMBPRINT HARD.

PRE-HYDRATE MORTAR FOR STONE REPOINTING 60 MINUTES MINIMUM TO 90 MINUTES MAXIMUM

CLEAN MASONRY TO REMOVE EXCESS MORTAR AND DROPPINGS. USE SURE KLEAN 600 BY PROSOCO OR EQUAL.

DIVISION 5 - WOOD

ROUGH CARPENTRY

1. WOOD SPECIES
A. BLOCKING:

SOUTHERN PINE (SP)
No. 2 OR BETTER (SPIB)

2. WOOD BLOCKING OR FRAMING WITHIN 8" OF GRADE OR IN CONTACT WITH CONCRETE SHALL BE PRESSURE TREATED

3. CONTRACTOR SHALL PROVIDE BLOCKING AS NEEDED FOR ALL ANCHORAGE OF TRIMS, MOLDINGS AND OTHER WOOD TRIM FEATURES.

FINISH CARPENTRY

LUMBER MATERIALS:
ALL WOOD FOR EXTERIOR TRIMS AND SILLS SHALL BE GRADED IN ACCORDANCE WITH WWPA 2012, NLGA 2008 ADN WCLIB 102-C GRADING RULES.

WOOD FOR TRIMS, SILLS, BEADBOARD AND MOLDING NOT NOTED AS 'SYNTHETIC WOOD PRODUCTS':

WESTERN RED CEDAR, GRADE A
TRIMS: S1S2E
MAXIMUM MOISTURE CONTENT 19%
MATCH EXISTING SIZES AND SHAPES OF MEMBERS BEING REPLACED

FASTENERS SHALL BE STAINLESS STEEL, APPROPRIATE SIZES AND SHAPES FOR APPLICATION ENSURING ADEQUATE EMBEDMENT.

REPAIR ROTTED COMPONENTS WITH FLEXIBLE EPOXY CONSOLIDANT AND FLEXIBLE EPOXY PATCH EQUAL TO ADVANCED REPAIR TECHNOLOGY FLEX-TEC HV. PREPARE WOOD IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS. EQUIVALENT MANUFACTURERS INCLUDE WEST SYSTEM G/ FLEX.

SIMULATED WOOD TRIM

ALL PLASTIC SIMULATED WOOD TRIM SHALL CONFORM TO: ASTM D570: STANDARD TEST METHOD FOR WATER ABSORPTION OF PLASTICS. ASTM D648: STANDARD TEST METHOD FOR DEFLECTION TEMPERATURE OF PLASTICS UNDER FLEXURAL LOAD IN THE EDGEWISE POSITION. ASTM D696: STANDARD TEST METHOD FOR COEFFICIENT OF LINEAR THERMAL EXPANSION OF PLASTICS BETWEEN 30 DEGREES C AND 30 DEGREES C WITH A VITREOUS SILCA DILATOMETER. ASTM D790: STANDARD TEST METHODS FOR FLEXURAL PROPERTIES OF UN-REINFORCED AND REINFORCED PLASTICS AND ELECTRICAL INSULATING MATERIALS. ASTM D1505: STANDARD TEST METHOD FOR DENSITY OF PLASTICS BY THE DENSITY GRADIENT TECHNIQUE. ASTM E84: STANDARD TEST METHOD FOR SURFACE BURNING CHARACTERISTICS OF BUILDING.

MATERIAL SHALL BE A FREE-FOAM CELLULAR POLYVINYL CHLORIDE (PVC).

MANUFACTURER: TREX COMPANY INC. 800.289.8739. WWW.TREX.COM, OR APPROVED EQUAL.

WARRANTY OF PRODUCT SHALL BE TEN (10) YEARS.

TRIM BOARDS, BEAD BOARD AND MOULDING SHALL MATCH EXISTING SIZE AND SHAPE

FASTENERS: PROVIDE STAINLESS STEEL SIDING NAILS EQUAL TO SLIM-JIM TYPE 304, OR PROVIDE FASTENERS, TYPE AND SIZE AS RECOMMENDED BY MANUFACTURER FOR MAXIMUM CONCEALMENT. RECESS HEADS AND PLUG.

ADHESIVES: PROVIDE PRODUCT AS RECOMMENDED BY MANUFACTURER. MITERED CORNERS SHALL BE BOTH GLUED AND FASTENED.

JOINERY: TRIM SHALL BE INSTALLED WITH MINIMUM NUMBER OF JOINTS PRACTICAL. SCRIBE AND CUT TRIM TO FIT ADJOINING WORK. CUT JOINTS SHALL BE FIT TO EXCLUDE WATER. COPE JOINTS AT RETURN AND MITER OUTSIDE CORNERS.

DIVISION 7 - THERMAL AND MOISTURE PROTECTION:

FLASHINGS, CORNICE CAPS SHALL BE 16 OZ LEAD COATED COPPER, ZINC COATED COPPER, TERNE COATED STAINLESS STEEL OR FREEDOM GRAY TIN-ZINC, T-Z COATED COPPER BY REVERE.

FASTENERS FOR FLASHING SHALL BE STAINLESS STEEL, APPROPRIATE SIZE AND SHAPE FOR ¾" PENETRATION.

FOUNDATION WATERPROOFING MEMBRANE TO BE 'BITUTHENE 4000' BY (GRACE) GCP APPLIED TECHNOLOGIES, OR EQUAL. PROVIDE COMPLETE SYSTEM WITH ALL PRIMER AND ACCESSORIES, AS RECOMMENDED BY MANUFACTURER AND INSTALL AS RECOMMENDED BY MANUFACTURER.

DIVISION 9 - FINISHES:

PAINT

CONTRACTOR SHALL ASSUME LEAD PAINT MAYBE PRESENT. CONTRACTOR SHALL BE RESPONSIBLE FOR PROPER PROCEDURES AND DISPOSAL OF LEAD PAINT. CONTRACTOR SHALL BE LEAD SAFE CERTIFIED THROUGH THE RENOVATION, REPAIR AND PAINTING (RRP) EPA PROGRAM.

ALL PAINTING SHALL CONFORM TO ASTM D16 STANDARD TERMINOLOGY FOR PAINT, RELATED COATINGS, MATERIALS AND APPLICATIONS.

MATERIAL: EXTERIOR GRADE

WOOD:

SOFT PRIME BARE WOOD: AFTER SCRAPING, SPOT PRIME ALL BARE WOOD WITH COVER STAIN OIL PRIMER, BY ZINSSER.
PRIMER ALL SURFACES: PROVIDE 1 COAT OF PRIMER OVER ALL SURFACES. IN SIX, AQUA LOCK ACRYLIC PRIMER, BY BENJAMIN MOORE.
PAINT ALL SURFACES: PROVIDE TWO COATS OF AURA-EXTERIOR ACRYLIC (LOW LUST) BY BENJAMIN MOORE.

METAL:

PRIMER: AFTER PREPARATION, PROVIDE ONE COAT OF ZINC-RICH, ANTI-RUST PRIMER, EQUAL TO RUSTOLEUM V7400 SYSTEM, HEAVY DUTY RUST INHIBITIVE PRIMER COIL BASED PAINT. PROVIDE TWO COATS OF V7400 SYSTEM 340 VOC DTM ALKYD ENAMEL (GLOSS) BY RUSTOLEUM. TWO-YEAR WARRANTY.

FINISH:
BODY - SATIN
FASCIA'S, TRIMS, MOLDINGS, DOORS AND WINDOWS - SEMI-GLOSS
METAL - GLOSS

PREPARE SUBSTRATES IN ACCORDANCE WITH PAINT MANUFACTURERS RECOMMENDATIONS. HAND-SCRAPE TO REMOVE LOOSE OR PEELING PAINT. WASH SURFACES WITH DETERGENT TO REMOVE DIRT GREASE AND OTHER RESIDUE. REMOVE MILDEW STAINS WITH MILDEW REMOVER APPROVED BY PAINT MANUFACTURER. RINSE SURFACE WITH WATER AND ALLOW TO DRY FULLY. DO NOT POWER WASH.

PREPARE METAL SURFACES BY REMOVING PAINT & RUST DOWN TO WHITE METAL. APPLY A ZIN-RICH, ANTI-RUST PRIMER AND TWO COATS OF PAINT AS SPECIFIED. INSTALL IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS

TEST SUBSTRATE WITH MOISTURE METER AND VERIFY CONDITIONS MEET MANUFACTURERS REQUIREMENTS. MOISTURE CHECK SHALL BE DONE IN THE PRESENCE OF THE CITY REPRESENTATIVE PRIOR TO APPLICATOR OF ANY COATING PRODUCTS.

MIX PRODUCTS AS DIRECTED BY MANUFACTURER. APPLY PRIMER OVER PROPERLY PREPARED COATED AND UNCOATED SURFACES. DO NOT PAINT WHEN RAIN OR HEAVY CONDENSATION IS EXPECTED WITHIN 12 HOURS. APPLY WHEN TEMPERATURES ARE BETWEEN 45 DEGREES AND 90 DEGREES AND WILL REMAIN SO FOR 48 HOURS.

APPLY ONTO SEMI-SMOOTH SURFACES WITH HIGH QUALITY 3/8 - ½" NAP ROLLER OR POLYESTER BRUSH. APPLY ONTO ROUGH SURFACES WITH A HIGH QUALITY ¾ - 1" NAP ROLLER.

REFER TO SIMULATED WOOD MANUFACTURERS RECOMMENDATIONS FOR PRIMING & PAINTING SIMULATED WOOD AND PROVIDE PRODUCTS AND EXECUTION AS RECOMMENDED.

DIVISION 31 & 32 - SITE:

RESTORE AND REPAIR ANY AREAS DISTURBED DURING CONSTRUCTION. PROTECT ALL AREAS ADJACENT CONSTRUCTION TO REMAIN.

A SOIL EROSION PERMIT IS REQUIRED FROM THE CITY. PROVIDE SOIL EROSION MEASURES TO COMPLY WITH CITY STANDARDS INCLUDING BUT NOT LIMITED TO SILT FENCE, MUD MATS, AND DRAINAGE STRUCTURE FILTER FABRIC. STOCKPILING OF TOPSOIL FOR REUSE. PROTECT ALL ELEMENTS NOTED TO REMAIN.

EXCAVATE AS REQUIRED ALLOWING SUFFICIENT SPACE FOR WATERPROOFING MEASURES AND UTILITIES.

BACKFILL WITH EXCAVATED MATERIALS EXCEPT WHERE AGGREGATE IS NOTED.

PROVIDE FOUNDATION DRAINAGE WITH MINIMUM 4 INCH DRAIN PIPE WITH FILTER SOCK, EXTEND TO DAYLIGHT.

PROTECT ADJACENT STRUCTURES WHICH MAY BE DAMAGED BY EXCAVATION, WHERE NECESSARY. PROVIDE EXCAVATION SUPPORT AND PROTECTION CAPABLE OF RESISTING SOIL AND HYDROSTATIC PRESSURE AND SUPPORTING SIDEWALLS OF EXCAVATIONS.

PROVIDE DEWATERING AS NECESSARY TO UNDERTAKE THE WORK.

PORTLAND CEMENT CONCRETE PAVING SHALL MEET ASTM C150 AND BE MINIMUM COMPRESSIVE STRENGTH OF 4000 PSI AT 28 DAYS. AIR CONTENT SHALL BE 5 - 8%, SLUMP SHALL NOT EXCEED 3 INCHES. AGGREGATE SHALL MEET CLASS 6A MDOT 2012 STANDARDS. SAND BASE SHALL MEET GRANULAR MATERIAL CLASS II, MDOT 2012 STANDARDS. REINFORCING FABRIC SHALL MEET ASTM A1064. REINFORCING FABRIC SHALL MEET ASTM 1064. FIBER JOINTS SHALL MEET ASTM D1751.

PROVIDE CURING, MEETING ASTM C309, TYPE 2, INSTALL PER MANUFACTURER REQUIREMENTS.

PROVIDE MINIMUM 2 INCHES OF TOPSOIL FOR AREAS EXCAVATED. PROVIDE HYDROSEED CONSISTING OF A MIXTURE OF ANNUAL AND PERENNIAL SEED. CONTRACTOR SHALL WATER THE TURF AREA UNTIL TURF IS ESTABLISHED BUT NOT LESS THAN 30 DAYS.

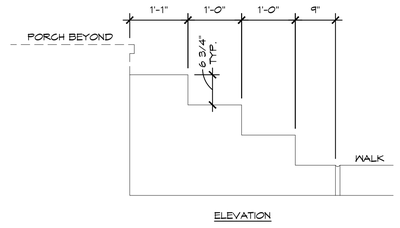
RESTORE AND REPAIR ANY AREAS DAMAGED DURING CONSTRUCTION. PROTECT ALL AREAS ADJACENT TO CONSTRUCTION.

DRAINAGE:

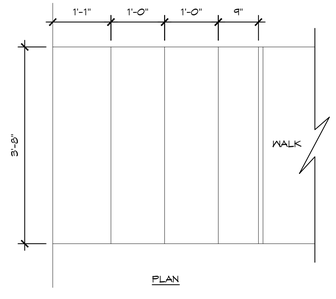
DRAIN TILE: PROVIDE 4" POLYETHYLENE CORRUGATED, PERFORATED, DRAIN PIPE WITH SOCK. PROVIDE WITH 90 DEGREE ELBOWS, TEES AND ALL ACCESSORIES FOR A COMPLETE SYSTEM. PROVIDE 4" POLYETHYLENE CORRUGATED, NON-PERFORATED, DRAIN PIPE FOR EXTENSIONS TO DAYLIGHT.

YARD DRAIN: PROVIDE 9" X 9" POLYOLEFIN CATCH BASIN WITH GREEN GRATE OF SIMILAR MATERIAL, EXTEND FROM DRAIN TO DAYLIGHT WITH 4" POLYETHYLENE, CORRUGATED, NON-PERFORATED DRAIN PIPE.

DRAIN TILE EXTENSIONS TO DAYLIGHT: PROVIDE 4" POLYOLEFIN CORRUGATED, NON-PERFORATED DRAIN PIPE.

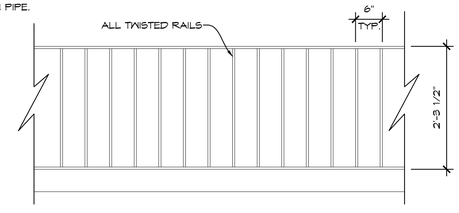


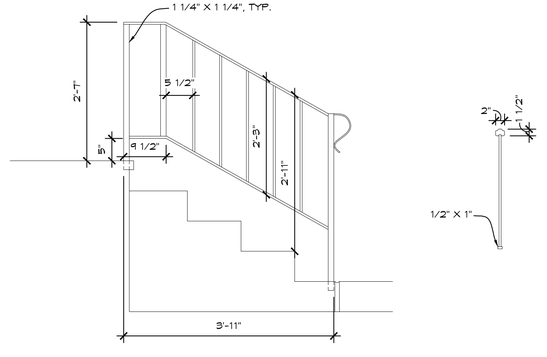
ELEVATION



PLAN

1 PORCH STAIR PLAN & ELEVATION
3/4" = 1'-0" | STRDET01





2 PORCH RAILING DETAILS
3/4" = 1'-0" | STRDET02

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

NO.	DESCRIPTION	DATE
6		
5		
4		
3	FOR CONSTRUCTION	03/30/20
2	FOR BIDS & PERMITS	03/17/20
1	OWNER'S REVIEW	08/06/19

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

SPECIFICATIONS

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN BNR

CHECKED JSH

G002

CAD FILE NO. G002.dwg

SCALE 1/8" = 1'-0"

SHEET 2 OF 6

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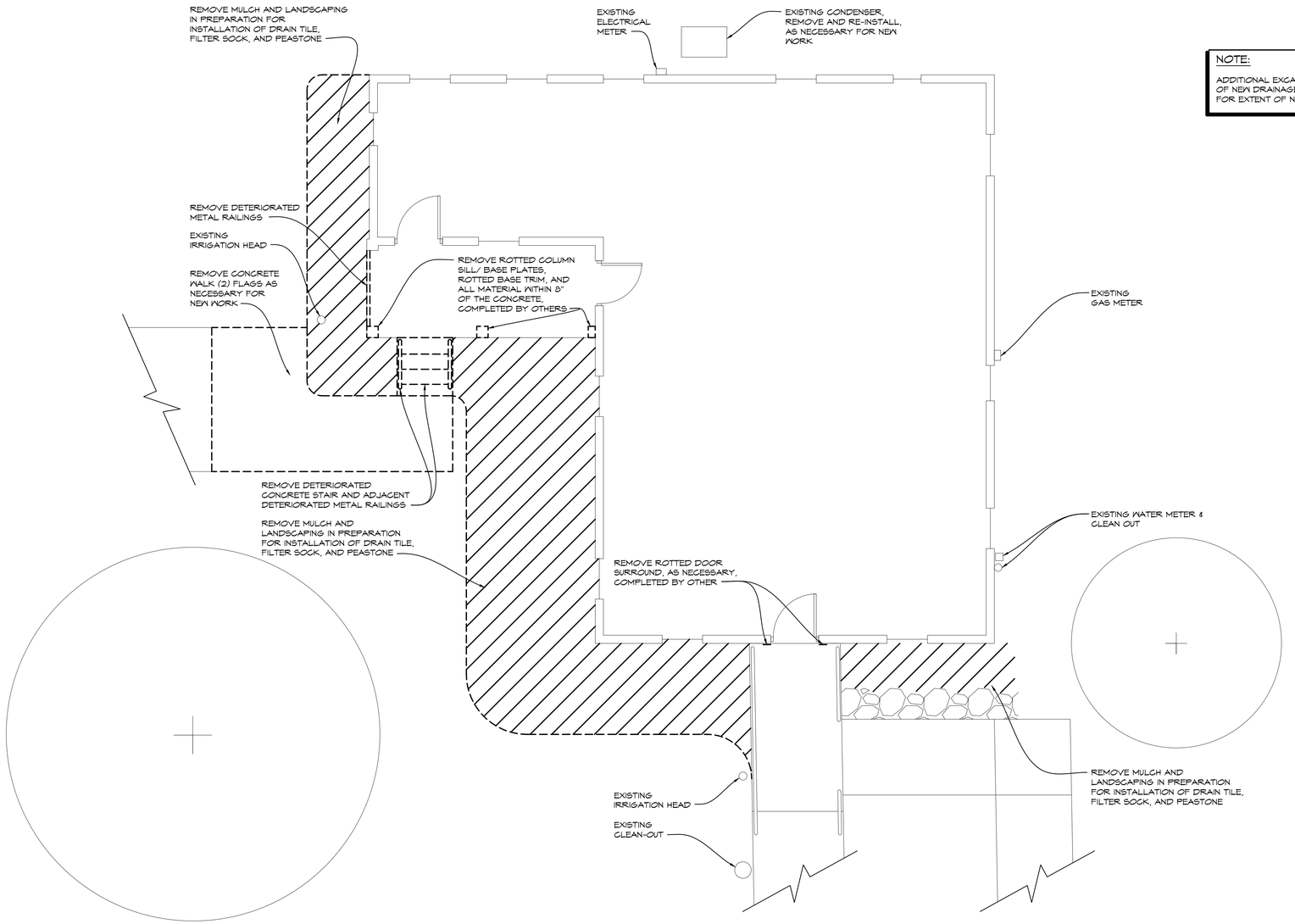
PLOT DATE: 3/31/2020 10:55 AM



NOTE:

ADDITIONAL EXCAVATION REQUIRED FOR INSTALLATION OF NEW DRAINAGE TILE, NOT SHOWN. REFER TO A101 FOR EXTENT OF NEW DRAIN TILE.

N

1 FIRST FLOOR DEMOLITION PLAN

1/4" = 1'-0" | X01

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

GENERAL NOTES

1. NOTIFY DESIGN PROFESSIONAL OF ANY DISCREPANCIES PRIOR TO BEGINNING OF WORK. COORDINATE DEMOLITION WORK WITH NEW WORK SHOWN ON DRAWINGS. FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS
2. OWNER SHALL HAVE FIRST RIGHT OF REFUSAL ON ALL ITEMS SCHEDULED FOR REMOVAL.
3. TO CALL ATTENTION TO DEMOLITION WHICH IS REQUIRED NOTATIONS ARE MADE IN VARIOUS PLACES ON THE DRAWING; HOWEVER, THESE DRAWINGS ARE NOT INTENDED TO SHOW EACH AND EVER ITEM TO BE REMOVED. THE CONTRACTOR AND THE SUBCONTRACTORS FOR THE VARIOUS TRADES SHALL REMOVE THE MATERIALS RELATED TO THEIR RESPECTIVE TRADES, AS REQUIRED TO PERMIT THE CONSTRUCTION OF THE NEW WORK AS SHOWN. CONTRACTOR IS RESPONSIBLE FOR REMOVING, CAPPING, DISCONNECTING ALL INCIDENTAL ITEMS, AT AREAS OF DEMOLITION
4. CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN THE INTEGRITY AND STRUCTURAL STABILITY. PROVIDE SHORING REQUIRED OF THE BUILDING AND ITS ELEMENTS AND/OR ALL NECESSARY TEMPORARY BRACING
5. VERIFY EXACT SIZE AND LOCATION OF WALL, FLOOR AND ROOF OPENINGS REQUIRED OF OTHER TRADES. COORDINATE ALL WORK WITH MECHANICAL AND ELECTRICAL TRADES
6. USE CONSTRUCTION INDUSTRY RECOGNIZED AND ACCEPTABLE CUTTING METHODS TO AVOID DAMAGE TO OTHER WORK OR FINISHES TO REMAIN AND WHICH WILL PROVIDE PROPER SURFACES FOR PATCHING AND FINISHING
7. UNLESS NOTED OTHERWISE, REPAIR ALL WALLS, FLOORS AND CEILINGS AT ALL AREAS DISTURBED BY DEMOLITION - MATCH EXISTING ADJACENT FINISHES
8. VERIFY LOCATION OF ALL IRRIGATION SYSTEM COMPONENT WITH OWNER PRIOR TO STARTING WORK

NO.	DESCRIPTION	DATE
6		
5		
4		
3		
2	FOR CONSTRUCTION	03/30/20
1	FOR BIDS & PERMITS	03/17/20

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

DEMOLITION FLOOR PLAN

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN BNR

CHECKED JSH

A100

CAD FILE NO. A100.dwg

SCALE 1/4" = 1'-0"

SHEET 3 OF 6

PLOT DATE: 3/31/2020 10:57 AM
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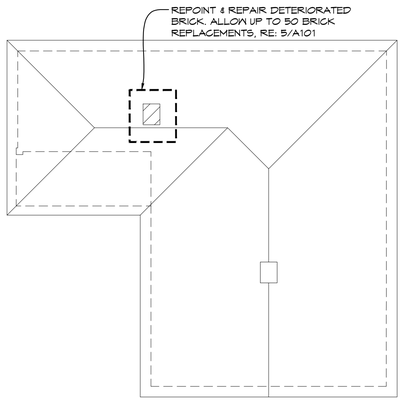

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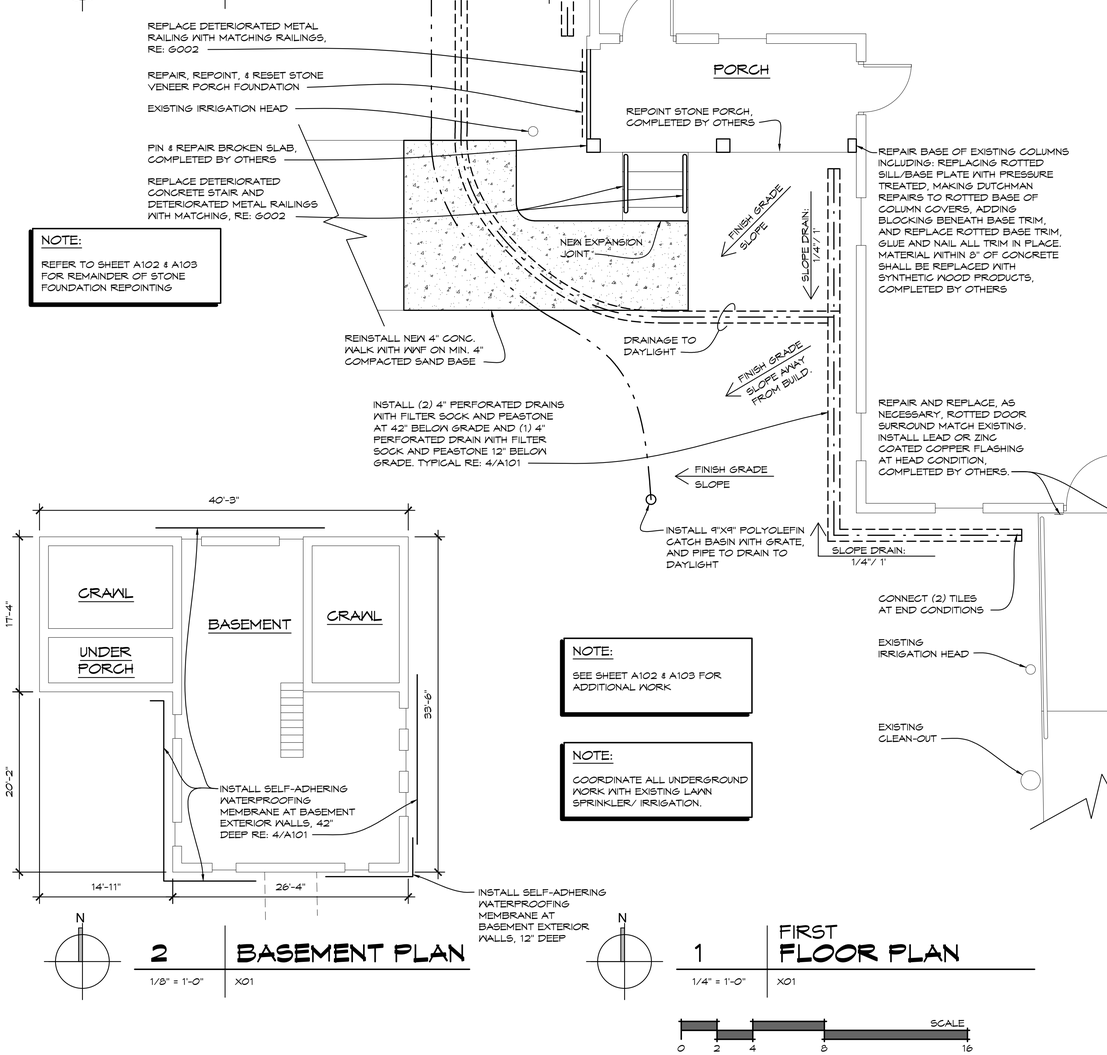
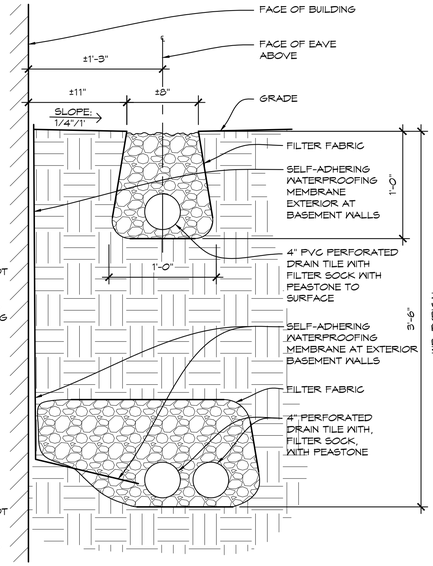
3 ROOF PLAN

1/8" = 1'-0" | XROOF





4 TYP. AT BUILDING PERIMETER DRAIN DETAIL

1-1/2" = 1'-0" | DRNDET01

NOTE:
PREP AND PAINT ALL PREVIOUSLY PAINTED SURFACES RE: SPECS

NOTE:
ALL WINDOWS TO BE RESTORED BY OTHERS

N

2 BASEMENT PLAN

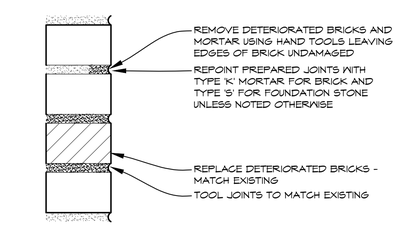
1/8" = 1'-0" | X01

N

1 FIRST FLOOR PLAN

1/4" = 1'-0" | X01

SCALE
0 2 4 8 16



5 TYPICAL BRICK REPOINTING DETAIL

3" = 1'-0" | REPDET01

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

GENERAL NOTES

1. UTILITY INFORMATION HAS BE OBTAINED FROM AVAILABLE RECORDS. NO GUARANTEE IS MADE EITHER TO COMPLETENESS OR ACCURACY .
2. SITE PLAN IS SUBJECTED TO ANY FACTS AND/OR EASEMENTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
3. CONTACT "MISS DIG" AT 1-800-482-7171, PRIOR TO EXCAVATION OR DEMOLITION.
4. THE CONTRACTOR SHALL COMPLY WITH ALL RULES, REGULATIONS, AND REQUIREMENTS OF THE STATE OF MICHIGAN 'SOIL EROSION AND SEDIMENTATION CONTROL ACT; NO. 347; PUBLIC ACTS OF 1972 AS PART 91 OF ACT 197, PUBLIC ACTS OF 1974." REFER TO SITE PLAN FOR SOIL EROSION CONTROL MEASURES.
5. VERIFY LOCATION OF ALL IRRIGATION SYSTEM COMPONENT WITH OWNER PRIOR TO STARTING WORK.
6. PROVIDE POSITIVE DRAINAGE AWAY FROM EXISTING BUILDING.
7. CONTRACTOR SHALL MEET AND MATCH ALL EXISTING PAVING SURFACES WITH FLUSH TRANSITION.
8. REPAIR ANY DISTURBED LANDSCAPING AND LAWN SURFACES DUE TO NEW CONSTRUCTION.
9. REMOVE ALL FOUNDATION PLANTINGS AND TURN OVER TO OWNER
10. REMOVE WOODCHIPS/ MULCH AND STOCK PILE AS DIRECTED BY OWNER. REMOVE WEED BARRIER AND DISCARD.
11. OWNER SHALL HAVE FIRST RIGHT OF REFUSAL ON ALL ITEMS SCHEDULED FOR REMOVAL.
12. USE CAUTION IN SELECTING CUTTING METHODS TO AVOID DAMAGE TO OTHER WORK OR FINISHES TO REMAIN AND WHICH WILL PROVIDE PROPER SURFACES FOR PATCHING AND FINISHING.

LEGEND

LINETYPE	DESCRIPTION
——— · ———	DRAIN TILE 12" BELOW GRADE
– – – – – – –	DRAIN TILE 42" BELOW GRADE
——— - - ———	DRAIN PIPE, NON-PERFORATED

NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	09/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/19

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

SITE, FLOOR, & ROOF PLANS

PROJECT NO. 19-170
DATE 3/30/2020
DRAWN KAM/ BNR
CHECKED JSH

A101

CAD FILE NO. A101.dwg
SCALE 1/4" = 1'-0"
SHEET 4 OF 6

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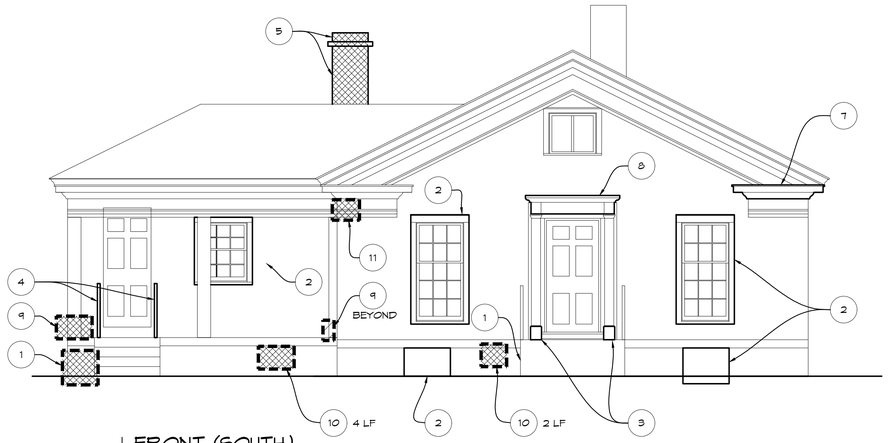
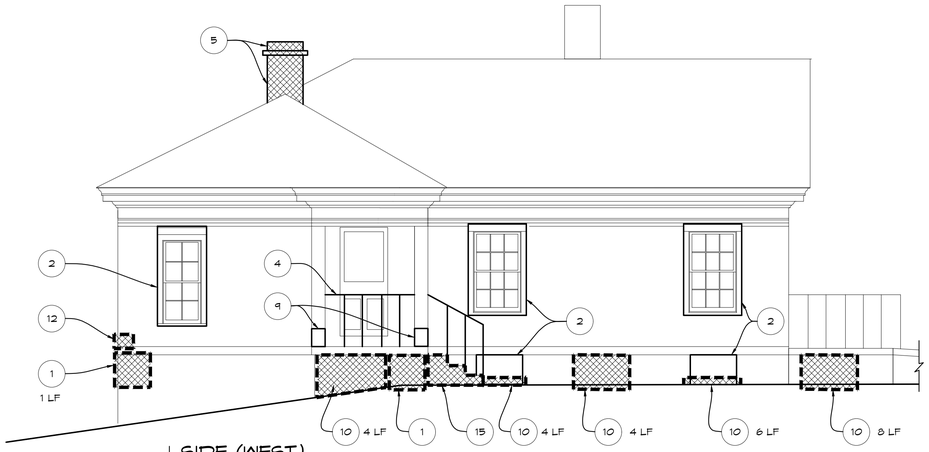


2 FRONT (SOUTH) ELEVATION

1/4" = 1'-0" | XELEV

SCALE 0 2 4 8 16



1 SIDE (WEST) ELEVATION

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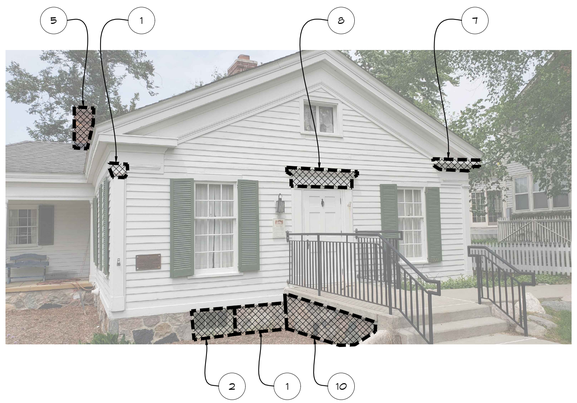

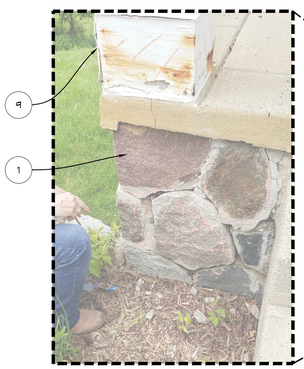

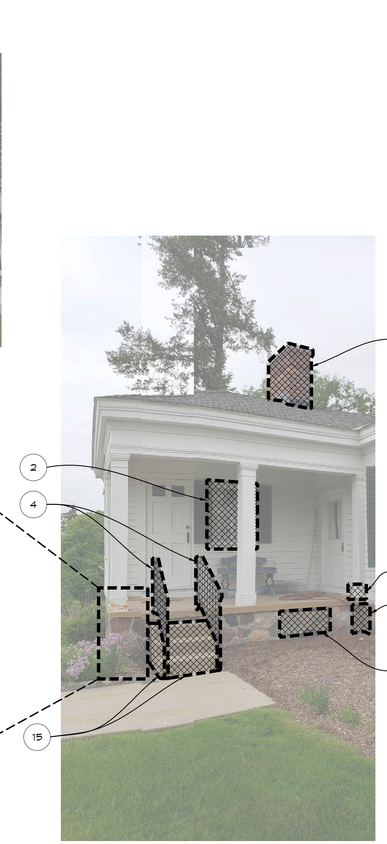

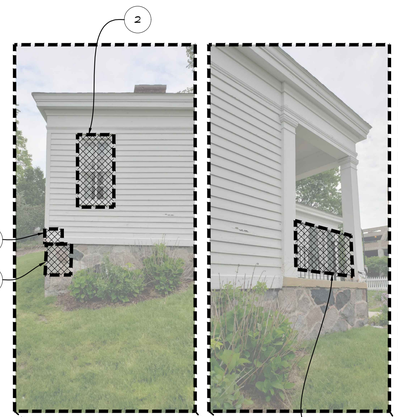



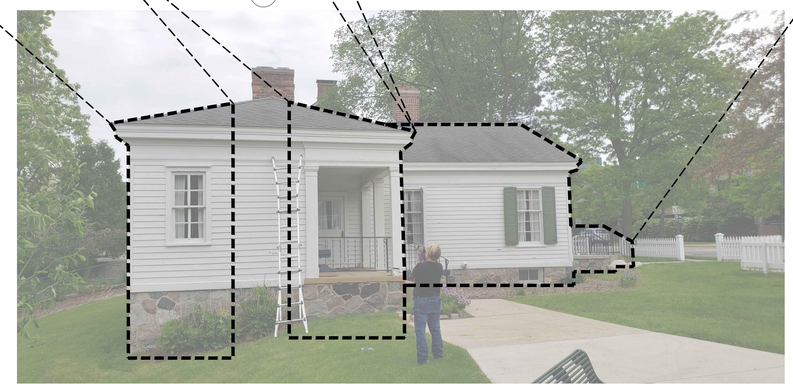

SOUTH ELEV. | WEST ELEV.

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

CONSTRUCTION NOTES

1. REPAIR, REPOINT, & RESET STONE VENEER PORCH FOUNDATION, COMPLETED BY OTHERS
2. ALL WINDOWS TO BE RESTORED BY OTHERS
3. EPOXY REPAIR ROTTED DOOR JAMB MATCH EXISTING, COMPLETED BY OTHERS.
4. REMOVE AND REPLACE DETERIORATED METAL RAILINGS WITH MATCHING RAILINGS
5. REPOINT & REPAIR DETERIORATED BRICK RE: 5/A101. ALLOW UP TO 50 BRICK REPLACEMENTS
6. EXCAVATE AT CORNER CONDITION, REPAIR VERTICAL JOINT
7. REPLACE ROTTED WOOD CAP ON RETURN CORNICE
8. REPLACE CORNICE TRIM TO MATCH EXISTING. INSTALL LEAD OR ZINC COATED COPPER FLASHING, COMPLETED BY OTHERS.
9. REPAIR BASE OF EXISTING COLUMNS INCLUDING: REPLACING ROTTED SILL/BASE PLATE WITH PRESSURE TREATED, MAKING DUTCHMAN REPAIRS TO ROTTED BASE OF COLUMN COVERS, ADDING BLOCKING BENEATH BASE TRIM, AND REPLACE ROTTED BASE TRIM, GLUE AND NAIL ALL TRIM IN PLACE. MATERIAL WITHIN 8" OF CONCRETE SHALL BE REPLACED WITH SYNTHETIC WOOD PRODUCTS, COMPLETED BY OTHERS
10. REPOINT STONE FOUNDATION
11. REPLACE ROTTED WOOD CAP TRIM
12. DUTCHMAN REPAIR, REMOVE, & REPLACE 16" OF ROTTED WOOD SKIRT BOARD, EACH DIRECTION FROM CORNER
13. REPLACE CRACKED STONE
14. RESTORE WOOD DAMAGE WITH WOOD EPOXY
15. REMOVE & REPLACE CONCRETE STAIR MATCH EXISTING

LEGEND

SYMBOL:	DESCRIPTION:
	APPROXIMATE AREA/ LOCATION OF WORK

NOTE: FOUNDATION WORK NOT SHOWN ON ELEVATION DRAWINGS. ONLY ABOVE-GRADE WORK SHOWN HERE. REFER TO A101 FOR BELOW GRADE WORK.

NO.	DESCRIPTION	DATE
6		
5		
4	FOR CONSTRUCTION	03/30/20
3	FOR BIDS & PERMITS	03/17/20
2	OWNER'S REVIEW	08/06/19
1	EXTERIOR ASSESMENT ISSUED	06/17/2019

JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

SOUTH AND WEST ELEVATIONS

PROJECT NO. 19-170
DATE 3/30/2020
DRAWN KAM/ BNR
CHECKED JSH

A102

CAD FILE NO. A102.dwg
SCALE 1/4" = 1'-0"
SHEET 5 OF 6

PLOT DATE: 3/31/2020 4:34 PM
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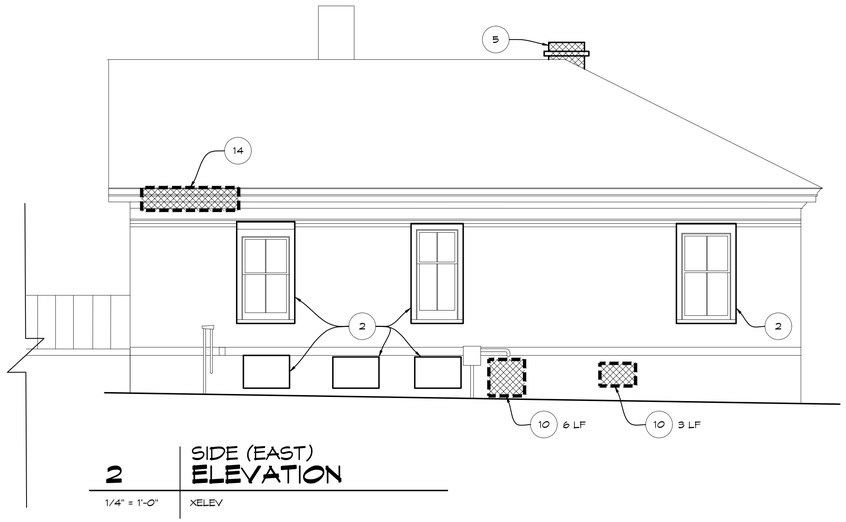
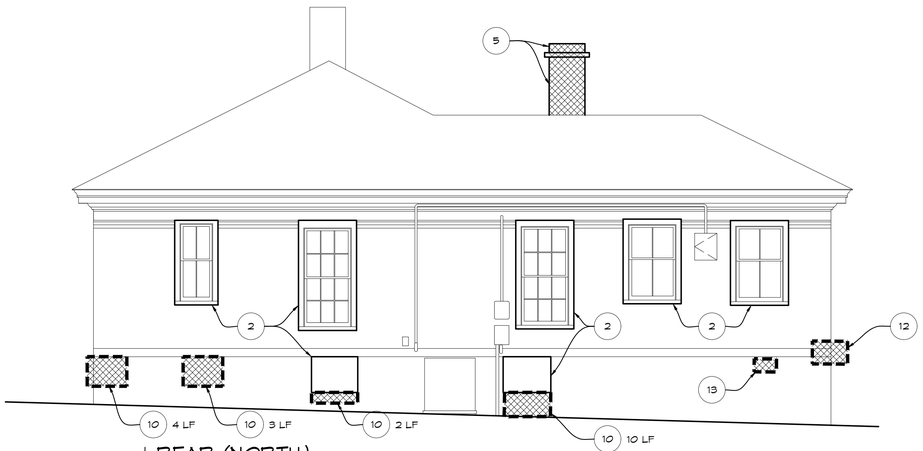


2 SIDE (EAST) ELEVATION

1/4" = 1'-0" | XELEV

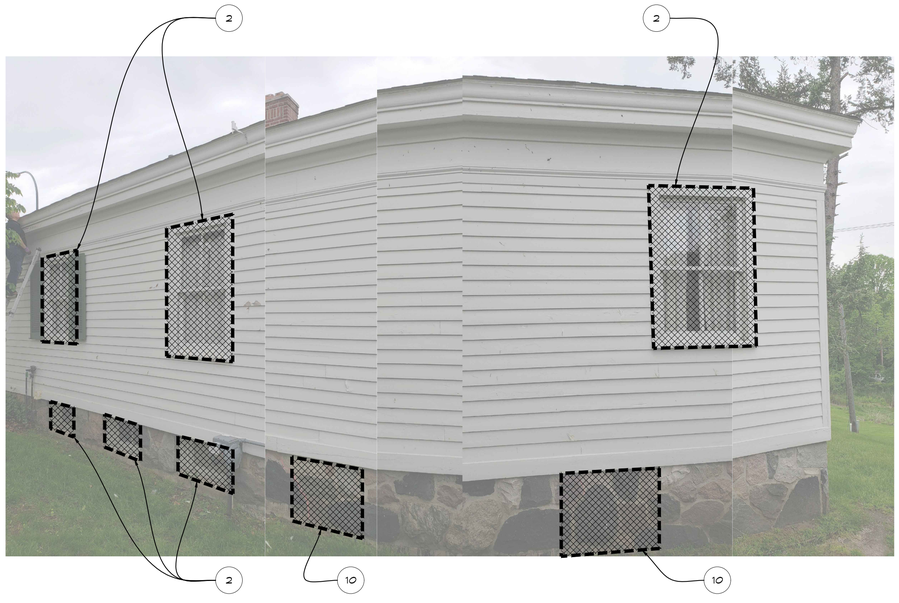
SCALE 0 2 4 8 16



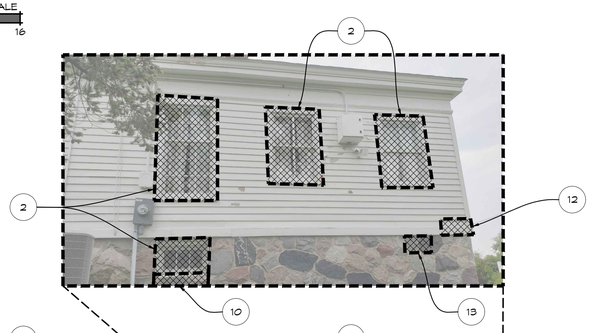
1 REAR (NORTH) ELEVATION

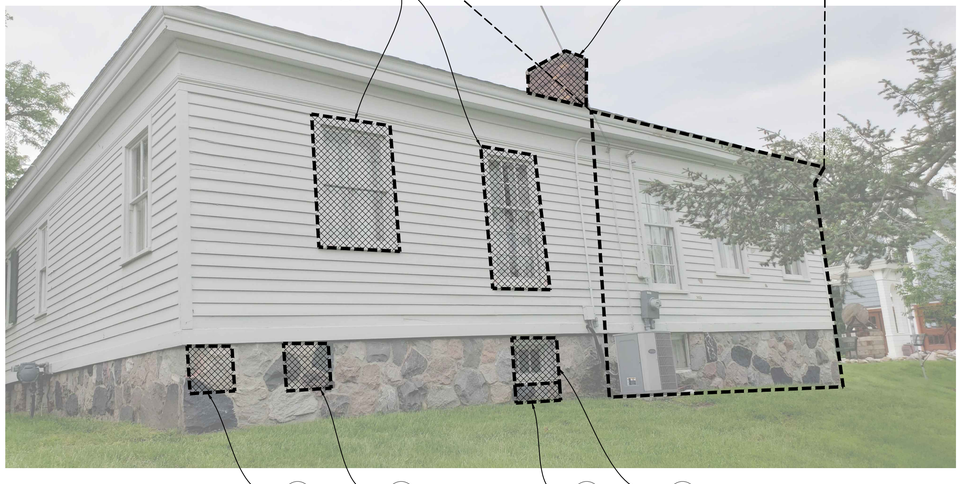
1/4" = 1'-0" | XELEV

SCALE 0 2 4 8 16



EAST ELEV.





NORTH ELEV.

H2A architects
9100 Lapeer Rd. Suite B
Davison, MI 48423
(810) 412-5640
www.h2aarchitects.net

CONSTRUCTION NOTES

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LEGEND

SYMBOL:	DESCRIPTION:
	APPROXIMATE AREA/ LOCATION OF WORK

NOTE: FOUNDATION WORK NOT SHOWN ON ELEVATION DRAWINGS, ONLY ABOVE-GRADE WORK SHOWN HERE. REFER TO A101 FOR BELOW GRADE WORK.

NO.	DESCRIPTION	DATE
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4	FOR CONSTRUCTION	03/30/20
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JOHN W. HUNTER HOUSE

556 W MAPLE ROAD
BIRMINGHAM, MI, 48009

DRAWING TITLE

EAST AND NORTH ELEVATIONS

PROJECT NO. 19-170

DATE 3/30/2020

DRAWN KAM

CHECKED JSH

A103

CAD FILE NO. X01

SCALE 1/4" = 1'-0"

SHEET 6 OF 6

PLOT DATE: 3/31/2020 4:34 PM
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ADDENDUM #1 – DRAINAGE and MASONRY

Project: No. 19-170
City of Birmingham
Restoration & Preservation of Hunter House
Drainage and Masonry
556 W. Maple Road
Birmingham, MI 48009

Architect: H2A Architects Inc.
810-412-5640

Issue Date: June 16, 2020

GENERAL NOTES

The following are changes, clarifications, and additions made in specification and working drawings prior to receipt of bids and shall be noted by the Contractor responsible for the same. All of these items shall be considered part of the Contract Documents.

The general character of the work required by this addendum shall be the same as originally specified, and all incidentals required in connection with the work hereinafter described shall be included even though not specifically mentioned.

The Contractor shall be held responsible to include and adjust the work of all trades involved as required to complete the work described hereinafter. All bidders shall review Addendum as it alters the work shown on the drawings and specifications.

ITEMS INCLUDE

Item #1: Refer to Drawings:
Clarification: Earth that has been excavated for the Work, that is in excess or inappropriate for reuse shall be removed from the site by the Contractor.

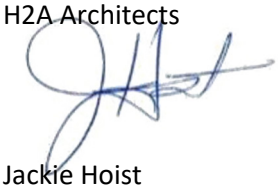
Item #2: Refer to Drawings:
Clarification: Contractor shall remove and replant Hydrangea on the west side of the house. The remainder of the plant materials may be discarded. Contractor shall replace mulch. Match existing mulch type and thickness. Install weed barrier below mulch.

Item #3: Refer to RFP Bond Requirements:
Bid Bonds are not required. Performance Bonds are required.

Item #4: Refer to Drawings and 'Attachment C - Cost Proposal' form:
The metal railings are ARE part of the scope of work of this contract. Railings shall be custom fabricated to Match Existing. Railings shall be steel, with black powder coated

finish. Core new stair tread to receive railing support. Re-use core in concrete porch slab to receive top stair support. Products shall be equal to 'Tory Ornamental Iron & Fence' products. www.troyfence.com. Insert cost under Miscellaneous line item.

H2A Architects



Jackie Hoist

ATTACHMENT A - AGREEMENT

Restoration and Preservation of Hunter House-Drainage and Masonry

This AGREEMENT, made this _____day of _____, 2020, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and L.G.K Building Inc., Inc., having its principal office at 1851 Lone Pine Rd., Bloomfield Hills, MI 48302 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Maintenance Department, is desirous of having work completed for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish all materials and necessary equipment for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham, and to perform all required work necessary to, and in connection therewith has prepared a request for sealed proposals (“RFP”), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish all materials, necessary equipment and to perform all required work necessary for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposals to furnish all materials, necessary equipment and perform all work necessary for the Restoration and Preservation the Hunter House-Drainage and Masonry in the City of Birmingham and the Contractor’s cost proposal dated June 24, 2020 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed $ 51,750.00, as set forth in the Contractor’s June 24, 2020 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.
9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its sub-contractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

    A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

    B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

    C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

    D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. If applicable.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. If applicable.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be “Name Insured” on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.
    1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
    2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
    3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
    4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
    5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.
15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham	L.G.K Building, Inc.
Attn: Carlos Jorge	Attn: Alex Lek Kalaj
151 Martin Street	1851 Lone Pine Rd.
Birmingham, MI 48009	Bloomfield Hills, MI 48302
1-248-530-1882	1-248-757-3155

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs

and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

L.G.K Building, Inc.

_____

By:_____
Alex Lek Kajal
Its:Principal

CITY OF BIRMINGHAM

_____

By:_____
Pierre Boutros
Its: Mayor

_____

By:_____
Alexandria D. Bingham
Its: City Clerk

Approved:

_____
Carlos A. Jorge, Maintenance Supervisor
(Approved as to substance)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

ATTACHMENT B-BIDDERS AGREEMENT

Restoration and Preservation the Hunter House-Drainage and Masonry

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

PREPARED BY (Print Name) Alex Lek Kalaj	**DATE** 6/24/2020
TITLE President	**DATE** 6/24/2020
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS** Lgkbuilding@gmail.com
COMPANY L.G.K Building Inc.	
ADDRESS 1851 Long Pine Rd. Bloomfield Hills, Mi. 48302	**PHONE** (248) 757-3155
NAME OF PARENT COMPANY N/A	**PHONE** (248) 757-3155
ADDRESS	

ATTACHMENT C - COST PROPOSAL

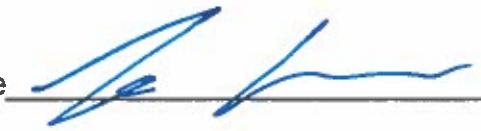
Restoration and Preservation the Hunter House-Drainage and Masonry

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

COST PROPOSAL	
PRESERVATION ITEMS	**BID AMOUNT**
Materials & Equipment for the drainage for Hunter House	$ 43,800.00
RESTORATION ITEMS	
Materials & Equipment for the Chimney per details on the prints	$ 800.00
Labor	$ 6,300.00
TOTAL BID AMOUNT FOR HUNTER HOUSE	$ 50,900.00
ADDITIONAL BID ITEMS	
Install new concrete cap and chimney screen	$ 850.00
Miscellaneous (Attach Detailed Description)	$ 0.00
GRAND TOTAL AMOUNT FOR THE PROJECT	$ 51,750.00

Firm Name L.G.K Building Inc.

Authorized signature  Date 6/24/2020

ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM

Restoration and Preservation the Hunter House-Drainage and Masonry

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

PREPARED BY (Print Name) Alex Lek Kalaj

DATE 6/24/2020

TITLE President

DATE 6/24/2020

AUTHORIZED SIGNATURE



E-MAIL ADDRESS Lgkbuilding@gmail.com

COMPANY

L.G.K Building Inc.

ADDRESS

1851 Lone Pine Rd.
Bloomfield Hills, Mi. 48302

PHONE (248) 757-3155

NAME OF PARENT COMPANY

N/A

PHONE

ADDRESS

TAXPAYER I.D.#

30-0836796

June 25, 2020

Leslie Pielack - Museum Director and Carlos Jorge - Building Facilities Superintendent
Birmingham Historical Museum
556 W. Maple Rd.
Birmingham MI 48009

RE: Hunter House, Drainage & Masonry, and Trim & Paint

Dear Ms. Pielack:

Proposals have been received for Drainage & Masonry, and Trim& Painting at the Hunter House. I have reviewed the proposals. L.G.K. Inc. of Bloomfield, Michigan, has submitted a low qualified proposal for both projects.

Alternate and additional items were included in the proposals including addressing the shutter conditions and chimney cap replacement.

The City of Birmingham has worked with L.G. K. in the past with good results. Additionally, L.G. K. has adequately completed historic projects designed by H2A Architects in the past and completed the work in an appropriate manner.

Based upon the above information, including price, qualifications, experience, and work plan, I would recommend an award for:

- Hunter House Drainage and Masonry: L.G. K. Inc. for **$51,750.00.**
- Hunter House Exterior Carpentry, Trim and Paint: L.G.K. Inc. for **62,950.00.**

In accordance with their proposals dated June 24, 2020.

Sincerely,

Project Manager, AIA
Historical Architect 36CFR61

Z:\Projects\City of Birmingham\19-170 HUNTER HOUSE\Correspondence\Letters\Recommendation letter 2020 06 25.docx

NOTICE OF VIRTUAL PUBLIC HEARING

Join Zoom Meeting

https://zoom.us/j/655079760

Meeting ID: 655 079 760

BIRMINGHAM CITY COMMISSION	
SPECIAL LAND USE PERMIT AMENDMENT, FINAL SITE PLAN & DESIGN REVIEW	
Meeting Date, Time, Location: **VIRTUAL MEETING**	Monday, July 20, 2020 at 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	1800 W. Maple – Lutheran Church of the Redeemer
Nature of Hearing:	To consider proposed changes to the church.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address. Publish June 21, 2020
Approved minutes may be reviewed at:	City Clerk's Office

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at 248.530.1880 (voice) or 248.644.5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **July 10, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Brooks Cowan, City Planner**

APPROVED: **Jana Ecker, Planning Director**

SUBJECT: **Public Hearing for SLUP & Final Site Plan & Design Review –1800 W. Maple – Lutheran Church of the Redeemer**

INTRODUCTION:
The applicant, Lutheran Church of the Redeemer, is seeking a Special Land Use Permit (SLUP) Amendment & Final Site Plan and Design Review.

BACKGROUND:
On April 22nd, 2020, the applicant appeared before the Planning Board for a SLUP Amendment & Final Site Plan and Design Review. The applicant discussed the proposed changes to the church which include expanding the sanctuary to provide more room for seating, increasing the size of the narthex at the entry, and moving the columbarium to accommodate for this expansion. It was also indicated that the steeple and spire would be replaced with a new one. The expansion of the sanctuary will match the existing materials on the building. Pedestrian access from the right-of-way was discussed and the Planning Board requested that a pedestrian walkway be added to the plans to connect the entrance to the sidewalk. The Planning Board motioned to approve the SLUP Amendment & Final Site Plan & Design Review.

LEGAL REVIEW:
The City Attorney has reviewed the documentation and has no concerns.

FISCAL IMPACT:
There are no fiscal impacts based on the approval of the SLUP Amendment and Final Site Plan and Design Review for Lutheran Church of the Redeemer.

PUBLIC COMMUNICATIONS:
As required for combined SLUP Amendments and Final Site Plan and Design applications, a legal ad was placed in a newspaper of local circulation to advertise the SLUP request at 1800 W. Maple in advance of the April 22nd, 2020 Planning Board meeting. In addition, postcard notices were mailed to all property owners and occupants within 300 feet of the subject property, in advance of the April 22nd, 2020 Planning Board meeting. The applicant also placed a notification sign on the property which is visible from the sidewalk and street as required.

SUMMARY:
The applicant is seeking approval for a Special Land Use Permit (SLUP) Amendment and Final Site Plan & Design Review to expand the sanctuary of the church. However, it was recently discovered that while a legal notice was placed in a newspaper as required, individual notices to all owners and tenants of property within 300' of 1800 W. Maple were not sent out in time. All required notices have now been mailed a minimum of 15 days prior to a public hearing on the SLUP Amendment if the City Commission postpones the public hearing to July 20, 2020.

ATTACHMENTS:

- SLUP Resolution
- Updated (latest revised) Plans for City Commission
- Planning Board Staff Report
- Planning Board Site Plans & Material Specification Sheets
- Planning Board minutes
- Special Land Use Permit Application
- Video Description from Church regarding necessary expansion
    - https://vimeo.com/355740470

SUGGESTED RESOLUTION:

To approve the Special Land Use Permit Amendment and Final Site Plan and Design Review for 1800 W Maple – Lutheran Church of the Redeemer to expand the sanctuary and narthex and make related improvements as recommended by the Planning Board on April 22, 2020.

LUTHERAN CHURCH OF THE REDEEMER
SPECIAL LAND USE PERMIT AMENDMENT
2020

WHEREAS, Lutheran Church of the Redeemer originally applied for and received on May 13, 1991 a Special Land Use Permit for site improvements at 1800 W. Maple, such application having been filed pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the north side of W. Maple, between Chesterfield and N. Glenhurst.

WHEREAS, The land is zoned R-1, Single Family Residential, which permits a Church and a school with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, of the City Code requires a Special Land Use Permit to be reviewed by the Birmingham City Commission at such time that any change takes place in the building, or the use of the property is altered;

WHEREAS, The Planning Board reviewed a proposed Special Land Use Permit Amendment on April 22nd, 2020 to expand the sanctuary. The Planning Board recommended that the Special Land Use Permit Amendment be approved.

WHEREAS, The Birmingham City Commission has reviewed the Lutheran Church of the Redeemer Special Land Use Permit Amendment application as well as the standards for such review, as set forth in Article 7, section 7.34, Chapter 126, Zoning, of the City Code; and

NOW, THEREFORE, BE IT RESOLVED, That the Birmingham City Commission finds the standards set forth in the City Code have been met and the Lutheran Church of the Redeemer application for a Special Land Use Permit Amendment authorizing the proposed changed to expand the sanctuary space; and

BE IT FURTHER RESOLVED, that all conditions of the previously approved Special Land Use Permit and subsequent amendments shall be continued as part of this Special Land Use Permit Amendment and are incorporated as herein by reference; and

BE IT FURTHER RESOLVED, that the Lutheran Church of the Redeemer and its heirs, successors and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may subsequently be amended. Failure of the Lutheran Church of the Redeemer to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Alex Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution by the Birmingham City Commission at its regular meeting held on July 13th, 2020.

_____

Alex Bingham, Acting City Clerk

LATEST REVISED PLANS FOR CITY COMMISSION REVIEW

SITE PLAN APPROVAL PACKAGE

LUTHERAN CHURCH OF THE REDEEMER

1800 W. MAPLE ROAD
BIRMINGHAM, MICHIGAN

PROJECT NO. 15165



LOCATION MAP

NO SCALE

INDEX OF DRAWINGS:

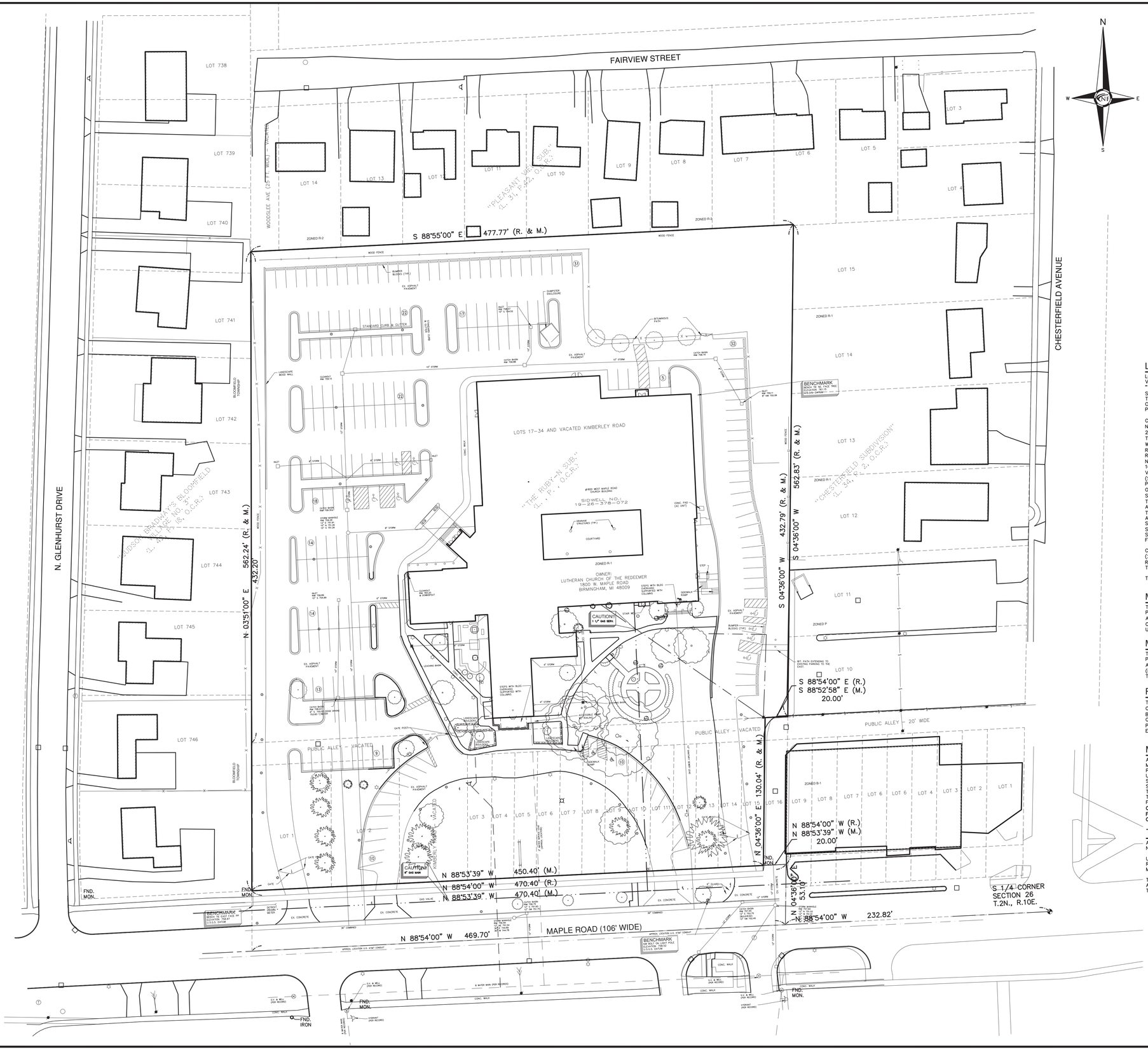
C1	OVERALL BOUNDARY SURVEY
C2	LIMITED TOPOGRAPHIC AND TREE SURVEY
C3	SITE PLAN
C4	NOTES AND DETAILS
L1	TREE PRESERVATION PLAN
L2	LANDSCAPE PLAN
AS-101	ARCHITECTURAL SITE PLAN
AS-102	NEW SITE COMPONENTS
A-002	SITE PHOTOS & AERIAL PLAN
A-301	LOWER LEVEL FLOOR PLAN
A-302	MAIN LEVEL FLOOR PLAN
A-303	UPPER NAVE FLOOR PLAN
A-501	ROOF PLAN
A-601	EXTERIOR ELEVATIONS - COLOR
1 OF 1	PHOTOMETRIC SITE PLAN

merritt cieslak design [pc]

ARCHITECTURE PLANNING

02/12/20 SPA PACKAGE

05/18/20 REVISED SPA SUBMITTAL


FAIRVIEW STREET
CHESTERFIELD AVENUE
N. GLENHURST DRIVE
MAPLE ROAD (106' WIDE)
LOTS 17–34 AND VACATED KIMBERLEY ROAD
"THE RUBY-N SUB." L. , P. , O.C.R.
SIDWELL NO.: 19-26-378-072
OWNER: LUTHERAN CHURCH OF THE REDEEMER 1800 W. MAPLE ROAD BIRMINGHAM, MI 48009
"PLEASANT VIEW SUB." L. 31, P. 22, O.C.R.
"CHESTERFIELD SUBDIVISION" L. 34, P. 2, O.C.R.
"HUDSON-BROOKS-MCKAY'S BLOOMFIELD" L. 41, P. 10, O.C.R.
S 88°55'00" E 477.77' (R. & M.)
N 03°51'00" E 562.24' (R. & M.) 432.20'
S 04°36'00" W 562.83' (R. & M.) 432.79'
N 04°36'00" E 130.04' (R. & M.)
S 04°36'00" W 53.10'
N 88°53'39" W 450.40' (M.)
N 88°54'00" W 470.40' (R.)
N 88°53'39" W 470.40' (M.)
N 88°54'00" W 469.70'
N 88°54'00" W 232.82'
S 88°54'00" E (R.) S 88°52'58" E (M.) 20.00'
N 88°54'00" W (R.) N 88°53'39" W (M.) 20.00'
S 1/4 CORNER SECTION 26 T.2N., R.10E.
BENCHMARK
FND. MON.
FND. IRON
PUBLIC ALLEY – VACATED
PUBLIC ALLEY – 20' WIDE
WOODSLEE AVE. (25' MUD) – VACATED
LOT 738
LOT 739
LOT 740
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LOT 742
LOT 743
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LOT 746
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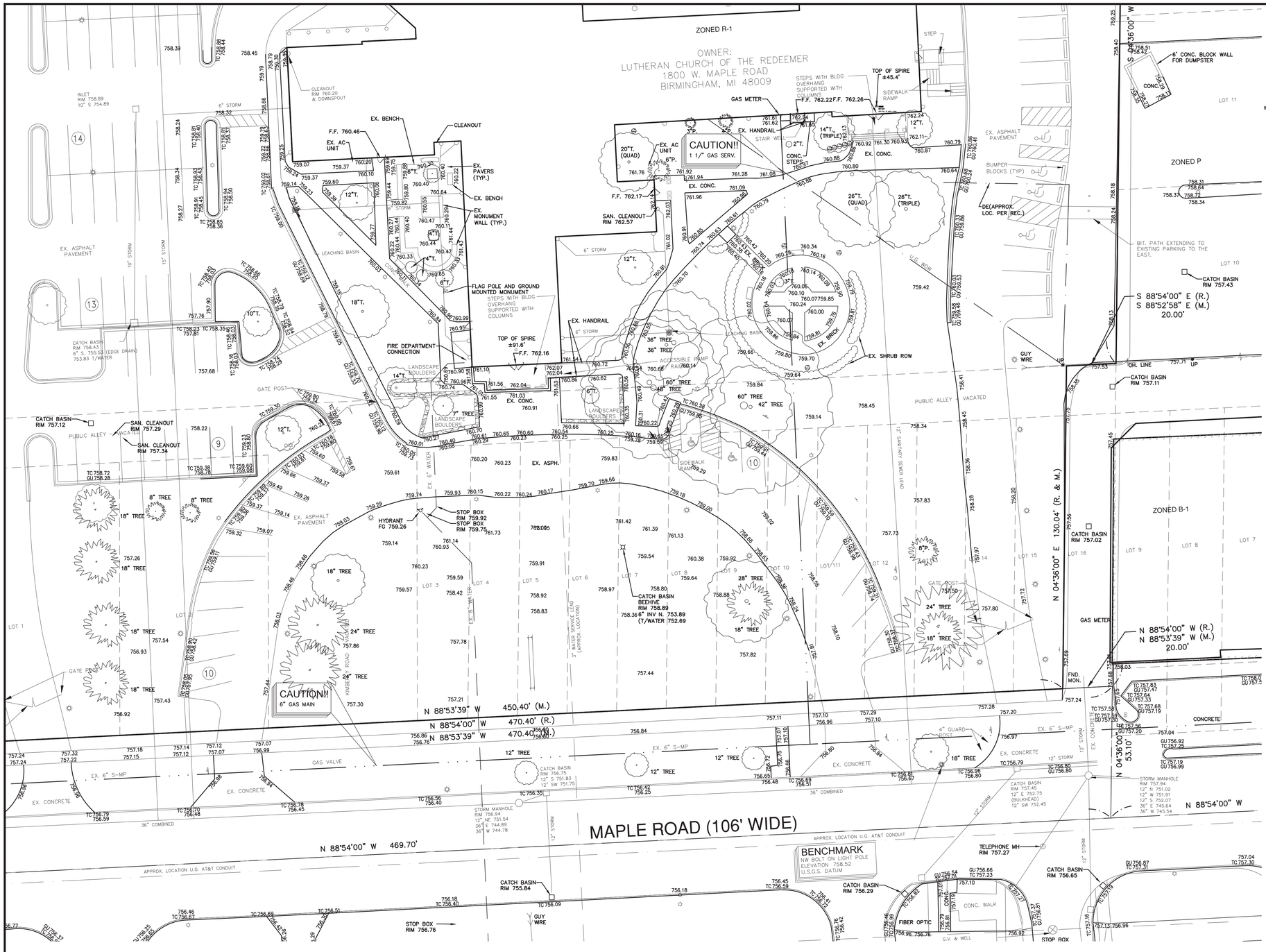
LOT 31
LOT 32
LOT 33
LOT 34
ZONED R-1
ZONED R-2
ZONED P
ZONED B-1
WOOD FENCE
CONC. WALK
BITUMINOUS PATH
STANDARD CURB & GUTTER
DUMPSTER ENCLOSURE
LANDSCAPE WOOD WALL
BUILDING OVERHANG
COURTYARD
LEADING BANK
GATE POST
GATE
CAUTION! 4" GAS MAIN
CAUTION! 6" GAS MAIN
CAUTION! 8" GAS MAIN
GAS VALVE
GAS METER
DOUBLE DETECTOR CHECK VALVE
ELEC. TRANSFORMER
ELEC. METER
CONC. PAD (AC UNIT)
STEPS WITH BLDG OVERHANG SUPPORTED WITH COLUMNS
SIDEWALK RAMP
STOP
BUMPER BLOCKS (TYP.)
EX. ASPHALT PAVEMENT
BIT. PATH EXTENDING TO EXISTING PARKING TO THE EAST
CATCH BASIN RIM 738.91 8" S. 735.91 8" E. 735.91 12" W. 735.91
CATCH BASIN RIM 738.78 12" S. 734.78 12" W. 734.78
CATCH BASIN RIM 738.77 12" S. 734.77 12" W. 734.77
CATCH BASIN RIM 738.70 12" S. 734.70 12" W. 734.70
CATCH BASIN RIM 738.71 12" S. 734.71 12" W. 734.71
CATCH BASIN RIM 738.75 12" S. 734.75 12" W. 734.75
CATCH BASIN RIM 738.76 12" S. 734.76 12" W. 734.76
CATCH BASIN RIM 738.79 12" S. 734.79 12" W. 734.79
CATCH BASIN RIM 738.80 12" S. 734.80 12" W. 734.80
CATCH BASIN RIM 738.81 12" S. 734.81 12" W. 734.81
CATCH BASIN RIM 738.82 12" S. 734.82 12" W. 734.82
CATCH BASIN RIM



LEGAL DESCRIPTION

LOTS 1 THROUGH 15 INCLUSIVE TOGETHER WITH ALL OF ADJACENT VACATED PUBLIC ALLEY, AND LOTS 17 THROUGH 34 INCLUSIVE OF "THE RUBY–N" SUBDIVISION, ALSO ALL OF VACATED KIMBERLY STREET, ALL BEING A PART OF SOUTHWEST 1/4 OF SECTION 26, TOWN 2 NORTH, RANGE 10 EAST, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN L. ???, PG. ???, BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 26; THENCE N.88°54'00"W. ALONG THE SOUTHERLY LINE OF SAID SECTION 26, 232.82 FEET, THENCE N.04°36'00"E., 53.10 FEET TO A POINT ON THE NORTHERLY RIGHT–OF–WAY LINE OF MAPLE ROAD (106 FEET WIDE); THENCE N.88°53'39"W. AS MEASURED (N.88°54'00"W. AS RECORDED) ALONG SAID NORTHERLY RIGHT–OF–WAY LINE OF MAPLE ROAD, 20.00 FEET TO THE POINT OF BEGINNING; THENCE N.04°36'00"E. ALONG THE COMMON LOT LINE OF SAID LOTS 15 AND 16, 130.04 FEET TO A POINT ON THE NORTHERLY LINE OF SAID VACATED PUBLIC ALLEY; THENCE S.88°52'58"E. AS MEASURED (S.88°54'00"E. AS RECORDED) ALONG SAID NORTHERLY LINE OF PUBLIC AALLEY, 20.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID "THE RUBY–N" SUBDIVISION; THENCE N.04°36'00"E. ALONG SAID EASTERLY LINE OF "THE RUBY–N" SUBDIVISION, 432.79 FEET TO THE NE CORNER OF SAID SUBDIVISION; THENCE N.88°55'00"W. ALONG THE NORTHERLY LINE OF SAID SUBDIVISION, 477.77 FEET TO THE NW CORNER OF SAID SUBDIVISION; THENCE S.03°51'00"W. ALONG THE WESTERLY LINE OF SAID SUBDIVISION TO A POINT ON SAID NORTHERLY RIGHT–OF–WAY LINE OF MAPLE ROAD; THENCE S.88°53'39"E. AS MEASURED (S.88°54'00"E. AS RECORDED) ALONG SAID NORTHERLY RIGHT–OF–WAY LINE OF MAPLE ROAD, 450.40 FEET TO THE POINT OF BEGINNING

CONTAINING 263,686 SQ. FT. OR 6.053 ACRES OF GROSS AREA (260,533 SQ. FT. OR 5.981 ACRES NET OF PROPOSED RIGHT–OF–WAY) OF LAND, MORE OR LESS. ALSO BEING SUBJECT TO ANY EASEMENTS, RESTRICTIONS OR CONDITIONS OF RECORD.

TAX ITEM NO. 19–26–378–072

MISS DIG / COMCAST DISCLAIMER NOTE

THE LOCATION OF THE AERIAL LINES SHOWN ON THE RECORDS PROVIDED BY COMCAST COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT (NAME OF THE UTILITY COMPANY) TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

MISS DIG / AT&T DISCLAIMER NOTE

THE LOCATION OF THE AERIAL LINES SHOWN ON THE RECORDS PROVIDED BY AT&T COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT (NAME OF THE UTILITY COMPANY) TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

FLOOD HAZARD NOTE

THIS PROPERTY IS LOCATED IN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOOD PLAIN) AS INDICATED BY FLOOD INSURANCE RATE MAP (FIRM), P-NAEL NO. 26125C0536F, CITY OF BIRMINGHAM, OAKLAND COUNTY, STATE OF MICHIGAN, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), EFFECTIVE DATE SEPTEMBER 29, 2006.

MISS DIG / UTILITY DISCLAIMER NOTE

A MISS DIG TICKET NUMBER B92970990–00B, PURSUANT TO MICHIGAN PUBLIC ACT 174 WAS ENTERED FOR THE SURVEYED PROPERTY. DUE TO THE EXTENDED REPORTING PERIOD FOR UNDERGROUND FACILITY OWNERS TO PROVIDE THEIR RECORDS, THE SURVEY MAY NOT REFLECT ALL THE UTILITIES AT THE TIME THE SURVEY WAS ISSUED ON 2019–11–18. THE SURVEY ONLY REFLECTS THOSE UTILITIES WHICH COULD BE OBSERVED BY THE SURVEYOR IN THE FIELD OR AS DEPICTED BY THE UTILITY COMPANY RECORDS FURNISH PRIOR TO THE DATE THIS SURVEY WAS ISSUED. **THE CLIENT AND/OR THEIR AUTHORIZED AGENT SHALL VERIFY WITH THE FACILITY OWNERS AND/OR THEIR AUTHORIZED AGENTS, THE COMPLETENESS AND EXACTNESS OF THE UTILITIES LOCATION.**

TOPOGRAPHIC SURVEY NOTES

ALL ELEVATIONS ARE EXISTING ELEVATIONS, UNLESS OTHERWISE NOTED.

UTILITY LOCATIONS WERE OBTAINED FROM MUNICIPAL OFFICIALS AND RECORDS OF UTILITY COMPANIES, AND NO GUARANTEE CAN BE MADE TO THE COMPLETENESS, OR EXACTNESS OF LOCATION.

THIS SURVEY MAY NOT SHOW ALL EASEMENTS OF RECORD UNLESS AN UPDATED TITLE POLICY IS FURNISHED TO THE SURVEYOR BY THE OWNER.

LEGEND

- MANHOLE
- HYDRANT
- GATE VALVE
- CATCH BASIN
- UTILITY POLE
- GUY POLE
- GUY WIRE
- EXISTING SANITARY SEWER
- EXISTING SAN. CLEAN OUT
- EXISTING WATER MAIN
- EXISTING STORM SEWER
- EX. R.Y. CATCH BASIN
- EXISTING BURIED CABLES
- OVERHEAD LINES
- LIGHT POLE
- SIGN
- EXISTING GAS MAIN

NOWAK & FRAUS ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL

STATE OF MICHIGAN
JEFFREY J. HUHTA
PROFESSIONAL SURVEYOR NO. 52458
LICENSED PROFESSIONAL SURVEYOR

PROJECT
Lutheran Church of the Redeemer Building Expansion

CLIENT
Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION
Part of the SW 1/4 of Section 26
T. 2 North, R. 10 East
City of Birmingham, Oakland County, Michigan

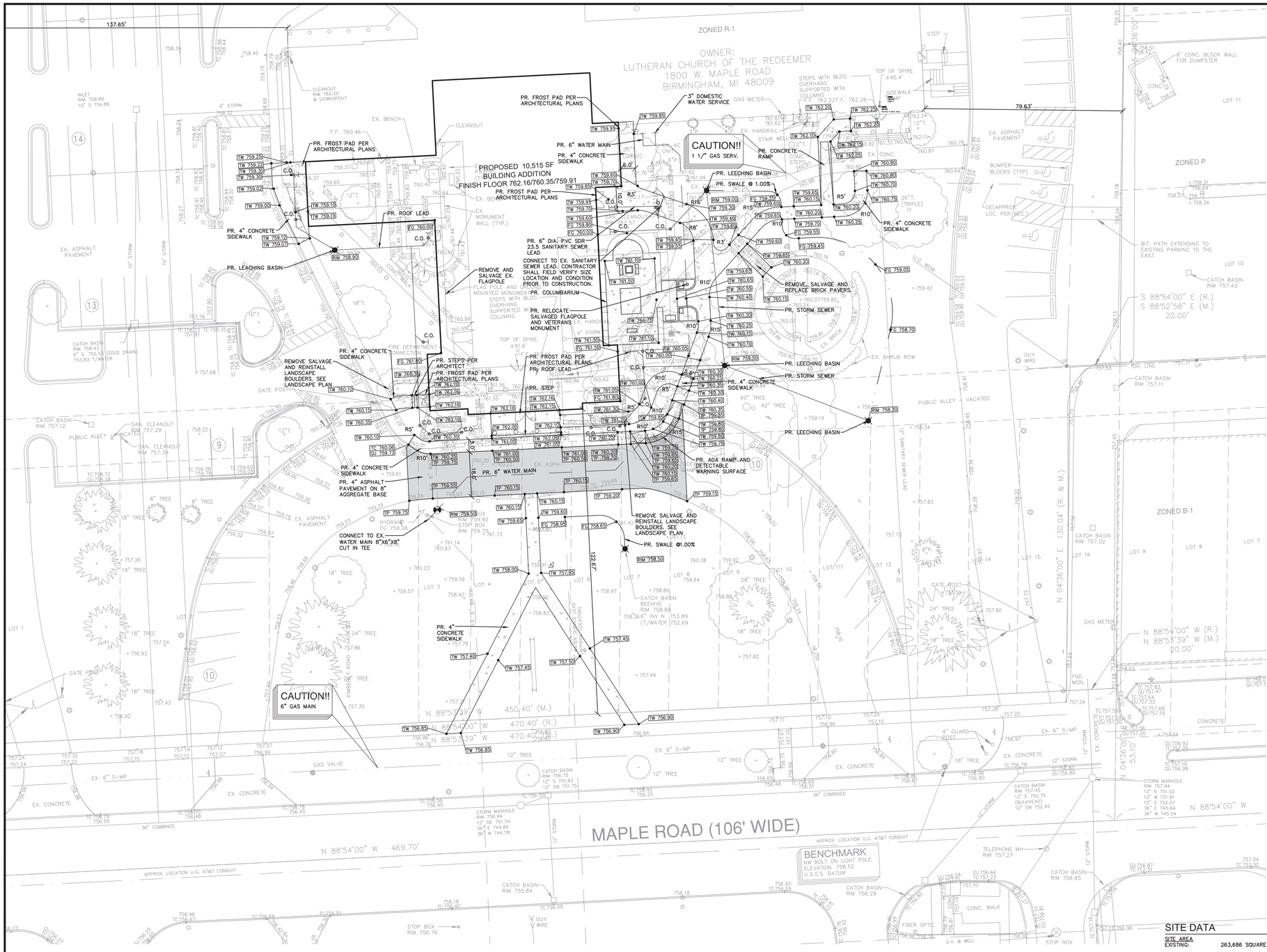
SHEET
Limited Topographic, and Tree Survey

Know what's **below** **Call** before you dig.

DATE	ISSUED/REVISED
2019-12-09	ISSUED FOR OWNER REVIEW
2019-12-11	ISSUED FOR SITE PLAN REVIEW
2020-02-04	REVISED PER OWNER
2020-03-11	REVISED PER OWNER
2020-05-15	REVISED PER OWNER
2020-05-18	REVISED SPA SUBMITTAL

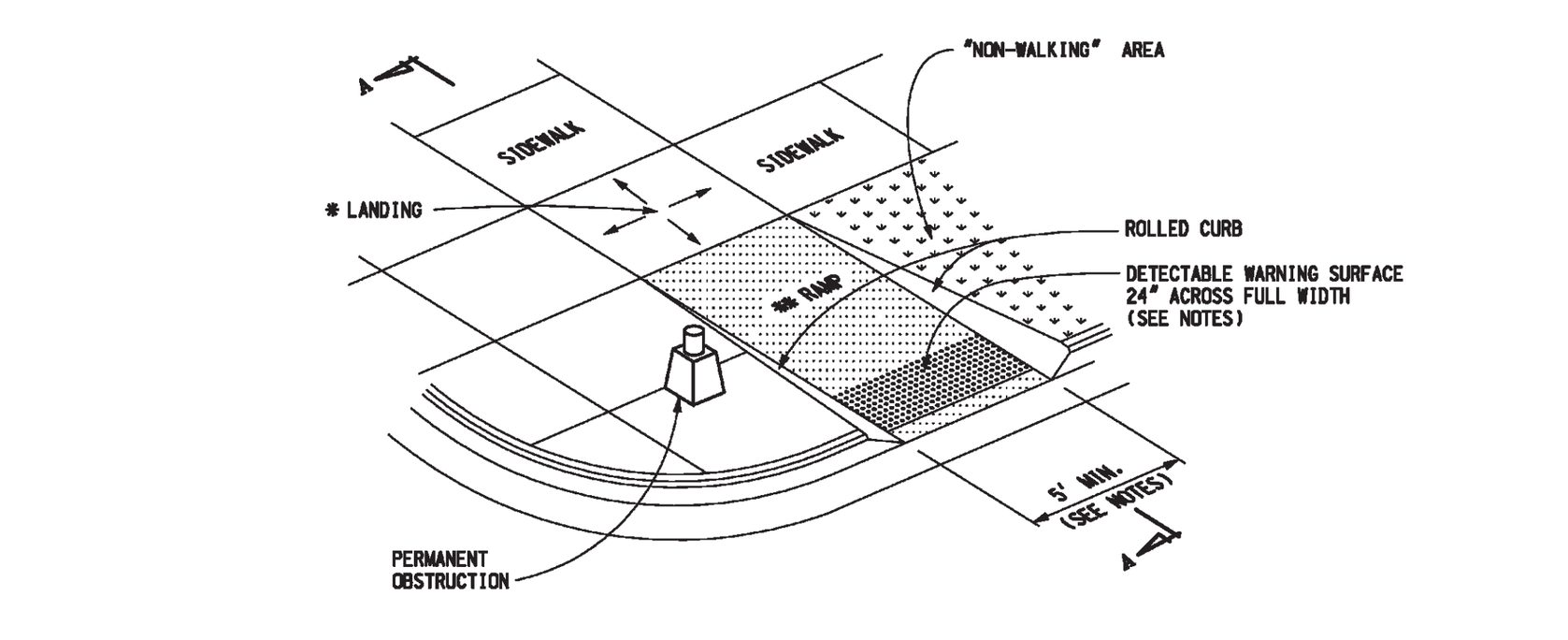
DRAWN BY: C. Ellison
DESIGNED BY:
APPROVED BY: J. Huhta
DATE: November 18, 2019
SCALE: 1" = 20'
20 10 0 10 20 30

NFE JOB NO. **D366-06**
SHEET NO. **C2**

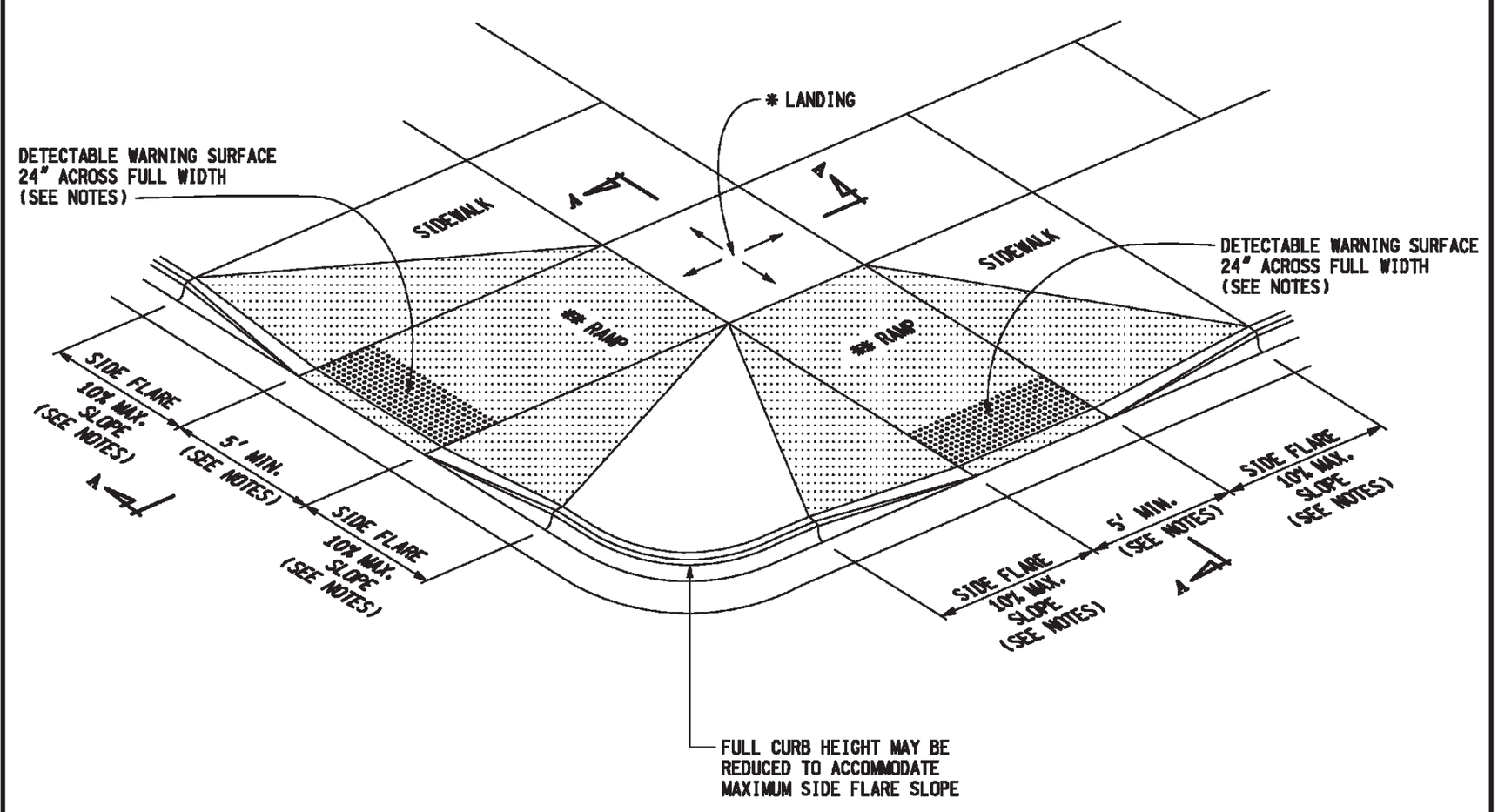

ZONED R-1
OWNER:
LUTHERAN CHURCH OF THE REDEEMER
1800 W. MAPLE ROAD
BIRMINGHAM, MI 48009
PROPOSED 10,515 SF
BUILDING ADDITION
FINISH FLOOR 762.16/760.35/759.91
CAUTION!!
1 1/" GAS SERV.
CAUTION!!
6" GAS MAIN
MAPLE ROAD (106' WIDE)
ZONED P
ZONED B-1
137.65'
79.63'
122.67'
137.65'
130.04'
469.70'
450.40' (M.)
470.40' (R.)
S 88°54'00" E (R.)
S 88°52'58" E (M.)
20.00'
N 88°54'00" W (R.)
N 88°53'39" W (M.)
BENCHMARK
NW BOLT ON LIGHT POLE
ELEVATION 758.52
U.S.G.S. DATUM
PR. FROST PAD PER ARCHITECTURAL PLANS
PR. ROOF LEAD
PR. 4" CONCRETE SIDEWALK
PR. LEACHING BASIN
PR. 6" DIA. PVC SDR 23.5 SANITARY SEWER LEAD
CONNECT TO EX. SANITARY SEWER LEAD. CONTRACTOR SHALL FIELD VERIFY SIZE LOCATION AND CONDITION PRIOR TO CONSTRUCTION.
REMOVE AND SALVAGE EX. FLAGPOLE
PR. COLUMBARIUM
PR. RELOCATE SALVAGED FLAGPOLE AND VETERANS MONUMENT
REMOVE SALVAGE AND REINSTALL LANDSCAPE BOULDERS. SEE LANDSCAPE PLAN
PR. STEPS PER ARCHITECT
PR. STEP
PR. 4" ASPHALT PAVEMENT ON 8" AGGREGATE BASE
PR. 6" WATER MAIN
CONNECT TO EX. WATER MAIN 8"x6"x8" CUT IN TEE
PR. 3" DOMESTIC WATER SERVICE
PR. 4" CONCRETE SIDEWALK
PR. CONCRETE RAMP
PR. LEECHING BASIN
PR. SWALE @ 1.00%
PR. STORM SEWER
REMOVE, SALVAGE AND REPLACE BRICK PAVERS.
PR. ADA RAMP AND DETECTABLE WARNING SURFACE
REMOVE SALVAGE AND REINSTALL LANDSCAPE BOULDERS. SEE LANDSCAPE PLAN
PR. SWALE @1.00%
PR. 4" CONCRETE SIDEWALK
PR. LEECHING BASIN
PR. STORM SEWER
PR. LEECHING BASIN
PR. 4" CONCRETE SIDEWALK
PR. 4" CONCRETE SIDEWALK
PR. 6" WATER MAIN
PR. 4" CONCRETE SIDEWALK
PR. 4" CONCRETE SIDEWALK
PR. 4" CONCRETE SIDEWALK

* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.



SIDEWALK RAMP TYPE R
(ROLLED SIDES)

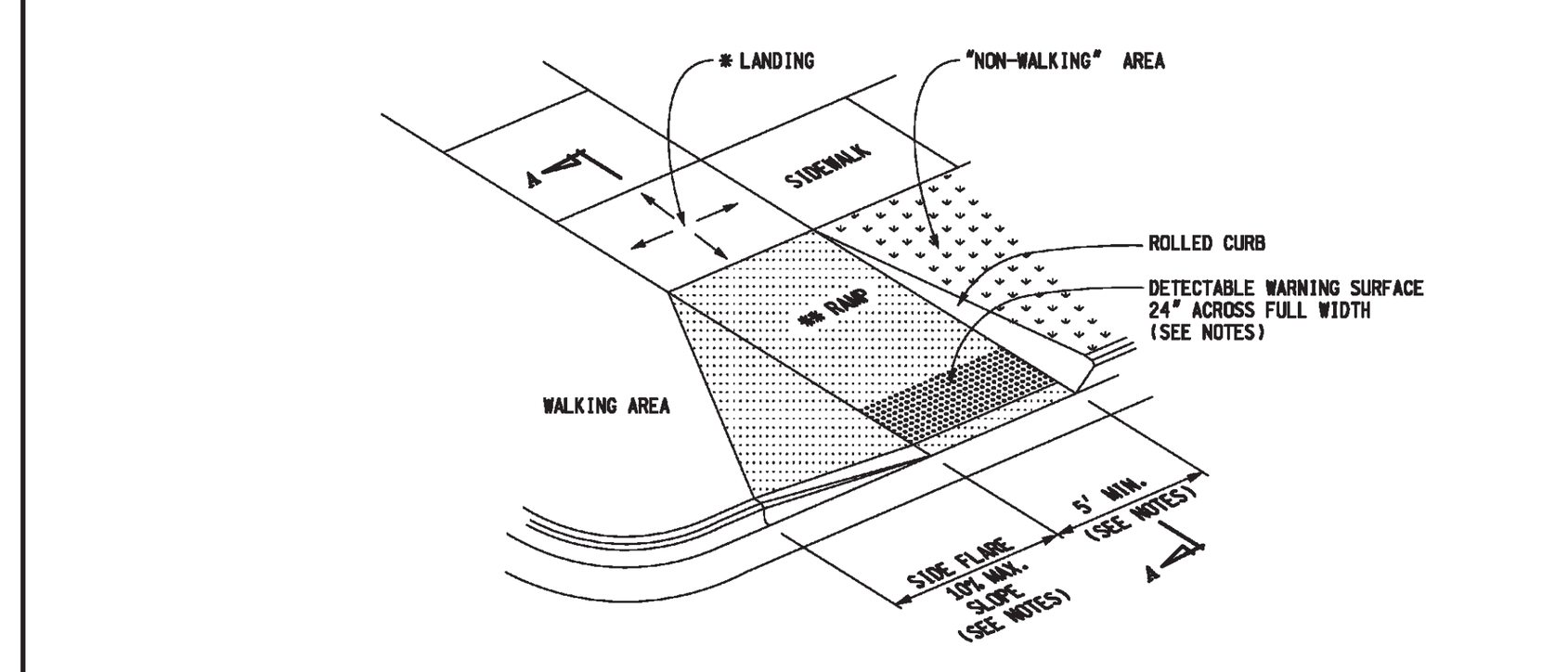


SIDEWALK RAMP TYPE F
(FLARED SIDES, TWO RAMPS SHOWN)

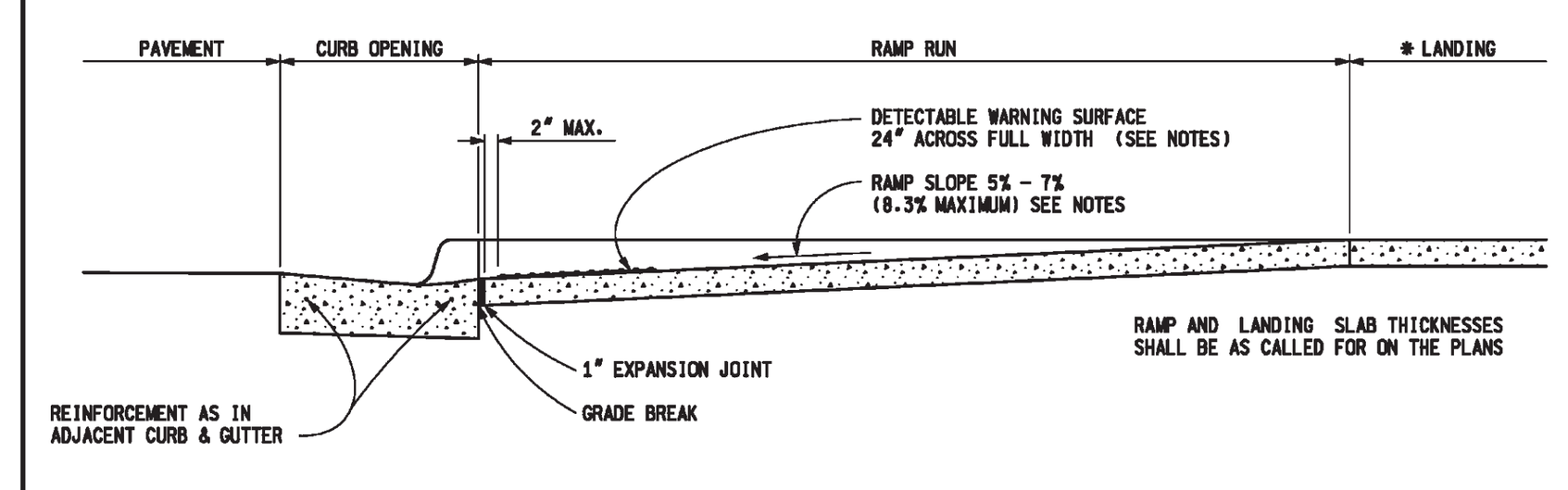
MDOT Michigan Department of Transportation PREPARED BY DESIGN DIVISION DRAWN BY: B.L.T. CHECKED BY: W.K.P.	DEPARTMENT DIRECTOR Kirk T. Steudle APPROVED BY: DIRECTOR, BUREAU OF FIELD SERVICES APPROVED BY: DIRECTOR, BUREAU OF DEVELOPMENT	MICHIGAN DEPARTMENT OF TRANSPORTATION BUREAU OF DEVELOPMENT STANDARD PLAN FOR **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** F.H.W.A. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 1 OF 7

* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.

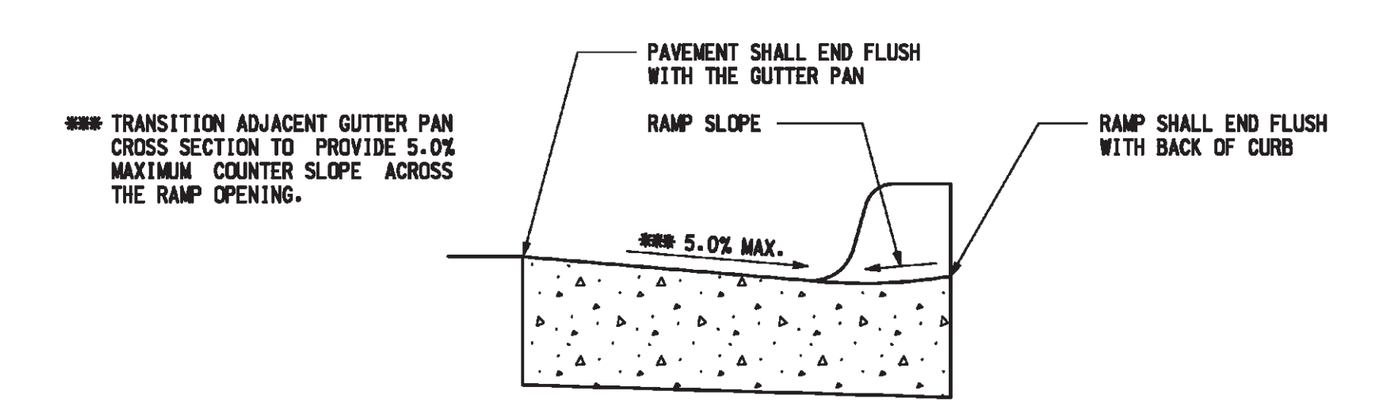


SIDEWALK RAMP TYPE RF
(ROLLED / FLARED SIDES)



SECTION A-A

*** TRANSITION ADJACENT GUTTER PAN CROSS SECTION TO PROVIDE 5.0% MAXIMUM COUNTER SLOPE ACROSS THE RAMP OPENING.

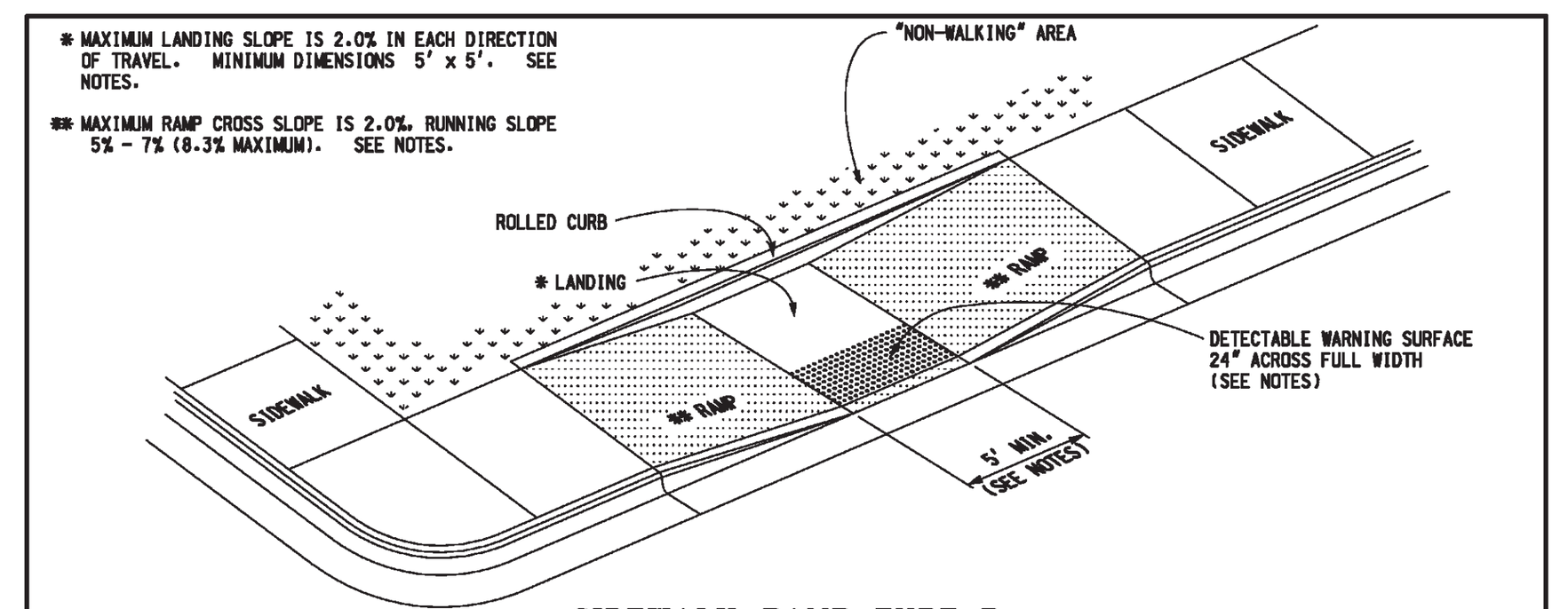


SECTION THROUGH CURB OPENING
(TYPICAL ALL RAMP TYPES)

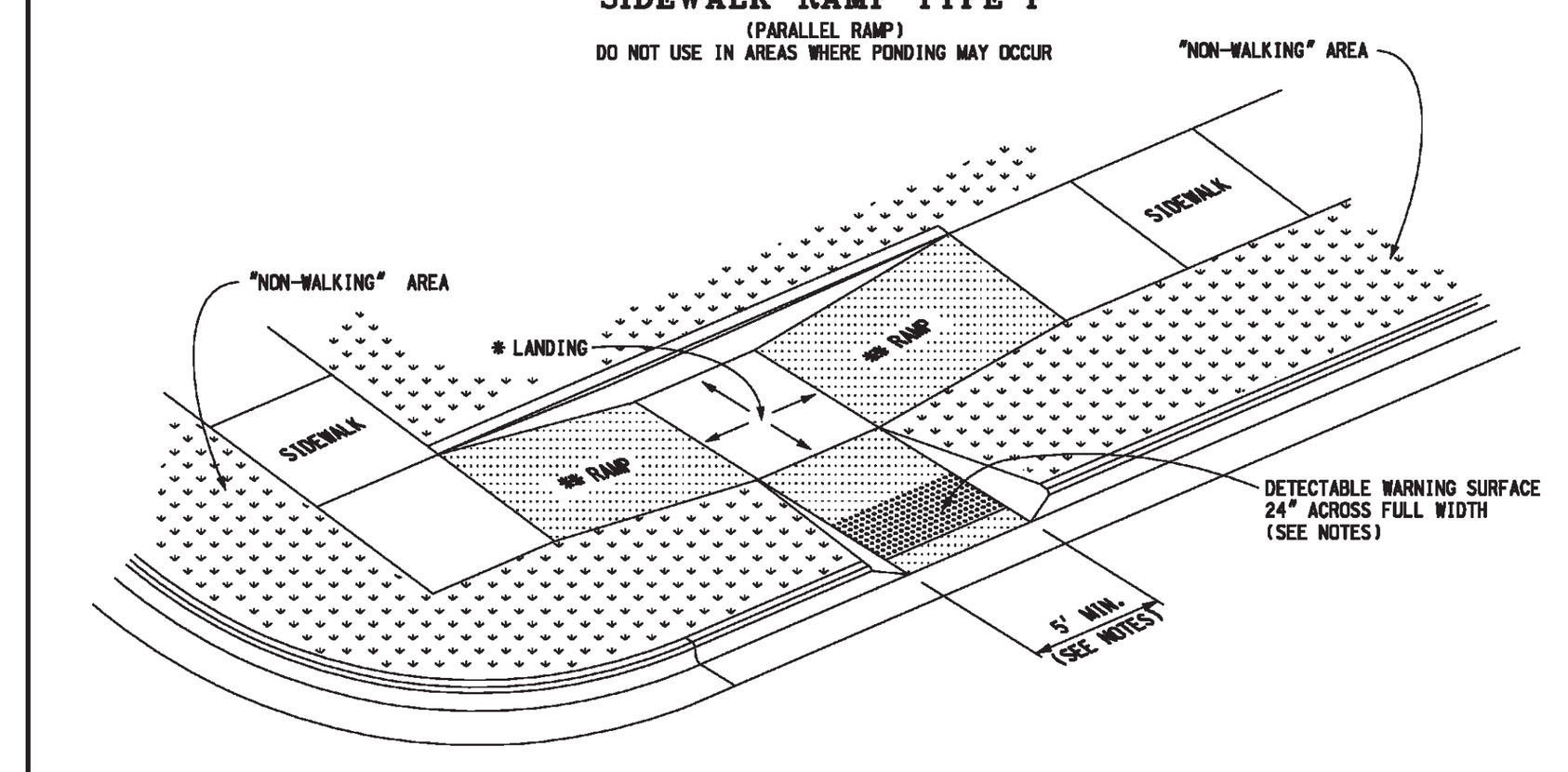
MICHIGAN DEPARTMENT OF TRANSPORTATION — BUREAU OF DEVELOPMENT STANDARD PLAN FOR — **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** — F.H.W.A. APPROVAL — 3-15-2016 PLAN DATE — R-28-J — SHEET 2 OF 7

* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

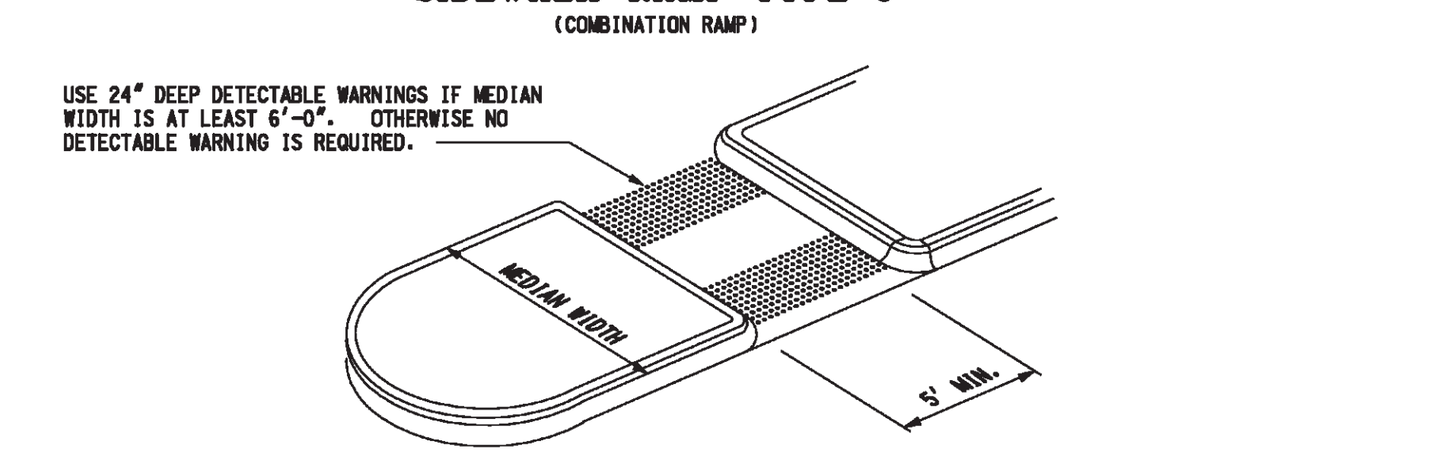
** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.



SIDEWALK RAMP TYPE P
(PARALLEL RAMP)
DO NOT USE IN AREAS WHERE PONDING MAY OCCUR



SIDEWALK RAMP TYPE C
(COMBINATION RAMP)

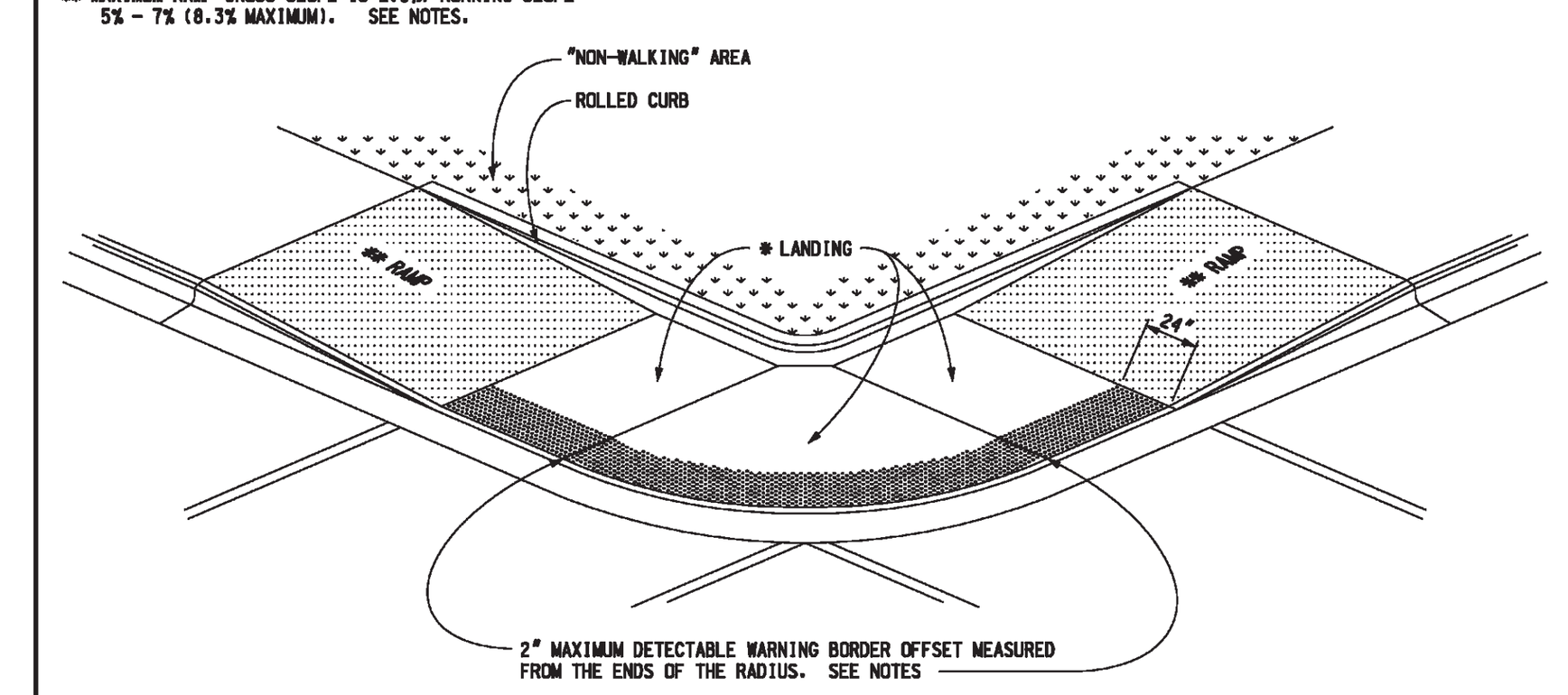


SIDEWALK RAMP TYPE M
(MEDIAN ISLAND)

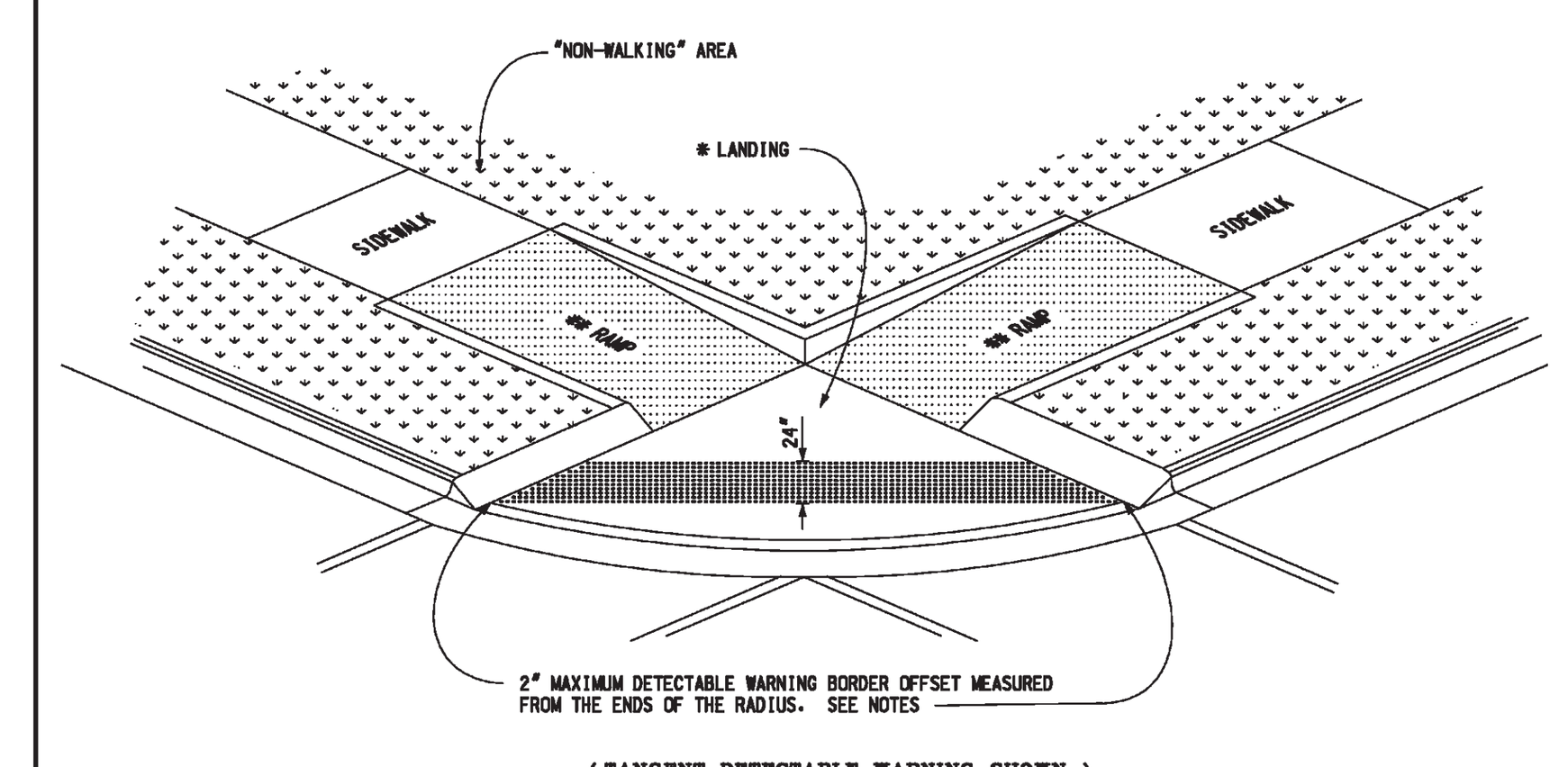
MICHIGAN DEPARTMENT OF TRANSPORTATION — BUREAU OF DEVELOPMENT STANDARD PLAN FOR — **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** — F.H.W.A. APPROVAL — 3-15-2016 PLAN DATE — R-28-J — SHEET 3 OF 7

* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.



(RADIAL DETECTABLE WARNING SHOWN)

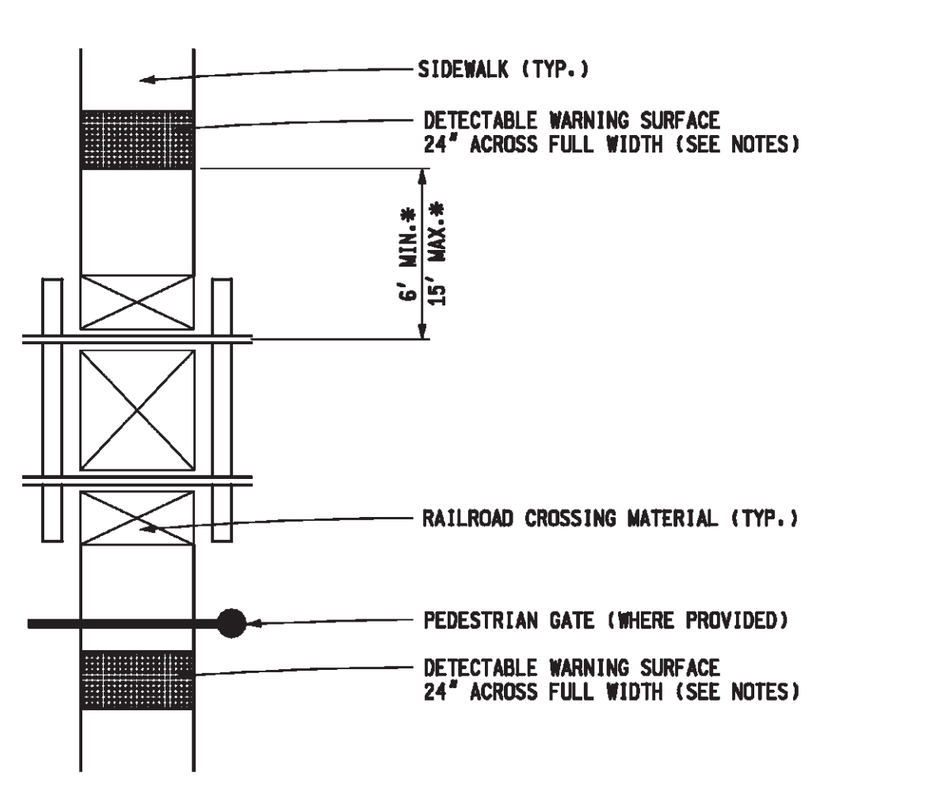


(TANGENT DETECTABLE WARNING SHOWN)

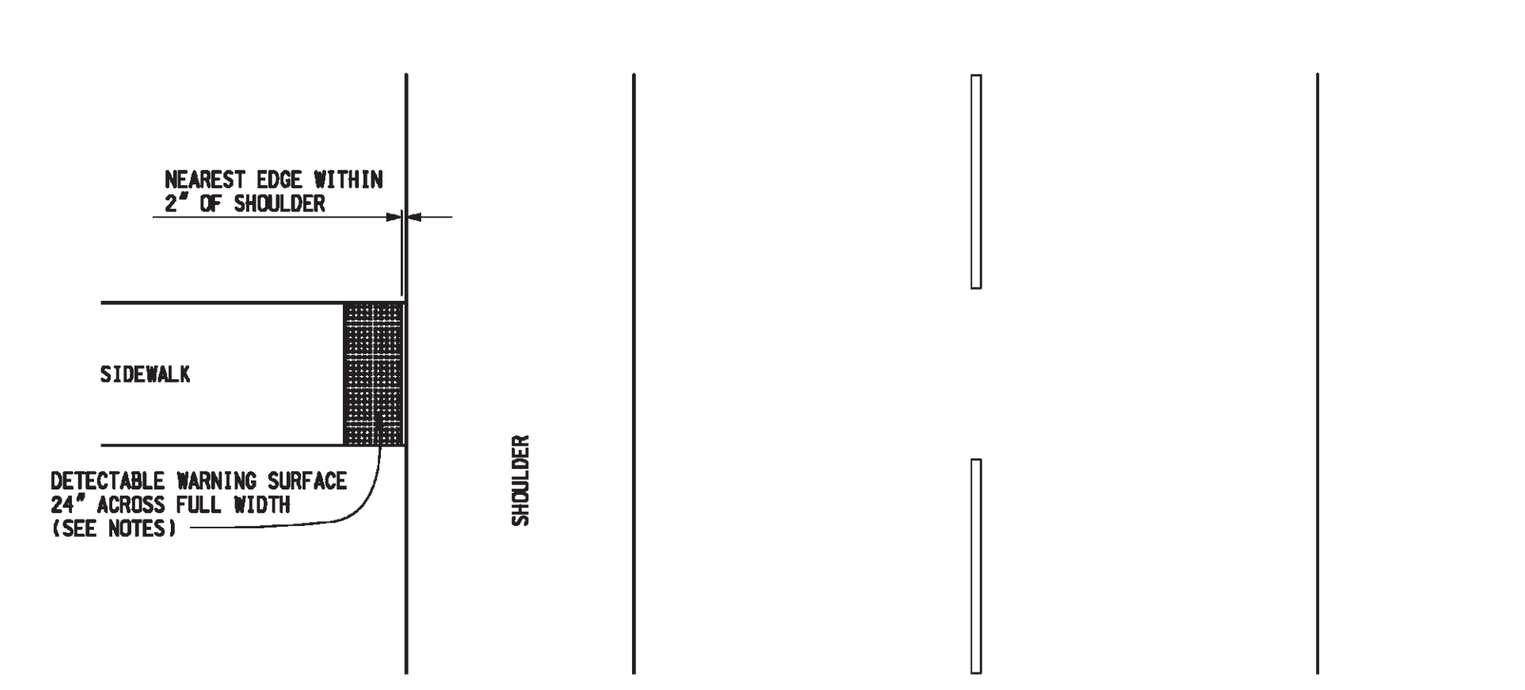
SIDEWALK RAMP TYPE D
(DEPRESSED CORNER)
USE ONLY WHEN INDEPENDENT DIRECTIONAL RAMPS CAN NOT BE CONSTRUCTED FOR EACH CROSSING DIRECTION

MICHIGAN DEPARTMENT OF TRANSPORTATION — BUREAU OF DEVELOPMENT STANDARD PLAN FOR — **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** — F.H.W.A. APPROVAL — 3-15-2016 PLAN DATE — R-28-J — SHEET 4 OF 7

* THE DETECTABLE WARNING SURFACE SHALL BE LOCATED SO THAT THE EDGE NEAREST THE RAIL CROSSING IS 6' MINIMUM AND 15' MAXIMUM FROM THE CENTERLINE OF THE NEAREST RAIL. DO NOT PLACE DETECTABLE WARNING ON RAILROAD CROSSING MATERIAL.

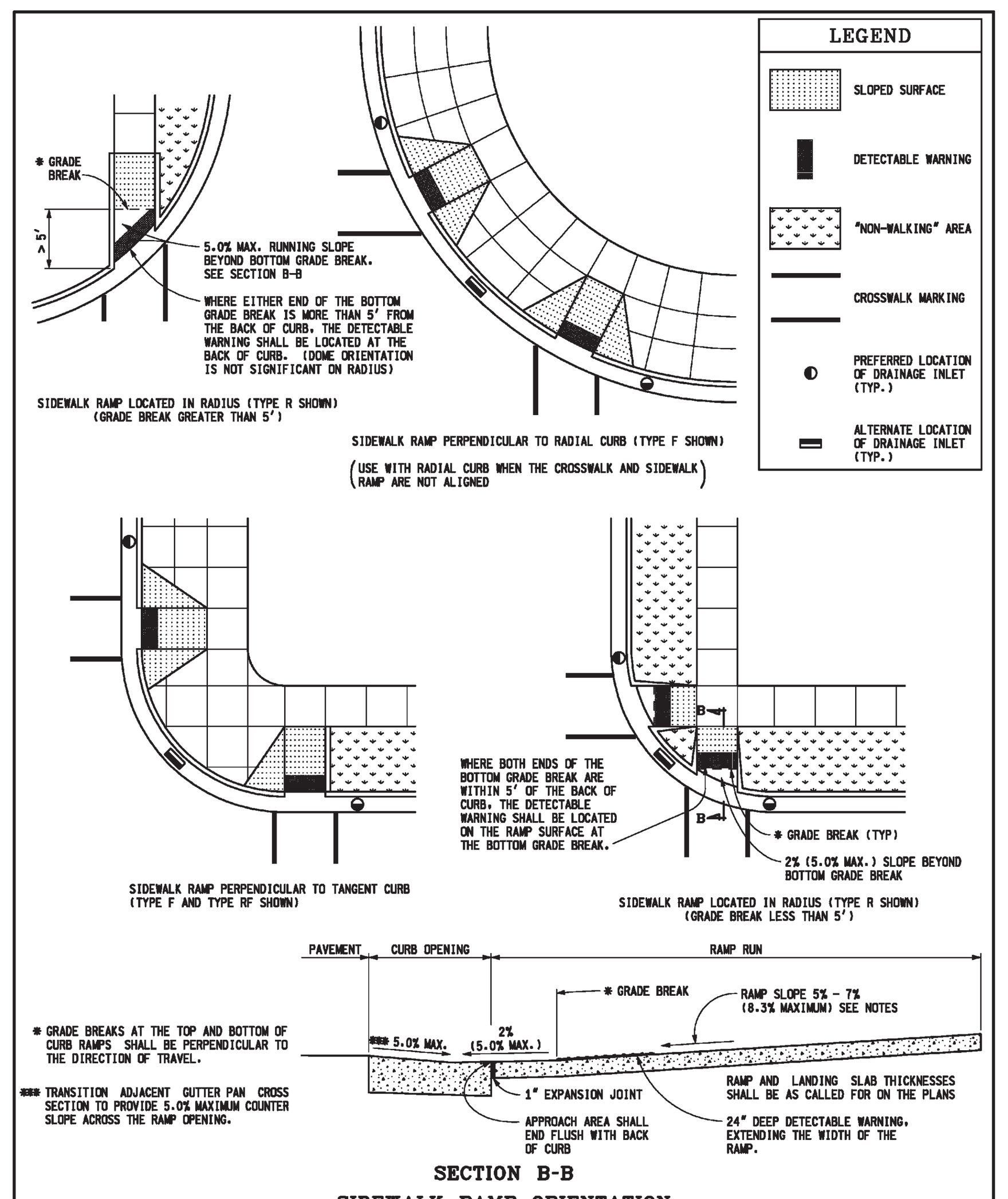


DETECTABLE WARNING AT RAILROAD CROSSING



DETECTABLE WARNING AT FLUSH SHOULDER OR ROADWAY

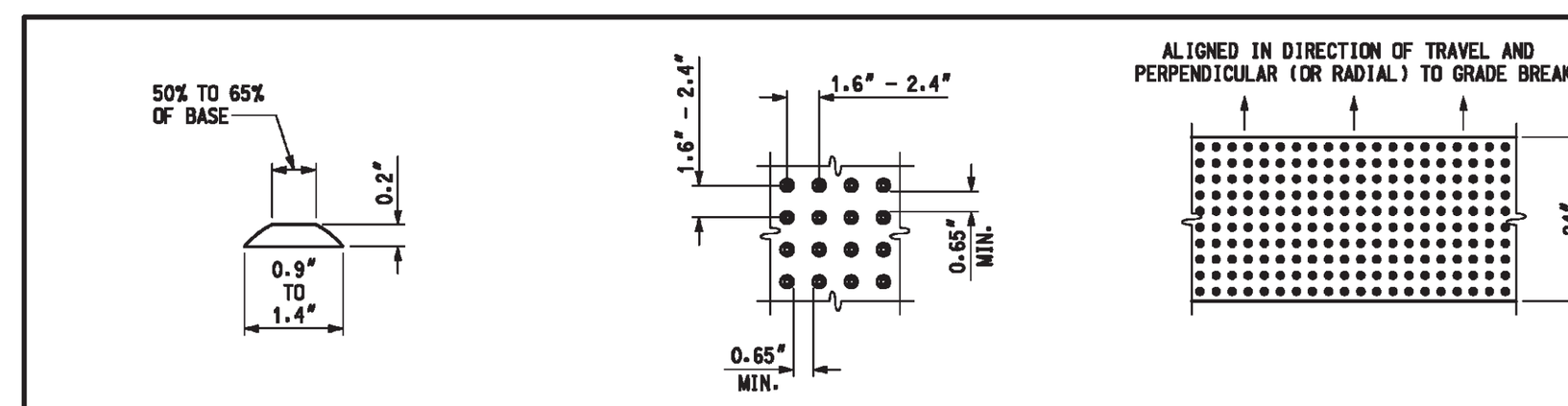
MICHIGAN DEPARTMENT OF TRANSPORTATION — BUREAU OF DEVELOPMENT STANDARD PLAN FOR — **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** — F.H.W.A. APPROVAL — 3-15-2016 PLAN DATE — R-28-J — SHEET 5 OF 7



SECTION B-B

SIDEWALK RAMP ORIENTATION

MICHIGAN DEPARTMENT OF TRANSPORTATION — BUREAU OF DEVELOPMENT STANDARD PLAN FOR — **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** — F.H.W.A. APPROVAL — 3-15-2016 PLAN DATE — R-28-J — SHEET 6 OF 7



DOME SECTION — **DOME SPACING** — **DOME ALIGNMENT**

DETECTABLE WARNING DETAILS

NOTES:

DETAILS SPECIFIED ON THIS PLAN APPLY TO ALL CONSTRUCTION, RECONSTRUCTION, OR ALTERATION OF STREETS, CURBS, OR SIDEWALKS IN THE PUBLIC RIGHT OF WAY.

SIDEWALK RAMPS ARE TO BE LOCATED AS SPECIFIED ON THE PLANS OR AS DIRECTED BY THE ENGINEER.

RAMPS SHALL BE PROVIDED AT ALL CORNERS OF AN INTERSECTION WHERE THERE IS EXISTING OR PROPOSED SIDEWALK AND CURB. RAMPS SHALL ALSO BE PROVIDED AT MARKED AND/OR SIGNALIZED MID-BLOCK CROSSINGS.

SURFACE TEXTURE OF THE RAMP SHALL BE THAT OBTAINED BY A COARSE BROOMING, TRANSVERSE TO THE RUNNING SLOPE.

SIDEWALK SHALL BE RAMPED WHERE THE DRIVEWAY CURB IS EXTENDED ACROSS THE WALK.

CARE SHALL BE TAKEN TO ASSURE A UNIFORM GRADE ON THE RAMP. WHERE CONDITIONS PERMIT, IT IS DESIRABLE THAT THE SLOPE OF THE RAMP BE IN ONLY ONE DIRECTION, PARALLEL TO THE DIRECTION OF TRAVEL.

RAMP WIDTH SHALL BE INCREASED, IF NECESSARY, TO ACCOMMODATE SIDEWALK SNOW REMOVAL EQUIPMENT NORMALLY USED BY THE MUNICIPALITY.

WHEN 5' MINIMUM WIDTHS ARE NOT FEASIBLE, RAMP WIDTH MAY BE REDUCED TO NOT LESS THAN 4' AND LANDINGS TO NOT LESS THAN 4' x 4'.

DETECTABLE WARNING SURFACE COVERAGE IS 24" MINIMUM IN THE DIRECTION OF RAMP/PATH TRAVEL AND THE FULL WIDTH OF THE RAMP/PATH OPENING EXCLUDING CURBED OR FLARED CURB TRANSITION AREAS. A BORDER OFFSET NOT GREATER THAN 2" MEASURED ALONG THE EDGES OF THE DETECTABLE WARNING IS ALLOWABLE. FOR RADIAL CURB THE OFFSET IS MEASURED FROM THE ENDS OF THE RADIUS.

FOR NEW ROADWAY CONSTRUCTION, THE RAMP CROSS SLOPE MAY NOT EXCEED 2.0%. FOR ALTERATIONS TO EXISTING ROADWAYS, THE CROSS SLOPE MAY BE TRANSITIONED TO MEET AN EXISTING ROADWAY GRADE. THE CROSS SLOPE TRANSITION SHALL BE APPLIED UNIFORMLY OVER THE FULL LENGTH OF THE RAMP.

THE MAXIMUM RUNNING SLOPE OF 8.3% IS RELATIVE TO A FLAT (0%) REFERENCE. HOWEVER, IT SHALL NOT REQUIRE ANY RAMP OR SERIES OF RAMPS TO EXCEED 15 FEET IN LENGTH.

DRAINAGE STRUCTURES SHOULD NOT BE PLACED IN LINE WITH RAMPS. THE LOCATION OF THE RAMP SHOULD TAKE PRECEDENCE OVER THE LOCATION OF THE DRAINAGE STRUCTURE. WHERE EXISTING DRAINAGE STRUCTURES ARE LOCATED IN THE RAMP PATH OF TRAVEL, USE A MANUFACTURER'S ADA COMPLIANT GRATE. OPENINGS SHALL NOT BE GREATER THAN ½". ELONGATED OPENINGS SHALL BE PLACED SO THAT THE LONG DIMENSION IS PERPENDICULAR TO THE DOMINANT DIRECTION OF TRAVEL.

TRANSITION THE GUTTER PAN CROSS SECTION SUCH THAT THE COUNTER SLOPE IN THE DIRECTION OF RAMP TRAVEL IS NOT GREATER THAN 5.0%. MAINTAIN THE NORMAL GUTTER PAN CROSS SECTION ACROSS DRAINAGE STRUCTURES.

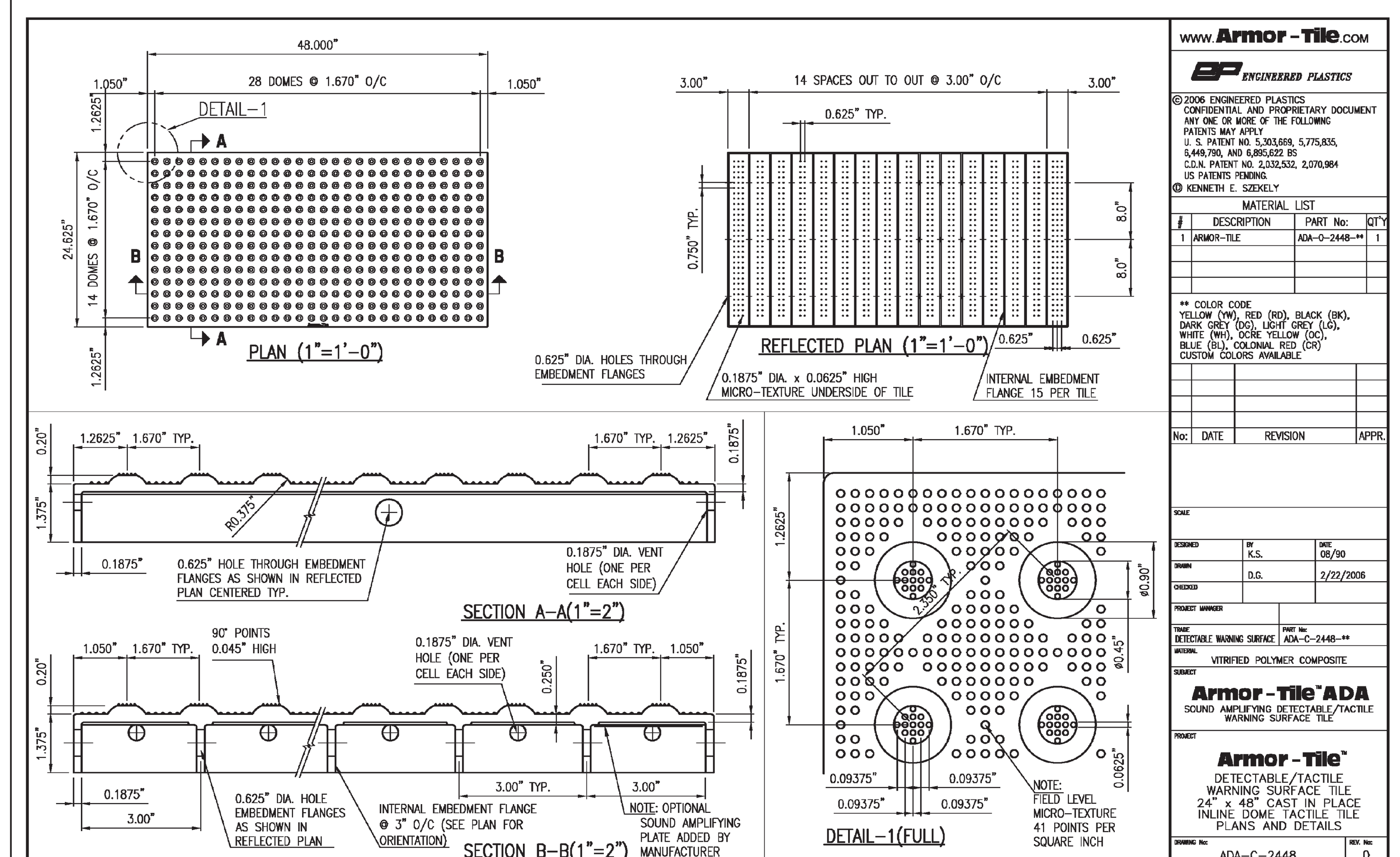
THE TOP OF THE JOINT FILLER FOR ALL RAMP TYPES SHALL BE FLUSH WITH THE ADJACENT CONCRETE.

CROSSWALK AND STOP LINE MARKINGS, IF USED, SHALL BE SO LOCATED AS TO STOP TRAFFIC SHORT OF RAMP CROSSINGS. SPECIFIC DETAILS FOR MARKING APPLICATIONS ARE GIVEN IN THE "MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES".

FLARED SIDES WITH A SLOPE OF 10% MAXIMUM, MEASURED ALONG THE ROADSIDE CURB LINE, SHALL BE PROVIDED WHERE AN UNOBSTRUCTED CIRCULATION PATH LATERALLY CROSSES THE SIDEWALK RAMP. FLARED SIDES ARE NOT REQUIRED WHERE THE RAMP IS BORDERED BY LANDSCAPING, UNPAVED SURFACE OR PERMANENT FIXED OBJECTS. WHERE THEY ARE NOT REQUIRED, FLARED SIDES CAN BE CONSIDERED IN ORDER TO AVOID SHARP CURB RETURNS AT RAMP OPENINGS.

DETECTABLE WARNING PLATES MUST BE INSTALLED USING FABRICATED OR FIELD CUT UNITS CAST AND/OR ANCHORED IN THE PAVEMENT TO RESIST SHIFTING OR HEAVING.

MICHIGAN DEPARTMENT OF TRANSPORTATION — BUREAU OF DEVELOPMENT STANDARD PLAN FOR — **SIDEWALK RAMP AND DETECTABLE WARNING DETAILS** — F.H.W.A. APPROVAL — 3-15-2016 PLAN DATE — R-28-J — SHEET 7 OF 7



NF ENGINEERS 50 1969 – 2019

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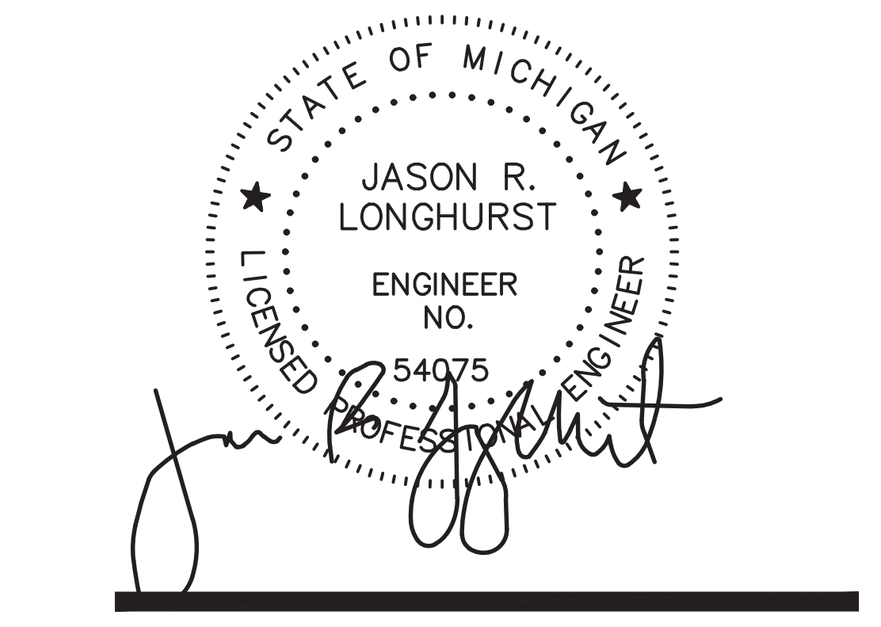


PROJECT
Lutheran Church of the Redeemer Building Expansion

CLIENT
Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION
Part of the SW ¼ of Section 26
T. 2 North, R. 10 East
City of Birmingham,
Oakland County, Michigan

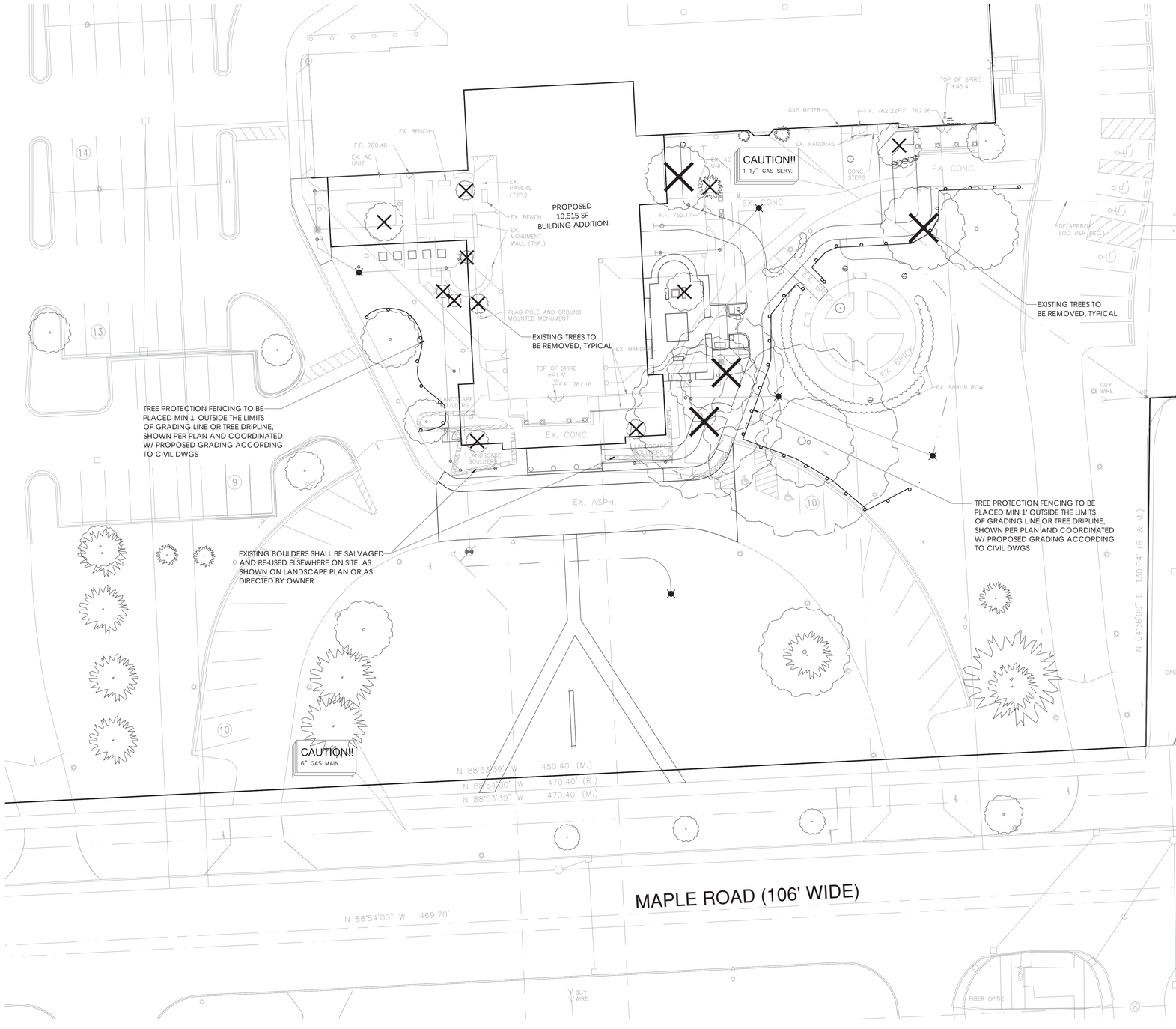
SHEET
Notes and Details

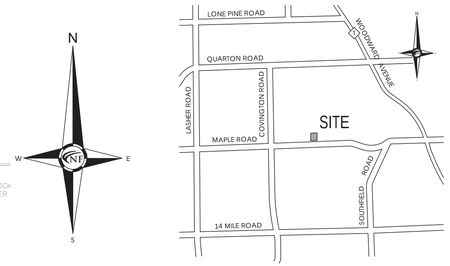
811 Know what's **below** **Call** before you dig.

DATE	ISSUED/REVISED
2019-12-09	ISSUED FOR OWNER REVIEW
2019-12-11	ISSUED FOR SITE PLAN REVIEW
2020-02-04	REVISED PER OWNER
2020-03-11	REVISED PER OWNER
2020-05-15	REVISED PER OWNER
2020-05-18	REVISED SPA SUBMITTAL

DRAWN BY: T. Wood
DESIGNED BY: T. Wood
APPROVED BY: J. Longhurst
DATE: December 9, 2019
SCALE: N.T.S.

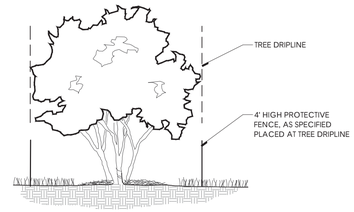
NFE JOB NO. **D366-06** — SHEET NO. **C4**





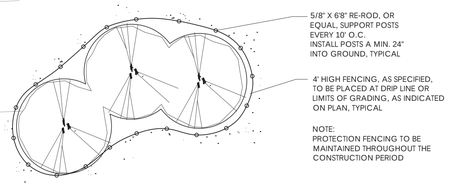
LOCATION MAP

N.T.S.



TREE PROTECTION DETAIL-SECTION

NTS



TREE PROTECTION DETAIL-PLAN

NTS

GENERAL TREE PROTECTION NOTES

1. APPROVED TREE PROTECTION SHALL BE ERECTED PRIOR TO THE START OF CONSTRUCTION ACTIVITIES, AND SHALL REMAIN IN PLACE UNTIL THE IN PLACE UNTIL CONSTRUCTION IS COMPLETE.
2. ALL UNDERSTORY VEGETATION WITHIN THE LIMITS OF PROTECTIVE FENCING SHALL BE PRESERVED.
3. NO PERSON MAY CONDUCT ANY ACTIVITY WITHIN THE DRIP LINE OF ANY TREE DESIGNATED TO REMAIN, INCLUDING BUT NOT LIMITED TO, PLACING SOLVENTS, BUILDING MATERIALS, CONSTRUCTION EQUIPMENT, OR SOIL DEPOSITS WITHIN THE DRIP LINE.
4. WHERE GROUPINGS OF TREES ARE TO REMAIN, TREE FENCING SHALL BE PLACED AT THE LIMITS OF GRADING LINE.
5. DURING CONSTRUCTION, NO PERSON SHALL ATTACH ANY DEVICE OR WIRE TO ANY TREE, SCHEDULED TO REMAIN.
6. ALL UTILITY SERVICE REQUESTS MUST INCLUDE NOTIFICATION TO THE INSTALLER THAT PROTECTED TREES MUST BE AVOIDED. ALL TRENCHING SHALL OCCUR OUTSIDE OF THE PROTECTIVE FENCING.
7. SWALES SHALL BE ROUTED TO AVOID THE AREA WITHIN THE DRIP LINES OF PROTECTED TREES.
8. TREES LOCATED ON ADJACENT PROPERTIES THAT MAY BE AFFECTED BY CONSTRUCTION ACTIVITIES MUST BE PROTECTED.
9. ROOT ZONES OF PROTECTED TREES SHOULD BE SURROUNDED WITH RIGIDLY STAKED FENCING.
10. THE PARKING OF IDLE AND RUNNING EQUIPMENT SHALL BE PROHIBITED UNDER THE DRIP LINE OF PROTECTED TREES.
11. THE STRIPPING OF TOPSOIL FROM AROUND PROTECTED TREES SHALL BE PROHIBITED.
12. ALL TREES TO BE REMOVED SHALL BE CUT AWAY FROM TREES TO REAMIN.
13. THE GRUBBING OF UNDERSTORY VEGETATION WITHIN CONSTRUCTION AREAS SHOULD BE CLEARED BY CUTTING VEGETATION AT THE GROUND WITH A CHAIN SAW OR MINIMALLY WITH A HYDRO-AXE.
14. THE CONTRACTOR IS RESPONSIBLE FOR THE REPLACEMENT PER ORDINANCE GUIDELINES, FOR THE DAMAGE OR REMOVAL OF ANY TREE DESIGNATED TO REMAIN.
15. TREES TO BE REMOVED SHALL BE FIELD VERIFIED, EVALUATED AND FLAGGED FOR REMOVAL, BY THE LANDSCAPE ARCHITECT OR FORESTER, ONLY AS DIRECTED BY THE OWNER OR OWNERS REPRESENTATIVE.

LEGEND:

- TREES TO BE REMOVED
- 950 — TREES TO REMAIN
- TREE PROTECTION FENCING

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PROJECT LOCATION
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of Section 26
T. 2 North, R. 10 East
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Oakland County, Michigan

SHEET
Tree Preservation Plan

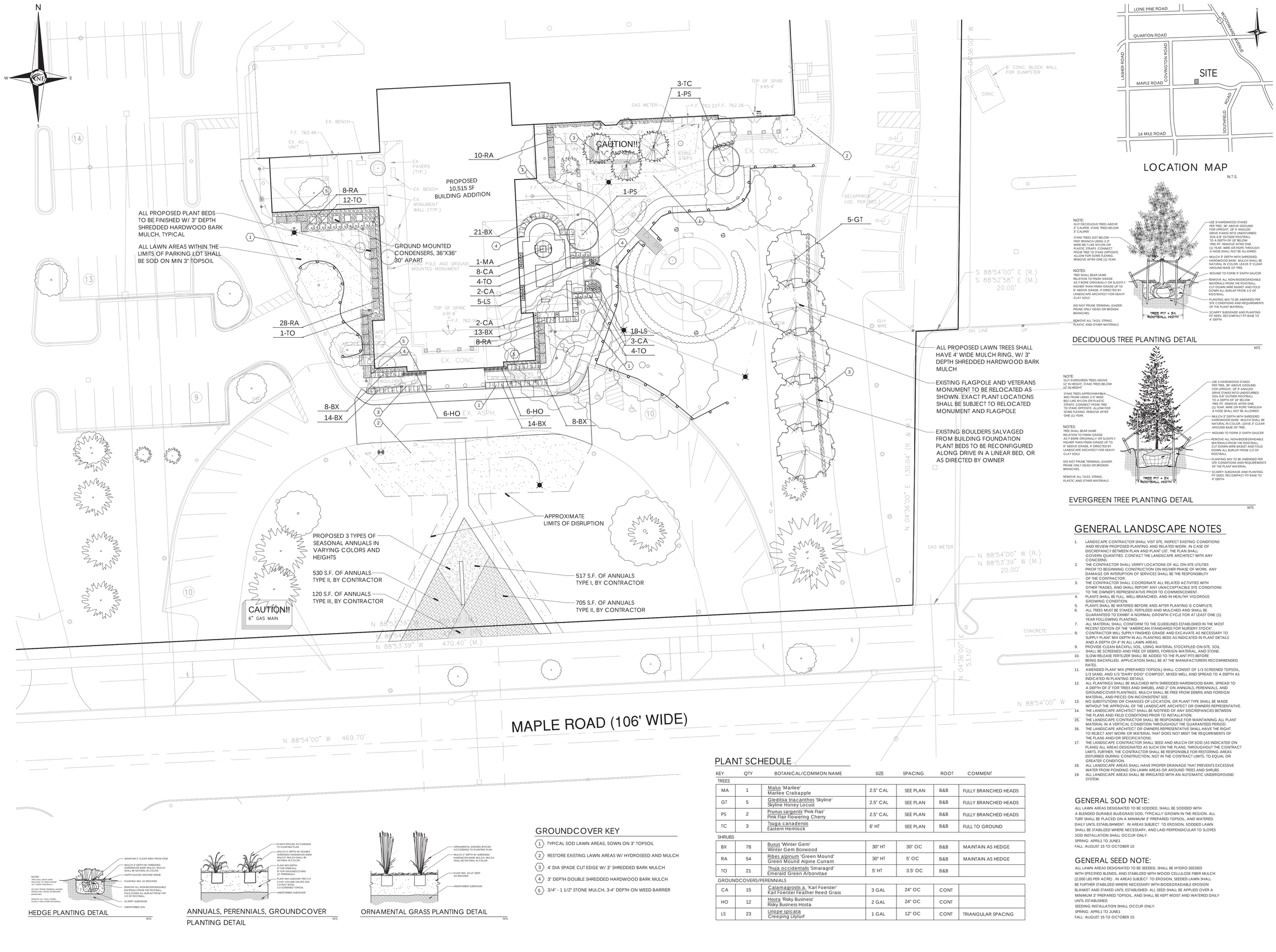
Know what's below
Call before you dig.

REVISIONS
- 12/09/19 ISSUED FOR OWNER REVIEW
- 12/11/19 ISSUED FOR SITE PLAN REVIEW
- 02/04/20 REVISED PER OWNER
- 05/15/20 REVISED PER OWNER
- 05/18/20 REVISED PER OWNER

DRAWN BY: G. Ostrowski
DESIGNED BY: G. Ostrowski
APPROVED BY: G. Ostrowski
DATE: 12-04-2019
SCALE: 1" = 20'

20 10 0 10 20 30

NFE JOB NO. D366-05
SHEET NO. L1



LOCATION MAP

N.T.S.

DECIDUOUS TREE PLANTING DETAIL

NTS

EVERGREEN TREE PLANTING DETAIL

NTS

ALL PROPOSED LAWN TREES SHALL HAVE 4' WIDE MULCH RING, W/ 3" DEPTH SHREDDED HARDWOOD BARK MULCH

EXISTING FLAGPOLE AND VETERANS MONUMENT TO BE RELOCATED AS SHOWN. EXACT PLANT LOCATIONS SHALL BE SUBJECT TO RELOCATED MONUMENT AND FLAGPOLE

EXISTING BOULDERS SALVAGED FROM BUILDING FOUNDATION PLANT BEDS TO BE RECONFIGURED ALONG DRIVE IN A LINEAR BED, OR AS DIRECTED BY OWNER

PLANT SCHEDULE

KEY	QTY	BOTANICAL/COMMON NAME	SIZE	SPACING	ROOT	COMMENT
TREES						
MA	1	Malus 'Marilee' Marilee Crabapple	2.5" CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
GT	5	Gleditsia triacanthos 'Skyline' Skyline Honey Locust	2.5" CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
PS	2	Prunus sargentii 'Pink Flair' Pink Flair Flowering Cherry	2.5" CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
TC	3	Tsuga canadensis Eastern Hemlock	6' HT	SEE PLAN	B&B	FULL TO GROUND
SHRUBS						
BX	78	Buxus 'Winter Gem' Winter Gem Boxwood	30" HT	30" OC	B&B	MAINTAIN AS HEDGE
RA	54	Ribes alpinum 'Green Mound' Green Mound Alpine Currant	30" HT	5' OC	B&B	MAINTAIN AS HEDGE
TO	21	Thuja occidentalis 'Smaragrd' Emerald Green Arborvitae	5' HT	3.5' OC	B&B	
GROUNDCOVERS/PERENNIALS						
CA	15	Calamagrostis a. 'Karl Foerster' Karl Foerster Feather Reed Grass	3 GAL	24" OC	CONT	
HO	12	Hosta 'Risky Business' Risky Business Hosta	2 GAL	24" OC	CONT	
LS	23	Liriope spicata Creeping Lilyturf	1 GAL	12" OC	CONT	TRIANGULAR SPACING

GROUNDCOVER KEY

1. TYPICAL SOD LAWN AREAS, SOWN ON 3" TOPSOIL
2. RESTORE EXISTING LAWN AREAS W/ HYDROSEED AND MULCH
3. 4' DIA SPADE CUT EDGE W/ 3" SHREDDED BARK MULCH
4. 3" DEPTH DOUBLE SHREDDED HARDWOOD BARK MULCH
5. 3/4" - 1 1/2" STONE MULCH, 3-4" DEPTH ON WEED BARRIER

HEDGE PLANTING DETAIL

NTS

ANNUALS, PERENNIALS, GROUNDCOVER PLANTING DETAIL

NTS

ORNAMENTAL GRASS PLANTING DETAIL

NTS

GENERAL LANDSCAPE NOTES

1. LANDSCAPE CONTRACTOR SHALL VISIT SITE, INSPECT EXISTING CONDITIONS AND REVIEW PROPOSED PLANTING AND RELATED WORK. IN CASE OF DISCREPANCY BETWEEN PLAN AND PLANT LIST, THE PLAN SHALL GOVERN QUANTITIES. CONTACT THE LANDSCAPE ARCHITECT WITH ANY CONCERNS.
2. THE CONTRACTOR SHALL VERIFY LOCATIONS OF ALL ON-SITE UTILITIES PRIOR TO BEGINNING CONSTRUCTION ON HIS/HER PHASE OF WORK. ANY DAMAGE OR INTERUPTION OF SERVICES SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
3. THE CONTRACTOR SHALL COORDINATE ALL RELATED ACTIVITIES WITH OTHER TRADES, AND SHALL REPORT ANY UNACCEPTACBLE SITE CONDITIONS TO THE OWNER'S REPRESENTATIVE PRIOR TO COMMENCEMENT.
4. PLANTS SHALL BE FULL, WELL-BRANCHED, AND IN HEALTHY VIGOROUS GROWING CONDITION.
5. PLANTS SHALL BE WATERED BEFORE AND AFTER PLANTING IS COMPLETE.
6. ALL TREES MUST BE STAKED, FERTILIZED AND MULCHED AND SHALL BE GUARANTEED TO EXHIBIT A NORMAL GROWTH CYCLE FOR AT LEAST ONE (1) YEAR FOLLOWING PLANTING.
7. ALL MATERIAL SHALL CONFORM TO THE GUIDELINES ESTABLISHED IN THE MOST RECENT EDITION OF THE "AMERICAN STANDARDS FOR NURSERY STOCK".
8. CONTRACTOR WILL SUPPLY FINISHED GRADE AND EXCAVATE AS NECESSARY TO SUPPLY PLANT MIX DEPTH IN ALL PLANTING BEDS AS INDICATED IN PLANT DETAILS AND A DEPTH OF 4" IN ALL LAWN AREAS.
9. PROVIDE CLEAN BACKFILL SOIL, USING MATERIAL STOCKPILED ON-SITE. SOIL SHALL BE SCREENED AND FREE OF DEBRIS, FOREIGN MATERIAL, AND STONE.
10. SLOW-RELEASE FERTILIZER SHALL BE ADDED TO THE PLANT PITS BEFORE BEING BACKFILLED. APPLICATION SHALL BE AT THE MANUFACTURERS RECOMMENDED RATES.
11. AMENDED PLANT MIX (PREPARED TOPSOIL) SHALL CONSIST OF 1/3 SCREENED TOPSOIL, 1/3 SAND, AND 1/3 "DAIRY DOO" COMPOST, MIXED WELL AND SPREAD TO A DEPTH AS INDICATED IN PLANTING DETAILS.
12. ALL PLANTINGS SHALL BE MULCHED WITH SHREDDED HARDWOOD BARK, SPREAD TO A DEPTH OF 3" FOR TREES AND SHRUBS, AND 2" ON ANNUALS, PERENNIALS, AND GROUNDCOVER PLANTINGS. MULCH SHALL BE FREE FROM DEBRIS AND FOREIGN MATERIAL, AND PIECES ON INCONSISTENT SIZE.
13. NO SUBSTITUTIONS OR CHANGES OF LOCATION, OR PLANT TYPE SHALL BE MADE WITHOUT THE APPROVAL OF THE LANDSCAPE ARCHITECT OR OWNERS REPRESENTATIVE.
14. THE LANDSCAPE ARCHITECT SHALL BE NOTIFIED OF ANY DISCREPANCIES BETWEEN THE PLANS AND FIELD CONDITIONS PRIOR TO INSTALLATION.
15. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL PLANT MATERIAL IN A VERTICAL CONDITION THROUGHOUT THE GUARANTEED PERIOD.
16. THE LANDSCAPE ARCHITECT OR OWNERS REPRESENTATIVE SHALL HAVE THE RIGHT TO REJECT ANY WORK OR MATERIAL THAT DOES NOT MEET THE REQUIREMENTS OF THE PLANS AND/OR SPECIFICATIONS.
17. THE LANDSCAPE CONTRACTOR SHALL SEED AND MULCH OR SOD (AS INDICATED ON PLANS) ALL AREAS DESIGNATED AS SUCH ON THE PLANS, THROUGHOUT THE CONTRACT LIMITS. FURTHER, THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING AREAS DISTURBED DURING CONSTRUCTION, NOT IN THE CONTRACT LIMITS, TO EQUAL OR GREATER CONDITION.
18. ALL LANDSCAPE AREAS SHALL HAVE PROPER DRAINAGE THAT PREVENTS EXCESSIVE WATER FROM PONDING ON LAWN AREAS OR AROUND TREES AND SHRUBS.
19. ALL LANDSCAPE AREAS SHALL BE IRRIGATED WITH AN AUTOMATIC UNDERGROUND SYSTEM.

GENERAL SOD NOTE:

ALL LAWN AREAS DESIGNATED TO BE SODDED, SHALL BE SODDED WITH A BLENDED DURABLE BLUEGRASS SOD, TYPICALLY GROWN IN THE REGION. ALL TURF SHALL BE PLACED ON A MINIMUM 3" PREPARED TOPSOIL, AND WATERED DAILY UNTIL ESTABLISHMENT. IN AREAS SUBJECT TO EROSION, SODDED LAWN SHALL BE STABILIZED WHERE NECESSARY, AND LAID PERPENDICULAR TO SLOPES
SOD INSTALLATION SHALL OCCUR ONLY:
SPRING: APRIL1 TO JUNE1
FALL: AUGUST 15 TO OCTOBER 15

GENERAL SEED NOTE:

ALL LAWN AREAS DESIGNATED TO BE SEEDED, SHALL BE HYDRO-SEEDED WITH SPECIFIED BLENDS, AND STABILIZED WITH WOOD CELLULOSE FIBER MULCH (2,000 LBS PER ACRE) . IN AREAS SUBJECT TO EROSION, SEEDED LAWN SHALL BE FURTHER STABILIZED WHERE NECESSARY WITH BIODEGRADABLE EROSION BLANKET AND STAKED UNTIL ESTABLISHED. ALL SEED SHALL BE APPLIED OVER A MINIMUM 3" PREPARED TOPSOIL, AND SHALL BE KEPT MOIST AND WATERED DAILY UNTIL ESTABLISHED.
SEEDING INSTALLATION SHALL OCCUR ONLY:
SPRING: APRIL1 TO JUNE1
FALL: AUGUST 15 TO OCTOBER 15

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PROJECT LOCATION

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T. 2 North, R. 10 East
City of Birmingham, Oakland County, Michigan

SHEET

Landscape Plan

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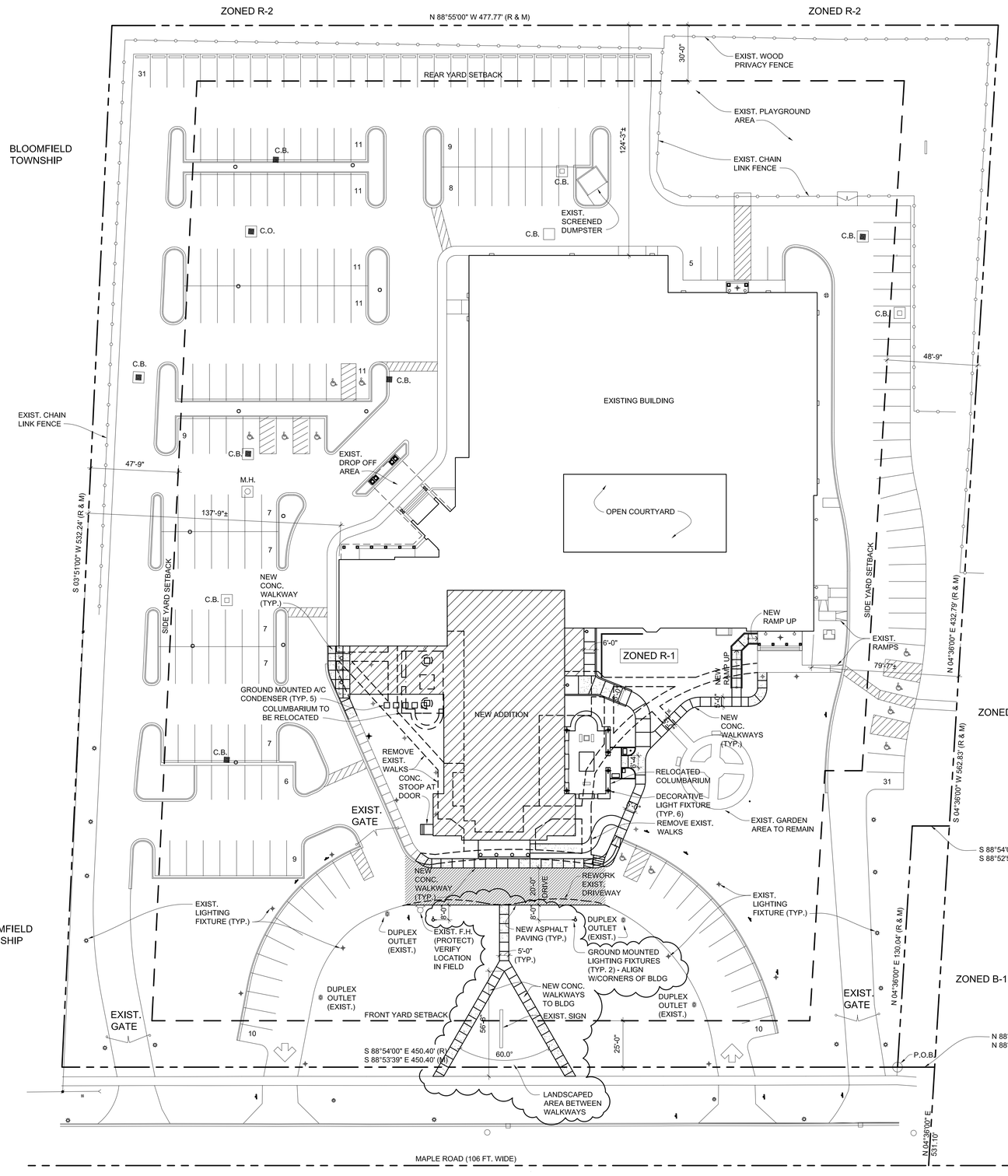
12/09/19 ISSUED FOR OWNER REVIEW
12/11/19 ISSUED FOR SITE PLAN REVIEW
02/04/20 REVISED PER OWNER
05/15/20 REVISED PER OWNER
05/18/20 REVISED PER OWNER

DRAWN BY: G. Ostrowski
DESIGNED BY: G. Ostrowski
APPROVED BY: G. Ostrowski
DATE: 12-04-2019
SCALE: 1" = 20'

20 10 0 10 20 30

NFE JOB NO. D366-05
SHEET NO. L2



1 AS-101 SITE PLAN
SCALE: 1" = 30'-0"

LEGAL DESCRIPTION

LOTS 1 THROUGH 15 INCLUSIVE TOGETHER WITH ALL OF ADJACENT VACATED PUBLIC ALLEY, AND LOTS 17 THROUGH 34 INCLUSIVE OF "THE RUBY-N" SUBDIVISION, ALSO ALL OF VACATED KIMBERLY STREET, ALL BEING PART OF SOUTHWEST 1/4 OF SECTION 26, TOWN 2 NORTH, RANGE 10 EAST, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER ???, PAGE ???, BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 26; THENCE N 88°54'00" W ALONG THE SOUTHERLY LINE OF SAID SECTION 26, 232.82 FEET, THENCE N 04°36'00" E, 53.10 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD (106 FEET WIDE); THENCE N 88°53'39" W AS MEASURED (N 88°54'00" W AS RECORDED) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD, 20.00 FEET TO THE POINT OF BEGINNING; THENCE N 04°36'00" E ALONG THE COMMON LOT LINE OF SAID LOTS 15 AND 16, 130.04 FEET TO A POINT ON THE NORTHERLY LINE OF SAID VACATED PUBLIC ALLEY; THENCE S 88°52'58" E AS MEASURED (S 88°54'00" E AS RECORDED) ALONG SAID NORTHERLY LINE OF PUBLIC ALLEY, 20.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID "THE RUBY-N" SUBDIVISION; THENCE N 04°36'00" E ALONG SAID EASTERLY LINE OF "THE RUBY-N" SUBDIVISION, 432.79 FEET TO THE NE CORNER OF SAID SUBDIVISION; THENCE N 88°55'00" W ALONG THE NORTHERLY LINE OF THE SUBDIVISION, 477.77 FEET TO THE NW CORNER OF SAID SUBDIVISION; THENCE S 03°51'00" W ALONG THE WESTERLY LINE OF SAID SUBDIVISION TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD; THENCE S 88°53'39" E AS MEASURED (S 88°54'00" E AS RECORDED) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD 450.40 FEET TO THE POINT OF BEGINNING. CONTAINING 263,686 SQ. FT. OR 6.053 ACRES OF GROSS AREA (260,533 SQ. FT. OR 5.981 ACRES NET OF PROPOSED RIGHT-OF-WAY) OF LAND, MORE OR LESS. ALSO BEING SUBJECT TO ANY EASEMENTS, RESTRICTIONS OR CONDITIONS OF RECORD.

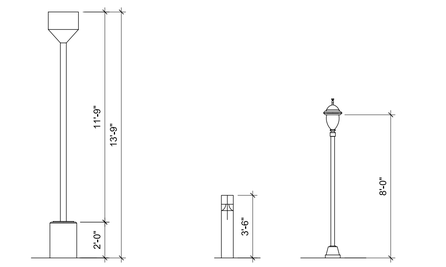
SIDWELL NO. 19-26-378-072

ZONING REQUIREMENTS

ITEM	REQUIRED	PROPOSED
PERMITTED LAND USE:	R-1 RESIDENTIAL	CHURCH (SPECIAL LAND USE)
SETBACKS: FRONT	25'-0"	122'-4""
SIDE	47'-9" (ONE SIDE) 119'-5" (TOTAL)	79'-7" (EXIST.) 217'-4" (EXIST.)
REAR	30'-0"	124'-3" (EXIST.)
BUILDING HEIGHT	MAX: 30'-0" (MIDPOINT OF SLOPED ROOF), 2 STORIES	
	EXISTING: 24'-0" APPROXIMATELY (MIDPOINT OF SLOPED SANCTUARY ROOF)	NEW: 27'-0" (MIDPOINTOF SLOPED SANCTUARY ROOF), 2 STORIES
STEEPLE HEIGHT:	EXISTING: 91'-7"	NEW: 85'-10"
MAXIMUM LOT COVERAGE	30% (79,106 SQ. FT.)	18% (49,140 SQ. FT.)
MINIMUM OPEN SPACE	40% (MIN. 65% UNPAVED AT FRONT OPEN SPACE)	105,480 S.F. / 263,686 S.F. = 40%
IMPERVIOUS SITE AREA (PARKING, SIDEWALKS, BUILDING)	158,206 SQ. FT.	
PERVIOUS SITE AREA (LAWN & LANDSCAPED AREAS, PARKING ISLANDS)	105,480 SQ. FT.	

BUILDING AREAS:	
EXISTING BUILDING (CURRENT, TOTAL)	41,619 SQ. FT.
EXISTING BUILDING (DEMOLITION)	6,558 SQ. FT.
NEW BUILDING ADDITION	10,671 SQ. FT.
TOTAL WITH ADDITION	45,732 SQ. FT.

PARKING		
REQUIRED PARKING (CHURCHES) ZONING ORD. SECTION 4, TABLE 'A' = 1 SPACE PER 6 FIXED SEATS	440 SEATS (MAIN LEVEL) + 74 SEATS (BALCONY) = 514, 514 / 6 SEATS = 86 SPACES	218 SPACES (INCLUDING 11 BARRIER-FREE SPACES)
TOTAL AREA - PARKING LOT:	80,456 SQ. FT.	
TOTAL AREA - INTERNAL LANDSCAPING:	7,026 SQ. FT.	
LANDSCAPE RATIO:	5% (MINIMUM)	7,026 / 80,456 SQ. FT. = 0.087 (8.7%)



EXISTING LIGHT POLE | EXISTING BOLLARD | EXISTING PEDESTRIAN LIGHT

2 AS-101 SITE LIGHTING DETAILS
SCALE: NONE

ISSUED:
11/15/19 DD PACKAGE
02/12/20 SPA PACKAGE
04/30/20 SPA COMMENTS
05/18/20 REVISED SPA SUBMITTAL

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LUTHERAN CHURCH OF THE REDEEMER

MAPLE ROAD
BIRMINGHAM, MICHIGAN

ARCHITECTURAL SITE PLAN

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Project No.	Sheet No.
15165	AS-101

24ACC6
Performance™ 16 Air Conditioner
with Puron® Refrigerant
1–1/2 to 5 Tons

Carrier — turn to the experts

Product Data



Puron® Performance® SERIES

Carrier's Air Conditioners with Puron® refrigerant provide a collection of features unmatched by any other family of equipment. The 24ACC has been designed utilizing Carrier's Puron refrigerant. The environmentally sound refrigerant allows you to make a responsible decision in the protection of the earth's ozone layer.

This product has been designed and manufactured to meet Energy Star® criteria for energy efficiency when matched with appropriate coil components. Refer to the combination ratings in the Product Data for system combinations that meet Energy Star® guidelines.

NOTE: Ratings contained in this document are subject to change at any time. Always refer to the AHRI directory (www.ahridirectory.org) for the most up-to-date ratings information.

INDUSTRY LEADING FEATURES / BENEFITS

Efficiency
- 14 - 16.5 SEER / 11.5- 13.5 EER
- Microtube Technology™ refrigeration system
- Indoor air quality accessories available

Sound
- Sound level as low as 72 dBA
- Compressor sound blanket standard

Comfort
- System supports Edge® Themidistat™ or standard thermostat controls

Reliability
- Puron® refrigerant – environmentally sound, won't deplete the ozone layer and low lifetime servce cost.
- Scroll compressor
- Internal pressure relief valve
- Internal thermal overload
- Filter drier
- High and low pressure switches
- Balanced refrigeration system for maximum reliability

Durability
WeatherArmor™ protection package:
- Solid, durable sheet metal construction
- Louvered coil guard
- Baked-on, complete outer coverage, powder paint

Applications
- Long-line – up to 250 feet (76.20 m) total equivalent length, up to 200 feet (60.96 m) condenser above evaporator, or up to 80 ft. (24.38 m) evaporator above condenser (See Longline Guide for more information.)
- Low ambient (down to -20°F/-28.9°C)) with accessory kit

gotham | E V O
Multiple Layers of Light

Luminaire Type:
Catalog Number:

General Illumination Round Downlight 6"

PERFORMANCE

Feature Set
- Bounding Ray™ optical design
- Unitized optics mechanically attach the light engine to the lower reflector for complete optical alignment.
- 45° cutoff to source and source image
- Fully serviceable and upgradeable lensed LED light engine
- 70% lumen maintenance at 60,000 hours
- 2.5 SDCM; 85 CRI typical, 90+ CRI optional
- Fixtures are wet location, covered ceiling
- Available with 10% dimming, 1% dimming, or dim to dark
- Batwing distribution with feathered edges provides even illumination on horizontal and vertical surfaces
- ENERGY STAR® certified product


250 - 8,000 lumens


10,000 - 17,500 lumens

Distribution



Superior Performance

Nominal Lumens	250	500	750	1000	1500	2000	2500	3000	3500	4000	4500	5000	6000	8000	10,000	12,000	15,000	17,500
Delivered Lumens	257	519	776	994	1471	1906	2537	3077	3540	4027	4533	5256	6371	8047	10637	12332	15776	17801
Wattage	2.4	4.2	8.2	9.6	14.7	19.7	26.7	29.5	33.8	39.0	47.3	48.7	57.6	74.9	97.1	115.0	150.9	175.3
Lumens per Watt	87.4	80.7	94.6	103.5	100.1	101.8	102.7	104.3	104.8	103.3	95.8	107.9	110.6	110.1	109.5	107.2	104.5	101.5

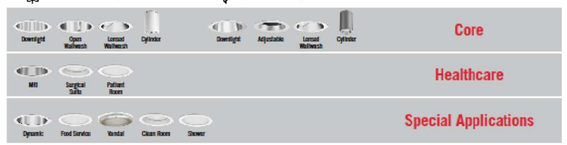
Coordinated Apertures | Multiple Layers of Light


General Illumination Layer | EVO


High Center Beam Layer | Incino


EVO + Incino — Multiple Layers of Light

COMPLIMENTARY PRODUCTS



EVO6-OPEN
page 1 of 3

GOTHAM ARCHITECTURAL DOWNLIGHTING | 1400 Lester Road Conyers, GA 30012 | P 800-705-SERV (7378) | gothamlighting.com
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LT30 Luminaires



LT30 D

SPECIFICATIONS

DESCRIPTION
The octagonal shaped luminaire shall consist of a luminaire base with an integral ballast housing, an eight-sided lens frame, eight lens panels, an octagonal shaped hinged roof, and a spiked finial.

DIMENSIONS
Fixture dimensions shall be as detailed on back page.

MATERIALS
The luminaire base, ballast housing, frame assembly, roof, and finial shall be heavy wall, copper free, cast aluminum produced from certified ASTM 356.1 ingot per ASTM B-179-95A or ASTM B26-95, formed true to the pattern with complete detail. Lens panels shall be smooth, textured, or prismatic. Lenses are available in clear polycarbonate or clear acrylic. Internal refractors shall be borosilicate glass and reflectors shall be polished aluminum. All hardware shall be stainless steel. All exterior hardware shall be tamper resistant.

INSTALLATION
The luminaire shall mount on a 3" O.D. x 3" tenon with six 1/4" dia. socket set screws. The ballast and socket assembly shall be furnished with a quick disconnect plug and mount on a removable ballast plate. The ballast plate shall be removed by loosening a thumb screw.

FINISH
For finish specifications and color options see **"Finish"** section in catalog.

LIGHT SOURCE
Luminaires shall be furnished with an H.I.D. ballast and socket assembly. Luminaire shall be UL listed and labeled as suitable for wet locations. Sockets shall be glazed porcelain, mogul or medium base, with a copper alloy nickel plated screw shell and center contact. Ballast shall be core and coil, high power factor, regulating type.

CERTIFICATION
Upon request, manufacturer shall certify the use of 356.1 ingot alloy. Upon request, manufacturer shall supply UL file# and listing information.

ANTIQUE Street Lamps
201 NEW Rundberg Ln • Austin, TX 78758
Ph (512) 977-8444 • Fax (512) 977-5622

L-33

GROUND-MOUNTED A/C CONDENSERS

TYPICAL FOR 5 UNITS. SIZE: 35" X 35" X 46" HIGH
LOCATION: SOUTH OF NEW WEST WING BUILDING ADDITION.

BUILDING ILLUMINATION AT ENTRANCES

NEW LIGHTING FIXTURE TYPE 'A'
LOCATIONS: SEE PHOTOMETRIC PLAN

DECORATIVE SITE LIGHTING

NEW LIGHTING FIXTURE TYPE 'SD'
LOCATIONS: SEE PHOTOMETRIC PLAN

NOTE:

REFER TO SHEET AS-101 FOR DESCRIPTION OF EXISTING SITE LIGHTING FIXTURES TO REMAIN.

REFER TO SITE PHOTOMETRIC SHEET FOR LOCATIONS AND ADDITIONAL DESRIPTIONS OF SITE LIGHTING FIXTURES.

ISSUED:
02/12/20 SPA PACKAGE
05/18/20 REVISED SPA SUBMITTAL

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BIRMINGHAM, MICHIGAN

NEW SITE COMPONENTS

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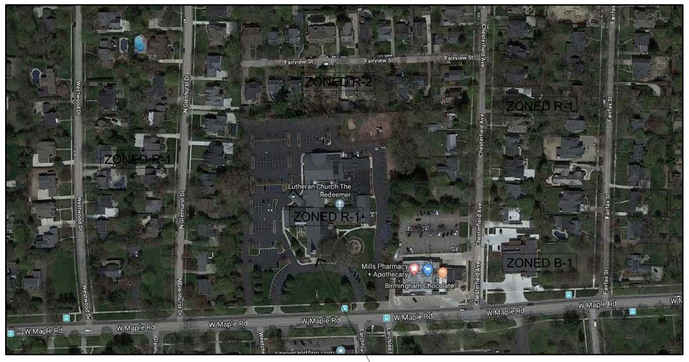
Project No.	Sheet No.
15165	AS-102



FRONT OF SANCTUARY



EXISTING LUTHERAN CHURCH
OF THE REDEEMER STRUCTURE

AERIAL SITE PLAN



FRONT OF SANCTUARY



WEST WING AND COLUMBARIUM



WEST ENTRANCE



WEST PARKING LOT



EAST WING



EAST PARKING LOT



EAST WING AND GARDEN

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SITE PHOTOS & AERIAL PLAN

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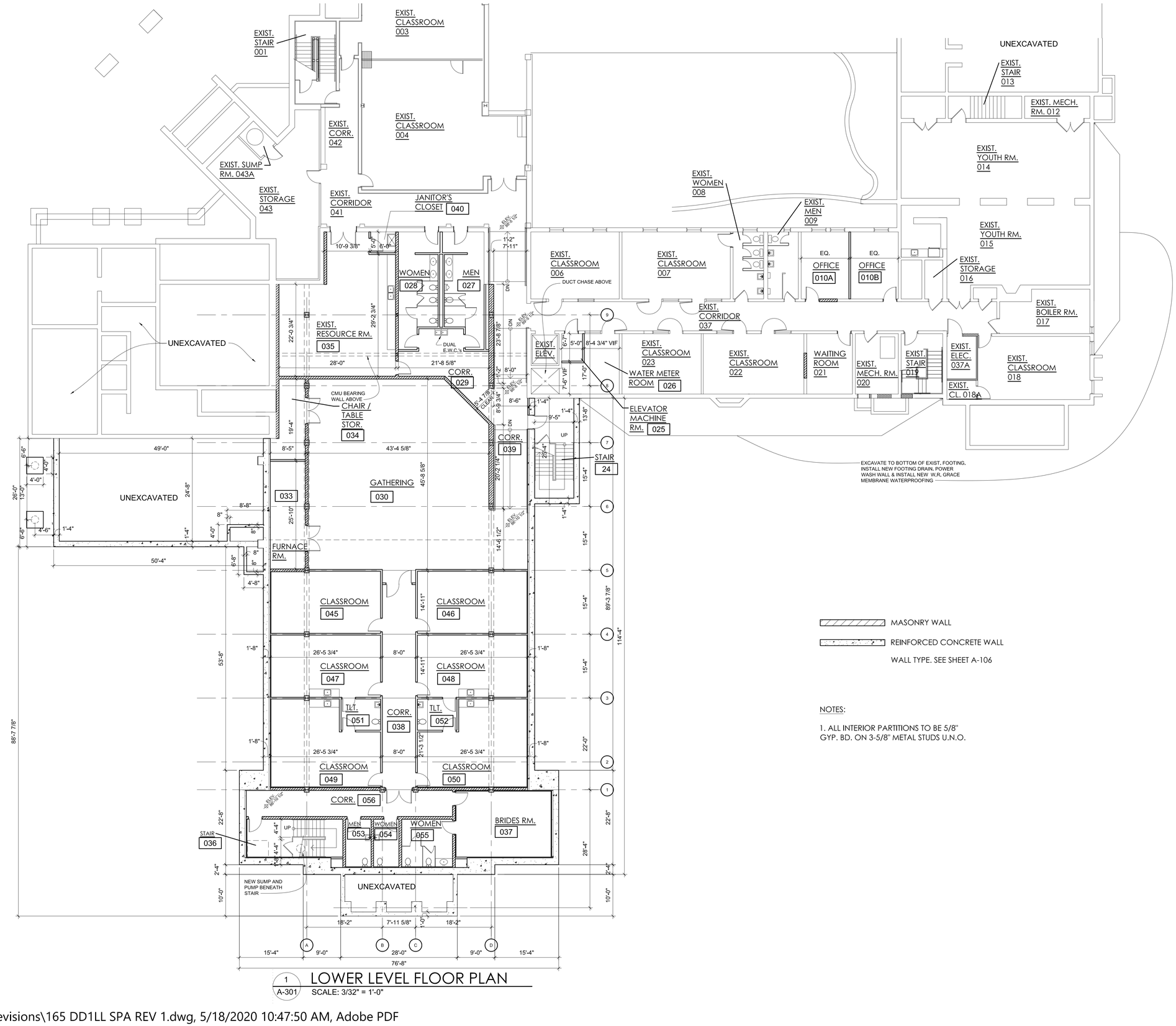
Project No.	Sheet No.
15165	A-002



NOTES:

1. ALL INTERIOR PARTITIONS TO BE 5/8" GYP. BD. ON 3-5/8" METAL STUDS U.N.O.

1 A-301 LOWER LEVEL FLOOR PLAN
SCALE: 3/32" = 1'-0"

ISSUED:
04/01/19 PARTIAL D.D.
11/15/19 DD PACKAGE
02/12/20 SPA PACKAGE
05/18/20 REVISED SPA SUBMITTAL

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LOWER LEVEL FLOOR PLAN

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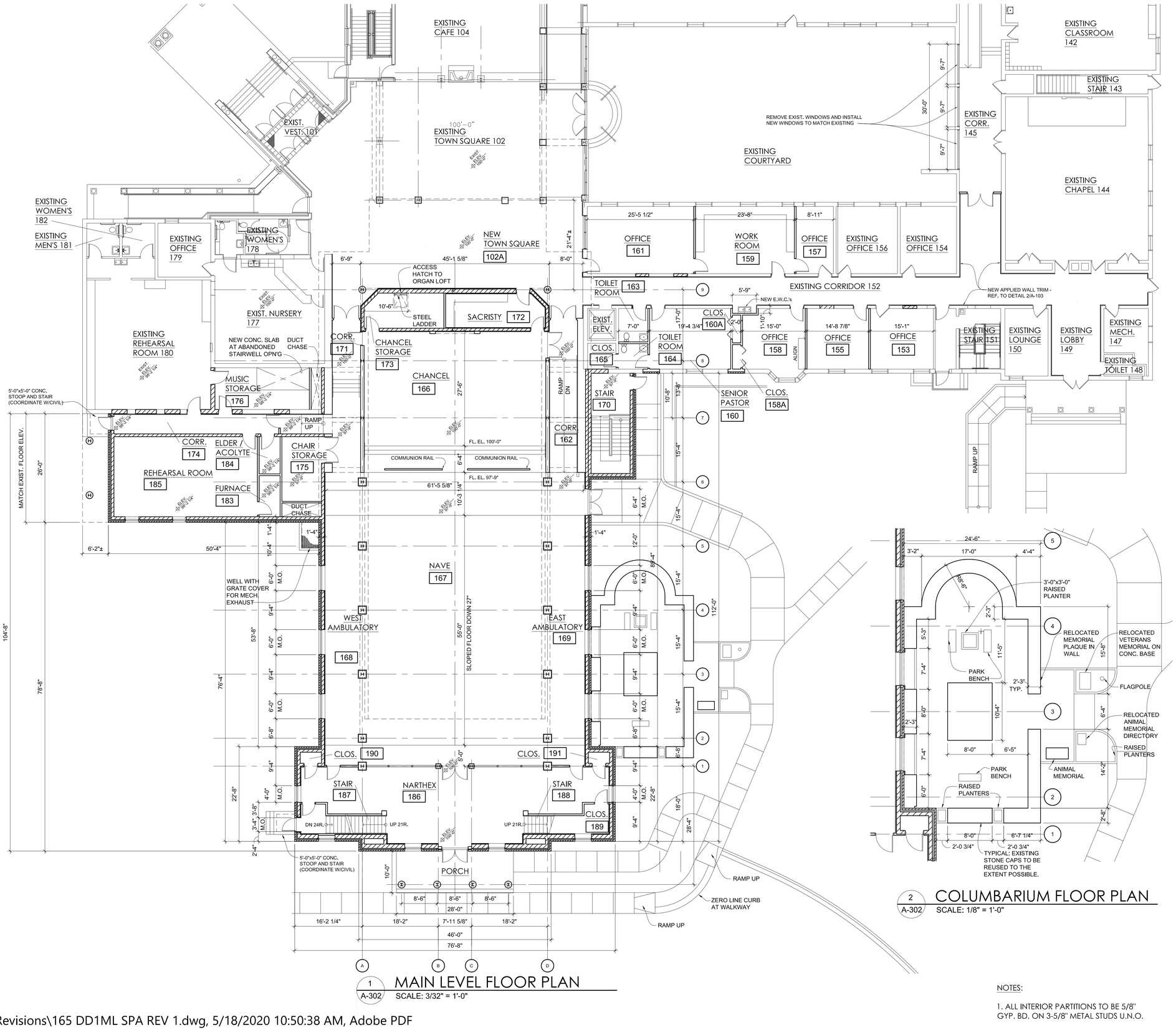
Project No.	Sheet No.
15165	A-301



1 A-302 MAIN LEVEL FLOOR PLAN
SCALE: 3/32" = 1'-0"

2 A-302 COLUMBARIUM FLOOR PLAN
SCALE: 1/8" = 1'-0"

NOTES:

1. ALL INTERIOR PARTITIONS TO BE 5/8" GYP. BD. ON 3-5/8" METAL STUDS U.N.O.

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MAIN LEVEL FLOOR PLAN

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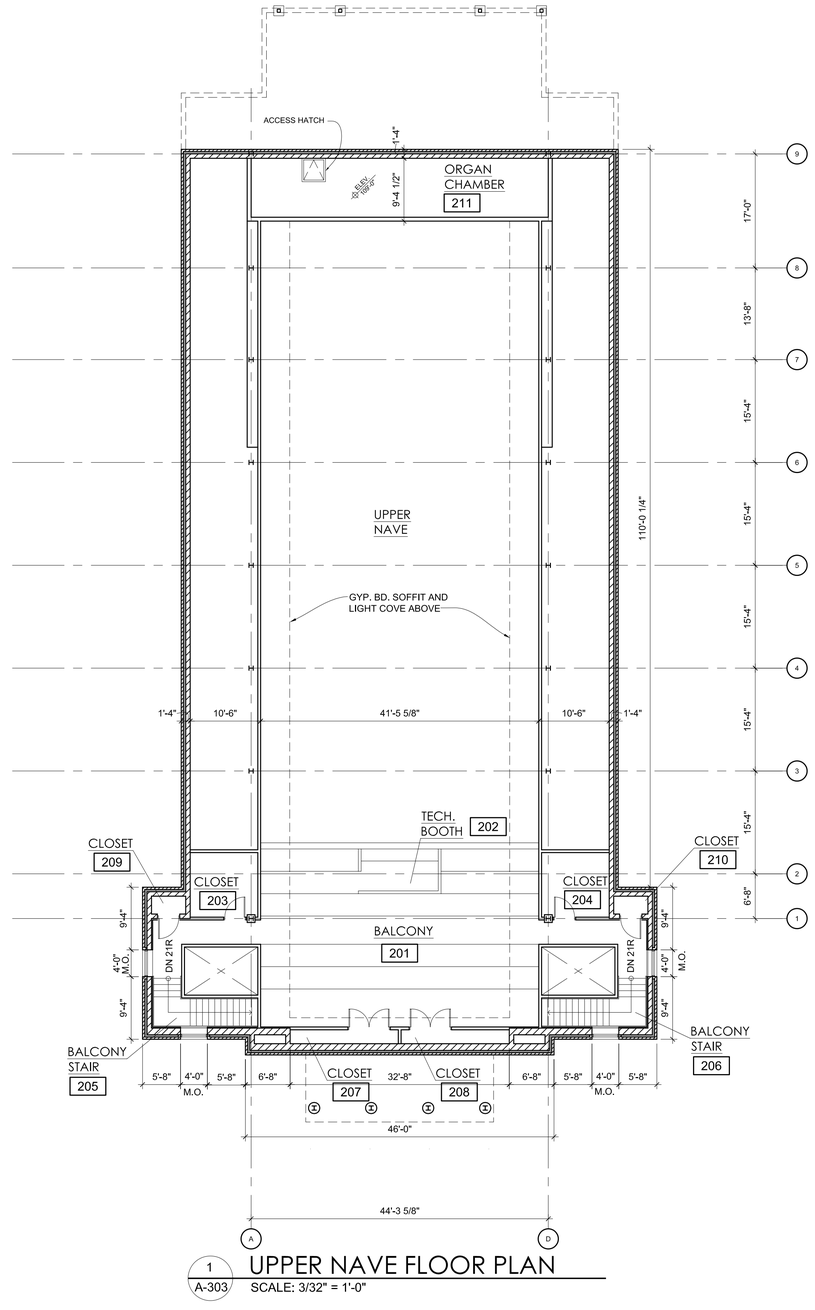
Project No.	Sheet No.
15165	A-302



UPPER NAVE FLOOR PLAN

SCALE: 3/32" = 1'-0"

ISSUED:
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UPPER NAVE FLOOR PLAN

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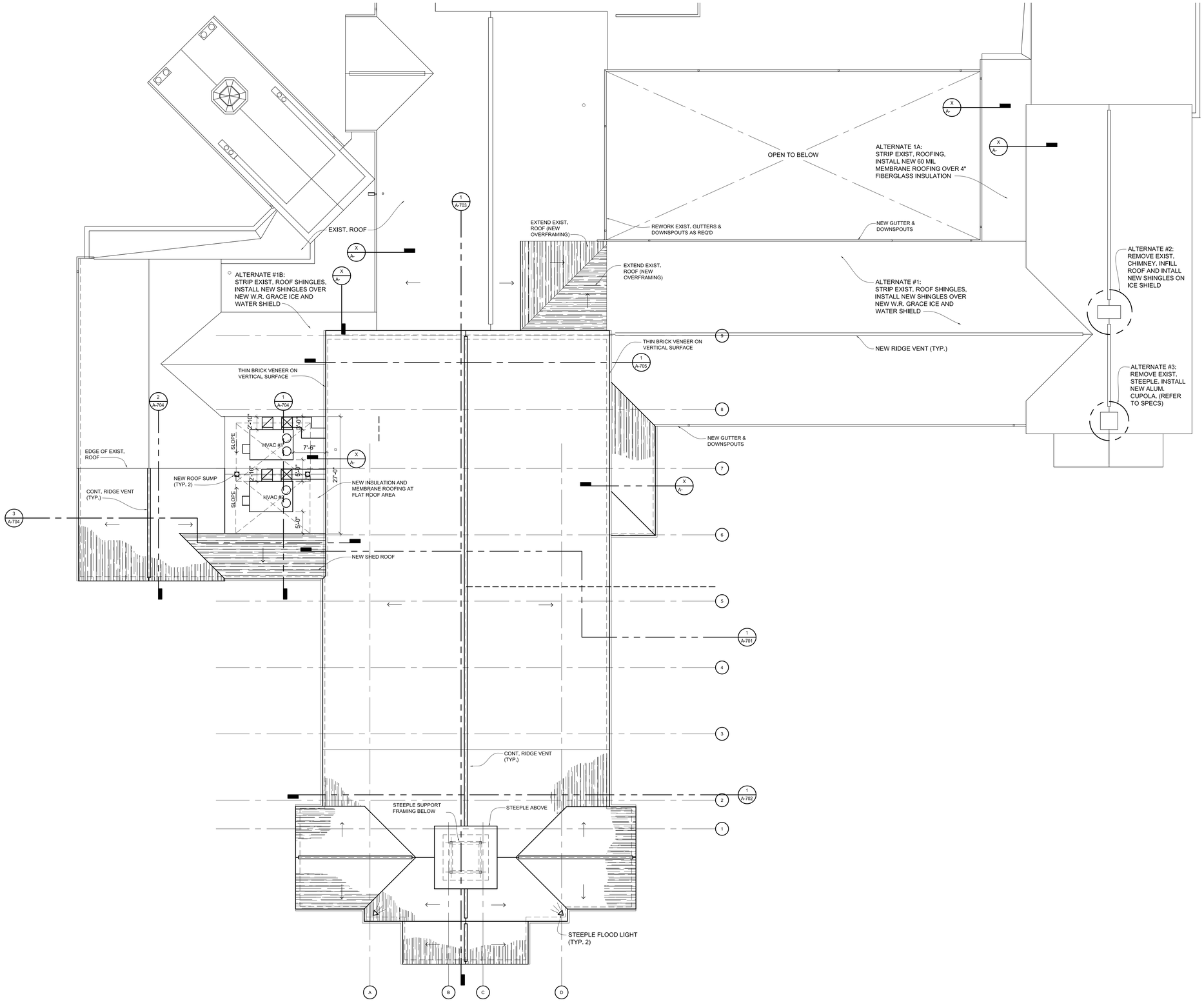
Project No.	Sheet No.
15165	A-303



1 PARTIAL ROOF PLAN
A-501 SCALE: 3/32" = 1'-0"

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ROOF PLAN

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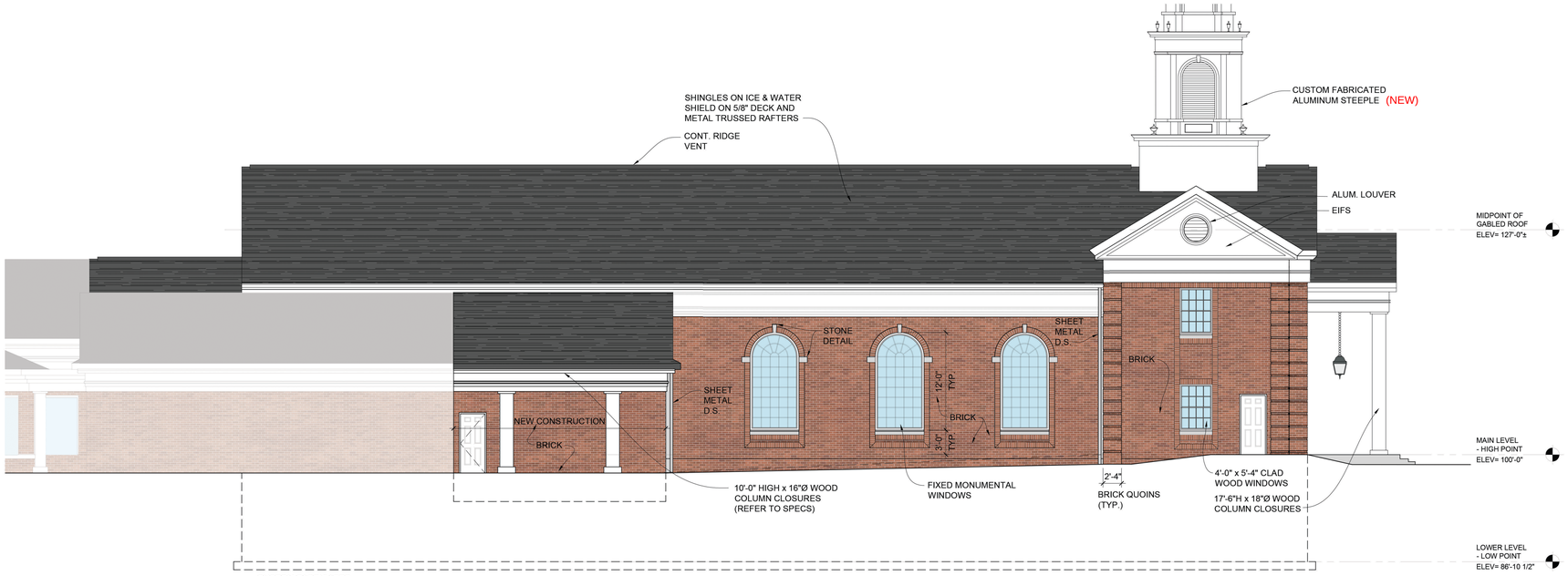
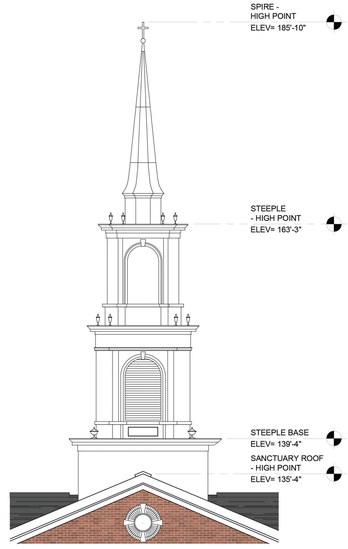
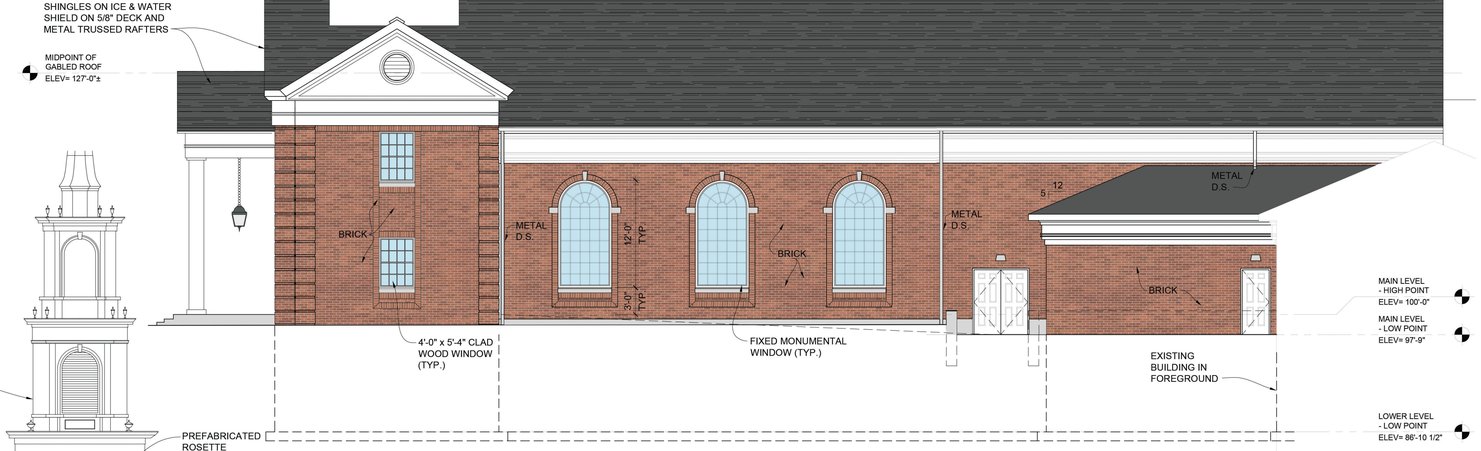
Project No.	Sheet No.
15165	A-501



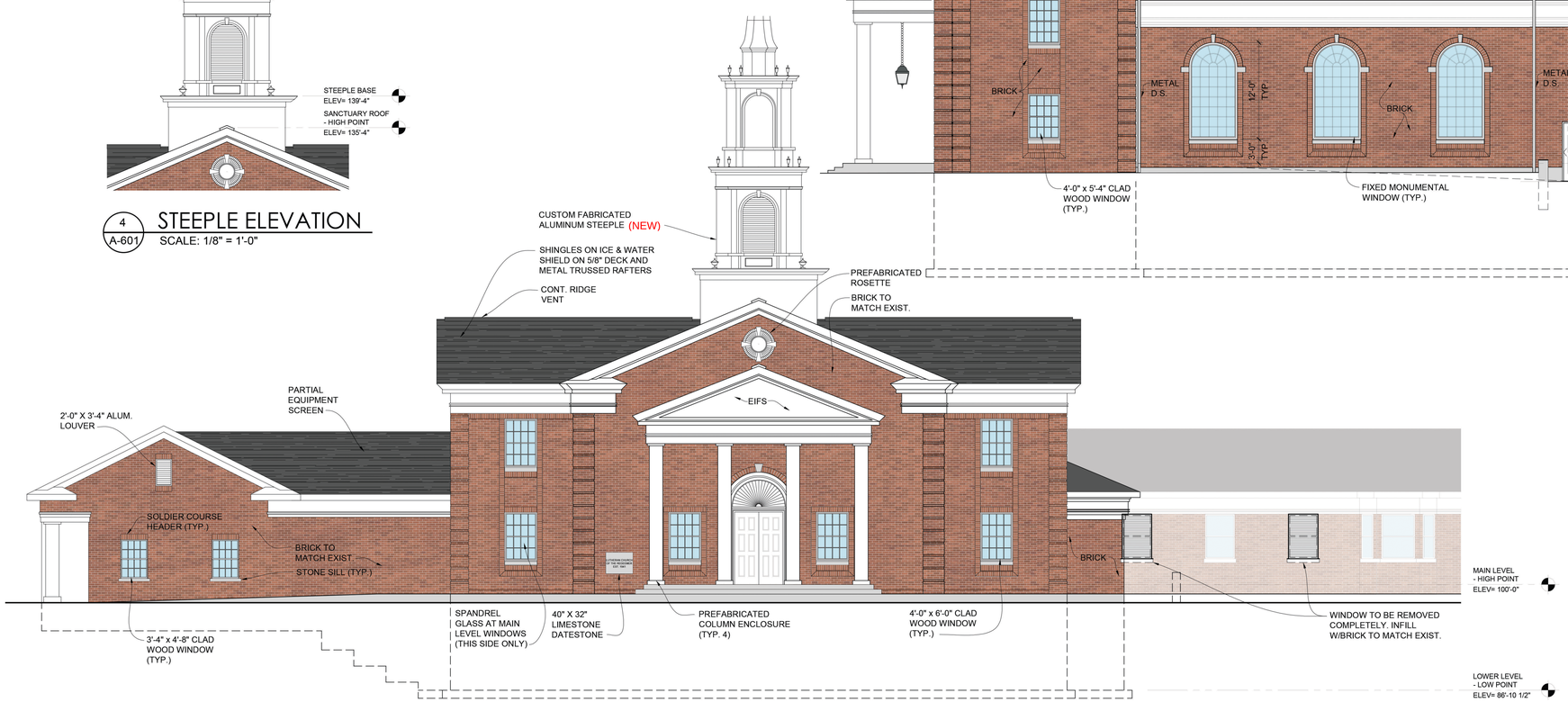
2 A-601 **WEST ELEVATION**
SCALE: 1/8" = 1'-0"



4 A-601 **STEEPLE ELEVATION**
SCALE: 1/8" = 1'-0"



3 A-601 **PARTIAL EAST ELEVATION**
SCALE: 1/8" = 1'-0"



1 A-601 **SOUTH ELEVATION**
SCALE: 1/8" = 1'-0"

MATERIAL LIST

BRICK	BELDEN BRICK CO., "BERWICK", MODULAR
SHINGLES	CERTAINTEED TRADITIONAL XT 30
DECORATIVE TRIM	FYPON SYNTHETIC TRIM
WINDOWS / EXTERIOR DOORS	PELLA, ALUMINUM-CLAD WOOD WINDOWS AND DOORS, PROLINE
DOORS (UTILITY LOCATIONS)	HOLLOW METAL, PAINTED
WOOD COLUMNS	HARTMANN-SANDERS, WESTERN RED CEDAR, PAINTED
EIFS	DRYVIT, SAND PEBBLE - FINE FINISH COLOR: #310 CHINA WHITE, #356 RED CLAY

ISSUED:
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EXTERIOR ELEVATIONS

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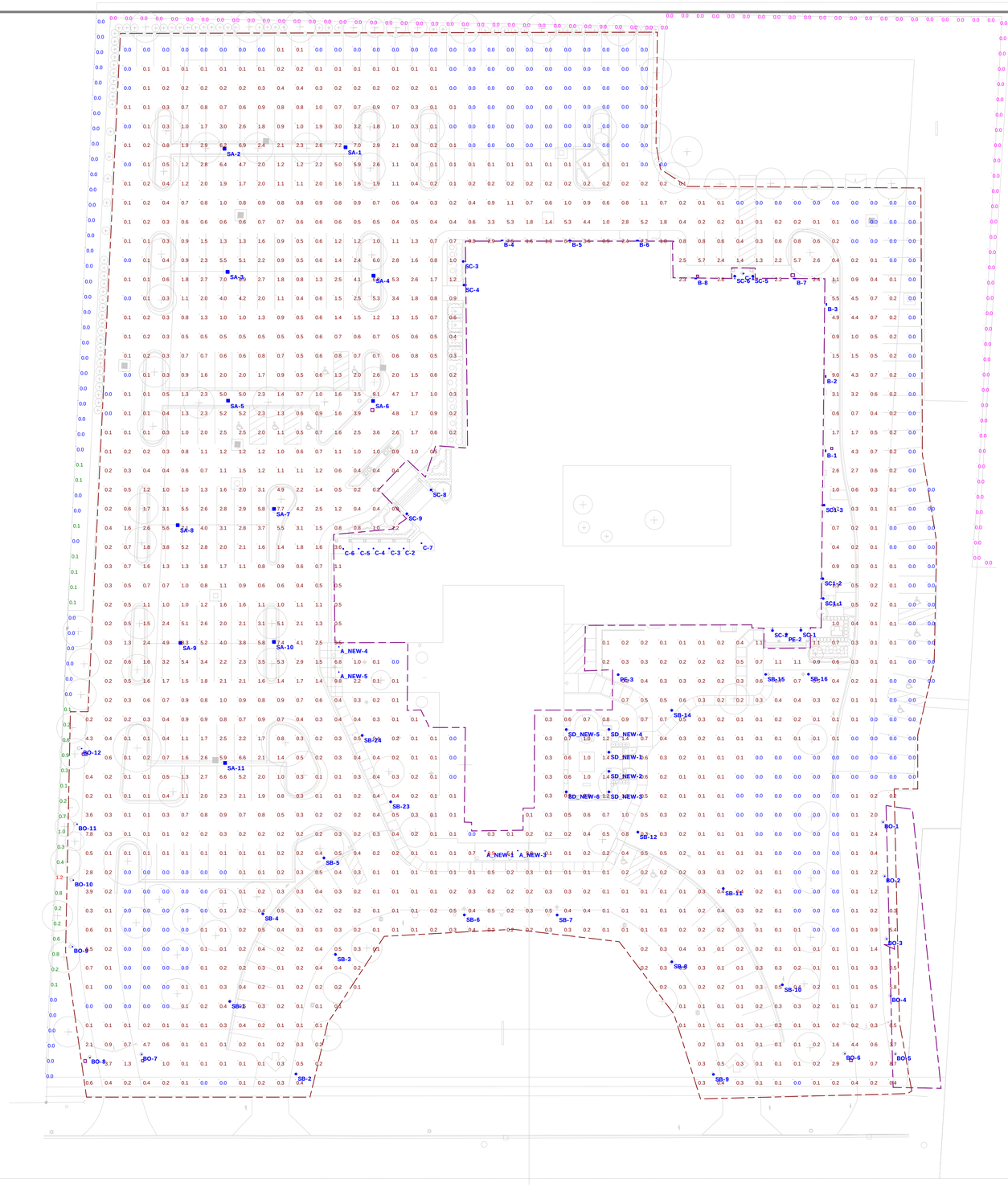
Project No.	Sheet No.
15165	A-601



Plan View
Scale - 1" = 30ft

Statistics

Description	Symbol	Avg	Max	Min	Max / Min	Avg / Min
BLOOMFIELD TOWNSHIP	+	0.1 fc	1.2 fc	0.0 fc	N/A	N/A
PARKING, DRIVES, WALKS	+	0.8 fc	9.9 fc	0.0 fc	N/A	N/A
RESIDENTIAL PROPERTY LINE	+	0.0 fc	0.0 fc	0.0 fc	N/A	N/A

Schedule

Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Lamp	Lumens Per Lamp	Light Loss Factor	Wattage
	SA	11	LITHONIA LIGHTING	KKS 150S R5S	POST-TOP TYPE V,SHORT,CUTOFF - SQUARE HOUSING	ONE 150-WATT CLEAR ET-23.5 HIGH PRESSURE SODIUM, HORIZONTAL POSITION.	16000	0.65	189
	BO	12	Lithonia Lighting	KBR6 70S R5	6 IN ROUND BOLLARD	ONE 100-WATT CLEAR E-17 HIGH PRESSURE SODIUM, VERTICAL BASE-DOWN POSITION.	6300	0.65	94
	SB	17	Antique Street Lamps	LT30 40W GR3 ACT	8-SIDED LANTERN WITH TEXTURED PANELS AND TYPE III REFRACTOR.	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	150
	PE	2	Antique Street Lamps	LT30 40W GR3 ACT	DECORATIVE PENDANT WITH TEXTURED PANELS	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	120
	SC	8	Antique Street Lamps	LT30 40W GR3 ACT	SCONCE WITH TEXTURED PANELS	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	120
	SC1	3	Antique Street Lamps	LT30 100W A19 ACT	SCONCE WITH TEXTURED PANELS	ONE 100W A19 MEDIUM BASE LAMPS, VERTICAL BASE-DOWN	1730	0.81	120
	B	8	Lithonia Lighting	WST 100S FT	ARCHITECTURAL SCONCE WITH FORWARD THROW DISTRIBUTION WITH CLEAR, FLAT GLASS LENS. CLEAR LAMP. MEETS THE 'NIGHTTIME FRIENDLY' CRITERIA	ONE 100-WATT CLEAR ED-17 HIGH PRESSURE SODIUM, HORIZONTAL POSITION.	9000	0.65	135
	C	7	Gotham Architectural Lighting	LGF 42TRT 8RW FFL	8" HORIZONTAL RECESSED DOWNLIGHT, 42W TRIPLE TUBE COMPACT FLUORESCENT LAMP, WHITE PAINTED REFLECTOR, WITH FLAT FRESNEL LENS (FFL)	ONE 42-WATT COMPACT FLUORESCENT TRIPLE TUBE, HORIZONTAL POS.	3200	0.81	48
	SD_NEW	6	Antique Street Lamps	LT30 40W GR3 ACT	8-SIDED LANTERN WITH TEXTURED PANELS AND TYPE III REFRACTOR.	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	150
	A_NEW	4	Gotham Architectural Lighting	EVO 35/15 6AR WD LS	3500K, 1500LM, CRI80, 6IN CLEAR, WIDE DIST, SPECULAR	LED	1622	0.85	18.5

Lutheran Church Of The Redeemer
Birmingham, MI
Existing site lighting photometrics with new Columbarium and two canopies light fixtures

Designer	
WZ	
Date	
Nov 08 2019	
Scale	
As Indicated	
Drawing No.	
Summary	

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **April 22, 2020**

TO: **Planning Board Members**

FROM: **Brooks Cowan, City Planner**

APPROVED: **Jana Ecker, Planning Director**

SUBJECT: **1800 W. Maple Final Site Plan and Design Review and SLUP Amendment**

The subject property is located on the north side of W. Maple Road between N. Glenhurst and Chesterfield Avenue. The applicant is proposing an addition to the church to accommodate a larger sanctuary space. Religious Institutions such as Lutheran Church of the Redeemer may operate in an R-1 Zone with a Special Land Use Permit, which the applicant received in 1991.

The applicant is renovating 11,243 square feet of the church while creating an additional 3,791 square feet of usable space which is an 8.3% increase, therefore does not need a CIS. The changes and additions are for expanding the sanctuary space including the narthex, nave, ambulatory room, chance and the balcony. The renovations also expand office capacity and an additional waiting room.

Exterior changes include an enhanced front gable and pediment along with sidewalk improvements, barrier free ramps, landscaping and the relocation of a columbarium. At this time, the applicant is seeking the Planning Board's recommendation for approval of the Final Site Plan and a Special Land Use Permit Amendment to the City Commission.

1.0 Land Use and Zoning

1.1 Existing Land Use -The site is zoned R-1, Single Family Residential. The current occupant is a religious institution operating with a SLUP.

1.2 Existing Zoning - Currently zoned R-1, Single Family Residential, the existing use is a permitted use with a Special Land Use Permit.

1.3 2016 Regulating Plan - The subject site is not located within the Downtown Birmingham Overlay District.

1.4 Summary of Land Use and Zoning - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site, including the proposed 2016 Regulating Plan zones.

	North	South	East	West
Existing Land Use	Single Family Residential	Single Family Residential	Commercial	Single Family Residential
Existing Zoning District	R-2 Single Family Residential	P – Parking O1 – Office R-1 Single Family Residential	P – Parking O1 – Office R-1 Single Family Residential	(Bloomfield Township)

2.0 Setback and Height Requirements

The proposed project appears to meet all of the bulk, area, height and placement requirements. The church steeple and spire is grandfathered in for the height limits. Please see attached zoning summary sheet for further details.

3.0 Screening and Landscaping

3.1 Dumpster Screening – No changes proposed. The dumpster is currently enclosed with a 6' masonry screen wall to match the existing church, and a 6' high pressure treated wooden gate.

3.2 Parking Facility Screening – Article 05, Section 4.54 (B)(7) of the Zoning Ordinance require all parking facilities that immediately adjoin the rear or side lot line of property zoned to a residential classification be screened with a 6' high masonry wall. Currently, the majority of the parking area is screened along the north, east and west property lines with 6' wooden privacy fencing and various types of vegetation.

On May 14th, 1991, A variance was granted from the Board of Zoning Appeals to permit a 6 foot wooden fence to be used as parking lot screening along the west, north and east property lines. On April 12, 2005, The Board of Zoning Appeals granted a variance to eliminate screening requirements on the first 240 feet of the west property line and to use existing vegetative screening in lieu of a fence. Minutes from both BZA meetings are provided below.

In accordance with section 4.54 (D)(3) of the Zoning Ordinance, screening is not required along the east property line where the proposed parking facility abuts the parking area for the commercial strip plaza next door to the subject site.

Section 4.54 (C)(3)(a) of the Zoning Ordinance requires that the front or side of any parking facility that abuts a street be screened with a 32" high masonry wall placed along the front setback line. Article 04, Section 4.54(D)(1) of the Zoning Ordinance further states that when screening is placed along a front setback line, the resulting

front yard shall be void of all parking and storage and must be landscaped. **The applicant appeared before the Board of Zoning Appeals on April 12, 2005 at which time they received variances for the 32" masonry screen walls along the front setback line to screen the parking areas in front of the church and to allow the front 2 parking spaces (4 total) on either side of the curved driveway to extend into the 25' front yard.**

3.3 Mechanical Screening – Five ground mounted condensers are proposed on the west side of the building facing Maple Road. The mechanical units 36" x 36" and are screened by Emerald Green Arborvitae 5 feet in height. There are two rooftop mechanical units on the western side of the new renovation. The mechanical units are obscured by the slope of the roof.

3.4 Landscaping - The applicant is proposing to remove 14 trees to accommodate for the expansion of the building. New additions will be surrounded by a landscaping bed with 78 Winter Gem Boxwoods, 54 Green Mound Alpine Currants and 21 Emerald Arbor Vitae. The front entrance and side courtyard will also have enhanced landscaping with 15 Karl Foester Reed Grass perennials, 12 Risky Business Hostas and 23 Creeping Lilyturf plants.

11 new trees will be planted on the eastern side of the building. 5 Skyline Honey Locusts will be planted along the eastern parking lot entrance, while 3 Eastern Hemlocks, 2 Pink Flair Flowering Cherry trees and 1 Marilee Crabapple tree will be planted along the eastern side of the church.

Although the subject property is zoned R-1 and is not subject to parking lot landscaping requirements, that applicant currently has 7,026 square feet of landscaping in their 80,465 square foot parking lot which is an 8.7% coverage rate.

4.0 Parking, Loading, Access, and Circulation

4.1 Parking – Article 04, Section 4.46 of the Zoning Ordinance requires one (1) space for every six fixed seats in a church. The church has 514 fixed seats, therefore 86 parking spaces are required on site. No changes to the parking lot are proposed. The applicant has 218 spaces on site, 11 of which are barrier free. All of the proposed parking spaces meet the 180 square feet size requirement.

Article 04, section 4.53(C)(3) of the Zoning Ordinance states that when screening is required along a front setback line, screenwall shall be placed along the setback line. **The applicant appeared before the Board of Zoning Appeals on April 12, 2005 at which time they received variances for the 32" masonry screen walls along the front setback line to screen the parking areas in front of the church and to allow the front 2 parking spaces on either side of the curved driveway to extend into the 25' front yard.**

4.2 Loading – No changes

4.3 Access & Circulation – The front entrance circle drive is being narrowed to a 20 foot width to accommodate the new walkway along the expanded front entrance. A new walkway surrounding the front and side of the building is proposed to connect to ADA accessible ramps on the east and west side of the nave and chance.

The property has four curb cuts, two of which provide access to the rear parking lot, the other two providing ingress and egress to the front circle drive. **It is of note that the proposed walkway improvements connect to the front circle drive as well as the side and rear parking lots, but there is no walkway connecting to the entrance at the public sidewalk.**

5.0 Lighting

The applicant is proposing 10 new lights to be installed along the new walkway and columbarium. Six of the lights are proposed to be 150 watt 8-sided lanterns with textured panels and cadalabra vertical base-down lamps made by Antique Street Lamps. Four new Gotham 6-inch specular lights are also proposed; two above the front entrance and two above the side entrance on the west.

As this property is zoned R-1, the Lighting Standards of Section 4.21 of the Zoning Ordinance are not applicable, although the Planning Board may wish to require conditions for SLUP approval. The applicant has provided a photometric plan and lighting specs for their expansive property and parking lot.

The foot-candle ratio is 12.3:1 for circulation areas which satisfies the Zoning Ordinance's requirement of 20:1 or less. The existing light poles are all below 13' and are full cutoff luminaires, therefore satisfying the ordinance requirements.

6.0 Departmental Reports

6.1 Engineering Division – Engineering Department has no comments at this time.

6.2 Department of Public Services – No concerns were reported at this time.

6.3 Fire Department - No concerns were reported at this time.

6.4 Police Department - Comments to be provided by April 22nd, 2020.

6.5 Building Department – No concerns were reported at this time.

7.0 Design Review

The proposed sanctuary space is meant to be more accommodating for larger events. The expanded narthex provides more gathering space before and after services while the expansion of the east and west ambulatory and balcony provides greater seating capacity.

The new exterior will mainly be composed of "Berwick" modular brick from Belden Brick Co to match the existing brick. The expanded entrance will have four columns made of western red cedar wood that will be painted white. These columns are attached to a white pediment on a gabled roof. The plans indicate sand pebble - fine finish EIFS material on the front of the pediment as well as the east and west exteriors of the expanded Narthex. The sand pebble fine finish EIFS is meant to match the material above the town hall entrance on the west side of the building. The front façade is proposed to have spandrel glass with aluminum-clad wood, stone sills and soldier course headers. The sanctuary is complimented by a 50 foot steeple and spire that is grandfathered in for the height limits. The east and west sides of the sanctuary will have monument windows surrounded by stone detail and soldier course brick. Two windows are proposed to be removed and infilled with brick to accommodate the relocation of offices to the area connecting the sanctuary to the chapel. The roof edges will have a decorative white synthethic trim. A new rehearsal room will be constructed on the west side of the building that is complemented by two columns and an entryway to the side of the parking lot.

The columbarium will be moved from the west side of the chapel to the east side. The project architect has indicated the Church is contracting with a cemetery operator to assist with the relocation of the remains. The columbarium remains will be accompanied by various planters and benches. The entryways for the sanctuary, chapel, columbarium, and rehearsal room will be enhanced by a new walkway surrounded by new landscaping and additional antique lamps.

8.0 Approval Criteria for Final Site Plan

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

(1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.

(2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

(3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.

(4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.

(5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.

(6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

9.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed for the site described in the application of amendment.

The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

10.0 Recommendation

Based upon review of the Final Site Plan submitted, the Planning Division recommends that the Planning Board recommend approval to the City Commission for the Final Site Plan and Special Land Use Permit Amendment for 1800 W. Maple.

10.0 Sample Motion Language

Motion to recommend approval to the City Commission for the Final Site Plan for 1800 W. Maple.

AND

Motion to recommend approval to the City Commission for the Special Land Use Permit Amendment.

OR

Motion to recommend denial to the City Commission for the Special Land Use Permit Amendment and the Final Site Plan for 1800 W. Maple.

OR

Motion to postpone action on the requested Special Land Use Permit Amendment and the Final Site Plan for 1800 W. Maple, pending receipt of the following:

1) _____

2) _____

3) _____.

SUMMARY SHEET
FINAL SITE PLAN AND DESIGN REVIEW
1800 W. Maple – Lutheran Church of the Redeemer
April 22, 2020

Zoning: R-1, Single Family Residential

Adjacent Zoning:

	North	**South**	**East**	**West**
Existing Land Use	Single Family Residential	Single Family Residential	Commercial	Single Family Residential
Existing Zoning District	R-1 Single Family Residential	R-1 Single Family Residential	B-1, Neighborhood Business	R-1 Single Family Residential

Land Area:	existing:	263,686 square feet or 6.053 acres
Minimum Lot Area:	required:	9,000 square feet
Front Setback:	required:	25 feet
	proposed:	122.67 feet
Side Setback:	required:	45 feet minimum per side, 112 feet total
	proposed:	79.63 feet on the west side; 137.65 on the east side, 217.3 feet total
Rear Setback:	required:	30 feet
	proposed:	124.3 feet
Lot Coverage:	permitted:	30% or 79,105 square feet
	proposed:	19% or 49,140 square feet
Minimum Open Space:	required:	40% or 105,474 square feet
	proposed:	40% or 105,480 square feet

Max. Height:	permitted:	30 feet to the midpoint, 2 stories
	existing:	27 feet to the midpoint, (Steeple and Spire are grandfathered in)
Loading:	required:	N/A
	proposed:	N/A

The applicant received a variance for the loading space requirement from the Board of Zoning Appeals on April 12, 2005.

Parking:	required:	1 space / 6 fixed seats = 86 (514 fixed seats)
	proposed:	218, including 11 barrier free spaces

The applicant received a variance from the Board of Zoning Appeals to allow 4 parking spaces within the 25 foot front setback on April 12, 2005.

Parking Lot Screening:	required:	6 feet high masonry screen wall around all parking facilities that adjoin the side or rear lot line of residential areas. 32" high masonry screen wall around all parking facilities that abut a street.
	proposed:	6 foot wood fence and vegetation

A variance was granted from the Board of Zoning Appeals on May 14, 1991 to permit the wood fence to be used as parking lot screening along the west, north and east property line. An additional variance was received from the BZA on April 12, 2005 to allow the western property line to be screened with vegetation, and to omit screening requirements along the front setback on W Maple.

Landscaping:	required:	N/A
	Proposed:	8.7% parking lot landscaping coverage
Dumpster Screening:	required:	6-foot high masonry screen wall with wooden doors
	proposed:	Existing

OLD PLANS REVIEWED BY THE PLANNING BOARD

SITE PLAN APPROVAL PACKAGE

LUTHERAN CHURCH OF THE REDEEMER

1800 W. MAPLE ROAD
BIRMINGHAM, MICHIGAN

PROJECT NO. 15165



LOCATION MAP
NO SCALE

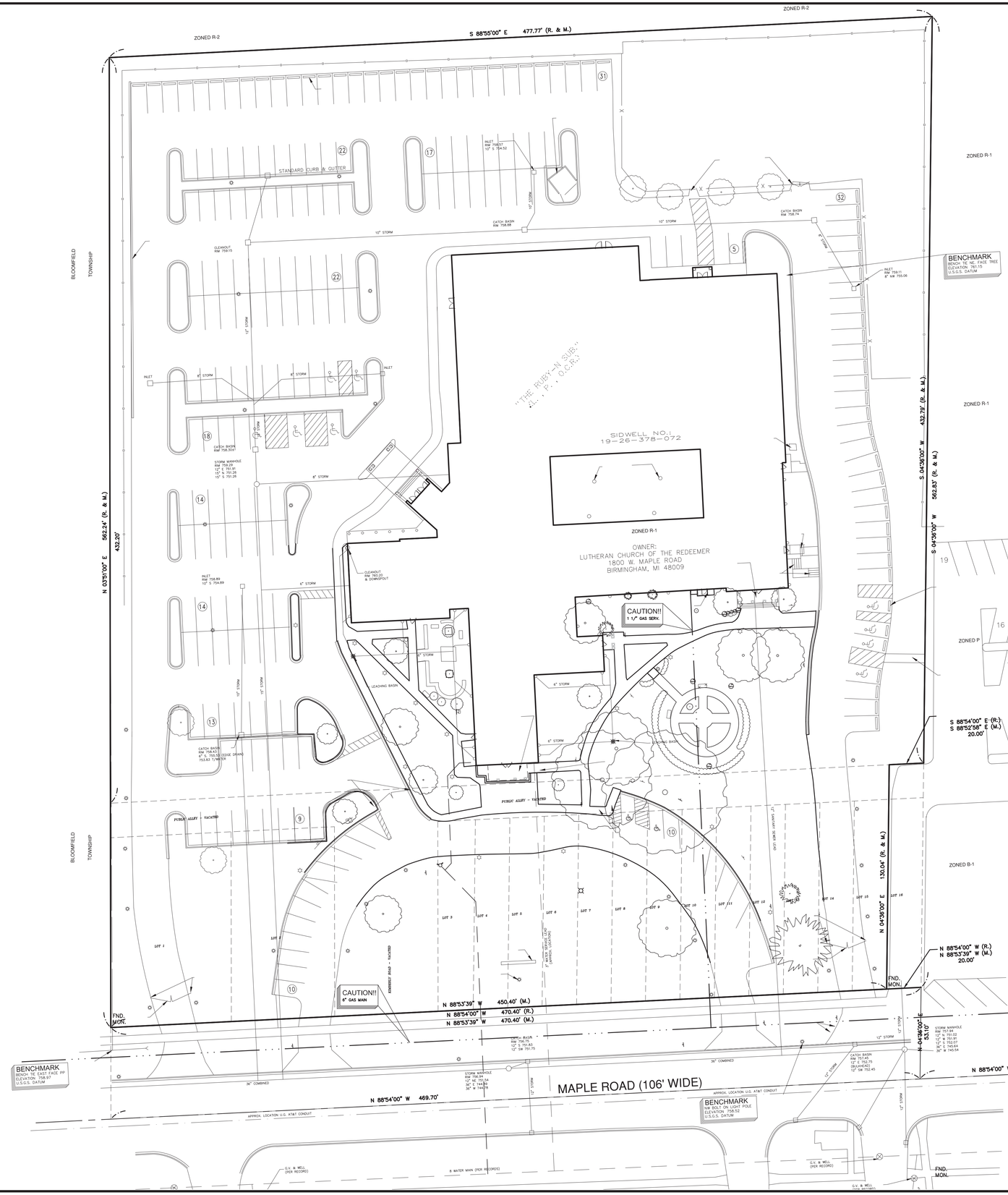
INDEX OF DRAWINGS:

C1	OVERALL BOUNDARY SURVEY
C2	LIMITED TOPOGRAPHIC AND TREE SURVEY
C3	SITE PLAN
C4	NOTES AND DETAILS
L1	TREE PRESERVATION PLAN
L2	LANDSCAPE PLAN
AS-101	ARCHITECTURAL SITE PLAN
AS-102	NEW SITE COMPONENTS
A-002	SITE PHOTOS & AERIAL PLAN
A-301	LOWER LEVEL FLOOR PLAN
A-302	MAIN LEVEL FLOOR PLAN
A-303	UPPER NAVE FLOOR PLAN
A-501	ROOF PLAN
A-601	EXTERIOR ELEVATIONS - COLOR
1 OF 1	PHOTOMETRIC SITE PLAN

merritt cieslak design [plc]
ARCHITECTURE | PLANNING

02/12/20 SPA PACKAGE

STATE OF MICHIGAN
RONALD A. CIESLAK
ARCHITECT
No. 1301028010
LICENSED ARCHITECT







Location Map
N.T.S.

LEGAL DESCRIPTION

LOTS 1 THROUGH 15 INCLUSIVE TOGETHER WITH ALL OF ADJUCENT VACATED PUBLIC ALLEY, AND LOTS 17 THROUGH 34 INCLUSIVE OF "THE RUBY-N" SUBDIVISION, ALSO ALL OF VACATED KIMBERLY STREET, ALL BEING A PART OF SOUTHWEST 1/4 OF SECTION 26, TOWN 2 NORTH, RANGE 10 EAST, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN L. ???, PG. ???, BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 26; THENCE N.0°54'00"W. ALONG THE SOUTHERLY LINE OF SAID SECTION 26, 232.82 FEET, THENCE N.04°36'00"E., 53.10 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD (106 FEET WIDE); THENCE N.88°53'39"W. AS MEASURED (N.88°54'00"W. AS RECORDED) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD, 20.00 FEET TO THE POINT OF BEGINNING; THENCE N.04°36'00"E. ALONG THE COMMON LOT LINE OF SAID LOTS 15 AND 16., 130.04 FEET TO A POINT ON THE NORTHERLY LINE OF SAID VACATED PUBLIC ALLEY; THENCE S.88°52'58"E. AS MEASURED (S.88°54'00"E. AS RECORDED) ALONG SAID NORTHERLY LINE OF PUBLIC AALLEY, 20.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID "THE RUBY-N" SUBDIVISION; THENCE N.04°36'00"E. ALONG SAID EASTERLY LINE OF "THE RUBY-N" SUBDIVISION, 432.79 FEET TO THE NE CORNER OF SAID SUBDIVISION; THENCE N.88°55'00"W. ALONG THE NORTHERLY LINE OF SAID SUBDIVISION, 477.77 FEET TO THE NW CORNER OF SAID SUBDIVISION; THENCE S.03°51'00"W. ALONG THE WESTERLY LINE OF SAID SUBDIVISION TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD; THENCE S.88°53'39"E. AS MEASURED (S.88°54'00"E. AS RECORDED) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD, 450.40 FEET TO THE POINT OF BEGINNING

CONTAINING 263,686 SQ. FT. OR 6.053 ACRES OF GROSS AREA (260,533 SQ. FT. OR 5.981 ACRES NET OF PROPOSED RIGHT-OF-WAY) OF LAND, MORE OR LESS. ALSO BEING SUBJECT TO ANY EASEMENTS, RESTRICTIONS OR CONDITIONS OF RECORD.

TAX ITEM NO. 19-26-378-072

MISS DIG / COMCAST DISCLAIMER NOTE

THE LOCATION OF THE AERIAL LINES SHOWN ON THE RECORDS PROVIDED BY COMCAST COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT (NAME OF THE UTILITY COMPANY) TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

MISS DIG / AT&T DISCLAIMER NOTE

THE LOCATION OF THE AERIAL LINES SHOWN ON THE RECORDS PROVIDED BY AT&T COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT (NAME OF THE UTILITY COMPANY) TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

FLOOD HAZARD NOTE

THIS PROPERTY IS LOCATED IN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOOD PLAIN) AS INDICATED BY FLOOD INSURANCE RATE MAP (FIRM), PANEL NO. 26125C0536F, CITY OF BIRMINGHAM, OAKLAND COUNTY, STATE OF MICHIGAN, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), EFFECTIVE DATE SEPTEMBER 29, 2006.

MISS DIG / UTILITY DISCLAIMER NOTE

A MISS DIG TICKET NUMBER B92970990-00B, PURSUANT TO MICHIGAN PUBLIC ACT 174 WAS ENTERED FOR THE SURVEYED PROPERTY. DUE TO THE EXTENDED REPORTING PERIOD FOR UNDERGROUND FACILITY OWNERS TO PROVIDE THEIR RECORDS, THE SURVEY MAY NOT REFLECT ALL THE UTILITIES AT THE TIME THE SURVEY WAS ISSUED ON 2019-11-18. THE SURVEY ONLY REFLECTS THOSE UTILITIES WHICH COULD BE OBSERVED BY THE SURVEYOR IN THE FIELD OR AS DEPICTED BY THE UTILITY COMPANY RECORDS FURNISH PRIOR TO THE DATE THIS SURVEY WAS ISSUED. **THE CLIENT AND/OR THEIR AUTHORIZED AGENT SHALL VERIFY WITH THE FACILITY OWNERS AND/OR THEIR AUTHORIZED AGENTS, THE COMPLETENESS AND EXACTNESS OF THE UTILITIES LOCATION.**

TOPOGRAPHIC SURVEY NOTES

ALL ELEVATIONS ARE EXISTING ELEVATIONS, UNLESS OTHERWISE NOTED.

UTILITY LOCATIONS WERE OBTAINED FROM MUNICIPAL OFFICIALS AND RECORDS OF UTILITY COMPANIES, AND NO GUARANTEE CAN BE MADE TO THE COMPLETENESS, OR EXACTNESS OF LOCATION.

THIS SURVEY MAY NOT SHOW ALL EASEMENTS OF RECORD UNLESS AN UPDATED TITLE POLICY IS FURNISHED TO THE SURVEYOR BY THE OWNER.

LEGEND

- MANHOLE — EXISTING SANITARY SEWER
- HYDRANT, GATE VALVE — EXISTING SAN. CLEAN OUT
- MANHOLE, CATCH BASIN — EXISTING WATER MAIN
- EXISTING STORM SEWER
- EX. R.Y. CATCH BASIN
- EXISTING BURIED CABLES
- UTILITY POLE, GUY POLE, GUY WIRE — OVERHEAD LINES
- LIGHT POLE
- SIGN
- EXISTING GAS MAIN

NOWAK & FRAUS ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL

STATE OF MICHIGAN
JEFFREY J. HUHTA
PROFESSIONAL SURVEYOR NO. 52458
LICENSED PROFESSIONAL SURVEYOR

PROJECT
Lutheran Church of the Redeemer Building Expansion

CLIENT
Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION
Part of the SW ¼ of Section 26
T. 2 North, R. 10 East
City of Birmingham, Oakland County, Michigan

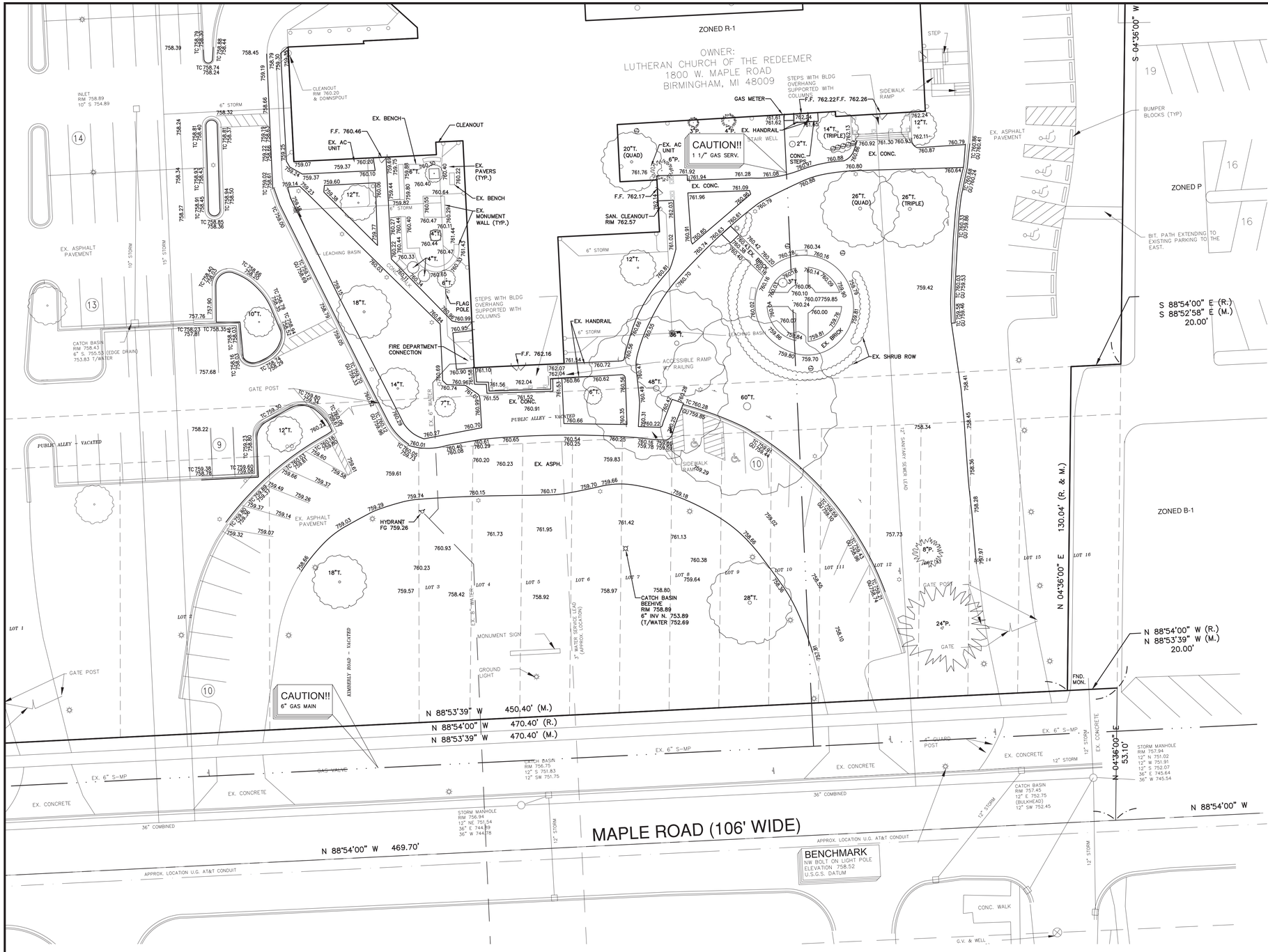
SHEET
Overall Boundary Survey

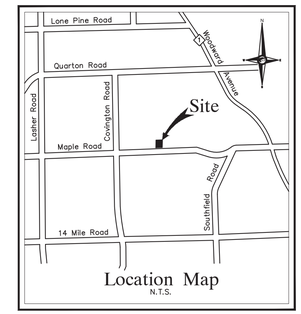
Know what's **below** **Call** before you dig.

DATE	ISSUED/REVISED
2019-12-09	ISSUED FOR OWNER REVIEW
2019-12-11	ISSUED FOR SITE PLAN REVIEW
2019-12-30	REVISED PER OWNER

DRAWN BY: C. Ellison
DESIGNED BY:
APPROVED BY: J. Huhta
DATE: November 18, 2019
SCALE: 1" = 30'
30 15 0 15 30 45

NFE JOB NO. D366-06
SHEET NO. C1





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THE LOCATION OF THE AERIAL LINES SHOWN ON THE RECORDS PROVIDED BY COMCAST COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT (NAME OF THE UTILITY COMPANY) TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

MISS DIG / AT&T DISCLAIMER NOTE

THE LOCATION OF THE AERIAL LINES SHOWN ON THE RECORDS PROVIDED BY AT&T COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT (NAME OF THE UTILITY COMPANY) TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

FLOOD HAZARD NOTE

THIS PROPERTY IS LOCATED IN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOOD PLAIN) AS INDICATED BY FLOOD INSURANCE RATE MAP (FIRM), PANEL NO. 26125C0536F, CITY OF BIRMINGHAM, OAKLAND COUNTY, STATE OF MICHIGAN, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), EFFECTIVE DATE SEPTEMBER 29, 2006.

MISS DIG / UTILITY DISCLAIMER NOTE

A MISS DIG TICKET NUMBER B92970990–00B, PURSUANT TO MICHIGAN PUBLIC ACT 174 WAS ENTERED FOR THE SURVEYED PROPERTY. DUE TO THE EXTENDED REPORTING PERIOD FOR UNDERGROUND FACILITY OWNERS TO PROVIDE THEIR RECORDS, THE SURVEY MAY NOT REFLECT ALL THE UTILITIES AT THE TIME THE SURVEY WAS ISSUED ON 2019–11–18. THE SURVEY ONLY REFLECTS THOSE UTILITIES WHICH COULD BE OBSERVED BY THE SURVEYOR IN THE FIELD OR AS DEPICTED BY THE UTILITY COMPANY RECORDS FURNISH PRIOR TO THE DATE THIS SURVEY WAS ISSUED. **THE CLIENT AND/OR THEIR AUTHORIZED AGENT SHALL VERIFY WITH THE FACILITY OWNERS AND/OR THEIR AUTHORIZED AGENTS, THE COMPLETENESS AND EXACTNESS OF THE UTILITIES LOCATION.**

TOPOGRAPHIC SURVEY NOTES

ALL ELEVATIONS ARE EXISTING ELEVATIONS, UNLESS OTHERWISE NOTED.

UTILITY LOCATIONS WERE OBTAINED FROM MUNICIPAL OFFICIALS AND RECORDS OF UTILITY COMPANIES, AND NO GUARANTEE CAN BE MADE TO THE COMPLETENESS, OR EXACTNESS OF LOCATION.

THIS SURVEY MAY NOT SHOW ALL EASEMENTS OF RECORD UNLESS AN UPDATED TITLE POLICY IS FURNISHED TO THE SURVEYOR BY THE OWNER.

LEGEND

- MANHOLE
- HYDRANT
- GATE VALVE
- CATCH BASIN
- UTILITY POLE
- GUY POLE
- GUY WIRE
- EXISTING SANITARY SEWER
- EXISTING SAN. CLEAN OUT
- EXISTING WATER MAIN
- EXISTING STORM SEWER
- EX. R.Y. CATCH BASIN
- EXISTING BURIED CABLES
- OVERHEAD LINES
- LIGHT POLE
- SIGN
- EXISTING GAS MAIN

NOWAK & FRAUS ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL

STATE OF MICHIGAN — JEFFREY HUHTA — PROFESSIONAL SURVEYOR NO. 52458 — LICENSED PROFESSIONAL SURVEYOR

PROJECT
Lutheran Church of the Redeemer Building Expansion

CLIENT
Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION
Part of the SW 1/4 of Section 26
T. 2 North, R. 10 East
City of Birmingham, Oakland County, Michigan

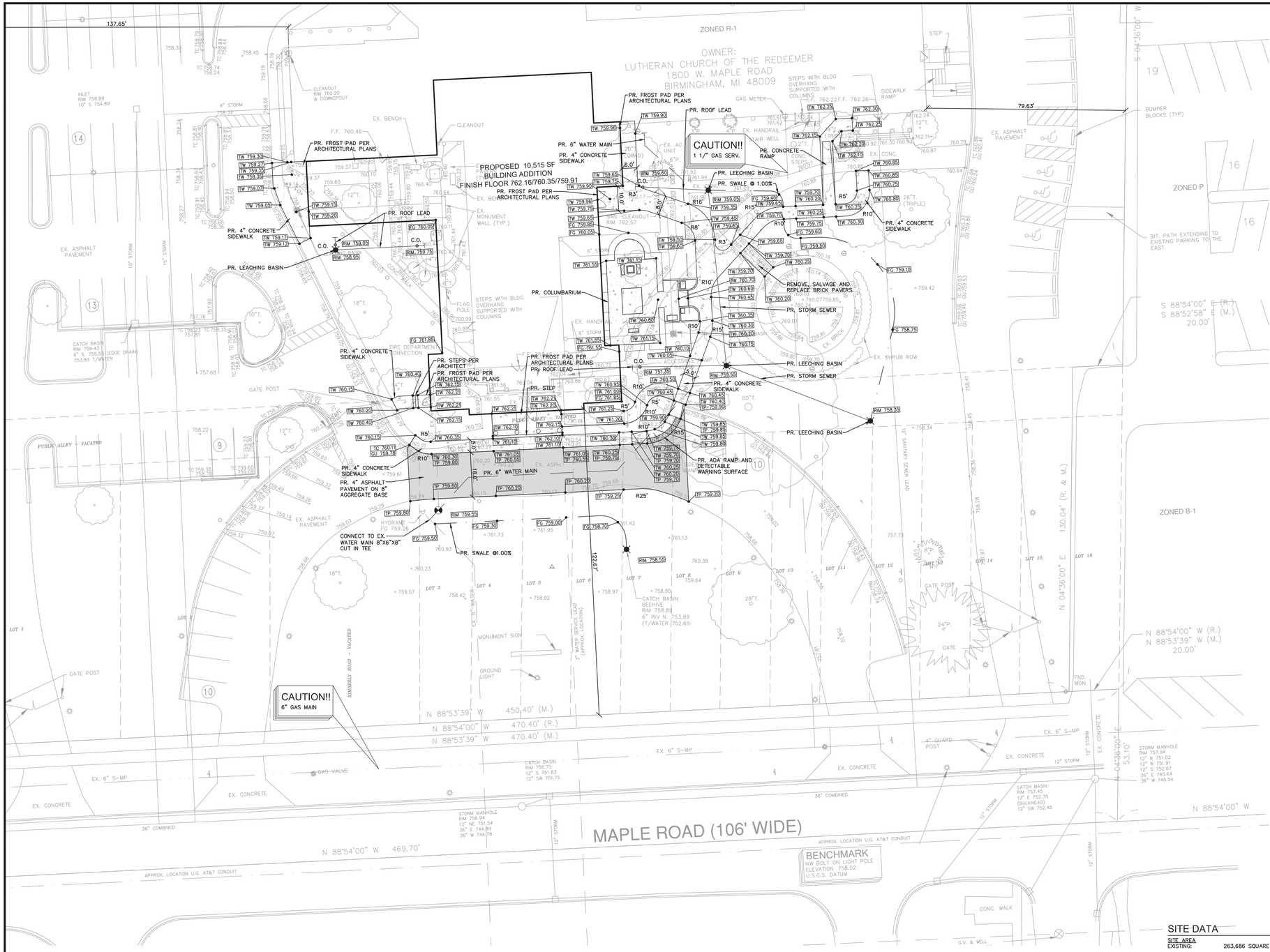
SHEET
Limited Topographic, and Tree Survey

Know what's below Call before you dig.

DATE	ISSUED/REVISED
2019-12-09	ISSUED FOR OWNER REVIEW
2019-12-11	ISSUED FOR SITE PLAN REVIEW
2019-12-30	REVISED PER OWNER

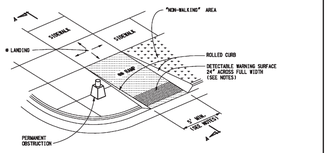
DRAWN BY: C. Ellison
DESIGNED BY:
APPROVED BY: J. Huhta
DATE: November 18, 2019
SCALE: 1" = 20'

NFE JOB NO. **D366-06**
SHEET NO. **C2**


OWNER:
LUTHERAN CHURCH OF THE REDEEMER
1800 W. MAPLE ROAD
BIRMINGHAM, MI 48009
ZONED R-1
PROPOSED 10,515 SF BUILDING ADDITION
FINISH FLOOR 762.16/760.35/759.91
CAUTION!! 1 1/" GAS SERV.
CAUTION!! 6" GAS MAIN
PR. FROST PAD PER ARCHITECTURAL PLANS
PR. ROOF LEAD
PR. 6" WATER MAIN
PR. 4" CONCRETE SIDEWALK
PR. LEACHING BASIN
PR. SWALE @ 1.00%
PR. CONCRETE RAMP
PR. COLUMBARIUM
PR. STEPS PER ARCHITECT
PR. STEP
PR. LEECHING BASIN
PR. STORM SEWER
PR. ADA RAMP AND DETECTABLE WARNING SURFACE
PR. 4" ASPHALT PAVEMENT ON 8" AGGREGATE BASE
CONNECT TO EX. WATER MAIN 8"x6"x8" CUT IN TEE
REMOVE, SALVAGE AND REPLACE BRICK PAVERS.
EX. ASPHALT PAVEMENT
EX. CONCRETE
EX. BRICK
EX. SHRUB ROW
EX. 6" S-MP
EX. 8" WATER
EX. 12" STORM
EX. 36" COMBINED
EX. 6" STORM
EX. 10" STORM
EX. 15" STORM
EX. 18" STORM
EX. 24" STORM
EX. 26" (TRIPLE) STORM
EX. 8" SANITARY
EX. 12" SANITARY
EX. 8" W.
EX. 6" W.
EX. 12" W.
EX. 16" W.
EX. 20" W.
EX. 24" W.
EX. 30" W.
EX. 36" W.
EX. 42" W.
EX. 48" W.
EX. 54" W.
EX. 60" W.
EX. 66" W.
EX. 72" W.
EX. 78" W.
EX. 84" W.
EX. 90" W.
EX. 96" W.
EX.

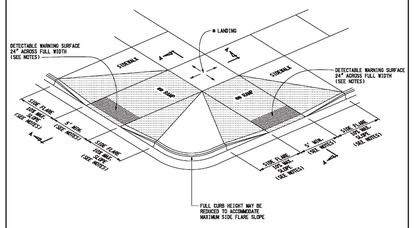
* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.



SIDEWALK RAMP TYPE R

(ROLLED SIDES)



SIDEWALK RAMP TYPE F

(FLARED SIDES, TWO RAMPS SHOWN)

DEPARTMENT DIRECTION
Kirk T. Steudle

MDOT

PREPARED BY DESIGN DIVISION

SHEET BY: R.L.J.

CHECKED BY: K.L.P.

APPROVED BY: _____ DIRECTOR, BUREAU OF FIELD SERVICES

APPROVED BY: _____ DIRECTOR, BUREAU OF DEVELOPMENT

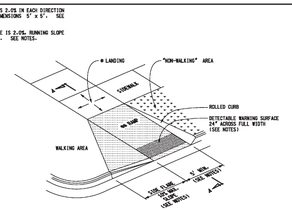
MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 1 OF 7

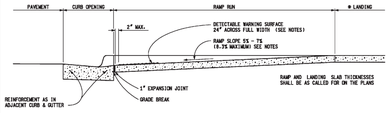
* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.

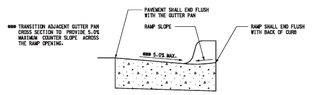


SIDEWALK RAMP TYPE RF

(ROLLED / FLARED SIDES)



SECTION A-A



*** TRANSITION ADJACENT GUTTER PAN CROSS SECTION TO PROVIDE 5.0% MAXIMUM COUNTER SLOPE ACROSS THE RAMP OPENING.

SECTION THROUGH CURB OPENING

(TYPICAL ALL RAMP TYPES)

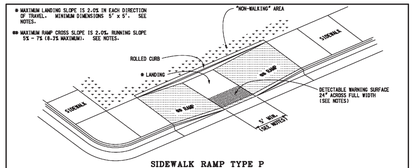
MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 2 OF 7

* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

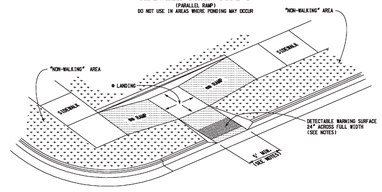
** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.



SIDEWALK RAMP TYPE P

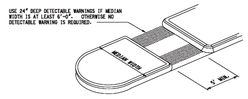
(PARALLEL RAMP)

DO NOT USE IN AREAS WHERE PONDING MAY OCCUR



SIDEWALK RAMP TYPE C

(COMBINATION RAMP)



SIDEWALK RAMP TYPE M

(MEDIAN ISLAND)

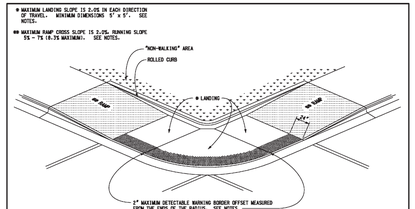
MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 3 OF 7

* MAXIMUM LANDING SLOPE IS 2.0% IN EACH DIRECTION OF TRAVEL. MINIMUM DIMENSIONS 5' x 5'. SEE NOTES.

** MAXIMUM RAMP CROSS SLOPE IS 2.0%. RUNNING SLOPE 5% - 7% (8.3% MAXIMUM). SEE NOTES.



SIDEWALK RAMP TYPE D

(DEPRESSED CORNER)

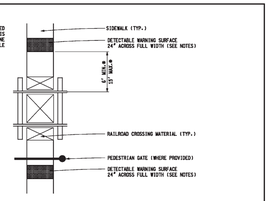
USE ONLY WHEN INDEPENDENT DIRECTIONAL RAMPS CAN NOT BE CONSTRUCTED FOR EACH CROSSING DIRECTION

MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

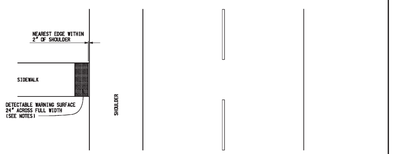
SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 4 OF 7

* THE DETECTABLE WARNING SURFACE SHALL BE LOCATED SO THAT THE EDGE NEAREST THE RAIL CROSSING IS 6' MINIMUM AND 15' MAXIMUM FROM THE CENTERLINE OF THE NEAREST RAIL. DO NOT PLACE DETECTABLE WARNING ON RAILROAD CROSSING MATERIAL.



DETECTABLE WARNING AT RAILROAD CROSSING

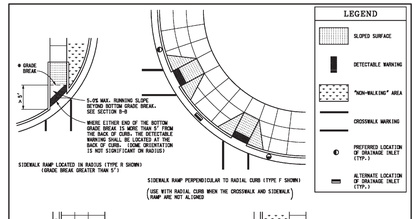


DETECTABLE WARNING AT FLUSH SHOULDER OR ROADWAY

MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 5 OF 7



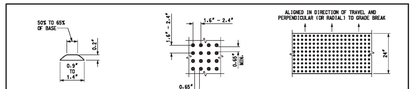
SECTION B-B

SIDEWALK RAMP ORIENTATION

MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 6 OF 7



DOME SECTION | DOME SPACING | DOME ALIGNMENT

DETECTABLE WARNING DETAILS

NOTES:

DETAILS SPECIFIED ON THIS PLAN APPLY TO ALL CONSTRUCTION, RECONSTRUCTION, OR ALTERATION OF STREETS, CURBS, OR SIDEWALKS IN THE PUBLIC RIGHT OF WAY.

SIDEWALK RAMPS ARE TO BE LOCATED AS SPECIFIED ON THE PLANS OR AS DIRECTED BY THE ENGINEER.

RAMPS SHALL BE PROVIDED AT ALL CORNERS OF AN INTERSECTION WHERE THERE IS EXISTING OR PROPOSED SIDEWALK AND CURB. RAMPS SHALL ALSO BE PROVIDED AT MARKED AND/OR SIGNALIZED MID-BLOCK CROSSINGS.

SURFACE TEXTURE OF THE RAMP SHALL BE THAT OBTAINED BY A COARSE BROOMING, TRANSVERSE TO THE RUNNING SLOPE.

SIDEWALK SHALL BE RAMPED WHERE THE DRIVEWAY CURB IS EXTENDED ACROSS THE WALK.

CARE SHALL BE TAKEN TO ASSURE A UNIFORM GRADE ON THE RAMP. WHERE CONDITIONS PERMIT, IT IS DESIRABLE THAT THE SLOPE OF THE RAMP BE IN ONLY ONE DIRECTION, PARALLEL TO THE DIRECTION OF TRAVEL.

RAMP WIDTH SHALL BE INCREASED, IF NECESSARY, TO ACCOMMODATE SIDEWALK SNOW REMOVAL EQUIPMENT NORMALLY USED BY THE MUNICIPALITY.

WHEN 5' MINIMUM WIDTHS ARE NOT FEASIBLE, RAMP WIDTH MAY BE REDUCED TO NOT LESS THAN 4' AND LANDINGS TO NOT LESS THAN 4' X 4'.

DETECTABLE WARNING SURFACE COVERAGE IS 24" WINDOW IN THE RAMP, FLARE, OR LANDING. IT SHALL BE 24" WIDE AT THE BACK OF RAMP/PATH OPENING EXCLUDING CURVED OR FLARED CURB TRANSITION AREAS. A BORDER OFFSET NOT GREATER THAN 2" MEASURED ALONG THE EDGES OF THE DETECTABLE WARNING IS ALLOWABLE. FOR RADIAL CURB THE OFFSET IS MEASURED FROM THE ENDS OF THE RADIUS.

FOR NEW ROADWAY CONSTRUCTION, THE RAMP CROSS SLOPE MAY NOT EXCEED 2.0%. FOR ALTERATIONS TO EXISTING ROADWAYS, THE CROSS SLOPE MAY BE TRANSITIONED TO MEET AN EXISTING ROADWAY GRADE. THE CROSS SLOPE TRANSITION SHALL BE APPLIED UNIFORMLY OVER THE FULL LENGTH OF THE RAMP.

THE MAXIMUM RUNNING SLOPE OF 8.3% IS RELATIVE TO A FLAT (0%) REFERENCE. HOWEVER, IT SHALL NOT REQUIRE ANY RAMP OR SERIES OF RAMPS TO EXCEED 15 FEET IN LENGTH.

DRAINAGE STRUCTURES SHOULD NOT BE PLACED IN LINE WITH RAMPS. THE LOCATION OF THE RAMP SHOULD TAKE PRECEDENCE OVER THE LOCATION OF THE DRAINAGE STRUCTURE. WHERE EXISTING DRAINAGE STRUCTURES ARE IN LINE WITH RAMPS, THEY SHALL BE REPLACED BY MANUFACTURER'S ADA COMPLIANT GRATES. OPENING SHALL NOT BE GREATER THAN ½". ELONGATED OPENINGS SHALL BE PLACED SO THAT THE LONG DIMENSION IS PERPENDICULAR TO THE DOMINANT DIRECTION OF TRAVEL.

TRANSITION PAN GUTTER PAN CROSS SECTION SUCH THAT THE COUNTER SLOPE IN THE DIRECTION OF RAMP TRAVEL IS NOT GREATER THAN 5.0%. MAINTAIN THE NORMAL GUTTER PAN CROSS SECTION ACROSS DRAINAGE STRUCTURES.

THE TOP OF THE JOINT FILLER FOR ALL RAMP TYPES SHALL BE FLUSH WITH THE ADJACENT CONCRETE.

CROSSWALK AND STOP LINE MARKINGS, IF USED, SHALL BE SO LOCATED AS NOT TO REQUIRE WHEELCHAIR USERS TO TRAVERSE SLOPES. SPECIFIC DETAILS FOR MARKING APPLICATIONS ARE SHOWN IN THE "MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES".

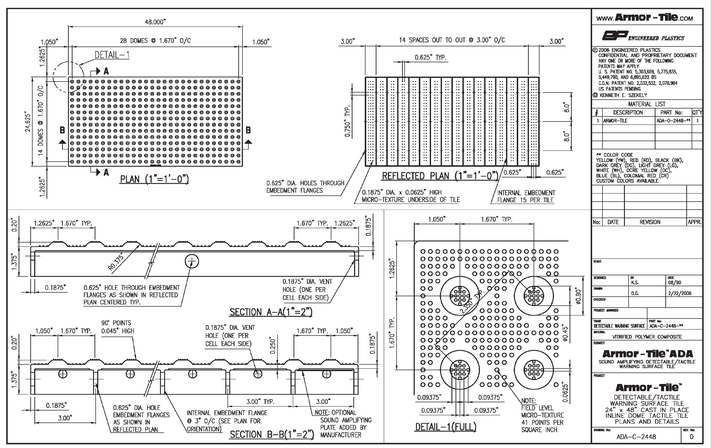
FLARED SIDES WITH A SLOPE OF 10% MAXIMUM, MEASURED ALONG THE CURB LINE, SHALL BE PROVIDED WHERE THE RAMP IS LOCATED OUTSIDE THE CIRCULATION PATH LATERALLY CROSSED THE SIDEWALK RAMP(S). FLARED SIDES ARE NOT REQUIRED WHERE THE RAMP IS BORDERED BY LANDSCAPING, UNPAVED SURFACE OR PERMANENT FIXED OBJECTS. WHERE THEY ARE NOT REQUIRED, FLARED SIDES CAN BE CONSIDERED IN ORDER TO AVOID CURB RETURNS AT RAMP OPENINGS.

DETECTABLE WARNING PLATES MUST BE INSTALLED USING FABRICATED OR FIELD CUT UNITS CAST AND/OR ANCHORED IN THE PAVEMENT TO RESIST SHIFTING OR HEAVING.

MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF DEVELOPMENT STANDARD PLAN FOR

SIDEWALK RAMP AND DETECTABLE WARNING DETAILS

T.R.S.S. APPROVAL	3-15-2016 PLAN DATE	R-28-J	SHEET 7 OF 7



www.Armor-Tile.com

ENGINEERED PLASTICS

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THIS DRAWING IS A COPYRIGHTED DOCUMENT NOT ONE OR MORE OF THE FOLLOWING PATENTS MAY APPLY
U. S. PATENT NO. 5,361,558, 5,775,835, 6,322,287 B1, 6,322,288 B1
CAN. PATENT NO. 2,332,322, 2,078,964
US PATENTS PENDING
KENNETH C. SZEKELY

MATERIAL LIST

#	DESCRIPTION	PART No.	QTY
1	ARMOR-TILE	ADA-D-2448-**	1

** COLOR CODE
BRICK RED (RED), BLACK (ONX), SAFE GREY (SAF), GREY (GRY), WHITE (WHI), DARK YELLOW (DY), BLUE (BU), COLONIAL RED (DR)
CUSTOM COLORS AVAILABLE

No	DATE	REVISION	APPR.

SCALE:		
DRAWN:	JP	08/30
DESIGNED:	K.S.	
CHECKED:	D.G.	3/22/2006
PROJECT NUMBER:		
TITLE: DETECTABLE WARNING SURFACE		DWG No. ADA-C-2448-**
MATERIAL:	VITRIFIED POLYMER COMPOSITE	

Armor-Tile® ADA
SOUND AMPLIFYING DETECTABLE/TACTILE WARNING SURFACE TILE

Armor-Tile®
DETECTABLE/TACTILE WARNING SURFACE TILE
24" x 48" CAST IN PLACE INLINE DOME TACTILE TILE
PLANS AND DETAILS

DRAWING No. ADA-C-2448 | REV No. 0

NOWAK & FRAUS ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL

STATE OF MICHIGAN
JASON R. LONGHURST
ENGINEER NO. 54075
LICENSED PROFESSIONAL ENGINEER

PROJECT

Lutheran Church of the Redeemer
Building Expansion

CLIENT

Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION

Part of the SW ¼ of Section 26
T. 2 North, R. 10 East
City of Birmingham, Oakland County, Michigan

SHEET

Notes and Details

Know what's below Call before you dig.

DATE ISSUED/REVISED

2019-12-09 ISSUED FOR OWNER REVIEW
2019-12-11 ISSUED FOR SITE PLAN REVIEW
2019-12-30 REVISED PER OWNER

DRAWN BY:
T. Wood

DESIGNED BY:
T. Wood

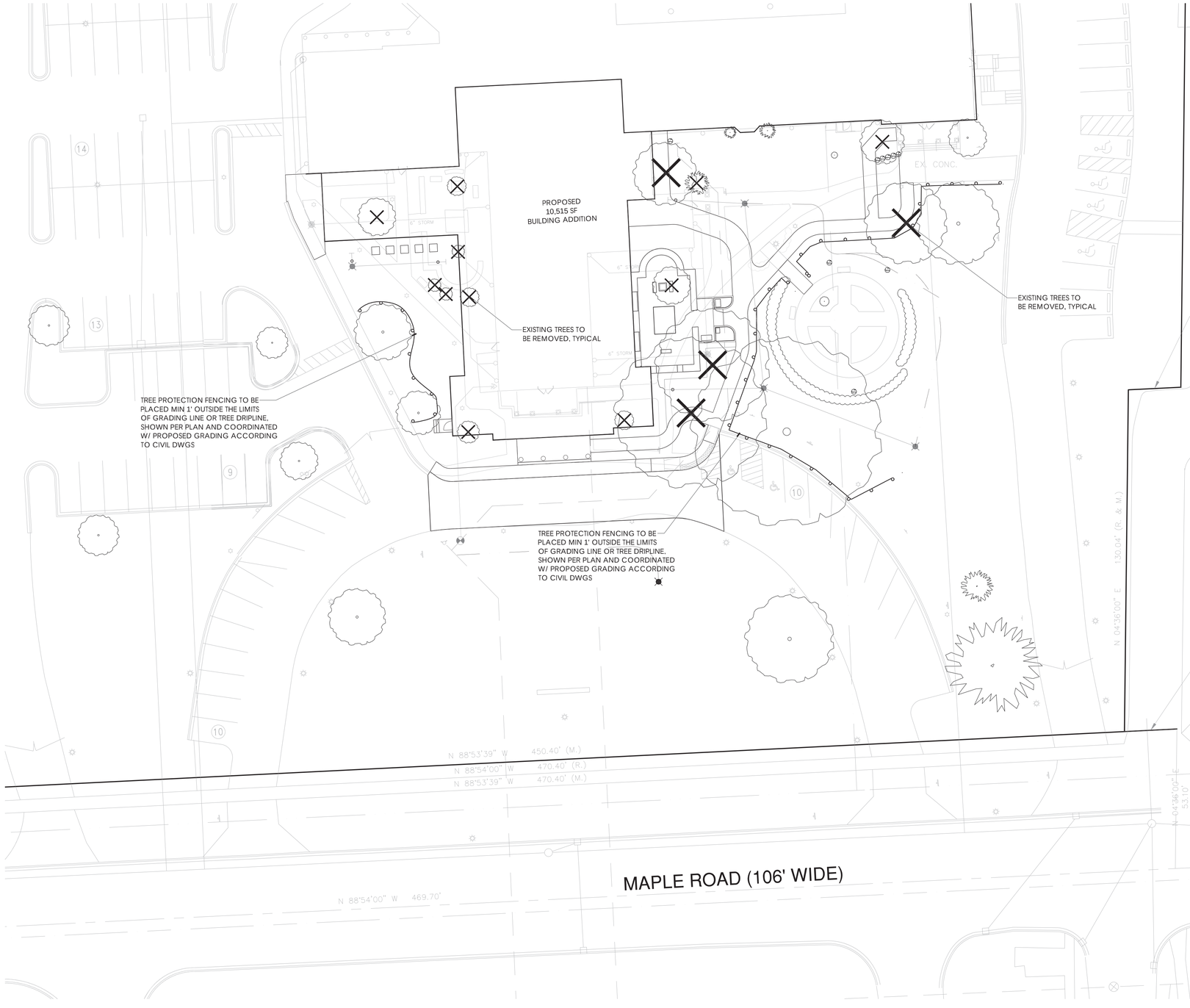
APPROVED BY:
J. Longhurst

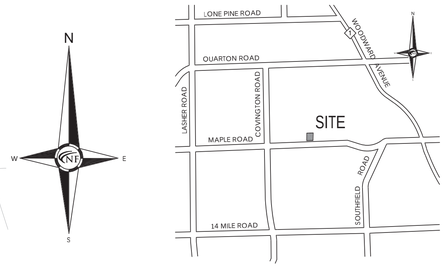
DATE:
December 9, 2019

SCALE: N.T.S.

NFE JOB NO.
D366-06

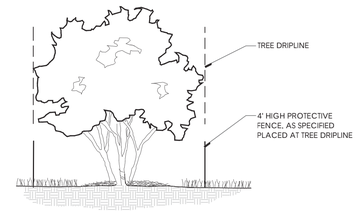
SHEET NO.
C4





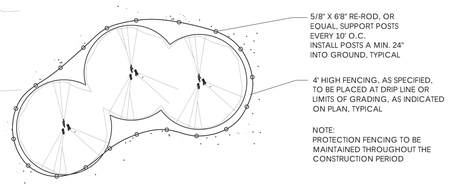
LOCATION MAP

N.T.S.



TREE PROTECTION DETAIL-SECTION

NTS



TREE PROTECTION DETAIL-PLAN

NTS

GENERAL TREE PROTECTION NOTES

1. APPROVED TREE PROTECTION SHALL BE ERECTED PRIOR TO THE START OF CONSTRUCTION ACTIVITIES, AND SHALL REMAIN IN PLACE UNTIL THE IN PLACE UNTIL CONSTRUCTION IS COMPLETE.
2. ALL UNDERSTORY VEGETATION WITHIN THE LIMITS OF PROTECTIVE FENCING SHALL BE PRESERVED.
3. NO PERSON MAY CONDUCT ANY ACTIVITY WITHIN THE DRIP LINE OF ANY TREE DESIGNATED TO REMAIN, INCLUDING BUT NOT LIMITED TO, PLACING SOLVENTS, BUILDING MATERIALS, CONSTRUCTION EQUIPMENT, OR SOIL DEPOSITS WITHIN THE DRIP LINE.
4. WHERE GROUPINGS OF TREES ARE TO REMAIN, TREE FENCING SHALL BE PLACED AT THE LIMITS OF GRADING LINE.
5. DURING CONSTRUCTION, NO PERSON SHALL ATTACH ANY DEVICE OR WIRE TO ANY TREE, SCHEDULED TO REMAIN.
6. ALL UTILITY SERVICE REQUESTS MUST INCLUDE NOTIFICATION TO THE INSTALLER THAT PROTECTED TREES MUST BE AVOIDED. ALL TRENCHING SHALL OCCUR OUTSIDE OF THE PROTECTIVE FENCING.
7. SWALES SHALL BE ROUTED TO AVOID THE AREA WITHIN THE DRIP LINES OF PROTECTED TREES.
8. TREES LOCATED ON ADJACENT PROPERTIES THAT MAY BE AFFECTED BY CONSTRUCTION ACTIVITIES MUST BE PROTECTED.
9. ROOT ZONES OF PROTECTED TREES SHOULD BE SURROUNDED WITH RIGIDLY STAKED FENCING.
10. THE PARKING OF IDLE AND RUNNING EQUIPMENT SHALL BE PROHIBITED UNDER THE DRIP LINE OF PROTECTED TREES.
11. THE STRIPPING OF TOPSOIL FROM AROUND PROTECTED TREES SHALL BE PROHIBITED.
12. ALL TREES TO BE REMOVED SHALL BE CUT AWAY FROM TREES TO REAMIN.
13. THE GRUBBING OF UNDERSTORY VEGETATION WITHIN CONSTRUCTION AREAS SHOULD BE CLEARED BY CUTTING VEGETATION AT THE GROUND WITH A CHAIN SAW OR MINIMALLY WITH A HYDRO-AXE.
14. THE CONTRACTOR IS RESPONSIBLE FOR THE REPLACEMENT PER ORDINANCE GUIDELINES, FOR THE DAMAGE OR REMOVAL OF ANY TREE DESIGNATED TO REMAIN.
15. TREES TO BE REMOVED SHALL BE FIELD VERIFIED, EVALUATED AND FLAGGED FOR REMOVAL, BY THE LANDSCAPE ARCHITECT OR FORESTER, ONLY AS DIRECTED BY THE OWNER OR OWNERS REPRESENTATIVE.

LEGEND:

TREES TO BE REMOVED

950 TREES TO REMAIN

TREE PROTECTION FENCING

NOWAK & FRAUS ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL

STATE OF MICHIGAN
REGISTERED LANDSCAPE ARCHITECT

PROJECT

Lutheran Church of the Redeemer Building Expansion

CLIENT

Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION

Part of the SW ¼
of Section 26
T. 2 North, R. 10 East
City of Birmingham,
Oakland County, Michigan

SHEET

Tree Preservation Plan

Know what's **below**
Call before you dig.

REVISIONS

12/09/19 ISSUED FOR OWNER REVIEW
12/11/19 ISSUED FOR SITE PLAN REVIEW
12/30/19 REVISED PER OWNER

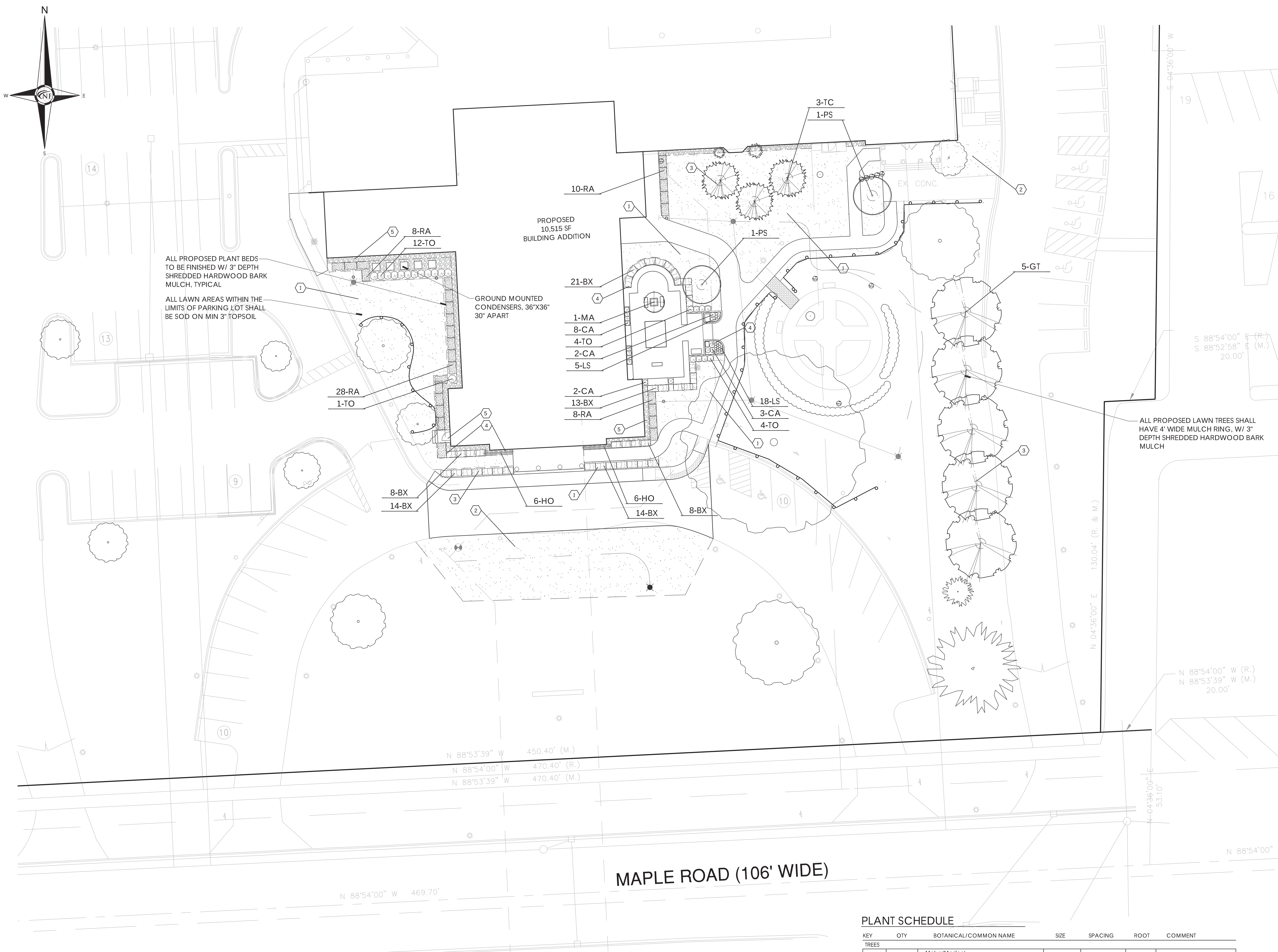
DRAWN BY: G. Ostrowski
DESIGNED BY: G. Ostrowski
APPROVED BY: G. Ostrowski
DATE: 12-04-2019

SCALE: 1" = 20'

20 10 0 10 20 30

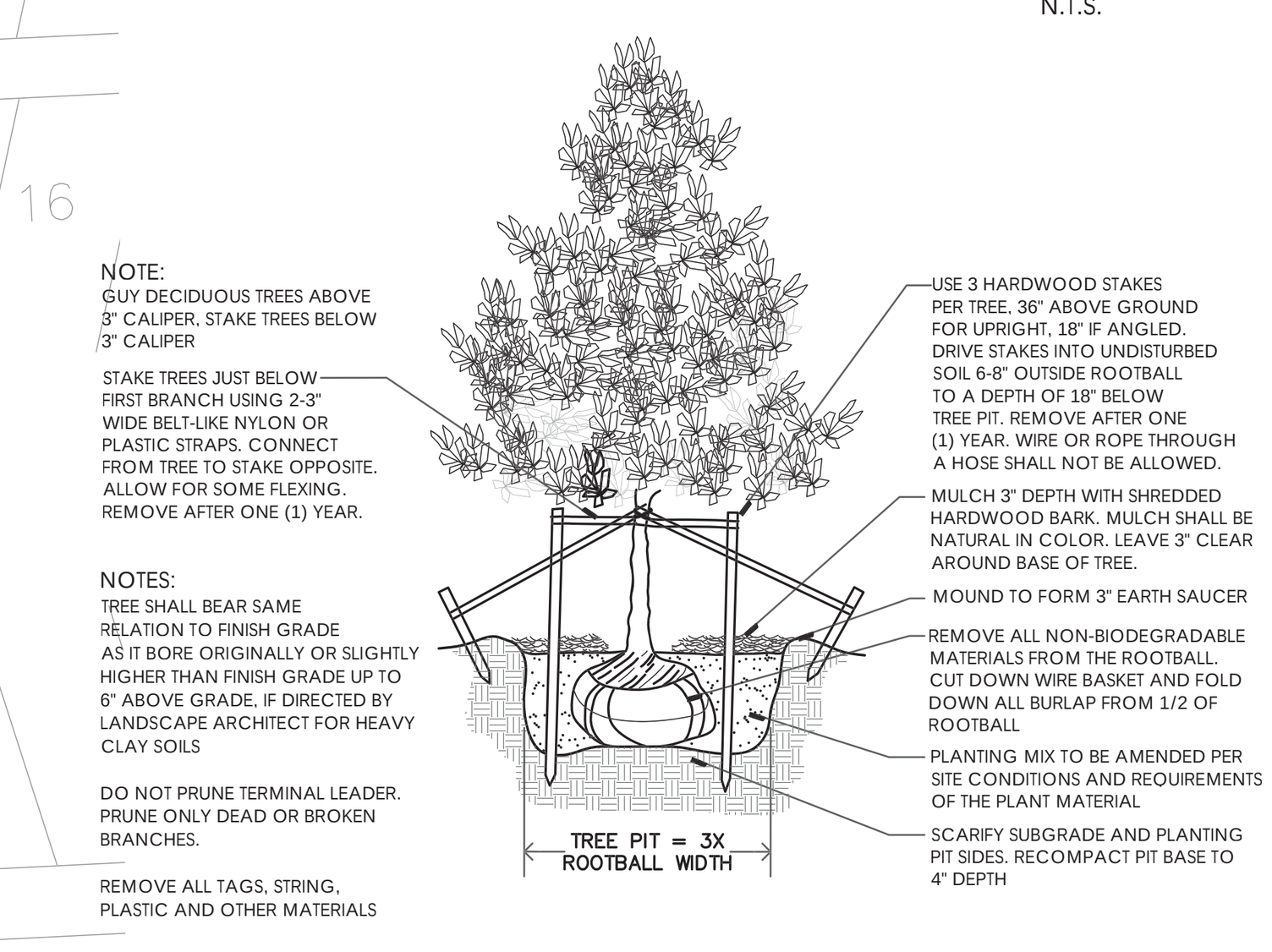
NFE JOB NO. **D366-05**

SHEET NO. **L1**

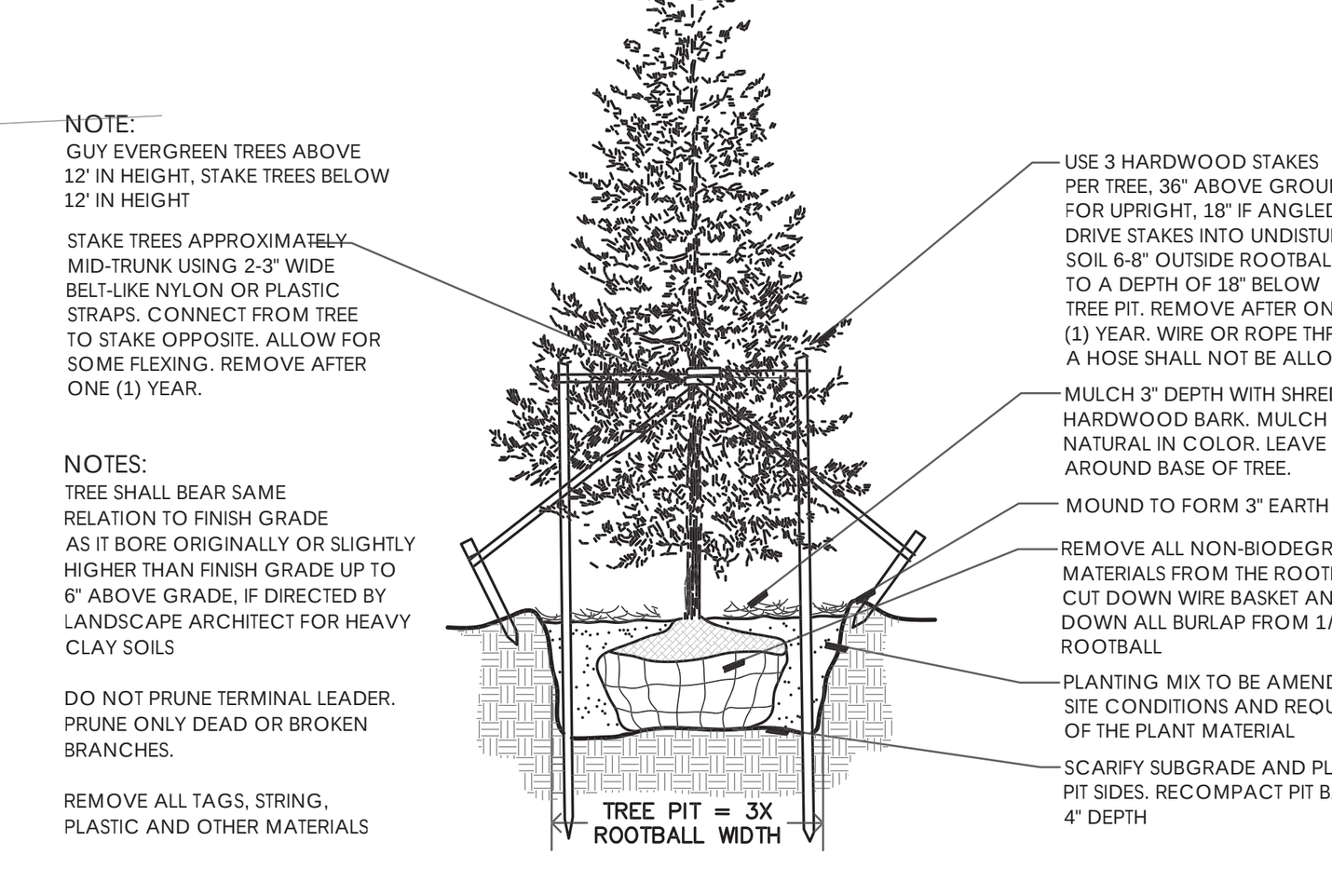




LOCATION MAP
N.T.S.



DECIDUOUS TREE PLANTING DETAIL
NTS



EVERGREEN TREE PLANTING DETAIL
NTS

GENERAL LANDSCAPE NOTES

1. LANDSCAPE CONTRACTOR SHALL VISIT SITE, INSPECT EXISTING CONDITIONS AND REVIEW PROPOSED PLANTING AND RELATED WORK. IN CASE OF DISCREPANCY BETWEEN PLAN AND PLANT LIST, THE PLAN SHALL GOVERN QUANTITIES. CONTACT THE LANDSCAPE ARCHITECT WITH ANY CONCERNS.
2. THE CONTRACTOR SHALL VERIFY LOCATIONS OF ALL ON-SITE UTILITIES PRIOR TO BEGINNING CONSTRUCTION ON HIS/HER PHASE OF WORK. ANY DAMAGE OR INTERUPTION OF SERVICES SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
3. THE CONTRACTOR SHALL COORDINATE ALL RELATED ACTIVITIES WITH OTHER TRADES, AND SHALL REPORT ANY UNACCEPTACBLE SITE CONDITIONS TO THE OWNER'S REPRESENTATIVE PRIOR TO COMMENCEMENT.
4. PLANTS SHALL BE FULL, WELL-BRANCHED, AND IN HEALTHY VIGOROUS GROWING CONDITION.
5. PLANTS SHALL BE WATERED BEFORE AND AFTER PLANTING IS COMPLETE.
6. ALL TREES MUST BE STAKED, FERTILIZED AND MULCHED AND SHALL BE GUARANTEED TO EXHIBIT A NORMAL GROWTH CYCLE FOR AT LEAST ONE (1) YEAR FOLLOWING PLANTING.
7. ALL MATERIAL SHALL CONFORM TO THE GUIDELINES ESTABLISHED IN THE MOST RECENT EDITION OF THE "AMERICAN STANDARDS FOR NURSERY STOCK".
8. CONTRACTOR WILL SUPPLY FINISHED GRADE AND EXCAVATE AS NECESSARY TO SUPPLY PLANT MIX DEPTH IN ALL PLANTING BEDS AS INDICATED IN PLANT DETAILS AND A DEPTH OF 4" IN ALL LAWN AREAS.
9. PROVIDE CLEAN BACKFILL SOIL, USING MATERIAL STOCKPILED ON-SITE. SOIL SHALL BE SCREENED AND FREE OF DEBRIS, FOREIGN MATERIAL, AND STONE.
10. SLOW-RELEASE FERTILIZER SHALL BE ADDED TO THE PLANT PITS BEFORE BEING BACKFILLED. APPLICATION SHALL BE AT THE MANUFACTURERS RECOMMENDED RATES.
11. AMENDED PLANT MIX (PREPARED TOPSOIL) SHALL CONSIST OF 1/3 SCREENED TOPSOIL, 1/3 SAND, AND 1/3 "DAIRY DOO" COMPOST, MIXED WELL AND SPREAD TO A DEPTH AS INDICATED IN PLANTING DETAILS.
12. ALL PLANTINGS SHALL BE MULCHED WITH SHREDDED HARDWOOD BARK, SPREAD TO A DEPTH OF 3" FOR TREES AND SHRUBS, AND 2" ON ANNUALS, PERENNIALS, AND GROUNDCOVER PLANTINGS. MULCH SHALL BE FREE FROM DEBRIS AND FOREIGN MATERIAL, AND PIECES ON INCONSISTENT SIZE.
13. NO SUBSTITUTIONS OR CHANGES OF LOCATION, OR PLANT TYPE SHALL BE MADE WITHOUT THE APPROVAL OF THE LANDSCAPE ARCHITECT OR OWNERS REPRESENTATIVE.
14. THE LANDSCAPE ARCHITECT SHALL BE NOTIFIED OF ANY DISCREPANCIES BETWEEN THE PLANS AND FIELD CONDITIONS PRIOR TO INSTALLATION.
15. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL PLANT MATERIAL IN A VERTICAL CONDITION THROUGHOUT THE GUARANTEED PERIOD.
16. THE LANDSCAPE ARCHITECT OR OWNERS REPRESENTATIVE SHALL HAVE THE RIGHT TO REJECT ANY WORK OR MATERIAL THAT DOES NOT MEET THE REQUIREMENTS OF THE PLANS AND/OR SPECIFICATIONS.
17. THE LANDSCAPE CONTRACTOR SHALL SEED AND MULCH OR SOD (AS INDICATED ON PLANS) ALL AREAS DESIGNATED AS SUCH ON THE PLANS, THROUGHOUT THE CONTRACT LIMITS. FURTHER, THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING AREAS DISTURBED DURING CONSTRUCTION, NOT IN THE CONTRACT LIMITS, TO EQUAL OR GREATER CONDITION.
18. ALL LANDSCAPE AREAS SHALL HAVE PROPER DRAINAGE THAT PREVENTS EXCESSIVE WATER FROM PONDING ON LAWN AREAS OR AROUND TREES AND SHRUBS.
19. ALL LANDSCAPE AREAS SHALL BE IRRIGATED WITH AN AUTOMATIC UNDERGROUND SYSTEM.

GENERAL SOD NOTE:

ALL LAWN AREAS DESIGNATED TO BE SODDED, SHALL BE SODDED WITH A BLENDED DURABLE BLUEGRASS SOD, TYPICALLY GROWN IN THE REGION. ALL TURF SHALL BE PLACED ON A MINIMUM 3" PREPARED TOPSOIL, AND WATERED DAILY UNTIL ESTABLISHMENT. IN AREAS SUBJECT TO EROSION, SODDED LAWN SHALL BE STABILIZED WHERE NECESSARY, AND LAID PERPENDICULAR TO SLOPES
SOD INSTALLATION SHALL OCCUR ONLY:
SPRING: APRIL1 TO JUNE1
FALL: AUGUST 15 TO OCTOBER 15

GENERAL SEED NOTE:

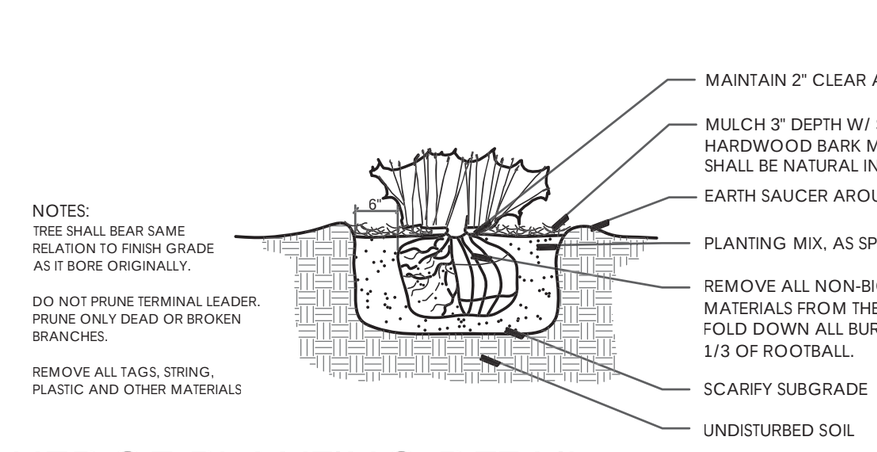
ALL LAWN AREAS DESIGNATED TO BE SEEDED, SHALL BE HYDRO-SEEDED WITH SPECIFIED BLENDS, AND STABILIZED WITH WOOD CELLULOSE FIBER MULCH (2,000 LBS PER ACRE) . IN AREAS SUBJECT TO EROSION, SEEDED LAWN SHALL BE FURTHER STABILIZED WHERE NECESSARY WITH BIODEGRADABLE EROSION BLANKET AND STAKED UNTIL ESTABLISHED. ALL SEED SHALL BE APPLIED OVER A MINIMUM 3" PREPARED TOPSOIL, AND SHALL BE KEPT MOIST AND WATERED DAILY UNTIL ESTABLISHED.
SEEDING INSTALLATION SHALL OCCUR ONLY:
SPRING: APRIL1 TO JUNE1
FALL: AUGUST 15 TO OCTOBER 15

PLANT SCHEDULE

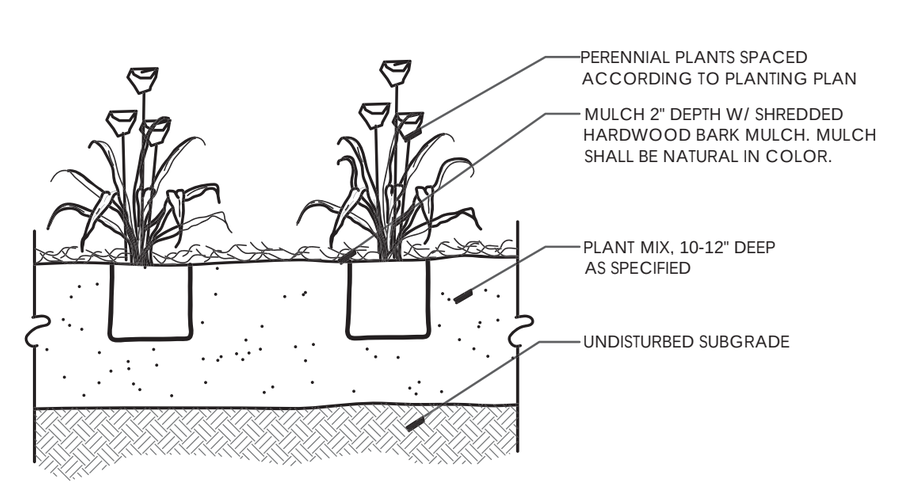
KEY	QTY	BOTANICAL/COMMON NAME	SIZE	SPACING	ROOT	COMMENT
TREES						
MA	1	Malus 'Marilee' Marilee Crabapple	2.5" CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
GT	5	Gleditsia triacanthos 'Skyline' Skyline Honey Locust	2.5" CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
PS	2	Prunus sargentii 'Pink Flair' Pink Flair Flowering Cherry	2.5" CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
TC	3	Tsuga canadensis Eastern Hemlock	6' HT	SEE PLAN	B&B	FULL TO GROUND
SHRUBS						
BX	78	Buxus 'Winter Gem' Winter Gem Boxwood	30" HT	30" OC	B&B	MAINTAIN AS HEDGE
RA	54	Ribes alpinum 'Green Mound' Green Mound Alpine Currant	30" HT	5' OC	B&B	MAINTAIN AS HEDGE
TO	21	Thuja occidentalis 'Smaragd' Emerald Green Arborvitae	5' HT	3.5' OC	B&B	
GROUNDCOVERS/PERENNIALS						
CA	15	Calamagrostis a. 'Karl Foerster' Karl Foerster Feather Reed Grass	3 GAL	24" OC	CONT	
HO	12	Hosta 'Risky Business' Risky Business Hosta	2 GAL	24" OC	CONT	
LS	23	Liriope spicata Creeping Lilyturf	1 GAL	12" OC	CONT	TRIANGULAR SPACING

GROUNDCOVER KEY

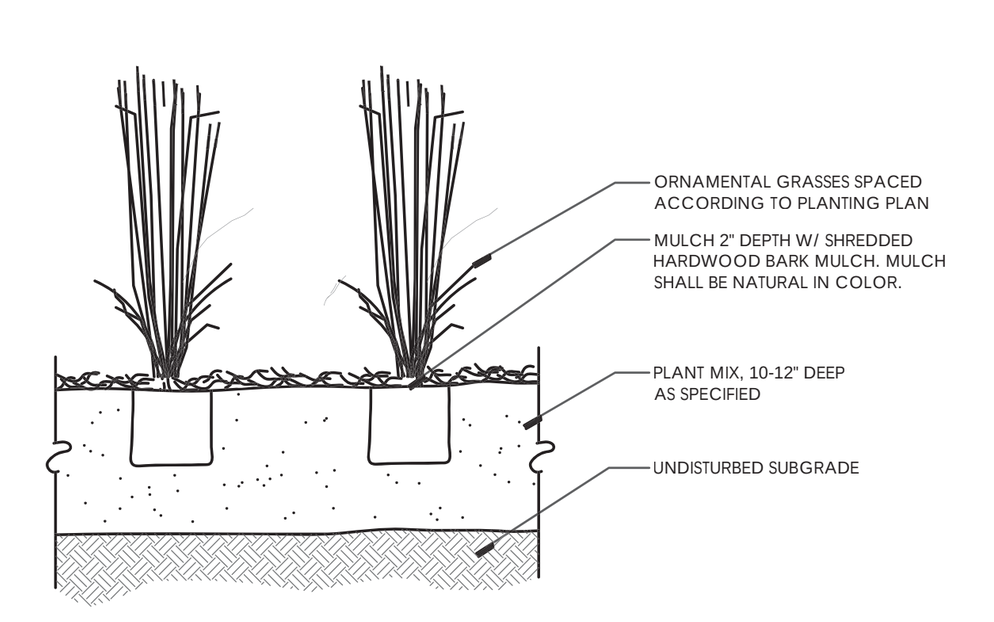
1. TYPICAL SOD LAWN AREAS, SOWN ON 3" TOPSOIL
2. RESTORE EXISTING LAWN AREAS W/ HYDROSEED AND MULCH
3. 4' DIA SPADE CUT EDGE W/ 3" SHREDDED BARK MULCH
4. 3" DEPTH DOUBLE SHREDDED HARDWOOD BARK MULCH
5. 3/4" - 1 1/2" STONE MULCH, 3-4" DEPTH ON WEED BARRIER



HEDGE PLANTING DETAIL
NTS



PERENNIAL PLANTING DETAIL
NTS



ORNAMENTAL GRASS PLANTING DETAIL
NTS

NOWAK & FRAUS ENGINEERS
CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS
NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL



PROJECT
Lutheran Church of the Redeemer Building Expansion

CLIENT
Lutheran Church of the Redeemer
1800 West Maple Road
Birmingham, Michigan

Contact
Steve Scheidt
Ph.: (248) 358-0800
Fax: (248) 358-2180

PROJECT LOCATION
Part of the SW 1/4 of Section 26
T. 2 North, R. 10 East
City of Birmingham,
Oakland County, Michigan

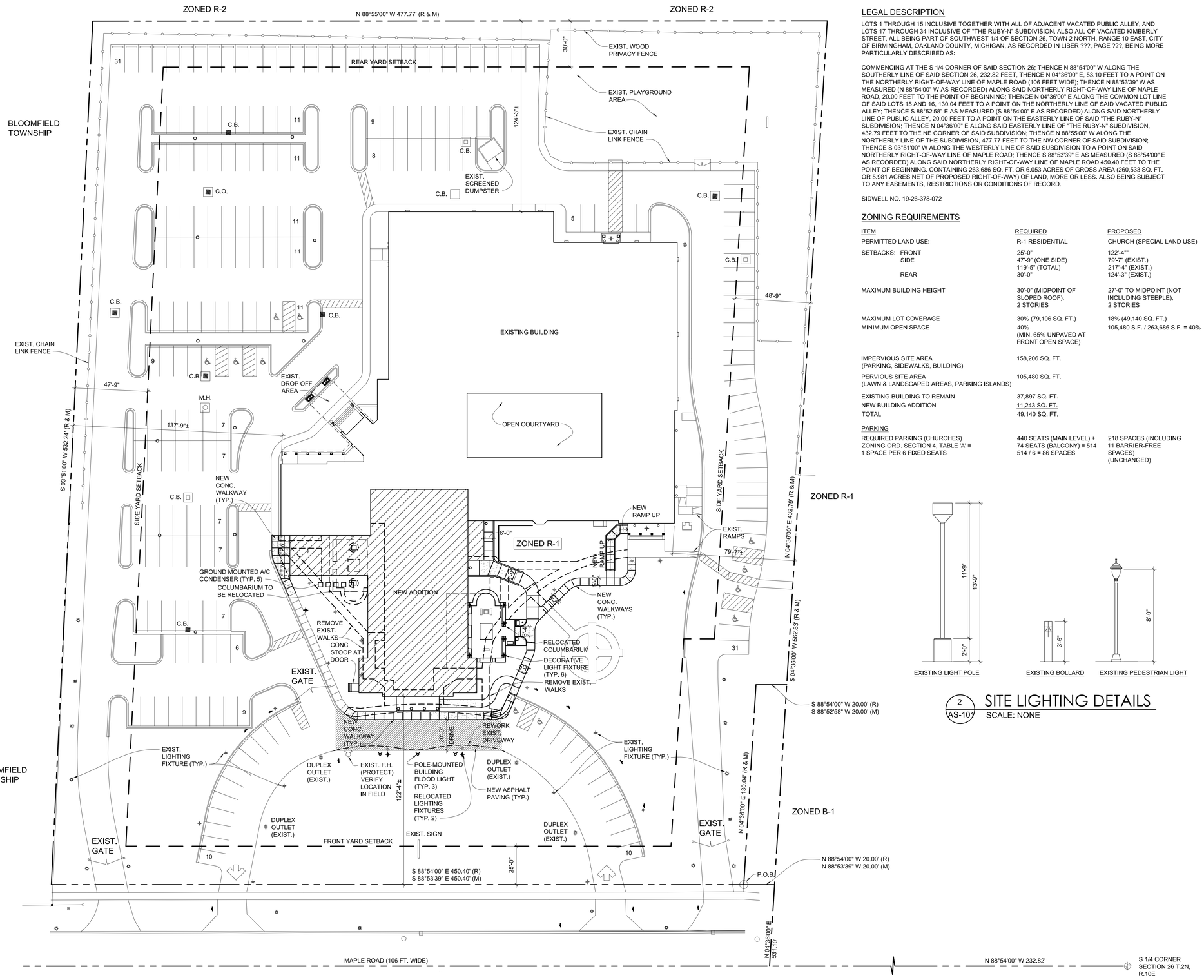
SHEET
Landscape Plan

Know what's below
Call before you dig.

REVISIONS
12/09/19 ISSUED FOR OWNER REVIEW
12/11/19 ISSUED FOR SITE PLAN REVIEW
12/30/19 REVISED PER OWNER

DRAWN BY:
G. Ostrowski
DESIGNED BY:
G. Ostrowski
APPROVED BY:
G. Ostrowski
DATE:
12-04-2019
SCALE: 1" = 20'
20 10 0 10 20 30

NFE JOB NO. D366-05
SHEET NO. L2



1 AS-101 SITE PLAN
SCALE: 1" = 30'-0"

LEGAL DESCRIPTION

LOTS 1 THROUGH 15 INCLUSIVE TOGETHER WITH ALL OF ADJACENT VACATED PUBLIC ALLEY, AND LOTS 17 THROUGH 34 INCLUSIVE OF "THE RUBY-N" SUBDIVISION, ALSO ALL OF VACATED KIMBERLY STREET, ALL BEING PART OF SOUTHWEST 1/4 OF SECTION 26, TOWN 2 NORTH, RANGE 10 EAST, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER ???, PAGE ???, BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 26; THENCE N 88°54'00" W ALONG THE SOUTHERLY LINE OF SAID SECTION 26, 232.82 FEET, THENCE N 04°36'00" E, 53.10 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD (106 FEET WIDE); THENCE N 88°53'39" W AS MEASURED (N 88°54'00" W AS RECORDED) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD, 20.00 FEET TO THE POINT OF BEGINNING; THENCE N 04°36'00" E ALONG THE COMMON LOT LINE OF SAID LOTS 15 AND 16, 130.04 FEET TO A POINT ON THE NORTHERLY LINE OF SAID VACATED PUBLIC ALLEY; THENCE S 88°52'58" E AS MEASURED (S 88°54'00" E AS RECORDED) ALONG SAID NORTHERLY LINE OF PUBLIC ALLEY, 20.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID "THE RUBY-N" SUBDIVISION; THENCE N 04°36'00" E ALONG SAID EASTERLY LINE OF "THE RUBY-N" SUBDIVISION, 432.79 FEET TO THE NE CORNER OF SAID SUBDIVISION; THENCE N 88°55'00" W ALONG THE NORTHERLY LINE OF THE SUBDIVISION, 477.77 FEET TO THE NW CORNER OF SAID SUBDIVISION; THENCE S 03°51'00" W ALONG THE WESTERLY LINE OF SAID SUBDIVISION TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD; THENCE S 88°53'39" E AS MEASURED (S 88°54'00" E AS RECORDED) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF MAPLE ROAD 450.40 FEET TO THE POINT OF BEGINNING. CONTAINING 263,686 SQ. FT. OR 6.053 ACRES OF GROSS AREA (260,533 SQ. FT. OR 5.981 ACRES NET OF PROPOSED RIGHT-OF-WAY) OF LAND, MORE OR LESS. ALSO BEING SUBJECT TO ANY EASEMENTS, RESTRICTIONS OR CONDITIONS OF RECORD.

SIDWELL NO. 19-26-378-072

ZONING REQUIREMENTS

ITEM	REQUIRED	PROPOSED
PERMITTED LAND USE:	R-1 RESIDENTIAL	CHURCH (SPECIAL LAND USE)
SETBACKS: FRONT	25'-0"	122'-4""
SIDE	47'-9" (ONE SIDE) 119'-5" (TOTAL)	79'-7" (EXIST.) 217'-4" (EXIST.)
REAR	30'-0"	124'-3" (EXIST.)
MAXIMUM BUILDING HEIGHT	30'-0" (MIDPOINT OF SLOPED ROOF), 2 STORIES	27'-0" TO MIDPOINT (NOT INCLUDING STEEPLE), 2 STORIES
MAXIMUM LOT COVERAGE	30% (79,106 SQ. FT.)	18% (49,140 SQ. FT.)
MINIMUM OPEN SPACE	40% (MIN. 65% UNPAVED AT FRONT OPEN SPACE)	105,480 S.F. / 263,686 S.F. = 40%
IMPERVIOUS SITE AREA (PARKING, SIDEWALKS, BUILDING)	158,206 SQ. FT.	
PERVIOUS SITE AREA (LAWN & LANDSCAPED AREAS, PARKING ISLANDS)	105,480 SQ. FT.	
EXISTING BUILDING TO REMAIN	37,897 SQ. FT.	
NEW BUILDING ADDITION	11,243 SQ. FT.	
TOTAL	49,140 SQ. FT.	
PARKING		
REQUIRED PARKING (CHURCHES) ZONING ORD. SECTION 4, TABLE 'A' = 1 SPACE PER 6 FIXED SEATS	440 SEATS (MAIN LEVEL) + 74 SEATS (BALCONY) = 514 514 / 6 = 86 SPACES	218 SPACES (INCLUDING 11 BARRIER-FREE SPACES) (UNCHANGED)

EXISTING LIGHT POLE | EXISTING BOLLARD | EXISTING PEDESTRIAN LIGHT

2 AS-101 SITE LIGHTING DETAILS
SCALE: NONE

ISSUED:
11/15/19 DD PACKAGE
02/12/20 SPA PACKAGE

merritt cieslak design plc
ARCHITECTURE | PLANNING
33610 Grand River
Farmington, Michigan 48335
248-374-0001
www.mcdarchitects.com

LUTHERAN CHURCH OF THE REDEEMER

MAPLE ROAD
BIRMINGHAM, MICHIGAN

ARCHITECTURAL SITE PLAN

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Project No.	Sheet No.
15165	AS-101

24ACC6
Performance™ 16 Air Conditioner
with Puron® Refrigerant
1–1/2 to 5 Tons

Carrier — turn to the experts

Product Data



Puron® Performance® SERIES

Carrier's Air Conditioners with Puron® refrigerant provide a collection of features unmatched by any other family of equipment. The 24ACC has been designed utilizing Carrier's Puron refrigerant. The environmentally sound refrigerant allows you to make a responsible decision in the protection of the earth's ozone layer.

This product has been designed and manufactured to meet Energy Star® criteria for energy efficiency when matched with appropriate coil components. Refer to the combination ratings in the Product Data for system combinations that meet Energy Star® guidelines.

NOTE: Ratings contained in this document are subject to change at any time. Always refer to the AHRI directory (www.ahridirectory.org) for the most up-to-date ratings information.

INDUSTRY LEADING FEATURES / BENEFITS

Efficiency
- 14 - 16.5 SEER / 11.5- 13.5 EER
- Microtube Technology™ refrigeration system
- Indoor air quality accessories available

Sound
- Sound level as low as 72 dBA
- Compressor sound blanket standard

Comfort
- System supports Edge® Themidistat™ or standard thermostat controls

Reliability
- Puron® refrigerant – environmentally sound, won't deplete the ozone layer and low lifetime servce cost.
- Scroll compressor
- Internal pressure relief valve
- Internal thermal overload
- Filter drier
- High and low pressure switches
- Balanced refrigeration system for maximum reliability

Durability
WeatherArmor™ protection package:
- Solid, durable sheet metal construction
- Louvered coil guard
- Baked-on, complete outer coverage, powder paint

Applications
- Long-line – up to 250 feet (76.20 m) total equivalent length, up to 200 feet (60.96 m) condenser above evaporator, or up to 80 ft. (24.38 m) evaporator above condenser (See Longline Guide for more information.)
- Low ambient (down to -20°F/-28.9°C)) with accessory kit

gotham | E V O
Multiple Layers of Light

Luminaire Type:
Catalog Number:

General Illumination Round Downlight 6"


250 - 8,000 lumens


10,000 - 17,500 lumens

Feature Set
- Bounding Ray™ optical design
- Unitized optics mechanically attach the light engine to the lower reflector for complete optical alignment.
- 45° cutoff to source and source image
- Fully serviceable and upgradeable lensed LED light engine
- 70% lumen maintenance at 60,000 hours
- 2.5 SDCM; 85 CRI typical, 90+ CRI optional
- Fixtures are wet location, covered ceiling
- Available with 10% dimming, 1% dimming, or dim to dark
- Batwing distribution with feathered edges provides even illumination on horizontal and vertical surfaces
- ENERGY STAR® certified product

Distribution
very narrow 0.5 S:MH | narrow 0.7 S:MH | medium 0.9 S:MH | medium wide 1.0 S:MH | wide 1.2 S:MH

Superior Performance

Nominal Lumens	250	500	750	1000	1500	2000	2500	3000	3500	4000	4500	5000	6000	8000	10,000	12,000	15,000	17,500
Delivered Lumens	257	519	776	994	1471	1906	2537	3077	3540	4027	4533	5256	6371	8047	10637	12332	15776	17801
Wattage	2.4	4.2	8.2	9.6	14.7	19.7	26.7	29.5	33.8	39.0	47.3	48.7	57.6	74.9	97.1	115.0	150.9	175.3
Lumens per Watt	87.4	80.7	94.6	103.5	100.1	101.8	102.7	104.3	104.8	103.3	95.8	107.9	110.6	110.1	109.5	107.2	104.5	101.5

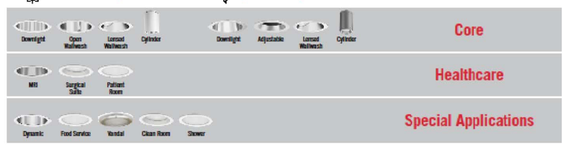
Coordinated Apertures | Multiple Layers of Light


General Illumination Layer | EVO


High Center Beam Layer | Incino


EVO + Incino — Multiple Layers of Light

COMPLIMENTARY PRODUCTS



GOTHAM ARCHITECTURAL DOWNLIGHTING | 1400 Lester Road Conyers, GA 30012 | P 800-705-SERV (7378) | gothamlighting.com
© 2014-2019 Acuity Brands Lighting Inc. All Rights Reserved. Rev. 11/18/19 Specifications subject to change without notice.

LT30 Luminaires


LT30 D

SPECIFICATIONS

DESCRIPTION
The octagonal shaped luminaire shall consist of a luminaire base with an integral ballast housing, an eight-sided lens frame, eight lens panels, an octagonal shaped hinged roof, and a spiked finial.

DIMENSIONS
Fixture dimensions shall be as detailed on back page.

MATERIALS
The luminaire base, ballast housing, frame assembly, roof, and finial shall be heavy wall, copper free, cast aluminum produced from certified ASTM 356.1 ingot per ASTM B-179-95A or ASTM B26-95, formed true to the pattern with complete detail. Lens panels shall be smooth, textured, or prismatic. Lenses are available in clear polycarbonate or clear acrylic. Internal refractors shall be borosilicate glass and reflectors shall be polished aluminum. All hardware shall be stainless steel. All exterior hardware shall be tamper resistant.

INSTALLATION
The luminaire shall mount on a 3" O.D. x 3" tenon with six 1/4" dia. socket set screws. The ballast and socket assembly shall be furnished with a quick disconnect plug and mount on a removable ballast plate. The ballast plate shall be removed by loosening a thumb screw.

FINISH
For finish specifications and color options see **"Finish"** section in catalog.

LIGHT SOURCE
Luminaires shall be furnished with an H.I.D. ballast and socket assembly. Luminaire shall be UL listed and labeled as suitable for wet locations. Sockets shall be glazed porcelain, mogul or medium base, with a copper alloy nickel plated screw shell and center contact. Ballast shall be core and coil, high power factor, regulating type.

CERTIFICATION
Upon request, manufacturer shall certify the use of 356.1 ingot alloy. Upon request, manufacturer shall supply UL file# and listing information.

ANTIQUE Street Lamps
201 NW Rundberg Ln • Austin, TX 78758
Ph (512) 977-8444 • Fax (512) 977-5622

GROUND-MOUNTED A/C CONDENSERS

TYPICAL FOR 5 UNITS. SIZE: 35" X 35" X 46" HIGH
LOCATION: SOUTH OF NEW WEST WING BUILDING ADDITION.

BUILDING ILLUMINATION AT ENTRANCES

NEW LIGHTING FIXTURE TYPE 'A'
LOCATIONS: SEE PHOTOMETRIC PLAN

DECORATIVE SITE LIGHTING

NEW LIGHTING FIXTURE TYPE 'SD'
LOCATIONS: SEE PHOTOMETRIC PLAN

NOTE:

REFER TO SHEET AS-101 FOR DESCRIPTION OF EXISTING SITE LIGHTING FIXTURES TO REMAIN.

REFER TO SITE PHOTOMETRIC SHEET FOR LOCATIONS AND ADDITIONAL DESRIPTIONS OF SITE LIGHTING FIXTURES.

ISSUED:
02/12/20 SPA PACKAGE

merritt cieslak design [p.l.c]
ARCHITECTURE | PLANNING
33610 Grand River
Farmington, Michigan 48335
248-374-0001
www.mcdarchitects.com

LUTHERAN CHURCH OF THE REDEEMER
MAPLE ROAD
BIRMINGHAM, MICHIGAN

NEW SITE COMPONENTS

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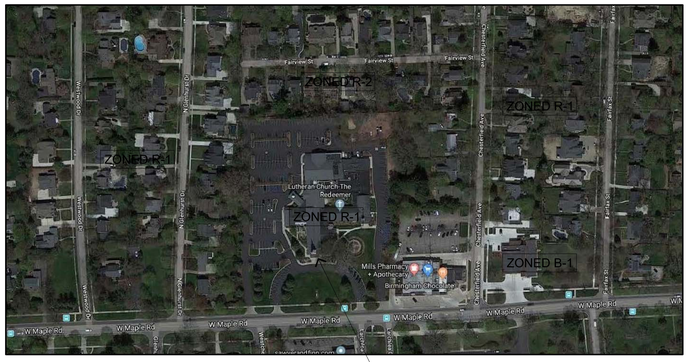
Project No.	Sheet No.
15165	AS-102



FRONT OF SANCTUARY



EXISTING LUTHERAN CHURCH
OF THE REDEEMER STRUCTURE

AERIAL SITE PLAN



FRONT OF SANCTUARY



WEST WING AND COLUMBARIUM



WEST ENTRANCE



WEST PARKING LOT



EAST WING



EAST PARKING LOT



EAST WING AND GARDEN

ISSUED:
02/12/20 SPA PACKAGE

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LUTHERAN CHURCH OF THE REDEEMER

MAPLE ROAD
BIRMINGHAM, MICHIGAN

SITE PHOTOS & AERIAL PLAN

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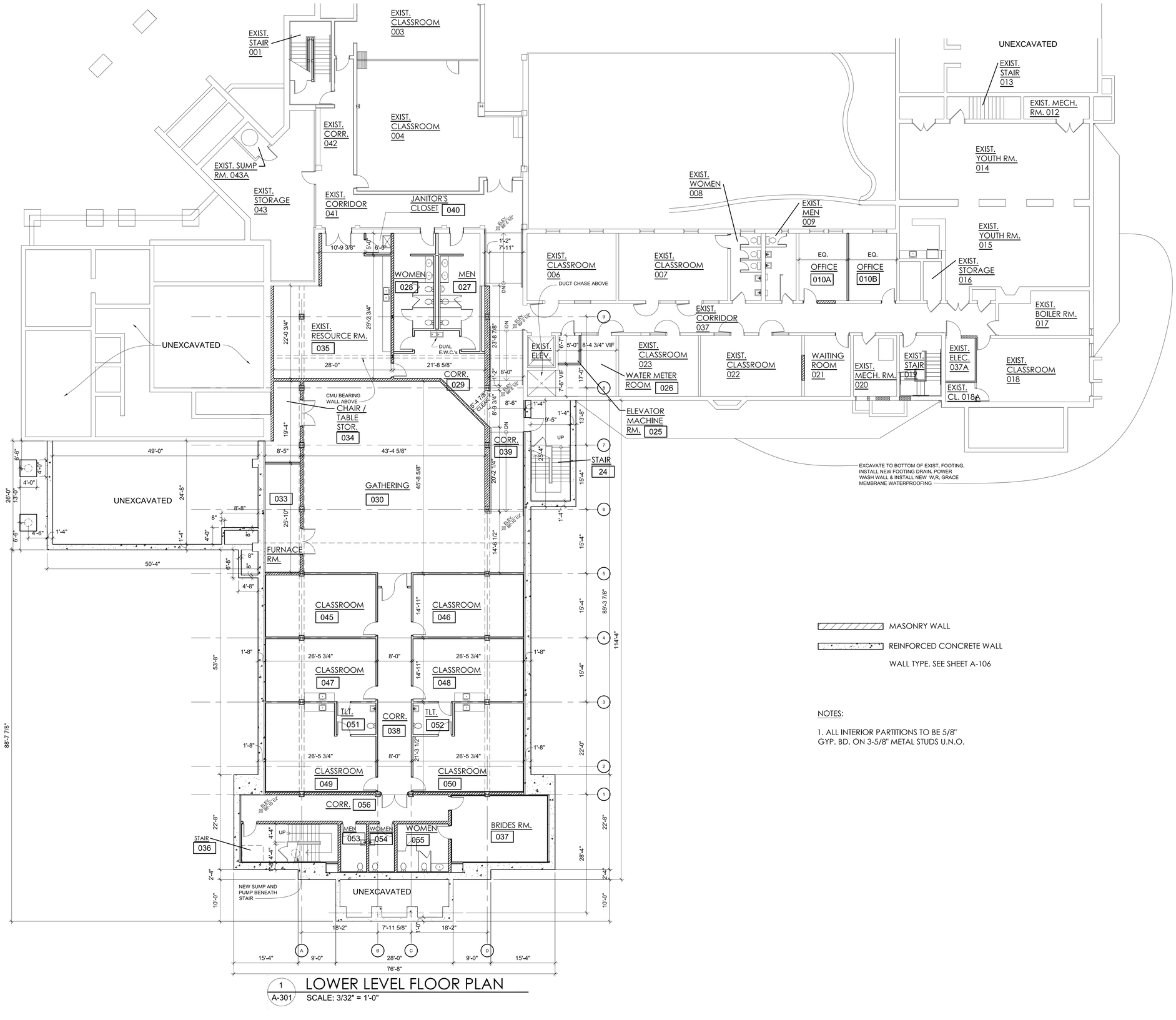
Project No.	Sheet No.
15165	A-002



1 A-301 LOWER LEVEL FLOOR PLAN
SCALE: 3/32" = 1'-0"

MASONRY WALL

REINFORCED CONCRETE WALL

WALL TYPE. SEE SHEET A-106

NOTES:

1. ALL INTERIOR PARTITIONS TO BE 5/8" GYP. BD. ON 3-5/8" METAL STUDS U.N.O.

ISSUED:
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11/15/19 DD PACKAGE
02/12/20 SPA PACKAGE

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LOWER LEVEL FLOOR PLAN

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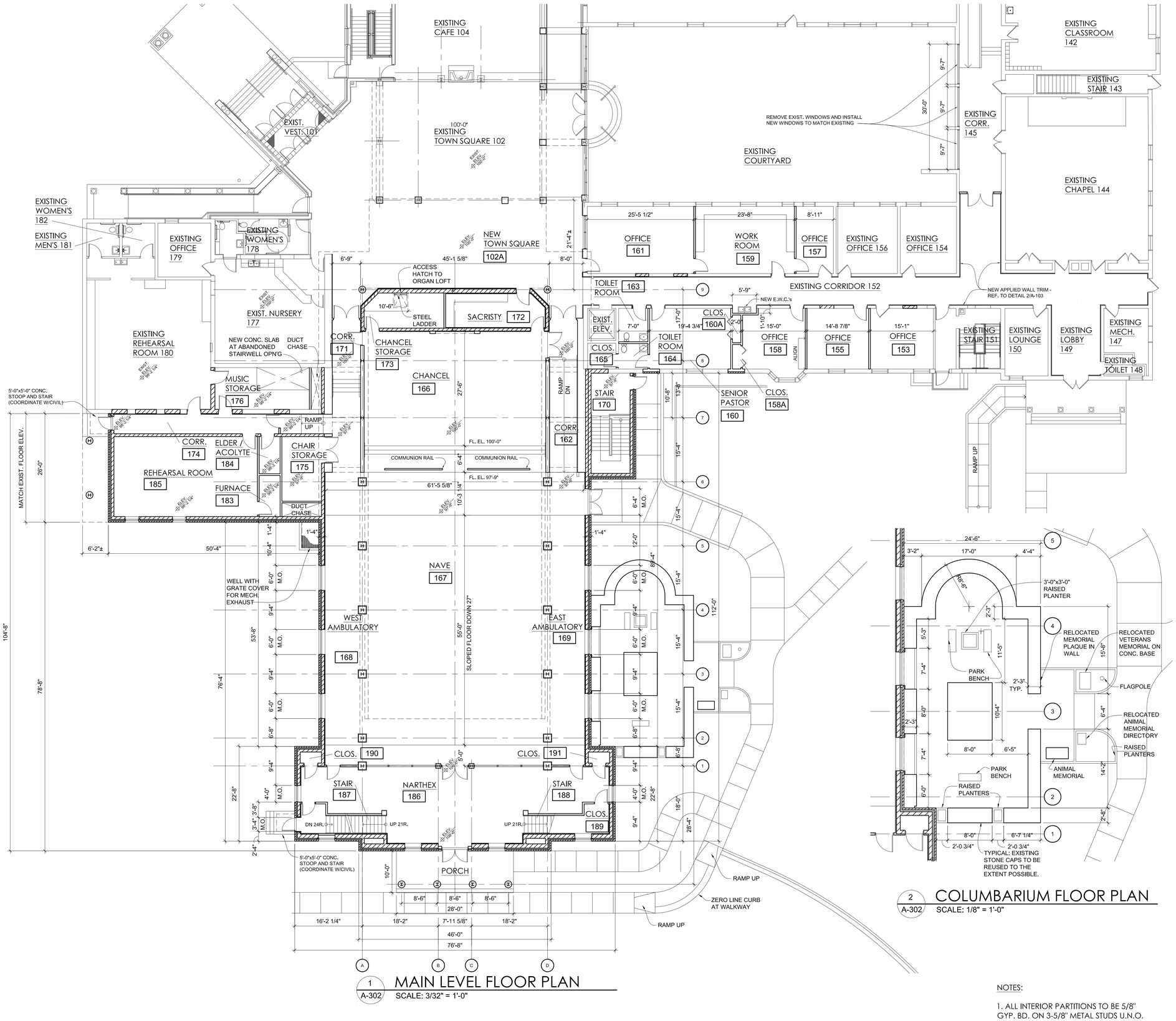
Project No.	Sheet No.
15165	A-301



1 A-302 **MAIN LEVEL FLOOR PLAN**
SCALE: 3/32" = 1'-0"

2 A-302 **COLUMBARIUM FLOOR PLAN**
SCALE: 1/8" = 1'-0"

NOTES:

1. ALL INTERIOR PARTITIONS TO BE 5/8" GYP. BD. ON 3-5/8" METAL STUDS U.N.O.

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LUTHERAN CHURCH OF THE REDEEMER

MAPLE ROAD
BIRMINGHAM, MICHIGAN

MAIN LEVEL FLOOR PLAN

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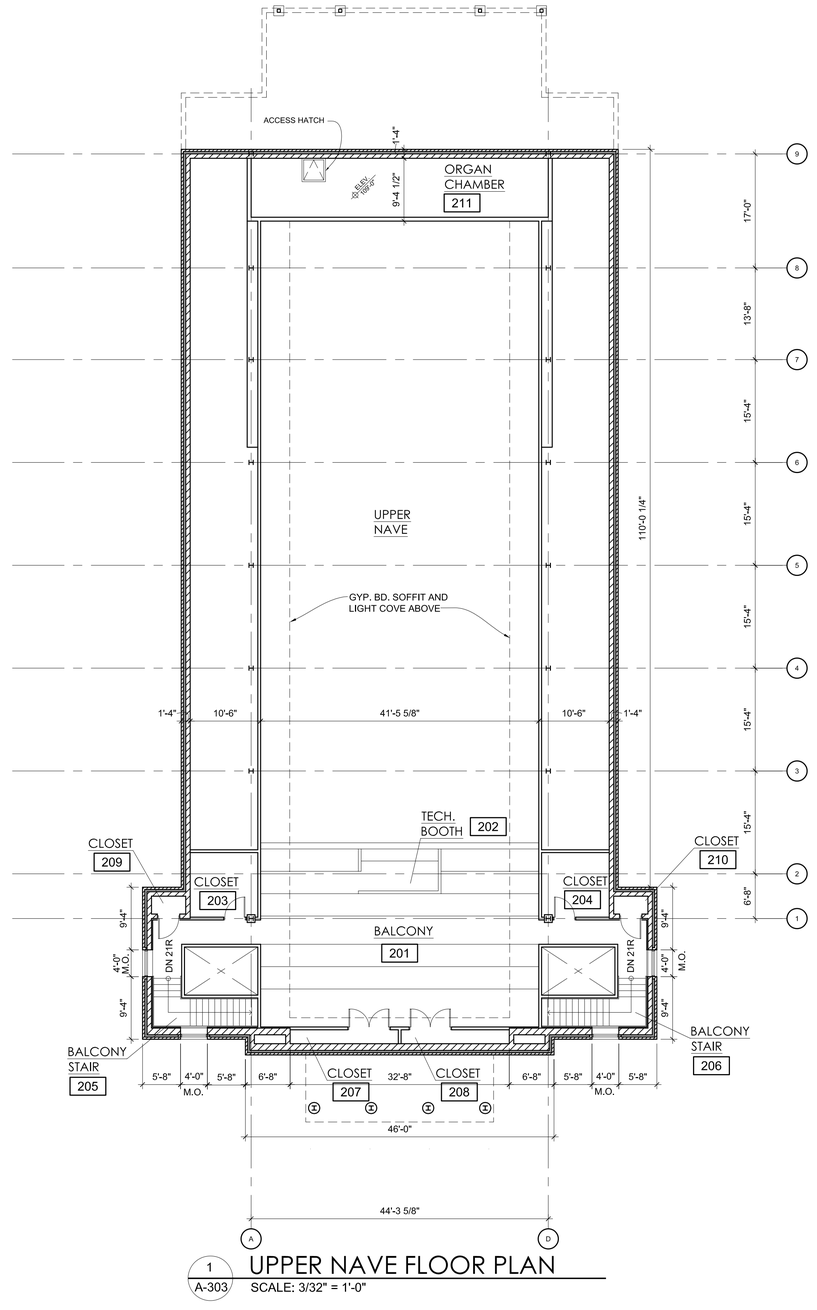
Project No.	Sheet No.
15165	A-302



1 A-303 UPPER NAVE FLOOR PLAN

SCALE: 3/32" = 1'-0"

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MAPLE ROAD
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UPPER NAVE FLOOR PLAN

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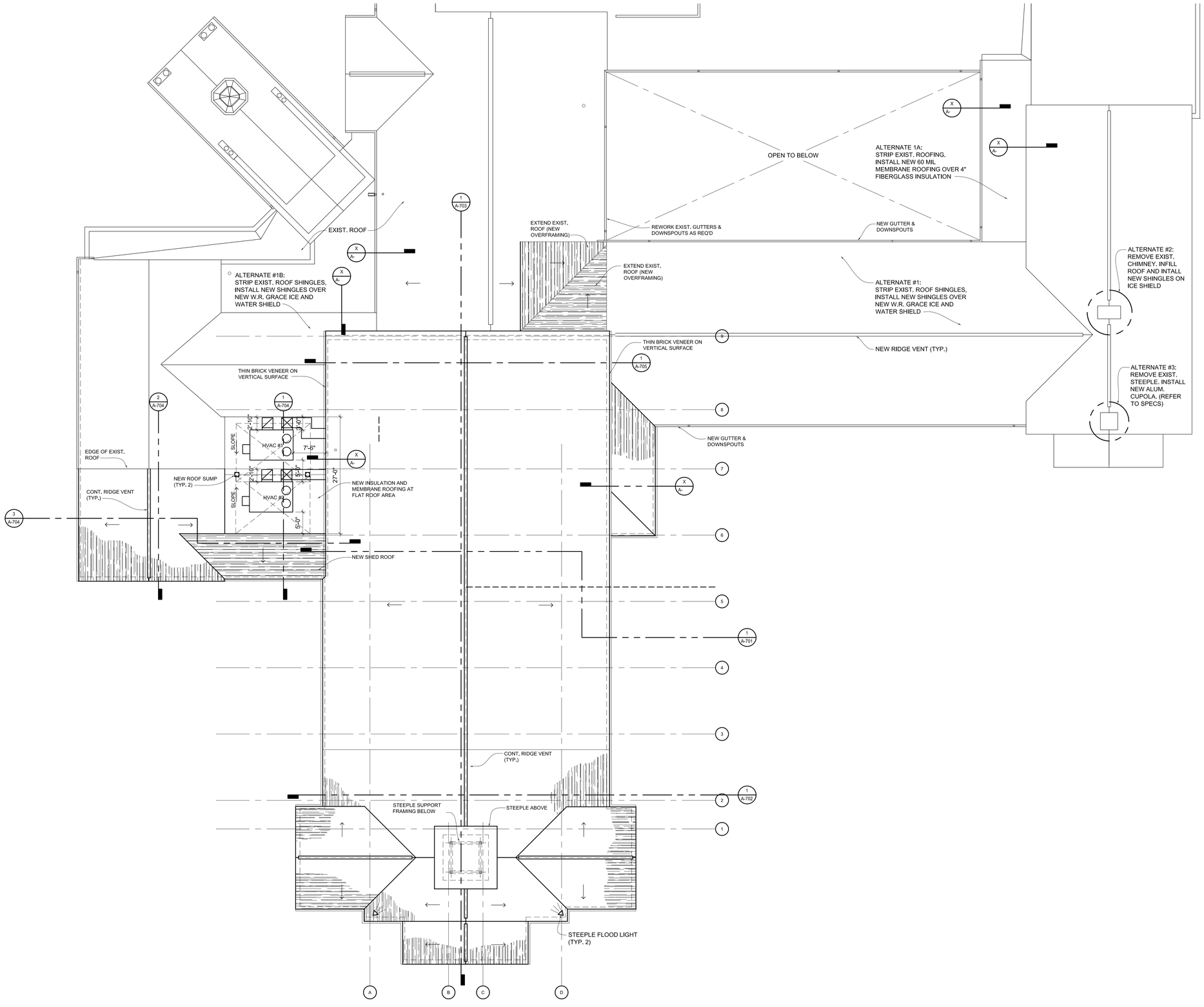
Project No.	Sheet No.
15165	A-303



1 A-501 PARTIAL ROOF PLAN
SCALE: 3/32" = 1'-0"

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ROOF PLAN

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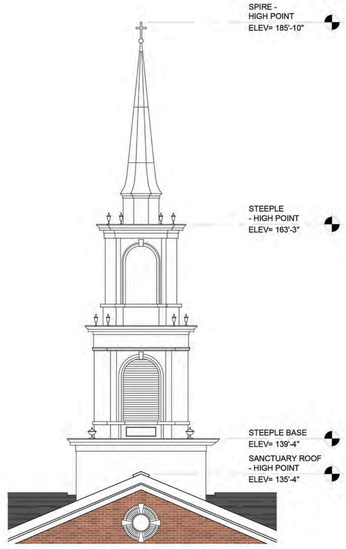
Project No.	Sheet No.
15165	A-501



4 A-601 **STEEPLE ELEVATION**
SCALE: 1/8" = 1'-0"



2 A-601 **WEST ELEVATION**
SCALE: 1/8" = 1'-0"

3 A-601 **PARTIAL EAST ELEVATION**
SCALE: 1/8" = 1'-0"

1 A-601 **SOUTH ELEVATION**
SCALE: 1/8" = 1'-0"

MATERIAL LIST

BRICK	BELDEN BRICK CO., "BERWICK", MODULAR
SHINGLES	CERTAINTEED TRADITIONAL XT 30
DECORATIVE TRIM	FYPON SYNTHETIC TRIM
WINDOWS / EXTERIOR DOORS	PELLA, ALUMINUM-CLAD WOOD WINDOWS AND DOORS, PROLINE
DOORS (UTILITY LOCATIONS)	HOLLOW METAL, PAINTED
WOOD COLUMNS	HARTMANN-SANDERS, WESTERN RED CEDAR, PAINTED
EIFS	DRYVIT, SAND PEBBLE - FINE FINISH COLOR: #310 CHINA WHITE, #356 RED CLAY

ISSUED:
11/15/19 DD PACKAGE

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EXTERIOR ELEVATIONS

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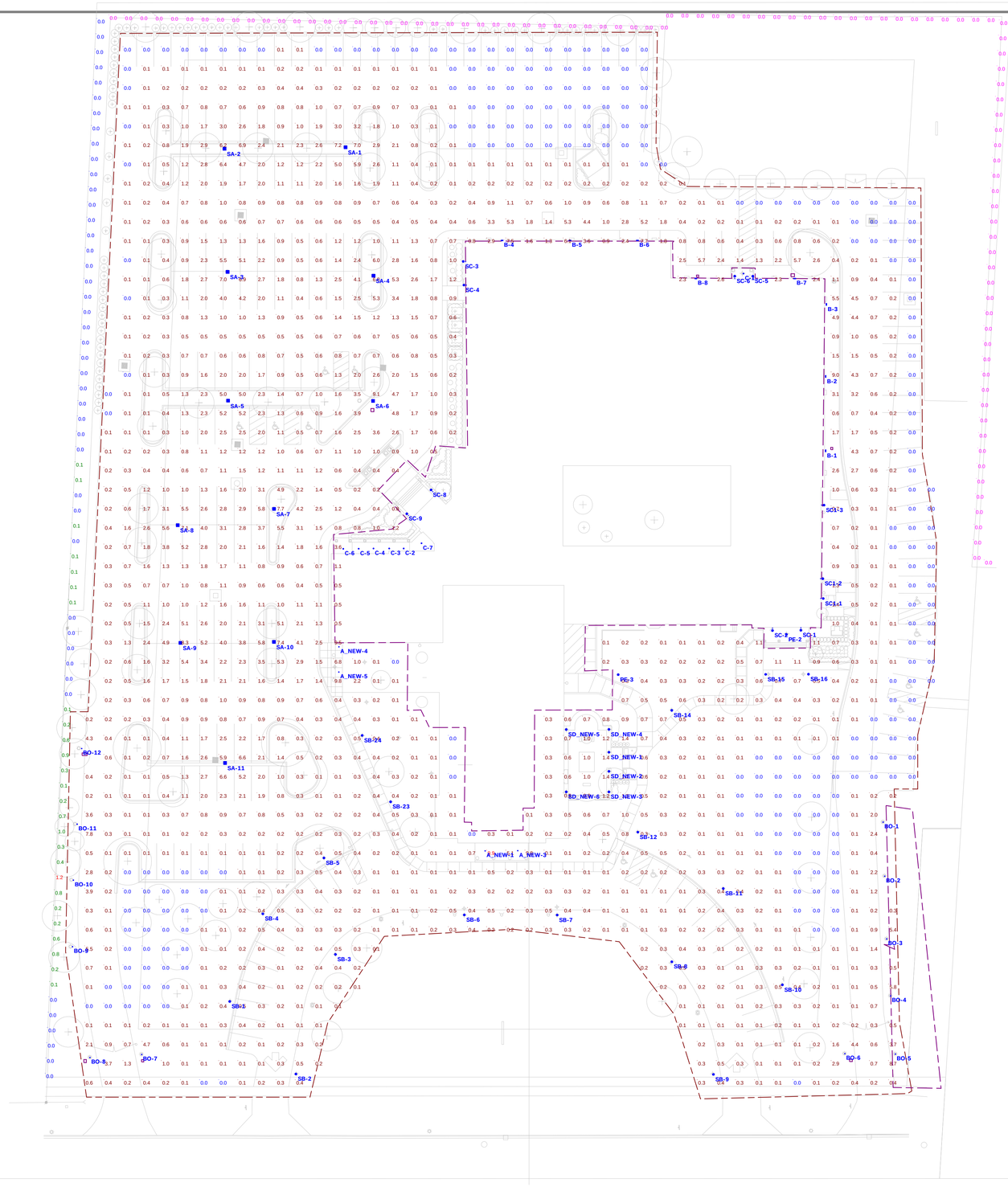
Project No.	Sheet No.
15165	A-601



Plan View
Scale - 1" = 30ft

Statistics

Description	Symbol	Avg	Max	Min	Max / Min	Avg / Min
BLOOMFIELD TOWNSHIP	+	0.1 fc	1.2 fc	0.0 fc	N/A	N/A
PARKING, DRIVES, WALKS	+	0.8 fc	9.9 fc	0.0 fc	N/A	N/A
RESIDENTIAL PROPERTY LINE	+	0.0 fc	0.0 fc	0.0 fc	N/A	N/A

Schedule

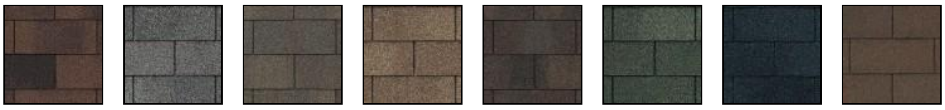
Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Lamp	Lumens Per Lamp	Light Loss Factor	Wattage
	SA	11	LITHONIA LIGHTING	KKS 150S R5S	POST-TOP TYPE V,SHORT,CUTOFF - SQUARE HOUSING	ONE 150-WATT CLEAR ET-23.5 HIGH PRESSURE SODIUM, HORIZONTAL POSITION.	16000	0.65	189
	BO	12	Lithonia Lighting	KBR6 70S R5	6 IN ROUND BOLLARD	ONE 100-WATT CLEAR E-17 HIGH PRESSURE SODIUM, VERTICAL BASE-DOWN POSITION.	6300	0.65	94
	SB	17	Antique Street Lamps	LT30 40W GR3 ACT	8-SIDED LANTERN WITH TEXTURED PANELS AND TYPE III REFRACTOR.	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	150
	PE	2	Antique Street Lamps	LT30 40W GR3 ACT	DECORATIVE PENDANT WITH TEXTURED PANELS	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	120
	SC	8	Antique Street Lamps	LT30 40W GR3 ACT	SCONCE WITH TEXTURED PANELS	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	120
	SC1	3	Antique Street Lamps	LT30 100W A19 ACT	SCONCE WITH TEXTURED PANELS	ONE 100W A19 MEDIUM BASE LAMPS, VERTICAL BASE-DOWN	1730	0.81	120
	B	8	Lithonia Lighting	WST 100S FT	ARCHITECTURAL SCONCE WITH FORWARD THROW DISTRIBUTION WITH CLEAR, FLAT GLASS LENS. CLEAR LAMP. MEETS THE 'NIGHTTIME FRIENDLY' CRITERIA	ONE 100-WATT CLEAR ED-17 HIGH PRESSURE SODIUM, HORIZONTAL POSITION.	9000	0.65	135
	C	7	Gotham Architectural Lighting	LGF 42TRT 8RW FFL	8" HORIZONTAL RECESSED DOWNLIGHT, 42W TRIPLE TUBE COMPACT FLUORESCENT LAMP, WHITE PAINTED REFLECTOR, WITH FLAT FRESNEL LENS (FFL)	ONE 42-WATT COMPACT FLUORESCENT TRIPLE TUBE, HORIZONTAL POS.	3200	0.81	48
	SD_NEW	6	Antique Street Lamps	LT30 40W GR3 ACT	8-SIDED LANTERN WITH TEXTURED PANELS AND TYPE III REFRACTOR.	THREE 40W CANDLABRA BASE LAMPS, VERTICAL BASE-DOWN	1800	0.81	150
	A_NEW	4	Gotham Architectural Lighting	EVO 35/15 6AR WD LS	3500K, 1500LM, CRI80, 6IN CLEAR, WIDE DIST, SPECULAR	LED	1622	0.85	18.5

Lutheran Church Of The Redeemer
Birmingham, MI
Existing site lighting photometrics with new Columbarium and two canopies light fixtures

Designer	
WZ	
Date	
Nov 08 2019	
Scale	
As Indicated	
Drawing No.	
Summary	

IMG_9507.jpg
5/29/2020
https://mail.google.com/mail/u/0/?tab=rm&ogbl#search/brick/FMfcgxwHMsXZCQJPRrHgsgCglDxvGDnH?projector=1&messagePartId=0.1





Shingle color to match existing shingles on church

XT™ 30 IR

OVERVIEW TECHNICAL INFO INSTALLATION W

When it comes to weathering the elements, XT 30 IR offers a level of impact resistance that leads the strip shingle class that provides a level of protection that's far from every day. This easy-to-install shingle is built on an extra-strength fiberglass base, and coated with high-grade mineral granules embedded in protective, water-resistant asphalt.

- Durable, beautifully color-blended line of shingles.
- Manufactured with self-sealing adhesive strips.

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Due to variation in computer monitors and printers, the color samples seen on your computer screen may not exactly match the corresponding color. To verify actual product color, ask to see the actual product, available through a CertainTeed contractor or distributor.

PRODUCT OVERVIEW

- Impact Resistant Shingles Brochure - West
- Roofing Products Guide - Southeast/South Atlantic/Mid-Atlantic
- Roofing Products Guide - Denver/Salt Lake
- Roofing Products Guide - South Central

(More Info)

TECHNICAL SPECS

- Data Sheet - XT30 IR
- 3-Part Spec - XT30 IR
- SDS - Asphalt Shingle - AR
- Miami-Dade NOA - XT30 IR

(More Info)

INSTALLATION

- XT30IR Installation Instructions

(More Info)

WARRANTY

- Asphalt Shingle Limited Warranty
- SureStart Warranty Brochure

(More Info)

Sweets ProductTAG

TECHNICAL INFORMATION

- Impact resistant: UL 2218 Class 4 rating
- Fiberglass-based construction
- UL Class A fire resistance
- UL certified to meet ASTM D3462
- Conforms to CSA standard A123.5
- Miami-Dade Product Control Acceptance: Please see the Notice of Acceptance (NOA) to determine approved products by manufacturing location.

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Color at Your Fingertips-48 Most Popular Colors

Before Making A Final Color Selection

Please note that the on-screen colors may not precisely match actual colors due to variance in monitor calibrations. It is the intent and purpose of this web-based color chart to provide a basic representation of Dryvit Systems finish colors and is offered as a sales aid only to select a range of colors for final selection. **This web-based color chart shall not be used for final color selection as color differences may occur from one computer to another.** Actual color selection should be made from 8" x 10" samples of each finish type, texture and color to be used on the project. Samples shall

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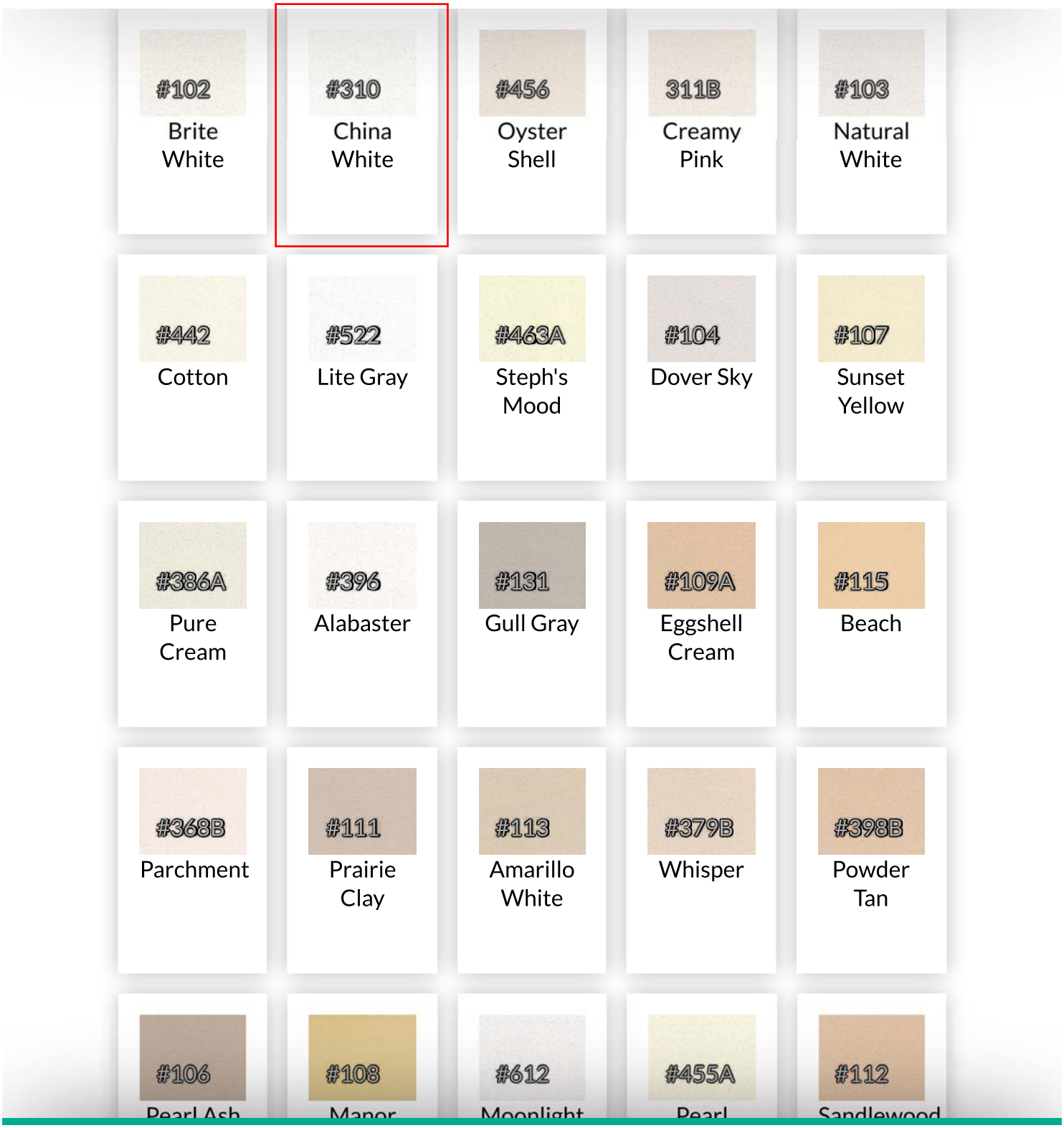

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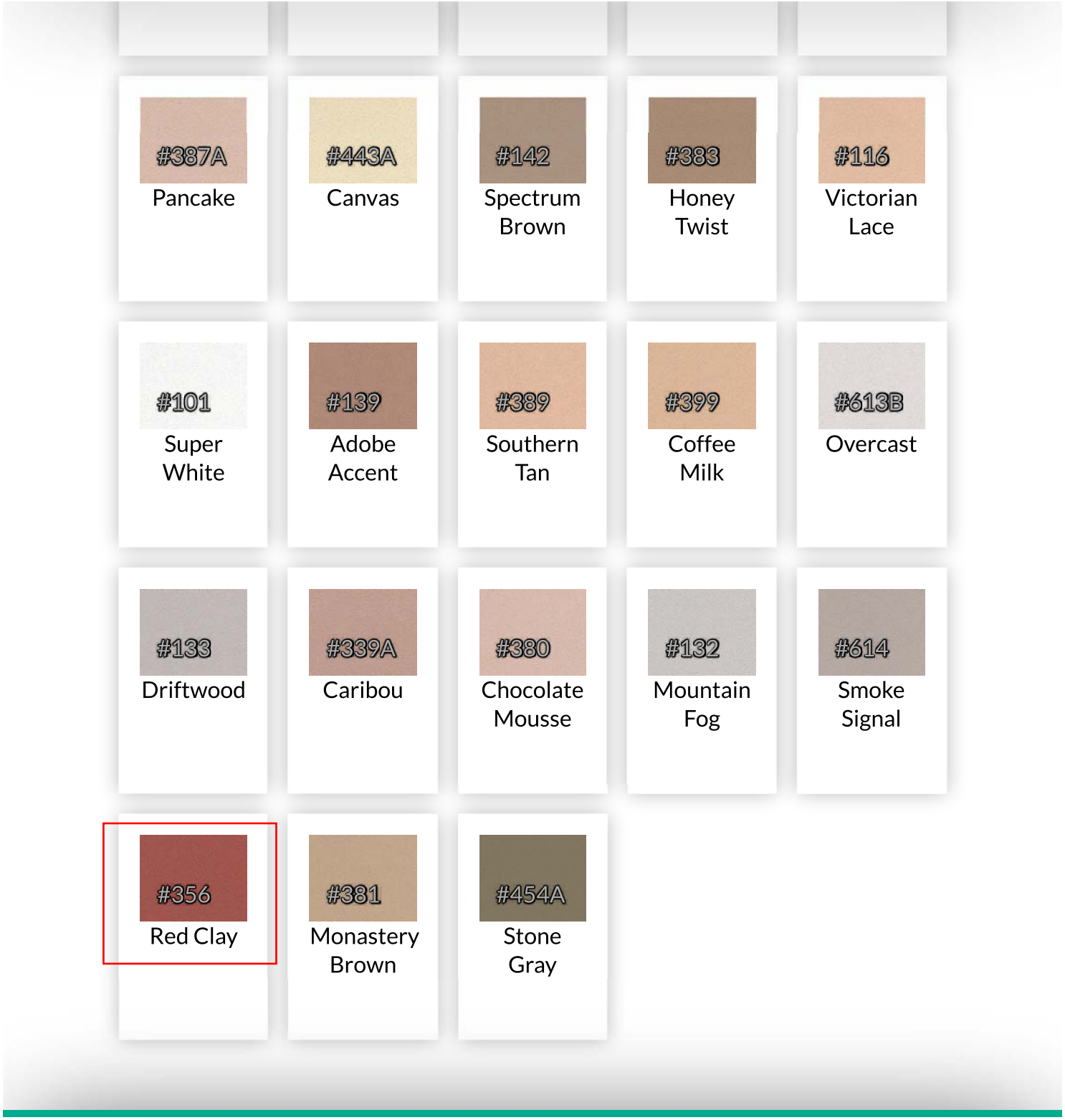

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"Original" Aggregate Textured 100% Acrylic-Based Dirt Pickup Resistance Finishes



Links

Color Chart CAYF - 48 Most Popular Colors

Color Chart CAYF - 288 Standard Colors

Data Sheet

NTX Data Sheet

Safety Data Sheet - DPR Finishes

Finishes/Coatings Warranty

Interior Specifications - DS174 PDF

Interior Specifications - DS174 DOC

Textures Up Close

JEST MORE INFO

Quarzputz®, Sandblast®, Freestyle®, Sandpebble®, and Sandpebble® Fine finishes are premixed 100% acrylic-based coatings which are offered in standard colors as

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Hartmann-Sanders™

Authentic Architectural Columns

Hartmann-Sanders™ Architectural Wood Columns are based upon the timeless orders of Classical Architecture. From the design of the capital to the proportions and shape of the column shaft, we follow the standards of classic column design. With over 100 years of experience manufacturing columns, Hartmann-Sanders™ offers the largest selection of authentic Architectural Wood Columns in the industry. We recommend solid stave or finger-joint western red cedar or clear all heart redwood for exterior applications. It is naturally weather resistant and immune to decay and infestation. Pine or polar may be used for interior columns that are to be painted. We also offer a large selection of stain-grade columns. Oak, cherry, maple, mahogany and poplar are the most common species used for stain-grade, however other wood species are available upon request. An interior asphaltum coating is applied on all columns to be used for exterior use. Columns that are to be painted are primed with three coats of an oil-based primer after they are turned. Each coat of primer is hand sanded to give an excellent surface for your final topcoats.

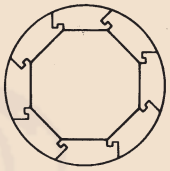
Columns may serve as a structural member or as a decorative accent. Columns which are to be installed around a structural support for decorative purposes will be manufactured in halves and provided with a spline joint for aligning the halves. For load bearing capacities, please contact our Architectural Specialists.

A large selection of capitals and base/plinths are available and manufactured of a high-density polyurethane, fiberglass or wood. Numerous styles of Decorative Capitals are also available to complement any design.



Stave Construction:

Our Wood Column shafts are formed of nominal 4" wide staves. The thickness of the stave depends on the height and diameter of the column shaft. Each stave is connected to the next with our patented Koll's Lock-Joint, and is tapered to achieve uniform thickness throughout the shaft length. Tongue and Groove stave construction is also available and carries the same warranty as the Koll's Lock-Joint. The staves are glued with the highest Type 1 water-resistant glue, interlocked, and kept under pressure for a minimum of eighteen hours.



Koll's Lock-Joint

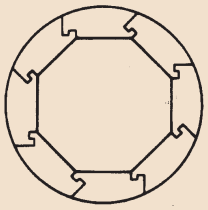
Stave Thickness:

Our experience in the construction of columns has indicated that the thickness of the stock used is important and must provide enough material for proper architectural detail and strength. The nominal thickness of stock used is shown below in the table.

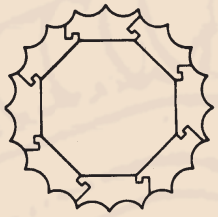


Column shafts may be plain or fluted, with the flutes being either Doric or Ionic design. The following illustrations show each design.

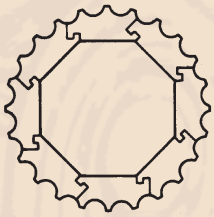
Plain



Doric: Section showing the standard 20 Doric Flutes on designs 215 and 195



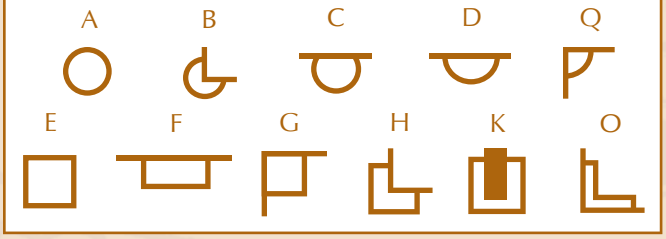
Ionic: Section showing the standard 24 Ionic Flutes on all other fluted column designs.



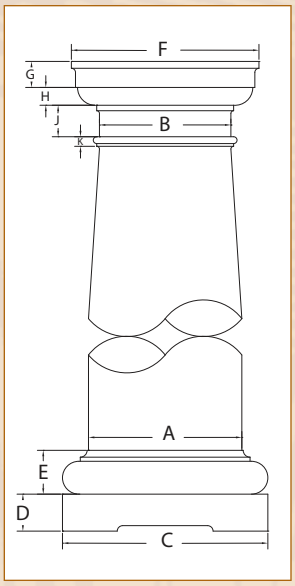
Stave Thickness

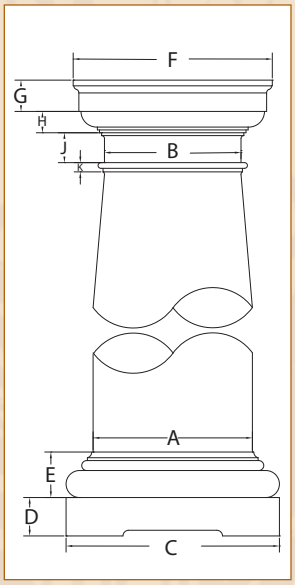
Column Size Plain	Plain Stave Thickness	Column Size Fluted	Fluted Stave Thickness
Up to 10″ and 10′ tall	1½″	**6″ to 10″**	1½″
11″ to 20″	2″	**11″ to 18″**	2″
21″ to 26″	3″	**19″ to 24″**	3″
27″ and up	4″	**25″ and up**	4″

Plan Types for Split Architectural Wood Columns



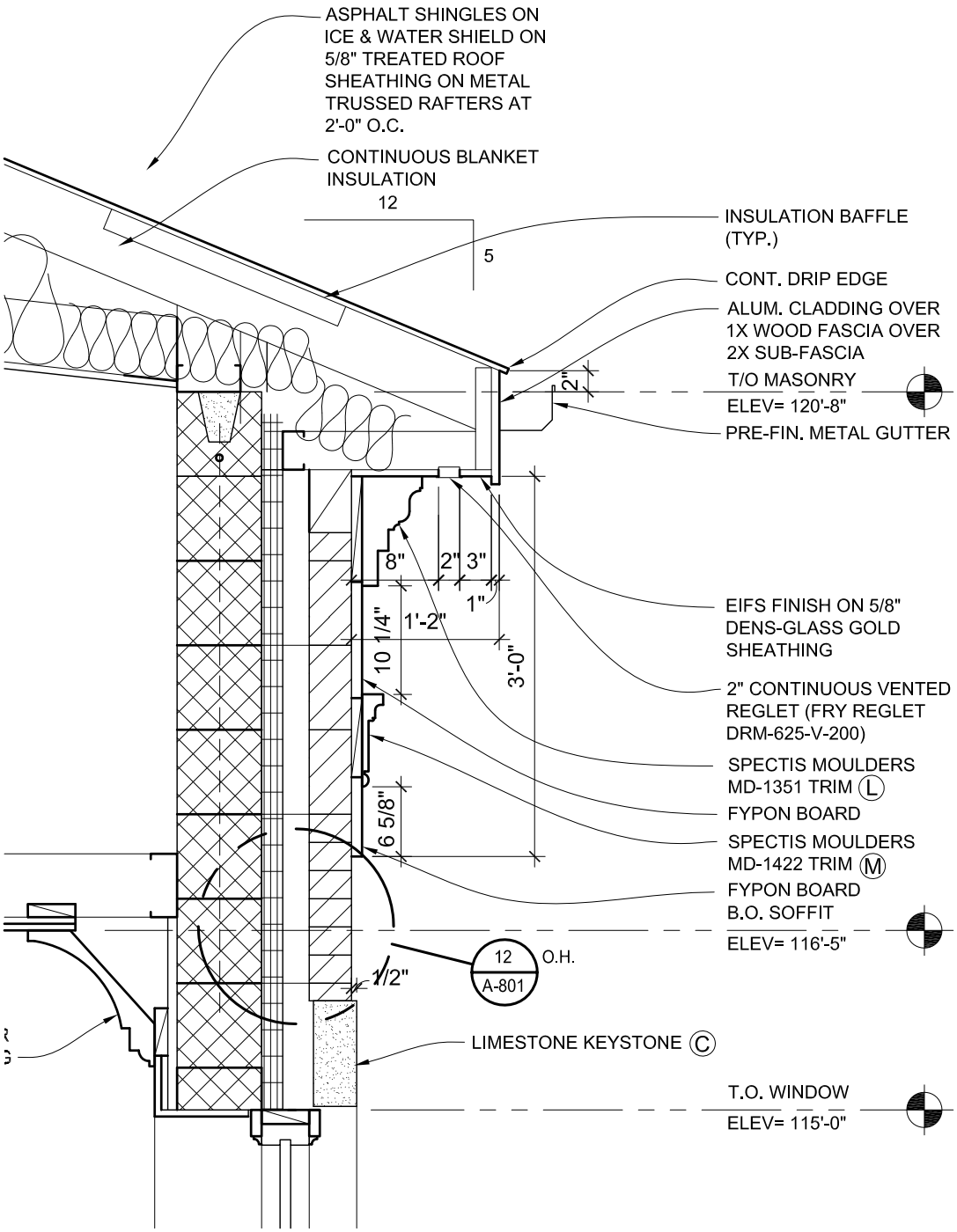
Measurements in inches unless otherwise noted. There may be a variance of up to 1/8" in all dimensions.



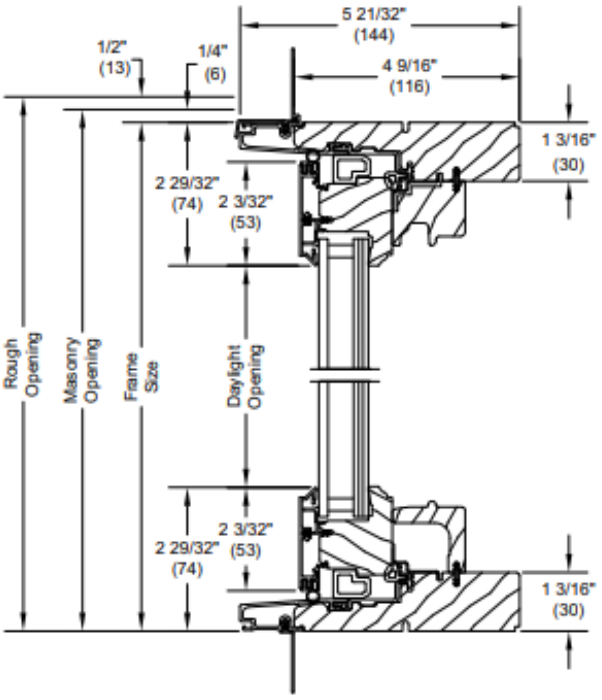


Tuscan Cap & Base Plinth | Column Design #200 plain; #205 fluted										
Column Size	Bottom Shaft Diameter	Top Shaft Diameter	Plinth		Base Mold	Cap Square		Cap Round		
			Width	Height		Width	Height			
	A	B	C	D	E	F	G	H	J	K
6″	6	5	8 1/2	1 1/2	1 3/4	7 1/2	1 1/16	11/16	1 5/8	11/16
8″	8	6 1/2	10 3/4	1 7/8	2 3/8	9 3/8	1 3/8	1	1 5/8	11/16
10″	10	8 1/2	13 3/8	2 3/8	2 7/8	12 1/8	1 3/4	1 1/4	2 3/16	3/4
12″	12	10	16 1/8	2 3/4	3 1/4	14 3/8	2	1 3/8	2 3/16	3/4
14″	14	12	18 3/4	3 3/8	4	17 1/8	2 3/8	1 5/8	2 5/8	1
16″	16	13 1/2	21 1/2	3 7/8	4 1/2	19 1/4	2 3/4	1 7/8	2 5/8	1
18″	18	15	24 1/4	4 1/4	5 3/8	21 1/2	3	2 1/8	3 5/16	1 5/16
20″	20	17	27	4 3/4	6	24 1/4	3 3/8	2 1/4	3 3/4	1 3/8
22″	22	18 1/2	29 3/4	5 1/4	6 7/8	26 1/2	3 3/4	2 1/2	4	1 3/8
24″	24	20	32 1/2	5 3/4	7 1/2	28 3/4	4 1/8	2 3/4	3 7/8	1 1/2
26″	26	22	35	6 1/4	8 3/8	31 1/2	4 3/8	3	3 5/8	1 3/4
28″	28	23 1/2	38	6 3/4	8 3/4	33 3/8	4 3/4	3 1/4	3 1/2	1 7/8
30″	30	25	40 1/2	7 1/4	9 1/4	35 3/4	5 1/8	3 1/2	4 3/4	1 7/8
32″	32	27	43 3/8	7 3/4	10	37 5/8	5 1/2	3 3/4	5	2
34″	34	28 1/2	46	8 1/4	10 7/8	41	5 3/4	3 7/8	5 3/4	2 1/4
36″	36	30	48 3/4	8 3/4	11 3/8	42 3/4	6 1/4	4 1/4	5 3/4	2 1/4
Roman Doric Cap & Base/Plinth | Column Design #210 plain; #215 fluted										
6″	6	5	8 1/2	1 1/2	1 3/4	8	1 1/8	7/8	1 5/8	11/16
8″	8	6 1/2	10 3/4	1 7/8	2 3/8	9 3/4	1 1/2	1 1/8	1 5/8	11/16
10″	10	8 1/2	13 3/8	2 3/8	3	12 1/2	1 3/4	1 3/8	2 3/16	3/4
12″	12	10	16 1/8	2 3/4	3 7/16	14 3/4	2 3/8	1 5/8	2 3/16	3/4
14″	14	12	18 3/4	3 3/8	4	17 1/2	2 3/4	2	2 5/8	1
16″	16	13 1/2	21 1/2	3 7/8	4 7/8	19 7/8	3 1/8	2 1/4	2 5/8	1
18″	18	15	24 1/4	4 1/4	5 5/8	22 1/4	3 1/2	2 1/2	3 5/16	1 5/16
20″	20	17	27	4 3/4	6 1/4	25	4	2 3/4	3 3/4	1 3/8
22″	22	18 1/2	29 3/4	5 1/4	6 3/4	27 3/8	4 3/8	3	4	1 3/8
24″	24	20	32 1/2	5 3/4	7 1/2	29 3/4	4 1/2	3 1/4	3 7/8	1 1/2
26″	26	22	35	6 1/4	8 1/8	32 1/2	5 1/8	3 1/2	3 5/8	1 3/4
28″	28	23 1/2	38	6 3/4	8 5/8	34 5/8	5 1/2	3 7/8	3 1/2	1 7/8
30″	30	25	40 1/2	7 1/4	9 3/8	37	5 7/8	4 1/8	4 3/4	1 7/8
32″	32	27	43 3/8	7 3/4	10	39 1/4	6 1/4	4 1/4	5	2
34″	34	28 1/2	46	8 1/4	10 3/4	42 1/8	6 5/8	4 5/8	5 3/4	2 1/4
36″	36	30	48 3/4	8 3/4	11 1/4	44 1/8	7	5	5 3/4	2 1/4

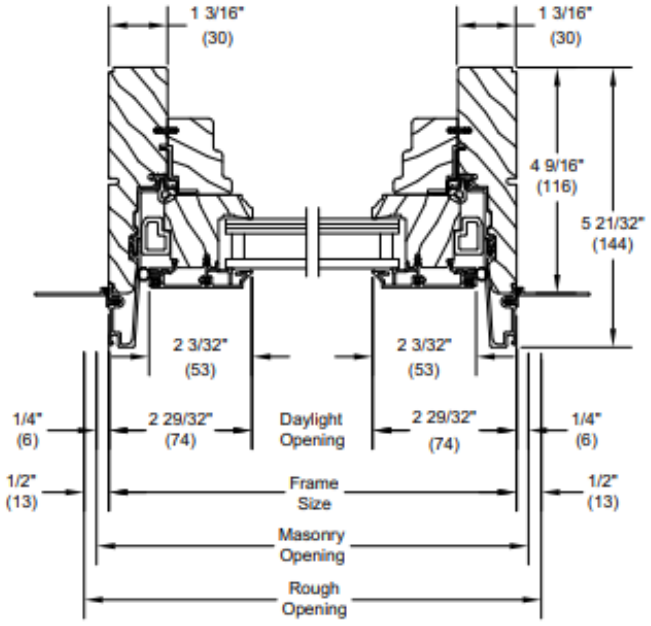



ASPHALT SHINGLES ON ICE & WATER SHIELD ON 5/8" TREATED ROOF SHEATHING ON METAL TRUSSED RAFTERS AT 2'-0" O.C.
CONTINUOUS BLANKET INSULATION
12
5
INSULATION BAFFLE (TYP.)
CONT. DRIP EDGE
ALUM. CLADDING OVER 1X WOOD FASCIA OVER 2X SUB-FASCIA
2"
T/O MASONRY
ELEV= 120'-8"
PRE-FIN. METAL GUTTER
8"
2"
3"
1"
1'-2"
10 1/4"
3'-0"
EIFS FINISH ON 5/8" DENS-GLASS GOLD SHEATHING
2" CONTINUOUS VENTED REGLET (FRY REGLET DRM-625-V-200)
SPECTIS MOULDERS MD-1351 TRIM (L)
FYPON BOARD
6 5/8"
SPECTIS MOULDERS MD-1422 TRIM (M)
FYPON BOARD
B.O. SOFFIT
ELEV= 116'-5"
12
A-801
O.H.
1/2"
LIMESTONE KEYSTONE (C)
T.O. WINDOW
ELEV= 115'-0"

Stationary/Picture



Head Jamb and Sill



Jambs



PELLA®

ProLine 450 Series

WOOD WINDOWS AND PATIO DOORS
AT A COMPETITIVE PRICE

Beauty of wood.



Our most popular features start here.

Choose from Pella's most requested styles, and add character to your home with the right sizes, colors and grille patterns.



EnduraGuard® Wood Protection

EnduraGuard® wood protection offers advanced protection against the effects of moisture, decay, stains from mold and mildew – as well as termite damage. This proven immersion-treatment method will help ensure that Pella® wood windows and patio doors look and perform beautifully for years.



Pella's casement window after 7 months of exposure to moisture.*



Stain mold present after 7 months of field-testing a competitor's pressure-treated wood.*

* For testing purposes, the seal between the bottom rail and the glass was compromised in both casement units tested.

Factory-prefinished pine interiors. Pella wood products can arrive factory-prefinished in your choice of eight beautiful stain colors, as well as primed, or with White, Bright White or Linen White paint. You get a professional, high-quality finish – eliminating drips, runs and harmful odors.

Features and options.

HARDWARE FINISHES

Choose from today's most popular decorative finishes to coordinate with other finishes in your home.

- Champagne
- White
- Brown
- Bright Brass[1]
- Satin Nickel[1]
- Oil-Rubbed Bronze[2]
- Antique Brass[3]
- Chrome[3]

HARDWARE STYLES

Find beauty and function in Pella's innovative, easy-to-operate hardware styles.



Cam-Action Sash Lock

Sash Lift

Casement Fold-Away Crank

Hinged Patio Door Handle

Sliding Patio Door Handle

PREFINISHED PINE INTERIORS

The interiors of all Pella® Pine windows and patio doors can arrive prefinished in your choice of eight stain colors to complement your home. Three prefinished paint colors or primed, ready-to-paint interiors are also available.

- Natural
- Golden Oak
- Early American
- Special Walnut
- Provincial
- Cherry
- Red Mahogany
- Dark Mahogany
- White
- Bright White
- Linen White
- Primed

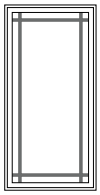
ALUMINUM-CLAD EXTERIORS

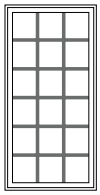
Beautifully durable, Pella's low-maintenance EnduraClad® exterior finish resists fading and helps protect your windows and patio doors for years.

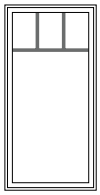
- White
- Tan
- Putty
- Brown
- Poplar White
- Portobello
- Morning Sky Gray
- Hartford Green
- Brick Red
- Black

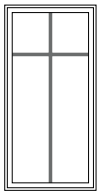
GRILLE PATTERNS[4]

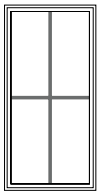
A variety of grille patterns for the traditional look of divided light. Custom patterns are also available.


9-Lite Prairie


Traditional


Top Row


Cross

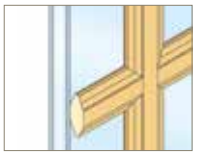

Custom (equally divided)

GRILLES

Choose the look of true divided light, or add grilles-between-the-glass that make cleaning the glass easier.


7/8" Simulated-Divided-Light with Spacer


7/8" Simulated-Divided-Light Without Spacer


2", 1-1/4" and 3/4" Roomside Removable


3/4" Aluminum Grilles-Between-the-Glass



Aluminum grilles-between-the-glass feature the option of the interior grille colors shown above. The exterior will match the EnduraClad® color you choose.[6]

wood window and patio door DESIGN GUIDE

	WINDOWS	PATIO DOORS
GLASS		
INSULSHIELD® LOW-E GLASS COLLECTION[1]		
Advanced Low-E insulating glass with argon	S	S
AdvancedComfort Low-E insulating double-pane glass with argon	O	O
NaturalSun Low-E insulating glass with argon	O	O
SunDefense™ Low-E insulating glass with argon	O	O
ADDITIONAL GLASS OPTIONS*		
Tempered glass	O	O
Laminated (non-impact-resistant), tinted and obscure glass available on select products	O	O
INTERIORS		
WOOD TYPES		
Pine	S	S
INTERIOR FINISHES		
Unfinished	S	S
Primed, ready to finish*	O	O
Prefinished stain or paint*	O	O
INTERIOR TRIM		
Primed, ready to finish*	O	O
Prefinished stain or paint*	O	O
EXTERIORS*		
EXTERIOR FINISHES		
Aluminum-clad with EnduraClad® protective finish	S	S
EXTERIOR TRIM		
EnduraClad factory-applied trim	S	S
HARDWARE[1]		
FINISHES[1]		
Champagne, White, Brown, Bright Brass, Satin Nickel, Oil-Rubbed Bronze[2], Antique Brass[3] and Chrome[3]	O	O
GRILLES*		
PERMANENT GRILLES		
Simulated-Divided-Light grilles with or without spacer	O	O
Aluminum grilles-between-the-glass	O	O
REMOVABLE GRILLES		
Roomside interior wood grilles	O	O
SCREENS*		
InView™ screen	S	S
Vivid View® high-transparency screen	O	–
WARRANTY		
Pella 20/10 Limited Warranty*	S	S

* See glass information on pages 8 – 9 for details.

* See page 10 for finishes.

* See page 10 for finishes.

[1] See hardware finish colors and styles on page 10.
[2] Oil-Rubbed Bronze is a living finish that will develop its own unique patina with use.
[3] Available on hinged patio doors only.

* See left for grille finish colors and styles.

* ⚠ WARNING: Screen will not stop child or pet from falling out of window or door. Keep child or pet away from open window or door.

* See written warranty for complete details at pella.com/warranty.

(S) Standard (O) Optional (–) Unavailable

See a Pella professional for specific details and additional options available.
Some features are part of our standard offering; not all options are available on all product styles.

[1] On hinged patio doors, Endura Hardware Collection offers a 10-year warranty. See written warranty for complete details at pella.com/warranty.
[2] Oil-Rubbed Bronze is a living finish that will develop its own unique patina with use.
[3] Hinged patio doors only.
[4] Grille patterns offered may vary per product. See specific product information for availability.
[5] Only available with matching interior and exterior colors.
[6] Appearance of exterior grille color may vary depending on the Low-E insulating glass selection.

VIEWED TO BE THE BEST.®

Want to learn more about Pella® windows and doors? Call us at **866-209-4260** or visit **pella.com**.

20|10 LIMITED WARRANTY

Always read the Pella limited warranties before purchasing or installing Pella products. See written warranties for complete details at pella.com/warranty.

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PARTNER OF THE YEAR
Sustained Excellence

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NAHB NAHB Remodelers

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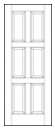
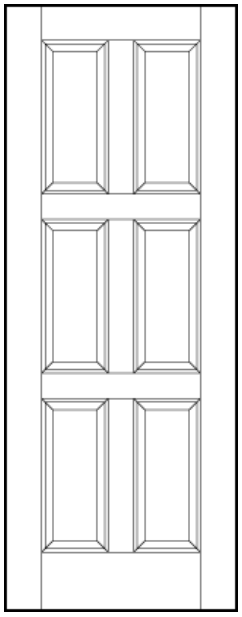
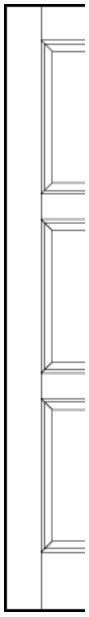
COVID-19 Update
CLICK HERE









TS6080

Colonial Cottage Traditional

Series:	TruStile (TS) Series
Application:	Interior, Exterior
Construction:	M W R
Thickness:	1-3/8", 1-3/4", 2-1/4"
Available Fire-Rating:	20 45 60 90

Fire-rated doors may require modified construction depending on rating.
Contact TruStile or your TruStile Representative for details.

Mr. Gibbs stated he is going to abstain because he arrived in the middle of the presentation.

Yeas: Messrs. Cotton, Hughes, Conlin and Williams

Nays: Mr. Lillie

Abstain: Mr. Gibbs
Motion passes to deny the variance.

Appeal 91-14

The Lutheran Church of the Redeemer, 1800 W. Maple, is requesting a variance to install a wooden stockade fence in lieu of a masonry fence.

Section 5.215, Chapter 39, Birmingham City Code, requires screening fences to be made of masonry and therefore requires a variance.

Mr. Gibbs excused himself from participating in this appeal because he is a member of this church.

Mr. Murphy explained that churches located in residentially-zoned property are required to obtain a Special Land Use Permit. This was granted by the City Commission with the exception of the masonry fence issue because this needed a variance from this Board.

The petitioner is requesting, with the neighborhood's consent, to install a fence to be made of stockade wood material, similar to the type of material already installed in back of the property.

Mr. Tom Boyce, Chairman of the Board of Trustees for the church, explained exactly where the proposed fence would be located. The stockade fence would begin at the first jog on the west side of the property and continue around to the east and back up to Mills Pharmacy. The chain-link fence would be removed and replaced with the stockade fence. There are some neighbors along the north property line who want to keep the chain-link fence in place so the church will continue the existing stockade fence on the north side. The church will maintain the responsibility for cleaning the debris between the two fences.

Mr. Boyce explained the stockade fence is considered more aesthetically pleasing to both the neighbors and the congregation. The wooden stockade fence will not have any kind of detrimental impact on the trees and shrubbery along the property line. There are 26 trees along the property line. A masonry fence would interfere with the root structure of these trees. The issue of snow packing up against the wooden fence and deteriorating it would not be an issue because there is a curb that runs inside the fence by approximately 6' around the whole property.

Mr. Boyce explained whole purpose of putting up the fence to begin with was to address a lot of the neighbors' concerns regarding privacy. Mr. Boyce stated this situation is similar to Holy Name's which was before the Board previously.

Mr. Conlin referred to the names on the petition and asked how many of these people are affected immediately by the fence. Mr. Boyce stated there are 17 names out of 21. The other 3 neighbors were unable to be reached.

A landscape architect had stated that the existence of the trees may be undermined by a masonry wall.

Mr. Boyce stated the fence will be of very high quality cedar. The wooden posts are guaranteed to last 30-40 years.

Mr. Bruce Pence of 210 N. Glenhurst stated he has been a neighbor on the north side of the church's property for 30 years and strongly recommends positive consideration to the petitioner's request.

Ms. Rebecca Morrell who lives on Fairview behind the church on the north end stated she is in favor of the stockade fence in lieu of a masonry fence because she doesn't want any vegetation destroyed. She would like the church to plant some trees to replace some that were originally destroyed.

Mr. Mike Doonan who lives at 166 N. Glenhurst stated he endorses the proposal. The church has done yeoman's work all the way around in pleasing everybody.

Motion by Mr. Conlin
Seconded by Mr. Lillie in reference to Appeal 91-14 to grant a variance under Section 5.215, Chapter 39, Birmingham City Code, to allow the Lutheran Church of the Redeemer to install a cedar stockade fence of the quality represented in the hearing tonight. The petitioner has demonstrated more than adequately two major points, one of which the purpose of the Ordinance is to screen neighboring uses, those being different uses. The neighbors have stood up unanimously and supported the stockade in lieu of the masonry and that shows the spirit of the Ordinance is kept intact. Secondly, the petitioner has gone on record to state that the existing vegetation would be damaged or would have to be substantially removed which would incur damage or inconvenience or ecological problems with the neighbors and that in and of itself is a practical difficulty. Consequently, I would move that the variance be granted per the proposal as outlined tonight by the Board and linked to the plans submitted.

Yeas: Messrs. Williams, Cotton, Hughes, Conlin and Mr. Lillie

Nays: None
Motion passes to grant the variance.

Appeal 91-15

Ms. Susan Pohl, representing the property owner of 1872 Derby, Birmingham, Michigan is requesting a variance in order to permit a family day-care home closer than 750 feet from another family day-care home.

Section 5.22(f), Chapter 39, Birmingham City Code, states that no family day-care homes shall be located closer than seven hundred fifty (750) feet from another family day-care home or foster-care facility except as permitted below:

> The Board of Zoning Appeals may approve the location of a family day-care home within seven hundred fifty (750) feet of another existing home or foster-care facility upon proof and specific findings by the Board that the resulting concentration of uses will not adversely affect the peace and tranquility or the residential character of the surrounding area.

Mr. Murphy explained the Board has received this evening some correspondence from some of the neighbors and from the petitioner. The application that was sent to the Board does not have the signature of the owner, however Mr. Murphy explained he did have it in his file.

Mr. Murphy stated that if the Board grants this approval, it will run with the land; it would be a permanent variance for this address.

Mr. Lillie asked how many houses there are between the two day-care facilities; Mr. Murphy believes there are two.

Ms. Pohl stated she would like to be granted the variance and didn't see how it would cause any problems with the neighbors. She explained that most of the traffic from the other day-care facility, on the corner of Derby and Graefield, is located on Graefield. The traffic from her proposed facility would be located on Derby. Her driveway can accommodate three cars. Ms. Pohl stated she is caring for three children at the present time and the maximum the City allows is six children.

Ms.Pohl stated she can rent the house with the option to buy.

BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, APRIL 12, 2005

04-37-05

1800 WEST MAPLE
Lutheran Church of the Redeemer
(Appeal 05-23)

The owners of the property known as 1800 W. Maple request the following variances or reviews:

A. A dimensional variance of 240.5 ft. to eliminate the requirement for a 6 ft. high masonry wall along the unscreened portion of the parking area along the west property line and to use existing vegetative screening in lieu of the 6 ft. high masonry wall required by Section 126-572 (7) of the Zoning Ordinance;

B. A dimensional variance of 137 ft. to eliminate the requirement for a 32 in. high masonry screenwall at the front setback line along W. Maple in lieu of the 32 in. high masonry screenwall required by Section 126-572 (d) (3) (a)

C. A dimensional variance to allow the existing four parking spaces to remain in the required front setback along W. Maple in lieu of eliminating the existing four parking spaces as required by Section 126-572 (e) (1) of the Zoning Ordinance.

D. A dimensional variance of one loading space in lieu of the one loading space required by Section 126-569 of the Zoning Ordinance.

This property is zoned R-1 Single-Family Residential.

One letter of approval has been received from an adjacent residential neighbor.

Mr. Sabo advised that the Lutheran Church of the Redeemer has received final site plan and design review approval from the Planning Board along with the Planning Board's recommendation to the City Commission for approval of a Special Land Use Permit ("SLUP") Amendment with conditions attached.

The applicant is proposing to make numerous minor site plan changes, including reconfiguration of the parking area, curb and gutter improvements, sidewalk improvements, installation of numerous barrier-free ramps, landscape changes, construction of a dumpster enclosure, and addition of cenotaphs. As a result of adding landscaping and handicap compliant parking spaces to the parking lot, they will go from 231 spaces existing to 224 spaces proposed.

Mr. Jeffrey Huhta, P.E. from Nowak & Fraus, Consulting Engineers, was present along with Mr. Curtis Burstein from the Church's building committee. Mr. Huhta explained that basically, the existing parking area is in disrepair. The church would like to pull their existing parking away from the mature pine trees on the east side of the property and create landscape islands throughout the lot. Mr. Huhta went on to address the four variances.

A. With respect to eliminating the requirement for a 6 ft. high masonry wall on the unscreened portion of the parking area along the west property line, the church has responded to the concerns of the individual property owners along the row who preferred vegetation behind their property, rather than a wall. Now that the vegetation is matured and established, any disturbance to this area would be a detriment to the neighborhood.

B. As far as the 32 in. masonry screenwalls along the front setback line, Mr. Huhta felt that placing screenwalls in that area really doesn't make a whole lot of sense. The two 20 ft. long screenwalls that would be required on either end of the parking horseshoe will not provide any significant benefit as they will do nothing to screen the other parking spaces that are permissible by the Ordinance. It would be much better to enhance that area with some landscaping.

C. The existing four parking spaces in the required 25 ft. front setback are visible to the general public and serve an important function for the Church operations. In addition, the Church needs to retain as many on-site parking spaces as possible to serve its congregation.

D. The Church has no need for a loading space as there are no functions within the Church that require such a space. The Church does not receive any deliveries from trucks; all deliveries are from passenger vehicles. Of greater importance as previously stated is to provide for as many regular parking spaces as possible.

No one from the audience wished to participate in the discussion at 11:10 p.m.

Motion by Mr. Judd
Seconded by Mr. Conlin with respect to Appeal 05-23, 1800 W. Maple, the petitioner seeks four variances to the Zoning Ordinance. (A) is a variance to Section 126-572 (7) to eliminate the requirement for a 6 ft. high masonry wall along the unscreened portion of the parking area; (B) is a variance to Section 126-572 (d) (3) (a) to eliminate the requirement of a 32 in. high masonry screenwall at the front setback along W. Maple; (C) is a variance to Section 126-572 (e) (1) to allow the existing four parking spaces to remain in the required front setback; and (D) is a variance to Section 126-569 to eliminate the requirement of one loading space. There are four standards that a petitioner must meet to successfully argue practical difficulty:
The first is whether strict compliance with the restrictions governing the area setbacks, frontage, height, etc. would unreasonably prevent the petitioner from using the property and to require the petitioner to conform

would be unnecessarily burdensome. The petitioner has shown that the four parking spaces in the required 25 ft. front setback serve an important function for the Church operations and the Church needs to retain as many on-site parking spaces as possible.
The second standard is whether to grant the variance would do substantial justice to the applicant or surrounding property owners. Under these circumstances it would. The Church has made an extremely good faith effort to meet the requirements of abutting property owners by planting vegetation on the unscreened portion of the parking area rather than erecting a 6 ft. high screenwall. Vegetation and landscaping are also being added to the rest of the property in order to make it aesthetically more pleasing.
The third standard is whether the plight of the petitioner is due to unique circumstances of the property. This property is certainly unique, in that it is a church that needs as much parking as possible in order to serve its congregation.
Last is whether the problem is self-created. The problem has been self-created in an effort to improve the Church property from the perspective of its members as well as the neighbors.
For those reasons, the motion is to grant the variances and tie the motion to the plans as presented.

Motion carried, 7-0.

ROLL CALL VOTE
Yeas: Judd, Conlin, Hughes, Koseck. Lillie, Lyon, Stamps
Nays: None
Absent: None

CITY OF BIRMINGHAM
VIRTUAL REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 22, 2020
Held Remotely Via Zoom And Telephone Access

Minutes of the virtual regular meeting of the City of Birmingham Planning Board held on April 22, 2020. Chairman Scott Clein convened the meeting at 7:41 p.m.

A. Roll Call

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams (joined at 7:59 p.m.); Alternate Board Members Jason Emerine, Nasseem Ramin

Absent: Student Representatives Rachel Hester, June Lee

Administration: Jana Ecker, Planning Director
Eric Brunk, IT Manager
Brooks Cowan, City Planner
Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

04-41-20

G. Special Land Use Permit Review and Final Site Plan & Design Review

1. 1800 W. Maple (Lutheran Church of the Redeemer) - Special Land Use Permit Amendment to allow renovation and expansion of the Church.

City Planner Cowan presented the item.

Mr. Boyle said that he had never struggled with a site plan as much as he had with the one for this proposal. He asked whether the proposed changes would result in a building that is dimensionally different from the present building, and if so where those changes would occur.

City Planner Cowan stated that the applicant would better be able to explain what parts of the building would remain or change, but that the horizontal dashed lines on the plan were meant to indicate the proposed changes.

In reply to Mr. Boyle, City Planner Cowan said the height would be remaining at 27 feet as measured to the middle of the pediment.

In reply to Mr. Williams, City Planner Cowan stated the plans would add an additional 8.3% in square footage to the building.

Steve Schneeman, architect, provided further information about the project. He explained the goal of the rebuild is to make a more modern interior space for the congregation while preserving the style of the church facade. He said the sanctuary and practice space would be expanded, the

office space on the east side of the building would be relocated to another area in the building, and that the steeple would be replaced with a brand new steeple.

In reply to Mr. Koseck, Mr. Schneeman confirmed that the owner of the building would be amenable to linking the property's pedestrian system to the City's that runs along the north side of Maple. He said that would likely be located on the east side of the entry and onto Maple. He said adding a sidewalk to the west of the entry had not yet been discussed.

Steve Scheidt, representative for the owner, said public access off the south sidewalk would make a lot of sense. He said he was interested in increasing pedestrian connectivity on the east side of the entry while noting that there are large evergreen trees to the west side of the entry. He said the congregation would hope to retain the evergreen trees, but that ultimately they would do whatever the Planning Board recommends.

In reply to Chairman Clein, Mr. Koseck confirmed he would be comfortable with allowing administrative approval for the plans for further pedestrian access.

Mr. Williams noted the applicant agreed to a sidewalk on the east side of the entry.

Mr. Koseck agreed with Mr. Williams, but said the Planning Board should allow for administrative approval of the design since the Board can neither design the sidewalk nor approve the plans presently.

Seeing no further Board discussion, Chairman Clein invited public comment.

Jon Bobrowski explained that he is Bloomfield Township resident who lives directly to the west of the church. He expressed concern that construction might commence while the state lockdown is in order, which would mean that he may be sheltering at home during the day while construction occurs. He said the noise from the construction could be very taxing on the neighbors of the church. Mr. Bobrowski said that during past church construction projects construction vehicles would idle in the church parking lot before the ordinance permitted construction start time. Mr. Bobrowski also asked where the vehicles and construction materials would be stored.

Chairman Clein asked Mr. Schneeman to comment on how the quality-of-life issues potentially raised by the construction would be mitigated for neighbors of the church.

Mr. Schneeman said the original plan was to begin the construction in the late fall of 2020. He said that if there are still construction prohibitions present in the late fall that the project would not commence then. Mr. Schneeman continued that the construction manager would be required to adhere to all the noise ordinances and other regulations within Birmingham. In addition, if there are more specific concerns not covered directly by ordinance the church would take those into consideration since the congregation is very keen on maintaining good relationships with the neighbors. Staging could be planned in a way that the impact on the neighbors would be minimized.

Chairman Clein recommended that the applicant make a concerted effort while going through the construction startup to meet with the neighbors and build consensus on any issues that could arise to avoid having to get the City involved.

Mr. Schneeman confirmed that the applicant would do so.

Mr. Scheidt said it was firmly the congregation's intention to build relationships with the neighbors, and told the Board that the church had a meeting scheduled to meet with the neighbors on March 12, 2020 which had to be cancelled due to escalating Covid-19 concerns at the time. He explained that a person from the congregation has been appointed to facilitate conversations with the neighbors and that there is an online group through which the congregants can discuss ways of further mitigating the impact on the surrounding area.

Seeing no further questions for the applicant, Chairman Clein returned the conversation to the Board.

Mr. Boyle stated that it was only in questioning that he was able to determine that the plan is to demolish and rebuild the church. He said this process raised issues for him regarding how the City handles the demolition of a very prominent building. Mr. Boyle said he wanted it on the record that in some ways the Board was misled in terms of what was presented to the Board.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Jeffares to recommend approval to the City Commission for the Final Site Plan for 1800 W. Maple and to recommend approval to the City Commission for the Special Land Use Permit Amendment for 1800 W. Maple.

Mr. Koseck asked if the City had the required information for this to be a final site plan approval. He said he agreed with Mr. Boyle's statement to an extent. He said this is a very pretty building and asked how that aesthetic appeal would be carried forward and maintained.

Chairman Clein cautioned the Board that the comments should be related to the motion, and that further discussion regarding the item should pause until the motion has undergone a vote.

Mr. Williams said he agreed with Mr. Boyle and Mr. Koseck, saying that final site plan approval seemed inappropriate since the applicant had not provided all the information the Board usually requires for a final site plan approval.

Ms. Whipple-Boyce said she believed that the write-up of the item stated that the construction would be using matching materials, and also noted that a materials list was provided as well. She said the Board could seek confirmation as to whether the materials would indeed be matching.

Planning Director Ecker confirmed Ms. Whipple-Boyce's recollection that the construction materials would be matching.

Chairman Clein invited public comment on the motion.

Mr. Bobrowski said he doubted that it was clear to any of the neighbors before this evening that the plan was to substantially demolish and rebuild the church. He said his concerns remained the same as his earlier comments.

In reply to a query by Chairman Clein, City Planner Cowan stated that the existing building to remain would be about 37,000 square feet, new construction would be about 11,000 square feet, and the demolition would be about 8,000 square feet.

Motion carried, 6-1.

VOICE VOTE
Yeas: Whipple-Boyce, Jeffares, Koseck, Share, Williams, Clein
Nays: Boyle

Chairman Clein thanked both Mr. Schneeman and Mr. Scheidt for their attendance and enjoined them again to work with the neighbors to achieve a pleasant and conflict-free project.

CITY OF BIRMINGHAM
Date 02/17/2020 1:48:09 PM
Ref 00167763
Receipt 527342
Amount $100.00

CITY OF BIRMINGHAM
Date 02/17/2020 1:48:09 PM
Ref 00167762
Receipt 527342
Amount $2,700.00

City of Birmingham
A Walkable Community

Final

~~Preliminary~~ Site Plan Review Application / SLUP
Planning Division

Form will not be processed until it is completely filled out.

1. Applicant
Name: MERRITT CIESLAK DESIGN
Address: 33610 GRAND RIVER
FARMINGTON, MI 48335
Phone Number: 248 374-0001
Fax Number:
Email address: ss@medarchitects.com

2. Property Owner
Name: LUTHERAN CHURCH OF THE REDEEMER
Address: 1800 W. MAPLE
BIRMINGHAM, MI
Phone Number: 248-644-4010
Fax Number: 248-644-1471
Email address:
Steve Scheidt (2) 318-4834

3. Applicant's ~~Attorney~~/Contact Person
Name: MERRITT CIESLAK DESIGN
Address: 33610 GRAND RIVER
FARMINGTON, MI 48335
Phone Number: 248 374-0001
Fax Number:
Email address: ss@medarchitects.com
STEVE SCHNEEMANN
Cell: (2) 321-9800

4. Project Designer/~~Developer~~
Name: MERRITT CIESLAK DESIGN
Address: 33610 GRAND RIVER
FARMINGTON, MI 48335
Phone Number: 248 374-0001
Fax Number:
Email address:
Ron Cieslak (2) 374-0003

5. Required Attachments
I. Two (2) paper copies and one (1) digital copy of all project plans including:
  i. A detailed Existing Conditions Plan including the subject site in its entirety, including all property lines, buildings, structures, curb cuts, sidewalks, drives, ramps and all parking on site and on the street(s) adjacent to the site, and must show the same detail for all adjacent properties within 200 ft. of the subject sites property lines;
  ii. A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair;
  iii. A certified Land Survey;
  iv. Interior floor plans;
  v. A Landscape Plan;
  vi. A Photometric Plan;
  vii. Colored elevation drawings for each building elevation;

II. Specification sheets for all proposed materials, light fixtures and mechanical equipment;
III. Samples of all proposed materials;
IV. Photographs of existing conditions on the site including all structures, parking areas, landscaping and adjacent structures;
V. Current aerial photographs of the site and surrounding properties;
VI. Warranty Deed, or Consent of Property Owner if applicant is not the owner;
VII. Any other data requested by the Planning Board, Planning Department, or other City Departments.

6. Project Information
Address/Location of the property: 1800 W. MAPLE
BIRMINGHAM, MI
Name of development: LUTHERAN CHURCH OF THE REDEEMER
Sidwell #: 19-26-378-072
Current Use: CHURCH
Proposed Use: CHURCH
Area of Site in Acres: 6.053
Current zoning: R-1
Is the property located in the floodplain? NO

Name of Historic District site is located in: N/A
Date of Historic District Commission Approval: N/A
Date of Design Review Board Approval:
Will proposed project require the division of platted lots? NO
Will proposed project require the combination of platted lots? NO

7. Details of the Proposed Development (attach separate sheet if necessary)

REPLACEMENT OF THE EXISTING CHURCH SANCTUARY (TWO LEVELS), RENOVATION OF EXISTING SPACES ADJACENT TO THE NEW SANCTUARY IN THE EAST AND WEST BUILDING WINGS, RELOCATION OF THE EXISTING COLUMBARIUM TO THE EAST SIDE OF THE NEW SANCTUARY, RECONFIGURATION OF THE ACCESS DRIVE AND WALKWAYS ON THE SITE TO ACCOMMODATE THE NEW CONSTRUCTION.

8. Buildings and Structures

Number of Buildings on Site: 1

Height of Buildings & # of Stories: 27'-0" ±, 1 STORY + BALCONY

Use of Buildings: CHURCH

Height of Rooftop Mechanical Equipment: 22'-0" TO TOP OF HIGHEST (SCREENED)

9. Floor Use and Area (in Square Feet)

Proposed Commercial Structures:

Total basement floor area:

Number of square feet per upper floor: 11,243 S.F. (NEW)

Total floor area: 49,140 S.F. (NEW + EXISTING)

Floor area ratio (total floor area ÷ total land area): 18%

Open space: 105,480 S.F.

Percent of open space: 40%

Office Space: 1,931 S.F.

Retail Space: N/A

Industrial Space: N/A

Assembly Space: 5,817 S.F. (NEW SANCTUARY)

Seating Capacity: 482 (NEW SANCTUARY + ~~CHANCEL~~)

Maximum Occupancy Load: 1,987 (ENTIRE BUILDING)

BALCONY SEATING CAPACITY: 74

Proposed Residential Structures:

Total number of units: N/A

Number of one bedroom units:

Number of two bedroom units:

Number of three bedroom units:

Open space:

Percent of open space:

Rental units or condominiums?

Size of one bedroom units:

Size of two bedroom units:

Size of three bedroom units:

Seating Capacity:

Maximum Occupancy Load:

Proposed Additions:

Total basement floor area, if any, of addition:

Number of floors to be added: 2

Square footage added per floor: 11,243 S.F.

Total building floor area (including addition): 49,140 S.F.

Floor area ratio (total floor area ÷ total land area): 18%

Open Space: 105,480 S.F.

Percent of open space: 40%

Use of addition: LOWER LEVEL CLASSROOMS + GATHERING, CHURCH SANCTUARY + MUSIC ROOMS

Height of addition: 27'-0" TO ROOF MIDPOINT

Office space in addition: N/A

Retail space in addition: N/A

Industrial space in addition: N/A

Assembly space in addition: 5,817 S.F.

Maximum building occupancy load (including addition): 1,987

10. Required and Proposed Setbacks

Required front setback: 25'-0"

Required rear setback: 30'-0"

Required total side setback: 119'-5"

Side setback: 47'-9"

Proposed front setback: 122'-4"

Proposed rear setback 124'-3"

Proposed total side setback: 217'-4"

Second side setback: 79'-7"

11. Required and Proposed Parking

Required number of parking spaces: 360

Typical angle of parking spaces: 90°

Typical width of maneuvering lanes: 22'-0"

Location of parking on site: FRONT, SIDE & REAR YARDS

Location of parking off site: NONE

Number of light standards in parking area: 23

Screenwall material: WOOD

Proposed number of parking spaces: 218 (unchanged)

Typical size of parking spaces: 9'-0" x 20'-0"

Number of spaces <180 sq. ft.: NONE

Number of handicap spaces: 11

Shared parking agreement? NO

Height of light standards in parking area: 13'-9"

Height of screenwall: 6'-0" ~~AS REQUIRED~~

12. Landscaping

Location of landscape areas: SEE INCLUDED SHEET L2

Proposed landscape material: SEE INCLUDED SHEET L2

13. Streetscape

Sidewalk width: N/A

Number of benches: N/A

Number of planters: N/A

Number of existing street trees: N/A

Number of proposed street trees: N/A

Streetscape plan submitted? N/A

Description of benches or planters: N/A

Species of existing trees: N/A

Species of proposed trees: N/A

14. Loading

Required number of loading spaces: N/A

Typical angle of loading spaces:

Screenwall material:

Location of loading spaces on site:

Proposed number of loading spaces:

Typical size of loading spaces:

Height of screenwall:

Typical time loading spaces are used:

15. Exterior Waste Receptacles

Required number of waste receptacles: 1 (EXISTING)

Location of waste receptacles: NORTH PARKING LOT

Screenwall material: BRICK

Proposed number of waste receptacles: NO NEW

Size of waste receptacles: N/A

Height of screenwall: 6'-4"

16. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: 1 (EXISTING)

Size of transformers (L•W•H): 68" L x 56" W x 60" H

Number of utility easements: N/A

Screenwall material: EXISTING LANDSCAPING

Location of all utilities & easements: SEE SHEET C1. EXISTING TRANSFORMER AT EAST SIDE OF EXISTING BUILDING

Height of screenwall: 6'-0"

Ground Mounted Mechanical Equipment:

Number of ground mounted units: 5 (NEW)

Size of ground mounted units (L•W•H): 35" x 35" x 46" H

Screenwall material: LANDSCAPING - SEE SHEET L2

Location of all ground mounted units: ~~NORTH~~ SOUTH SIDE OF WEST WING ADDITION

Height of screenwall: 6'-0" LANDSCAPING

Rooftop Mechanical Equipment:

Number of rooftop units: 9 EXISTING, 2 NEW

Type of rooftop units: SEE SHEET A-501 FOR NEW ROOF TOP UNITS

Screenwall material: SHINGLED ROOF SCREEN (NEW UNITS)

Location of screenwall: SOUTH FACE OF WEST WING ADDITION

Location of all rooftop units: NORTH END OF EXIST. BUILDING, ROOF OF WEST WING ADDITION

Size of rooftop units (L•W•H): 10'-0" x 7'-0" x 5'-4" H

Percentage of rooftop covered by mechanical units: < 3%

Height of screenwall: 15'-9" ± A.F.F.

Distance from rooftop units to all screenwalls: 5'-0"

17. Accessory Buildings

Number of accessory buildings: NONE

Location of accessory buildings: N/A

Size of accessory buildings: N/A

Height of accessory buildings: N/A

18. Building Lighting

Number of light standards on building: 2 (SOUTH SIDE OF REVISED DRIVE) 6 (COLUMBARIUM) 11 (EXIST IN PARKING LOT)
Type of light standards on building: DECORATIVE - SEE SHEET AS-102
Size of light fixtures (L•W•H): 20"x 20" x 20"
Maximum wattage per fixture: _____
Height from grade: 9'-0"
Light level at each property line: SEE INCLUDED PHOTOMETRIC PLAN
Proposed wattage per fixture: _____

19. Site Lighting

Number of light fixtures: 20 (EXIST. AT DRIVES) 11 (EXIST. AT PARKING LOT)
Type of light fixtures: EXISTING DECORATIVE
Size of light fixtures (L•W•H): 20"x 20" x 20"
Height from grade: 13'-9"
Maximum wattage per fixture: _____
Proposed wattage per fixture: EXISTING
Light level at each property line: SEE INCLUDED PHOTOMETRIC PLAN
Holiday tree lighting receptacles: 60

20. Adjacent Properties

Number of properties within 200 ft.: 52 ± (ALL R-1 OR R-2)

Property #1

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____
Property Description: _____
North, south, east or west of property? _____

Property #2

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____
Property Description: _____
North, south, east or west of property? _____

Property #3

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____
Property Description: _____
North, south, east or west of property? _____

Property #4

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____
Property Description: _____
North, south, east or west of property? _____

Property #5

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____
Property Description: _____
North, south, east or west of property? _____

Property #6

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to advise the Planning Division and / or Building Division of any additional changes made to an approved site plan. The undersigned further states that they have reviewed the procedures and guidelines for Site Plan Review in Birmingham, and have complied with same. The undersigned will be in attendance at the Planning Board meeting when this application will be discussed.

By providing your e-mail to the City, you agree to receive news notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: Steven M. Scheidt Date: 02/13/2020

Print Name: Steven M. Scheidt

Signature of Applicant: [signature] Date: 2/12/2020

Print Name: Steven Schneemann

Signature of Architect: Ronald A. Cieslak Date: 2/12/2020

Print Name: Ronald Cieslak

Office Use Only

Application #: PSLU20-0001 Date Received: _____ Fee: $2,800.00

Date of Approval: _____ Date of Denial: _____ Accepted by: _____

City of Birmingham
A Walkable Community

PRELIMINARY SIT PLAN REVIEW APPLICATION CHECKLIST - PLANNING DIVISION

Applicant: LUTHERAN CHURCH OF THE REDEEMER Case #: _____ Date: 2/10/20

Address: 1800 W. MAPLE RD. BIRMINGHAM, MI Project: SANCTUARY REPLACEMENT

All site plans and elevation drawings prepared for approval shall be prepared in accordance with the following specifications and other applicable requirements of the City of Birmingham. If more than one page is used, each page shall be numbered sequentially. All plans must be legible and of sufficient quality to provide for quality reproduction or recording. Plans must be no larger than 24" x 36", and must be folded and stapled together. The address of the site must be clearly noted on all plans and supporting documentation.

Preliminary Site Plan

A full Site Plan detailing the proposed changes for which approval is requested shall be drawn at a scale no smaller than 1" = 100' (unless the drawing will not fit on one 24" X 36" sheet) and shall include:

- [x] 1. Name and address of applicant and proof of ownership;
- [x] 2. Name of Development (if applicable);
- [x] 3. Address of site and legal description of the real estate;
- [x] 4. Name and address of the land surveyor;
- [x] 5. Legend and notes, including a graphic scale, north point, and date;
- [x] 6. A separate location map;
- [x] 7. A map showing the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land;
- [x] 8. Aerial photographs of the subject site and surrounding properties;
- [x] 9. A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair;
- [x] 10. A detailed Existing Conditions Plan including the subject site in its entirety, including all property lines, buildings, structures, curb cuts, sidewalks, drives, ramps and all parking on site and on the street(s) adjacent to the site, and must show the same detail for all adjacent properties within 200 ft. of the subject site's property lines;
- [x] 11. Interior floor plans;
- [ ] N/A 12. A chart indicating the dates of any previous approvals by the Planning Board, Board of Zoning Appeals, Design Review Board, or the Historic District Commission ("HDC");

- [x] 13. Existing and proposed layout of streets, open space and other basic elements of the plan;
- [x] 14. Existing and proposed utilities and easements and their purpose;
- [x] 15. Location of natural streams, regulated drains, 100-year flood plains, floodway, water courses, marshes, wooded areas, isolated preserve-able trees, wetlands, historic features, existing structures, dry wells, utility lines, fire hydrants and any other significant feature(s) that may influence the design of the development;
- [x] 16. General description, location, and types of structures on site;
- [x] 17. Location of sidewalks, curb cuts, and parking lots on subject site and all sites within 200 ft. of the property line;
- [x] 18. Details of existing or proposed lighting, signage and other pertinent development features;
- [x] 19. Elevation drawings showing proposed design;
- [x] 20. Screening to be utilized in concealing any exposed mechanical or electrical equipment and all trash receptacle areas;
- [x] 21. Location of all exterior lighting fixtures;
- [x] 22. A Photometric Plan depicting proposed illuminance levels at all property lines;
- [x] 23. A Landscape Plan showing all existing and proposed planting and screening materials, including the number, size, and type of plantings proposed and the method of irrigation; and
- [x] 24. Any other information requested in writing by the Planning Division, the Planning Board, or the Building Official deemed important to the development.

Elevation Drawings

Complete elevation drawings detailing the proposed changes for which approval is requested shall be drawn at a scale no smaller than 1" = 100' (unless the drawing will not fit on one 24" X 36" sheet) and shall include:

- [x] 25. Color elevation drawings showing the proposed design for each façade of the building;
- [x] 26. List of all materials to be used for the building, marked on the elevation drawings;
- [x] 27. Elevation drawings of all screenwalls to be utilized in concealing any exposed mechanical or electrical equipment, trash receptacle areas and parking areas;
- [x] 28. Details of existing or proposed lighting, signage and other pertinent development features;
- [x] 29. A list of any requested design changes;
- [x] 30. Itemized list and specification sheets of all materials, light fixtures and mechanical equipment to be used, including exact size specifications, color, style, and the name of the manufacturer;
- [x] 31. Location of all exterior lighting fixtures, exact size specifications, color, style and the name of the manufacturer of all fixtures, and a photometric analysis of all exterior lighting fixtures showing light levels to all property lines; and
- [x] 32. Any other information requested in writing by the Planning Division, the Planning Board, or the Building Official deemed important to the development.

Sanford and Hale Stationery Company WARRANTY DEED

This Indenture, Made this 19th day of May in the year of our Lord one thousand nine hundred and forty one

Between LILLIAN A. SCHMIDT

party of the first part,

and REDEEMER EVANGELICAL LUTHERAN CHURCH, a Michigan Ecclesiastical Corporation of Birmingham, Michigan

party of the second part,

Witnesseth, that the said party of the first part, for and in consideration of the sum of four dollars and other valuable considerations

dollars in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, doth by these presents, grant, bargain, sell, remise, release, alien and confirm unto said party of the second part, and its heirs and assigns, Forever, all those certain pieces or parcels of land situate and being in the Village now city of Birmingham county of Oakland and state of Michigan

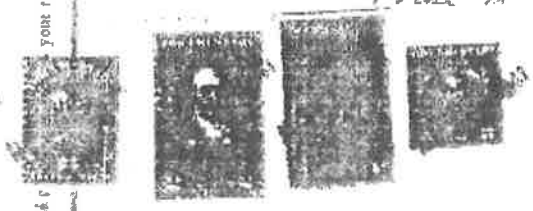
and described as follows, to wit: Part of the Southwest Quarter of Section 26, commencing at the Southeast corner of the Southwest Quarter of said Section 26, thence running North 88°54' West, 232.82 feet to a point thence North 4°36' East 183.14 feet to a point of beginning, thence North 4°36' East 432.79' to a point, thence North 88°56' West 477.77' to a point, thence South 3°51' West 432.20' to a point, thence South 88°54' East 472.28' to a point of beginning containing approximately 6.7 acres, and

Lots #1 to #16 inclusive of the Ruby N. Sub., a Sub. of part of the Southwest Quarter of Section 26, T.2 N., R. 10 E., Village (now city) of Birmingham, Oakland County, Michigan according to the recorded plat thereof.

OAKLAND COUNTY TREASURER'S CERTIFICATE

May 30 '41

Irene A. Sparks
Attorney



Together with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining. To have and to hold the said premises as herein described, with the appurtenances unto the said party of the second part, and to its heirs and assigns, Forever; and the said LILLIAN A. SCHMIDT

party of the first part for herself and her heirs, executors and administrators, do covenant, grant, bargain and agree to and with the said party of the second part its heirs and assigns, that at the time of the ensealing and delivery of these presents she is well seized of the above-granted premises in fee simple; that they are free from all incumbrances whatever except such, if any, as are excepted from the covenant following, and that she will, and her

For your safety, have your real estate transactions in Eastern Department of Sanford and Hale Stationery Company

heirs, executors, ... administrators ..... shall warrant and defend the same against all lawful claims whatsoever, except .....

In witness whereof the said party ..... of the first part has hereunto set ..her.. hand ..... and ..her.. seal ... the day and year first above written.

Signed, sealed and delivered in presence of

Alonzo P. Nacy
ALONZO P. NACY

Henry S. Schmidt
HENRY S. SCHMIDT

Lillian A. Schmidt (L. S.)
Lillian A. Schmidt

..... (L. S.)

..... (L. S.)

..... (L. S.)

State of Michigan,
County of Oakland } ss.

On this 19th day of May in the year one thousand nine hundred and forty one before me, a Notary Public, in and for said county, personally appeared LILLIAN A. SCHMIDT

to me known to be the same person described in and who executed the within instrument, who then acknowledged the same to be her free act and deed.

David E. Fitch
DAVID E. FITCH

My commission expires AUGUST 28, 1944

Notary Public { Wayne, Oakland County, Michigan.

14857 Warranty Deed

LILLIAN A. SCHMIDT

TO

REDEEMER EVANGELICAL LUTHERAN CHURCH, a Michigan Ecclesiastical Corporation fo Birmingham Michigan

REGISTER'S OFFICE

OAKLAND County } ss.

This instrument was presented and received for Record, this 4 day of MAY 20 1941 A. D. 19 at 9 o'clock a M., and Recorded in Liber 1304 of Deeds, on page 597.

A certificate having been furnished in compliance with 14134, Compiled Laws, 1915.

Allen F. Lenard
Register of Deeds

TAXES PAYABLE—City Taxes payable from July 15 to August 14, without restrictions, at the City Treasurer's Office.

State and County Taxes payable from December 1 to December 31, without percentage at County Treasurer's Office.

The above applies to property in the City of Detroit only.

David Fitch 139 W. Maple Bhm

(3)

NOTICE OF VIRTUAL PUBLIC HEARING

JOIN MEETING
https://zoom.us/j/655079760
Meeting ID: 655 079 760

BIRMINGHAM CITY COMMISSION
PROPOSED REZONING

Meeting - Date, Time, Location: **VIRTUAL MEETING**	Monday, July 20, 2020 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009
Nature of Hearing:	To consider the proposed rezoning of 469-479 S. Old Woodward from B3/D4 to B3/D5.

City Staff Contact:	Jana Ecker, 248.530.1841 jecker@bhamgov.org
Notice:	Publish: June 21, 2020 Mailed to all property owners within 300 feet of subject address.
Approved minutes may be reviewed at:	City Clerk's Office
Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.	
Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.	

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **July 10, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Public hearing to consider the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5**

INTRODUCTION:
The owner of the above-captioned properties applied for rezoning from B3/D4 to B3/D5 to allow a building over 5 stories in height.

BACKGROUND:
On May 27, 2020, the Planning Board conducted a public hearing to consider the requested rezoning of the properties located at 469 – 479 S. Old Woodward, currently the site of the former Mountain King restaurant and Talmer Bank. After much discussion, the Planning Board voted 4 – 3 in favor of recommending approval of the proposed rezoning to the City Commission and adopted the findings of fact contained in the staff report dated April 17, 2020.

LEGAL REVIEW:
The City Attorney has reviewed this application and has provided legal opinions as required throughout the review process.

FISCAL IMPACT:
There is no fiscal impact for this agenda item.

SUMMARY:
The Planning Board recommends that the City Commission approve the requested rezoning of the properties located at 469 – 479 S. Old Woodward from B3/D4 to B3/D5. However, it was recently discovered that while a legal notice was placed in a newspaper as required, individual notices to all owners and tenants of property within 300' of 469 – 479 S. Old Woodward were not sent out in time. All required notices have now been mailed a minimum of 15 days prior to a public hearing on the rezoning if the City Commission postpones the public hearing to July 20, 2020.

ATTACHMENTS:
Please find attached the following documents for your review:

- Rezoning application and supporting documents submitted by applicant
- Letter from the City Attorney dated September 11, 2018 and October 1, 2018
- Staff reports prepared for the Planning Board
- All relevant City Commission and Planning Board meeting minutes
- All letters and petitions received for and against the proposed rezoning

SUGGESTED RESOLUTION:
To approve the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5 as recommended by the Planning Board on May 27, 2020.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **April 17, 2020**

TO: **Planning Board**

FROM: **Jana Ecker, Planning Director**

SUBJECT: **Rezoning Request for 469-479 S. Old Woodward (Changes from review in 2019 noted in blue type)**

The applicant for 469-479 S. Old Woodward (Parcel Numbers 1936208011 and 1936208012 respectively) requested that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The maximum height allowed in the D-4 zoning district is 4-5 stories. In the D-5 zoning district, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 zone.

The 0.423 acre subject site spans Hazel Street from S. Old Woodward to Woodward. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Chinese Restaurant and First Place Bank). The applicant is proposing to demolish the present buildings for the construction of a nine-story mixed use building with three levels of underground parking.

On June 27, 2018, the Planning Board reviewed a rezoning request 469 – 479 S. Old Woodward (former Mountain King and Talmer Bank sites) to rezone the site from B3/D4 to B3/D5. This request was made pursuant to Article 7, section 7.02, of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward.

On September 12, 2018, the applicant appeared before the Planning Board requesting a rehearing on the rezoning of 469 – 479 S. Old Woodward and outlined the substantial changes in the evidence that was previously presented to the board. In addition, an attorney speaking in opposition to the rezoning request also raised new information that had not been previously presented or discussed by the board. Board members had additional questions as to why the subject parcel was not put into the Parking Assessment District when the district was created, and whether or not the owner of the subject property is permitted to apply for rezoning to the new D5 zoning classification in the Downtown Birmingham Overlay District. After much discussion, the Planning Board voted to postpone consideration of the public hearing to October 10, 2018 with the condition that the Board receive the legal opinion of counsel to the City of Birmingham in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

On October 10, 2018, the Planning Board continued discussion and deliberations on the question of whether a rehearing should be held based on new facts or evidence. After much discussion, the Board made a motion finding that there were substantial changes from the evidence previously presented at the rezoning hearing on June 27, 2018, and thus voted to grant a rehearing of the rezoning request for 469 – 479 S. Old Woodward. The rehearing was scheduled for November 14, 2018.

On both November 14, 2018 and again on December 12, 2018, the applicant requested postponement of the rehearing to allow additional time for the developer and property owner to meet with the adjacent property owners. Thus, the matter was ultimately postponed until the January 23, 2019 meeting of the Planning Board.

On January 23, 2019, the Planning Board conducted a public rehearing to consider the requested rezoning of the properties. After much discussion, the Planning Board voted 4-3 in favor of recommending approval of the proposed rezoning to the City Commission and adopted the findings of fact contained in the staff report dated November 8, 2018.

On February 11, 2019, the City Commission set a public hearing for March 11, 2019 to consider the proposed rezoning for the properties located at 469 – 479 S. Old Woodward.

On March 11, 2019, the City Commission conducted a public hearing on the proposed rezoning for the properties located at 469-479 S. Old Woodward from B4/D-4 to B4/D-5. After extensive discussion, the City Commission was unable to reach consensus on the application. The matter was referred to the City Attorney to determine what action, if any, was taken.

Please find attached a letter from the City Attorney dated May 6, 2019 outlining the outcome of the public hearing of the City Commission on March 11, 2019, and the City's position that the applicant may bring their application for rezoning before the City again without waiting one year to do so.

Petition for Amendment to the Zoning Ordinance:

In June 2019, the Planning Board received a petition requesting an amendment to the Zoning Ordinance and / or the Zoning Map from the owners of 469-479 S. Old Woodward. Specifically, the applicant requested that the Planning Board address the following issues and suggest any zoning amendments necessary to do so as the City Commission discussed at their meeting on March 11, 2019:

1. **Clarify the applicable standards to determine building height in the D5 Zone;**
2. **Clarify the meaning of "immediately adjacent or abutting"; and**
3. **Determine which properties to consider, if any, for rezoning to the D5 zoning.**

On July 10, 2019, the Planning Board discussed the applicant's petition. Board consensus was that the applicable regulations to determine building height were sufficiently clear in the Zoning Ordinance and no amendments were needed. Board members agreed that clarification was required for the terms "immediately adjacent" and "abutting". With regards to the determination of which properties to consider, if any, for rezoning to D5, the Planning Board recommended having DPZ CoDesign conduct a focused study to assist in this determination.

On September 11, 2019, the Planning Board reviewed the study prepared by DPZ CoDesign with respect to the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue and the findings as to which properties

should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height. The Board requested additional massing illustrations. The Planning Board also discussed proposed ordinance language to clarify the meaning of the terms "immediately adjacent" and "abutting". The Planning Board concluded that further study was needed on a clear definition of abutting, and stated that draft ordinance language should also address how streets and alleys would affect the definition of abutting.

On November 13, 2019, the Planning Board reviewed the additional massing studies provided by DPZ and stated that the study was requested to determine whether good planning practices would support future rezoning requests for parcels in the subject area. The Planning Board then discussed draft ordinance language that removed the use of the term "immediately adjacent" from the D5 language, and provided a definition for abutting, as well as clarifying how the presence of streets and alleys would affect whether properties were deemed abutting. After much discussion, the Planning Board voted to set a public hearing to amend Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District and Article 9, Definitions, section 9.02 to add a definition for abutting.

On December 11, 2019, the Planning Board conducted a public hearing on the proposed ordinance amendments. The Planning Board voted unanimously to recommend the proposed amendments to the City Commission.

On December 16, 2019, the City Commission set a public hearing date for January 13, 2020.

On January 13, 2020, the City Commission conducted a public hearing on the proposed amendments to Article 3, Overlay Districts, section 3.04(A) and Article 9, Definitions, section 9.02. The City Commission voted to adopt the amendments and the new language for D5 as outlined in Article 3, section 3.04(A) is as follows:

> **New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building on a directly abutting D5 Zone property, if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit. For the purposes of this section, private properties separated by public property (including public right-of-way and public vias), will not be deemed abutting.**

Also on January 13, 2020, the City Commission voted to adopt an amendment to Article 9, section 9.02, Definitions, to add the following definition:

> **<u>Abutting</u>: Sharing a boundary or property line.**

Please find attached to this report the staff report that was presented to the City Commission on January 13, 2020, with all of the relevant attachments.

At this time the applicant has requested that the rezoning request for 469 – 479 S. Old Woodward be brought back to the Planning Board for review and consideration given that no action was taken by the City Commission on March 11, 2019, and given that the

D5 ordinance language had been clarified and approved by the City Commission on January 13, 2020.

History of Property

Information gathered by PM Environmental for a Phase 1 Environmental Site Assessment on the property history revealed that 469 S. Old Woodward was home to various occupants since around 1937, including many auto sales companies and most recently the First Place Bank, which closed in 2014. The one story commercial building has since been vacant. 479 S. Old Woodward has been home to a few restaurants, most recently Mountain King (1998-2014). Similarly, the one story commercial building has also been vacant since its last tenant in 2014.

The applicant has noted that historically, Birmingham's buildings zoning permitted the height of the 555 building and the Birmingham Place in the late 1960's and early 1970's. When the zoning was changed in the 1970's, the two buildings were designated to a legal nonconforming use. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay. In 2016, a new D5 zone was created. The properties known as the 555 Building, the Merrillwood Building and Birmingham Place were then rezoned to the new D5 zoning classification. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D5 currently.

Requirements for Rezoning

The requirements for a request for the rezoning of a property are set forth in Article 07, section 7.02 of the Zoning Ordinance as follows:

> Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:
>
> 1. **An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.**
>
> ***Applicant response*:**
>
> - Rezoning of the subject property is necessary to preserve the applicants enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed use building. Furthermore, the D-5 Ordinance, at Section 3.04-4-b, anticipates that the subject property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.
>
> 2. **An explanation of why the existing zoning classification is no longer appropriate**

***Applicant response**:*

- The existing D-3 zoning classification is no longer appropriate for the subject property. The subject property is surrounded by the Birmingham Place, a 10-story building on the north side and the 555 Buildings, a 15-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the subject property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Bard has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

3. **An explanation of why the proposed rezoning will not be detrimental to the surrounding properties.**

***Applicant response**:*

- The proposed rezoning of the subject property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-3 Zone. The surrounding properties to the north and south are already in the D-5 zone. When these neighboring properties were rezoned the Planning Board anticipated that eventually the subject property also may be rezoned for the reasons stated in this letter. Placing the subject property in the D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Article 7, section 7.02 of the Zoning Ordinance further states:

Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. (See attached)

Information required on plot plans shall be as follows:

1. Applicant's name, address and telephone number.
2. Scale, north point, and dates of submission and revisions.
3. Zoning classification of petitioner's parcel and all abutting parcels.
4. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
5. Existing use of the property.

6. Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
7. Location of existing drainage courses, floodplains, lakes, streams, and wood lots.
8. All existing easements.
9. Location of existing sanitary systems and or septic systems.
10. Location and size of existing water mains, well sites and building service.
11. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans. If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply and, furthermore, why the items are not applicable.

A land survey was provided by the applicant and submitted to the Planning Board (see attached).

Article 7 section 7.02 of the Zoning Ordinance further states:

> The Planning Board shall hold at least one public hearing on each application for amendment at such time and place as shall be established by the Planning Board.
>
> The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:
>
> a. The objectives of the City's then current master plan and the City's 2016 plan.
> b. Existing uses of property within in the general area of the property in question.
> c. Zoning classification of property within the general area of the property in question.
> d. The suitability of the property in question to the uses permitted under the existing zoning classification.
> e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

Planning Division Analysis & Findings

In accordance with Article 7 of the Zoning Ordinance, the Planning Board is required to conduct a public hearing on an application for rezoning, and to make a recommendation on the rezoning to the City Commission.

Article 7, section 7.0(B)(5) of the Zoning Ordinance states:

> The Planning Board shall make written findings of fact and transmit same, together with its recommendation, to the City Commission. The City Commission may hold additional hearings if the City Commission considers it necessary. The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:
>
> a. The objectives of the City's then current master plan and the City's 2016 Plan.
> b. Existing uses of property within the general area of the property in question.
> c. Zoning classification of property within the general area of the property in question.
> d. The suitability of the property in question to the uses permitted under the existing zoning classification.
> e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

Accordingly, the Planning Division has reviewed the evidence presented with respect to the matters listed in Article 7, section 7.0(B)(5) of the Zoning Ordinance as noted below.

A. The objectives of the City's then current master plan and the City's 2016 Plan

Section 1.04 of the Birmingham Zoning Ordinance states: the purpose of the Zoning Ordinance is to guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Future Land Use Plan and the Downtown Birmingham 2016 Plan. A review of both plans reveals that the proposal to rezone the subject property to the D-5 Zoning District meets the spirit and intent of the ordinance. The 2016 Plan recommends specific building heights and massing that appropriately defines the public street and are harmonious with existing buildings. The 2016 further requires first floor retail along Old Woodward and encourages a mix of uses within buildings to support an active live, work and play environment for downtown. A proposed building under the D5 would allow for mixed uses and a scale that will match the adjacent buildings, meanwhile supporting the improvement of the streetscape along S. Old Woodward, Hazel and Woodward by building to the frontage line as required by the 2016 Plan.

The 2016 Plan also recommends that the City should encourage future buildings to front Woodward to project a positive image of the City and to hold Woodward areas to the same standards of quality and design as the best areas of Birmingham. The proposed building will project a strong image of the City towards Woodward with consistent architectural details and similar massing to the adjacent buildings.

B. Existing uses of property within the general area of the property in question

As mentioned above, the Birmingham Place and 555 Buildings are located to the north and south of the subject site, respectively. Both buildings contain a mix of retail, commercial and residential uses. The subject property is located on Woodward Avenue, which has a 200' wide right of way. The southbound lanes of Woodward lie directly east of the property, and South Old Woodward lies to the west. Across Woodward to the east is the Audi dealership, and across S. Old Woodward to the west is a commercial center with both retail and commercial uses, including a drugstore, a drycleaners and a clothing store.

The following chart summarizes the land uses and zoning districts adjacent to and in the vicinity of the subject site.

	North	**South**	**East**	**West**
Existing Land Use	Retail/ Commercial / Residential	Retail/ Commercial / Residential	Retail / Commercial/ Parking	Commercial/ Parking
Existing Zoning	B-3, Office Residential	B-3, Office Residential	B-2, General Business	B-2B, General Business
Overlay Zoning	D-5	D-5	MU-5	D-2

C. Zoning classification of property within the general area of the property in question.

The properties immediately north and south of the subject site are zoned B3 and D5, which allow a mix of residential, retail and commercial uses, and buildings over 5 stories in height up to a maximum height of 180'. The property to the east across Woodward Avenue is zoned MU5 which also allows a mix of residential, retail and commercial uses and allows buildings up to 6 stories and 78' in height. The property to the west across S. Old Woodward is zoned B2-B and D2, also allowing a mix of residential, retail and commercial uses and buildings up to 3 stories and 56' in height.

D. The suitability of the property in question to the uses permitted under the existing zoning classification.

Under the current zoning, all of the same uses are permitted as those under the D5 zoning classification. However, given the size of the parcel and the fact that the property is not located in the Parking Assessment District, the applicant argues that they would be unable to develop an appropriately designed five story mixed use building under the current zoning. In addition, even if the property were developed to include a five story or less building under the current zoning of D4, the building would be completely inconsistent and dominated by the height of the adjacent Birmingham Place and 555 Buildings.

E. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

In the immediate Southern Woodward Gateway area, there have been no new buildings recently constructed, however, the 555 Building was recently renovated extensively. Three existing buildings were rezoned in 2017 to D5 under the Downtown Overlay (Merrillwood Building, the 555 Building and Birmingham Place) to permit buildings over 5 stories in height (up to 180') so long as they are compatible with adjacent buildings. There have been no new buildings constructed under the D-5 Overlay zoning classification.

Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established Zoning Ordinance requirements in Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district for the purpose of building as high, but no higher than, adjacent buildings. Given the recommendations of the 2016 Plan, the existing mix of uses in the immediate area and given the size and quality of the building, the proposal to rezone to D5 is appropriate and compatible with both the zoning and height of properties within the general area. In addition, a rezoning to D5 is consistent with recent zoning changes from D4 to D5 for adjacent properties within the Downtown Overlay district.

Departmental Reports

1. Engineering Division – The Engineering Department has no concerns with the rezoning application at this time.

2. Department of Public Services –The Department of Public Services has no concerns at this time.

3. Fire Department – The Fire Department has no concerns with the rezoning at this time.

4. Police Department – The Police Department has no concerns with the rezoning application.

5. Building Department – The Building Department has no concerns with the rezoning application at this time.

Sample motions with attached conditions have been provided in the event that the Planning Board deems it appropriate to send a recommendation of approval forward to the City Commission.

Suggested Action:

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board adopts the findings of fact contained in the staff report dated April 17, 2020 and recommends **APPROVAL** to the City Commission for the rezoning of 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay.

OR

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board recommends **DENIAL** to the City Commission of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay, pending receipt and review of the following information:

1. _____
2. _____
3. _____

City Commission Minutes
February 13, 2017

02-29-17: PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 126, ZONING, TO CREATE NEW D5 ZONE

Mayor Nickita opened the Public Hearing at 10:22 PM.

City Planner Ecker explained the history of this zoning ordinance amendment request by the owners of the 555 Building. The amendment would allow buildings to be considered either legal and conforming, or legal non-conforming, but have the ability to add on in some way. The amendments have to do with height, number of stories, and setbacks. The Planning Board looked at several options. The Board came up with a fairly simple method, by changing Section 6.02 to allow all buildings to be improved in some way if they are non-conforming, or to consider the creation of a D5 zone, defined as over five stories. The impact of the amendments would make the three buildings legal conforming buildings, and they would be allowed to be extended or enlarged with a Special Land Use Permit. If a new building was constructed, it could match the height of the existing building with a Special Land Use Permit. The new category would deal with existing buildings located in the D5 zone. This change enables applicants to obtain funding for significant renovations or improvements as a legal conforming building. The second part allows expansion with the restriction to meet the overlay.

City Planner Ecker explained for Commissioner Boutros that the 555 site has room where a new building could be constructed.

City Planner Ecker explained that none of the three buildings can be any higher or add any extra stories under the ordinance amendment.

Mayor Pro Tem Harris asked about maintenance and repair under the current ordinance.

City Planner Ecker said an interpretation is required in every case currently. Under the ordinance amendment, maintenance and repair would be permitted.

Commissioner Hoff asked if Birmingham Place or Merrillwood could buy the adjacent structures and then build in the space.

City Planner Ecker said they could not, because the properties next door would not have the D5 zoning classification.

Commissioner Hoff asked how the determination is made as to an enlargement and an addition.

City Planner Ecker said the enlargements or extensions are an absolute right if the regular overlay standards are met. If it is an addition or new construction which would exceed the D4 requirements, it can be done with a Special Land Use Permit.

Mr. Rick Rattner addressed the Commission and said with the ordinance amendment, the 555 Building would be in compliance allowing the owners to move forward to make the changes and renovations to keep it an iconic building.

Mayor Nickita closed the Public Hearing at 10:40 PM.

MOTION: Motion by DeWeese, seconded by Boutros:

To amend Chapter 126, Zoning, Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district, and Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

AND

To approve the rezoning of the following properties:

(a) 555 S. Old Woodward (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
(b) 411 S. Old Woodward (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
(c) 225 E. Merrill (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

City Planner Ecker confirmed for Commissioner Hoff that the ordinance amendment would allow the 555 Building to build an addition as tall as it is only with a Special Land Use Permit approved by the Commission. She added that a new building to the south could be built that meets the D4 standards as of right. The setbacks will basically be the same.

VOTE: Yeas, 7
Nays, 0
Absent, None

Planning Board Minutes
June 27, 2018

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein said that judging from all of the letters that have been received related to this project, it is very clear that the residents of Birmingham Place oppose the rezoning. All of the letters will be added to the record.

Ms. Ecker explained the applicant for 469-479 S. Old Woodward is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed-use building with three levels of underground parking in between the Birmingham Place and the 555 Building. The maximum height allowed in the D-4 Zoning District is 4-5 stories. In the D-5 Zoning District, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 Zone. The 0.423 acre subject site spans Hazel St. from S. Old Woodward Ave. to Woodward Ave. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Restaurant and Talmer Bank). The applicant is proposing to demolish the present buildings for the construction of a ten-story mixed-use building.

The applicant has noted that when the zoning was changed down to one or two floors in the 1970s, the 555 Building and Birmingham Place were designated to a legal non-conforming use because their height was not allowable. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay that raised the height up to a maximum of five stories Downtown. In 2017, a new D-5 Zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D-5 currently.

Ms. Ecker went through the three items that the applicant must demonstrate for the rezoning of a property and the applicant's reasons as to how they feel they have met them.

Ms. Ecker then went through the planning analysis based on the evidence provided by the application. Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents, current zoning and recent development trends in the area, the Planning Dept. finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay District for the purpose of building as high, but no higher than, the building to the north, Birmingham Place.

Answering Mr. Boyle, Ms. Ecker said the Master Plan which dates back to 1980 did not give specific height requirements like the 2016 Plan recommended. Under the 2016 Plan the recommended height in the Downtown was a maximum of five stories. The 555 Building submitted an application to the City and to the Planning Board to consider creating a new category that would make them a legal and conforming building that would allow them to receive financing to renovate the building and bring it up to current standards in the marketplace. The D-5 Ordinance was crafted by the Planning Board as a result of that application and included the other two buildings in a similar situation.

Mr. Rick Rattner, Attorney, Williams, Williams, Rattner & Plunkett, PC, emphasized that in the D-5 going above five stories subjects the property to a Special Land Use Permit ("SLUP") which is different than just building as of right. Secondly, in 2016 Andres Duany commented favorably on the 555 Building and on Birmingham Place.

He presented a PowerPoint that went to four issues that have to do with rezoning:

- Rezoning Amendment - Sec. 7.02 (B) (2) (b) (i)-(iii) requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission.
- Sec. 7.02 (B) (2) (b) (i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership. Without the ability to go higher with a new building than the zoning allows, the applicant will not have the required area within which to locate a mix of uses that would commonly be associated with the design of a modern, mixed-use building.
- Sec. 7.02 (B) (2) (b) (ii) - An explanation of Why the Existing Zoning Classification is No Longer Appropriate. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. Given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-4 Zone is no longer appropriate.
- Sec. 7.02 (B) (2) (b) (iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the S, Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Plan.

Mr. Rattner concluded by asking the Planning Board to favorably recommend that they are able to use their property and preserve their rights of usage, fit into the streetscape, fit the Master Plan and fit all elements of this Ordinance because they meet every single one of them.

At 8:45 p.m. the Chairman opened the meeting to public comments.

Ms. Susan Friedlander, 1564 Henrietta, attorney for Birmingham Place Residential Condominium Association, made the following points:

- The City created the D-5 District for a singular and special purpose which was to bring several buildings into conforming status.
- The proposed building is not sandwiched between the 10-story Birmingham Place and the 15-story 555 Building - there is Hazel, a 50 ft. right-of-way that provides a proper transition between buildings. There is not even a height difference, because the building that is immediately adjacent to Hazel is 77 ft. tall. So if this proposed building went up to 80 ft, which it is allowed to do under D-4 it would be very consistent with the building right across the street. There would be a perfect transition. It would only be 34 ft. shorter than Birmingham Place.
- If the proposed building is zoned D-5, what about the building on the north, the Powerhouse Building, Jax Car Wash or the Varsity Building. Why shouldn't they get the D-5 Zoning as well?
- There is a process that must be followed so that property is not rezoned on an ad hoc and an arbitrary basis.

Mr. Tom Lasky, 2006 Cole, spoke in support of the rezoning request. This is the face of new Birmingham and will be done responsibly.

Mr. Mike Humphrey, who lives in Birmingham Place, said there is nothing in the record that shows that the D-5 Overlay was created to do anything other than to make the three tall existing buildings legal and conforming. The developer bought the property knowing how it was zoned; but now

they say that they cannot develop a four or five-story mixed-use building there. If the City is going to change the Master Plan, go for it, but do it with professional study and community involvement; not a piece at a time.

Mr. David Nykian, 40700 Woodward Ave., said he represents some of the owners in the Birmingham Place Condominium. He believes the facts lead to the conclusion that the D-4 Zoning is actually clearly appropriate for this property:

- The D-5 District was created just to address the non-conformities of three buildings. So the City has already made the decision in the past as to what zoning is appropriate for this site.
- Nothing about the property has changed since then that should cause the City to alter its conclusion about what the appropriate height is.
- The height of the 555 Building on the north is 77 ft. So if the subject site were developed today under D-4, it could be taller than the 555 Building.
- Breaking up the building heights would provide more of an architectural character to the City than one monolithic height across the entire street.
- There is nothing under the D-4 Zoning classification that that would prohibit the developer from developing a mixed-use development.
- The only things that would change by amending the classification from D-4 to D-5 are the height of the building and the profit margin of the developer.

Mr. Mickey Schwartz, 411 Old Woodward Ave., stated that infill has nothing to do with height equality. So he thinks the developer has to have a better excuse for building a 10-story building. The small town feeling is what is unique about Birmingham. Deny the rezoning request.

Dr. Cynthia Neil, a resident of Birmingham Place, said she was deeply offended by the petitioner's statement that the development would not adversely affect the residents. From her balcony she would be able to bounce a tennis ball against the wall of the proposed building.

Mr. Chris Jonna, C&P Real Estate Group, spoke in support of the project. The applicant builds nothing but first-class buildings. Increasing the zoning classification will be a tremendous benefit to Downtown Birmingham by bringing in more people to the area.

Mr. Lewis Rockind, a resident of Birmingham Place, emphasized that the zoning has to be contemplated in the context of what is intended to be developed. As a resident of Birmingham Place he is looking at the detrimental effect on the surrounding properties of increased vehicle and pedestrian traffic.

Mr. Daniel Jacob, 261 E. Maple Rd., said he is 100% in support of the project. The intended use of the property is much needed and would be a huge benefit to the City. Birmingham is changing and this project moves with the times.

Mr. Joseph Shalala, 255 S. Old Woodward Ave., spoke in support of the proposed building. It will support all of the small businesses by bringing in people such as office, residential, and hotel users. All of those things combined will help Birmingham.

Ms. Tony Schwartz, 411 Old Woodward Ave., maintained that it is the height of the building that is in question here, not its quality. Secondly, traffic is a big problem on that corner. There is a new hotel that is starting to be built on the corner of Brown and Old Woodward which will add more traffic to that corner. She understands there may be a pool deck on the top floor of the proposed building - who is going to control music and noise and parties. She lives right across on the tenth floor.

Chairman Clein advised that concerns related to traffic and noise are not part of a rezoning but would be handled under a Site Plan Review, and should this be moved forward to a rezoning the applicant would be required to obtain a Special Land Use Permit ("SLUP") which allows the City Commission to put additional restriction on the uses of the building.

Mr. Duraid Markus, one of the partners in the ownership entity for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank), said if this happened in New York, Chicago or LA there would not be a single skyscraper built. He noted that everybody who opposes this is only one contingent, and it has not been the entire City that comes in to support or not support.

It makes sense to build where the project is harmonious and fits in with the rezoning proposal. For those reasons he asked the board to consider all of the comments and make the decision to allow them to rezone the parcel.

Ms. Wilma Thelman who lives in Birmingham Place said none of them have heard why a conforming building cannot be built on that site.

Mr. Jeffares noted that things change and now Birmingham holds 21 thousand people. Secondly he recalled that the Board did discuss rezoning the subject property; however there was nobody from there to make their case so the Board just rezoned the existing buildings.

Mr. Koseck advised that D-4 Zoning allows a building to be built to 80 ft. So it will already block six floors of Birmingham Place. He did not believe the applicant's contention that they cannot make a five-story building work, He thought that a five-story could be a successful mixed-use building. In some ways it might even fit the form and the transition better and the upper three floors of Birmingham Place will not be affected.

Ms. Whipple-Boyce said when the Board established the D-5 Zoning Classification she felt it applied to three specific buildings. In her mind it had to do with bringing non-conforming buildings into conformity so that they could qualify for financing and improve their properties. Thinking about some of the other properties that could be affected down the road that are adjacent to other properties like this is an unanswered question for her. It causes her to hesitate tonight on recommending the rezoning to D-5.

Mr. Boyle made the following points:

- The Master Plan is meant to have the ability to adapt to changing circumstances. Similarly, zoning is powerful when it is able to adapt. So, change is normal; it is not frequent, but it is usual.
- He was positive about the potential impact on the City as a whole of rezoning this property.
- The potential impact of rezoning on the contiguous properties will affect a number of people. The Board is here to determine who has the weight in this particular discussion, the entire City or the adjacent neighbors.
- There are checks and balances built into the system. If the rezoning were to be approved, the community would have two elements to be brought to the table. One would be the Site Plan Review process, and secondly the height would kick in the SLUP where the Planning Board can recommend controlling modifications to the City Commission who will hold a public hearing on the proposal.
- At the end of the day he is of a mind to approve the rezoning because overall he sees the benefits for the City and for this particular area. However, he does not underestimate the cost for the immediate residents in the contiguous building.

Ms. Ramin stated one of the burdens the applicant must carry to justify rezoning is an explanation of why the existing D-4 classification is no longer appropriate.

Mr. Duraid Markus said they cannot get in a hotel concept on this little parcel so they have to go vertical by a couple of floors. He has to be honest, it is the economics. He cannot get a development off the ground. They are not in the Parking Assessment District and are therefore limited by the required parking for an office building or a restaurant.

Answering Mr. Emerine, Ms. Ecker explained that anyone on any site on any site can apply for a rezoning to any of the existing zoning classifications.

Chairman Clein commented that rezoning is the most difficult thing the Board has to do - balancing the rights of adjacent land owners. To Ms. Ramin's point, the burden has not been met as to why a five-story building will not work. The answer that was given was economics, which has no place in a rezoning discussion. Therefore, he is not supportive of the rezoning.

Mr. Jeffares said he cannot come up with a reason for the height of the proposed building to be lower.

Ms. Whipple-Boyce indicated she has no problem with the subject building being built as high as Birmingham Place. But she doesn't think the applicant has made the case that they deserve to be rezoned and that the current zoning classification is no longer appropriate. She was appalled to hear the applicant say they bought this property and the only thing that will work there is a ten-story hotel and it should be rezoned because that is what they want to build. Therefore she doesn't think the applicant has proved their case.

Mr. Rattner noted that maybe the best thing for them to do is to ask for postponement so they can come back with a different plan. Chairman Clein stated that for him postponing would just be kicking the can down to another meeting. Mr. Boyle said he is in favor of not accepting that proposal and actually making a motion this evening.

Motion by Mr. Boyle
Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

There were no comments from the public on the motion at 10 p.m.

Motion failed, 2-5.

ROLLCALL VOTE
Yeas: Boyle, Jeffares
Nays: Clein, Koseck, Emerine, Ramin, Whipple-Boyce
Absent: Share, Williams

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

Motion carried, 5-2.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Koseck, Clein, Emerine, Ramin
Nays: Jeffares, Whipple-Boyce
Absent: Share, Williams

Planning Board Minutes
September 12, 2018

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)
Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein recalled that on June 27, 2018, the Planning Board reviewed a rezoning request for 469 – 479 S. Old Woodward Ave. (former Mountain King and Talmer Bank sites) to rezone from B-3/D-4 to B-3/D-5. This request was made pursuant to Article 7, section 7.02 of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward Ave. The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing that was previously set at the City Commission to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Therefore, the Board's next step is to enter into a discussion of whether or not the application for 469-479 S. Old Woodward Ave. should receive a re-hearing. If they decide that there is substantial new evidence or new facts under section 7.02 (6) to warrant a re-hearing, the Board will at that point decide on the next steps.

Motion by Mr. Williams
Seconded by Mr. Koseck to include the following correspondence into the official record:

- **Letter dated September 11, 2018 from Susan K. Friedlaender, Attorney with Friedlaender, Nykanen, Rogowski, PLC;**
- **Letter dated September 10, 2018 from B. Geiger, Unit 623, 411 S. Old Woodward Ave;**
- **Letter dated September 11, 2018 from Timothy J. Currier, Beier Howlett, City Attorney, dealing with the process of rezoning application before the Planning Board.**

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Koseck, Boyle, Clein, Emerine, Jeffares, Whipple-Boyce
Nays: None
Absent: Share

Mr. Williams pointed out the Planning Board has opinions of opposing counsel dealing with the issue as to whether the D-5 Ordinance can in fact apply to the two properties in question (former Mountain King and Talmer Bank sites). That is a legal question for the City Attorney to decide.

The second issue is whether the two parcels are or are not in the Parking Assessment District. It is important to know from the City's standpoint why this property is or is not in the Parking Assessment District based on the records of the City at the time the Parking Assessment District was created. Further, if they are in the Parking Assessment District, then the analogies to the other five-story buildings in the City in Downtown which are in the Parking Assessment District and don't have to provide on-site parking is relevant. If they are not in the Parking Assessment District and the applicant is required to provide on-site parking, then that is a different conclusion. He wants the opinion of the City Attorney before proceeding because if the conclusion is that the properties are not eligible for D-5 zoning then having a hearing is a waste of time.

Mr. Williams further noted that Ms. Friedlaender's letter questions what the City Commission intended by approving the D-5 category. He would like the opinion of the City Attorney on that narrow question and whether these two parcels are eligible to be rezoned into the D-5 category based on all the evidence to date.

Chairman Clein thought the question before the Board is whether there will be a rehearing; or since they are all present, whether they feel they have enough information to have that conversation tonight on the very narrow basis of whether there is new information that wasn't brought up at the original hearing.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., was present to represent the applicant. They believe this site not only is eligible for D-5 Zoning, but they also think that they have new information. Further, they accept that the site is not in the Parking Assessment District. They feel they have enough information to go forward at this time and also believe their position relative to the eligibility and the new information is solid.

Ms. Ecker recommended that the Board should stick to the first question of whether there is new information that wasn't considered before that is brought forward now and thus warrant a re-hearing.

Mr. Williams pointed out that the CIS contained a reference that this particular property is in the Parking Assessment District. So, the information from the City that was provided at the time of the hearing was incorrect. Therefore, the record needs to be corrected. He didn't think the Board should start down that road until they receive Mr. Currier's opinion.

Mr. Rattner indicated they have no objection, if that is what the Board decides.

Chairman Clein opened up public comment at 8:15 p.m.

Ms. Susan Friedlaender, Attorney representing Birmingham Place Residential Condominium Assoc., corrected that the applicant actually mentioned during the hearing that they are not in the Parking Assessment District and that is one reason they were asking for the rezoning, and one reason why they needed to be rezoned because they cannot meet the needs of a hotel in four stories.

Mr. Michael Schwartz, 411 S. Old Woodward Ave., Birmingham Place asked the Board to consider once they have a legal opinion, if it is that the process should move forward. Possibly decide that in October and then have the hearing for the project itself at future meeting.

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to postpone consideration of the public hearing which was scheduled for tonight to October 10, 2018 with the condition that the Board receive

the legal opinion of counsel to the City of Birmingham submitted to the Planning Board in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

There were no public comments on the motion at 8:15 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Whipple-Boyce, Boyle, Clein, Emerine, Jeffares, Koseck
Nays: None
Absent: Share

Planning Board Minutes
October 10, 2018

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)
Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein recalled that on June 27, 2018, the Planning Board reviewed a rezoning request for 469 – 479 S. Old Woodward Ave. (former Mountain King and Talmer Bank sites) to rezone from B-3/D-4 to B-3/D-5. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward Ave. The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

Prior to the City Commission taking any action the applicant submitted a letter requesting that the City postpone the public hearing that was previously set at the City Commission to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, on August 13 the City Commission cancelled the public hearing and sent the matter back to the Planning Board for reconsideration.

Section 7.02(6) of the Zoning Ordinance allows a rehearing on a rezoning request where there is a substantial change in the evidence that was previously presented even after the City Commission has issued a denial of the request. In this case, the City Commission did not hear the request, and thus did not issue an approval or denial. They did however send the matter back to the Planning Board to determine if there has been a substantial change in the evidence, and if so, to conduct a rehearing on the rezoning request previously considered.

On September 12, the Planning Board decided to postpone consideration. They were looking for additional information from the City Attorney as to 1) whether the applicant has the right to apply for rezoning under D-5; and 2) some of the facts behind the reasons why this property may or may not have been put in the PAD.

As to why this property may or may not have been put in the PAD, the City Attorney has written a letter stating there is no record from the 1960s. With regard to the legal question as to whether or not the applicant has the right to apply for rezoning to the D-5 category, the City Attorney responded they do have the legal right to apply for rezoning to this zoning classification.

Chairman Clein stated that the first thing the Board will do this evening is to discuss whether the new information being presented warrants a rehearing.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., was present to represent the applicant. In a PowerPoint presentation he outlined the substantial change in the evidence that was previously presented to the Planning Board on June 27, 2018 and requested a rehearing of the rezoning request based on the following:

- There was a mistake in the CIS that was included in the packet that indicated this property is in the PAD. This property is not.
- The ordinance states pursuant to 7.02 (B) (5) (a-e) that the Planning Board should make findings of fact. There was no presentation of a finding of fact as it was presented to the City Commission.

- The D-5 Zone was enacted and at that time, three buildings were rezoned to D5, but the ordinance itself is clear and unambiguous. It provides language that indicates there are going to be different buildings put into the D-5 Zone.
- The fact that the property sits outside of the PAD should be looked at because of the potential five or six types of structures that could be built under the D-4 Ordinance. That is what is new to their rezoning argument. If a mixed-use building is constructed in D-4, it must have 288 parking spaces on-site. That requires their building to be accompanied by nine underground parking levels. That is a major change in the way the Planning Board might look at this for rezoning.

Mr. Rattner hoped the Board will take this seriously and give them a chance for a rehearing based on all of this context, so that a good and fair decision can be made.

Mr. Williams received confirmation from Ms. Ecker that there are no other commercial properties which are currently zoned D-4 and allow a mix of commercial and residential uses that are not located in the PAD.

Responding to Mr. Boyle, Ms. Ecker gave a brief history of the PAD and why it was created. She named the Brookside Terrace and the old school district building as being properties that bought into the PAD after it was formed. They both abut the PAD. The City Engineer and the Finance Director figure out what the buy-in amount is and then it goes to the City Commission who makes the determination as to whether a property will be added or not.

Chairman Clein opened discussion from the public at 8:07 p.m.

Ms. Susan Friedlander, Attorney representing Birmingham Place Residential Condominium Assoc., noted that at the September 12 hearing she talked about the intent of the D-5 Ordinance and whether it was intended for rezoning for a multitude of properties that don't fit the non-conforming status. The history of the ordinance cannot be clearer. It was drafted because the 555 Building had space on its site.

Another issue is whether there has been new evidence submitted that justifies a rehearing. The only thing that was raised is that there was a mistake in the CIS report that said 469-479 S. Old Woodward Ave. is in the PAD. However, the CIS was specifically put aside at the hearing because the Planning Board was looking at rezoning and not the site plan or the CIS. It is on the record, on the video and in the minutes that the applicant said he can't build anything else because the property is not in the PAD.

Ms. Friedlander stated that in the example of what can be built, it is erroneous to say that parking must be on site if you are not in the PAD. The Zoning Ordinance clearly allows many of the mixed uses that are allowed in the D-4 District other than residential to have parking 100 ft. away. Ms. Friedlander said she is trying to wrap her head around the fact that because they are not in the PAD they want to have a use with an even greater parking need than they might be able to build under D-4. So, they haven't presented any new information.

The ordinance does not say that the Planning Board has the authority to rehear an application that it has denied when the City Commission has not heard it and denied it. It says the same application shall not be brought back within the same year unless there has been substantial change in conditions which the applicant can present to the Planning Board upon reapplication. That is not what happened here.

Ms. Friedlander stated that the City Commission speaks through its resolutions. The Commission's resolution says to cancel the public hearing to consider approval of the rezoning of 469-479 S. Old Woodward Ave. from B-3/D-4 to B-3/D-5 and refer the matter back to the Planning Board. It doesn't say to refer the matter back to the Planning for a rehearing and reconsideration of this rezoning request.

Mr. Clinton Ballard, 388 Greenwood, said he cares very much how this City is developed. He thinks this property should be zoned to D5 the same as the adjacent properties.

Motion by Mr. Boyle
Seconded by Mr. Share to receive and file a letter from Honigman Miller Schwartz and Cohn, LLP dated October 10, 2018 that says they represent the Condominiums at Birmingham Place Association.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Share, Clein, Jeffares, Koseck, Whipple-Boyce, Williams
Nays: None
Absent: Ramin

After a brief evacuation of the building because the fire alarm sounded, the meeting reconvened.

In response to Mr. Williams, Ms. Ecker said a letter was received from the City Attorney prior to the September 12 meeting indicating what the process would be and that it is the Board's responsibility to determine if there is new information; and to make a decision on that first; and then if the determination is made there is new information, to conduct a rehearing.

Several Board members indicated they were aware that this property was not in the PAD but several others were not. Chairman Clein did not believe it was ever discussed.

Ms. Whipple-Boyce said in all of her time on this board she can never remember seeing a rezoning application followed by a site plan for the same property on the same night. The applicant may not have touched on not being in the PAD in the first part of their presentation because they expected to be presenting that in the second part of their presentation. She finds that to be new evidence because the Board didn't give the applicant the opportunity to present their Site Plan. Therefore she leans toward voting in favor of the applicant tonight.

Mr. Koseck said he always wants to look at a proposed design along with a rezoning application. It is the applicant's job to make their case and he doesn't think there has been a change of facts to the degree that would make him have a different opinion.

Chairman Clein noted he is hard pressed to say that the news that the property is not in the PAD is a substantial change in facts, evidence, or condition. Therefore, he cannot support a rehearing.

Mr. Williams said his understanding is that the Board didn't go beyond the three properties which were non-conforming because no other properties were before them. It is clear to him that the written record of the CIS was incorrect. The record should be clear that the property is not within the PAD. Also, he doesn't think the Planning Board complied with the ordinance in its

findings. He added that it would be inappropriate to go forward with a rehearing tonight because there is a counsel of record who can't be present who said he represents a certain party that is not here. Everybody should be given an opportunity to be heard.

Mr. Share indicated his strong recollection is that when the Planning Board adopted the D-5 Zoning it was not exclusive to the three properties. It was open to other places but it was inappropriate for the Board to rezone a property without them being there to request it. Based on what he saw in the minutes and what he has heard from his colleagues, there has not been a substantial change in the evidence that would justify a rehearing

Motion by Mr. Share
Seconded by Mr. Koseck to RECOMMEND DENIAL of the applicant's request for a rehearing the property at 469-479 S. Old Woodward Ave.

There were no public comments related to the motion at 8:55 p.m.

Motion failed, 3-4.

ROLLCALL VOTE
Yeas: Share, Koseck, Clein
Nays: Boyle, Jeffares, Whipple-Boyce, Williams
Absent: Ramin

Motion by Ms. Whipple-Boyce that the Planning Board finds that there have been substantial changes in the evidence previously presented at the rezoning hearing on June 27, 2018, and thus grants a rehearing of the rezoning request for 469-479 S. Old Woodward Ave.

Motion carried, 4-3.

ROLLCALL VOTE
Yeas: Jeffares, Whipple-Boyce, Boyle, Williams
Nays: Koseck, Share, Clein
Absent: Ramin

At 9 p.m. there were no comments from the audience.

Motion by Mr. Williams
Seconded by Mr. Boyle that the re-hearing that has been approved by the Planning Board be held on Wednesday, November 14, 2018.

There was no discussion from members of the public at 9:05 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Boyle, Clein, Jeffares, Koseck, Share, Whipple-Boyce
Nays: None
Absent: Ramin

Planning Board Minutes
December 12, 2018

E. REZONING REQUEST

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed use building (postponed from November 14, 2018, and the applicant has asked for additional postponement)

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce that the rehearing of the rezoning request for

469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) be postponed to the regular Planning Board meeting of January 23, 2019.

Motion carried, 7-0.

There were no comments from members of the public at 7:35 p.m.

VOICE VOTE
Yeas: Williams, Whipple-Boyce, Boyle, Clein, Jeffares, Koseck, Share
Nays: None
Absent: None

Mr. Williams asked that upon republishing this material, staff note any new information on the first page.

Planning Board Minutes
January 23, 2019

E. REZONING REQUEST

1. **469 – 479 S. Old Woodward (former Mountain King & Talmer Bank)** – Request to reconsider application in light of new information to be presented to rezone from B3 and D4 to B3 and D5 to allow a nine story mixed use building (Postponed from December 12, 2018).

Ms. Ecker identified the subject site and reviewed the history of the rezoning requests over the past year. It was noted that the building immediately to the north of 469-479 S. Old Woodward is approximately 115 feet tall, and that the tower to the south of 469-479 S. Old Woodward, attached to the 555 building, is approximately 80 feet tall. The current zoning would allow for an approximately 80 feet tall building at 469-479 S. Old Woodward.

The 2016 Plan would only allow a five-story building at the 469-479 S. Old Woodward site. D-5 zoning allows a building to go up to, but not exceed, the height of an adjacent building. D-4 zoning allows a building to have five stories if the top floor is residential. Planning Director Ecker did not believe there are any other properties zoned D-4 in the Downtown Overlay which are not also in the Parking Assessment District (PAD).

Planning Director Ecker reviewed the requirements for rezoning contained in the Zoning Ordinance and explained the findings related to these as outlined in the staff report, along with the applicant's responses as submitted. After the review was complete, Ms. Ecker noted that based on the Planning Department's review "of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, [...] the applicant meets the established Zoning Ordinance requirements of Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district."

Mr. Rick Rattner, Attorney, was present to represent the applicant. On behalf of the applicant Mr. Rattner and architect Chris Long**e** gave a presentation first outlining the applicant's adherence to the Zoning Ordinance requirements of Article 7, section 7.02(B)(5), similar to the Planning Department's findings of positive rezoning qualifications of the property, and secondly showing a massing of the proposed building, zoned as D-5, at the 469-479 S. Old Woodward site.

Mr. Rattner began by saying he could not think of another situation in Birmingham where two buildings are zoned in the same way with a third building, in the middle, zoned differently. Mr. Rattner continued:

- The 469-479 S. Old Woodward site essentially creates a gap in the streetscape since it is currently one or two stories and cannot be rebuilt.
- Based on intended height, the applicant would return to the Board for a Special Land Use Permit (SLUP) which would also take into account the neighbors' preferences.
- D-5 zoning would allow for on-site parking and the same uses as the surrounding buildings.

Mr. Longe described the 469-479 S. Old Woodward site. If the current buildings were maintained and reused for a non-conforming use the applicant would need to provide parking for 55 cars since the site is outside of the PAD. His presentation illustrated and talked through some other D-4 zoned options that would be similarly untenable for the site.

The Board was then presented with two massing models to demonstrate what the proposed building would look like if the City Commission were to grant the change in zoning to D-5.

Mr. Longe clarified that the proposed building could be stepped back from Birmingham Place to provide more open space between the two buildings if the change in zoning to D-5 is granted. He added that this idea came about as part of the ongoing discussion with the tenants of Birmingham Place.

Mr. Longe confirmed for Mr. Emerine that the top block represented on the proposed building would be a mechanical block, not an additional story to the building.

Chairperson Clein thanked Mr. Longe for the massing diagrams, stating they were helpful.

Mr. Rattner told Mr. Share that the applicant is coming before the Board instead of the Board of Zoning Appeals because the applicant is attempting to do a development under the current zoning ordinances of the City. Mr. Rattner added that it is unusual and unfair to maintain the site at D-4 when both buildings adjacent to the site are zoned at D-5.

Doraid Markus, one of the applicants, opined that a five-story hotel would not be as becoming of Birmingham as a nine-story hotel. He specified that in order to create an uncrowded first floor and mezzanine level and a sufficient number of rooms, the building would need the extra height.

Susan Friedlander, Attorney representing Birmingham Place Residential Condominium Association, explained that the evening's discussion was supposed to be a rehearing since the site had originally been described incorrectly as being in the PAD. Given this, she wondered why the applicant had yet to explain this evening how the PAD was such a significant issue that the Board should consider voting differently than it had in the past. She added:

- The applicant's assertion that they could not park onsite with a five-story building, but could park onsite with a nine-story building -- even though a nine-story building would require an increase of parking spaces -- did not compute.
- Other hotels being built in the PAD are putting two levels of parking underground.
- The applicant said they would be able to use approximately 40 spaces from the 555 building if the site was built to nine stories. Ms. Friedlander questioned why this arrangement would not work with a five-story building as well.
- During tonight's presentation the applicant did not mention the various parking sharing arrangements available to the applicant under the ordinance. Such sharing arrangements could significantly decrease the burden of providing parking. She said addressing this issue is more of a parking variance matter than an ordinance matter.
- According to Planning Director Ecker's report, there is no consensus on whether the City should be raising building heights in this area. If the Board and Commission determined that these three high-value buildings should have their heights raised without consulting the Master Plan for the area, then the City was not zoning according to a Plan. Michigan law requires that every City zones according to its Plan(s).

- Changing building heights in the Downtown Overlay district merits a thorough community engagement process, similar to the process of changing building heights in the Triangle District. Insufficient consultation of the community on this matter could result in the impression that this zoning change was insufficiently considered and vetted. She also said the February 2017 Commission discussion on the issue reflected similar concerns from the Commissioners regarding the lack of community engagement.
- A number of other properties in Birmingham could also request changes in zoning based on being next to D-5 buildings. The problem is whether these changes are being made according to the City's 2016 and Master Plans.
- The City specified in its 2016 Plan that it wanted to maintain its small town character. According to Ms. Friedlander, small towns do not usually go above three or four story buildings. While Birmingham has gone back and forth on whether it would allow taller buildings, drastic changes to building heights should be made according to the City's Plans.
- The discussion of changing this site's zoning should occur under the auspices of the upcoming Master Planning process. Otherwise, this is similar to spot-zoning, since no land use patterns changed for the site.

David Nykanen, Attorney, said he represents some of the residential owners in the Birmingham Place Condominium Association. Noting that a hotel would require the least amount of parking on this site, Mr. Nykanen asserted that the applicant chose not to present the parking implications of that option in the current discussion so as to make the parking requirements seem more onerous than they are. He continued:

- Two other sites in Birmingham are building five story hotels, demonstrating that parking a five story hotel within the City is not excessively burdensome.
- In addition to the potential parking agreement with the 555 building, other options are available to the applicant for parking a five story hotel on this site.
- The applicant's statements this evening demonstrated that this rezoning request is based on the applicant's preference for a certain type of hotel, not the inability to build a hotel on the site more generally.
- The zoning uses for both D-4 and D-5 are the same, so Mr. Rattner's assertion that a change in zoning is necessary to allow the applicant to enjoy the same uses as the adjacent buildings is fallacious. The only difference between the zoning types is the building height.
- A five story hotel on the site would be taller than the 555 building and would adequately fill in the visual gap in the streetscape.
- It is clear that this rezoning request is about economics and not about land use, which is an insufficient reason to rezone a property.

Jason Abel, Attorney, said he represents the Masters' Association of the Birmingham Place Condominium Association. He said he echoed the previous two speakers and drew the Board's attention to 7.02(B)(2)(b)(i) and 7.02(B)(2)(b)(ii). Mr. Abel explained:

- Regarding 7.02(B)(2)(b)(i), the applicant is required to show, and the Board is required to present findings of facts, as to why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with the property. Mr. Abel described 'necessary' as the critical word, since it is not necessary to develop a nine story hotel on this property. A five story building could be developed on this site with many different uses. The problem is that the applicant is requesting a change in the zoning to access a use that is not permitted in the five story setting. While Mr. Abel acknowledged

this to be an understandable preference on the part of the applicant, he asserted that it would not be a 'necessary' change. Additionally, the applicant's contention that they would make more money with a taller building or would not be able to provide enough parking with a shorter building could be used by any developer in any zoning environment, making their argument so broad as to fall outside the need for a specific and 'necessary' zoning change.

- Regarding 7.02(B)(2)(b)(ii), the zoning of D-4 is not inappropriate for the current land use. The issue is, rather, that the applicant would like to build a nine story hotel on a parcel zoned for a five story use.
- The applicant presented arguments adjacent to the Zoning Ordinance rather than addressing the Zoning Ordinance.
- Regarding 7.02(B)(2)(b)(iii), Mr. Abel said the applicant did not address the detrimental impact changing the zoning of the site to D-5 would have on the neighbors.

Carole Kozlow stated that her family has always loved Birmingham's smaller town nature. Recalling Mr. Markus making a statement similar to 'if the City does not want large buildings, it never should have allowed the first one to be built' during the June 2018 conversation on the issue, Ms. Kozlow said she agreed. Noting that Birmingham has since changed course on large buildings, she asked that the City continue to preserve its character, rather than having to fix the problem after the fact.

Karl Sachs said he has lived in Birmingham for about 25 years and said he had been asked to convey some of his neighbors' feelings on the potential rezoning. He continued that many of their points had already been covered by others but that he wanted to mention his neighbor Mike Humphrey's written statement that the potential rezoning does not adhere to the Master Plan. Mr. Sachs said that this hotel would make privacy nearly impossible for the residents of Birmingham Place living on the side adjacent to the proposed site.

Michele Prentiss, Property Manager of Birmingham Place, presented the Board with a written reply to the applicant's summary statements as included in the Board's agenda packet for the evening. She then gave a copy to Chairperson Clein.

Chairperson Clein asked if there was a motion to receive and file the letter.

Mr. Williams asked for a copy of the letter. Chairperson Clein said he would pass along his copy for Mr. Williams to read. Mr. Williams said that without a copy for each Board member to read, he would not make a motion to receive and file the letter.

Chairperson Clein said he would acknowledge the letter, and upon receipt of the letter as an email to Planning Director Ecker the letter would be included in agenda material on the matter moving forward.

Seeing no further comments from the public, Chairperson Clein brought the discussion back to the Board. Chairperson Clein said it was time for the Board to make a decision.

Mr. Share asked if the letter had any new information, saying he did not want to make a decision if there was information the Board had not yet heard.

Ms. Friedlander told the Board that all the letter's points had been covered in the evening's discussion.

Mr. Share spoke first, saying that this is an unusual zoning request since it only impacts the height of the building allowed. He continued that when D-5 was implemented, the Board did not preclude other sites from seeking to be zoned D-5 in the future. From a streetscape perspective, he saw no significant difference between a five story and nine story building on the site. The proposed change does not seem 'necessary' as defined by 7.02(B)(2)(b)(i). It would behoove the Board to look at the zoning of the entire block from Hazel to Brown. He would not be voting in favor of rezoning unless his colleagues persuade him otherwise.

Mr. Koseck said none of the new information persuasively explained why the City Commission should approve the rezoning. He noted the 2016 Plan conclusively zoned the building at D-4. Cities tend to have buildings of varying heights, and the variety is partially what makes cities interesting, so the streetscape argument was not particularly compelling. Assuming the site was purchased with awareness of the D-4 zoning, Mr. Koseck suggested that this is not so much a zoning issue as a parking issue. He recommended the applicant apply to join the PAD or enter into some other beneficial parking arrangement. Addressing Mr. Markus' assertion that certain hotel designs are not becoming of Birmingham, Mr. Koseck said his firm is currently building a hotel in Ann Arbor with nine-foot floor to ceiling heights, that he is confident that the result with be sufficiently upscale, and that something similar could be done in the applicant's case. Lastly, Mr. Koseck noted the community's consistent concerns that the rezoning would be detrimental to the neighbors. He said no new information could be provided that would change his thinking on the matter.

Mr. Williams pointed out that the City Attorney found the site eligible for D-5 zoning. He said Ms. Friedlander could pursue the matter further with the City Attorney, but that the Board is bound by the City Attorney's opinion. The D-4 zoning for this site does not allow reasonable enjoyment of the property since all other D-4 sites in Birmingham have access to the PAD. Because this currently makes the property non-competitive, Mr. Williams said he would be in favor of rezoning.

Mr. Emerine noted the persuasive impact of the City Attorney's opinion that this site is eligible for D-5 zoning. Adding that the developer would need to acquire a SLUP should the rezoning move forward, Mr. Emerine stated he was comfortable with the rezoning at this time.

Mr. Jeffares recalled the Board had considered rezoning the surrounding area but had decided they wanted to keep D-5 to this smaller area at the time. He expressed an equivocal opinion on the idea of zoning a building according to its neighbor's zoning, but said that a building zoned differently between two buildings of the same zone seemed significant enough to change.

Ms. Whipple-Boyce addressed Ms. Friedlander's contention that D-5 was in any way surreptitiously done, saying that the Board and the City Commission spent many public meetings discussing the issue in depth. Ms. Whipple-Boyce added that she affirmed the City Attorney's findings regarding the application, and that she believed the applicant proved their case.

Chairperson Clein said he was against the rezoning at this time. He continued that the origins of D-5 zoning have no bearing on the question before the Board this evening, or if they do it is a legal question not up to the Board's interpretation. He clarified that the Board's directive was to

determine whether this parcel and application met the ordinance requirements for rezoning. Arguments about adjacencies were also not relevant. The applicant did not meet the burden of proof. Building heights across the downtown should not be changed without a downtown Master Plan. While Chairperson Clein said he would likely recommend the building be permitted a height increase within a planning process, neither the City's Master or 2016 plans allow the flexibility to add four stories to this building outside of the planning process. He noted that there were a number of D-4 uses not presented that would be appropriate for this parcel. In conclusion Chairperson Clein said he was firmly in opposition to rezoning at this time, but said he would entertain any other Board member's replies.

Mr. Jeffares said the owners of the other D-5 parcels applied for rezoning based on finances but that ironically tonight's applicant was being chastised for doing the same thing.

Chairperson Clein begged to differ and clarified for the record that the owners of the other D-5 parcels were having to get a number of different variances for every change they wanted to make on their properties.

Mr. Jeffares asserted the other D-5 parcel owners had indeed brought up financing in their rezoning application.

Chairperson Clein disagreed, saying that D-5 zoning arose out of a directive from the City Commission asking the Board to find a way to bring the currently D-5 parcels in question into compliance.

Motion by Mr. Williams
Seconded by Mr. Jeffares that based on a review of the rezoning request by the applicant and the supporting documentation submitted by the applicant, a review of the City's current Master Plan and the City's current 2016 Plan, and development trends in the area, and in compliance with 7.02(B)(5)(a) - 7.02(B)(5)(e), the Planning Board adopts the findings of fact in the staff report dated November 8, 2018, and recommends approval to the City Commission for the rezoning of 469 – 479 S. Old Woodward from D-4 to D-5 in the downtown overlay.

Motion carried, 4-3.

ROLL CALL VOTE
Yeas: Whipple-Boyce, Emerine, Jeffares, Williams
Nays: Clein, Koseck, Share
Absent: Ramin

Chairperson Clein explained that this is a recommendation to the City Commission. He explained the Commission will then take this recommendation and all attendant information, hold another public hearing of the applicant's request and the community's perspective, and make their determination. Chairperson Clein thanked the audience for voicing their opinions during the discussion.

City Commission Minutes
March 11, 2019

NEW BUSINESS
PUBLIC HEARING TO CONSIDER THE REZONING OF 469 – 479 S. OLD WOODWARD FROM B3/D4 TO B3/D5
Mayor Bordman suggested the Commission consider including this property in the Parking Assessment District (PAD) before considering whether to rezone the property, since they are separate considerations.

Commissioner DeWeese supported Mayor Bordman's suggestion.

Commissioner Hoff said she was unsure whether the issues were actually separate, since the parking requirements for a property are partially dependent on whether the property is part of the PAD.

Mayor Bordman advised that the contractor's decisions vis-a-vis parking may change if the property is included in the PAD, but the Commission's decision on how to zone the property will not, and as a result should be considered separately.

Agreeing with Mayor Bordman, Commissioner Sherman suggested the entire discussion of this property's potential inclusion in the PAD be moved to a later date so as not to confuse this evening's public hearing on rezoning.

Commissioner DeWeese opined that if the Commission sends the possibility of this property's inclusion in the PAD to the Advisory Parking Committee (APC) for further study, it clarifies the topic of the evening's public hearing in the same way Commissioner Sherman intended.

Mayor Bordman sought comment from the Commission on whether this property's potential inclusion in the PAD should be sent to the APC for further study.

Mayor Pro Tem Boutros said the question of this property's inclusion in the PAD is an important subject and he would be comfortable voting on the issue separately this evening.

Commissioner Harris agreed with Commissioner Sherman and said he would like to see more thorough information from staff before the Commission decides whether to refer the question to the APC.

Commissioner Nickita said this will end up before the APC, so it would be most efficient to move the PAD question for their study now.

Commissioner Sherman opined that this discussion was inappropriate in both timing and procedure. He said that not only does this conversation have nothing to do with the current rezoning request, but the onus for requesting a property's inclusion in the PAD is on the property owner, not the City.

The Commission took no action on the question of the property's inclusion in the PAD, and Mayor Bordman affirmed it would not be part of the evening's discussions.

Mayor Bordman noted for the record that the City received a confirmed petition from the property's neighbors. As a result, according to state statute, the motion to re-zone would have to pass with a ¾ vote, meaning six out of the seven Commissioners approving.

Mayor Bordman then gave a review of public hearing procedure and opened the public hearing at 7:59 p.m.
Planning Director Ecker presented the proposed rezoning. Clarifications/Comments
Commissioner Nickita stated Birmingham Place, in terms of space which can be occupied, is 98' 2" tall. The mechanicals bring the height of the building up to 114' 4". This makes Birmingham Place 18' 2" taller in eave height than the allowable D4 height.

Planning Director Ecker explained:

- The on-site parking requirements do not change between D4 and D5.
- A D4 zoned building has a five-story and 80' maximum, including all mechanicals. If a property in the D4 district wanted to go to six stories and 80', the property would have to receive a variance from the Board of Zoning Appeals (BZA).
- Any building zoned D5 is subject to a Special Land Use Permit (SLUP) over five stories or 80'.
- Any Birmingham property owner can apply for any zoning classification, but it does not mean the owner will be granted approval for the rezoning.
- Buildings in the downtown overlay district have a maximum overall height, which includes mechanical height.
- The City has increased flexibility in influencing the design, development and use of buildings zoned D5 through the SLUP requirement, once the building is over five stories or 80'.

Rick Rattner, attorney for the applicant, presented the rezoning request. The presentation began with a four-minute video excerpt from the July 8, 2015 Planning Board (PB) meeting. Mr. Rattner said:

- The Planning Board considered the matter of the D5 zoning designation very carefully, as the video excerpt demonstrated. He reviewed the Board's process for creating the D5 designation, adding that new construction was anticipated as a result of the D5 zoning classification.
- This is clearly not an instance of spot-zoning, since spot-zoning entails changing one building to be zoned differently from the surrounding properties, allowing permitted uses that are inconsistent with the area, and is an unreasonable classification. None of those conditions are

present in the subject rezoning request. The proposed rezoning would make this building the same as the surrounding properties, have similar use to the surrounding buildings, and would be a reasonable classification change.

- Rezoning 469 - 479 S. Old Woodward to D5 fits the Master Plan by allowing for the building of aesthetically similar buildings in the downtown in order to encourage a sense of place. While the property owner could build a D4-compliant building, this would result in the owner of the property not being able to enjoy the same rights of usage that the adjacent buildings enjoy.
- If Birmingham Place or the 555 Building had owned 469 - 479 S. Old Woodward at the time the D5 zoning designation was created, it is likely the 469 - 479 S. Old Woodward property would have been rezoned to D5 at the time as well. Mr. Rattner cited the 555 Building's pursuit and eventual receipt of a D5 rezoning of the vacant lot to the south of the property.
- The 469 - 479 S. Old Woodward lot is unusual in that it is long, narrow, and neither part of the PAD nor adjacent to any building that is part of the PAD. To not rezone this parcel would be to leave it as a D4 island surrounded by two D5 buildings.
- Part of the due diligence done in purchasing this parcel was understanding the City ordinance could potentially permit the rezoning of this parcel to D5. Purchasing the parcel with the intent to request its rezoning was appropriate and in-line with the intention of the D5 zoning ordinance.
- The applicant is not pursuing entry into the PAD because of their distance from the relevant parking decks.

Mayor Bordman made clear that the current issue before the Commission is whether to rezone the parcel to D5, and not any consideration of what might be built on the parcel. She emphasized that the focus must remain on whether rezoning the parcel is appropriate for the City as a whole.

Mayor Bordman also noted that the building to the south of 469 - 479 S. Old Woodward is 77½' tall, which is 2½' shorter than the permitted height for a D4 building.

Mr. Rattner replied that the height of the closest building to the 469 - 479 S. Old Woodward parcel is 114'. He suggested it is more appropriate to compare the parcel to the buildings directly abutting it, rather than to the building across the street. He added that the 77½' building being reference is zoned D5, and if they were approved for a SLUP could build higher because of that zoning.

Mayor Bordman invited members of the public to speak.

Mr. Rattner spoke once more, stating an objection to the submitted petition since he and the applicant have not yet had an opportunity to review its contents.

Mayor Bordman thanked Mr. Rattner for his comments.

Susan Friedlaender, attorney at Friedlaender Nykanen & Rogowski, said the excerpt Mr. Rattner presented from the July 8, 2015 PB meeting was irrelevant because the minutes from a PB

meeting in January 2016 reflect the PB was unable to reach consensus about D5 zoning. At that time the PB decided to address the non-conforming aspects of the 555 Building and not the whole surrounding area. Ms. Friedlaender continued:

- At the July 26, 2016 City Commission meeting, a motion was passed "to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements considering a new zoning category or categories that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures."
- The reason the applicant asked for the rehearing from the PB was because the PB failed to recognize the applicant was not in the PAD.
- The Master Plan recognizes that building height varies within the City, and the standard is that the maximum building height should be based on the smaller buildings in proximity.

Michele Prentice, property manager at Birmingham Place, said a number of condominiums sold in the building were partially purchased on the assurance that the parcel at 469 - 479 S. Old Woodward could not be built over five stories, and thus would not significantly obstruct southern sun or views even when developed. She continued:

- The effect of the proposed rezoning on the south-facing condominiums is already apparent, as one was taken off the market with no offers and two have been on the market for over 120 days, when in the last four years condominiums in Birmingham Place were on the market for less than 35 day.
- Sales of condominiums in other parts of the building have not fared better.
- A sixteen-year office tenant of Birmingham Place informed Ms. Prentice he would not be renewing his lease because he did not want his view to be obstructed by a hotel.

- Continued slow residential sales and rentals will decrease the taxable value of Birmingham Place and decrease tax revenue received by the City. The current taxable value of Birmingham Place is estimated at $36 million which generates an estimated $1.6 million in yearly property taxes to the City.
- Birmingham Place has 146 residential units.

Patrick Howe, attorney representing the Birmingham Place Commercial Condo Association, said:

- The Commission has to determine whether the whole of the downtown overlay district should be eligible to go from D4 to D5.
- The record reflects that this matter has only been considered by the Commission for a cumulative 18 minutes prior to this evening, in the context of discussing the applicability of the D5 ordinance to three non-conforming buildings.
- Birmingham's Master Plan speaks to compatible building heights, not whether it is appropriate for buildings to be built taller than five stories.
- According to Planning Director Ecker, the height maximum for a building zoned D5 on the 469 - 479 S. Old Woodward parcel would be 15 stories. In addition, Planning Director Ecker indicated that buildings across the street can be considered adjacent for the purpose of determining height

maximums. Given this, many more parcels could reasonably argue for a D5 rezoning, which would change the look of Woodward Ave.

- It would be most appropriate to explore the potential ramifications during the City's planning process rather than exclusively during the consideration of the rezoning of a single parcel.

Bob Clemente of 411 S. Old Woodward advised the Commission that he owns a couple of condominiums in Birmingham Place, and works in a Birmingham Place office where his employer has been a tenant since around 1985. Mr. Clemente agreed with Mr. Howe. He added:

- The goal of the 2016 Plan was to strengthen the spatial and architectural character of the downtown area in mass and scale with the immediate surroundings and the downtown tradition of two- to four- story buildings.
- Rezoning the 469 - 479 S. Old Woodward parcel stands to have an intensely negative impact on Birmingham Place over an eighteen-foot height difference.
- The applicant and their representative have made it clear that the building would be viable if they kept the D4 zoning on the parcel in question, but just prefer it to be D5.

Jason Abel, attorney for the Birmingham Place Development Master Association, said:

- The implications of 7.02(b)(5)(d) and 7.02(b)(2)(b)(1) would be the focus of his comments.
- The PB recommended the Commission consider the rezoning by a 4-3 vote, with two of the dissenting members asking why the rezoning would be required for enjoyment of use. Mr. Abel asserted they were not provided with an answer to that inquiry because the rezoning is not, in fact, necessary for the enjoyment of use.
- City staff reports show no finding of fact that would allow for the legitimate support of the applicant on this issue. The findings of fact only noted that under the current zoning classification all the same uses are permitted as under the D5 classification, and that the building is not part of the PAD.
- He challenges the applicant to prove that the property cannot be used under the D4 classification, as that is the fundamental consideration of 7.02(b)(2)(b)(1).

- Mr. Rattner argued that rezoning should be considered based on whether it is necessary in order to bestow the rights and usage common to an adjacent property to the property in question, which is not what the City ordinance says. The question the ordinance actually addresses is whether the current zoning allows for the enjoyment of property ownership.

Mickey Schwartz of Birmingham Place said the City's previous plans intentionally limited building height, and this matter should be considered as part of the current Master Planning process. He noted that a number of other buildings in the area have conformed to their D4 zoning and it has not been a problem for them.

Richard Huddleston, vice-president of Valstone Asset Management and office tenant at 260 E. Brown, explained that from November 2010 - December 2017 Valstone owned the commercial space at Birmingham Place. He continued:

- Valstone rescued the commercial space at Birmingham Place from foreclosure by purchasing the note, renovating the building, and turning it into one of the most desirable business addresses in southeastern Michigan.
- When 469 - 479 S. Old Woodward was on the market, he was approached by the real estate brokers to purchase the property. After running the numbers, he determined that the only way to make the parcel profitable would be to significantly obscure the southern view for the tenants of Birmingham Place, and he found that he would not in good conscience be able to do that.

Karl Sachs of 666 Baldwin Ct. said he would be concerned about the domino effect of granting D5 zoning to this parcel and other buildings along Woodward pursuing the same height increases through their own subsequent requests for rezoning.

Anthony Yousaif, one of the developers of the 469 - 479 S. Old Woodward parcel, yielded his time to Duraid Markus.

Duraid Markus introduced himself as one of the partners in the 469 - 479 S. Old Woodward development. Mr. Markus said:

- The project went back to the PB because the developers were unsure whether a D5 zoning allowed for the expansion of buildings, not only because the building had not been appropriately described as being outside of the PAD.
- City Attorney Currier had already opined that the parcel is eligible for D5 rezoning.
- When he considered purchasing the parcel, research into the City ordinances indicated rezoning should be possible subject to the owners entering into a SLUP.
- There are no other buildings in Birmingham where the middle building is zoned differently from the buildings on the left and the right.
- Rezoning to D5 would allow the proposed building to be stepped back, which would minimize the impact on Birmingham Place. Leaving the zoning at D4 would require the building to be built up to the lot line, resulting in far more obstruction for south-facing Birmingham Place tenants.
- The domino effect concern with rezoning leading to more rezoning is a red herring considering the loss of flexibility a developer experiences when agreeing to a SLUP. In many cases it is more likely that a developer would find it more beneficial to remain in D4 than to agree to a SLUP.

Alice Lezotte, a Birmingham Place resident, said that Birmingham Place is a vertical neighborhood and entreated the Commissioners to consider it as such, keeping in mind what they would want for their horizontal neighborhoods. She explained this discussion is a matter of quality of life, air, space, noise, and safety for the residents of Birmingham Place.

Fred Lavery, owner of the Audi Dealership on Woodward in Birmingham, said that as a business owner who has been party to SLUPs with the City he believes Mr. Markus is correct in saying that the City gains control by rezoning the parcel to D5 because of the SLUP requirement. The Triangle District, which is designed with consideration of New Urbanism, requires building heights from five to nine stories, meaning the precedent for taller buildings has already been set in Birmingham.

Paul Reagan, 997 Purdy, said he had occasion to attend the PB meeting on adjacent buildings and recalled it being said that it was nothing more than cleaning house for the two non-conforming buildings. The 555 Building and Birmingham Place are aberrations in Birmingham planning, not an appropriate standard. Mr. Reagan shared concern that this is an attempt to get a parcel rezoned in a way that would no longer be possible after the community has its say as part of the upcoming Master Planning process, and he urged the Commission not to let it go through. He asked the Commission to send the issue back to the PB with a focus on respecting the 2016 Plan and figuring out the issue of shared parking for the parcel.

Mayor Bordman closed the public hearing at 9:42 p.m.

Commissioner Hoff explained that she understood Birmingham Place residents' concerns, but the decision before the Commission is the rezoning of a parcel, not how that rezoning might affect the residents of Birmingham Place. She continued:

- Rezoning the parcel to D5 would not significantly change or benefit the streetscape versus a D4 parcel, despite the applicant's assertion that it would.
- When the PB determined which buildings would be part of the D5 zone, the decision specifically applied to those buildings. The ordinance specifies that it is "to allow for the extension or enlargement of existing legal non-conforming commercial buildings."
- She is concerned about setting a precedent for further D5 zoning. The condition of buildings of different heights in Birmingham already exists, and Birmingham is a beautiful city with it.
- Section 7.02(b)(2) states that rezoning must be proven necessary for the preservation and enjoyment of rights of usage, and she was not convinced that it is necessary.
- She would not be voting in favor of the rezoning.

Commissioner DeWeese said he did not understand the D5 zoning designation to be applicable to any buildings beyond the specific non-conforming buildings for which the designation was designed. He said he was not convinced the zoning needed to be changed for enjoyment of use, and that the 555 Building seems to be made up of two buildings, the shorter of which would be more appropriate to determine the height to which the proposed building at 469 - 479

S. Old Woodward could go. While he said he would consider other points, at this time Commissioner DeWeese indicated he would not be voting to approve the rezoning.

Commissioner Sherman said the question of what buildings and areas would be appropriately included in the D5 zoning area, with specific attention from Haines to Brown, should be sent back

to the PB with a request for a definitive answer. No action should be taken on the motion because it is too related to the potential development in this case.

Commissioner DeWeese said he would be comfortable sending this back to the PB with the request that they pay particular attention to the issues broached this evening. He added that he was not comfortable with the 4-3 vote by the PB and would like more unanimity in their recommendation.

Mayor Bordman said she was not in favor of sending the matter back to the PB. She noted all the information the Commission had been provided with in order to make a decision and said it would not be appropriate to delay.

Commissioner Nickita said:

- The 200-foot right-of-way of the Woodward Corridor between the 555 Building and Birmingham Place on the west side and the west side of the Triangle District on the east side has been intentionally planned and developed as a high-density area.
- While the Downtown Overlay has always adhered to buildings that are no more than five stories in height, the Woodward Corridor has been built with taller buildings. For this reason, rezoning the parcel at 469 - 479 S. Old Woodward to D5 would not establish a precedent for the buildings in the Downtown Overlay. The D4 parcel in question is anomalous among the other buildings along the Woodward Corridor.
- The City has much more influence on any development at 469 - 479 S. Old Woodward if they change the zoning to D5 because of the SLUP requirement.
- The Citywide Master Plan is a broad view, and as such will not focus on specific zoning details like the question currently before the Commission.
- The ability to update non-conforming properties or parcels was the intention of the D5 classification. The ordinance was supposed to refer to whatever property is closest to the property in question in order to determine the maximum height. Because the ordinance language seems not to be clear on the issue, it would be inappropriate to vote on this since the definition of 'adjacent and abutting' is being interpreted more broadly than may have been originally intended. The point in the D5 ordinance language should be clarified so that an 'adjacent' building cannot be interpreted as a building across the street.

Mayor Pro Tem Boutros said he would like to see this studied as part of the Master Planning process.

Commissioner Harris said he agrees with Mayor Bordman that the decision should be made this evening. Referring to 7.02(2)(b)(2), he continued:

- He does not see a significant difference between the first criterion requiring rezoning for the necessity and preservation of enjoyment and rights and the second criterion requiring rezoning if the zoning classification is no longer appropriate. That said, the applicant made a

compelling case that parking is unfeasible with this parcel zoned to D4, which satisfies both criteria.

- He was hoping to hear how D5 zoning would resolve the issue of parking, but since the applicant sufficiently demonstrated that parking would be an issue in D4 the criteria were still met.
- A staff report from November 8, 2018 stated adhering to a D4 would be "completely inconsistent and dominated by the height of the adjacent Birmingham Place and 555 Buildings."
- The last criterion under 7.02(b)(2)(b) is "why the proposed zoning will not be detrimental to the surrounding properties." The applicant made a compelling case as to why D5 is better for Birmingham Place, and the SLUP requirement would allow the City to encourage the accommodation of the neighboring properties.
- Commissioner Nickita's assessment that there are limitations on when the D5 can be applied to future properties is accurate. There is no real risk of a 'slippery slope' with this zoning because this decision is not binding for any other decision. In addition, any building that sought to be rezoned to D5 would be subject to a SLUP.
- The risk level that the property owner assumed when buying the 469 - 479 S. Old Woodward parcel is irrelevant to the present discussion.
- Although the D5 was designed with the particular focus on the previous non-conforming properties, it was not restricted to only those non-conforming properties.
- For all those reasons, he is inclined to support the rezoning request.
- He also took heed of Commissioner Nikita's comments about the ambiguity in the ordinance, which he agrees should be addressed, but at a later date. The ambiguity does not dissuade him from approving the rezoning for this particular property.

Commissioner Hoff said there were valid reasons for sending this back to the PB, but she believed that a decision should be made.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner DeWeese: To deny the rezoning of 469 - 479 S. Old Woodward from B3/D4 to B3/D5.

City Attorney Currier said he would have to research whether the applicant could submit a new application before a year's time elapses if the City makes changes to the D5 ordinance, because it might sufficiently constitute a material change in circumstance.

Mayor Bordman said she would be supporting the motion because she does not want the issue to go back to the PB.

VOTE: Yeas, 3
Nays, 4 (Boutros, Harris, Nickita, Sherman)

MOTION FAILED

MOTION: Motion by Commissioner Harris
To approve the rezoning of 469 - 479 S. Old Woodward from B3/D4 to B3/D5.

MOTION DIED FOR LACK OF A SECOND

MOTION: Motion by Mayor Pro Tem Boutros
To postpone the hearing to do a comprehensive study.

MOTION DIED FOR LACK OF SECOND

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To postpone the public hearing to July 22, 2019 for the purposes of sending it back to the Planning Board with specific direction to look at the issues raised by Commissioner Nickita on the D-5 ordinance and to look at the properties between Haines and Brown, Old Woodward and Woodward for the appropriate zoning classification.

Planning Director Ecker said the ordinance language could possibly be reviewed and brought back by July 22, 2019. She was not sure if the PB would reach consensus in three months on the geographic area to which the D5 zoning should be applied, since they have already studied the issue and were not able to reach consensus.

Commissioner Hoff said she would be interested in knowing whether building heights should be to the eaves or to the tallest structure on a building, and the specific meaning of the 'adjacent' and 'abutting' in the context of the ordinance.

Commissioner Sherman said he would be willing to change the date in the motion to allow an additional month of study.

Commissioner Nickita said it should not take four months to define the method of determining building height and the definitions of 'adjacent' and 'abutting'. He said it would be better to keep the date in the motion and to extend it if necessary.

Mayor Bordman invited public comment on the motion.

Mr. Rattner stated the applicant had no objection to the motion.

Mr. Schwartz said that all the interested parties have weighed in on the issue, and the Commission is in effect postponing a civic duty.

Mr. Bloom said he would like to know the impact on the City if the parcel is built up as a hotel, office building, mixed use space, or any other type of development. He would want the PB to

report on each building-type's likely impact on parking, public safety, density, and overall quality of life for Birmingham residents.

Mr. Reagan said 'adjacent' and 'abutting' were terms already discussed at the beginning of the 2016 planning process. In addition, the expansion of the geographic area being studied concerned Mr. Reagan because, as he stated, the neighborhood included within that area already deals with significant congestion, cut-through traffic, and parking issues. If these developments occur, there has to be sufficient parking accommodations. Mr. Reagan asserted parking shortages would stem the possible larger D5 developments the City is considering allowing.

Ms. Friedlaender said choosing to raise the heights of buildings should be part of a community study process, and all the buildings around the Merrillwood building should be included in this motion and studied since Merrillwood is also zoned D5.

Mr. Abel said the Commission should make a decision this evening.
Commissioner Hoff said Commissioner Nickita's concerns should be spelled out in the motion. Mayor Bordman agreed with Mr. Abel and Commissioner Hoff. She asked if there was a motion to amend in order to include Commissioner Nickita's comments. No motion to amend was offered.

VOTE:	**Yeas,**	**2 (Nickita, Sherman)**
	Nays,	**5**

MOTION FAILED
The Commission took no action. The property remains zoned D4.

Mayor Bordman referred the issue to City Attorney Currier to determine the specific terms under which the applicant may re-apply, since the application was not denied.

Mayor Bordman recessed the meeting for three minutes. The meeting resumed at 10:48 p.m.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **March 4, 2019**

TO: **Joseph A. Valentine, City Manager**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Public hearing to consider the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5**

INTRODUCTION:
The owner of the above-captioned properties applied for rezoning from B3/D4 to B3/D5 to allow them to proceed with site plan review approval to demolish the existing one story Mountain King and Talmer Bank buildings, and construct a new 9 story hotel on the two properties.

BACKGROUND:
On June 27, 2018, the Planning Board conducted a public hearing to consider the requested rezoning of the properties located at 469 – 479 S. Old Woodward, currently the site of the former Mountain King restaurant and Talmer Bank. After much discussion, the Planning Board voted to recommend denial of the proposed rezoning to the City Commission.

The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing at the City Commission that was previously set to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Section 7.02(6) of the Zoning Ordinance states:

> If the City Commission denies the application, no application shall be reheard for at least one year, unless there have been substantial changes in the facts, evidence, and/or conditions demonstrated by the applicant. The determination of whether there have been such changes shall be made by the Planning Board at the time the application is submitted for processing.

Accordingly, section 7.02(6) of the Zoning Ordinance allows a rehearing on a rezoning request where there is a substantial change in the evidence that was previously presented even after the City Commission has issued a denial of the request. In this case, the City Commission did not hear the request, and thus did not issue an approval or denial. They did however send the matter back to the Planning Board to determine if there has been a substantial change in the evidence, and if so, to conduct a rehearing on the rezoning request previously considered.

On September 12, 2018, the Planning Board considered the applicant's request for a rehearing based on new information. After much discussion, the Planning Board voted to postpone consideration of the public hearing until October 10, 2018, pending receipt of a legal opinion of counsel in writing as to whether the proposed properties are eligible to be rezoned to the D5 category.

On October 10, 2018, the Planning Board again considered the applicant's request for a rehearing, and after further discussion, voted to grant a rehearing based on the substantial change in the evidence that was presented to the Board on June 27, 2018. However, the Planning Board further voted to conduct the public rehearing of the rezoning on November 14, 2018.

On both November 14, 2018 and again on December 12, 2018, the applicant requested postponement of the rehearing to allow additional time for the developer and property owner to meet with the adjacent property owners. Thus, the matter was ultimately postponed until the January 23, 2019 meeting of the Planning Board.

On January 23, 2019, the Planning Board conducted a public rehearing to consider the requested rezoning of the properties. After much discussion, the Planning Board voted 4-3 in favor of recommending approval of the proposed rezoning to the City Commission and adopted the findings of fact contained in the staff report dated November 8, 2018.

On February 11, 2019, the City Commission set a public hearing for March 11, 2019 to consider the proposed rezoning for the properties located at 469 – 479 S. Old Woodward.

LEGAL REVIEW:
No legal review is required.

FISCAL IMPACT:
There is no fiscal impact for this agenda item.

SUMMARY:
The City Commission is set to conduct a public hearing to consider the requested rezoning of the properties located at 469 – 479 S. Old Woodward from B3/D4 to B3/D5.

In the alternative, the City Commission could also consider approving the placement of the properties at 469 – 479 S. Old Woodward into the Parking Assessment District, and charging the required assessment fee. This would eliminate the onsite parking requirements for all retail and commercial uses., although parking for any proposed residential units would still be required on site.

ATTACHMENTS:
Please find attached the following documents for your review:

- Rezoning application and supporting documents submitted by applicant
- Letter from the City Attorney dated September 11, 2018 and October 1, 2018
- Staff reports prepared for the Planning Board
- All relevant City Commission and Planning Board meeting minutes
- All letters and petitions received for and against the proposed rezoning

SUGGESTED RESOLUTION:
To APPROVE the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5;

OR

To DENY the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5;

OR

To POSTPONE the hearing on the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5 to _____, 2019;

AND / OR

To direct the Advisory Parking Committee to review the properties at 469 – 479 S. Old Woodward for inclusion into the Parking Assessment District, and to provide a recommendation to the City Commission.

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148181
Receipt 426908
Amount $1,550.00

APPLICATION & SUPPORTING DOCUMENTS FROM APPLICANT

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

TO THE CITY COMMISSION:

The undersigned hereby makes application to the City Commission to:

1. Zoning Map Change:

Change premises described as:

479 South Old Woodward Avenue
No. Street

Tax ID #: 19-36-208-012; see documents for more information
Legal Description

_____ from its present zoning

classification of B3/D4 to B3/D5.

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reason for request or other data have a direct bearing on the request.

2. Change premises described as:

_____
No. Street

_____
Legal Description

_____ from its present zoning

classification of _____ to _____.

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reasons for request or other data have a direct bearing on the request.

Signature of Applicant: _____

Print Name: Christopher J. Longe

Name of Owner: Birmingham Tower Parters, LLC

Address and Telephone Number: 251 East Merrill Street, Suite 205
Birmingham, Michigan 48009

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148182
Receipt 426908
Amount $100.00

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received: _____ Received By:_____

Resolution No._____ Approved/Denied_____

Application Fee: $1,500.00 Receipt Number_____

The petitioner shall be responsible for any costs incurred by consultant, including but not limited to traffic and environmental, contracted by the city to review the proposed site plan and/or community impact study as determined by the city planner.

ZONING MAP OR ORDINANCE AMENDMENT PROCEDURE

Procedure to be followed on all applications for Zoning Map or Ordinance amendments.

1. Preliminary discussion with the Community Development Director or City Planner.

2. Formal application to City Commission with the following information:

   a) Change requested
   b) Signature and name of persons requesting change
   c) Reasons for requested change

3. City Commission will refer request to the Planning Board for recommendation and final report.

4. Planning Board will hold a public hearing prior to which a notice will be published in an official paper or a paper of general circulation not less than fifteen (15) days prior to the hearing.

5. At the conclusion of a public hearing, the Planning Board will forward a recommendation of the Zoning Map or Ordinance amendment request. The City Commission may, by ordinance, change the Zoning Map or Ordinance only after the Planning Board had held at least one (1) public hearing regarding the proposed amendment and has reported to the City Commission thereon. The City Commission may hold additional public hearings as it deems necessary.

6. Upon the presentation of protest petition meeting the requirements listed below, an amendment to the Zoning Map or Ordinance which is the object of the petition shall be passed only by a three-fourths (3/4) vote of the City Commission. The protest petition shall be presented to the City Commission before final action on the amendment, and shall be signed by one (1) of the following:

   a) The owners of at least twenty percent (20%) of the area of land included in the proposed change.

   b) The owners of at least twenty percent (20%) of the area of the land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

   For the purpose of calculating the twenty percent (20%) requirement, publicly-owned land shall be excluded.

7. The City Commission will then take action on the application upon review of the Planning Board's recommendation and approved minutes of the Public Hearing.

8. Following adoption of a Zoning Map or Ordinance change by the City Commission, one (1) notice of adoption shall be published in the newspaper of general circulation in the City within fifteen (15) days after adoption.

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148179
Receipt 426908
Amount $1,550.00

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

TO THE CITY COMMISSION:

The undersigned hereby makes application to the City Commission to:

1. Zoning Map Change:

Change premises described as:

469 South Old Woodward Avenue
No. Street

Tax ID #: 19-36-208-011; see documents for more information
Legal Description

_____ from its present zoning

classification of B3/D4 to B3/D5.

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reason for request or other data have a direct bearing on the request.

2. Change premises described as:

_____
No. Street

_____
Legal Description

_____ from its present zoning

classification of _____ to _____.

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reasons for request or other data have a direct bearing on the request.

Signature of Applicant: _____

Print Name: Christopher J. Longe

Name of Owner: Birmingham Tower Parters, LLC

Address and Telephone Number: 251 East Merrill Street, Suite 205

Birmingham, Michigan 48009

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148180
Receipt 426908
Amount $100.00

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received: _____ Received By:_____

Resolution No._____ Approved/Denied_____

Application Fee: $1,500.00 Receipt Number_____

The petitioner shall be responsible for any costs incurred by consultant, including but not limited to traffic and environmental, contracted by the city to review the proposed site plan and/or community impact study as determined by the city planner.

RECEIVED
MAY 17 2018
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

Since 1973
WWRP
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

May 17, 2018

City of Birmingham
City Commission
151 Martin St.
Birmingham, MI 48009

Re: Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the Planning Board and City Commission:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a Supplement to the referenced rezoning Application file to rezone the Subject Property from the D-3 Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

Executive Summary

The Subject Property is a former single-story restaurant building and bank that sits between two existing tall buildings in the City. Birmingham Place is located to the north and the 555 Buildings are located to the south. The placement of the buildings is not only inconsistent with a cohesive and harmonious streetscape in that area but is contrary to the intent of the Master Plan. This inconsistent height results in a streetscape along South Old Woodward that appears to have a "missing tooth."

If the Subject Property is rezoned to D-5, there is an excellent opportunity for the Subject Property, Birmingham Place and the 555 Buildings to create an impressive southern gateway to Downtown Birmingham. It is therefore reasonable that the Subject Property, sitting directly between the 555 Buildings and Birmingham Place, be included in the same zoning district, that is as part of the D-5 Overlay District, as those neighboring two buildings.

Rezoning the Subject Property to the same classification as the buildings immediately to the north and south will enhance and complete the streetscape of these important two blocks of Downtown Birmingham. Inclusion of the Subject Property in the D-5 Overlay Zone is consistent with the 2016 Master Plan. Moreover, it will allow the Subject Property to enjoy the same development regulations as the neighboring properties.

W|W|R|P

The Subject Property and the Master Plans

A review of the history surrounding the zoning of this area of Downtown is instructive. The minutes of the City Commission during the late 1960s and early 1970s, reveals that the height of the buildings in this area of Downtown were historically zoned for the height of the 555 Buildings and Birmingham Place. However, the zoning ordinance was amended in the 1970's after the construction of those buildings to a maximum of four stories. Therefore, for several years, the taller buildings in the City were burdened with the status of legal nonconforming uses.

In 2016, the City corrected this down zoning for the 555 Building to the south and Birmingham Place to the north, with the creation of the D-5 Zone to allow for existing heights (in the case of the 555 Buildings and Birmingham Place) and to allow for new construction to a height up to the same height of an immediately adjacent or abutting building (see Ordinance 3.04-4-b). While the 555 Building and Birmingham Place are now at allowable heights, sitting in between them, the Subject Property is the only building in that streetscape that cannot be constructed to a height that is consistent to its neighbors. This inconsistency creates an obvious gap in the street's architecture which is not harmonious with the overall downtown design and longer-range plan for that part of South Old Woodward.

The Birmingham of 2016

In 1996, the City Commission adopted the Downtown Birmingham 2016 Plan ("2016 Plan") and amended the Zoning Ordinance to include the Downtown Birmingham Overly District. The Subject Property is located in the D-3 Zone, sitting between two tall buildings in the City that have been rezoned to the D-5 zone. These multi-story buildings are the established character of this particular area of the City. Placing the Subject Property in the D-5 zone would allow development of the Subject Property to be at a similar height to the buildings directly to the north and south. The Applicant desires to develop the Subject Property in a manner that completes the block between Brown and Hazel while adding to the cohesiveness of the South Old Woodward southern gateway area.

The Birmingham Zoning Ordinance at Sec. 1.04 provides that the purpose of the Zoning Ordinance is to "…guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan. A review of the Birmingham Plan (1980) and the Downtown Birmingham 2016 Plan (1996) reveals that this application to include the Subject Property in a D-5 Overlay District meets the spirit and intent of the ordinance as well as the 2016 Plan. It will allow for mixed uses and add to the vitality of the modern streetscape envisioned for this part of town by the 2016 Plan. With rezoning, the Subject Property can become that desired mixed-use space for retail, residential and hotel, and bring new life to the South Old Woodward area.

Any redevelopment of the Subject Property in compliance with its current zoning classification would result in a building with frontage dwarfed by the existing neighboring structures. Therefore, by rezoning the Subject Property to the D-5 overlay, a new building could be built to a similar height as the neighboring buildings, and effectively complete an otherwise missing piece of the streetscape.

In summary, it is clear that the intent of the 2016 Plan includes development of this southern area of the Downtown Overlay District as a gateway to Downtown through enhancing the character of buildings and providing our City with an active, pedestrian-friendly, urban streetscape.

Rezoning Amendment – Sec. 7.02 (B)(2)(b)(i)-(iii)

The Zoning Ordinance at Sec. 7.02 requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission. Please consider the following comments with respect to these issues.

7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership

Rezoning of the Subject Property is necessary to preserve the Applicant's enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the Applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed-use building. Furthermore, the D-5 Ordinance, at section 3.04-4-b, anticipates that the Subject Property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate

The existing D-3 zoning classification is no longer appropriate for the Subject Property. The Subject Property is surrounded by the Birmingham Place, a ten-story building on the north side and the 555 Buildings, a fifteen-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the Subject Property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the

existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the Subject Property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Board has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the Subject Property sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

The proposed rezoning of the Subject Property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-3 Zone. The surrounding properties to the north and south already are in the D-5 Zone. When these neighboring properties were rezoned, the Planning Board anticipated that eventually the Subject Property also may be rezoned for the reasons stated in this letter. Placing the Subject Property in D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Conclusion

The Applicant respectfully requests that the City Commission rezone the Subject Property from the D-3 to the D-5 Zone as discussed in this letter.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner

RDR/cmc

Since 1973
WWRP
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

Corrected
May 17, 2018

City of Birmingham
City Commission
151 Martin St.
Birmingham, MI 48009

Re: Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the Planning Board and City Commission:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a Supplement to the referenced rezoning Application file to rezone the Subject Property from the **D-4** Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

Executive Summary

The Subject Property is a former single-story restaurant building and bank that sits between two existing tall buildings in the City. Birmingham Place is located to the north and the 555 Buildings are located to the south. The placement of the buildings is not only inconsistent with a cohesive and harmonious streetscape in that area but is contrary to the intent of the Master Plan. This inconsistent height results in a streetscape along South Old Woodward that appears to have a "missing tooth."

If the Subject Property is rezoned to D-5, there is an excellent opportunity for the Subject Property, Birmingham Place and the 555 Buildings to create an impressive southern gateway to Downtown Birmingham. It is therefore reasonable that the Subject Property, sitting directly between the 555 Buildings and Birmingham Place, be included in the same zoning district, that is as part of the D-5 Overlay District, as those neighboring two buildings.

Rezoning the Subject Property to the same classification as the buildings immediately to the north and south will enhance and complete the streetscape of these important two blocks of Downtown Birmingham. Inclusion of the Subject Property in the D-5 Overlay Zone is consistent with the 2016 Master Plan. Moreover, it will allow the Subject Property to enjoy the same development regulations as the neighboring properties.

W|W|R|P

The Subject Property and the Master Plans

A review of the history surrounding the zoning of this area of Downtown is instructive. The minutes of the City Commission during the late 1960s and early 1970s, reveals that the height of the buildings in this area of Downtown were historically zoned for the height of the 555 Buildings and Birmingham Place. However, the zoning ordinance was amended in the 1970's after the construction of those buildings to a maximum of four stories. Therefore, for several years, the taller buildings in the City were burdened with the status of legal nonconforming uses.

In 2016, the City corrected this down zoning for the 555 Building to the south and Birmingham Place to the north, with the creation of the D-5 Zone to allow for existing heights (in the case of the 555 Buildings and Birmingham Place) and to allow for new construction to a height up to the same height of an immediately adjacent or abutting building (see Ordinance 3.04-4-b). While the 555 Building and Birmingham Place are now at allowable heights, sitting in between them, the Subject Property is the only building in that streetscape that cannot be constructed to a height that is consistent to its neighbors. This inconsistency creates an obvious gap in the street's architecture which is not harmonious with the overall downtown design and longer-range plan for that part of South Old Woodward.

The Birmingham of 2016

In 1996, the City Commission adopted the Downtown Birmingham 2016 Plan ("2016 Plan") and amended the Zoning Ordinance to include the Downtown Birmingham Overly District. The Subject Property is located in the **D-4**

Zone, sitting between two tall buildings in the City that have been rezoned to the D-5 zone. These multi-story buildings are the established character of this particular area of the City. Placing the Subject Property in the D-5 zone would allow development of the Subject Property to be at a similar height to the buildings directly to the north and south. The Applicant desires to develop the Subject Property in a manner that completes the block between Brown and Hazel while adding to the cohesiveness of the South Old Woodward southern gateway area.

The Birmingham Zoning Ordinance at Sec. 1.04 provides that the purpose of the Zoning Ordinance is to "…guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan. A review of the Birmingham Plan (1980) and the Downtown Birmingham 2016 Plan (1996) reveals that this application to include the Subject Property in a D-5 Overlay District meets the spirit and intent of the ordinance as well as the 2016 Plan. It will allow for mixed uses and add to the vitality of the modern streetscape envisioned for this part of town by the 2016 Plan. With rezoning, the Subject Property can become that desired mixed-use space for retail, residential and hotel, and bring new life to the South Old Woodward area.

Any redevelopment of the Subject Property in compliance with its current zoning classification would result in a building with frontage dwarfed by the existing neighboring structures. Therefore, by rezoning the Subject Property to the D-5 overlay, a new building could be built to a similar height as the neighboring buildings, and effectively complete an otherwise missing piece of the streetscape.

In summary, it is clear that the intent of the 2016 Plan includes development of this southern area of the Downtown Overlay District as a gateway to Downtown through enhancing the character of buildings and providing our City with an active, pedestrian-friendly, urban streetscape.

Rezoning Amendment – Sec. 7.02 (B)(2)(b)(i)-(iii)

The Zoning Ordinance at Sec. 7.02 requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission. Please consider the following comments with respect to these issues.

7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership

Rezoning of the Subject Property is necessary to preserve the Applicant's enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the Applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed-use building. Furthermore, the D-5 Ordinance, at section 3.04-4-b, anticipates that the Subject Property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate

The existing **D-4** zoning classification is no longer appropriate for the Subject Property. The Subject Property is surrounded by the Birmingham Place, a ten-story building on the north side and the 555 Buildings, a fifteen-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the Subject Property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the

existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the Subject Property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Board has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the Subject Property sandwiched between two properties in the D-5 Zone, the **D-4** Zone is no longer appropriate.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

The proposed rezoning of the Subject Property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the **D-4** Zone. The surrounding properties to the north and south already are in the D-5 Zone. When these neighboring properties were rezoned, the Planning Board anticipated that eventually the Subject Property also may be rezoned for the reasons stated in this letter. Placing the Subject Property in D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Conclusion

The Applicant respectfully requests that the City Commission rezone the Subject Property from the **D-4** to the D-5 Zone as discussed in this letter.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner by

RDR/cmc

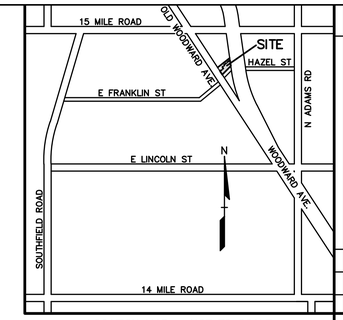
BENCHMARKS:
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U-POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV. = 765.98

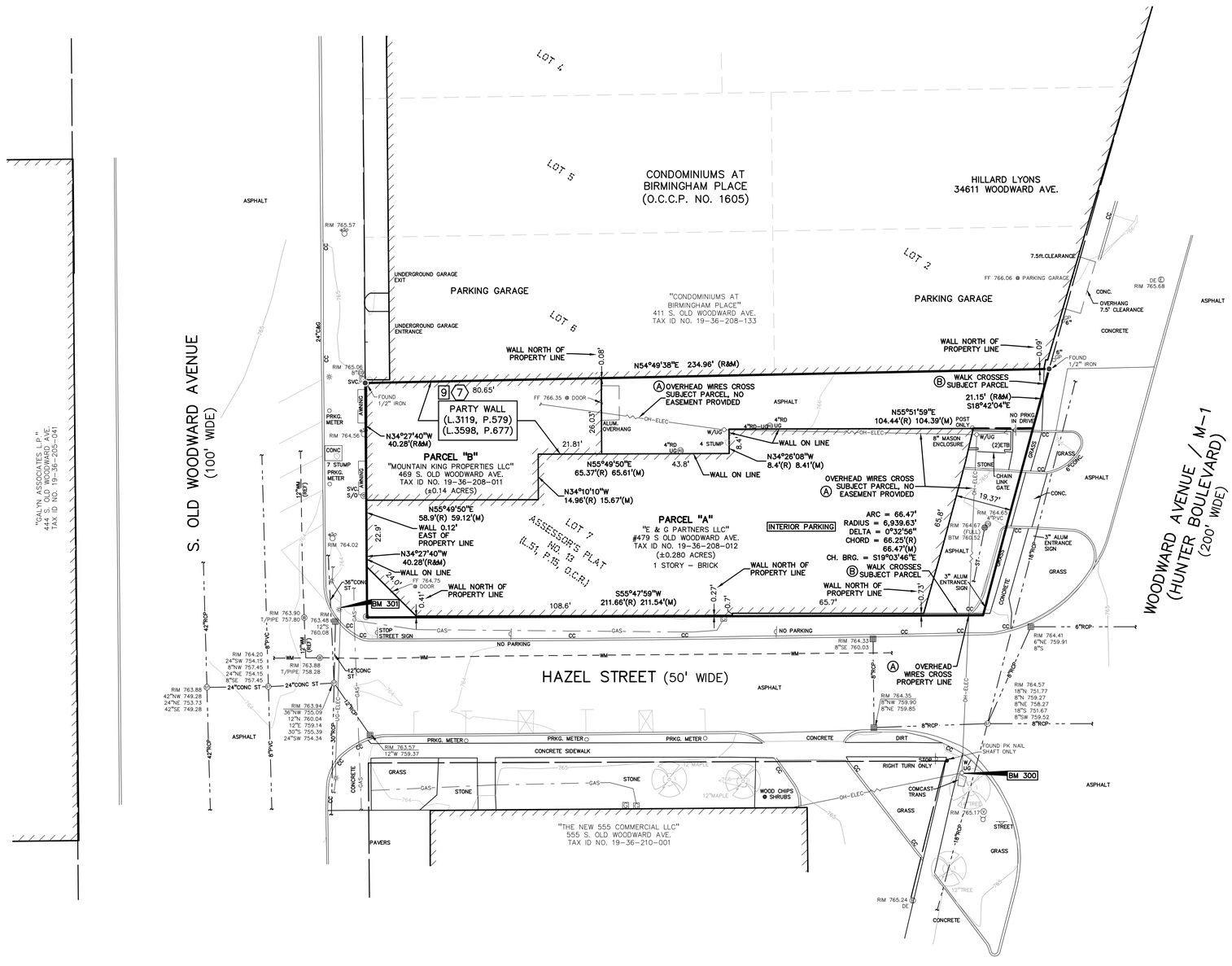
BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV. = 766.58

FLOOD PLAIN:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.



LOCATION MAP – NOT TO SCALE



LEGEND

- IRON FOUND
- IRON SET
- NAIL FOUND
- NAIL & CAP SET
- BRASS PLUG SET
- MONUMENT FOUND
- MONUMENT SET
- SEC. CORNER FOUND
- R RECORDED
- M MEASURED
- C CALCULATED

EXISTING

- ELEC., PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
- UNDERGROUND CABLE TV, CATV PEDESTAL
- TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
- ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
- GAS MAIN, VALVE & GAS LINE MARKER
- WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
- SANITARY SEWER, CLEANOUT & MANHOLE
- STORM SEWER, CLEANOUT & MANHOLE
- COMBINED SEWER & MANHOLE
- SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
- POST INDICATOR VALVE
- WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
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- UNIDENTIFIED STRUCTURE
- SPOT ELEVATION
- CONTOUR LINE
- FENCE
- GUARD RAIL
- STREET LIGHT
- SIGN
- CONCRETE
- ASPHALT
- GRAVEL SHOULDER

REFERENCE DRAWINGS

OTHER ASSESSOR'S PLAT NO. 13, L.51, P.15, O.C.R.
OTHER EXHIBIT B – CONDOMINIUMS AT BIRMINGHAM PLACE, O.C.C.P. NO. 1605

No.	BY	DESCRIPTION	DATE
1	AL	DLC REV. PER ADJACENT PARCEL T.C.	4-24-17

REVISIONS

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f: 248.689.1044
www.peainc.com

MARKUS ASSOCIATES, LLC
BIRMINGHAM, MI 48009

TOPOGRAPHIC & ALTA/NSPS LAND TITLE SURVEY-HAZEL ST./WOODWARD
PART OF THE NE 1/4 OF SECTION 36, T. 02N., R. 10E., CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DES.	DN.	DLC/CSD	SUR.	RS	P.M.	JPB

S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE – JPB\SURVEY-DEPT\17093ALTA\17093ALTA.dwg

ORIGINAL ISSUE DATE:
APRIL 15, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
1 OF 2

PARCEL "A" LEGAL DESCRIPTION

(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

Land situated in the City of Birmingham, County of Oakland, and State of Michigan, described as:

South part of Lot 7 of ASSESSOR'S PLAT NO. 13, City of Birmingham, according to the plat thereof, as recorded in Liber 51 of Plats, Page 15, Oakland County Records, described as beginning at Southwest corner Lot 7; thence Northerly on West line said Lot, 40.28 feet; thence Easterly 58.9 feet; thence Northerly at right angle 14.96 feet; thence Easterly at right angle 65.37 feet; thence Northerly at right angle 8.4 feet; thence Easterly at right angle 104.44 feet to East line said Lot; thence Southerly along East lot line, 66.25 feet to Southeast corner said Lot; thence Westerly along South lot line 211.66 feet to point of beginning.

PARCEL "A" SURVEYOR'S NOTES:

(A) Overhead wires run through the subject parcel and cross the property lines as shown, no easement provided.

(B) Walk runs through the subject parcel and cross the property lines as shown.

C. Property line matches existing exterior walls and interior party walls on the north side of the subject parcel.

D. Parking on the subject parcel is enclosed in the existing building, no access available at the time of the survey.

E. The current zoning classification was not provided by the client, as item 6(a) in table a of the "minimum standard detail requirements for ALTA/NSPS land title surveys," states.

PARCEL "A" SCHEDULE BII EXCEPTIONS

(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Standard exceptions set forth in jacket.
3. Taxes and/or assessments which become a lien or become due and payable subsequent to the effective date herein.
4. No liability is assumed by the Company for tax increase occasioned by retroactive revaluation or change in land usage status for the Land.
5. Rights of tenants under unrecorded leases and any and all parties claiming by, through and thereunder.
6. Rights of the public to any portion of the Land lying within the bounds of any street, road, alley or highway.
7. Possible deficiencies in the creation, organization or authority of the Insured or its agent to acquire or hold the Title.
8. Railroad line, switches and spur tracks, if any, and all rights therein. [No Railroad line, switches & spur tracks observed at the time of the survey.]

[9.] An instrument entitled Party Wall Agreement, Recording No: Liber 3119, Page 579 and re–recorded in Liber 3598, Page 677. [As plotted.]

PARCEL "B" LEGAL DESCRIPTION

(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

Land situated in the City of Birmingham, County of Oakland, and State of Michigan, described as:

The Northerly part of Lot 7 of ASSESSOR'S PLAT NO. 13, according to the plat thereof recorded in Liber 51 of Plats, page 15, Oakland County Records, City of Birmingham, Oakland County, Michigan, described as beginning at the Northwesterly corner of said Lot 7 on the Easterly line of 100 foot Woodward Avenue; thence Easterly along Northerly line of said Lot, a distance of 234.96 feet to the Westerly line of 200 foot Hunter Blvd. of the Northeast corner of said Lot 7; thence Southerly along the Westerly line of said Hunter Blvd. or Easterly line of said Lot 7, a distance of 21.15 feet to extension of North face of wall of garage building located on Southerly part of said Lot 7; thence Westerly along said extension of North face of wall and along said North face of wall 104.44 feet to a corner of said garage building; thence Southerly at right angles along Westerly face of wall of said garage building 8.40 feet to a corner of said garage building; thence Westerly at right angles along North face of wall of said garage building 65.37 feet to a corner of said garage building; thence Southerly at right angles along West face of wall of said garage building 14.96 feet to a corner of said garage building; thence Westerly at rights angles along North face of wall of said garage building and extension of same 58.90 feet to Westerly line of said Lot 7; thence Northerly along said Westerly line 40.28 feet to the point of beginning.

PARCEL "B" SURVEYOR'S NOTES:

(A) Overhead wires run through the subject parcel and cross the property lines as shown, no easement provided.

(B) Walk runs through the subject parcel and cross the property lines as shown.

C. Property line matches existing exterior walls and interior party walls on the south side of the subject parcel.

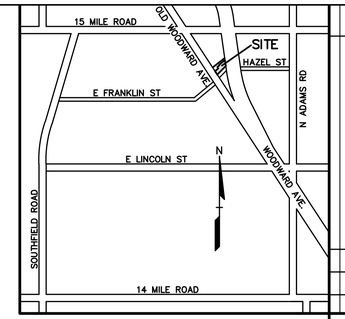
D. The current zoning classification was not provided by the client, as item 6(a) in table a of the "minimum standard detail requirements for ALTA/NSPS land title surveys," states.

PARCEL "B" SCHEDULE BII EXCEPTIONS

(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

1. The Company does not make any representation as to the value of the property.
2. Rights of the public and any governmental unit in any part of the land taken, deeded or used for street, road or highway purposes.
3. Any provisions contained in any instruments of record which provisions pertain to the transfer of divisions under Section 109(2) of the Subdivision Control Act of 1967, as amended.
4. Taxes which are a lien pursuant to Public Act 143 of 1995 and any other taxes and/or assessments which become a lien or become due and payable subsequent to the date of the commitment, including all assessments for weed cutting, grass cutting or any other matters for which City services were provided but not assessed against the tax rolls prior to the effective date of the Commitment.
5. This Policy does not insure against any delinquent or current water charges pertaining to the subject matter property as the parties failed to produce a final meter reading and/or final paid water bill prior to Closing.
6. Rights of tenants under any unrecorded leases, as to tenants only.

(7.) Terms and conditions of Party Wall Agreement as disclosed by instrument recorded in Liber 3119, page 579 and re–recorded in Liber 3598, page 677, Oakland County Records. [As plotted.]



LOCATION MAP – NOT TO SCALE

CERTIFICATE OF SURVEY

To: First American Title Insurance Company
Title Connect, L.L.C.
Markus Associates, LLC

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 2, 3, 4, 5, 7(a), 8, 10(a), 11, and 13 of Table A thereof. The fieldwork was completed on March 24, 2017.

_____

Daniel Cole, PS No. 59791
Agent for PEA, Inc.

No.	BY	AL	DLC	CHK	DESCRIPTION	DATE
1			DLC		REV. PER ADJACENT PARCEL T.C.	4-24-17

REVISIONS

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TOPOGRAPHIC & ALTA/NSPS LAND TITLE SURVEY-HAZEL ST./WOODWARD
PART OF THE NE 1/4 OF SECTION 36, T. 02N., R. 10E., CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DES.	DN.	DLC/CSD	SUR.	RS	P.M.	JPB

E:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE – JPB\SURVEY-dSPT\17093ALTA\17093ALTA.dwg

ORIGINAL ISSUE DATE:
APRIL 15, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
2 OF 2

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U-POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

PARCEL "A" LEGAL DESCRIPTION
(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, AND STATE OF MICHIGAN, DESCRIBED AS:

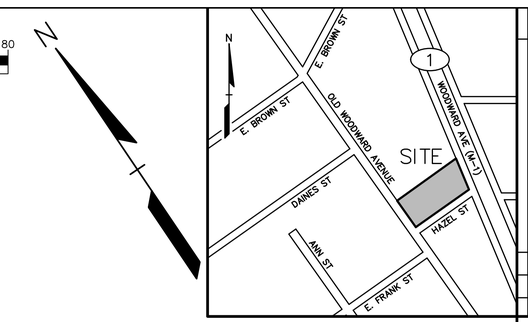
SOUTH PART OF LOT 7 OF ASSESSOR'S PLAT NO. 13, CITY OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN LIBER 51 OF PLATS, PAGE 15, OAKLAND COUNTY RECORDS, DESCRIBED AS BEGINNING AT SOUTHWEST CORNER LOT 7; THENCE NORTHERLY ON WEST LINE SAID LOT, 40.28 FEET; THENCE EASTERLY 58.9 FEET; THENCE NORTHERLY AT RIGHT ANGLE 14.96 FEET; THENCE EASTERLY AT RIGHT ANGLE 65.37 FEET; THENCE NORTHERLY AT RIGHT ANGLE 8.4 FEET; THENCE EASTERLY AT RIGHT ANGLE 104.44 FEET TO EAST LINE SAID LOT; THENCE SOUTHERLY ALONG EAST LOT LINE, 66.25 FEET TO SOUTHEAST CORNER SAID LOT; THENCE WESTERLY ALONG SOUTH LOT LINE 211.66 FEET TO POINT OF BEGINNING.

PARCEL "B" LEGAL DESCRIPTION
(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, AND STATE OF MICHIGAN, DESCRIBED AS:

THE NORTHERLY PART OF LOT 7 OF ASSESSOR'S PLAT NO. 13, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 51 OF PLATS, PAGE 15, OAKLAND COUNTY RECORDS, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 7 ON THE EASTERLY LINE OF 100 FOOT WOODWARD AVENUE; THENCE EASTERLY ALONG NORTHERLY LINE OF SAID LOT, A DISTANCE OF 234.96 FEET TO THE WESTERLY LINE OF 200 FOOT HUNTER BLVD. OF THE NORTHEAST CORNER OF SAID LOT 7; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID HUNTER BLVD. OR EASTERLY LINE OF SAID LOT 7, A DISTANCE OF 21.15 FEET TO EXTENSION OF NORTH FACE OF WALL OF GARAGE BUILDING LOCATED ON SOUTHERLY PART OF SAID LOT 7; THENCE WESTERLY ALONG SAID EXTENSION OF NORTH FACE OF WALL AND ALONG SAID NORTH FACE OF WALL 104.44 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE SOUTHERLY AT RIGHT ANGLES ALONG WESTERLY FACE OF WALL OF SAID GARAGE BUILDING 8.40 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE WESTERLY AT RIGHT ANGLES ALONG NORTH FACE OF WALL OF SAID GARAGE BUILDING 65.37 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE SOUTHERLY AT RIGHT ANGLES ALONG WEST FACE OF WALL OF SAID GARAGE BUILDING 14.96 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE WESTERLY AT RIGHTS ANGLES ALONG NORTH FACE OF WALL OF SAID GARAGE BUILDING AND EXTENSION OF SAME 58.90 FEET TO WESTERLY LINE OF SAID LOT 7; THENCE NORTHERLY ALONG SAID WESTERLY LINE 40.28 FEET TO THE POINT OF BEGINNING.

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.



LOCATION MAP – NOT TO SCALE

LEGEND

- IRON FOUND
- IRON SET
- NAIL FOUND
- NAIL & CAP SET
- BRASS PLUG SET
- MONUMENT FOUND
- MONUMENT SET
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- R RECORDED
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- STORM SEWER, CLEANOUT & MANHOLE
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- SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
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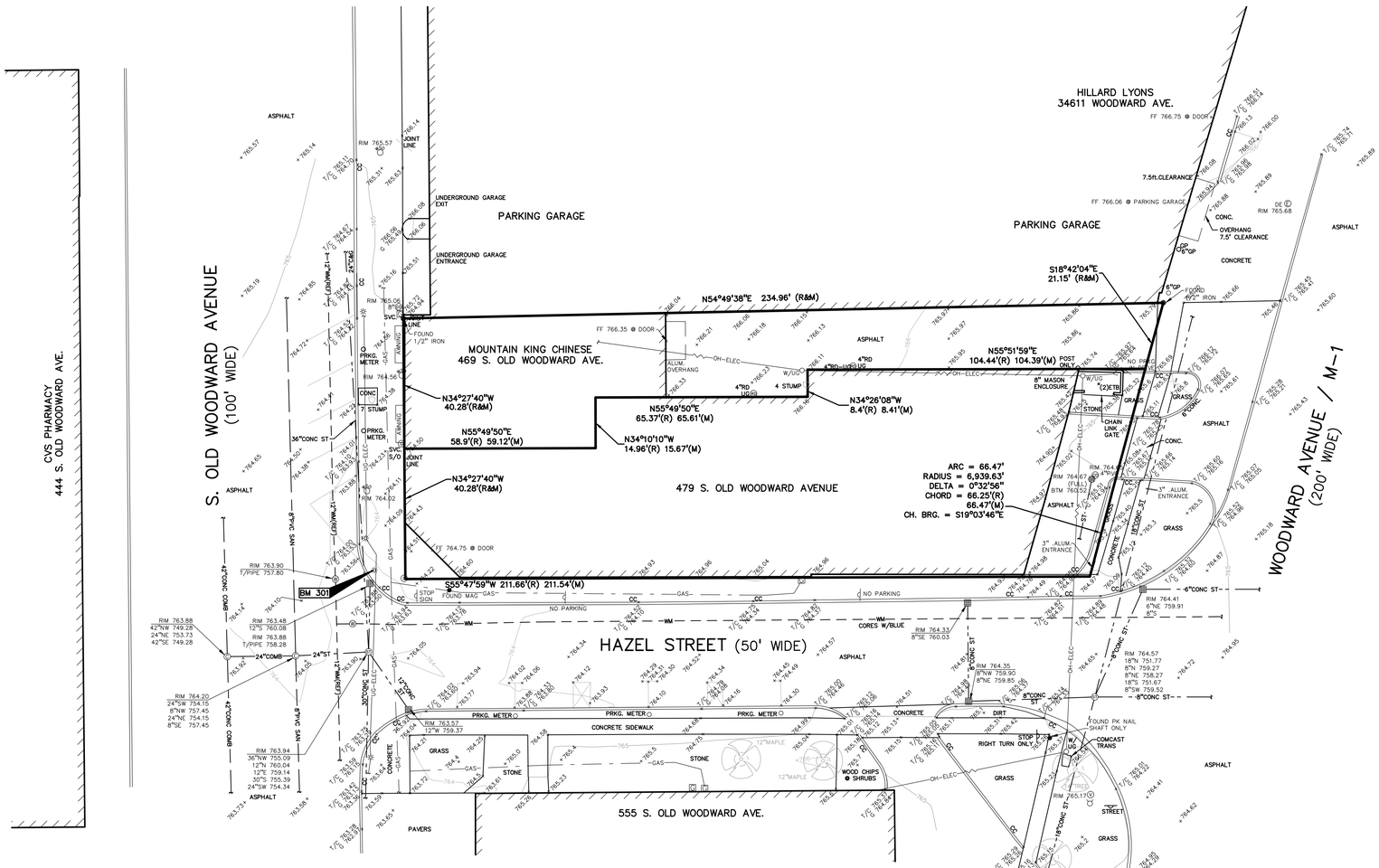
- MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
- UNIDENTIFIED STRUCTURE
- 816.06 SPOT ELEVATION
- 670 CONTOUR LINE
- FENCE
- GUARD RAIL
- STREET LIGHT
- SIGN
- CONC. CONCRETE
- ASPH. ASPHALT

REFERENCE DRAWINGS

WATER MAIN	NOT RECEIVED AT TIME OF SURVEY
SANITARY SEWER	NOT RECEIVED AT TIME OF SURVEY
STORM SEWER	NOT RECEIVED AT TIME OF SURVEY
COMBINED SEWER	NOT RECEIVED AT TIME OF SURVEY
ELECTRIC	NOT RECEIVED AT TIME OF SURVEY
TELEPHONE	NOT RECEIVED AT TIME OF SURVEY
GAS	NOT RECEIVED AT TIME OF SURVEY
PETROLEUM	NOT RECEIVED AT TIME OF SURVEY
CATV	NOT RECEIVED AT TIME OF SURVEY
FLOOD PLAIN	ZONE X, FEMA FIRM 26125C0537F, DATED 09-29-06


CVS PHARMACY
444 S. OLD WOODWARD AVE.
S. OLD WOODWARD AVENUE
(100' WIDE)
HILLARD LYONS
34611 WOODWARD AVE.
FF 766.75 ● DOOR
FF 766.06 ● PARKING GARAGE
PARKING GARAGE
7.5ft.CLEARANCE
OVERHANG
7.5' CLEARANCE
CONCRETE
ASPHALT
S18°42'04"E
21.15' (R&M)
N54°49'38"E 234.96' (R&M)
MOUNTAIN KING CHINESE
469 S. OLD WOODWARD AVE.
479 S. OLD WOODWARD AVENUE
555 S. OLD WOODWARD AVE.
HAZEL STREET (50' WIDE)
N34°27'40"W
40.28'(R&M)
N55°49'50"E
65.37'(R) 65.61'(M)
N34°10'10"W
14.96'(R) 15.67'(M)
N55°49'50"E
58.9'(R) 59.12'(M)
N34°27'40"W
40.28'(R&M)
N34°26'08"W
8.4'(R) 8.41'(M)
N55°51'59"E
104.44'(R) 104.39'(M)
S55°47'59"W 211.66'(R) 211.54'(M)
ARC = 66.47'
RADIUS = 6,939.63'
DELTA = 0°32'56"
CHORD = 66.25'(R)
66.47'(M)
CH. BRG. = S19°03'46"E
WOODWARD AVENUE / M–1
(200' WIDE)
BM 301
NO PARKING
STOP SIGN
FOUND MAG NAIL
FOUND 1/2" IRON
SET MAG NAIL
FOUND PK NAIL SHAFT ONLY
COMCAST TRANS
RIGHT TURN ONLY
UNDERGROUND GARAGE EXIT
UNDERGROUND GARAGE ENTRANCE
JOINT LINE
CONCRETE SIDEWALK
GRASS
STONE
WOOD CHIPS & SHRUBS
PAVERS
DIRT
CONCRETE ST
HAZEL ST
ASPHALT
CONCRETE
GRASS
STONE
PAVERS
STREET
CHAIN LINK GATE
3" ALUM. ENTRANCE
8" MASON ENCLOSURE
NO PARKING
CORES W/BLUE
RIM 763.88 42"NW 749.28 24"NE 753.73 42"SE 749.28
RIM 763.48 12"S 760.08
RIM 763.88 T/PIPE 758.28
RIM 764.20 24"SW 754.15 8"NW 757.45 24"NE 754.15 8"SE 757.45
RIM 763.94 36"NW 755.09 12"N 760.04 12"E 759.14 30"S 755.39 24"SW 754.34
RIM 763.90 T/PIPE 757.80
RIM 763.57 12"W 759.37
RIM 765.57
RIM 765.08 8"S 763.34
RIM 764.56
RIM 764.02
RIM 764.41 6"NE 759.91 8"S
RIM 764.33 8"SE 760.03
RIM 764.35 8"NW 759.90 8"NE 759.85
RIM 764.57 18"N 751.77 8"W 759.27 8"NE 758.27 18"S 751.67 8"SW 759.52
RIM 765.17
RIM 765.24 6" 763.71
RIM 765.68 DE
RIM 765.24 DE
RIM 764.67 (FULL) BTM 760.52
RIM 764.67 (FULL)
RIM 765.17 DE
RIM 765.24 DE
RIM 765.68 DE
RIM 765.24 DE
RIM 765.24 DE
RIM 765.24

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U-POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

PARCEL "A" LEGAL DESCRIPTION
(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, AND STATE OF MICHIGAN, DESCRIBED AS:

SOUTH PART OF LOT 7 OF ASSESSOR'S PLAT NO. 13, CITY OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN LIBER 51 OF PLATS, PAGE 15, OAKLAND COUNTY RECORDS, DESCRIBED AS BEGINNING AT SOUTHWEST CORNER LOT 7; THENCE NORTHERLY ON WEST LINE SAID LOT, 40.28 FEET; THENCE EASTERLY 58.9 FEET; THENCE NORTHERLY AT RIGHT ANGLE 14.96 FEET; THENCE EASTERLY AT RIGHT ANGLE 65.37 FEET; THENCE NORTHERLY AT RIGHT ANGLE 8.4 FEET; THENCE EASTERLY AT RIGHT ANGLE 104.44 FEET TO EAST LINE SAID LOT; THENCE SOUTHERLY ALONG EAST LOT LINE, 66.25 FEET TO SOUTHEAST CORNER SAID LOT; THENCE WESTERLY ALONG SOUTH LOT LINE 211.66 FEET TO POINT OF BEGINNING.

PARCEL "B" LEGAL DESCRIPTION
(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, AND STATE OF MICHIGAN, DESCRIBED AS:

THE NORTHERLY PART OF LOT 7 OF ASSESSOR'S PLAT NO. 13, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 51 OF PLATS, PAGE 15, OAKLAND COUNTY RECORDS, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 7 ON THE EASTERLY LINE OF 100 FOOT WOODWARD AVENUE; THENCE EASTERLY ALONG NORTHERLY LINE OF SAID LOT, A DISTANCE OF 234.96 FEET TO THE WESTERLY LINE OF 200 FOOT HUNTER BLVD. OF THE NORTHEAST CORNER OF SAID LOT 7; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID HUNTER BLVD. OR EASTERLY LINE OF SAID LOT 7, A DISTANCE OF 21.15 FEET TO EXTENSION OF NORTH FACE OF WALL OF GARAGE BUILDING LOCATED ON SOUTHERLY PART OF SAID LOT 7; THENCE WESTERLY ALONG SAID EXTENSION OF NORTH FACE OF WALL AND ALONG SAID NORTH FACE OF WALL 104.44 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE SOUTHERLY AT RIGHT ANGLES ALONG WESTERLY FACE OF WALL OF SAID GARAGE BUILDING 8.40 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE WESTERLY AT RIGHT ANGLES ALONG NORTH FACE OF WALL OF SAID GARAGE BUILDING 65.37 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE SOUTHERLY AT RIGHT ANGLES ALONG WEST FACE OF WALL OF SAID GARAGE BUILDING 14.96 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE WESTERLY AT RIGHTS ANGLES ALONG NORTH FACE OF WALL OF SAID GARAGE BUILDING AND EXTENSION OF SAME 58.90 FEET TO WESTERLY LINE OF SAID LOT 7; THENCE NORTHERLY ALONG SAID WESTERLY LINE 40.28 FEET TO THE POINT OF BEGINNING.

GRAPHIC SCALE
(IN FEET)
1 inch = 20 ft.

GENERAL NOTES:

THESE NOTES APPLY TO ALL CONSTRUCTION ACTIVITIES ON THIS PROJECT.

1. ALL DIMENSIONS SHOWN ARE TO BACK OF CURB, FACE OF SIDEWALK, OUTSIDE FACE OF BUILDING, PROPERTY LINE, CENTER OF MANHOLE/CATCH BASIN OR CENTERLINE OF PIPE UNLESS OTHERWISE NOTED.
2. REFER TO SHEET C–8.1 FOR ON–SITE PAVING DETAILS.
3. REFER TO M.D.O.T. STANDARD PLAN R–28–J FOR SIDEWALK RAMP DETAILS.
4. 'NO PARKING–FIRE LANE' SIGNS SHALL BE POSTED ALONG ALL FIRE LANES AT 100 FOOT INTERVALS OR AS DIRECTED BY THE FIRE OFFICIAL.
5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH CITY OF BIRMINGHAM CURRENT STANDARDS AND REGULATIONS.
6. THE CONTRACTOR SHALL NOTIFY THE CITY ENGINEER AND/OR THE AUTHORITY HAVING JURISDICTION 3 BUSINESS DAYS PRIOR TO THE BEGINNING OF CONSTRUCTION.
7. ANY WORK WITHIN THE STREET OR HIGHWAY RIGHTS–OF–WAY SHALL BE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THE AGENCIES HAVING JURISDICTION AND SHALL NOT BEGIN UNTIL ALL NECESSARY PERMITS HAVE BEEN ISSUED FOR THE WORK.
8. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO ADJUST THE TOP OF ALL EXISTING AND PROPOSED STRUCTURES (MANHOLES, CATCH BASINS, INLETS, GATE WELLS ETC.) WITHIN GRADED AND /OR PAVED AREAS TO FINAL GRADE SHOWN ON THE PLANS. ALL SUCH ADJUSTMENTS SHALL BE INCIDENTAL TO THE JOB AND WILL NOT BE PAID FOR SEPARATELY.

SIDEWALK RAMP LEGEND:

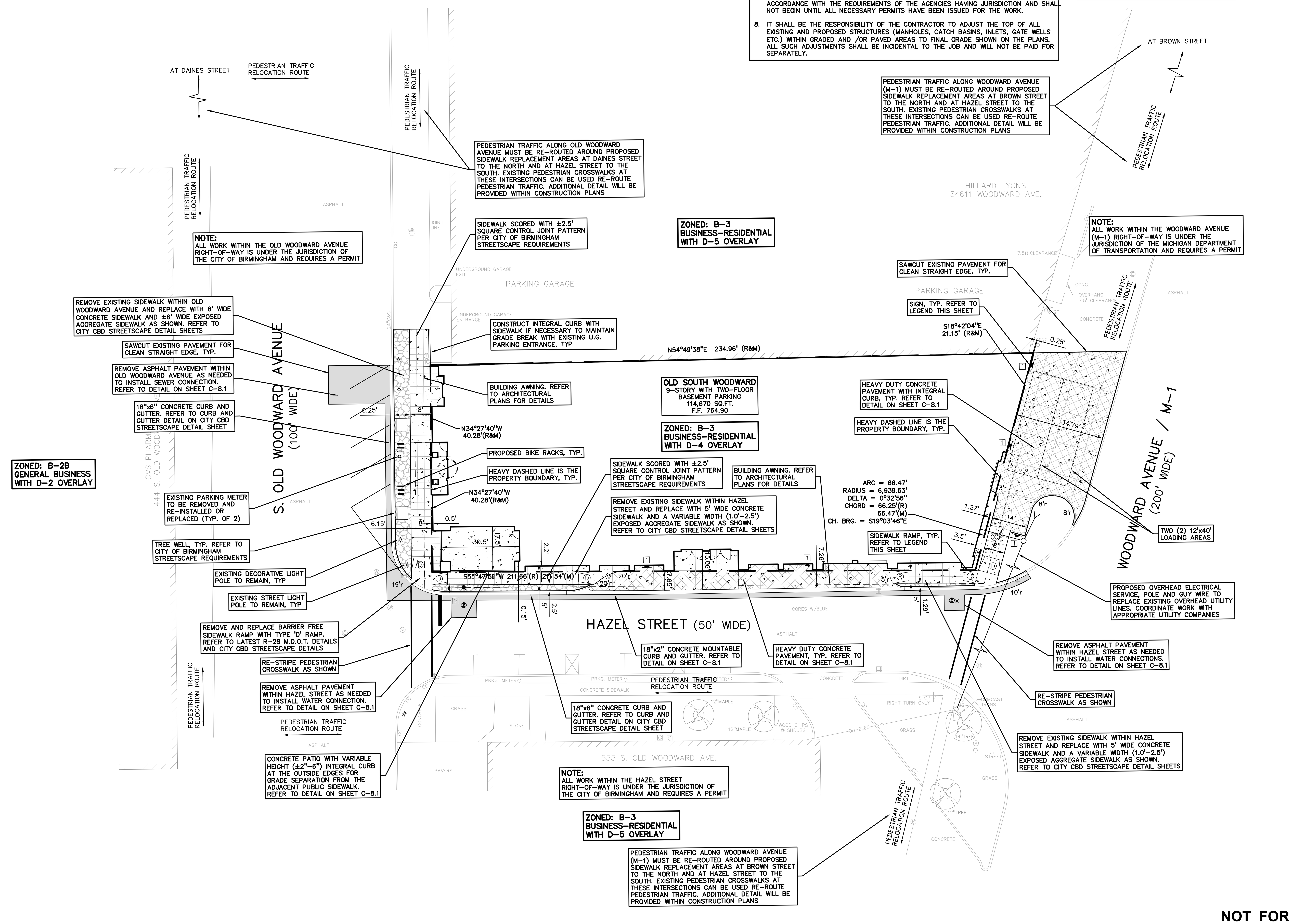
SIDEWALK RAMP 'TYPE D'	Ⓓ
SIDEWALK RAMP 'TYPE R'	Ⓡ
CURB DROP ONLY	Ⓧ

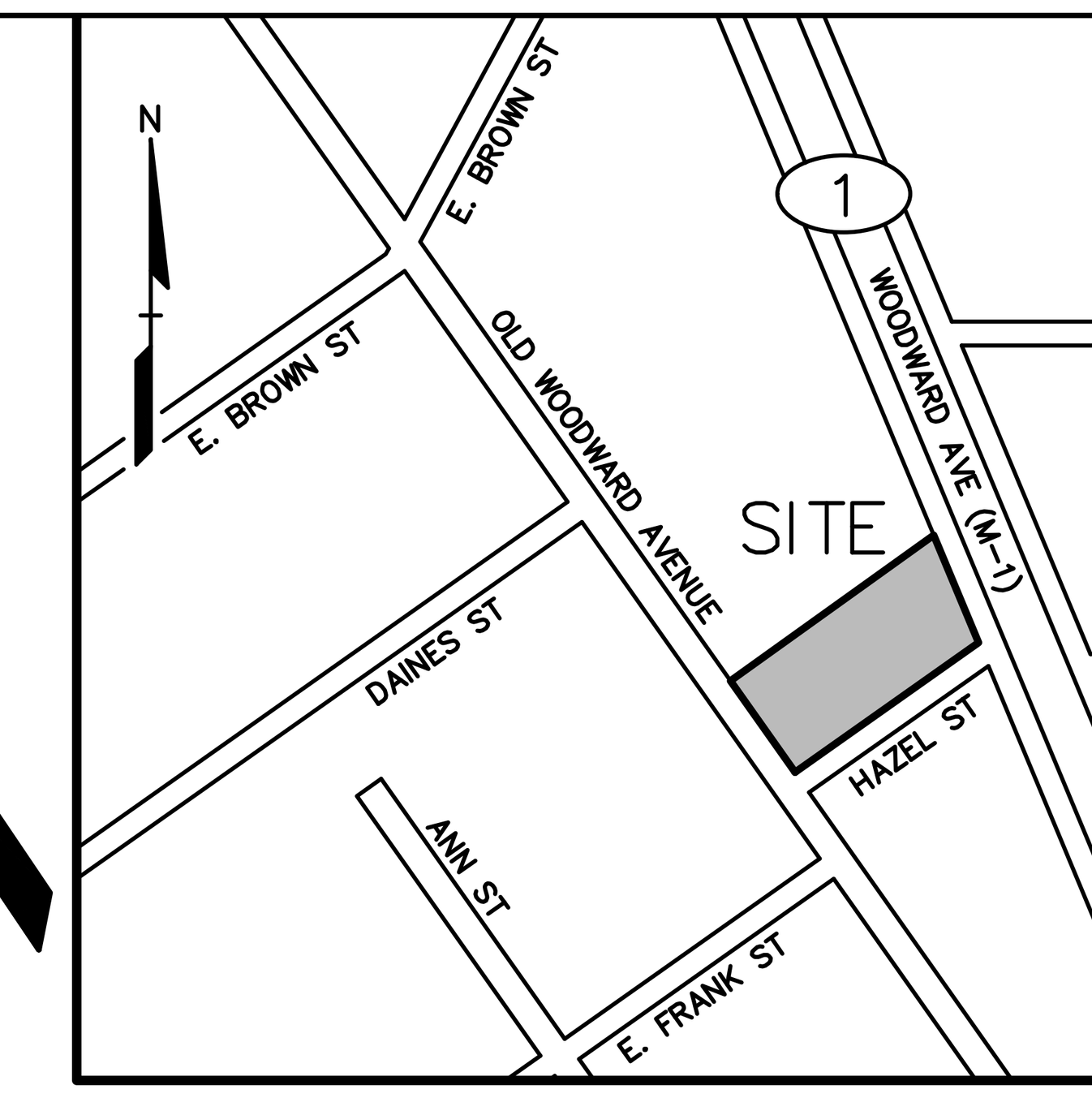
REFER TO LATEST M.D.O.T. R–28 STANDARD RAMP AND DETECTABLE WARNING DETAILS AND CITY OF BIRMINGHAM CBD STREETSCAPE DETAILS FOR SIDEWALK RAMP DETAILS

SIGN LEGEND:

'NO PARKING LOADING ZONE' SIGN	1
'STOP' SIGN	2

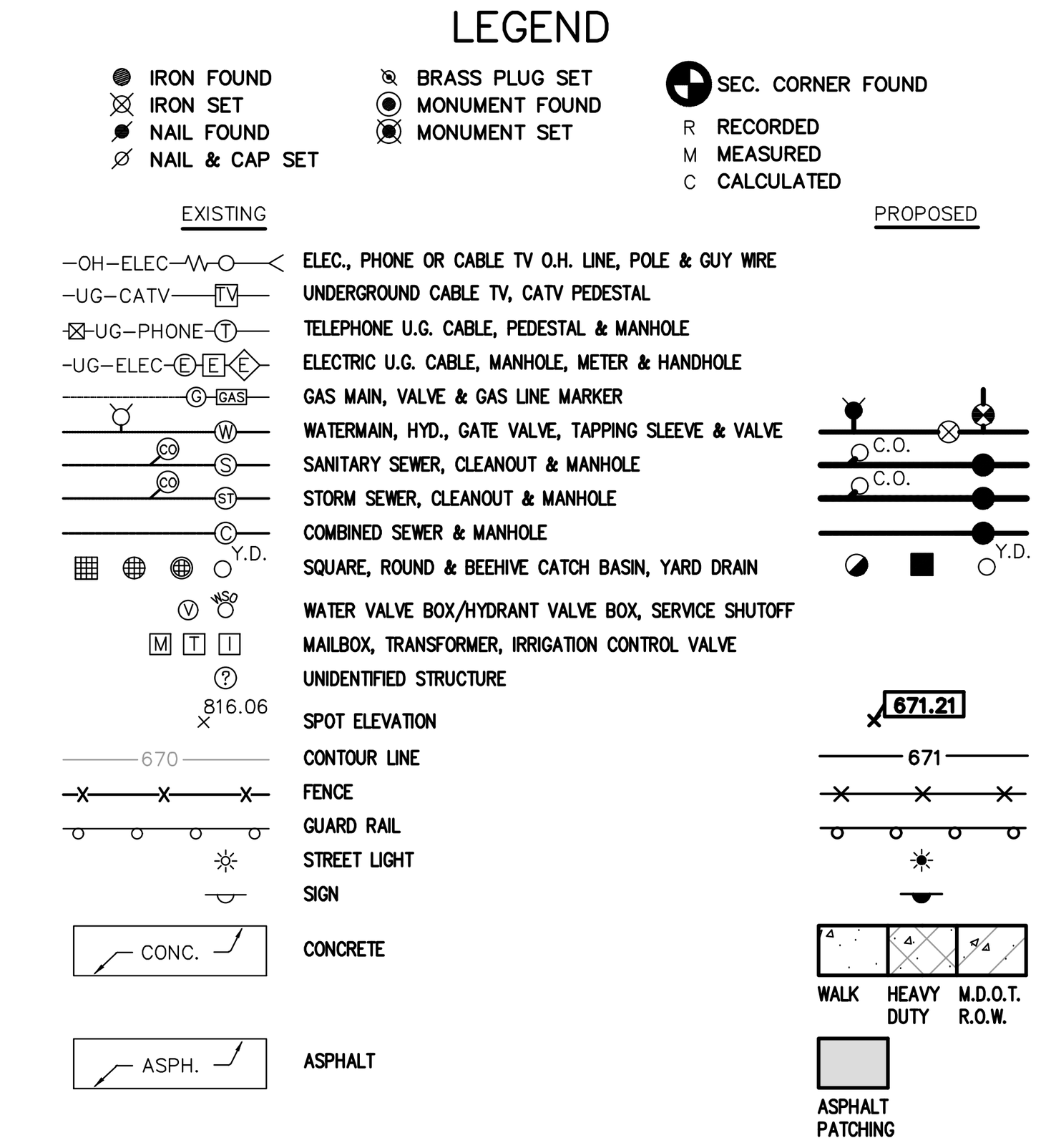
REFER TO SHEETS C–8.1 FOR SIGN DETAILS





LOCATION MAP – NOT TO SCALE

LEGEND



REFERENCE DRAWINGS

WATER MAIN	NOT RECEIVED AT TIME OF SURVEY
SANITARY SEWER	NOT RECEIVED AT TIME OF SURVEY
STORM SEWER	NOT RECEIVED AT TIME OF SURVEY
COMBINED SEWER	NOT RECEIVED AT TIME OF SURVEY
ELECTRIC	NOT RECEIVED AT TIME OF SURVEY
TELEPHONE	NOT RECEIVED AT TIME OF SURVEY
GAS	NOT RECEIVED AT TIME OF SURVEY
PETROLEUM	NOT RECEIVED AT TIME OF SURVEY
CATV	NOT RECEIVED AT TIME OF SURVEY
FLOOD PLAIN	ZONE X, FEMA FIRM 26125C0537F, DATED 09–29–06

SITE DATA TABLE:

SITE AREA: 0.423 ACRES, NET AND GROSS

ZONING: B–3, BUSINESS–RESIDENTIAL, D–4 OVERLAY

PROPOSED USE: FIRST FLOOR: COMMERCIAL/LOBBY AND PARKING
SECOND–THRU–FIFTH FLOORS: HOTEL (94 ROOMS)
SIXTH AND SEVENTH FLOORS: APARTMENTS (26 UNITS)
EIGHTH FLOORS: LARGE APARTMENTS (3 UNITS)
NINTH FLOOR: AMENITY LEVEL
THREE BASEMENT FLOORS: PARKING

BUILDING INFORMATION:
MAXIMUM ALLOWABLE BUILDING HEIGHT = 60 FEET (5 STORIES)
MINIMUM ALLOWABLE BUILDING HEIGHT = 20 FEET TO EAVES
PROPOSED BUILDING HEIGHT = 122'–0" TOTAL HEIGHT (INC. MECH. SCREEN)

BUILDING FOOTPRINT AREA = 16,925 SQ.FT.
GROSS BUILDING AREA = 114,670 SQ.FT. (NOT INC. BASEMENT PARKING)

SETBACK REQUIREMENTS:

B–4 ZONING DISTRICT:
FRONT SETBACK (SOUTH, WEST, EAST): 0 FEET REQUIRED 0.15' PROVIDED (MIN)

SIDE SETBACK (NORTH): 0 FEET REQUIRED 0' PROVIDED

PARKING CALCULATIONS:
RETAIL = 1 SPACE PER 300 SQ.FT. FLOOR AREA
HOTEL = 1 SPACE PER UNIT PLUS 1 SPACE PER 25 UNITS
RESIDENTIAL = 1.25 SPACES PER UNIT (3+ ROOMS PER UNIT)

REQUIRED PARKING SPACES:
3,435 SQ.FT. OF RETAIL = 3435/300 = 11 SPACES
94 HOTEL UNITS = 94 + 4 SPACES = 98 SPACES
26 APARTMENTS = 26 x 1.25 = 33 SPACES
3 LARGE APARTMENTS = 3 x 1.5 = 5 SPACES
TOTAL REQUIRED PARKING = 147 SPACES

PARKING PROVIDED IN GARAGE FLOORS = 96 SPACES
ON–STREET PARKING SPACES = 4 SPACES
TOTAL PROVIDED PARKING = 100 SPACES (SHORTFALL OF 47 SPACES)

LOADING CALCULATIONS:
LOADING REQUIRED = TWO LOADING SPACES REQUIRED
TWO LOADING SPACES PROVIDED

REVISIONS

No.	BY	CHK	DESCRIPTION	DATE

CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

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CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

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MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

SITE PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, 48009

DES.	PB	DN.	PB	SUR.	DLC	P.M.	JPB

S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE – JPB\Dwg\Site Plans\(C–3.0)DIM–17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
C-3.0

NOT FOR CONSTRUCTION

XREF: S:PROJECTS\2017\2017093\DWG\17093–TOPOBASE.DWG
XREF: S:PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE–17093.DWG
XREF: S:PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK–17093.DWG

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U–POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

SYMBOLS: GRADING

PROPOSED SPOT GRADE ELEVATION. ADD 700 TO 4–DIGIT ELEVATIONS TO OBTAIN ACTUAL ELEVATION — 64.50

PROPOSED CONTOUR LINE — 764 —

ABBERVIATIONS USED, IF REQUIRED FOR CLARITY:
TOP OF CURB = T/C
GUTTER GRADE = G
TOP OF PAVEMENT = T/P
TOP OF SIDEWALK = T/S
RIM = RIM ELEVATION OF STRUCTURE
FINISH GRADE = F.G.

GENERAL GRADING AND EARTHWORK NOTES:

THESE NOTES APPLY TO ALL CONSTRUCTION ACTIVITIES ON THIS PROJECT

1. CONTRACTOR TO FIELD VERIFY ALL EXISTING TREES AND BRUSH AND REMOVE ALL THAT ARE NECESSARY TO GRADE SITE.
2. ALL GRADES ARE TO TOP OF PAVEMENT UNLESS OTHERWISE NOTED.
3. ALL SOIL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL MEET THE REQUIREMENTS OF THE CITY OF BIRMINGHAM. AN EROSION CONTROL PERMIT MUST BE SECURED FROM THE CITY PRIOR TO CONSTRUCTION.
4. ALL EARTHWORK AND GRADING OPERATIONS SHALL BE PERFORMED IN ACCORDANCE WITH THE FORTHCOMING SOILS INVESTIGATION AND REPORT.
5. SEE ADDITIONAL GRADING AND EARTHWORK NOTES ON DETAIL SHEET C–8.1
6. REFER TO CONSTRUCTION PLANS FOR ALL SOIL EROSION AND SEDIMENTATION CONTROL MEASURES AND NOTES.
7. ALL DISTURBED AREAS SHALL BE SEEDED AND MULCHED OR SODDED IN ACCORDANCE WITH THE LANDSCAPE PLANS. PROVIDE A MINIMUM OF 3" OF TOPSOIL IN THESE AREAS UNLESS OTHERWISE NOTED.
8. THE CONTRACTOR SHALL NOTE EXISTING UNDERGROUND UTILITIES WITHIN AND ADJACENT TO THE SITE. BACKFILL FOR EXISTING UTILITY TRENCHES SHALL BE EXAMINED CRITICALLY. ANY TRENCHES FOUND TO HAVE SOFT, UNSTABLE OR UNSUITABLE BACKFILL MATERIAL, IN THE OPINION OF THE GEOTECHNICAL ENGINEER, THAT ARE TO BE WITHIN THE ZONE OF INFLUENCE OF PROPOSED BUILDINGS OR PAVEMENT SHALL BE COMPLETELY EXCAVATED AND BACKFILLED WITH SUITABLE MATERIAL.

GRAPHIC SCALE
−10 0 5 10 20 40
(IN FEET)
1 inch = 10 ft.

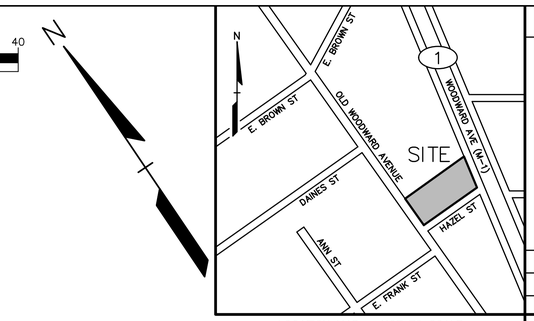
SIDEWALK RAMP LEGEND:

SIDEWALK RAMP 'TYPE D' Ⓓ
SIDEWALK RAMP 'TYPE R' Ⓡ
CURB DROP ONLY Ⓧ

REFER TO LATEST M.D.O.T. R–28 STANDARD RAMP AND DETECTABLE WARNING DETAILS AND CITY OF BIRMINGHAM CBD STREETSCAPE DETAILS FOR SIDEWALK RAMP DETAILS

EARTHWORK BALANCING NOTE:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPORTING OR EXPORTING ALL MATERIALS AS REQUIRED TO PROPERLY GRADE THIS PROJECT TO THE FINISHED ELEVATIONS SHOWN ON THE APPROVED PLANS. THE CONTRACTOR SHALL MAKE THEIR OWN DETERMINATION OF CUT AND FILL QUANTITIES AND ALLOW FOR REMOVAL OF EXCESS OR IMPORTATION OF ADDITIONAL MATERIAL AT NO ADDITIONAL COST TO THE OWNER.



LOCATION MAP – NOT TO SCALE

NOTE:
ALL WORK WITHIN THE OLD WOODWARD AVENUE RIGHT–OF–WAY IS UNDER THE JURISDICTION OF THE CITY OF BIRMINGHAM AND REQUIRES A PERMIT

PARKING GARAGE
UNDERGROUND GARAGE EXIT
UNDERGROUND GARAGE ENTRANCE
MATCH EX. GRADE ±65.15
MATCH EX. GRADE ±65.51
MATCH EX. GRADE ±64.75
MATCH EX. GRADE ±64.82
MATCH EX. GRADE ±65.72
ADJUST RIM TO 65.00
MATCH EX. GRADE ±64.53
MATCH EX. GRADE ±64.32
PROVIDE INTEGRAL CURB AT EDGE OF NEW SIDEWALK IF THE EXISTING SIDEWALK CURB IS OF INSUFFICIENT HEIGHT FOR REVISED GRADING. REFER TO INTEGRAL SIDEWALK CURB DETAIL ON SHEET C–8.1
TAPER CURB TO 2.5" HEIGHT TO MATCH EXISTING.
RIM 64.22
T/C 64.66
G 64.16
TION!! ELECTRIC AND GAS S IN THIS AREA
T/C 64.52
G 64.02
T/C 64.32
G 63.82
MATCH EXISTING PAVEMENT AND CURB GRADES WHEN REPLACING CURB AND GUTTER, TYP.
T/C 64.03
G 63.53
BM 301
MAINTAIN RIM AT 763.48
T/C 63.54
G 63.50
T/C 63.64
G 63.60
TAPER CURB TO 1/2" HEIGHT AT SIDEWALK RAMP, TYP.
F.G. 64.20
RIM 63.75
T/C 64.15
G 63.65
T/C 64.32
G 63.82
T/C 64.44
G 63.94
T/C 64.23
G 64.06
T/C 64.33
G 64.16
T/C 64.45
G 64.28
T/C 64.62
G 64.45
T/C 64.89
G 64.39
T/C 64.59
G 64.55
T/C 64.49
G 64.45
MAINTAIN RIM AT 764.33
MAINTAIN RIM AT 764.41
RIM 64.62
RIM 64.65
TAPER CURB TO 1/2" HEIGHT AT SIDEWALK RAMP, TYP.
MATCH EX. GRADE ±64.50
MATCH EX. GRADE ±65.66
MATCH EX. GRADE ±65.46
MATCH EX. GRADE ±65.79
MATCH EX. GRADE ±65.28
MATCH EX. GRADE ±65.07
MATCH EX. GRADE ±64.96
FIRST FLOOR LOBBY F.F. 764.90
FIRST FLOOR PARKING AREA F.F. VARIES
FIRST FLOOR LOBBY/RETAIL F.F. 764.90
OLD SOUTH WOODWARD 9–STORY WITH TWO–FLOOR BASEMENT PARKING 114,670 SQ.FT. F.F. 764.90
MECHANICAL ROOM F.F. 765.50
SHADING INDICATES AREA OF BUILDING WHERE EXTERIOR FINISH GRADE IS ABOVE FINISH FLOOR ELEVATION, TYP..
DASHED LINE IS THE PROPERTY BOUNDARY, TYP.
OVERHEAD ACCESS DOOR TO MECHANICAL ROOM.
TAPER CURB TO 1/2" HEIGHT AT OVERHEAD DOOR.
TAPER CURB TO 1/2" HEIGHT AT SIDEWALK RAMP, TYP.
SIDEWALK RAMP, TYP. REFER TO LEGEND THIS SHEET
ENTRANCE TO FIRST FLOOR AND UNDERGROUND PARKING.
THERE IS A PROPOSED 3" HIGH RAMP WITHIN THE BUILDING TO TRANSITION FROM THE ENTRY GRADE AT 764.65 TO THE FINISH FLOOR ELEVATION OF 764.90. REFER TO ARCHITECTURAL PLANS FOR ADDITIONAL DETAILS
INTEGRAL CURB AT EDGE OF PATIO AREA TYP. REFER TO DETAIL ON SHEET C–8.1
SIDEWALK RAMP, TYP. REFER TO LEGEND THIS SHEET
DASHED LINE IS THE PROPERTY BOUNDARY, TYP.
FRAME AND GRATE TO BE REPLACED WITH E.J. #7060 WITH TYPE #7040 M1 GRATE AND #7060 T1 BACK (FOR NEW MOUNTABLE CURB INSTALLATION)
CAUTION!! U.G. GAS LINE IN THIS AREA
MATCH EXISTING PAVEMENT AND CURB GRADES WHEN REPLACING CURB AND GUTTER, TYP.
CAUTION!! OVERHEAD UTILITY LINES IN THIS AREA
NOTE: THE AREA TO BE PAVED WITH EXPOSED AGGREGATE CONCRETE BETWEEN THE PROPOSED SIDEWALK AND THE PROPOSED CURB AND GUTTER WILL VARY IN CROSS–SLOPE AND MAY EXCEED THE CROSS–SLOPE ALLOWED FOR AN ACCESSIBLE ROUTE UNDER A.D.A. GUIDELINES. IT IS CONSIDERED A 'TRANSITION' BETWEEN THE PEDESTRIAN ROUTE (SIDEWALK) AND THE STREET CURB LINE.
NOTE: THE AREA TO BE PAVED WITH EXPOSED AGGREGATE CONCRETE BETWEEN THE PROPOSED SIDEWALK AND THE PROPOSED CURB AND GUTTER WILL VARY IN CROSS–SLOPE AND MAY EXCEED THE CROSS–SLOPE ALLOWED FOR AN ACCESSIBLE ROUTE UNDER A.D.A. GUIDELINES. IT IS CONSIDERED A 'TRANSITION' BETWEEN THE PEDESTRIAN ROUTE (SIDEWALK) AND THE STREET CURB LINE.
NOTE: ALL WORK WITHIN THE WOODWARD AVENUE (M–1) RIGHT–OF–WAY IS UNDER THE JURISDICTION OF THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND REQUIRES A PERMIT
NOTE: ALL WORK WITHIN THE HAZEL STREET RIGHT–OF–WAY IS UNDER THE JURISDICTION OF THE CITY OF BIRMINGHAM AND REQUIRES A PERMIT
HAZEL STREET (50' WIDE)
WOODWARD

NOT FOR CONSTRUCTION

XREF: S:\PROJECTS\2017\2017093\DWG\17093–TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE–17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK–17093.DWG

No.	BY	CHK	DESCRIPTION	DATE
			REVISIONS	

CAUTION!!
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251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

GRADING PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN 48009

DES.	PB
DN.	PB
SUR.	PB
DLC	PB
P.M.	JPB

S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE. – JPB\Dwg\Site Plans\C-4.1\SP&C-17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 10'

DRAWING NUMBER:
C-4.1

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U–POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

Permit No._____
Date: _____

CITY OF BIRMINGHAM
STORM WATER RUNOFF CONTROL

Project Location: Hazel Street at Old Woodward
Designed by: Paul Bater, PEA PE: Yes **No**

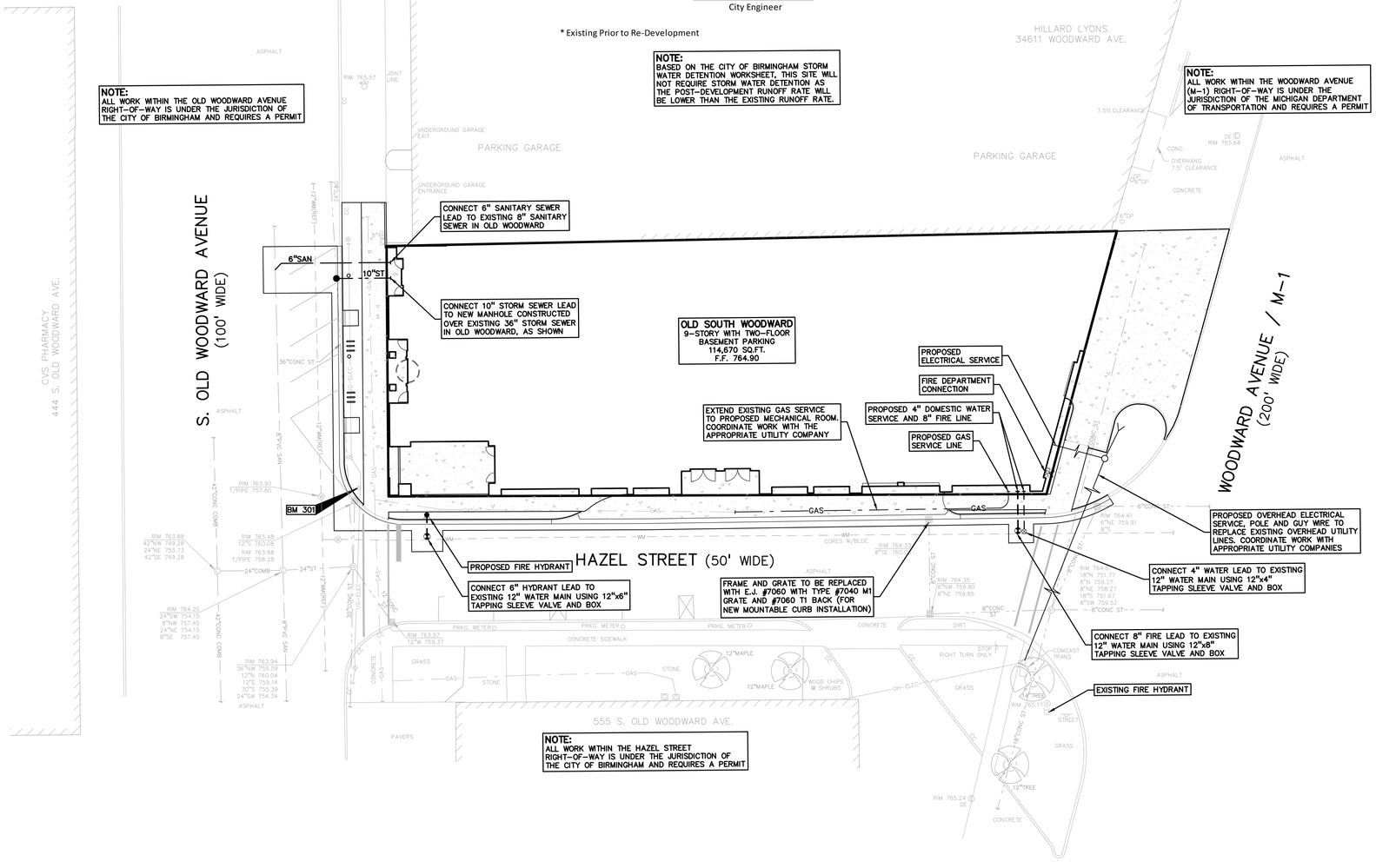
		(A) Exist. *	(B) Proposed	
(1)	Affected Area	0.423	0.423	acres
(2)	Area of Impervious Surface	0.423	0.423	acres
(3)	Percent Impervious	100	100	%
(4)	Runoff Factor	2.4	2.4	cfs/acre
(5)	Unrestricted Runoff Rate	1.02	1.02	cfs
(6)	Maximum Permitted Runoff Rate		1.02	cfs
(7)	Uncontrolled Runoff Area		-	acres
(8)	Area of Impervious Surfaces - Uncontrolled Runoff Area		-	acres
(9)	Runoff Factor - Uncontrolled Runoff Area		-	%
(10)	Runoff Factor - Uncontrolled Runoff Area		-	cfs/acre
(11)	Runoff Rate - Uncontrolled Runoff Area		-	cfs
(12)	Maximum Permitted Runoff Rate via Sewer Service Connection		-	cfs
(13)	Runoff Rate per Acre		-	cfs/acre
(14)	Required Storage per Acre		-	cu.ft./acre
(15)	Required Storage for Parcel		-	cu.ft.
	PROPOSED DESIGN			
(16)	Design Storage		-	cu.ft.
(17)	Design Outlet Capacity to Sewer Service		-	cfs

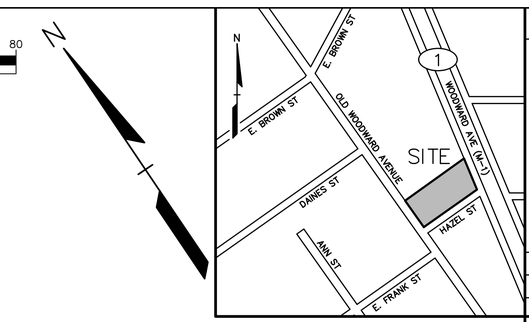
Approved by: _____
City Engineer

* Existing Prior to Re-Development

NOTE:
BASED ON THE CITY OF BIRMINGHAM STORM WATER DETENTION WORKSHEET, THIS SITE WILL NOT REQUIRE STORM WATER DETENTION AS THE POST–DEVELOPMENT RUNOFF RATE WILL BE LOWER THAN THE EXISTING RUNOFF RATE.

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.





LOCATION MAP – NOT TO SCALE

LEGEND

IRON FOUND
IRON SET
NAIL FOUND
NAIL & CAP SET
BRASS PLUG SET
MONUMENT FOUND
MONUMENT SET
SEC. CORNER FOUND
R RECORDED
M MEASURED
C CALCULATED

EXISTING	PROPOSED	
—OH—ELEC—		ELEC., PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
—UG—CATV—		UNDERGROUND CABLE TV, CATV PEDESTAL
—UG—PHONE—		TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
—UG—ELEC—		ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
		GAS MAIN, VALVE & GAS LINE MARKER
		WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
		SANITARY SEWER, CLEANOUT & MANHOLE
		STORM SEWER, CLEANOUT & MANHOLE
		COMBINED SEWER & MANHOLE
		SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
		WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
		MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
		UNIDENTIFIED STRUCTURE
816.06	671.21	SPOT ELEVATION
670	671	CONTOUR LINE
		FENCE
		GUARD RAIL
		STREET LIGHT
		SIGN
CONC.		CONCRETE
ASPH.		ASPHALT

WALK | HEAVY DUTY | M.D.O.T. R.O.W.
ASPHALT PATCHING

REFERENCE DRAWINGS

WATER MAIN	NOT RECEIVED AT TIME OF SURVEY
SANITARY SEWER	NOT RECEIVED AT TIME OF SURVEY
STORM SEWER	NOT RECEIVED AT TIME OF SURVEY
COMBINED SEWER	NOT RECEIVED AT TIME OF SURVEY
ELECTRIC	NOT RECEIVED AT TIME OF SURVEY
TELEPHONE	NOT RECEIVED AT TIME OF SURVEY
GAS	NOT RECEIVED AT TIME OF SURVEY
PETROLEUM	NOT RECEIVED AT TIME OF SURVEY
CATV	NOT RECEIVED AT TIME OF SURVEY
FLOOD PLAIN	ZONE X, FEMA FIRM 26125C0537F, DATED 09–29–06

GENERAL UTILITY NOTES:

1. ALL UTILITY LINES, STRUCTURES AND TRENCHES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS AND REQUIREMENTS OF THE CITY OF BIRMINGHAM.
2. NO PHYSICAL CONNECTION TO THE EXISTING WATER MAIN CAN BE MADE UNTIL ALL NEW WATER MAIN PASSES PRESSURE AND BACTERIOLOGICAL TESTS TO THE SATISFACTION OF THE CITY.
3. REFER TO DETAIL SHEET C–7.1 FOR ADDITIONAL UTILITY DETAILS AND NOTES.
4. ALL WATER MAIN AND FITTINGS (3" DIAMETER AND LARGER) SHALL BE DUCTILE IRON, CLASS 54.
5. WATER MAIN SERVICE LEADS SHALL BE TYPE 'K' ANNEALED SEAMLESS COPPER WITH FLARED FITTINGS, UNLESS OTHERWISE NOTED.
6. ALL WATER MAIN SHALL BE PROVIDED WITH 5.5' OF COVER UNLESS OTHERWISE NOTED.
7. ALL FIRE HYDRANTS SHALL BE EJIW #5BR MODEL #250 PER CITY STANDARDS.
8. ALL HYDRANTS TO BE A MINIMUM OF 5' FROM BACK OF CURB, TYP.
9. ALL NECESSARY FITTINGS, THRUST BLOCKS, RESTRAINING GLANDS, BLOW OFFS, ETC. FOR WATER MAIN ARE CONSIDERED INCIDENTAL TO THIS PROJECT. THE CONTRACTOR SHALL INSTALL THESE ITEMS AS NECESSARY AND AS REQUIRED BY THE CITY OF BIRMINGHAM.
10. ALL SANITARY SEWER LEADS SHALL BE POLYVINYL CHLORIDE (PVC) SDR 23.5 PIPE AND FITTINGS. ALL JOINTS TO BE ELASTOMERIC GASKET JOINTS PER ASTM D3212 UNLESS OTHERWISE NOTED.
11. SANITARY LEADS SHALL BE PROVIDED WITH CLEANOUTS EVERY 100 FEET AND AT EVERY BEND AS SHOWN. ALL CLEANOUTS TO BE PROVIDED WITH E.J.I.W. #1565 BOX OR EQUAL.
12. ALL STORM SEWER 12" DIAMETER OR LARGER SHALL BE REINFORCED CONCRETE PIPE (RCP C–76) CLASS IV WITH MODIFIED TONGUE AND GROOVE JOINT WITH RUBBER GASKETS UNLESS SPECIFIED OTHERWISE (ASTM C–443).
13. ALL STORM SEWER LEADS SHALL BE PVC SCHEDULE 40 WITH GLUED JOINTS UNLESS OTHERWISE NOTED.
14. PIPE LENGTHS ARE GIVEN FROM CENTER OF STRUCTURE AND TO END OF FLARED END SECTION UNLESS NOTED OTHERWISE.
15. THE CITY OF BIRMINGHAM STANDARD DETAIL SHEETS ARE INCORPORATED INTO AND MADE A PART OF THESE PLANS. CONTRACTOR TO REFER TO THE CITY OF BIRMINGHAM STANDARD DETAIL SHEETS FOR ALL STRUCTURE, PIPE MATERIALS, BEDDING, TESTING, ETC. NOTES AND DETAILS.

SAND BACKFILL NOTE:
ALL UTILITIES UNDER PAVEMENT OR WITHIN 3' OF THE EDGE OF PAVEMENT (OR WITHIN THE 45° LINE OF INFLUENCE OF PAVEMENT) SHALL HAVE M.D.O.T. CLASS II GRANULAR BACKFILL COMPACTED TO 95% MAX. DRY DENSITY (ASTM D–1557).

NOT FOR CONSTRUCTION

XREF: S:\PROJECTS\2017\2017093\DWG\17093–TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE–17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK–17093.DWG

No.	BY	CHK	DESCRIPTION	DATE
			REVISIONS	

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BIRMINGHAM, MICHIGAN, 48009

PRELIMINARY UTILITY PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DES.	DRN.	CHK.	APP.
PB	PB	SUR.	D.L.C.	P.M.	JPB

S:\PROJECTS\2017–093 HAZEL STREET & WOODWARD AVE – JPB\Dwg\Site Plans\C–6.0UTIL–17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
C-6.0

GENERAL NOTES:

1. ALL CONSTRUCTION AND MATERIALS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE CITY OF BIRMINGHAM AND M.D.O.T.
2. THE CONTRACTOR MUST CONTACT THE ENGINEER SHOULD THEY ENCOUNTER ANY DESIGN ISSUES DURING CONSTRUCTION. IF THE CONTRACTOR MAKES DESIGN MODIFICATIONS WITHOUT THE WRITTEN DIRECTION OF THE DESIGN ENGINEER, THE CONTRACTOR DOES SO AT HIS OWN RISK.
3. ALL NECESSARY PERMITS, TESTING, BONDS AND INSURANCES ETC., SHALL BE PAID FOR BY THE CONTRACTOR. THE OWNER SHALL PAY FOR ALL CITY INSPECTION FEES.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DUST CONTROL DURING THE PERIODS OF CONSTRUCTION. THIS SHALL BE CONSIDERED INCIDENTAL TO THE JOB.
5. THE CONTRACTOR SHALL NOTIFY MISS DIG (811) AND REPRESENTATIVES OF OTHER UTILITIES IN THE VICINITY OF THE WORK A MINIMUM OF 72 HOURS PRIOR TO START OF CONSTRUCTION (EXCLUDING WEEKENDS AND HOLIDAYS) FOR LOCATION AND STAKING OF ON-SITE UTILITY LINES. IF NO NOTIFICATION IS GIVEN AND DAMAGE RESULTS, SAID DAMAGE WILL BE REPAIRED AT SOLE EXPENSE OF THE CONTRACTOR. IF EXISTING UTILITY LINES ARE ENCOUNTERED THAT CONFLICT IN LOCATION WITH NEW CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE DESIGN ENGINEER SO THAT THE CONFLICT MAY BE RESOLVED.
6. CONTRACTOR TO VERIFY THAT THE PLANS AND SPECIFICATIONS ARE THE VERY LATEST PLANS AND SPECIFICATIONS AND FURTHERMORE, VERIFY THAT THESE PLANS AND SPECIFICATIONS HAVE BEEN APPROVED. ALL ITEMS CONSTRUCTED BY THE CONTRACTOR PRIOR TO RECEIVING FINAL APPROVAL, HAVING TO BE ADJUSTED OR RE-DONE, SHALL BE AT THE CONTRACTORS EXPENSE. SHOULD THE CONTRACTOR ENCOUNTER A CONFLICT BETWEEN THESE PLANS AND/OR SPECIFICATIONS, THEY SHALL SEEK CLARIFICATION IN WRITING FROM THE ENGINEER BEFORE COMMENCEMENT OF CONSTRUCTION. FAILURE TO DO SO SHALL BE AT SOLE EXPENSE TO THE CONTRACTOR.
7. ALL PROPERTIES OR FACILITIES IN THE SURROUNDING AREAS, PUBLIC OR PRIVATE, DESTROYED OR OTHERWISE DISTURBED DUE TO CONSTRUCTION, SHALL BE REPLACED AND/OR RESTORED TO THE ORIGINAL CONDITION BY THE CONTRACTOR.
8. MANHOLE, CATCH BASIN, GATE VALVES AND HYDRANT FINISH GRADES MUST BE CLOSELY CHECKED AND APPROVED BY THE ENGINEER BEFORE THE CONTRACTOR'S WORK IS CONSIDERED COMPLETE.
9. CONTRACTOR SHALL REMOVE AND DISPOSE OF OFF-SITE ANY TREES, BRUSH, STUMPS, TRASH OR OTHER UNWANTED DEBRIS AT THE OWNER'S DIRECTION, INCLUDING OLD BUILDING FOUNDATIONS AND FLOORS. BURNING OF TRASH, STUMPS OR OTHER DEBRIS SHALL NOT BE PERMITTED.
10. THE CONTRACTOR SHALL PROVIDE ALL NECESSARY BARRICADING, SIGNAGE, LIGHTS AND TRAFFIC CONTROL DEVICES TO PROTECT THE WORK AND SAFELY MAINTAIN TRAFFIC IN ACCORDANCE WITH LOCAL REQUIREMENTS AND THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (LATEST EDITION). THE DESIGN ENGINEER, OWNER, CITY AND STATE SHALL NOT BE HELD LIABLE FOR ANY CLAIMS RESULTING FROM ACCIDENTS OR DAMAGES CAUSED BY THE CONTRACTOR'S FAILURE TO COMPLY WITH TRAFFIC AND PUBLIC SAFETY REGULATIONS DURING THE CONSTRUCTION PERIOD.
11. ALL EXCAVATIONS SHALL BE SLOPED, SHORED OR BRACED IN ACCORDANCE WITH MI-OSHA REQUIREMENTS. THE CONTRACTOR SHALL PROVIDE AN ADEQUATELY CONSTRUCTED AND BRACED SHORING SYSTEM FOR EMPLOYEES WORKING IN AN EXCAVATION THAT MAY EXPOSE EMPLOYEES TO THE DANGER OF MOVING GROUND.

PAVING NOTES:

1. ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE CITY OF BIRMINGHAM AND M.D.O.T.
2. IN AREAS WHERE NEW PAVEMENTS ARE BEING CONSTRUCTED, THE TOPSOIL AND SOIL CONTAINING ORGANIC MATTER SHALL BE REMOVED PRIOR TO PAVEMENT CONSTRUCTION.
3. ON-SITE FILL CAN BE USED IF THE SPECIFIED COMPACTION REQUIREMENTS CAN BE ACHIEVED. IF ON-SITE SOIL IS USED, IT SHOULD BE CLEAN AND FREE OF FROZEN SOIL, ORGANICS, OR OTHER DELETERIOUS MATERIALS.
4. THE FINAL SUBGRADE/EXISTING AGGREGATE BASE SHOULD BE THOROUGHLY PROOFROLLED USING A FULLY LOADED TANDEM AXLE TRUCK OR FRONT END LOADER UNDER THE OBSERVATION OF A GEOTECHNICAL/PAVEMENT ENGINEER. LOOSE OR YIELDING AREAS THAT CANNOT BE MECHANICALLY STABILIZED SHOULD BE REINFORCED USING GEOGRIDS OR REMOVED AND REPLACED WITH ENGINEERED FILL OR AS DICTATED BY FIELD CONDITIONS.
5. SUBGRADE UNDERCUTTING, INCLUDING BACKFILLING SHALL BE PERFORMED TO REPLACE MATERIALS SUSCEPTIBLE TO FROST HEAVING AND UNSTABLE SOIL CONDITIONS. ANY EXCAVATIONS THAT MAY BE REQUIRED BELOW THE TOPSOIL IN FILL SECTIONS OR BELOW SUBGRADE IN CUT SECTIONS, WILL BE CLASSIFIED AS SUBGRADE UNDERCUTTING.
6. SUBGRADE UNDERCUTTING SHALL BE PERFORMED WHERE NECESSARY AND THE EXCAVATED MATERIAL SHALL BECOME THE PROPERTY OF THE CONTRACTOR. ANY SUBGRADE UNDERCUTTING SHALL BE BACKFILLED WITH SAND OR OTHER SIMILAR APPROVED MATERIAL. BACKFILL SHALL BE COMPACTED TO 95% OF THE MAXIMUM UNIT WEIGHT (PER ASTM D-1557) UNLESS OTHERWISE SPECIFIED.
7. BACKFILL UNDER PAVED AREAS SHALL BE AS SPECIFIED ON DETAILS.
8. ANY SUB-GRADE WATERING REQUIRED TO ACHIEVE REQUIRED DENSITY SHALL BE CONSIDERED INCIDENTAL TO THE JOB.
9. FINAL PAVEMENT ELEVATIONS SHOULD BE SO DESIGNED TO PROVIDE POSITIVE SURFACE DRAINAGE. A MINIMUM SURFACE SLOPE OF 1.0 PERCENT IS RECOMMENDED.
10. CONSTRUCTION TRAFFIC SHOULD BE MINIMIZED ON THE NEW PAVEMENT. IF CONSTRUCTION TRAFFIC IS ANTICIPATED ON THE PAVEMENT STRUCTURE, THE INITIAL LIFT THICKNESS COULD BE INCREASED AND PLACEMENT OF THE FINAL LIFT COULD BE DELAYED UNTIL THE MAJORITY OF THE CONSTRUCTION ACTIVITIES HAVE BEEN COMPLETED. THIS ACTION WILL ALLOW REPAIR OF LOCALIZED FAILURE, IF ANY DOES OCCUR, AS WELL AS REDUCE LOAD DAMAGE ON THE PAVEMENT SYSTEM.

GENERAL UTILITY NOTES:

11. ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS OF THE CITY OF BIRMINGHAM.
12. ALL TRENCHES UNDER OR WITHIN THREE (3) FEET OR THE FORTY-FIVE (45) DEGREE ZONE OF INFLUENCE LINE OF EXISTING AND/OR PROPOSED PAVEMENT, BUILDING PAD OR DRIVE APPROACH SHALL BE BACKFILLED WITH SAND COMPACTED TO AT LEAST NINETY-FIVE (95) PERCENT OF MAXIMUM UNIT WEIGHT (ASTM D-1557). ALL OTHER TRENCHES TO BE COMPACTED TO 90% OR BETTER.
13. WHENEVER EXISTING MANHOLES OR SEWER PIPE ARE TO BE TAPPED, DRILL HOLES 4" CENTER TO CENTER, AROUND PERIPHERY OF OPENING TO CREATE A PLANE OF WEAKNESS JOINT BEFORE BREAKING SECTION OUT.
14. THE LOCATIONS AND DIMENSIONS SHOWN ON THE PLANS FOR EXISTING UTILITIES ARE IN ACCORDANCE WITH AVAILABLE INFORMATION WITHOUT UNCOVERING AND MEASURING. THE DESIGN ENGINEER DOES NOT GUARANTEE THE ACCURACY OF THIS INFORMATION OR THAT ALL EXISTING UNDERGROUND FACILITIES ARE SHOWN. CONTRACTOR TO FIELD VERIFY UTILITIES.
15. THE CONTRACTOR MUST COORDINATE TO ENSURE ALL REQUIRED PIPES, CONDUITS, CABLES AND SLEEVES ARE PROPERLY PLACED FOR THE INSTALLATION OF GAS, ELECTRIC, PHONE, CABLE, IRRIGATION, ETC. IN SUCH A MANNER THAT WILL FACILITATE THEIR PROPER INSTALLATION PRIOR TO THE PLACEMENT OF THE PROPOSED PAVEMENT AND LANDSCAPING.
16. REFER TO CITY OF BIRMINGHAM, STANDARD DETAILS FOR PIPE BEDDING DETAILS.
17. REFER TO CITY OF BIRMINGHAM STANDARD DETAIL SHEETS FOR ADDITIONAL INFORMATION.

STORM SEWER NOTES:

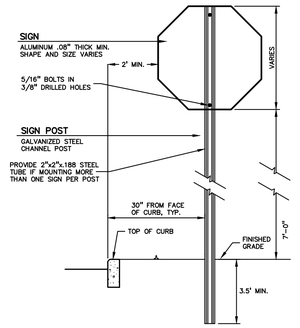
1. ALL STORM SEWER 12" AND LARGER SHALL BE RCP CLASS IV UNLESS OTHERWISE NOTED. REFER TO CITY STANDARD DETAILS SHEETS FOR STANDARD BEDDING DETAILS.
2. JOINTS FOR ALL STORM SEWER 12" AND LARGER SHALL BE MODIFIED TONGUE AND GROOVE JOINT WITH RUBBER GASKETS UNLESS SPECIFIED OTHERWISE (ASTM C-443)
3. ALL STORM SEWER LEADS SHALL BE CONSTRUCTED OF PVC SCHEDULE 40 PIPE AT 1.00% MINIMUM SLOPE WITH GLUED JOINTS, UNLESS OTHERIWSE NOTED.

WATER MAIN NOTES:

1. ALL WATER MAIN SHALL BE INSTALLED WITH A MINIMUM COVER OF 5.5' BELOW FINISH GRADE. WHEN WATER MAINS MUST DIP TO PASS UNDER A STORM SEWER OR SANITARY SEWER, THE SECTIONS WHICH ARE DEEPER THAN NORMAL SHALL BE KEPT TO A MINIMUM LENGTH BY THE USE OF VERTICAL TWENTY TWO AND A HALF (22.5°) DEGREE BENDS, PROPERLY ANCHORED.
2. ALL TEE'S, BENDS, CONNECTIONS, ETC. ARE CONSIDERED INCIDENTAL TO THE JOB.
3. PHYSICAL CONNECTIONS SHALL NOT BE MADE BETWEEN EXISTING AND NEW WATER MAINS UNTIL TESTING IS SATISFACTORILY COMPLETED.
4. MAINTAIN 10' HORIZONTAL CLEARANCE BETWEEN OUTER EDGE OF WATERMAIN AND ANY SANITARY SEWER OR STRUCTURE.
5. ALL WATER MAIN SHALL BE DUCTILE IRON CLASS 54 WITH POLYETHYLENE WRAP.

SANITARY SEWER NOTES:

1. DOWNSPOUTS, WEEP TILE, FOOTING DRAINS OR ANY CONDUIT THAT CARRIES STORM OR GROUND WATER SHALL NOT BE ALLOWED TO DISCHARGE INTO A SANITARY SEWER.
2. ALL SANITARY LEADS SHALL BE CONSTRUCTED OF PVC SDR 23.5 AT 1.00% MINIMUM SLOPE.
3. JOINTS FOR P.V.C. SOLID WALL PIPE SHALL BE ELASTOMERIC (RUBBER GASKET) AS SPECIFIED IN A.S.T.M. DESIGNATION D-3212.



SIGN AND POST INSTALLATION
NOT TO SCALE



NOTE:
EXISTING SIGNS MAY BE SALVAGED AND RE-USED AT THE CONTRACTOR'S OPTION

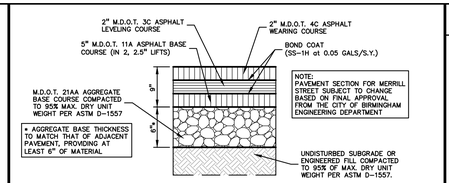
30" x 30" R1-1 STOP SIGN WITH
WHITE ON RED REFLECTORIZED
7'-0" MOUNTING HEIGHT

STOP SIGN DETAIL
NOT TO SCALE

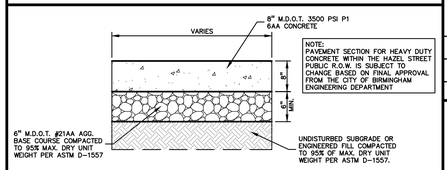


12" x 18"
RED ON WHITE REFLECTORIZED
7'-0" MOUNTING HEIGHT
(LR7-22)

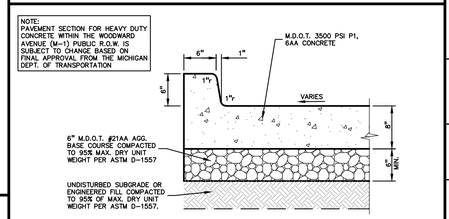
NO PARKING LOADING ZONE SIGN
NOT TO SCALE



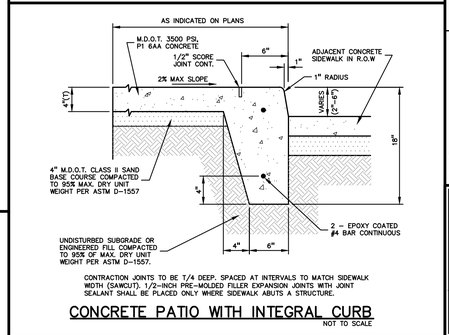
R.O.W. ASPHALT PAVEMENT DETAIL
(FOR OLD WOODWARD & HAZEL ST.) NOT TO SCALE



HEAVY DUTY CONCRETE DETAIL
(FOR USE AT HAZEL STREET ENTRANCE) NOT TO SCALE

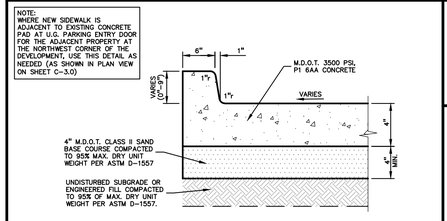


H.D. CONCRETE PAVEMENT WITH INTEGRAL CURB
(FOR USE WITHIN M.D.O.T. R.O.W.) NOT TO SCALE

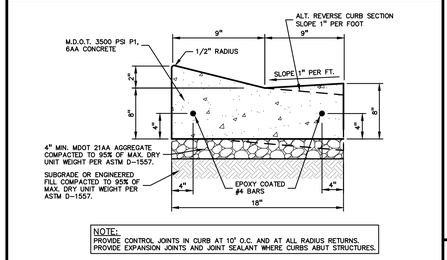


CONTRACTION JOINTS TO BE 1/4 DEEP, SPACED AT INTERVALS TO MATCH SIDEWALK WIDTH (SAWCUT). 1/2-INCH PRE-MOLDED FILLER EXPANSION JOINTS WITH JOINT SEALANT SHALL BE PLACED ONLY WHERE SIDEWALK ABUTS A STRUCTURE.

CONCRETE PATIO WITH INTEGRAL CURB
NOT TO SCALE



INTEGRAL CURB AT SIDEWALK
NOT TO SCALE



NOTE:
PROVIDE CONTROL JOINTS IN CURB AT 10' O.C. AND AT ALL RADIUS RETURNS.
PROVIDE EXPANSION JOINTS AND JOINT SEALANT WHERE CURBS ABUT STRUCTURES.

18"x2" MOUNTABLE CURB AND GUTTER DETAIL
NOT TO SCALE

NOT FOR CONSTRUCTION

XREF: S:\PROJECTS\2017\2017093\DWG\17093-TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE-17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK-17093.DWG

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f: 248.689.1044
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MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

NOTES AND DETAILS
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, 48009

DES.	DN.	PB	SUR	DLC	P.M.	JPB
PB	PB	PB	PB	PB	PB	PB

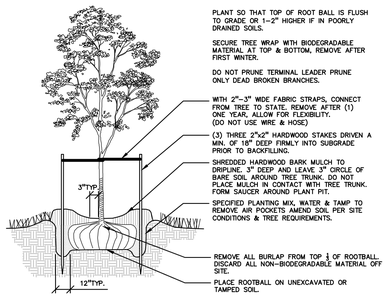
S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE - JPB\Dwg\Site Plans\C-4.1 DETAILS-17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: NONE

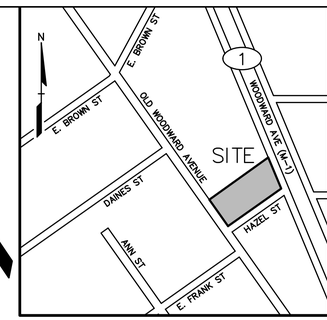
DRAWING NUMBER:
C-8.1



DECIDUOUS TREE PLANTING DETAIL
NOT TO SCALE

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.

TREE PLANT LIST:					
QUANTITY	KEY SYMBOL	COMMON NAME	SCIENTIFIC NAME	SIZE	SPEC
2	PJ3	Jack Select Pear	*Pyrus calleryana 'Jaczam'*	3" Cal.	B&B
1	QS3	Streetspire Oak	*Quercus alba 'UFS-KW1QX' (columnar)*	3" Cal.	B&B



LOCATION MAP – NOT TO SCALE

LANDSCAPE REQUIREMENTS PER CITY OF BIRMINGHAM:

STANDARD LANDSCAPE REQUIREMENTS
PER 4.20 LA-01 B3.-FOR PARKING 20 OR MORE SPACES
PER 4.20 LA-01 F. -FOR PARKING LOTS 7500 SF OR GREATER
5% OF INTERIOR PARKING LOT AREA SHALL BE LANDSCAPED WITH 1 TREE/150 SF OF REQ.D AREA

PROPOSED:
PARKING AREA IS LESS THAN 20 CARS,THEREFORE REQUIREMENTS ABOVE ARE NOT APPLICABLE.

FRONTAGE TREES:
1 TREE PER 40 LF OF FRONTAGE REQUIRED

S. OLD WOODWARD AVENUE: 81 LF/40 = 2 TREES
HAZEL STREET: 212 LF/40 = 5 TREES
WOODWARD AVENUE: 88 LF/40 = 2 TREES

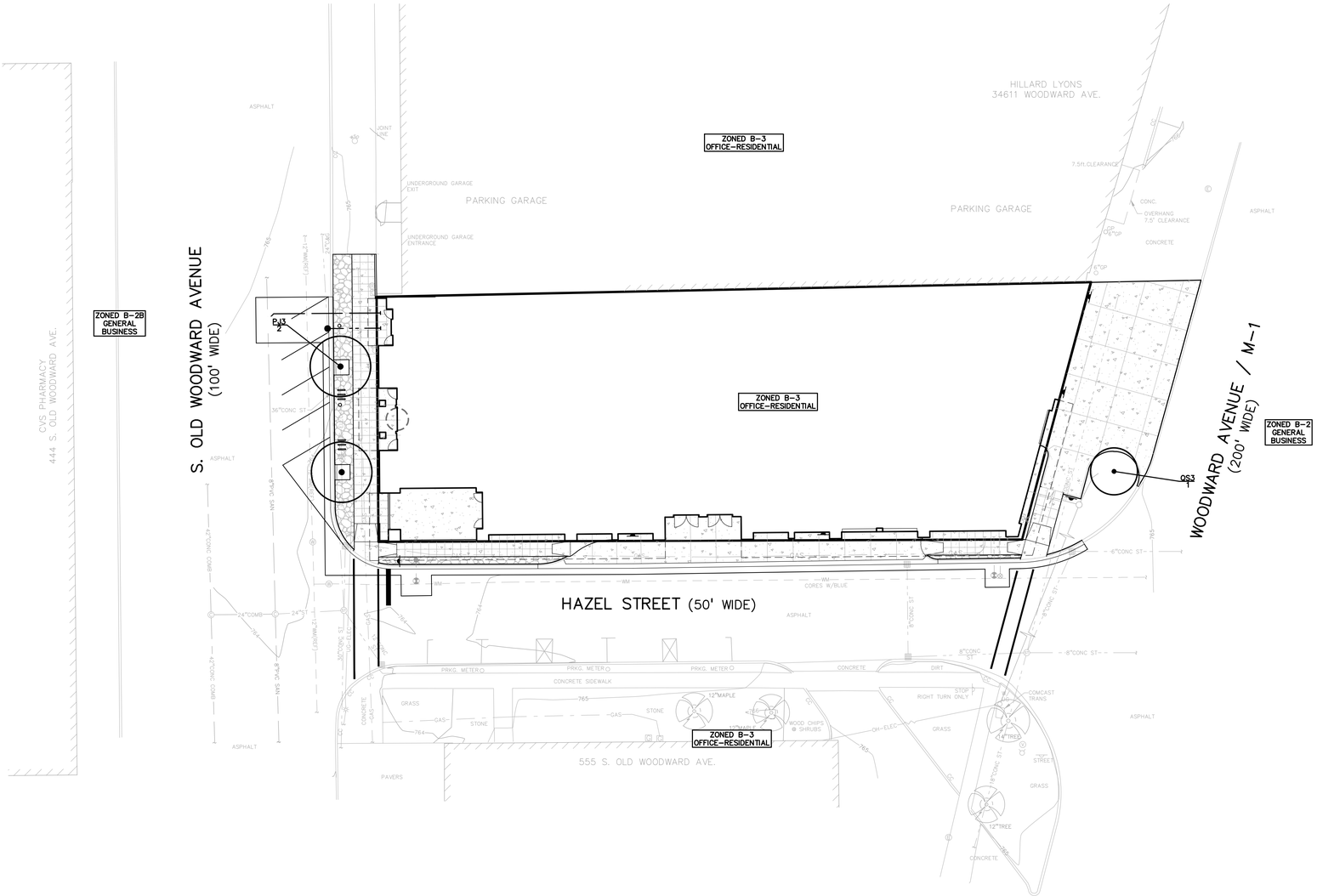
PROPOSED:
S. OLD WOODWARD AVENUE: 2 TREES
HAZEL STREET: 0 TREES DUE TO LACK OF SPACE
WOODWARD AVENUE: 1 TREES DUE TO LACK OF SPACE

KEY

= FRONTAGE TREES

GENERAL PLANTING NOTES:

1. LANDSCAPE CONTRACTOR SHALL VISIT SITE, INSPECT EXISTING SITE CONDITIONS AND REVIEW PROPOSED PLANTING AND RELATED WORK. IN CASE OF DISCREPANCY BETWEEN PLAN AND PLANT LIST, PLAN SHALL GOVERN QUANTITIES. CONTACT LANDSCAPE ARCHITECT WITH ANY CONCERNS.
2. CONTRACTOR SHALL VERIFY LOCATIONS OF ALL ON SITE UTILITIES PRIOR TO BEGINNING CONSTRUCTION ON HIS/HER PHASE OF WORK. ELECTRIC, GAS, TELEPHONE, CABLE TELEVISION MAY BE LOCATED BY CALLING MISS DIG 1-800-482-7171. ANY DAMAGE OR INTERRUPTION OF SERVICES SHALL BE THE RESPONSIBILITY OF CONTRACTOR. CONTRACTOR SHALL COORDINATE ALL RELATED ACTIVITIES WITH OTHER TRADES ON THE JOB AND SHALL REPORT ANY UNACCEPTABLE JOB CONDITIONS TO OWNER'S REPRESENTATIVE PRIOR TO COMMENCING.
3. ALL PLANT MATERIAL TO BE PREMIUM GRADE NURSERY STOCK AND SHALL SATISFY AMERICAN ASSOCIATION OF NURSERYMEN STANDARD FOR NURSERY STOCK. ALL LANDSCAPE MATERIAL SHALL BE NORTHERN GROWN, NO. 1. GRADE.
4. CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL QUANTITIES SHOWN ON LANDSCAPE PLAN PRIOR TO PRICING THE WORK.
5. THE OWNER'S REPRESENTATIVE RESERVES THE RIGHT TO REJECT ANY PLANT MATERIAL NOT MEETING SPECIFICATIONS.
6. ALL SINGLE STEM SHADE TREES TO HAVE STRAIGHT TRUNKS AND SYMMETRICAL CROWNS.
7. ALL SINGLE TRUNK SHADE TREES TO HAVE A CENTRAL LEADER; TREES WITH FORKED OR IRREGULAR TRUNKS WILL NOT BE ACCEPTED.
8. ALL MULTI STEM TREES SHALL BE HEAVILY BRANCHED AND HAVE SYMMETRICAL CROWNS. ONE SIDED TREES OR THOSE WITH THIN OR OPEN CROWNS SHALL NOT BE ACCEPTED.
9. ALL EVERGREEN TREES SHALL BE HEAVILY BRANCHED AND FULL TO THE GROUND, SYMMETRICAL IN SHAPE AND NOT SHEARED FOR THE LAST FIVE GROWING SEASONS.
10. ALL TREES TO HAVE CLAY OR CLAY LOAM BALLS, TREES WITH SAND BALLS WILL BE REJECTED.
11. NO MACHINERY IS TO BE USED WITHIN THE DRIP LINE OF EXISTING TREES; HAND GRADE ALL LAWN AREAS WITHIN THE DRIP LINE OF EXISTING TREES.
12. ALL TREE LOCATIONS SHALL BE STAKED BY LANDSCAPE CONTRACTOR AND ARE SUBJECT TO THE APPROVAL OF THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION OF THE PLANT MATERIAL.
13. IT IS MANDATORY THAT POSITIVE DRAINAGE IS PROVIDED AWAY FROM ALL BUILDINGS.
14. ALL PLANTING BEDS SHALL RECEIVE 3" SHREDDED HARDWOOD BARK MULCH WITH PRE EMERGENT, SEE SPECIFICATIONS. SHREDDED PALETTE AND DYED MULCH WILL NOT BE ACCEPTED.
15. ALL LANDSCAPED AREAS SHALL RECEIVE 3" COMPACTED TOPSOIL.
16. SEE SPECIFICATIONS FOR ADDITIONAL COMMENTS, REQUIREMENTS, PLANTING PROCEDURES AND WARRANTY STANDARDS.
17. FOR NON-LAWN SEED MIX AREAS, AS NOTED ON PLAN, BRUSH MOW ONCE SEASONALLY FOR INVASIVE SPECIES CONTROL.



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XREF: S:\PROJECTS\2017\2017093\DWG\17093-TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE-17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK-17093.DWG

No.	BY	CHK	DESCRIPTION	DATE
			REVISIONS	

STATE OF MICHIGAN
JANET L. EVANS
LANDSCAPE ARCHITECT
No. 1302
REGISTERED LANDSCAPE ARCHITECT

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BIRMINGHAM, MICHIGAN, 48009

PRELIMINARY LANDSCAPE PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, 48009

DES.	DN.	SUR.	P.M.
LW	LW		JTS

\\peafile1\shared\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE - JFB\Dwg\LANDSCAPE\17093-LANDSCAPE PLAN.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
L-1.0

Since 1973
W|W|R|P
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

August 13, 2018

City of Birmingham
City Commission
Planning Board
151 Martin St.
Birmingham, MI 48009
Attention: Ms. Jana Ecker

Re: Request for Re-Hearing on Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the City Commission, Planning Board and Ms. Ecker:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a Request for Re-Hearing of the Property Owner's rezoning Application to rezone the Subject Property from the D-4 Overlay Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

The information set forth in this letter supplements the information set forth in the Application and the undersigned's letter of May 17, 2018. Please recall that the subject Property is a former single-story restaurant building and drive-through bank that sits between two existing D-5 zoned buildings in the City. The Property is in the B-3 Office-Residential Zone and the D-4 Overlay Zone.

Summary

The Application was considered by the Planning Board at its meeting on June 27, 2018 and the Planning Board denied the Application. The Applicant requests that the Planning Board rehear the Application due to consideration of new information not reviewed and to correct certain factual inaccuracies or errors in the record that quite likely prevented the Planning Board from affording this Application a full and fair hearing. Without such a full consideration of all of these new and pertinent factors, the Board will be in the position of recommending denial of a petition without the opportunity of hearing all of the important issues related to the intent, purpose and consequences of such a zone, and without the advantage of putting those issues in perspective when considering a zoning ordinance that is a crucial part of the Birmingham Downtown Overlay District plan.

The D-5 ordinance is one of the most carefully drafted ordinances produced by the City. It is the subject of over two years of study and research. Multiple alternative drafts were proposed by the City Planning Department over the years, and every section has been fully discussed and vetted by the City Commission and the Planning Board. This D-5 ordinance was recognized as being an integral part of the Downtown Birmingham Overlay District by the City. When the ordinance was passed it was heralded as not only solving existing problems but it fit into the fabric of the Overlay District's plan to encourage mixed use buildings in the Downtown Overlay (especially in the South Old Woodward area) so that our city can maintain a vibrant, pedestrian friendly attractive live, work and entertainment district. It was enacted as part of the City's modern plan to create a sustainable, vibrant downtown.

To mischaracterize this ordinance as a mere correction of nonconformity for three buildings is not only erroneous, but does disservice to the hard work done by the City Commission, Planning Board and Administration. Most importantly, such an analysis does not comply with the spirit, intent and vision exhibited in theory and practice in the Downtown Birmingham Overlay District. Said simply, such an interpretation ignores and discredits all of the good faith hard work that went into the creation of not only the Ordinance, but the master plan process for the future of our growing and vibrant downtown.

The Property is *not* within the Parking Assessment District, Contrary to Information Presented in the Board's Packet

This Property is *not* within the parking assessment district. This is a serious flaw in any zoning analysis and must be corrected in order for the public record of the Board's action and recommendation on the Application to properly reflect the realities of this matter. Correcting this fact leads to new information about the Property and the plan for development of the Property that is central to the question of rezoning pursuant to the Zoning Enabling Act. The Board has not had an opportunity to review this new information in the first instance. The new information significantly changes the analysis of rezoning under Article 7.02B2b and 7.02B5 of the Zoning Ordinance.

Contrary to what was assumed by the Planning Board, because the Property is not in the Parking Assessment District (Parking Assessment District Map is enclosed for your reference at **Exhibit A**), it currently has no possibility of providing off-street parking on the premises. In fact, it is currently non-conforming and cannot comply with Article 4.46 of the Zoning Ordinance (Off-Street Parking Spaces Required).

The Planning Department's Memorandum submitted to the Planning Board, dated May 18, 2018, regarding the Community Impact Statement of the Property's redevelopment, erroneously provides, "The subject Property is in the Parking Assessment District." And not only is the subject Property not in the Parking Assessment District, contrary to what was reported to the Planning Board, but we understand that this Property is the only D-4 zoned property in the

City not included in the Parking Assessment District.

Zoning Analysis – Revisited

Whether or not the Property is within the Parking Assessment District makes a significant difference in terms of the analysis under Sec. 7.02(B)(2)(b)(i-iii), Zoning Amendments. Section 7.02(B) requires the Applicant to provide certain explanations about the rezoning to be considered by the Planning Board and the City Commission. Please consider the following new information regarding the effects of the Parking Assessment District on this analysis, which was not reviewed by the Board.

- **Sec. 7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership**

The issue of location outside of the Parking Assessment District provides new information about the necessity of rezoning the Property to preserve the Applicant's enjoyment of rights associated with ownership. Because of the size and narrow corner configuration of the Property, it will not support street-level retail, residential, ***and the required parking for those uses***. The off-street parking requirements for this Property make the engineering and design of a mixed-use D-4 seriously impractical if not impossible. The 2016 Plan promotes mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Not only will the Applicant lack the required area within which to locate all of the mixed uses with a first-floor retail mandate, the Applicant also is absolutely hamstrung by the off-street parking requirements for this site. The maximum use of the underground area will not yield enough parking spaces for a building designed to current zoning. Rezoning the Property to the D-5 Zone will allow more vertical space within which to accommodate a mixed-use building together with the required parking for all permitted uses.

- **Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate**

The Applicant provided information that the current zoning was no longer appropriate at the June 27, 2108 meeting. However, the Board inadvertently coalesced around a discussion and conclusion that the Applicant had not shown that a "D-4 building would not work" at the site (Mr. Koseck and Ms. Whipple-Boyce at hearing time 2:20:15). But this is not the requirement set forth in the ordinance. Further, the Board denied discussion about the development plan for the Property, until after the Applicant obtained rezoning. The Board applied a standard of proof that is not part of the ordinance, but rather more aptly applies to considering whether the rezoning depended on whether the Applicant can use the property as zoned. This is not the standard under the ordinance. Such a standard is often heard in a discussion of whether the property has been inversely condemned by the application of the ordinance. It is unfair to hold the applicant to a

standard that requires proof that the property cannot be used as zoned rather than the "appropriateness" of current zoning. When properly analyzed in the context of the Master Plan, which is the standard of the Birmingham ordinances, it is appropriate for the subject Property to share the same zoning classification as its immediate neighbors. As will be demonstrated in the next paragraph, the Property is incapable of supporting a structure built to current D-4 or B-3 zoning requirements.

The Property consists of two lots -- 469 and 479 -- which front Old Woodward and Woodward Avenue. The lots are in the "retail/red-line district" and under current zoning, each lot is severely restricted.

469 S. Old Woodward

The 469 lot width narrows as it extends east and has approximately 21 feet of Woodward Avenue frontage. The site has an existing 1 story, 2,900 square feet building, formerly used as a restaurant. Should this parcel be re-used, its only use (by necessity) would need to be a 'nonconforming' restaurant, since any change in use without a parking assessment district designation would require it to provide onsite parking for the new intended uses. However, since the restaurant has been closed for more than six months, it would not be eligible to continue as a nonconforming use!

Given the parcel's narrow configuration, the only onsite parking that could be provided to satisfy the ordinance is two (2) spaces off of Woodward Avenue. Only two onsite parking spaces would limit the building footprint to approximately 300 to 600 square feet, depending on the permitted use. There is no practically feasible way to provide greater parking spaces.

479 S. Old Woodward

The 479 parcel has 211 feet of frontage on Hazel and approximately 40 feet of frontage on Old Woodward. This lot expands as it extends east to approximately 66 feet of Woodward Avenue frontage. The lot has an existing one-story, 11,826 square foot enclosure of which a small portion is a finished bank building. The balance is dedicated to a drive-thru lane for a drive-thru bank. Should this parcel be re-used, its only use (by necessity) must be a 'nonconforming' drive-thru bank since any change in use under the Ordinance would trigger onsite parking requirements for the new intended use. Also, drive-thru banks are specifically prohibited in the downtown Birmingham Overly District. See ordinance at Article 3(4)(C)(2)(b): "The following uses are prohibited…Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services."

Given lot 479's configuration, the only onsite parking that would be practically feasible is approximately 13 spaces to be entered off of Woodward Avenue or Hazel. Thirteen onsite parking spaces would limit the building footprint to not more than from 1,950 square feet to

approximately 3,900 square feet, depending on the permitted use. It is possible for a new building to be multiple stories and this may allow for greater area on the ground floor for parking spaces. At most with a 2200 square foot ground floor, 27 parking spaces could be fit to the site. However, the building would be limited to approximately two stories and would not be contextual to the neighborhood. In essence, the lot would be converted partially to a surface parking lot.

Combined Lots

Seemingly, the combination of the two parcels would create greater opportunity to develop a project conforming to the Master Plan and the 2016 Downtown Plan goals for the B3/D4 zoning. Unfortunately, the combined parcel cannot meet the Master Plan and 2016 Downtown Plan goals of mixed uses and first floor retail without both onsite parking and underground parking. The Ordinance mandates main level retail (20' minimum in depth) on Old Woodward. Of course, onsite parking must be provided for any additional uses. This forces redevelopment toward uses with minimal parking requirements, such as hotels, which is what the Applicant proposes. As stated elsewhere in this letter, there are serious difficulties with building an underground garage within the D-4 design parameters that is deeper than two levels. Clearly, the current zoning unfairly forces the owner into an unreasonable position when considering the parcel's potential use and its place in the Downtown Overly District. Consequently, any such garage is limited to approximately 60 parking spaces.

To discuss these difficulties in a vacuum is not the intention of the Zoning Enabling Act. The Act at MCL 125.3203 provides that zoning must be determined according to a plan. Here, the Applicant attempted to explain to the Board that the site plan is impacted by the fact that the Property is not within the Parking Assessment District. Unfortunately, the Board refused to consider any site plan and its conformance to the 2016 Plan, putting such review off until the Applicant obtained rezoning. This placed the Applicant in a double-bind. He could not demonstrate the inappropriateness of current zoning without an analysis of how the Parking Assessment District, or lack thereof, affects the site plan design. Had the Applicant been allowed to at least discuss a site plan design in relation to the rezoning analysis, he would have demonstrated that there is no feasible option to develop the Property within the current zoning classifications outside of the Parking Assessment District. This would have been a valuable discussion of new information that should have at least been heard by the Planning Board.

Mischaracterization that the D-5 Ordinance was Passed Only to Make Three Properties Conforming

Two attorneys from the same law firm, as representatives of the residents of Birmingham Place, each separately addressed the Board during the June 27th hearing. The main thrust of their argument to the Board was that the only reason the D-5 Zone was added to the ordinance was in order to correct the non-conformity of the 555 Building, Merrill Wood and Birmingham

Place. They argued that the new Zone did not apply to any other properties. This assertion ignores the very careful hard work of the City Commission, the Planning Board, and the Administration. This claim is also clearly contrary to the history of the D-5 ordinances and to its plain language.

The history of the Planning Board's consideration of the D-5 Zone was outlined in detail by Ms. Ecker at the June 27th meeting. The Planning Board studied and considered the revisions to the ordinance for the South Old Woodward area for two years prior to adopting the D-5 Zone. In the Planning Department's Memorandum to the Planning Board, dated September 22, 2016, submitted to the Board for its September 28, 2016 study session, Ms. Ecker wrote: "The consensus of the Board was to allow additional height for new buildings in the D-5 zone district to match existing adjacent buildings, if the new building was constructed under the provisions of a SLUP."

During the June 27, 2018 hearing, Chairman Clein expressed (at time 2:10:25 of the hearing video), that during consideration of the new D-5 Zone, the Board considered the entire southern area of Downtown and positively did discuss the subject Property for potential property rezoning. However, the Board did not include the Property initially because no applicant or interested owner had come forward at that time. Mr. Jeffares also reiterated the same point (at time 1:48:30 of the hearing video). Ms. Ecker clearly stated (at video time 2:09:00) that the new D-5 Zone is a zoning classification that is not limited to the three non-conforming buildings (555 Building, Merrill Wood and Birmingham Place).

Despite clear evidence to the contrary, the mischaracterizations assumed in this hearing were espoused by Ms. Whipple-Boyce who indicated that she understood the D-5 Zone only applied to the three properties, and was not available for the Applicant's Property. These misrepresentations had a direct bearing on consideration of the Applicant's explanation of why the rezoning will not be detrimental to surrounding properties.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

Both the adjacent and abutting properties are in the D-5 Zone. These misrepresentations that the D-5 is closed to other buildings led the Board to bypass the Applicant's D-5 site plan design. Instead the Board envisioned the abutment of a D-5 structure next to the Birmingham Place and the impact of such on the Birmingham Place residents. However, it is clear that when these neighboring properties were rezoned to D-5, the Planning Board anticipated that eventually the owner of the subject Property would apply to be rezoned for the reasons stated in this letter. The idea that an ordinance is created for only a few buildings, when the ordinance itself states otherwise, is unsupportable and unreasonable. Rezoning the subject Property to a D-5 Zone will be putting this parcel on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be

developed as an attractive part of the South Old Woodward gateway and, most importantly, bring that area into compliance with the spirit and intent of the 2016 Master Plan. Many of the condominium owners from Birmingham Place who spoke out against the rezoning, as did their attorneys, will lose their views to the south even with a development compliant with current zoning. Please see the attached depiction of the D-4 height overlaid against the Birmingham Place (**Exhibit B**). However, the Board seemed to acknowledge the mootness of the alleged detriment to Birmingham Place given the potential impact of a conforming D-4 structure, and yet at least one member, Ms. Whipple-Boyce, still maintained that the D-5 Zone was intended to correct the non-conformance of only three properties.

The Board Failed to Make Required Findings of Fact under Ordinance Sec. 7.02(B)(5)

In making its decision on June 27th, the Board denied the Application based on Ordinance Sec. 7.02(B)(2)(b) and the required explanations imposed on the Applicant. As a result of its misunderstanding of the analysis required by the Zoning Amendments section of the Ordinance, the Board committed error in basing its decision on Sec. 7.02(B)(2)(b) rather than on the findings of fact required by Sec. 7.02(B)(5). Section 7.02(B)(5)(a-e) lists five findings the Board must make regarding the Application when making its recommendation to the City Commission. Without these findings by the Planning Board, the recommendation to the City Commission does not give the commission sufficient information to understand why this rezoning Application was denied.

- ***Sec. 7.02(B)(5)(a) - The objectives of the City's then current master plan and the City's 2016 Plan.***

The Board made no findings of fact with respect to the objectives of the City's current master plan and the City's 2016 Plan. A simple motion to deny a recommendation of rezoning was made "to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay." (See **Exhibit C**, June 27, 2018 meeting minutes, at p.10).

The Applicant, however, in its May 17, 2018 letter to the Board, submitted significant information relating to the conformance of D-4 to D-5 rezoning of the Property with the goals of the 2016 Master Plan to promote mixed uses and consistency in architectural details and massing to neighboring structures.

- ***Sec. 7.02(B)(5)(b) - Existing uses of the property within the general area of the property in question.***

The Board made no finding of fact with respect to uses of property within the area of the Property, although the Board acknowledged the D-5 zone to the immediate north and south of the Property. And as stated above, the Board coalesced around the conclusion that the Applicant had not "shown a D-4 building could not work."

In his May 17, 2018 supplemental letter to the Board, the Applicant explained the proposed mix-use of the development as retail, hotel and residential, all uses consistent with surrounding properties.

- ***Sec. 7.02(B)(5)(c) - Zoning classification of the property within the general area of the property in question.***

The Board acknowledged that the entire southern area of Birmingham has been studied for change in zoning possibly to a gateway district due to the established heights of the iconic 555 Building and the Birmingham Place Building. The Board acknowledged the recent rezoning of the abutting and adjacent properties to the D-5 Zone and the current zoning classifications of nearby properties. The Board did not make any findings that addressed the fact that the subject Property is not only located in the area of the D-5 zone, but actually is situated between two D-5 zoned parcels. The adjacent and abutting properties are zoned D-5.

- ***Sec. 7.02(B)(5)(d) - The suitability of the property in question to the uses permitted under the existing zoning classification.***

The Board made no findings of fact regarding the suitability of the Property in question to the uses under the existing zoning classification. The Board's discussion centered on the height of the proposed development under the D-5 versus the D-4. There was no finding or discussion of suitability to permitted uses. The Applicant directs the Board's attention here because the Property sits outside of the Parking Assessment District. The Board failed to engage with this fact and its implications on the Applicant's site plan, which has a significant negative impact on the Applicant's ability to use the Property within the uses promoted by the 2016 Plan. Again, without a factual finding, the Board concluded that the Applicant had not proven that a D-4 building would not work at the Property (June 27, 2018 hearing video, Chairman Clein, starting at video time 2:10:25).

- ***Sec. 7.02(B)(5)(e) - The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.***

There was little discussion of the trend of development in the general area, other than the discussion of the historical development of the 555 Building and Birmingham Place prior to their down-zoning in later amendments to the Ordinance. Again, the Board acknowledged the recent changes in zoning to the 555 Building and Birmingham Place, as well as a mention of a zoning variance obtained for the development of the Pearl property. However, the Board did not make a finding of fact regarding the trend of development and its relationship to its decision to deny the Applicant's request.

W|W|R|P

Conclusion

Applicant respectfully requests that this matter be referred back to the Planning Board to allow full consideration of the following:

- Report of the Planning Department concluding that the Petitioner had satisfied all of the ordinance requirements of Sec. 7.02(B(5)(a-e). No contrary findings of fact were made by the Planning Board.

- The Property is the only D-4 property in the City *not* in the Parking Assessment District. The report in the Planning Department's packet to the Planning Board with regard to the CIS mistakenly stated that the Property was in the Parking Assessment District. This new fact is crucial to an accurate analysis of the rezoning request.

- The purpose of the D-5 ordinance was mischaracterized as merely an ordinance to correct only three buildings in the City. The ordinance clearly states otherwise, and there was much discussion during the years of meetings about the area of the City that should be considered for the D-5 zone.

- The standard used for the discussion of rezoning the Property was not a requirement of the zoning ordinance. An applicant must present facts that support the ordinances in Sec. 7.02(B)(5)(a-e) as well as Sec. 7.02(B)(2)(b)(i-iii). None of those ordinance sections requires the Applicant show that the Property cannot be used as zoned, contrary to what was discussed in the public hearing.

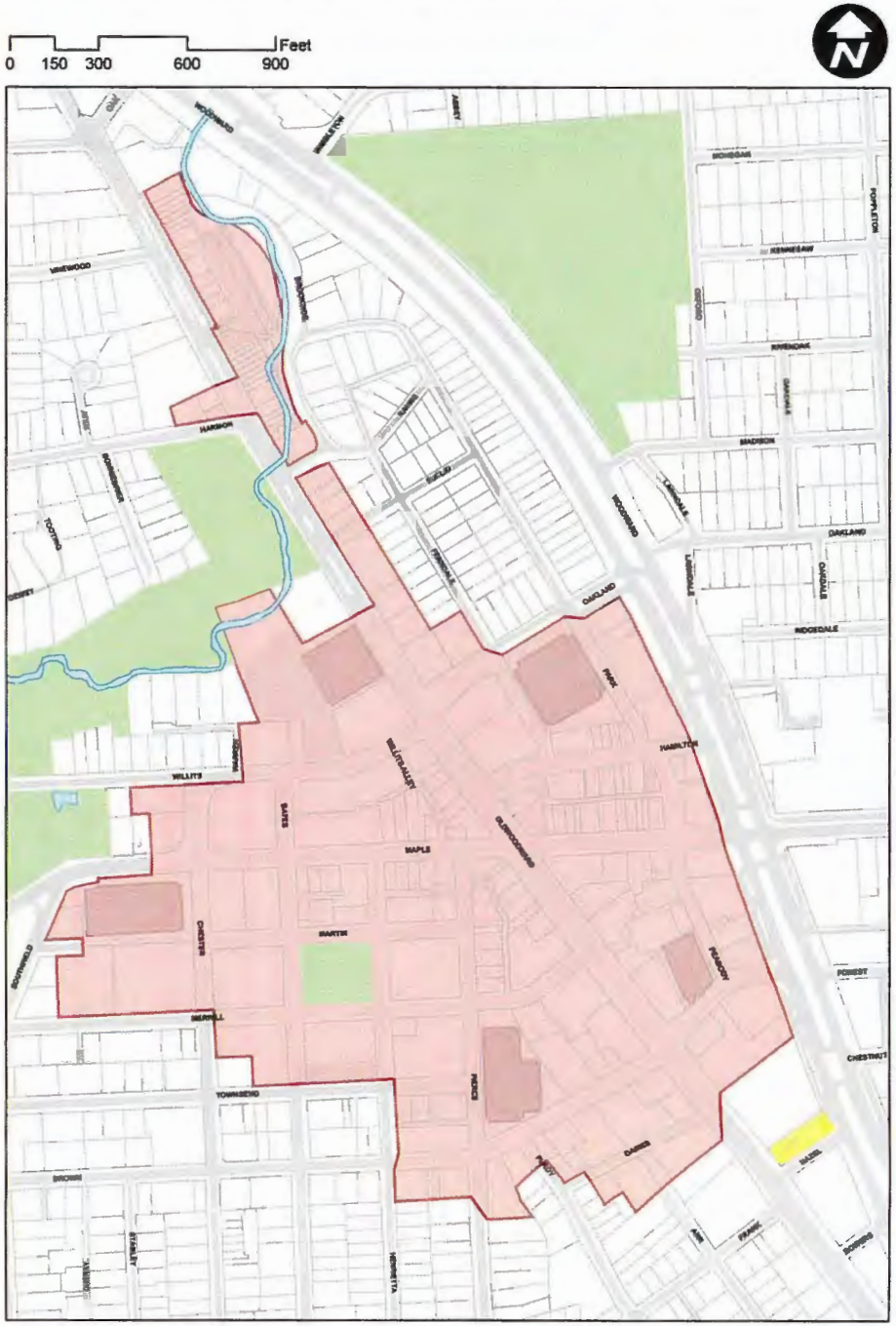
Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

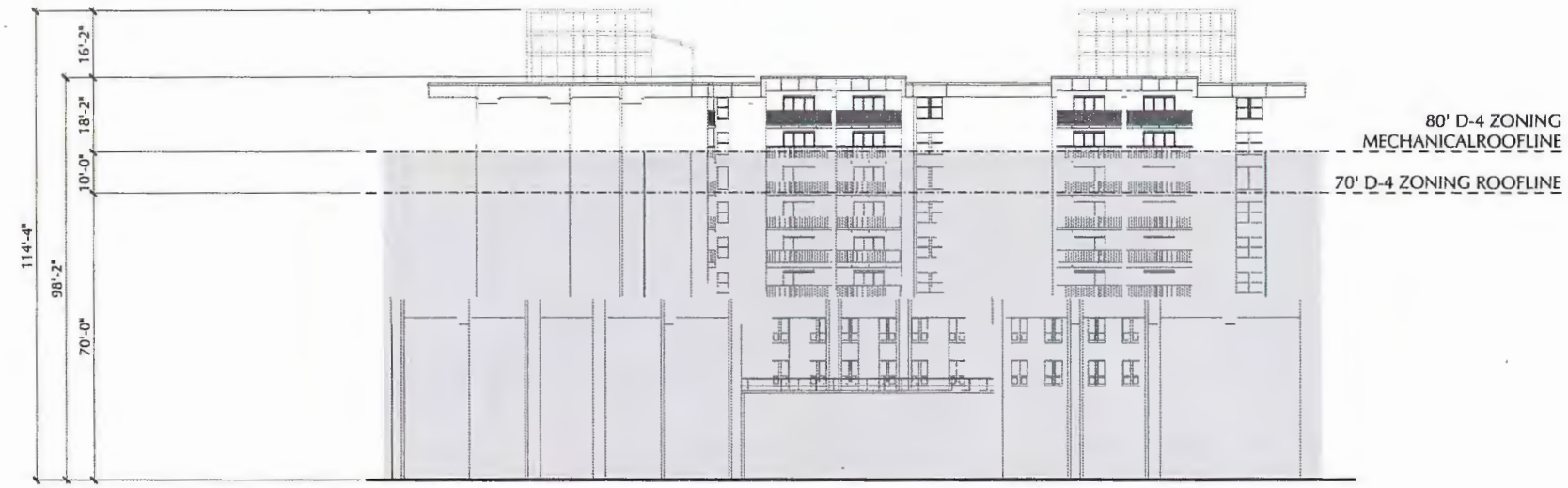
Richard D. Rattner

RDR/gsm

CITY OF BIRMINGHAM
DOWNTOWN PARKING ASSESSMENT DISTRICT



Project M1 - The Hazelton
Birmingham Tower Partners, LLC
469 + 479 South Old Woodward
Birmingham, Michigan 48009





BIRMINGHAM PLACE HEIGHT COMPARISON DIAGRAM

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

tabbies
EXHIBIT
B

EXHIBIT
tabbies
C

CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, JUNE 27, 2018

Item	Page
SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT **REVISED FINAL SITE PLAN AND DESIGN REVIEW**	
1. 260 N. Old Woodward Ave., The Morrie - Application for Special Land Use Permit ("SLUP") Amendment to allow the addition of a dance floor to the previously approved restaurant	2
Motion by Ms. Whipple-Boyce **Seconded by Mr. Koseck to recommend APPROVAL to the City Commission of the Final Site Plan and SLUP Amendment for 260 N. Old Woodward Ave., The Morrie, to add a dance floor to the previously approved plans with the condition that the applicant comply with Chapter 50, Noise, Division 4.**	2
Motion carried, 7-0.	2
2. 2010 Cole St. (currently vacant) - Application for Final Site Plan and Design Review to renovate the existing building and expand the parking lot	3
Motion by Mr. Jeffares **Seconded by Mr. Koseck to recommend APPROVAL of the Final Site Plan and Design Review for 2010 Cole St. subject to the following conditions:** **1. Applicant submit a signed letter from DTE approving the location of all electrical transformers;** **2. Applicant install City standard bike racks, benches and trash receptacles as required in the Rail District;** **3. Applicant submit all signage details to the Planning Division for approval, including specifications on any wall signs, canopy signs or address signs;** **4. Applicant add pedestrian striping on the west side of the building leading to the west entrance of the building.** **5. Applicant move the arborvitae screening to the north with Administrative Approval from the Planning Dept.** **6. Applicant comply with the requests of all City Departments.**	5
Motion carried, 7-0.	
REZONING APPLICATION	5
1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building	

Item	Page
Motion by Mr. Boyle **Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.**	5 11
Motion failed, 2-5.	
Motion by Ms. Whipple-Boyce **Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.**	11 11
Motion carried, 5-2.	
PRELIMINARY SITE PLAN REVIEW AND COMMUNITY IMPACT STUDY ("CIS")	11
1. 469-479 S. Old Woodward Ave. (former Mountain King) - Application for Preliminary Site Plan and CIS to permit new construction of a nine-story mixed-use building	12
Motion by Mr. Boyle **Seconded by Ms. Whipple-Boyce to postpone this application to August 22, 2018 following the consideration of this rezoning application at the City Commission.**	12
Motion carried, 7-0.	12

APPROVED

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JUNE 27, 2018
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on June 27, 2018.Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce; Alternate Board Members Jason Emerine, Nasseem Ramin

Absent: Board Members Daniel Share, Bryan Williams; Student Representatives Madison Dominato, Sam Fogel, Ellie McElroy

Administration: Matthew Baka, Sr. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

06-108-18

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF JUNE 13, 2018

Mr. Jeffares made a correction:
Page 8 - Fourth paragraph from the bottom insert after "of," "office use for business to business."

Motion by Mr. Koseck
Seconded by Mr. Boyle to approve the Minutes of the Regular Planning Board Meeting of June 13, 2018.

Motion carried, 7-0.

VOICE VOTE
Yeas: Koseck, Boyle, Clein, Jeffares, Ramin, Whipple-Boyce
Nays: None
Abstain: Emerine
Absent: Share, Williams

06-109-18

CHAIRPERSON'S COMMENTS (none)

APPROVED

06-110-18

APPROVAL OF THE AGENDA (no change)

06-111-18

SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT
REVISED FINAL SITE PLAN AND DESIGN REVIEW

1. 260 N. Old Woodward Ave., The Morrie - Application for Special Land Use Permit ("SLUP") Amendment to allow the addition of a dance floor to the previously approved restaurant

Mr., Baka recalled that this application has already been approved by the Planning Board and the applicant is coming back for one change. On May 14th, 2018, the applicant went before the City Commission and indicated that they were also proposing to move tables to clear a dance area when needed. The City Commission determined that a dancing area was not in the original scope or shown on the plans; therefore it must be re-reviewed by the Planning Board.

The applicant has submitted a SLUP Amendment application with associated site plans depicting the location and size of a dancing area proposed in their dining room. The dance floor measures 10 ft. by 38 ft. and is located in front of the raised booth seating area.

At 7:32 p.m., there were no comments from the audience on the proposal.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to recommend APPROVAL to the City Commission of the Final Site Plan and SLUP Amendment for 260 N. Old Woodward Ave., The Morrie, to add a dance floor to the previously approved plans with the condition that the applicant comply with Chapter 50, Noise, Division 4.

Motion carried, 7-0.

There were no comments from the public on the motion at 7:35 p.m.

VOICE VOTE
Yeas: Whipple-Boyce, Koseck, Boyle, Clein. Emerine, Jeffares, Ramin
Nays: None
Absent: Share, Williams

06-112-18

2. 2010 Cole St. (currently vacant) - Application for Final Site Plan and Design Review to renovate the existing building and expand the parking lot

Mr. Baka advised the subject property, located in the Rail District, is a 0.77 acre site currently containing a single-story commercial building and a parking lot. The applicant is proposing to renovate the existing building to allow for three tenant spaces consisting of retail, fitness and potentially storage uses. The existing parking lot is proposed to be expanded, while the landscaping and streetscape will also be improved. The building is proposed to receive new

paint, awnings, lighting and architectural detail. Also, the applicant would like to screen the loading space with arborvitae.

The applicant engaged in a pre-application discussion with the Planning Board on May 23, 2018. At that time the applicant described the plan to beautify and fill the current building to bring the site back into function while the property owners work on a plan to redevelop the entire property in the future. Planning Board members asked the owners to provide active first-floor uses to activate the street, as well as add glazing and architectural details to break the monotony of the existing blank walls.

The submitted site plan shows a new electrical transformer adjacent to the dumpster enclosure at the southeast corner of the property that is screened with arborvitae. The applicant has noted that DTE has been contacted regarding the transformer location and that DTE approval will be acquired in regards to the location. The applicant must still submit a signed letter from DTE approving the location of all electrical transformers.

The applicant is proposing to expand and rework the existing parking lot to a 38 space lot containing both additional landscaping and two ADA parking spaces. The parking requirement for the three tenants is 12 spaces.

Design Review
The applicant is proposing new renovations that include new paint, awnings, lighting and architectural details including new windows and doors along the north and west elevations. Eight new door/window installations with dark bronze metal frames are proposed along the north and west elevations. Four open-ended canvas awnings are also proposed over the new window/door installations. The doors, windows and awnings help to break up the vast blank space that currently exists on the walls.

Article 4, section 4.90 of the Zoning Ordinance requires buildings in the MX Zoning District to provide a minimum of 70% glazing on any ground floor façade that faces a street or parking area.

Signage: The applicant has indicated that the northern portion of the wall on the west elevation will be a potential location for tenant signage. The applicant is also proposing to place their address sign on the parking lot screen wall in front of the building. The applicant must submit all signage details to the Planning Dept. for approval, including specifications on any wall signs, canopy signs or address signs. The applicant has now submitted material samples of each newly proposed material (including new glass, awning fabric, patio pavers) to complete the Design Review.

In response to Mr. Koseck, Ms. Ecker explained the City is in the process of figuring out the street lighting in the Rail District. DTE has installed three different types of lights with three different types of globes, along with different fixtures throughout the Rail District and none of them are correct since the first installation at Armstrong White on E. Lincoln. Basically the negotiations with DTE to correct the problem are down to cost right now.

Mr. Boyle noticed that the plans do not show a safe pedestrian zone through the parking lot. Further, Mr. Boyle noted on the west facade of the building there are grey awnings with small windows underneath; but no windows on the large section that is adjacent to the patio.

Mr. Koseck pointed out that the plans show the driveway bisects the sidewalk. Mr. Baka replied that the Engineering Dept. has stated that the sidewalk must maintain its current configuration by placing it through the driveway approach.

Mr. Baka agreed with Mr. Emerine that clarification is needed because the applicant is required to have six trees in the parking lot and ten are shown in the site plan.

Mr. Jason Krieger, Krieger Klatt Architects, was present with Mr. Tom Lasky and Mr. Andy Petcoff from the ownership, along with Mr. Brian Kowalski, the project architect. Mr. Krieger said the site plan is correct regarding the trees. The windows on the west elevation are up high because a fitness center is proposed and they tried to maintain as much wall space as possible for them. They are trying to add more fenestrations and glass. Windows have been added on the southwest corner of the building. On the north elevation the windows have been lowered down to the ground to create more of a storefront feel.

Their proposal is to basically clean up the building, paint it, improve it, and then occupy it. They will comply with City standards for lights, trash cans, and benches. With regard to the parking lot, they hope to keep as much as they can and add on to it in compliance with City engineering standards. Personally, he would rather see more screening closer to Cole St., behind the retaining wall, and not right at the loading area where it might get hit. Then, just leave the loading zone as a striped area. Mr. Koseck agreed, because typically there is no truck parked in the loading space. He suggested that Mr. Krieger could work with staff to shift the arborvitae to the north where it wouldn't be hit. Additionally, Mr. Koseck thought it would be nice to have some planter boxes in the patio area just to soften it. Mr. Krieger agreed that the patio should be broken up a little with some greenery.

Mr. Krieger explained that tenant to the north is a cabinet shop and the south tenant space is vacant.

Responding to Mr. Boyle, Mr. Krieger said did not see a problem with putting in a pedestrian safety path through the parking lot to the entrance of the center. However they might lose one parking space.

No one from the public cared to comment on the proposal at 8:01 p.m.

Motion by Mr. Jeffares
Seconded by Mr. Koseck to recommend APPROVAL of the Final Site Plan and Design Review for 2010 Cole St. subject to the following conditions:
1. Applicant submit a signed letter from DTE approving the location of all electrical transformers;
2. Applicant install City standard bike racks, benches and trash receptacles as required in the Rail District;
3. Applicant submit all signage details to the Planning Division for approval, including specifications on any wall signs, canopy signs or address signs;
4. Applicant add pedestrian striping on the west side of the building leading to the west entrance of the building.
5. Applicant move the arborvitae screening to the north with Administrative Approval from the Planning Dept.
6. Applicant comply with the requests of all City Departments.

At 8:05 p.m. there were no comments on the motion from members of the audience.

Motion carried, 7-0.

VOICE VOTE
Yeas: Jeffares, Koseck, Boyle, Emerine, Klein, Ramin, Whipple-Boyce
Nays: None
Absent: Share, Williams

06-113-18

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein said that judging from all of the letters that have been received related to this project, it is very clear that the residents of Birmingham Place oppose the rezoning. All of the letters will be added to the record.

Ms. Ecker explained the applicant for 469-479 S. Old Woodward is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed-use building with three levels of underground parking in between the Birmingham Place and the 555 Building. The maximum height allowed in the D-4 Zoning District is 4-5 stories. In the D-5 Zoning District, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 Zone. The 0.423 acre subject site spans Hazel St. from S. Old Woodward Ave. to Woodward Ave. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Restaurant and Talmer Bank). The applicant is proposing to demolish the present buildings for the construction of a ten-story mixed-use building.

The applicant has noted that when the zoning was changed down to one or two floors in the 1970s, the 555 Building and Birmingham Place were designated to a legal non-conforming use because their height was not allowable. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay that raised the height up to a maximum of five stories Downtown. In 2017, a new D-5 Zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D-5 currently.

Ms. Ecker went through the three items that the applicant must demonstrate for the rezoning of a property and the applicant's reasons as to how they feel they have met them.

Ms. Ecker then went through the planning analysis based on the evidence provided by the application. Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents, current zoning and recent development trends in the area, the Planning Dept. finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay District for the purpose of building as high, but no higher than, the building to the north, Birmingham Place.

Answering Mr. Boyle, Ms. Ecker said the Master Plan which dates back to 1980 did not give specific height requirements like the 2016 Plan recommended. Under the 2016 Plan the recommended height in the Downtown was a maximum of five stories. The 555 Building submitted an application to the City and to the Planning Board to consider creating a new category that would make them a legal and conforming building that would allow them to receive financing to renovate the building and bring it up to current standards in the marketplace. The D-5 Ordinance was crafted by the Planning Board as a result of that application and included the other two buildings in a similar situation.

Mr. Rick Rattner, Attorney, Williams, Williams, Rattner & Plunkett, PC, emphasized that in the D-5 going above five stories subjects the property to a Special Land Use Permit ("SLUP") which is different than just building as of right. Secondly, in 2016 Andres Duany commented favorably on the 555 Building and on Birmingham Place.

He presented a PowerPoint that went to four issues that have to do with rezoning:

- Rezoning Amendment - Sec. 7.02 (B) (2) (b) (i)-(iii) requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission.
- Sec. 7.02 (B) (2) (b) (i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership. Without the ability to go higher with a new building than the zoning allows, the applicant will not have the required area within which to locate a mix of uses that would commonly be associated with the design of a modern, mixed-use building.
- Sec. 7.02 (B) (2) (b) (ii) - An explanation of Why the Existing Zoning Classification is No Longer Appropriate. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. Given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-4 Zone is no longer appropriate.
- Sec. 7.02 (B) (2) (b) (iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the S, Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Plan.

Mr. Rattner concluded by asking the Planning Board to favorably recommend that they are able to use their property and preserve their rights of usage, fit into the streetscape, fit the Master Plan and fit all elements of this Ordinance because they meet every single one of them.

At 8:45 p.m. the Chairman opened the meeting to public comments.

Ms. Susan Friedlander, 1564 Henrietta, attorney for Birmingham Place Residential Condominium Association, made the following points:

- The City created the D-5 District for a singular and special purpose which was to bring several buildings into conforming status.
- The proposed building is not sandwiched between the 10-story Birmingham Place and the 15-story 555 Building - there is Hazel, a 50 ft. right-of-way that provides a proper transition between buildings. There is not even a height difference, because the building that is immediately adjacent to Hazel is 77 ft. tall. So if this proposed building went up to 80 ft, which it is allowed to do under D-4 it would be very consistent with the building right across the street. There would be a perfect transition. It would only be 34 ft. shorter than Birmingham Place.

- If the proposed building is zoned D-5, what about the building on the north, the Powerhouse Building, Jax Car Wash or the Varsity Building. Why shouldn't they get the D-5 Zoning as well?
- There is a process that must be followed so that property is not rezoned on an ad hoc and an arbitrary basis.

Mr. Tom Lasky, 2006 Cole, spoke in support of the rezoning request. This is the face of new Birmingham and will be done responsibly.

Mr. Mike Humphrey, who lives in Birmingham Place, said there is nothing in the record that shows that the D-5 Overlay was created to do anything other than to make the three tall existing buildings legal and conforming. The developer bought the property knowing how it was zoned; but now they say that they cannot develop a four or five-story mixed-use building there. If the City is going to change the Master Plan, go for it, but do it with professional study and community involvement; not a piece at a time.

Mr. David Nykian, 40700 Woodward Ave., said he represents some of the owners in the Birmingham Place Condominium. He believes the facts lead to the conclusion that the D-4 Zoning is actually clearly appropriate for this property:

- The D-5 District was created just to address the non-conformities of three buildings. So the City has already made the decision in the past as to what zoning is appropriate for this site.
- Nothing about the property has changed since then that should cause the City to alter its conclusion about what the appropriate height is.
- The height of the 555 Building on the north is 77 ft. So if the subject site were developed today under D-4, it could be taller than the 555 Building.
- Breaking up the building heights would provide more of an architectural character to the City than one monolithic height across the entire street.
- There is nothing under the D-4 Zoning classification that that would prohibit the developer from developing a mixed-use development.
- The only things that would change by amending the classification from D-4 to D-5 are the height of the building and the profit margin of the developer.

Mr. Mickey Schwartz, 411 Old Woodward Ave., stated that infill has nothing to do with height equality. So he thinks the developer has to have a better excuse for building a 10-story building. The small town feeling is what is unique about Birmingham. Deny the rezoning request.

Dr. Cynthia Neil, a resident of Birmingham Place, said she was deeply offended by the petitioner's statement that the development would not adversely affect the residents. From her balcony she would be able to bounce a tennis ball against the wall of the proposed building.

Mr. Chris Jonna, C&P Real Estate Group, spoke in support of the project. The applicant builds nothing but first-class buildings. Increasing the zoning classification will be a tremendous benefit to Downtown Birmingham by bringing in more people to the area.

Mr. Lewis Rockind, a resident of Birmingham Place, emphasized that the zoning has to be contemplated in the context of what is intended to be developed. As a resident of Birmingham Place he is looking at the detrimental effect on the surrounding properties of increased vehicle and pedestrian traffic.

Mr. Daniel Jacob, 261 E. Maple Rd., said he is 100% in support of the project. The intended use of the property is much needed and would be a huge benefit to the City. Birmingham is changing and this project moves with the times.

Mr. Joseph Shalala, 255 S. Old Woodward Ave., spoke in support of the proposed building. It will support all of the small businesses by bringing in people such as office, residential, and hotel users. All of those things combined will help Birmingham.

Ms. Tony Schwartz, 411 Old Woodward Ave., maintained that it is the height of the building that is in question here, not its quality. Secondly, traffic is a big problem on that corner. There is a new hotel that is starting to be built on the corner of Brown and Old Woodward which will add more traffic to that corner. She understands there may be a pool deck on the top floor of the proposed building - who is going to control music and noise and parties. She lives right across on the tenth floor.

Chairman Clein advised that concerns related to traffic and noise are not part of a rezoning but would be handled under a Site Plan Review, and should this be moved forward to a rezoning the applicant would be required to obtain a Special Land Use Permit ("SLUP") which allows the City Commission to put additional restriction on the uses of the building.

Mr. Duraid Markus, one of the partners in the ownership entity for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank), said if this happened in New York, Chicago or LA there would not be a single skyscraper built. He noted that everybody who opposes this is only one contingent, and it has not been the entire City that comes in to support or not support.

It makes sense to build where the project is harmonious and fits in with the rezoning proposal. For those reasons he asked the board to consider all of the comments and make the decision to allow them to rezone the parcel.

Ms. Wilma Thelman who lives in Birmingham Place said none of them have heard why a conforming building cannot be built on that site.

Mr. Jeffares noted that things change and now Birmingham holds 21 thousand people. Secondly he recalled that the Board did discuss rezoning the subject property; however there was nobody from there to make their case so the Board just rezoned the existing buildings.

Mr. Koseck advised that D-4 Zoning allows a building to be built to 80 ft. So it will already block six floors of Birmingham Place. He did not believe the applicant's contention that they cannot make a five-story building work, He thought that a five-story could be a successful mixed-use building. In some ways it might even fit the form and the transition better and the upper three floors of Birmingham Place will not be affected.

Ms. Whipple-Boyce said when the Board established the D-5 Zoning Classification she felt it applied to three specific buildings. In her mind it had to do with bringing non-conforming buildings into conformity so that they could qualify for financing and improve their properties. Thinking about some of the other properties that could be affected down the road that are adjacent to other properties like this is an unanswered question for her. It causes her to hesitate tonight on recommending the rezoning to D-5.

Mr. Boyle made the following points:

- The Master Plan is meant to have the ability to adapt to changing circumstances. Similarly, zoning is powerful when it is able to adapt. So, change is normal; it is not frequent, but it is usual.
- He was positive about the potential impact on the City as a whole of rezoning this property.
- The potential impact of rezoning on the contiguous properties will affect a number of people. The Board is here to determine who has the weight in this particular discussion, the entire City or the adjacent neighbors.
- There are checks and balances built into the system. If the rezoning were to be approved, the community would have two elements to be brought to the table. One would be the Site Plan Review process, and secondly the height would kick in the SLUP where the Planning Board can recommend controlling modifications to the City Commission who will hold a public hearing on the proposal.
- At the end of the day he is of a mind to approve the rezoning because overall he sees the benefits for the City and for this particular area. However, he does not underestimate the cost for the immediate residents in the contiguous building.

Ms. Ramin stated one of the burdens the applicant must carry to justify rezoning is an explanation of why the existing D-4 classification is no longer appropriate.

Mr. Duraid Markus said they cannot get in a hotel concept on this little parcel so they have to go vertical by a couple of floors. He has to be honest, it is the economics. He cannot get a development off the ground. They are not in the Parking Assessment District and are therefore limited by the required parking for an office building or a restaurant.

Answering Mr. Emerine, Ms. Ecker explained that anyone on any site can apply for a rezoning to any of the existing zoning classifications.

Chairman Clein commented that rezoning is the most difficult thing the Board has to do - balancing the rights of adjacent land owners. To Ms. Ramin's point, the burden has not been met as to why a five-story building will not work. The answer that was given was economics, which has no place in a rezoning discussion. Therefore, he is not supportive of the rezoning.

Mr. Jeffares said he cannot come up with a reason for the height of the proposed building to be lower.

Ms. Whipple-Boyce indicated she has no problem with the subject building being built as high as Birmingham Place. But she doesn't think the applicant has made the case that they deserve to be rezoned and that the current zoning classification is no longer appropriate. She was appalled to hear the applicant say they bought this property and the only thing that will work there is a ten-story hotel and it should be rezoned because that is what they want to build. Therefore she doesn't think the applicant has proved their case.

Mr. Rattner noted that maybe the best thing for them to do is to ask for postponement so they can come back with a different plan. Chairman Clein stated that for him postponing would just be kicking the can down to another meeting. Mr. Boyle said he is in favor of not accepting that proposal and actually making a motion this evening.

Motion by Mr. Boyle
Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board

recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

There were no comments from the public on the motion at 10 p.m.

Motion failed, 2-5.

ROLLCALL VOTE
Yeas: Boyle, Jeffares
Nays: Clein, Koseck, Emerine, Ramin, Whipple-Boyce
Absent: Share, Williams

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

Motion carried, 5-2.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Koseck, Clein, Emerine, Ramin
Nays: Jeffares, Whipple-Boyce
Absent: Share, Williams

06-114-18

PRELIMINARY SITE PLAN REVIEW AND COMMUNITY IMPACT STUDY ("CIS")

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Application for Preliminary Site Plan and CIS to permit new construction of a nine-story mixed-use building

Motion by Mr. Boyle
Seconded by Ms. Whipple-Boyce to postpone this application to August 22, 2018 following the consideration of this rezoning application at the City Commission.

There was no discussion from the public on the motion at 10:02 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Whipple-Boyce, Clein, Emerine, Jeffares, Koseck, Ramin
Nays: None
Absent: Share, Williams

06-115-18

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approval Requests

- 2211 Cole, Cole II - Approval for screening of two rooftop units.
- East of Woodward Ave. and north of Bennaville, parking lot - Renovate existing parking lot to increase number of parking spots, install new screen wall per code.
- Mr. Baka brought forward a request from a resident of Crosswinds to add to their outdoor deck motorized screening that rolls up and down. It is fastened to the building and would need a permit. The neighbor put one up too. Ms. Ecker said it is a design change from what was approved for the deck and there was not a Building Permit issued. Consensus was they should come to the Planning Board for approval and that Board members should visit the site.

c. Draft Agenda for the next Regular Planning Board Meeting of July 11, 2018

- Bistro Regulations;
- Ongoing discussion of first-floor retail;
- Discussion on parking.

d. Other Business

- Ms. Ecker noted the SLUP request for 191 N. Chester was approved at the City Commission to allow the office use in the old Church of Christ Scientist Bldg.
- The Hazel, Ravines, Downtown SLUP was also approved.
- Also, the Commission established the Master Plan Selection Committee.

06-116-18

PLANNING DIVISION ACTION ITEMS

Staff report on previous requests (none)

Additional items from tonight's meeting (none)

06-117-18

ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 10:10 p.m.

Jana L. Ecker
Planning Director

APPROVED

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

Existing Site Development







Use and Parking Data

Current Use		
-	469 2,516 sf Restaurant / 75 =	39 Spaces
-	479 1,873 sf Bank / 150 =	16 Spaces
	Total Required	55 Spaces

1. Cannot redevelop either site with the same use or building size and provide adequate parking

2. Cannot redevelop either site with a single-story building (required to meet the ‘Downtown Birmingham Overlay Ordinance’).

3. Combined sites have 3 separate frontages that are required to meet the ‘Downtown Birmingham Overlay Ordinance’.



CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

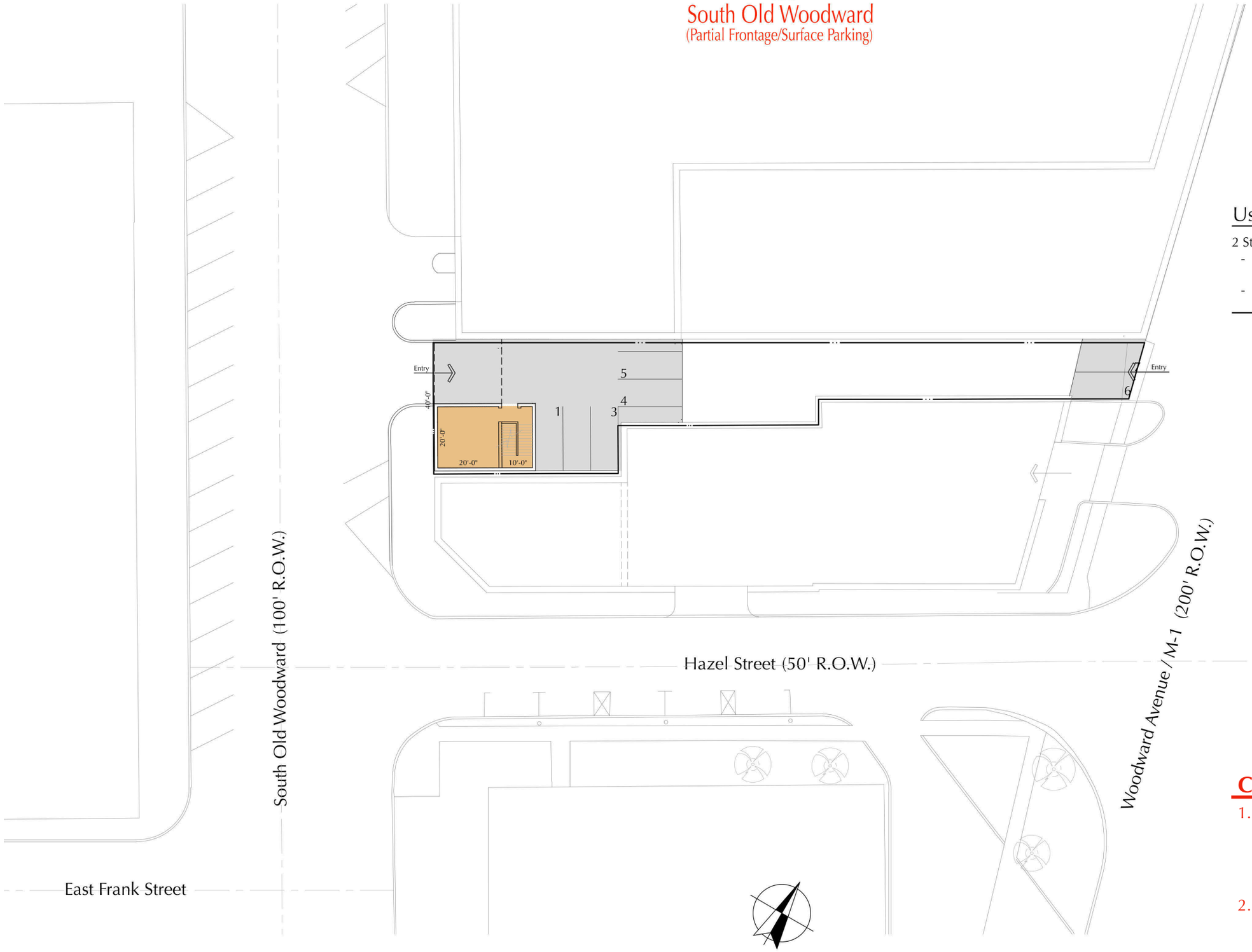
A

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469
South Old Woodward
(Partial Frontage/Surface Parking)



Use and Parking Data

2 Story Building

-	600 sf Retail (1st) / 300 =	2 Spaces
-	800 sf Office (2nd) / 150 =	5.3 Spaces
	Total Required	7.3 Spaces
	Total Provided	7 Spaces

Comments

1. Provides 1,400 square feet of 2 story mixed-use building with surface parking.
2. Leaves 5,750 sf of undeveloped property

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

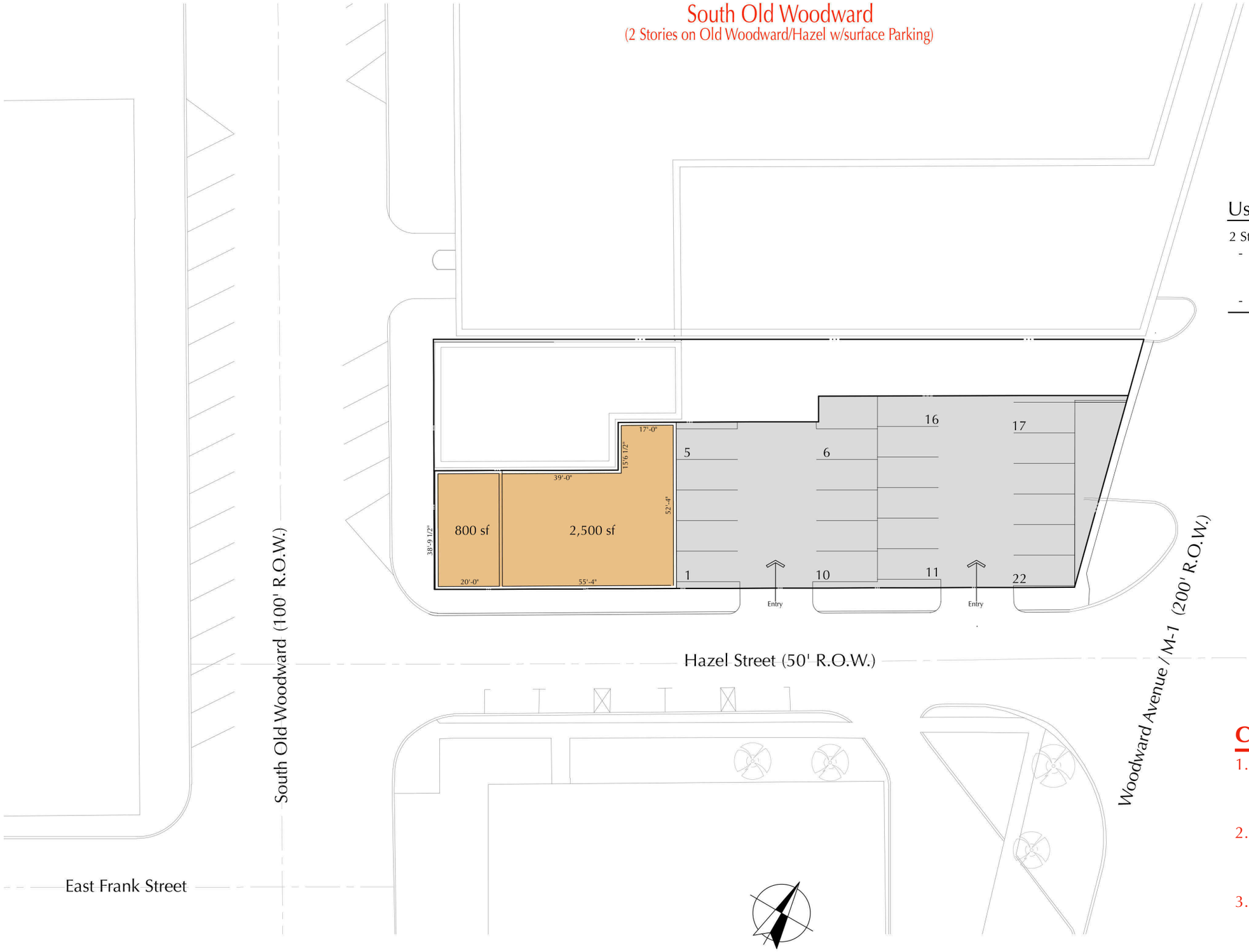
B

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

479
South Old Woodward
(2 Stories on Old Woodward/Hazel w/surface Parking)



Use and Parking Data

2 Story Building

- 800 sf x 2= 1,600 sf
  Retail (1st & 2nd) / 300 = 5.3 Spaces
- 2,500 sf Office (1st) / 150 = 16.7 Spaces

Total Required	22 Spaces
Total Provided	22 Spaces

Comments

1. Provides 2 story frontage (retail) on South Old Woodward
2. Provides 1 story office partially on Hazel
3. Surface parking occupies all of Woodward Avenue and most of Hazel

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

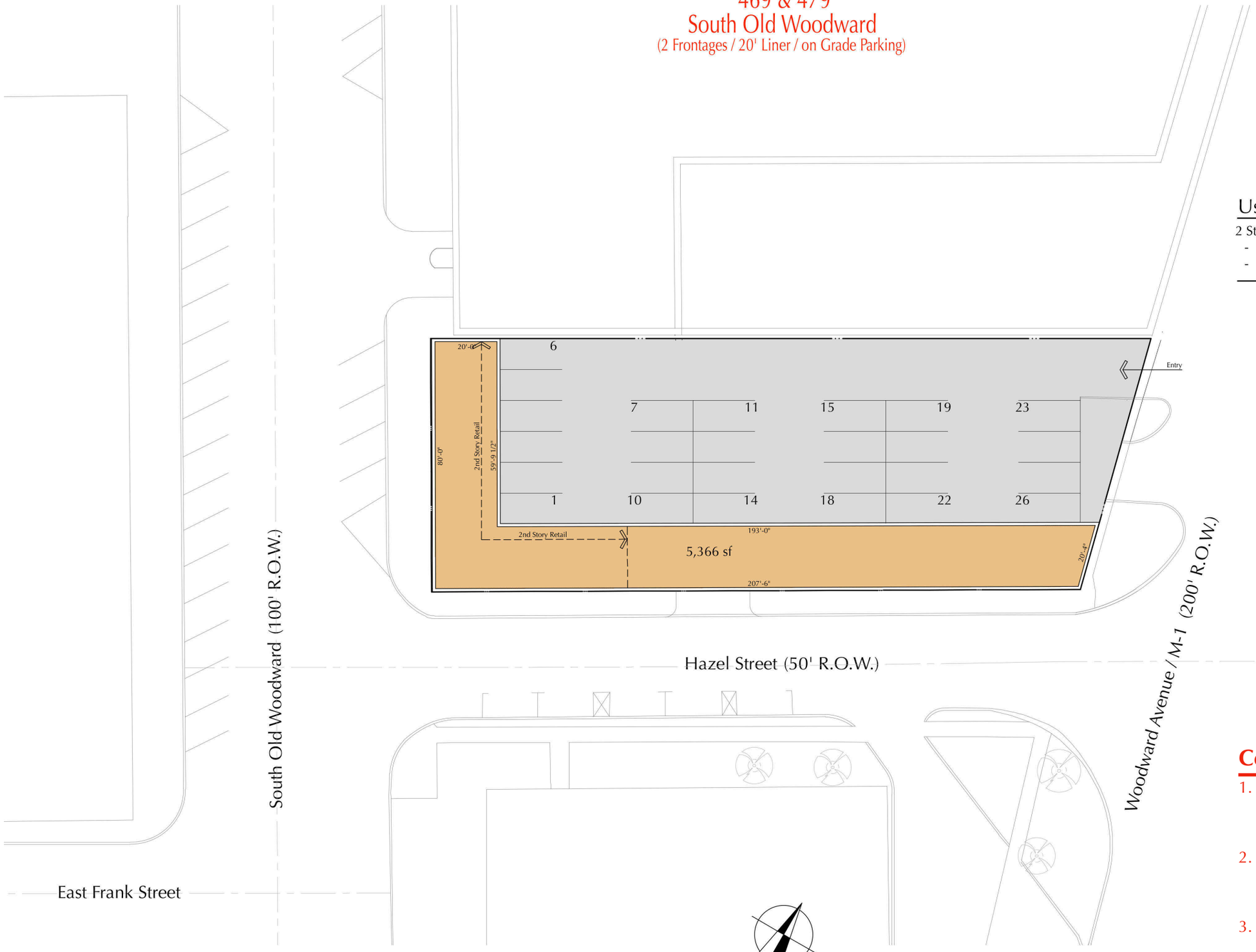
C

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(2 Frontages / 20' Liner / on Grade Parking)



Use and Parking Data

2 Story Building (Retail)

-	5,366 sf Retail (1st) / 300 =	17.9 Spaces
-	2,434 st Retail (2nd) / 300 =	8.1 Spaces
	Total Required	26 Spaces
	Total Provided	26 Spaces

Comments

1. Provides 2 story/single-use (retail) on south Old Woodward
2. Provides 2 story/single-use (retail) partially on Hazel
3. Surface parking occupies most of Woodward Avenue

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

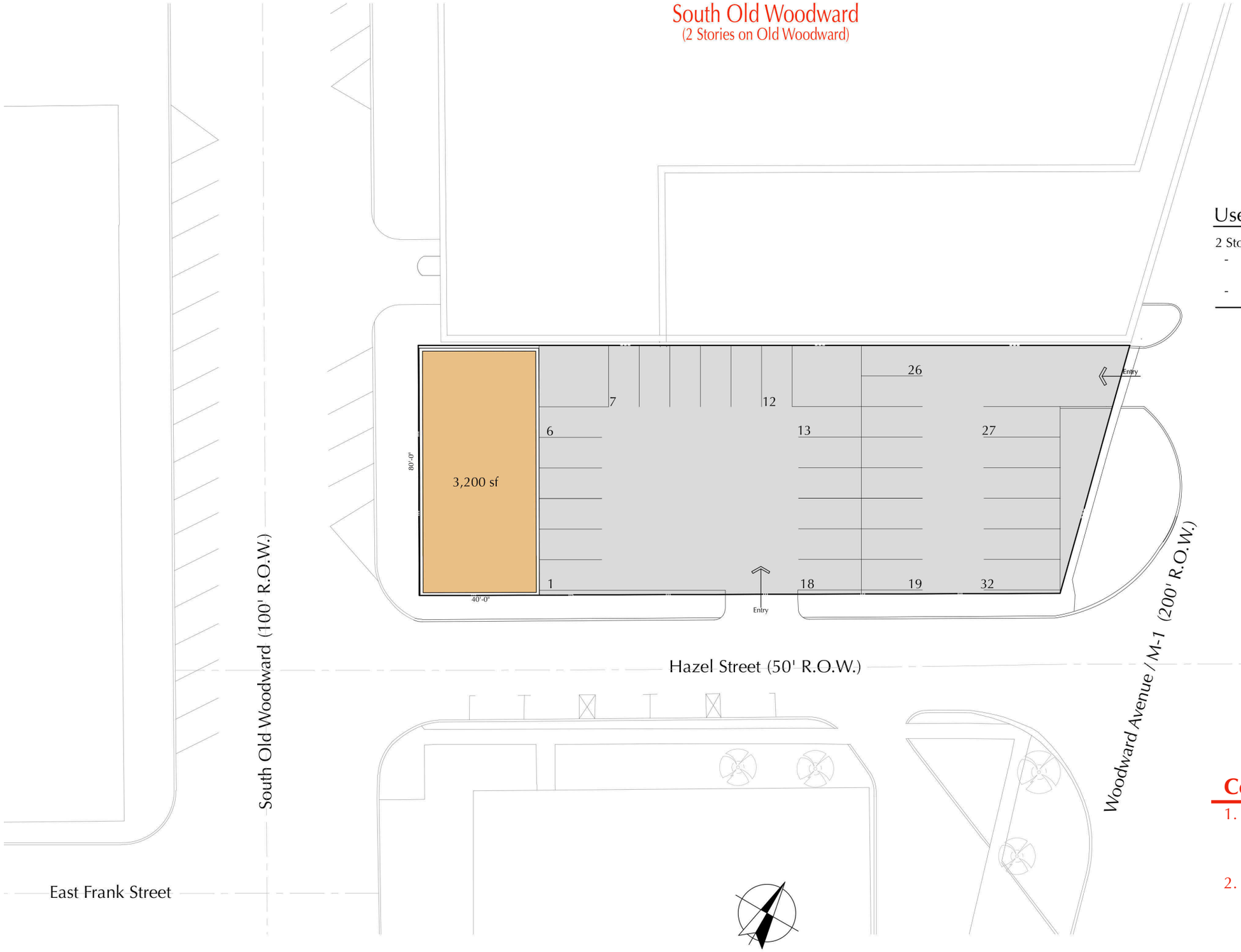
D

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(2 Stories on Old Woodward)



Use and Parking Data

2 Story Building

-	3,200 sf Retail (1st) / 300 =	10.7 Spaces
-	3,200 sf Office (2nd) / 150 =	21.3 Spaces
	Total Required	32 Spaces
	Total Provided	32 Spaces

Comments

1. Provides 2 story/mixed-use (retail/office) on South Old Woodward

2. Surface parking on both Hazel and Woodward Avenue (2 curb cuts)

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

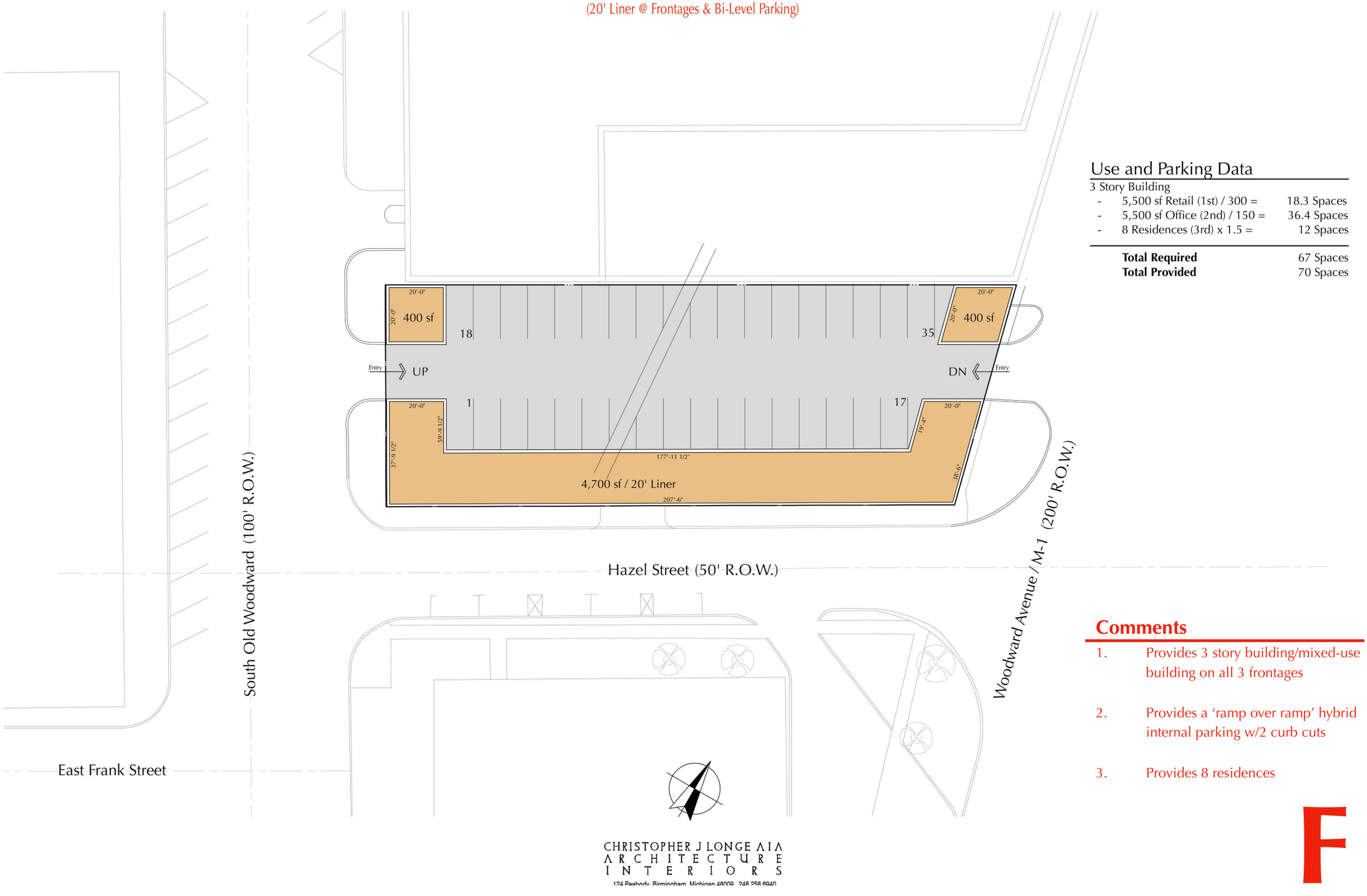
E

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(20' Liner @ Frontages & Bi-Level Parking)



Use and Parking Data

3 Story Building

-	5,500 sf Retail (1st) / 300 =	18.3 Spaces
-	5,500 sf Office (2nd) / 150 =	36.4 Spaces
-	8 Residences (3rd) x 1.5 =	12 Spaces
	Total Required	67 Spaces
	Total Provided	70 Spaces

Comments

1. Provides 3 story building/mixed-use building on all 3 frontages
2. Provides a 'ramp over ramp' hybrid internal parking w/2 curb cuts
3. Provides 8 residences

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248 258 6940

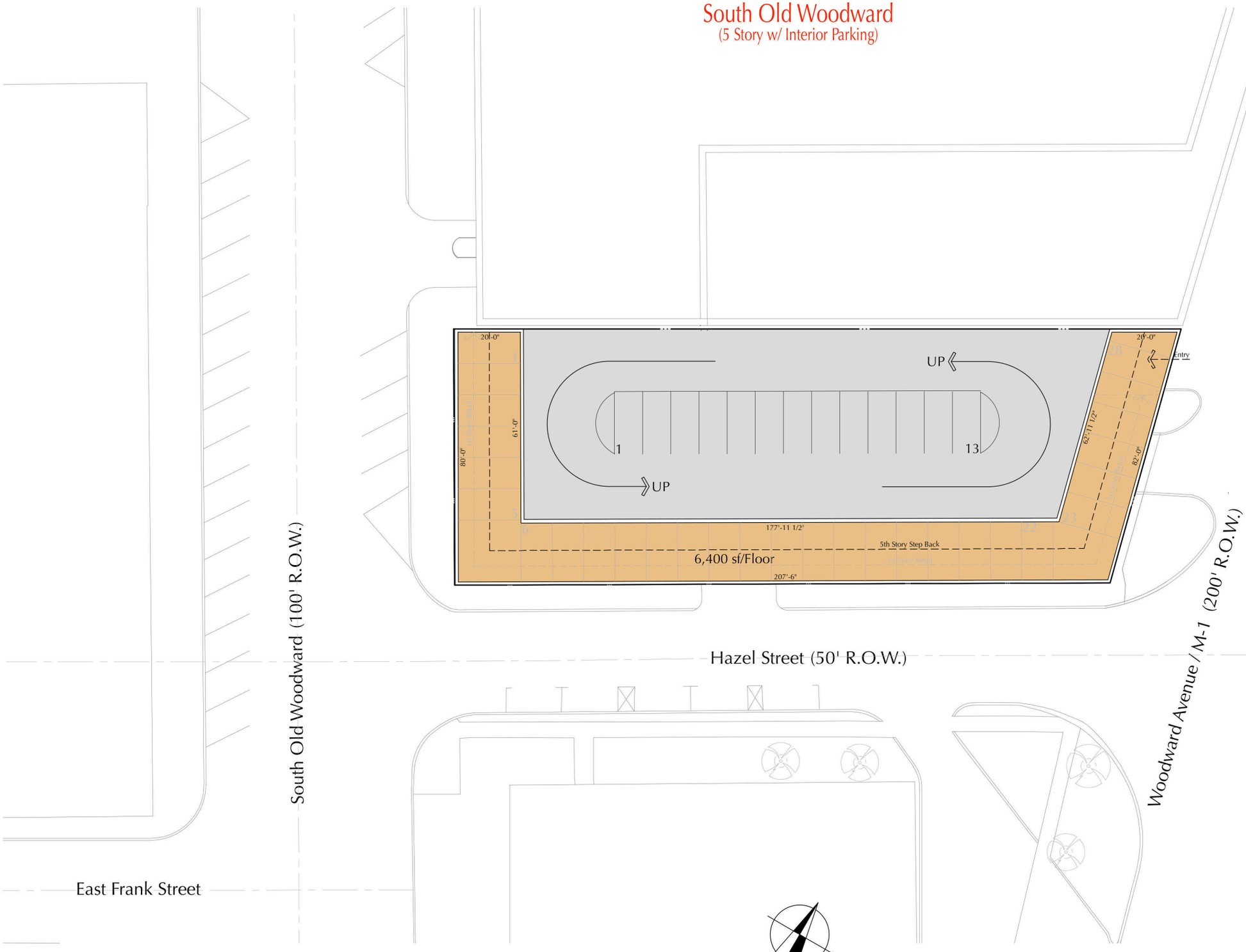
F

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(5 Story w/ Interior Parking)



Use and Parking Data

5 Story Building w/ 20' Liner on all frontages
(Interior Parking)

- 6,000 sf Retail (1st) / 300 = 20 Spaces
- 6,400 sf Office (2nd/3rd) / 150 = 85 Spaces
- Parking (4th)
- 5 Units Residential (5th)/ 1.5 = 7.50 Spaces

Total Required 113 Spaces

5 Story Building w/ 20' Liner on all frontages
(Interior Parking)

- 1st, 2nd, 3rd Stories @ +/- 13 ea. 39 Spaces
- 4th Story 41 Spaces

Total Provided 80 Spaces

Comments

1. Provides 5 story building/mixed-use building on all 3 frontages
2. Provides internal parking ramp on 1st, 2nd and 3rd floors
3. Provides parking on entire 4th floor
4. Provides a 20' liner on 1st, 2nd and 3rd floors
5. Provides 5 residential units on 5th floor

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

G

Submitted by Applicant on 1-18-19

REZONING REQUEST FOR 469-479 S. OLD WOODWARD
SUMMARY OF PRIOR SUBMITTAL FROM THE APPLICANT AND
THE ANALYSIS & FINDINGS OF THE PLANNING DEPARTMENT'S REVIEW

Over the past several months, the applicant has submitted written documentation and evidence in support of applicant's application to rezone 469-479 S. Old Woodward to the D-5 Downtown Overlay District. In addition, the Planning Department has completed a thorough analysis of the applicant's request to rezone the subject property as well as all of the information that was submitted by the applicant during this rezoning process. The following is a summary of the Planning Department's analysis and findings under the City Ordinance regarding the applicant's request to rezone 469-479 S. Old Woodward:

- The subject site consists of two vacant, single story commercial buildings (Mountain King and First Place Bank).
- The 0.423-acre site includes two narrow parcels, one facing 3 streets (Old Woodward, Hazel and Woodward), and the other facing 2 streets (Old Woodward and Woodward).
- The rezoning request is made pursuant to Article 7, section 7.02 of the Zoning Code.
- Section 7.02(B)(2)(b)(i) – Due to the site configuration fronting S. Old Woodward, Hazel and Woodward, and the narrow lot size and the off-street parking requirements, rezoning is necessary to preserve enjoyment of rights and usage commonly associated with ownership.
- Section 7.02(B)(2)(b)(ii) – Current zoning is no longer appropriate due to off-site parking requirements, narrow lot size configurations, and frontages.
- Section 7.02(B)(2)(b)(iii) – Rezoning will not be detrimental to surrounding properties as the adjacent and abutting properties are zoned D-5, mixed retail, commercial and residential properties, and applicant's proposal will add consistency to the streetscape in mass and architectural detail.
- Section 7.02(B)(5)(a) -- The objectives of the City's master plan and 2016 Plan are met by the rezoning as the proposed streetscape will improve the frontages of S. Old Woodward, Hazel and Woodward and project a strong image of the City toward Woodward with similar massing and architectural detail to adjacent buildings.
- Section 7.02(B)(5)(b) -- The existing uses of property in the general area align with applicant's proposed rezoning. Both the Birmingham Place and the 555 Building (neighboring properties) are mixed use buildings with both retail, commercial and residential uses. Properties to the east and west of the subject property are used for parking, retail and commercial.
- Section 7.02(B)(5)(c) -- Both neighboring properties are zoned in the D-5 Overlay Zone.
- Section 7.02(B)(5)(d) – The applicant's property is suitable for uses in the D-5 which are the same as in the current D-4 Zone. However, if a 5-story or less building is constructed under the D-4 at the site, it would be completely dominated by and inconsistent with the height of the neighboring Birmingham Place and 555 Building.
- Section 7.02(B)(5)(e) – The requested rezoning is consistent with the trend of development of this area of S. Old Woodward which is dominated by the height of the 555 Building and Birmingham Place.
- Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established Zoning Ordinance requirements of Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district.

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

September 11, 2018

Ms. Jana Ecker, Planning Director
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: Rezoning Application Before the Planning Board

Dear Ms. Ecker:

This letter is in response to your request to clarify the procedure by which applications for rezoning and determinations of rezoning are made. The Zoning Ordinance states in Section 7.02 B.2. *Application for Rezoning,* as follows:

"2. *Application for Rezoning.*

1. *Persons Entitled to Seek Rezoning.* Only a person who has a fee interest in a piece of property, or a contractual interest which may become a fee interest in a piece of property, may seek an amendment in the zoning classification of that property under this section.

2. *Application for Rezoning.*
   a. An application for an amendment to change the zoning classification of a particular property must be filed with the Building Official on such forms and accompanied by such fees as may be specified by the City Commission. The application and any supporting documentation shall be forwarded by the City Building Department to the Planning Board for study and recommendation.
   b. Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:
      i. An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.
      ii. An explanation of why the existing zoning classification is no longer appropriate.
      iii. An explanation of why the proposed rezoning will not be detrimental to surrounding properties.
   c. Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. The plot plan shall be drawn to a scale of not less than one inch equals 50 feet for a property of less than 3 acres and one inch equals 100

feet for property of 3 acres or more in size. Information required on plot plans shall be as follows:

i. Applicant's name, address and telephone number.
ii. Scale, north point, and dates of submission and revisions.
iii. Zoning classification of petitioner's parcel and all abutting parcels.
iv. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
v. Existing use of the property.
vi. Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
vii. Location of existing drainage courses, floodplains, lakes, streams, and wood lots.
viii. All existing easements.
ix. Location of existing sanitary systems and/or septic systems.
x. Location and size of existing water mains, well sites and building service.
xi. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans.

If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply, and, furthermore, why the items are not applicable."

The foregoing is the information that is to be provided by the applicant to provide the materials to assist the Planning Board in making its findings of fact. It does not set the criteria by which findings of fact or recommendations should be made. Those are set forth in Section 7.02 B.5, which reads as follows:

"5. *Findings of Fact and Recommendation of the Planning Board.* The Planning Board shall make written findings of fact and transmit same, together with its recommendation, to the City Commission. The City Commission may hold additional hearings if the City Commission considers it necessary. The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:

a. The objectives of the City's then current master plan and the City's 2016 Plan.
b. Existing uses of property within in the general area of the property in question.
c. Zoning classification of property within the general area of property in question.
d. The suitability of the property in question to the uses permitted under the existing zoning classification.

e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

The foregoing Section 7.02 B.5. sets forth the criteria upon which the Planning Board makes written findings of fact. Thereafter, the findings of fact, together with its recommendations, are sent to the City Commission to determine possible rezoning of the subject property.

* * * * * * * *

I have also been asked to outline the procedure for the Board to consider a petition by the applicant for rehearing of the rezoning application. The instant case involves 469-479 South Old Woodward. The *first* matter the Planning Board should consider is whether they will grant the rehearing of this matter to the applicant. If they believe there is not sufficient information to grant a rehearing, it could be denied at that time and no rehearing will be granted.

Second, if the Planning Board believes a rehearing should be granted, then a ruling granting the rehearing should be entered, followed by a rehearing on the substance of the matter before the Board. At such time, the Planning Board can take into account such additional information that is submitted by the applicant or by any person opposing the application. This will create an additional record upon which the Planning Board will then make its findings of fact and recommendation pursuant to 7.02 B.5.

A rehearing does not automatically grant the request of the applicant, nor does it automatically deny it. The Planning Board is free to make whatever decision it deems appropriate based on the material and the facts placed before it by the applicant and those in opposition.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier
Birmingham City Attorney

TJC/jc

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

October 1, 2018

Ms. Jana L. Ecker and
Planning Board Members
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

Re: Parking Assessment District– 469-479 S. Old Woodward

Dear Members of the Board:

The Board has asked if we have any information as to why the above properties were not included in the Parking Assessment District when they were first created and any explanation as to the City's reasoning at that time. We do not have any files or documents that can assist you in this regard.

If you have any additional questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

October 1, 2018

Ms. Jana L. Ecker and
Planning Board Members
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

Re: Legal Opinion Regarding Rezoning Application for 468-479 S. Old Woodward

Dear Members of the Board:

The Board has requested a legal opinion in connection with the following question:

Is the owner of the property located 469-479 S. Old Woodward (currently zoned D4 in the Downtown Overlay District) legally permitted to apply for rezoning to the newly created D5 zone district in the Downtown Overlay District?

ANSWER: YES.

If you have any additional questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

STAFF REPORTS TO PLANNING BOARD (MOST RECENT FIRST)

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **January 17, 2019**

TO: **Planning Board**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Rehearing of Rezoning Request for 469 – 479 S. Old Woodward**
(New information in Blue Type)

On June 27, 2018, the Planning Board reviewed a rezoning request 469 – 479 S. Old Woodward (former Mountain King and Talmer Bank sites) to rezone the site from B3/D4 to B3/D5. This request was made pursuant to Article 7, section 7.02, of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward.

The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing at the City Commission that was previously set to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Section 7.02(6) of the Zoning Ordinance states:

> If the City Commission denies the application, no application shall be reheard for at least one year, unless there have been substantial changes in the facts, evidence, and/or conditions demonstrated by the applicant. The determination of whether there have been such changes shall be made by the Planning Board at the time the application is submitted for processing.

Accordingly, section 7.02(6) of the Zoning Ordinance allows a rehearing on a rezoning request where there is a substantial change in the evidence that was previously presented even after the City Commission has issued a denial of the request. In this case, the City Commission did not hear the request, and thus did not issue an approval or denial. They did however send the matter back to the Planning Board to determine if there has been a substantial change in the evidence, and if so, to conduct a rehearing on the rezoning request previously considered.

Please find attached the applicant's letter that outlines the substantial change in the evidence that was previously presented to the Planning Board on June 27, 2018, and requests a rehearing of the rezoning request.

On September 12, 2018, the applicant appeared before the Planning Board and outlined the substantial change in the evidence that was previously presented to the board. In addition, an attorney speaking in opposition to the rezoning request also raised new information that had not been previously presented or discussed by the board. Board members had additional questions as to why the subject parcel was not put into the Parking Assessment District when the district was created, and whether or not the owner of the subject property is permitted to apply for rezoning to the new D5 zoning classification in the Downtown Birmingham Overlay District. After much discussion, the Planning Board voted to postpone consideration of the public hearing to October 10, 2018 with the condition that the Board receive the legal opinion of counsel to the City of Birmingham in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

Please find attached two letters from the City Attorney, one addressing the eligibility of the subject site to be rezoned to the D-5 category, and one addressing Parking Assessment District records regarding the creation of the district.

On October 10, 2018, the applicant appealed to the Planning Board for a rehearing based on new facts or evidence. After much discussion, the Board made a motion finding that there were substantial changes from the evidence previously presented at the rezoning hearing on June 27, 2018, and thus voted to grant a rehearing of the rezoning request for 469 – 479 S. Old Woodward. The rehearing was scheduled for November 14, 2018.

As the Planning Board accepted that the applicant has proven a substantial change in the evidence and that a rehearing should occur, all of the previous application documents, plans and reports are provided for your review and consideration. An updated staff report is also attached for your review.

At the Planning Board meeting on November 14, 2018, the applicant requested postponement of the rehearing to December 12, 2018.

At the Planning Board meeting on December 12, 2018, the applicant requested further postponement of the rehearing to January 27, 2019 to allow additional time to meet with the neighbors and attempt to reach an agreement on the proposed development.

The only new document that is being provided at this time is a memo from the applicant dated January 18, 2019 summarizing previous documents submitted and discussed at Planning Board meetings. This document is attached immediately following this memo and minutes.

Submitted by Applicant on 1-18-19

REZONING REQUEST FOR 469-479 S. OLD WOODWARD
SUMMARY OF PRIOR SUBMITTAL FROM THE APPLICANT AND
THE ANALYSIS & FINDINGS OF THE PLANNING DEPARTMENT'S REVIEW

Over the past several months, the applicant has submitted written documentation and evidence in support of applicant's application to rezone 469-479 S. Old Woodward to the D-5 Downtown Overlay District. In addition, the Planning Department has completed a thorough analysis of the applicant's request to rezone the subject property as well as all of the information that was submitted by the applicant during this rezoning process. The following is a summary of the Planning Department's analysis and findings under the City Ordinance regarding the applicant's request to rezone 469-479 S. Old Woodward:

- The subject site consists of two vacant, single story commercial buildings (Mountain King and First Place Bank).
- The 0.423-acre site includes two narrow parcels, one facing 3 streets (Old Woodward, Hazel and Woodward), and the other facing 2 streets (Old Woodward and Woodward).
- The rezoning request is made pursuant to Article 7, section 7.02 of the Zoning Code.
- Section 7.02(B)(2)(b)(i) – Due to the site configuration fronting S. Old Woodward, Hazel and Woodward, and the narrow lot size and the off-street parking requirements, rezoning is necessary to preserve enjoyment of rights and usage commonly associated with ownership.
- Section 7.02(B)(2)(b)(ii) – Current zoning is no longer appropriate due to off-site parking requirements, narrow lot size configurations, and frontages.
- Section 7.02(B)(2)(b)(iii) – Rezoning will not be detrimental to surrounding properties as the adjacent and abutting properties are zoned D-5, mixed retail, commercial and residential properties, and applicant's proposal will add consistency to the streetscape in mass and architectural detail.
- Section 7.02(B)(5)(a) -- The objectives of the City's master plan and 2016 Plan are met by the rezoning as the proposed streetscape will improve the frontages of S. Old Woodward, Hazel and Woodward and project a strong image of the City toward Woodward with similar massing and architectural detail to adjacent buildings.
- Section 7.02(B)(5)(b) -- The existing uses of property in the general area align with applicant's proposed rezoning. Both the Birmingham Place and the 555 Building (neighboring properties) are mixed use buildings with both retail, commercial and residential uses. Properties to the east and west of the subject property are used for parking, retail and commercial.
- Section 7.02(B)(5)(c) -- Both neighboring properties are zoned in the D-5 Overlay Zone.
- Section 7.02(B)(5)(d) – The applicant's property is suitable for uses in the D-5 which are the same as in the current D-4 Zone. However, if a 5-story or less building is constructed under the D-4 at the site, it would be completely dominated by and inconsistent with the height of the neighboring Birmingham Place and 555 Building.
- Section 7.02(B)(5)(e) – The requested rezoning is consistent with the trend of development of this area of S. Old Woodward which is dominated by the height of the 555 Building and Birmingham Place.
- Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established Zoning Ordinance requirements of Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **November 8, 2018**

TO: **Planning Board**

FROM: **Jana Ecker, Planning Director**

SUBJECT: **Rezoning Request for 469-479 S. Old Woodward – Project M1**

The applicant for 469-479 S. Old Woodward (Parcel Numbers 1936208011 and 1936208012 respectively) requested that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed use building in between the Birmingham Place and the 555 building. The maximum height allowed in the D-4 zoning district is 4-5 stories. In the D-5 zoning district, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 zone.

The 0.423 acre subject site spans Hazel Street from S. Old Woodward to Woodward. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Chinese Restaurant and First Place Bank). The applicant is proposing to demolish the present buildings for the construction of a nine-story mixed use building with three levels of underground parking.

On June 27, 2018, the Planning Board reviewed a rezoning request 469 – 479 S. Old Woodward (former Mountain King and Talmer Bank sites) to rezone the site from B3/D4 to B3/D5. This request was made pursuant to Article 7, section 7.02, of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward.

On September 12, 2018, the applicant appeared before the Planning Board requesting a rehearing on the rezoning of 469 – 479 S. Old Woodward and outlined the substantial changes in the evidence that was previously presented to the board. In addition, an attorney speaking in opposition to the rezoning request also raised new information that had not been previously presented or discussed by the board. Board members had additional questions as to why the subject parcel was not put into the Parking Assessment District when the district was created, and whether or not the owner of the subject property is permitted to apply for rezoning to the new D5 zoning classification in the Downtown Birmingham Overlay District. After much discussion, the Planning Board voted to postpone consideration of the public hearing to October 10, 2018 with the condition that the Board receive the legal opinion of counsel to the City of Birmingham in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

On October 10, 2018, the Planning Board continued discussion and deliberations on the question of whether a rehearing should be held based on new facts or evidence. After much discussion, the Board made a motion finding that there were substantial changes from the evidence previously presented at the rezoning hearing on June 27, 2018, and thus voted to grant a rehearing of the rezoning request for 469 – 479 S. Old Woodward. The rehearing was scheduled for November 14, 2018.

History of Property

Information gathered by PM Environmental for a Phase 1 Environmental Site Assessment on the property history revealed that 469 S. Old Woodward was home to various occupants since around 1937, including many auto sales companies and most recently the First Place Bank, which closed in 2014. The one story commercial building has since been vacant. 479 S. Old Woodward has been home to a few restaurants, most recently Mountain King (1998-2014). Similarly, the one story commercial building has also been vacant since its last tenant in 2014.

The applicant has noted that historically, Birmingham's buildings zoning permitted the height of the 555 building and the Birmingham Place in the late 1960's and early 1970's. When the zoning was changed in the 1970's, the two buildings were designated to a legal nonconforming use. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay. In 2016, a new D5 zone was created. The properties known as the 555 Building, the Merrillwood Building and Birmingham Place were then rezoned to the new D5 zoning classification. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D5 currently.

Requirements for Rezoning

The requirements for a request for the rezoning of a property are set forth in Article 07, section 7.02 of the Zoning Ordinance as follows:

> Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:
>
> 1. **An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.**
>
>   ***Applicant response*:**
>
>   - Rezoning of the subject property is necessary to preserve the applicants enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed use building. Furthermore, the D-5 Ordinance, at Section 3.04-4-b, anticipates that the subject property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.
>
> 2. **An explanation of why the existing zoning classification is no longer appropriate**
>
>   ***Applicant response*:**

- The existing D-3 zoning classification is no longer appropriate for the subject property. The subject property is surrounded by the Birmingham Place, a 10-story building on the north side and the 555 Buildings, a 15-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the subject property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Bard has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

3. An explanation of why the proposed rezoning will not be detrimental to the surrounding properties.

***Applicant response**:*

- The proposed rezoning of the subject property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-3 Zone. The surrounding properties to the north and south are already in the D-5 zone. When these neighboring properties were rezoned the Planning Board anticipated that eventually the subject property also may be rezoned for the reasons stated in this letter. Placing the subject property in the D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Article 7, section 7.02 of the Zoning Ordinance further states:

Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. (See attached)

Information required on plot plans shall be as follows:

1. Applicant's name, address and telephone number.
2. Scale, north point, and dates of submission and revisions.
3. Zoning classification of petitioner's parcel and all abutting parcels.
4. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
5. Existing use of the property.
6. Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
7. Location of existing drainage courses, floodplains, lakes, streams, and wood lots.

8. All existing easements.
9. Location of existing sanitary systems and or septic systems.
10. Location and size of existing water mains, well sites and building service.
11. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans. If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply and, furthermore, why the items are not applicable.

A land survey was provided by the applicant and submitted to the Planning Board (see attached).

Article 7 section 7.02 of the Zoning Ordinance further states:

> The Planning Board shall hold at least one public hearing on each application for amendment at such time and place as shall be established by the Planning Board.
>
> The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:
>
> a. The objectives of the City's then current master plan and the City's 2016 plan.
> b. Existing uses of property within in the general area of the property in question.
> c. Zoning classification of property within the general area of the property in question.
> d. The suitability of the property in question to the uses permitted under the existing zoning classification.
> e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

Planning Division Analysis & Findings

In accordance with Article 7 of the Zoning Ordinance, the Planning Board is required to conduct a public hearing on an application for rezoning, and to make a recommendation on the rezoning to the City Commission.

Article 7, section 7.0(B)(5) of the Zoning Ordinance states:

> The Planning Board shall make written findings of fact and transmit same, together with its recommendation, to the City Commission. The City Commission may hold additional hearings if the City Commission considers it necessary. The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:
>
> a. The objectives of the City's then current master plan and the City's 2016 Plan.
> b. Existing uses of property within the general area of the property in question.
> c. Zoning classification of property within the general area of the property in question.
> d. The suitability of the property in question to the uses permitted under the existing zoning classification.
> e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

Accordingly, the Planning Division has reviewed the evidence presented with respect to the matters listed in Article 7, section 7.0(B)(5) of the Zoning Ordinance as noted below.

A. The objectives of the City's then current master plan and the City's 2016 Plan

Section 1.04 of the Birmingham Zoning Ordinance states: the purpose of the Zoning Ordinance is to guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Future Land Use Plan and the Downtown Birmingham 2016 Plan. A review of both plans reveals that the proposal to rezone the subject property to the D-5 Zoning District meets the spirit and intent of the ordinance. The 2016 Plan recommends specific building heights and massing that appropriately defines the public street and are harmonious with existing buildings. The 2016 further requires first floor retail along Old Woodward and encourages a mix of uses within buildings to support an active live, work and play environment for downtown. A proposed building under the D5 would allow for mixed uses and a scale that will match the adjacent buildings, meanwhile supporting the improvement of the streetscape along S. Old Woodward, Hazel and Woodward by building to the frontage line as required by the 2016 Plan.

The 2016 Plan also recommends that the City should encourage future buildings to front Woodward to project a positive image of the City and to hold Woodward areas to the same standards of quality and design as the best areas of Birmingham. The proposed building will project a strong image of the City towards Woodward with consistent architectural details and similar massing to the adjacent buildings.

B. Existing uses of property within the general area of the property in question

As mentioned above, the Birmingham Place and 555 Buildings are located to the north and south of the subject site, respectively. Both buildings contain a mix of retail, commercial and residential uses. The subject property is located on Woodward Avenue, which has a 200' wide right of way. The southbound lanes of Woodward lie directly east of the property, and South Old Woodward lies to the west. Across Woodward to the east is the Audi dealership, and across S. Old Woodward to the west is a commercial center with both retail and commercial uses, including a drugstore, a drycleaners and a clothing store.

The following chart summarizes the land uses and zoning districts adjacent to and in the vicinity of the subject site.

	North	**South**	**East**	**West**
Existing Land Use	Retail/ Commercial / Residential	Retail/ Commercial / Residential	Retail / Commercial/ Parking	Commercial/ Parking
Existing Zoning	B-3, Office Residential	B-3, Office Residential	B-2, General Business	B-2B, General Business
Overlay Zoning	D-5	D-5	MU-5	D-2

C. Zoning classification of property within the general area of the property in question.

The properties immediately north and south of the subject site are zoned B3 and D5, which allow a mix of residential, retail and commercial uses, and buildings over 5 stories in height up to a maximum height of 180'. The property to the east across Woodward Avenue is

zoned MU5 which also allows a mix of residential, retail and commercial uses and allows buildings up to 6 stories and 78' in height. The property to the west across S. Old Woodward is zoned B2-B and D2, also allowing a mix of residential, retail and commercial uses and buildings up to 3 stories and 56' in height.

D. The suitability of the property in question to the uses permitted under the existing zoning classification.

Under the current zoning, all of the same uses are permitted as those under the D5 zoning classification. However, given the size of the parcel and the fact that the property is not located in the Parking Assessment District, the applicant argues that they would be unable to develop an appropriately designed five story mixed use building under the current zoning. In addition, even if the property were developed to include a five story or less building under the current zoning of D4, the building would be completely inconsistent and dominated by the height of the adjacent Birmingham Place and 555 Buildings.

E. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

In the immediate Southern Woodward Gateway area, there have been no new buildings recently constructed, however, the 555 Building was recently renovated extensively. Three existing buildings were rezoned in 2017 to D5 under the Downtown Overlay (Merrillwood Building, the 555 Building and Birmingham Place) to permit buildings over 5 stories in height (up to 180') so long as they are compatible with adjacent buildings. There have been no new buildings constructed under the D-5 Overlay zoning classification.

Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established Zoning Ordinance requirements in Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district for the purpose of building as high, but no higher than, adjacent buildings. Given the recommendations of the 2016 Plan, the existing mix of uses in the immediate area and given the size and quality of the building, the proposal to rezone to D5 for the purpose of building to nine stories is appropriate and compatible with both the zoning and height of properties within the general area. In addition, a rezoning to D5 is consistent with recent zoning changes from D4 to D5 for adjacent properties within the Downtown Overlay district.

Departmental Reports

1. Engineering Division – The Engineering Department has no concerns with the rezoning application at this time.

2. Department of Public Services –The Department of Public Services has no concerns at this time.

3. Fire Department – The Fire Department has no concerns with the rezoning at this time.

4. Police Department – The Police Department has no concerns with the rezoning application.

5. Building Department – No comments were provided from the Building Department on the rezoning application.

Sample motions with attached conditions have been provided in the event that the Planning Board deems it appropriate to send a recommendation of approval forward to the City Commission. Should additional information be presented at the public hearing not contained within this staff report, the Planning Board should add any findings related to such information to the motion language provided below.

Suggested Action:

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board adopts the findings of fact contained in the staff report dated November 8, 2018 and recommends **APPROVAL** to the City Commission for the rezoning of 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay.

OR

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board recommends **DENIAL** to the City Commission of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay, pending receipt and review of the following information:

1. _____
2. _____
3. _____

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **October 5, 2018**

TO: **Planning Board**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Request for Rehearing of Rezoning Request for 469 – 479 S. Old Woodward**

On June 27, 2018, the Planning Board reviewed a rezoning request 469 – 479 S. Old Woodward (former Mountain King and Talmer Bank sites) to rezone the site from B3/D4 to B3/D5. This request was made pursuant to Article 7, section 7.02, of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward.

The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing at the City Commission that was previously set to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Section 7.02(6) of the Zoning Ordinance states:

> If the City Commission denies the application, no application shall be reheard for at least one year, unless there have been substantial changes in the facts, evidence, and/or conditions demonstrated by the applicant. The determination of whether there have been such changes shall be made by the Planning Board at the time the application is submitted for processing.

Accordingly, section 7.02(6) of the Zoning Ordinance allows a rehearing on a rezoning request where there is a substantial change in the evidence that was previously presented even after the City Commission has issued a denial of the request. In this case, the City Commission did not hear the request, and thus did not issue an approval or denial. They did however send the matter back to the Planning Board to determine if there has been a substantial change in the evidence, and if so, to conduct a rehearing on the rezoning request previously considered.

Please find attached the applicant's letter that outlines the substantial change in the evidence that was previously presented to the Planning Board on June 27, 2018, and requests a rehearing of the rezoning request.

On September 12, 2018, the applicant appeared before the Planning Board and outlined the substantial change in the evidence that was previously presented to the board. In addition, an attorney speaking in opposition to the rezoning request also raised new information that had not been previously presented or discussed by the board. Board members had additional questions as to why the subject parcel was not put into the Parking Assessment District when the district was created, and whether or not the owner of the subject property is permitted to apply for rezoning to the new D5 zoning classification in the Downtown Birmingham Overlay District. After much discussion, the Planning Board voted to postpone consideration of the public hearing to October 10, 2018 with the condition that the Board receive the legal opinion of counsel to the City of Birmingham in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

Please find attached two letters from the City Attorney, one addressing the eligibility of the subject site to be rezoned to the D-5 category, and one addressing Parking Assessment District records regarding the creation of the district.

Should the Planning Board accept that the applicant has proven a substantial change in the evidence and a rehearing should occur, all of the previous application documents, plans and reports are also provided for your review and consideration.

Suggested Action:

1. **Sample Motion Language on Request for Rehearing:**

The Planning Board finds that there have been substantial changes in the evidence previously presented at the rezoning hearing on June 27, 2018, and thus grant a rehearing of the rezoning request for 469 – 479 S. Old Woodward.

OR

The Planning Board finds that there have not been substantial changes in the evidence previously presented at the rezoning hearing on June 27, 2018, and thus denies a rehearing of the rezoning request for 469 – 479 S. Old Woodward.

2. **Sample Motion Language on Rezoning Request if Rehearing is Granted:**

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board recommends **APPROVAL** to the City Commission for the rezoning of 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay.

OR

Motion to recommend **DENIAL** to the City Commission of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay, pending review and approval of the following:

1. _____
2. _____
3. _____

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **September 7, 2018**

TO: **Planning Board**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Request for Rehearing of Rezoning Request for 469 – 479 S. Old Woodward**

On June 27, 2018, the Planning Board reviewed a rezoning request 469 – 479 S. Old Woodward (former Mountain King and Talmer Bank sites) to rezone the site from B3/D4 to B3/D5. This request was made pursuant to Article 7, section 7.02, of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward.

The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing at the City Commission that was previously set to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Section 7.02(6) of the Zoning Ordinance states:

> If the City Commission denies the application, no application shall be reheard for at least one year, unless there have been substantial changes in the facts, evidence, and/or conditions demonstrated by the applicant. The determination of whether there have been such changes shall be made by the Planning Board at the time the application is submitted for processing.

Accordingly, section 7.02(6) of the Zoning Ordinance allows a rehearing on a rezoning request where there is a substantial change in the evidence that was previously presented even after the City Commission has issued a denial of the request. In this case, the City Commission did not hear the request, and thus did not issue an approval or denial. They did however send the matter back to the Planning Board to determine if there has been a substantial change in the evidence, and if so, to conduct a rehearing on the rezoning request previously considered.

Please find attached the applicant's letter that outlines the substantial change in the evidence that was previously presented to the Planning Board on June 27, 2018, and requests a rehearing of the rezoning request. Should the Planning Board accept that the applicant has proven a

substantial change in the evidence and a rehearing should occur, all of the previous application documents, plans and reports are also provided for your review and consideration.

Suggested Action:

1. **Sample Motion Language on Request for Rehearing:**

The Planning Board finds that there have been substantial changes in the evidence previously presented at the rezoning hearing on June 27, 2018, and thus grant a rehearing of the rezoning request for 469 – 479 S. Old Woodward.

OR

The Planning Board finds that there have not been substantial changes in the evidence previously presented at the rezoning hearing on June 27, 2018, and thus denies a rehearing of the rezoning request for 469 – 479 S. Old Woodward.

2. **Sample Motion Language on Rezoning Request if Rehearing is Granted:**

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board recommends **APPROVAL** to the City Commission for the rezoning of 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay.

OR

Motion to recommend **DENIAL** to the City Commission of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay, pending review and approval of the following:

1. _____
2. _____
3. _____

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **May 18th, 2018**

TO: **Jana Ecker, Planning Director**

FROM: **Nicholas Dupuis, Planning Intern**

SUBJECT: **Rezoning Request for 469-479 S. Old Woodward – Project M1**

The applicant for 469-479 S. Old Woodward (Parcel Numbers 1936208011 and 1936208012 respectively) is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed use building in between the Birmingham Place and the 555 building. The maximum height allowed in the D-4 zoning district is 4-5 stories. In the D-5 zoning district, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 zone.

The 0.423 acre subject site spans Hazel Street from S. Old Woodward to Woodward. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Chinese Restaurant and First Place Bank). The applicant is proposing to demolish the present buildings for the construction of a nine-story mixed use building with three levels of underground parking.

History of Property

Information gathered by PM Environmental for a Phase 1 Environmental Site Assessment on the property history revealed that 469 S. Old Woodward was home to various occupants since around 1937, including many auto sales companies and most recently the First Place Bank, which closed in 2014. The one story commercial building has since been vacant. 479 S. Old Woodward has been home to a few restaurants, most recently Mountain King (1998-2014). Similarly, the one story commercial building has also been vacant since its last tenant in 2014.

The applicant has noted that historically, Birmingham's buildings were zoned for the height of the 555 building and the Birmingham Place in the late 1960's and early 1970's. When the zoning was changed in the 1970's, the two buildings were designated to a legal nonconforming use. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay. In 2016, a new D5 zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D5 currently.

Requirements for Rezoning

The requirements for a request for the rezoning of a property are set forth in Article 07, section 7.02 of the Zoning Ordinance as follows:

Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:

1. **An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.**

   ***Applicant response*:**
   - Rezoning of the subject property is necessary to preserve the applicants enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed use building. Furthermore, the D-5 Ordinance, at Section 3.04-4-b, anticipates that the subject property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

2. **An explanation of why the existing zoning classification is no longer appropriate**

   ***Applicant response*:**
   - The existing D-3 zoning classification is no longer appropriate for the subject property. The subject property is surrounded by the Birmingham Place, a 10-story building on the north side and the 555 Buildings, a 15-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the subject property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Bard has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

3. **An explanation of why the proposed rezoning will not be detrimental to the surrounding properties.**

***Applicant response**:*

- The proposed rezoning of the subject property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-3 Zone. The surrounding properties to the north and south are already in the D-5 zone. When these neighboring properties were rezoned the Planning Board anticipated that eventually the subject property also may be rezoned for the reasons stated in this letter. Placing the subject property in the D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Article 7, section 7.02 of the Zoning Ordinance further states:

Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. (See attached)

Information required on plot plans shall be as follows:

1. Applicant's name, address and telephone number.
2. Scale, north point, and dates of submission and revisions.
3. Zoning classification of petitioner's parcel and all abutting parcels.
4. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
5. Existing use of the property.
6. Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
7. Location of existing drainage courses, floodplains, lakes, streams, and wood lots.
8. All existing easements.
9. Location of existing sanitary systems and or septic systems.
10. Location and size of existing water mains, well sites and building service.
11. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans. If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply and, furthermore, why the items are not applicable.

    A land survey was provided by the applicant and submitted to the Planning Board (see attached).

    Article 7 section 7.02 of the Zoning Ordinance further states:

    > The Planning Board shall hold at least one public hearing on each application for amendment at such time and place as shall be established by the Planning Board.

The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:

a. The objectives of the City's then current master plan and the City's 2016 plan.
b. Existing uses of property within in the general area of the property in question.
c. Zoning classification of property within the general area of the property in question.
d. The suitability of the property in question to the uses permitted under the existing zoning classification.
e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

Planning Division Analysis

A. The objectives of the City's then current master plan and the City's 2016 Plan

Section 1.04 of the Birmingham Zoning Ordinance states: the purpose of the Zoning Ordinance is to guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Future Land Use Plan and the Downtown Birmingham 2016 Plan. A review of both plans reveals that the proposal to rezone the subject property to the D-5 Zoning District meets the spirit and intent of the ordinance. The 2016 Plan recommends specific building heights and massing that appropriately defines the public street. The proposed building allows for mixed uses and a scale that will seamlessly match the adjacent buildings, meanwhile supporting the improvement of the streetscape along S. Old Woodward, Hazel and Woodward by building to the frontage line.

The 2016 Plan also recommends that the City should encourage future buildings to front Woodward to project a positive image of the City and to hold Woodward areas to the same standards of quality and design as the best areas of Birmingham. The proposed building will project a strong image of the City towards Woodward with consistent architectural details and similar massing to the adjacent buildings.

B. Existing uses of property within the general area of the property in question

As mentioned above, the Birmingham Place and 555 Buildings are located to the north and south of the subject site, respectively. The property is located on Woodward Avenue, which has a 200' wide right of way. The southbound lanes of Woodward lie directly east of the property, and South Old Woodward lies to the west. Across Woodward to the east is the Audi dealership, and across S. Old Woodward to the West is the long commercial building with a CVS and other businesses.

The following chart summarizes the land uses and zoning districts adjacent to and in the vicinity of the subject site.

	North	South	East	West

Existing Land Use	Retail/ Commercial	Retail/ Commercial	Commercial/ Parking	Commercial/ Parking
Existing Zoning	B-3, Office Residential	B-3, Office Residential	B-2, General Business	B-2B, General Business
Overlay Zoning	D-5	D-5	MU-5	D-2

C. Zoning classification of property within the general area of the property in question.

The properties immediately north and south of the subject site are zoned B3 and D5, which allow a mix of residential, retail and commercial uses, and buildings over 5 stories in height up to a maximum height of 180'. The property to the east across Woodward Avenue is zoned MU5 which also allows a mix of residential, retail and commercial uses and allows buildings up to 6 stories and 78' in height. The property to the west across S. Old Woodward is zoned B2-B and D2, also allowing a mix of residential, retail and commercial uses and buildings up to 3 stories and 56' in height.

D. The suitability of the property in question to the uses permitted under the existing zoning classification.

Under the current zoning, all of the same uses are permitted as those under the D5 zoning classification. However, under the current zoning of D4, the building would be capped at a height of 5 stories and thus be dwarfed by the adjacent Birmingham Place and 555 Buildings.

E. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

In the immediate Southern Woodward Gateway area, there have been no new buildings recently constructed, however, the 555 Building was renovated extensively. Three existing buildings were rezoned in 2017 to D5 under the Downtown Overlay (Merrillwood Building, the 555 Building and Birmingham Place) to permit buildings over 5 stories in height (up to 180') so long as they are compatible with adjacent buildings. There have been no new buildings constructed under the D-5 Overlay Zoning classification.

Departmental Reports

1. Engineering Division – The Engineering Department has no concerns with the rezoning application at this time.

2. Department of Public Services –The Department of Public Services has no concerns at this time.

3. Fire Department – The Fire Department has no concerns with the rezoning at this time.

4. Police Department – The Police Department has no concerns with the rezoning application.

5. Building Department – No comments were provided from the Building Department on the rezoning application.

Planning Department Findings

Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the downtown overlay district for the purpose of building as high, but no higher than, adjacent buildings. Given the recommendations of the 2016 Plan, the existing mix of uses in the immediate area and given the size and quality of the building, the proposal to rezone for the purpose of building to nine stories is appropriate and compatible in the area. The following sample motions with attached conditions have been provided in the event that the Planning Board deems it appropriate to send a recommendation of approval forward to the City Commission.

Sample Motion Language

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board recommends **APPROVAL** to the City Commission for the rezoning of 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay.

OR

Motion to recommend **DENIAL** to the City Commission of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the applicant's request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay, pending review and approval of the following:

1. _____
2. _____
3. _____

City Commission Minutes
February 13, 2017

02-29-17: PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 126, ZONING, TO CREATE NEW D5 ZONE

Mayor Nickita opened the Public Hearing at 10:22 PM.

City Planner Ecker explained the history of this zoning ordinance amendment request by the owners of the 555 Building. The amendment would allow buildings to be considered either legal and conforming, or legal non-conforming, but have the ability to add on in some way. The amendments have to do with height, number of stories, and setbacks. The Planning Board looked at several options. The Board came up with a fairly simple method, by changing Section 6.02 to allow all buildings to be improved in some way if they are non-conforming, or to consider the creation of a D5 zone, defined as over five stories. The impact of the amendments would make the three buildings legal conforming buildings, and they would be allowed to be extended or enlarged with a Special Land Use Permit. If a new building was constructed, it could match the height of the existing building with a Special Land Use Permit. The new category would deal with existing buildings located in the D5 zone. This change enables applicants to obtain funding for significant renovations or improvements as a legal conforming building. The second part allows expansion with the restriction to meet the overlay.

City Planner Ecker explained for Commissioner Boutros that the 555 site has room where a new building could be constructed.

City Planner Ecker explained that none of the three buildings can be any higher or add any extra stories under the ordinance amendment.

Mayor Pro Tem Harris asked about maintenance and repair under the current ordinance.

City Planner Ecker said an interpretation is required in every case currently. Under the ordinance amendment, maintenance and repair would be permitted.

Commissioner Hoff asked if Birmingham Place or Merrillwood could buy the adjacent structures and then build in the space.

City Planner Ecker said they could not, because the properties next door would not have the D5 zoning classification.

Commissioner Hoff asked how the determination is made as to an enlargement and an addition.

City Planner Ecker said the enlargements or extensions are an absolute right if the regular overlay standards are met. If it is an addition or new construction which would exceed the D4 requirements, it can be done with a Special Land Use Permit.

Mr. Rick Rattner addressed the Commission and said with the ordinance amendment, the 555 Building would be in compliance allowing the owners to move forward to make the changes and renovations to keep it an iconic building.

Mayor Nickita closed the Public Hearing at 10:40 PM.

MOTION: Motion by DeWeese, seconded by Boutros:

To amend Chapter 126, Zoning, Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district, and Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

AND

To approve the rezoning of the following properties:

(a) 555 S. Old Woodward (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
(b) 411 S. Old Woodward (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
(c) 225 E. Merrill (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

City Planner Ecker confirmed for Commissioner Hoff that the ordinance amendment would allow the 555 Building to build an addition as tall as it is only with a Special Land Use Permit approved by the Commission. She added that a new building to the south could be built that meets the D4 standards as of right. The setbacks will basically be the same.

VOTE: Yeas, 7
Nays, 0
Absent, None

ORDINANCE NO._____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 03, DOWNTOWN BIRMINGHAM OVERLAY DISTRICT, SECTION 3.04, TO CREATE A NEW D5 ZONE AND TO ESTABLISH DEVELOPMENT STANDARDS FOR THIS DISTRICT.

Article 03 shall be amended as follows:

Section 3.04 Specific Standards

A. Building Height, Overlay: The various elements of building height shall be determined as follows for the various zones designated on the Regulating Plan:
   1. D2 Zone (two or three stories):
      a. Eave line for sloped roofs shall be no more than 34 feet.
      b. Peak or ridge of any sloped roof shall be no more than 46 feet as measured to the average grade.
      c. Maximum overall height including the mechanical and other equipment shall be no more than 56 feet.
      d. A third story is permitted if it is used only for residential.
      e. All buildings in D2 Zone containing a third story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
      f. A third story shall continue in a different plane, beginning at the eave line, not greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
      g. All buildings constructed in the D2 Zone must have a minimum eave height or 20 feet.
   2. D3 Zone (three or four stories):
      a. Eave line for sloped roofs shall be no more than 46 feet.
      b. Peak or ridge of any sloped roof shall be no more than 58 feet as measured to the average grade.
      c. Maximum overall height including the mechanical and other equipment shall be no more than 68 feet.
      d. A fourth story is permitted if it is used only for residential.
      e. All buildings in D3 Zone containing a fourth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.

f. The fourth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
g. All buildings constructed in a D3 Zone must contain a minimum of 2 stories and must have a mini- mum eave height of 20 feet.

3. D4 Zone (four or five stories):
   a. Eave line shall be no more than 58 feet.
   b. Peak or ridge of any sloped roof shall be no more than 70 feet as measured to the average grade.
   c. Maximum overall height including mechanical and other equipment shall be no more than 80 feet.
   d. The fifth story is permitted if it is used only for residential.
   e. All buildings containing a fifth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
   f. The fifth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or set back 10 feet from any building facade.
   g. All buildings constructed in the D4 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.

4. D5 Zone (over 5 stories)

a. All existing buildings located in the D5 Zone on November 1, 2016 are deemed legal, conforming buildings with regards to setbacks, number of stories and height.

b. All existing buildings located in this zone district on November 1, 2016 may be extended or enlarged only if the property owner elects to develop the extended or enlarged portion of the building under the provisions of the Downtown Overlay and the extension or enlargement meets all of the requirements of the Downtown Birmingham Overlay District and the D4 Zone.

c. New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D-5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building in the D-5 to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit.

~~4.~~**5** C and P Zones: Downtown Birmingham Overlay District building height shall comply with the underlying height restrictions listed in each two-page layout in Article 2 of the Zoning Ordinance, but may be negotiated by the Planning Board.

~~5.~~**6.** Stories at sidewalk level shall be a minimum of 10 feet in height from finished floor to finished ceiling. The Planning Board may reduce this standard for renovations to existing buildings that do not meet this standard.

~~6.~~**7.** A transition line shall be provided between the first and second stories. The transition shall be detailed to facilitate an awning.

~~7.~~**8** The maximum width of all dormers per street elevation on buildings may not exceed 33% of the width of the roof plane on the street elevation on which they are located.

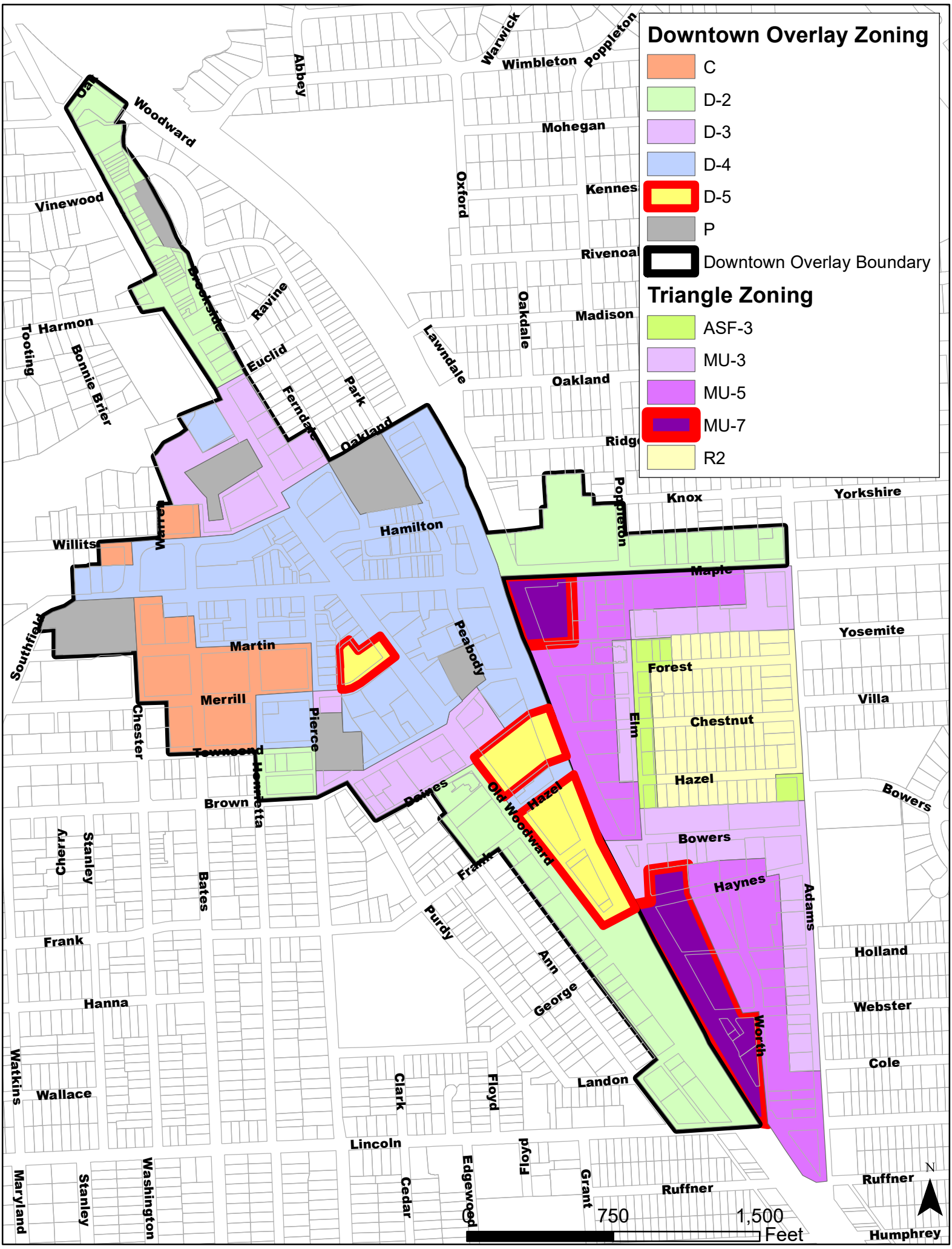
B. Building placement. Buildings and their elements shall be placed on lots as follows:

1. Front building facades at the first story shall be located at the frontage line, except the Planning Board may adjust the required front yard to the average front setback of any abutting building.
2. In the absence of a building facade, a screenwall shall be built along the frontage line and aligned with the adjacent building facade. Screenwalls shall be between 2.5 and 3.5 feet in height and made of brick, stone or other masonry material matching the building. Upon approval by the Planning Board, screen- walls may be a continuous, maintained evergreen hedge or metal fencing. Screenwalls may have openings a maximum of 25 feet to allow vehicular and pedestrian access.
3. Side setbacks shall not be required.
4. A minimum of 10 foot rear yard setback shall be provided from the midpoint of the alley, except that the Planning Board may allow this setback to be reduced or eliminated. In the absence of an alley, the rear setback shall be equal to that of an adjacent, preexisting building.
5. First-floor awnings may encroach upon the frontage line and public sidewalk, but must avoid the street trees; provide at least 8 feet of clearance above the sidewalk; and be set back a minimum of 2 feet from the road curb.
6. Upper-floor awnings shall be permitted only on vertically proportioned windows, provided that the awning is only the width of the window, encroaches upon the frontage line no more than 3 feet, and is not used as a backlit sign.
7. Loading docks and service areas shall be permitted only within rear yards. Doors for access to interior loading docks and service areas shall not face a public street.
8. All buildings shall have their principal pedestrian entrance on a frontage line.

ORDAINED this _____ day of _____, 2017 to become effective 7 days after publication.

_____
Mark Nickita, Mayor

_____
Cheryl Arft, City Clerk


Downtown Overlay Zoning
C
D-2
D-3
D-4
D-5
P
Downtown Overlay Boundary
Triangle Zoning
ASF-3
MU-3
MU-5
MU-7
R2
Oak
Woodward
Vinewood
Abbey
Warwick
Wimbleton
Poppleton
Mohegan
Oxford
Kennes
Rivenoal
Madison
Oakdale
Lawndale
Oakland
Ridge
Brookside
Ravine
Euclid
Ferndale
Park
Harmon
Tooting
Bonnie Brier
Knox
Yorkshire
Maple
Yosemite
Villa
Willits
Martin
Hamilton
Peabody
Southfield
Martin
Merrill
Chester
Townsend
Pierce
Hunnetta
Brown
Forest
Chestnut
Elm
Hazel
Bowers
Old Woodward
Haynes
Adams
Holland
Webster
Cole
Worth
Landon
Ann
George
Purdy
Frank
Cherry
Stanley
Bates
Hanna
Watkins
Wallace
Clark
Floyd
Lincoln
Edgewood
Cedar
Grant
Ruffner
Humphrey
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Feet
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City of Birmingham Fire Department

572 South Adams • Birmingham, Michigan 48009 • 248.530.1900 Fax 248.530.1950

June 22, 2018

Jana Ecker, Planning Director
City of Birmingham (MI)
151 Martin St.
P.O. Box 3001
Birmingham, MI 48012-3001

Dear Jana:

I am following up on our communications in regards to residents at 411 S. Old Woodward known as Birmingham Place and their concerns with fire protection. The proposed project at 469-479 S. Old Woodward is potentially going to be a nine story building, built very close to the South side of Birmingham Place. Their concern is the fire department's ability to fight a fire at Birmingham Place if the proposed project does not allow aerial operations on the South side of the building.

Though we would not deploy our aerial truck for operations on the South side of the building, we do have access from both the East and West sides of the building. Our aerial truck has an extended 100' ladder which would reach approximately six to seven stories based on the distance the aerial is positioned, due to this most high rise fires are fought from the inside of a high rise building. The Birmingham Place has a fire pump to increase pressure to upper floors, fire suppression sprinklers that when activated would extinguish a fire or contain the spread of the fire, standpipes at each floor allowing firefighters to connect hose lines to fight a fire and a fire alarm which would alert residents of the building. The exterior of the building is of a material that is non-combustible and smoke alarms throughout the building. Our officers and firefighters are well trained to aggressively attack a fire in a high rise building. There should be no concerns that the proposed project would hinder fire operations in the Birmingham Place.

I hope this letter will help ease the concerns of our residents as the Planning Board and other stakeholders discuss the proposal and the future of the site. Please let me know if I can assist you in any other way.

Sincerely,

John M. Connaughton, Fire Chief

John M. Donohue
Assistant Chief / Operations

John M. Connaughton
Fire Chief

Joel Campbell
Acting Fire Marshal

RELEVANT MEETING MINUTES

City Commission Minutes
February 13, 2017

02-29-17: PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 126, ZONING, TO CREATE NEW D5 ZONE

Mayor Nickita opened the Public Hearing at 10:22 PM.

City Planner Ecker explained the history of this zoning ordinance amendment request by the owners of the 555 Building. The amendment would allow buildings to be considered either legal and conforming, or legal non-conforming, but have the ability to add on in some way. The amendments have to do with height, number of stories, and setbacks. The Planning Board looked at several options. The Board came up with a fairly simple method, by changing Section 6.02 to allow all buildings to be improved in some way if they are non-conforming, or to consider the creation of a D5 zone, defined as over five stories. The impact of the amendments would make the three buildings legal conforming buildings, and they would be allowed to be extended or enlarged with a Special Land Use Permit. If a new building was constructed, it could match the height of the existing building with a Special Land Use Permit. The new category would deal with existing buildings located in the D5 zone. This change enables applicants to obtain funding for significant renovations or improvements as a legal conforming building. The second part allows expansion with the restriction to meet the overlay.

City Planner Ecker explained for Commissioner Boutros that the 555 site has room where a new building could be constructed.

City Planner Ecker explained that none of the three buildings can be any higher or add any extra stories under the ordinance amendment.

Mayor Pro Tem Harris asked about maintenance and repair under the current ordinance.

City Planner Ecker said an interpretation is required in every case currently. Under the ordinance amendment, maintenance and repair would be permitted.

Commissioner Hoff asked if Birmingham Place or Merrillwood could buy the adjacent structures and then build in the space.

City Planner Ecker said they could not, because the properties next door would not have the D5 zoning classification.

Commissioner Hoff asked how the determination is made as to an enlargement and an addition.

City Planner Ecker said the enlargements or extensions are an absolute right if the regular overlay standards are met. If it is an addition or new construction which would exceed the D4 requirements, it can be done with a Special Land Use Permit.

Mr. Rick Rattner addressed the Commission and said with the ordinance amendment, the 555 Building would be in compliance allowing the owners to move forward to make the changes and renovations to keep it an iconic building.

Mayor Nickita closed the Public Hearing at 10:40 PM.

MOTION: Motion by DeWeese, seconded by Boutros:

To amend Chapter 126, Zoning, Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district, and Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

AND

To approve the rezoning of the following properties:

(a) 555 S. Old Woodward (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
(b) 411 S. Old Woodward (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
(c) 225 E. Merrill (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

City Planner Ecker confirmed for Commissioner Hoff that the ordinance amendment would allow the 555 Building to build an addition as tall as it is only with a Special Land Use Permit approved by the Commission. She added that a new building to the south could be built that meets the D4 standards as of right. The setbacks will basically be the same.

VOTE: Yeas, 7
Nays, 0
Absent, None

Planning Board Minutes
June 27, 2018

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein said that judging from all of the letters that have been received related to this project, it is very clear that the residents of Birmingham Place oppose the rezoning. All of the letters will be added to the record.

Ms. Ecker explained the applicant for 469-479 S. Old Woodward is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed-use building with three levels of underground parking in between the Birmingham Place and the 555 Building. The maximum height allowed in the D-4 Zoning District is 4-5 stories. In the D-5 Zoning District, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 Zone. The 0.423 acre subject site spans Hazel St. from S. Old Woodward Ave. to Woodward Ave. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Restaurant and Talmer Bank). The applicant is proposing to demolish the present buildings for the construction of a ten-story mixed-use building.

The applicant has noted that when the zoning was changed down to one or two floors in the 1970s, the 555 Building and Birmingham Place were designated to a legal non-conforming use because their height was not allowable. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay that raised the height up to a maximum of five stories Downtown. In 2017, a new D-5 Zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D-5 currently.

Ms. Ecker went through the three items that the applicant must demonstrate for the rezoning of a property and the applicant's reasons as to how they feel they have met them.

Ms. Ecker then went through the planning analysis based on the evidence provided by the application. Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents, current zoning and recent development trends in the area, the Planning Dept. finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay District for the purpose of building as high, but no higher than, the building to the north, Birmingham Place.

Answering Mr. Boyle, Ms. Ecker said the Master Plan which dates back to 1980 did not give specific height requirements like the 2016 Plan recommended. Under the 2016 Plan the recommended height in the Downtown was a maximum of five stories. The 555 Building submitted an application to the City and to the Planning Board to consider creating a new category that would make them a legal and conforming building that would allow them to receive financing to renovate the building and bring it up to current standards in the marketplace. The D-5 Ordinance was crafted by the

Planning Board as a result of that application and included the other two buildings in a similar situation.

Mr. Rick Rattner, Attorney, Williams, Williams, Rattner & Plunkett, PC, emphasized that in the D-5 going above five stories subjects the property to a Special Land Use Permit ("SLUP") which is different than just building as of right. Secondly, in 2016 Andres Duany commented favorably on the 555 Building and on Birmingham Place.

He presented a PowerPoint that went to four issues that have to do with rezoning:

- Rezoning Amendment - Sec. 7.02 (B) (2) (b) (i)-(iii) requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission.
- Sec. 7.02 (B) (2) (b) (i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership. Without the ability to go higher with a new building than the zoning allows, the applicant will not have the required area within which to locate a mix of uses that would commonly be associated with the design of a modern, mixed-use building.
- Sec. 7.02 (B) (2) (b) (ii) - An explanation of Why the Existing Zoning Classification is No Longer Appropriate. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. Given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-4 Zone is no longer appropriate.
- Sec. 7.02 (B) (2) (b) (iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the S, Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Plan.

Mr. Rattner concluded by asking the Planning Board to favorably recommend that they are able to use their property and preserve their rights of usage, fit into the streetscape, fit the Master Plan and fit all elements of this Ordinance because they meet every single one of them.

At 8:45 p.m. the Chairman opened the meeting to public comments.

Ms. Susan Friedlander, 1564 Henrietta, attorney for Birmingham Place Residential Condominium Association, made the following points:

- The City created the D-5 District for a singular and special purpose which was to bring several buildings into conforming status.
- The proposed building is not sandwiched between the 10-story Birmingham Place and the 15-story 555 Building - there is Hazel, a 50 ft. right-of-way that provides a proper transition between buildings. There is not even a height difference, because the building that is immediately adjacent to Hazel is 77 ft. tall. So if this proposed building went up to 80 ft, which it is allowed to do under D-4 it would be very consistent with the building right across the street. There would be a perfect transition. It would only be 34 ft. shorter than Birmingham Place.
- If the proposed building is zoned D-5, what about the building on the north, the Powerhouse Building, Jax Car Wash or the Varsity Building. Why shouldn't they get the D-5 Zoning as well?
- There is a process that must be followed so that property is not rezoned on an ad hoc and an arbitrary basis.

Mr. Tom Lasky, 2006 Cole, spoke in support of the rezoning request. This is the face of new Birmingham and will be done responsibly.

Mr. Mike Humphrey, who lives in Birmingham Place, said there is nothing in the record that shows that the D-5 Overlay was created to do anything other than to make the three tall existing buildings legal and conforming. The developer bought the property knowing how it was zoned; but now they say that they cannot develop a four or five-story mixed-use building there. If the City is going to change the Master Plan, go for it, but do it with professional study and community involvement; not a piece at a time.

Mr. David Nykian, 40700 Woodward Ave., said he represents some of the owners in the Birmingham Place Condominium. He believes the facts lead to the conclusion that the D-4 Zoning is actually clearly appropriate for this property:

- The D-5 District was created just to address the non-conformities of three buildings. So the City has already made the decision in the past as to what zoning is appropriate for this site.
- Nothing about the property has changed since then that should cause the City to alter its conclusion about what the appropriate height is.
- The height of the 555 Building on the north is 77 ft. So if the subject site were developed today under D-4, it could be taller than the 555 Building.
- Breaking up the building heights would provide more of an architectural character to the City than one monolithic height across the entire street.
- There is nothing under the D-4 Zoning classification that that would prohibit the developer from developing a mixed-use development.
- The only things that would change by amending the classification from D-4 to D-5 are the height of the building and the profit margin of the developer.

Mr. Mickey Schwartz, 411 Old Woodward Ave., stated that infill has nothing to do with height equality. So he thinks the developer has to have a better excuse for building a 10-story building. The small town feeling is what is unique about Birmingham. Deny the rezoning request.

Dr. Cynthia Neil, a resident of Birmingham Place, said she was deeply offended by the petitioner's statement that the development would not adversely affect the residents. From her balcony she would be able to bounce a tennis ball against the wall of the proposed building.

Mr. Chris Jonna, C&P Real Estate Group, spoke in support of the project. The applicant builds nothing but first-class buildings. Increasing the zoning classification will be a tremendous benefit to Downtown Birmingham by bringing in more people to the area.

Mr. Lewis Rockind, a resident of Birmingham Place, emphasized that the zoning has to be contemplated in the context of what is intended to be developed. As a resident of Birmingham Place he is looking at the detrimental effect on the surrounding properties of increased vehicle and pedestrian traffic.

Mr. Daniel Jacob, 261 E. Maple Rd., said he is 100% in support of the project. The intended use of the property is much needed and would be a huge benefit to the City. Birmingham is changing and this project moves with the times.

Mr. Joseph Shalala, 255 S. Old Woodward Ave., spoke in support of the proposed building. It will support all of the small businesses by bringing in people such as office, residential, and hotel users. All of those things combined will help Birmingham.

Ms. Tony Schwartz, 411 Old Woodward Ave., maintained that it is the height of the building that is in question here, not its quality. Secondly, traffic is a big problem on that corner. There is a new hotel that is starting to be built on the corner of Brown and Old Woodward which will add more

traffic to that corner. She understands there may be a pool deck on the top floor of the proposed building - who is going to control music and noise and parties. She lives right across on the tenth floor.

Chairman Clein advised that concerns related to traffic and noise are not part of a rezoning but would be handled under a Site Plan Review, and should this be moved forward to a rezoning the applicant would be required to obtain a Special Land Use Permit ("SLUP") which allows the City Commission to put additional restriction on the uses of the building.

Mr. Duraid Markus, one of the partners in the ownership entity for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank), said if this happened in New York, Chicago or LA there would not be a single skyscraper built. He noted that everybody who opposes this is only one contingent, and it has not been the entire City that comes in to support or not support.

It makes sense to build where the project is harmonious and fits in with the rezoning proposal. For those reasons he asked the board to consider all of the comments and make the decision to allow them to rezone the parcel.

Ms. Wilma Thelman who lives in Birmingham Place said none of them have heard why a conforming building cannot be built on that site.

Mr. Jeffares noted that things change and now Birmingham holds 21 thousand people. Secondly he recalled that the Board did discuss rezoning the subject property; however there was nobody from there to make their case so the Board just rezoned the existing buildings.

Mr. Koseck advised that D-4 Zoning allows a building to be built to 80 ft. So it will already block six floors of Birmingham Place. He did not believe the applicant's contention that they cannot make a five-story building work, He thought that a five-story could be a successful mixed-use building. In some ways it might even fit the form and the transition better and the upper three floors of Birmingham Place will not be affected.

Ms. Whipple-Boyce said when the Board established the D-5 Zoning Classification she felt it applied to three specific buildings. In her mind it had to do with bringing non-conforming buildings into conformity so that they could qualify for financing and improve their properties. Thinking about some of the other properties that could be affected down the road that are adjacent to other properties like this is an unanswered question for her. It causes her to hesitate tonight on recommending the rezoning to D-5.

Mr. Boyle made the following points:

- The Master Plan is meant to have the ability to adapt to changing circumstances. Similarly, zoning is powerful when it is able to adapt. So, change is normal; it is not frequent, but it is usual.
- He was positive about the potential impact on the City as a whole of rezoning this property.
- The potential impact of rezoning on the contiguous properties will affect a number of people. The Board is here to determine who has the weight in this particular discussion, the entire City or the adjacent neighbors.
- There are checks and balances built into the system. If the rezoning were to be approved, the community would have two elements to be brought to the table. One would be the Site Plan Review process, and secondly the height would kick in the SLUP where the Planning Board can recommend controlling modifications to the City Commission who will hold a public hearing on the proposal.

- At the end of the day he is of a mind to approve the rezoning because overall he sees the benefits for the City and for this particular area. However, he does not underestimate the cost for the immediate residents in the contiguous building.

Ms. Ramin stated one of the burdens the applicant must carry to justify rezoning is an explanation of why the existing D-4 classification is no longer appropriate.

Mr. Duraid Markus said they cannot get in a hotel concept on this little parcel so they have to go vertical by a couple of floors. He has to be honest, it is the economics. He cannot get a development off the ground. They are not in the Parking Assessment District and are therefore limited by the required parking for an office building or a restaurant.

Answering Mr. Emerine, Ms. Ecker explained that anyone on any site on any site can apply for a rezoning to any of the existing zoning classifications.

Chairman Clein commented that rezoning is the most difficult thing the Board has to do - balancing the rights of adjacent land owners. To Ms. Ramin's point, the burden has not been met as to why a five-story building will not work. The answer that was given was economics, which has no place in a rezoning discussion. Therefore, he is not supportive of the rezoning.

Mr. Jeffares said he cannot come up with a reason for the height of the proposed building to be lower.

Ms. Whipple-Boyce indicated she has no problem with the subject building being built as high as Birmingham Place. But she doesn't think the applicant has made the case that they deserve to be rezoned and that the current zoning classification is no longer appropriate. She was appalled to hear the applicant say they bought this property and the only thing that will work there is a ten-story hotel and it should be rezoned because that is what they want to build. Therefore she doesn't think the applicant has proved their case.

Mr. Rattner noted that maybe the best thing for them to do is to ask for postponement so they can come back with a different plan. Chairman Clein stated that for him postponing would just be kicking the can down to another meeting. Mr. Boyle said he is in favor of not accepting that proposal and actually making a motion this evening.

Motion by Mr. Boyle
Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

There were no comments from the public on the motion at 10 p.m.

Motion failed, 2-5.

ROLLCALL VOTE
Yeas: Boyle, Jeffares
Nays: Clein, Koseck, Emerine, Ramin, Whipple-Boyce
Absent: Share, Williams

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

Motion carried, 5-2.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Koseck, Clein, Emerine, Ramin
Nays: Jeffares, Whipple-Boyce
Absent: Share, Williams

City Commission Minutes
August 13, 2018

8-221-18 CANCEL PUBLIC HEARING – 469–479 S. OLD WOODWARD – REZONING

City Manager Valentine reported the applicant wishes to go back to Planning Board.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To cancel the public hearing to consider approval of the rezoning of 469–479 S. Old Woodward from B3/D4 to B3/D5 and to refer the matter back to the Planning Board.

VOTE:	Yeas,	7
	Nays,	0
	Absent,	0

The Commission decided to further discuss during Commissioner Comments:

- How much information needs to be provided to the Commission upon the cancellation of a public hearing; and,
- How to supply Commissioners with previously submitted background information for agenda items.

Planning Board Minutes
September 12, 2018

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)
Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein recalled that on June 27, 2018, the Planning Board reviewed a rezoning request for 469 – 479 S. Old Woodward Ave. (former Mountain King and Talmer Bank sites) to rezone from B-3/D-4 to B-3/D-5. This request was made pursuant to Article 7, section 7.02 of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward Ave. The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing that was previously set at the City Commission to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Therefore, the Board's next step is to enter into a discussion of whether or not the application for 469-479 S. Old Woodward Ave. should receive a re-hearing. If they decide that there is substantial new evidence or new facts under section 7.02 (6) to warrant a re-hearing, the Board will at that point decide on the next steps.

Motion by Mr. Williams
Seconded by Mr. Koseck to include the following correspondence into the official record:
- **Letter dated September 11, 2018 from Susan K. Friedlaender, Attorney with Friedlaender, Nykanen, Rogowski, PLC;**
- **Letter dated September 10, 2018 from B. Geiger, Unit 623, 411 S. Old Woodward Ave;**
- **Letter dated September 11, 2018 from Timothy J. Currier, Beier Howlett, City Attorney, dealing with the process of rezoning application before the Planning Board.**

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Koseck, Boyle, Clein, Emerine, Jeffares, Whipple-Boyce
Nays: None
Absent: Share

Mr. Williams pointed out the Planning Board has opinions of opposing counsel dealing with the issue as to whether the D-5 Ordinance can in fact apply to the two properties in question (former Mountain King and Talmer Bank sites). That is a legal question for the City Attorney to decide.

The second issue is whether the two parcels are or are not in the Parking Assessment District. It is important to know from the City's standpoint why this property is or is not in the Parking Assessment District based on the records of the City at the time the Parking Assessment District was created. Further, if they are in the Parking Assessment District, then the analogies to the other five-story buildings in the City in Downtown which are in the Parking Assessment District and don't have to provide on-site parking is relevant. If they are not in the Parking Assessment District and the applicant is required to provide on-site parking, then that is a different conclusion. He wants the opinion of the City Attorney before proceeding because if the conclusion is that the properties are not eligible for D-5 zoning then having a hearing is a waste of time.

Mr. Williams further noted that Ms. Friedlaender's letter questions what the City Commission intended by approving the D-5 category. He would like the opinion of the City Attorney on that narrow question and whether these two parcels are eligible to be rezoned into the D-5 category based on all the evidence to date.

Chairman Clein thought the question before the Board is whether there will be a rehearing; or since they are all present, whether they feel they have enough information to have that conversation tonight on the very narrow basis of whether there is new information that wasn't brought up at the original hearing.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., was present to represent the applicant. They believe this site not only is eligible for D-5 Zoning, but they also think that they have new information. Further, they accept that the site is not in the Parking Assessment District. They feel they have enough information to go forward at this time and also believe their position relative to the eligibility and the new information is solid.

Ms. Ecker recommended that the Board should stick to the first question of whether there is new information that wasn't considered before that is brought forward now and thus warrant a re-hearing.

Mr. Williams pointed out that the CIS contained a reference that this particular property is in the Parking Assessment District. So, the information from the City that was provided at the time of the hearing was incorrect. Therefore, the record needs to be corrected. He didn't think the Board should start down that road until they receive Mr. Currier's opinion.

Mr. Rattner indicated they have no objection, if that is what the Board decides.

Chairman Clein opened up public comment at 8:15 p.m.

Ms. Susan Friedlaender, Attorney representing Birmingham Place Residential Condominium Assoc., corrected that the applicant actually mentioned during the hearing that they are not in the Parking Assessment District and that is one reason they were asking for the rezoning, and one reason why they needed to be rezoned because they cannot meet the needs of a hotel in four stories.

Mr. Michael Schwartz, 411 S. Old Woodward Ave., Birmingham Place asked the Board to consider once they have a legal opinion, if it is that the process should move forward. Possibly decide that in October and then have the hearing for the project itself at future meeting.

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to postpone consideration of the public hearing which was scheduled for tonight to October 10, 2018 with the condition that the Board receive

the legal opinion of counsel to the City of Birmingham submitted to the Planning Board in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

There were no public comments on the motion at 8:15 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Whipple-Boyce, Boyle, Clein, Emerine, Jeffares, Koseck
Nays: None
Absent: Share

Planning Board Minutes
October 10, 2018

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)
Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein recalled that on June 27, 2018, the Planning Board reviewed a rezoning request for 469 – 479 S. Old Woodward Ave. (former Mountain King and Talmer Bank sites) to rezone from B-3/D-4 to B-3/D-5. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward Ave. The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

Prior to the City Commission taking any action the applicant submitted a letter requesting that the City postpone the public hearing that was previously set at the City Commission to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, on August 13 the City Commission cancelled the public hearing and sent the matter back to the Planning Board for reconsideration.

Section 7.02(6) of the Zoning Ordinance allows a rehearing on a rezoning request where there is a substantial change in the evidence that was previously presented even after the City Commission has issued a denial of the request. In this case, the City Commission did not hear the request, and thus did not issue an approval or denial. They did however send the matter back to the Planning Board to determine if there has been a substantial change in the evidence, and if so, to conduct a rehearing on the rezoning request previously considered.

On September 12, the Planning Board decided to postpone consideration. They were looking for additional information from the City Attorney as to 1) whether the applicant has the right to apply for rezoning under D-5; and 2) some of the facts behind the reasons why this property may or may not have been put in the PAD.

As to why this property may or may not have been put in the PAD, the City Attorney has written a letter stating there is no record from the 1960s. With regard to the legal question as to whether or not the applicant has the right to apply for rezoning to the D-5 category, the City Attorney responded they do have the legal right to apply for rezoning to this zoning classification.

Chairman Clein stated that the first thing the Board will do this evening is to discuss whether the new information being presented warrants a rehearing.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., was present to represent the applicant. In a PowerPoint presentation he outlined the substantial change in the evidence that was previously presented to the Planning Board on June 27, 2018 and requested a rehearing of the rezoning request based on the following:

- There was a mistake in the CIS that was included in the packet that indicated this property is in the PAD. This property is not.
- The ordinance states pursuant to 7.02 (B) (5) (a-e) that the Planning Board should make findings of fact. There was no presentation of a finding of fact as it was presented to the City Commission.

- The D-5 Zone was enacted and at that time, three buildings were rezoned to D5, but the ordinance itself is clear and unambiguous. It provides language that indicates there are going to be different buildings put into the D-5 Zone.
- The fact that the property sits outside of the PAD should be looked at because of the potential five or six types of structures that could be built under the D-4 Ordinance. That is what is new to their rezoning argument. If a mixed-use building is constructed in D-4, it must have 288 parking spaces on-site. That requires their building to be accompanied by nine underground parking levels. That is a major change in the way the Planning Board might look at this for rezoning.

Mr. Rattner hoped the Board will take this seriously and give them a chance for a rehearing based on all of this context, so that a good and fair decision can be made.

Mr. Williams received confirmation from Ms. Ecker that there are no other commercial properties which are currently zoned D-4 and allow a mix of commercial and residential uses that are not located in the PAD.

Responding to Mr. Boyle, Ms. Ecker gave a brief history of the PAD and why it was created. She named the Brookside Terrace and the old school district building as being properties that bought into the PAD after it was formed. They both abut the PAD. The City Engineer and the Finance Director figure out what the buy-in amount is and then it goes to the City Commission who makes the determination as to whether a property will be added or not.

Chairman Clein opened discussion from the public at 8:07 p.m.

Ms. Susan Friedlander, Attorney representing Birmingham Place Residential Condominium Assoc., noted that at the September 12 hearing she talked about the intent of the D-5 Ordinance and whether it was intended for rezoning for a multitude of properties that don't fit the non-conforming status. The history of the ordinance cannot be clearer. It was drafted because the 555 Building had space on its site.

Another issue is whether there has been new evidence submitted that justifies a rehearing. The only thing that was raised is that there was a mistake in the CIS report that said 469-479 S. Old Woodward Ave. is in the PAD. However, the CIS was specifically put aside at the hearing because the Planning Board was looking at rezoning and not the site plan or the CIS. It is on the record, on the video and in the minutes that the applicant said he can't build anything else because the property is not in the PAD.

Ms. Friedlander stated that in the example of what can be built, it is erroneous to say that parking must be on site if you are not in the PAD. The Zoning Ordinance clearly allows many of the mixed uses that are allowed in the D-4 District other than residential to have parking 100 ft. away. Ms. Friedlander said she is trying to wrap her head around the fact that because they are not in the PAD they want to have a use with an even greater parking need than they might be able to build under D-4. So, they haven't presented any new information.

The ordinance does not say that the Planning Board has the authority to rehear an application that it has denied when the City Commission has not heard it and denied it. It says the same application shall not be brought back within the same year unless there has been substantial change in conditions which the applicant can present to the Planning Board upon reapplication. That is not what happened here.

Ms. Friedlander stated that the City Commission speaks through its resolutions. The Commission's resolution says to cancel the public hearing to consider approval of the rezoning of 469-479 S. Old Woodward Ave. from B-3/D-4 to B-3/D-5 and refer the matter back to the Planning Board. It doesn't say to refer the matter back to the Planning for a rehearing and reconsideration of this rezoning request.

Mr. Clinton Ballard, 388 Greenwood, said he cares very much how this City is developed. He thinks this property should be zoned to D5 the same as the adjacent properties.

Motion by Mr. Boyle
Seconded by Mr. Share to receive and file a letter from Honigman Miller Schwartz and Cohn, LLP dated October 10, 2018 that says they represent the Condominiums at Birmingham Place Association.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Share, Clein, Jeffares, Koseck, Whipple-Boyce, Williams
Nays: None
Absent: Ramin

After a brief evacuation of the building because the fire alarm sounded, the meeting reconvened.

In response to Mr. Williams, Ms. Ecker said a letter was received from the City Attorney prior to the September 12 meeting indicating what the process would be and that it is the Board's responsibility to determine if there is new information; and to make a decision on that first; and then if the determination is made there is new information, to conduct a rehearing.

Several Board members indicated they were aware that this property was not in the PAD but several others were not. Chairman Clein did not believe it was ever discussed.

Ms. Whipple-Boyce said in all of her time on this board she can never remember seeing a rezoning application followed by a site plan for the same property on the same night. The applicant may not have touched on not being in the PAD in the first part of their presentation because they expected to be presenting that in the second part of their presentation. She finds that to be new evidence because the Board didn't give the applicant the opportunity to present their Site Plan. Therefore she leans toward voting in favor of the applicant tonight.

Mr. Koseck said he always wants to look at a proposed design along with a rezoning application. It is the applicant's job to make their case and he doesn't think there has been a change of facts to the degree that would make him have a different opinion.

Chairman Clein noted he is hard pressed to say that the news that the property is not in the PAD is a substantial change in facts, evidence, or condition. Therefore, he cannot support a rehearing.

Mr. Williams said his understanding is that the Board didn't go beyond the three properties which were non-conforming because no other properties were before them. It is clear to him that the written record of the CIS was incorrect. The record should be clear that the property is not within the PAD. Also, he doesn't think the Planning Board complied with the ordinance in its

findings. He added that it would be inappropriate to go forward with a rehearing tonight because there is a counsel of record who can't be present who said he represents a certain party that is not here. Everybody should be given an opportunity to be heard.

Mr. Share indicated his strong recollection is that when the Planning Board adopted the D-5 Zoning it was not exclusive to the three properties. It was open to other places but it was inappropriate for the Board to rezone a property without them being there to request it. Based on what he saw in the minutes and what he has heard from his colleagues, there has not been a substantial change in the evidence that would justify a rehearing

Motion by Mr. Share
Seconded by Mr. Koseck to RECOMMEND DENIAL of the applicant's request for a rehearing the property at 469-479 S. Old Woodward Ave.

There were no public comments related to the motion at 8:55 p.m.

Motion failed, 3-4.

ROLLCALL VOTE
Yeas: Share, Koseck, Clein
Nays: Boyle, Jeffares, Whipple-Boyce, Williams
Absent: Ramin

Motion by Ms. Whipple-Boyce that the Planning Board finds that there have been substantial changes in the evidence previously presented at the rezoning hearing on June 27, 2018, and thus grants a rehearing of the rezoning request for 469-479 S. Old Woodward Ave.

Motion carried, 4-3.

ROLLCALL VOTE
Yeas: Jeffares, Whipple-Boyce, Boyle, Williams
Nays: Koseck, Share, Clein
Absent: Ramin

At 9 p.m. there were no comments from the audience.

Motion by Mr. Williams
Seconded by Mr. Boyle that the re-hearing that has been approved by the Planning Board be held on Wednesday, November 14, 2018.

There was no discussion from members of the public at 9:05 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Boyle, Clein, Jeffares, Koseck, Share, Whipple-Boyce
Nays: None
Absent: Ramin

Planning Board Minutes
November 14, 2018

E. REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)

Rehearing of application to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building (postponed from October 10, 2018)

Mr. Rick Rattner, 380 N. Old Woodward Ave., said that after many hours of work they thought it might be helpful if they were given a chance to talk to the Birmingham Place neighbors and see if they could come to some conclusion about how they might accommodate each other. Therefore, they ask that the application be postponed to a date certain.

Mr. Clein announced that communication between parties is always something this board has strived for. Therefore, he would be willing to wait in order to allow that to happen.

Mr. Share assured that the Planning Board would not simply rubber stamp the agreement that was made, should they make one.

Mr. Koseck added that through communication there is always a better result, better planning, and happier people. So he was in favor of the request.

At 7:35 p.m. the Chairman asked for public discussion.

Ms. Susan Friedlander, who represents Birmingham Place Residential Condominium Assoc., said this is the first they are hearing about the postponement request. Her clients are upset about it because this is their fifth time in front of the Planning Board. It has gotten really expensive for them as well as time consuming. Further, they lose people every time their hearing is put off. Therefore, they want to just go ahead this evening. Additionally, she questioned why they were not notified of the postponement before tonight's meeting.

Mr. Jason Able spoke on behalf of the Condominiums of Birmingham Place Master Assoc. He echoed Ms. Friedlander's words. Every time this appeal is postponed less people show up.

Mr. Larry Rockind, resident of Birmingham Place, said at a minimum the applicant should be required to give some indication of what they have in mind. Also they should talk about paying the costs that the residents have incurred as a result of the delays.

Mr. Mickey Schwartz, resident of Birmingham Place, noted that in other developments like the Frank St. project the developer met with the neighborhood before submitting anything to the Planning Dept., which is the appropriate way of doing something. This has been going along for a long time and he doesn't see any grounds for further postponement. So, he asked the Board not to extend the hearing. If the hearing is extended he asked that it be for a period of six months in order to accommodate the residents who will be away for the winter.

Mr. Duraid Markus, one of the principals of the ownership of the two buildings, said he understands the concerns. He asked for a chance to show the residents of Birmingham Place

what the development would look like at five and nine stories and what he can or cannot accommodate them with. He wants to do a lot to appease their fears. It came to this late juncture because they finally finalized the plans.

Discussion clarified that tonight the Board is dealing with massing and the intensity of use.

Ms. Whipple-Boyce asked Mr. Markus if anything he is planning to discuss with the residents of Birmingham Place has to do with him not rezoning the property. Mr. Markus responded that if he can show the residents a rezoning plan that they are happy with maybe there will be less opposition.

Mr. Share explained that the Board is well aware of the intensity of the feelings of the residents of Birmingham Place. Their letters are all part of the record. Therefore, ~~no matter how many~~ **if fewer** people show up for the hearing it won't influence the Board's decision.

Mr. Koseck hoped this would be a win-win and the residents would see something positive in what is being proposed by the applicant.

Mr. Jeffares said the Board has seen where something received complete opposition and they worked on it and came up with a great outcome. That is what he would like to strive for and have everybody be happy. Maybe it will work or not work, but why not give it a shot.

Mr. Emerine thought it is important that people get together and discuss this. He was in favor of postponement. Mr. Boyle said he is of the same mind. From his experience on this Board, the more conversation there is outside of this room, the better understanding there is between parties. Chairman Clein was in general agreement with those feelings.

Mr. Markus indicated that December 12th would be fine to come back.

Motion by Mr. Boyle
Seconded by Mr. Koseck that in light of the statements from the applicant that we postpone this rezoning application for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) to the Planning Board meeting scheduled for December 12, 2018.

There were two further comments from the public on the motion at 7:58 p.m.

Mr. Mickey Schwartz, resident of Birmingham Place, said tonight's hearing is about rezoning. It seemed to him they have digressed into talking about the specifics of the project that have nothing to do with rezoning. He heard Ms. Whipple-Boyce ask Mr. Markus whether or not he would request a rezoning change. However, he didn't hear him answer her question, and gave a non-responsive answer. If this is really about the rezoning then maybe they should talk about that tonight. They can always talk about the specifics of the project if the Board agrees to the rezoning request.

Ms. Tony Schwartz, resident of Birmingham Place, said this is a rezoning and why discuss a project that may not even happen if it is not approved. It is hard for her to believe that when the developer originally bought the property he did not have the intention of building to ten stories.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Koseck, Clein, Jeffares, Emerine, Share, Whipple-Boyce
Nays: None
Absent: Williams

Planning Board Minutes
December 12, 2018

E. REZONING REQUEST

1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed use building (postponed from November 14, 2018, and the applicant has asked for additional postponement)

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce that the rehearing of the rezoning request for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) be postponed to the regular Planning Board meeting of January 23, 2019.

Motion carried, 7-0.

There were no comments from members of the public at 7:35 p.m.

VOICE VOTE
Yeas: Williams, Whipple-Boyce, Boyle, Clein, Jeffares, Koseck, Share
Nays: None
Absent: None

Mr. Williams asked that upon republishing this material, staff note any new information on the first page.

DRAFT Planning Board Minutes
January 23, 2018

E. REZONING REQUEST

1. **469 – 479 S. Old Woodward (former Mountain King & Talmer Bank)** – Request to reconsider application in light of new information to be presented to rezone from B3 and D4 to B3 and D5 to allow a nine story mixed use building (Postponed from December 12, 2018).

Ms. Ecker identified the subject site and reviewed the history of the rezoning requests over the past year. It was noted that the building immediately to the north of 469-479 S. Old Woodward is approximately 115 feet tall, and that the tower to the south of 469-479 S. Old Woodward, attached to the 555 building, is approximately 80 feet tall. The current zoning would allow for an approximately 80 feet tall building at 469-479 S. Old Woodward.

The 2016 Plan would only allow a five-story building at the 469-479 S. Old Woodward site. D-5 zoning allows a building to go up to, but not exceed, the height of an adjacent building. D-4 zoning allows a building to have five stories if the top floor is residential. Planning Director Ecker did not believe there are any other properties zoned D-4 in the Downtown Overlay which are not also in the Parking Assessment District (PAD).

Planning Director Ecker reviewed the requirements for rezoning contained in the Zoning Ordinance and explained the findings related to these as outlined in the staff report, along with the applicant's responses as submitted. After the review was complete, Ms. Ecker noted that based on the Planning Department's review "of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, [...] the applicant meets the established Zoning Ordinance requirements of Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district."

Mr. Rick Rattner, Attorney, was present to represent the applicant. On behalf of the applicant Mr. Rattner and architect Chris Long gave a presentation first outlining the applicant's adherence to the Zoning Ordinance requirements of Article 7, section 7.02(B)(5), similar to the Planning Department's findings of positive rezoning qualifications of the property, and secondly showing a massing of the proposed building, zoned as D-5, at the 469-479 S. Old Woodward site.

Mr. Rattner began by saying he could not think of another situation in Birmingham where two buildings are zoned in the same way with a third building, in the middle, zoned differently. Mr. Rattner continued:

- The 469-479 S. Old Woodward site essentially creates a gap in the streetscape since it is currently one or two stories and cannot be rebuilt.
- Based on intended height, the applicant would return to the Board for a Special Land Use Permit (SLUP) which would also take into account the neighbors' preferences.
- D-5 zoning would allow for on-site parking and the same uses as the surrounding buildings.

Mr. Longe described the 469-479 S. Old Woodward site. If the current buildings were maintained and reused for a non-conforming use the applicant would need to provide parking for 55 cars since the site is outside of the PAD. His presentation illustrated and talked through some other D-4 zoned options that would be similarly untenable for the site.

The Board was then presented with two massing models to demonstrate what the proposed building would look like if the City Commission were to grant the change in zoning to D-5.

Mr. Longe clarified that the proposed building could be stepped back from Birmingham Place to provide more open space between the two buildings if the change in zoning to D-5 is granted. He added that this idea came about as part of the ongoing discussion with the tenants of Birmingham Place.

Mr. Longe confirmed for Mr. Emerine that the top block represented on the proposed building would be a mechanical block, not an additional story to the building.

Chairperson Clein thanked Mr. Longe for the massing diagrams, stating they were helpful.

Mr. Rattner told Mr. Share that the applicant is coming before the Board instead of the Board of Zoning Appeals because the applicant is attempting to do a development under the current zoning ordinances of the City. Mr. Rattner added that it is unusual and unfair to maintain the site at D-4 when both buildings adjacent to the site are zoned at D-5.

Doraid Markus, one of the applicants, opined that a five-story hotel would not be as becoming of Birmingham as a nine-story hotel. He specified that in order to create an uncrowded first floor and mezzanine level and a sufficient number of rooms, the building would need the extra height.

Susan Friedlander, Attorney representing Birmingham Place Residential Condominium Association, explained that the evening's discussion was supposed to be a rehearing since the site had originally been described incorrectly as being in the PAD. Given this, she wondered why the applicant had yet to explain this evening how the PAD was such a significant issue that the Board should consider voting differently than it had in the past. She added:

- The applicant's assertion that they could not park onsite with a five-story building, but could park onsite with a nine-story building -- even though a nine-story building would require an increase of parking spaces -- did not compute.
- Other hotels being built in the PAD are putting two levels of parking underground.
- The applicant said they would be able to use approximately 40 spaces from the 555 building if the site was built to nine stories. Ms. Friedlander questioned why this arrangement would not work with a five-story building as well.
- During tonight's presentation the applicant did not mention the various parking sharing arrangements available to the applicant under the ordinance. Such sharing arrangements could significantly decrease the burden of providing parking. She said addressing this issue is more of a parking variance matter than an ordinance matter.
- According to Planning Director Ecker's report, there is no consensus on whether the City should be raising building heights in this area. If the Board and Commission determined that these three high-value buildings should have their heights raised without consulting the Master Plan for the area, then the City was not zoning according to a Plan. Michigan law requires that every City zones according to its Plan(s).

- Changing building heights in the Downtown Overlay district merits a thorough community engagement process, similar to the process of changing building heights in the Triangle District. Insufficient consultation of the community on this matter could result in the impression that this zoning change was insufficiently considered and vetted. She also said the February 2017 Commission discussion on the issue reflected similar concerns from the Commissioners regarding the lack of community engagement.
- A number of other properties in Birmingham could also request changes in zoning based on being next to D-5 buildings. The problem is whether these changes are being made according to the City's 2016 and Master Plans.
- The City specified in its 2016 Plan that it wanted to maintain its small town character. According to Ms. Friedlander, small towns do not usually go above three or four story buildings. While Birmingham has gone back and forth on whether it would allow taller buildings, drastic changes to building heights should be made according to the City's Plans.
- The discussion of changing this site's zoning should occur under the auspices of the upcoming Master Planning process. Otherwise, this is similar to spot-zoning, since no land use patterns changed for the site.

David Nykanen, Attorney, said he represents some of the residential owners in the Birmingham Place Condominium Association. Noting that a hotel would require the least amount of parking on this site, Mr. Nykanen asserted that the applicant chose not to present the parking implications of that option in the current discussion so as to make the parking requirements seem more onerous than they are. He continued:

- Two other sites in Birmingham are building five story hotels, demonstrating that parking a five story hotel within the City is not excessively burdensome.
- In addition to the potential parking agreement with the 555 building, other options are available to the applicant for parking a five story hotel on this site.
- The applicant's statements this evening demonstrated that this rezoning request is based on the applicant's preference for a certain type of hotel, not the inability to build a hotel on the site more generally.
- The zoning uses for both D-4 and D-5 are the same, so Mr. Rattner's assertion that a change in zoning is necessary to allow the applicant to enjoy the same uses as the adjacent buildings is fallacious. The only difference between the zoning types is the building height.
- A five story hotel on the site would be taller than the 555 building and would adequately fill in the visual gap in the streetscape.
- It is clear that this rezoning request is about economics and not about land use, which is an insufficient reason to rezone a property.

Jason Abel, Attorney, said he represents the Masters' Association of the Birmingham Place Condominium Association. He said he echoed the previous two speakers and drew the Board's attention to 7.02(B)(2)(b)(i) and 7.02(B)(2)(b)(ii). Mr. Abel explained:

- Regarding 7.02(B)(2)(b)(i), the applicant is required to show, and the Board is required to present findings of facts, as to why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with the property. Mr. Abel described 'necessary' as the critical word, since it is not necessary to develop a nine story hotel on this property. A five story building could be developed on this site with many different uses. The problem is that the applicant is requesting a change in the zoning to access a use that is not permitted in the five story setting. While Mr. Abel acknowledged

this to be an understandable preference on the part of the applicant, he asserted that it would not be a 'necessary' change. Additionally, the applicant's contention that they would make more money with a taller building or would not be able to provide enough parking with a shorter building could be used by any developer in any zoning environment, making their argument so broad as to fall outside the need for a specific and 'necessary' zoning change.

- Regarding 7.02(B)(2)(b)(ii), the zoning of D-4 is not inappropriate for the current land use. The issue is, rather, that the applicant would like to build a nine story hotel on a parcel zoned for a five story use.
- The applicant presented arguments adjacent to the Zoning Ordinance rather than addressing the Zoning Ordinance.
- Regarding 7.02(B)(2)(b)(iii), Mr. Abel said the applicant did not address the detrimental impact changing the zoning of the site to D-5 would have on the neighbors.

Carole Kozlow stated that her family has always loved Birmingham's smaller town nature. Recalling Mr. Markus making a statement similar to 'if the City does not want large buildings, it never should have allowed the first one to be built' during the June 2018 conversation on the issue, Ms. Kozlow said she agreed. Noting that Birmingham has since changed course on large buildings, she asked that the City continue to preserve its character, rather than having to fix the problem after the fact.

Karl Sachs said he has lived in Birmingham for about 25 years and said he had been asked to convey some of his neighbors' feelings on the potential rezoning. He continued that many of their points had already been covered by others but that he wanted to mention his neighbor Mike Humphrey's written statement that the potential rezoning does not adhere to the Master Plan. Mr. Sachs said that this hotel would make privacy nearly impossible for the residents of Birmingham Place living on the side adjacent to the proposed site.

Michele Prentiss, Property Manager of Birmingham Place, presented the Board with a written reply to the applicant's summary statements as included in the Board's agenda packet for the evening. She then gave a copy to Chairperson Clein.

Chairperson Clein asked if there was a motion to receive and file the letter.

Mr. Williams asked for a copy of the letter. Chairperson Clein said he would pass along his copy for Mr. Williams to read. Mr. Williams said that without a copy for each Board member to read, he would not make a motion to receive and file the letter.

Chairperson Clein said he would acknowledge the letter, and upon receipt of the letter as an email to Planning Director Ecker the letter would be included in agenda material on the matter moving forward.

Seeing no further comments from the public, Chairperson Clein brought the discussion back to the Board. Chairperson Clein said it was time for the Board to make a decision.

Mr. Share asked if the letter had any new information, saying he did not want to make a decision if there was information the Board had not yet heard.

Ms. Friedlander told the Board that all the letter's points had been covered in the evening's discussion.

Mr. Share spoke first, saying that this is an unusual zoning request since it only impacts the height of the building allowed. He continued that when D-5 was implemented, the Board did not preclude other sites from seeking to be zoned D-5 in the future. From a streetscape perspective, he saw no significant difference between a five story and nine story building on the site. The proposed change does not seem 'necessary' as defined by 7.02(B)(2)(b)(i). It would behoove the Board to look at the zoning of the entire block from Hazel to Brown. He would not be voting in favor of rezoning unless his colleagues persuade him otherwise.

Mr. Koseck said none of the new information persuasively explained why the City Commission should approve the rezoning. He noted the 2016 Plan conclusively zoned the building at D-4. Cities tend to have buildings of varying heights, and the variety is partially what makes cities interesting, so the streetscape argument was not particularly compelling. Assuming the site was purchased with awareness of the D-4 zoning, Mr. Koseck suggested that this is not so much a zoning issue as a parking issue. He recommended the applicant apply to join the PAD or enter into some other beneficial parking arrangement. Addressing Mr. Markus' assertion that certain hotel designs are not becoming of Birmingham, Mr. Koseck said his firm is currently building a hotel in Ann Arbor with nine-foot floor to ceiling heights, that he is confident that the result with be sufficiently upscale, and that something similar could be done in the applicant's case. Lastly, Mr. Koseck noted the community's consistent concerns that the rezoning would be detrimental to the neighbors. He said no new information could be provided that would change his thinking on the matter.

Mr. Williams pointed out that the City Attorney found the site eligible for D-5 zoning. He said Ms. Friedlander could pursue the matter further with the City Attorney, but that the Board is bound by the City Attorney's opinion. The D-4 zoning for this site does not allow reasonable enjoyment of the property since all other D-4 sites in Birmingham have access to the PAD. Because this currently makes the property non-competitive, Mr. Williams said he would be in favor of rezoning.

Mr. Emerine noted the persuasive impact of the City Attorney's opinion that this site is eligible for D-5 zoning. Adding that the developer would need to acquire a SLUP should the rezoning move forward, Mr. Emerine stated he was comfortable with the rezoning at this time.

Mr. Jeffares recalled the Board had considered rezoning the surrounding area but had decided they wanted to keep D-5 to this smaller area at the time. He expressed an equivocal opinion on the idea of zoning a building according to its neighbor's zoning, but said that a building zoned differently between two buildings of the same zone seemed significant enough to change.

Ms. Whipple-Boyce addressed Ms. Friedlander's contention that D-5 was in any way surreptitiously done, saying that the Board and the City Commission spent many public meetings discussing the issue in depth. Ms. Whipple-Boyce added that she affirmed the City Attorney's findings regarding the application, and that she believed the applicant proved their case.

Chairperson Clein said he was against the rezoning at this time. He continued that the origins of D-5 zoning have no bearing on the question before the Board this evening, or if they do it is a legal question not up to the Board's interpretation. He clarified that the Board's directive was to

determine whether this parcel and application met the ordinance requirements for rezoning. Arguments about adjacencies were also not relevant. The applicant did not meet the burden of proof. Building heights across the downtown should not be changed without a downtown Master Plan. While Chairperson Clein said he would likely recommend the building be permitted a height increase within a planning process, neither the City's Master or 2016 plans allow the flexibility to add four stories to this building outside of the planning process. He noted that there were a number of D-4 uses not presented that would be appropriate for this parcel. In conclusion Chairperson Clein said he was firmly in opposition to rezoning at this time, but said he would entertain any other Board member's replies.

Mr. Jeffares said the owners of the other D-5 parcels applied for rezoning based on finances but that ironically tonight's applicant was being chastised for doing the same thing.

Chairperson Clein begged to differ and clarified for the record that the owners of the other D-5 parcels were having to get a number of different variances for every change they wanted to make on their properties.

Mr. Jeffares asserted the other D-5 parcel owners had indeed brought up financing in their rezoning application.

Chairperson Clein disagreed, saying that D-5 zoning arose out of a directive from the City Commission asking the Board to find a way to bring the currently D-5 parcels in question into compliance.

Motion by Mr. Williams
Seconded by Mr. Jeffares that based on a review of the rezoning request by the applicant and the supporting documentation submitted by the applicant, a review of the City's current Master Plan and the City's current 2016 Plan, and development trends in the area, and in compliance with 7.02(B)(5)(a) - 7.02(B)(5)(e), the Planning Board adopts the findings of fact in the staff report dated November 8, 2018, and recommends approval to the City Commission for the rezoning of 469 – 479 S. Old Woodward from D-4 to D-5 in the downtown overlay.

Motion carried, 4-3.

ROLL CALL VOTE
Yeas: Whipple-Boyce, Emerine, Jeffares, Williams
Nays: Clein, Koseck, Share
Absent: Ramin

Chairperson Clein explained that this is a recommendation to the City Commission. He explained the Commission will then take this recommendation and all attendant information, hold another public hearing of the applicant's request and the community's perspective, and make their determination. Chairperson Clein thanked the audience for voicing their opinions during the discussion.

CORRESPONDENCE RECEIVED FOR & AGAINST REZONING

411 S. Old Woodward Ave., Unit 1018
Birmingham, MI 48009
May 16, 2018

VIA HAND DELIVERY

Ms. Jana Ecker, Director
City of Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Development")
Request to Rezone from B3/D4 to B3/D5 Filed by Christopher Long
on Behalf of Birmingham Tower Partners, LLC (the "Applicant ")
Hearing Scheduled for Wednesday, May 23, 2018 (the "Hearing")

Dear Ms. Ecker:

I request that the Hearing be rescheduled for two (2) reasons. First, I received notice of the Hearing by mail on May 8, 2018 and visited the City Planning Office on Friday, May 11, 2018 to review the application. As of that date, the Applicant had not filed the statements required under subsection 7.02 B.2.b of the Rezoning Amendments (i.e., explanations of why rezoning is necessary, of why the existing zoning classification is no longer appropriate, and of why the proposed rezoning will not be detrimental to the surrounding properties). I suggest that failure to timely file those explanations caused the notice of the Hearing not to meet the fifteen (15) day advance notification required under subsection 7.02 B.4.a.i of the Rezoning Amendments.

Second, as a Birmingham resident living adjacent to the Proposed Development, I would appreciate time to review the very extensive documents filed by the Applicant. I suggest that public input is critical on a project that seeks to permission to erect the first building greater than five (5) stories to be built in downtown Birmingham in decades, which could well set a precedent for continuing development of high rise structures in our beautiful community. Substantial additional time will be required for myself and the many other Birmingham residents who are affected by the Proposed Development to adequately review and to respond to these filings.

Please contact me at the above address, via email to mickeyschwartz@gmail.com, or at telephone numbers (248) 229-9989 or (248) 593-3155 with any questions or further requirements and in any event with the new hearing date. Thank you for your time and attention.

Yours very truly,

Michael Schwartz, MD

xc: Applicant (via email to dsmarkus@yahoo.com)
Planning Board Members (via separate emails)

Eric and Janis Sterling
411 S. Old Woodward Avenue, Unit 615
Birmingham, MI 48009

June 7, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Eric Sterling

Janis Sterling

ADDRESS: 411 S. Old Woodward, #1029

DATE: 6/7/2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Nikole Fine

Unit #521

411 S. Old Woodward, Suite 603
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Stuart Glasier

411 S. Old Woodward, Suite 729
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

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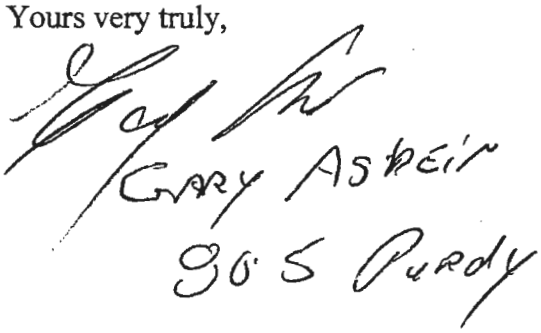

Gary Astrein
905 Purdy

2400 East Lincoln Street, Unit 425
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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ADDRESS: 411 S. Old Woodward # 1028
Birmingham Mi

DATE: 6-9-2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Yours very truly,

Bev Ross

Edwin B. and Felicia P. Shaw
411 South Old Woodward Ave. Unit #910
Birmingham, Michigan 48009

June 12 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Edwin B. Shaw

Felicia P. Shaw

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Fwd: 469-479 S. Old Woodward Ave. (the " Proposed Project") Objection

1 message

Stuart Jeffares <stuartjeffares@gmail.com> Wed, Jun 13, 2018 at 9:52 PM
To: Jana Ecker <jecker@bhamgov.org>

---------- Forwarded message ---------
From: Alice Lezotte <zareyskid@gmail.com>
Date: Sun, Jun 10, 2018, 12:53 PM
Subject: Fwd: 469-479 S. Old Woodward Ave. (the " Proposed Project") Objection
To: <stuartjeffares@gmail.com>

Sent from my iPad

Begin forwarded message:

From: Alice Lezotte <zareyskid@gmail.com>
Date: June 10, 2018 at 12:47:33 PM EDT

Subject: 469-479 S. Old Woodward Ave. (the " Proposed Project") Objection

411 S. Old Woodward. #511
Birmingham, MI. 48000
June 8, 2018
Mr. Jeffares, I am a city of Birmingham constituent. I would like to express my disapproval and opposition to the request for rezoning and to the Proposed Project itself.

The Birmingham city code has many statements to keep in mind when considering a new city project (I paraphrase):

1. Regulation and control of a project should promote the public health, safety, and general welfare of the city
2. Provide orderly growth and HARMONIOUS development
3. Secure adequate traffic circulation and "lessen" congestion on our streets
4. Ensure adequate provisions for water drainage, sanitary sewer facilities, and other health requirements
5. Achieve the maximum utility and "livability" of a project
6. Natural features must be preserved and changes should "add" to the attractiveness and "value" of the neighborhood
7. Any Proposed project should take into consideration as to the impact on adequate supply of light and air to adjacent properties and the capacity of essential public facilities, such as police and fire protection, drainage structures, municipal water, sanitary sewers, and refuse disposal

Wise decisions have been made in the past (e.g., Forefront, Bristol,etc.) in accordance with The city's 2016 Master Plan and our Building Codes.

It is my hope similar consideration will prevail and this proposal will be denied.
Maple Road and Woodward on the south east corner would be an ideal location for this proposed project.
We want to keep our "Walkable" community as safe and pleasant as possible.
Best regards,
Alice Lezotte

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Fwd: Proposal for a 9 story building on S. Old Woodward, Birmingham

1 message

Stuart Jeffares <stuartjeffares@gmail.com> Wed, Jun 13, 2018 at 9:52 PM
To: Jana Ecker <jecker@bhamgov.org>

---------- Forwarded message ---------
From: Julie Wolfe <julie@moosejaw.com>
Date: Sun, Jun 10, 2018, 1:08 PM
Subject: Proposal for a 9 story building on S. Old Woodward, Birmingham
To: Julie Wolfe <julie@moosejaw.com>

From: Julie Wolfe

411 S. Old Woodward #1021

Birmingham, MI 48009

6/10/18

Birmingham City Commission

Birmingham Planning Board

151 Martin Street

Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project ”)

Ladies and Gentlemen:

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I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. More construction to this area is very disturbing and frustrating. The city has been torn up enough.

Thank you.

Julie Wolfe



2 attachments



image001.png
6K



image003.png
7K

411 S. Old Woodward, Suite 1012
Birmingham, MI 48009

June 14, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Yours very truly,

Catherine Brozek

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Carol Kozlow

Carol Kozlow

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Louis P. Rudkin
Birmingham Place
Unit 310

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Erin Mellott

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

RECEIVED BY
JUN 22 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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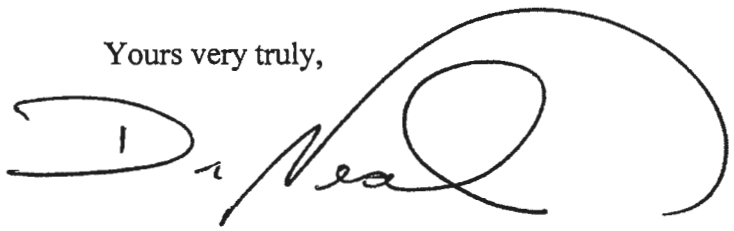

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

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Vandad Raofi

and

Negar Farhi

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Yours very truly,

Valerie Foley
411 S. Old Woodward Ave
Unit 508
Birmingham MI
48009

Unit # 703

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,



UNIT #806

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Michael C. Schwartz

Toni Schwartz

411 S. Old Woodward #1018

Birmingham 48009

411 S. Old Woodward, Suite
Birmingham, MI 48009

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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T. J. ELSHOLZ

E.A. ELSHOLZ

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Gina Tellman

Unit 606
411 S. Old Woodward Ave
Birmingham, MI 48009

411 S. Old Woodward, Suite 902
Birmingham, MI 48009

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Ralph Boyll

Rose Boyll

Rose Boyll

06/08/18

411 S. Old Woodward, Suite
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June 15, 2018

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Victoria Shoneyra

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Unit #514

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Gavin Butler

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411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

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Yours very truly,

Alex Shocair

#514

411 S. Old Woodward, Suite
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Alice Legatte #511

411 S. Old Woodward, Suite
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Ted Elsholz

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Yours very truly,

Nancy White
#505

411 S. Old Woodward, Suite # 725
Birmingham, MI 48009

June 15, 2018

RECEIVED BY
JUN 29 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Rose M. Boyll

Ralph G. Boyll

411 S. Old Woodward, Suite #901
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Helen O. Kane
owner

411 S. Old Woodward, Suite 529
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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DAVID SALIBA
Unit 529

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

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Birmingham Planning Board
151 Martin Street
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Roanne M Saliba

Birmingham Place, unit #529

Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
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Birmingham, MI 48009

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Yours very truly,

Leslye Colding

687 Vinewood

Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Debra J. Elsholz

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Yours very truly,

Vikki Galpern

460 Park

Birmingham, MI 48009

June 18, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

1034 Waterfall Court
Birmingham MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Judge Susan D. Borman (Retired)

Susan Borman

DJ MARLUC HOLDINGS LLC

6632 Telegraph Rd. #359
Bloomfield Hills, MI 48301

6/18/2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable 'gap' between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the D5 zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

John Kello

411 S. Old Woodward
Birmingham, MI 48009

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Dana Bassipour

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am writing, as the owner of a residential comdo unit in Birmingham Place, to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

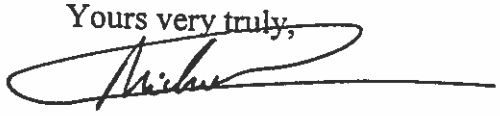
3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,



Michael Hanna

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am writing, as the owner of three residential comdo units in Birmingham Place, to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

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2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

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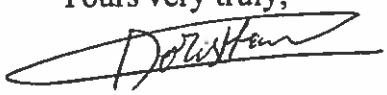
Yours very truly,



Doris Hanna

ADDRESS: 319 GREENWOOD
BIRMINGHAM, MI 48009

DATE: JUNE 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

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We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

LISA A. MARTIN

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am writing, as the owner of one or more residential comdo units in Birmingham Place, to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Moussa Hanna

Lexi Drew
152 N Old Woodward
Birmingham, MI 48009
248.220.1731

Date 6/20/2018
Birmingham City Commission & Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue
Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable 'gap' between them, which can be seen from both South Old Woodward and Woodward Avenue.
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5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

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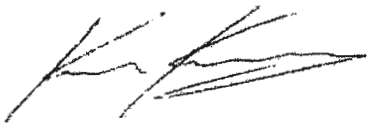

Kevin Kejbou
152 N Old Woodward
Birmingham MI 48009

CBRE

2000 Town Center
Suite 2200
Southfield, MI 48075

248 353 5400 Tel
248 353 8134 Fax

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

David Hesano
First Vice President
David.hesano@cbre.com

NINE9
THE UNAGENCY

DETROIT ATLANTA CHICAGO CLEVELAND DALLAS HOUSTON LOS ANGELES MIAMI NEW YORK SAN FRANCISCO SOUTH JERSEY WASHINGTON DC

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Anthony Toma
CEO & Founder
Nine9
2653 Industrial Row Dr.
Troy, MI 48084

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

RE: Proposed Project at 469-479 S Old Woodward Avenue

Dear City Commission and Planning Board Members,

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9. Contribute to the economic vitality of the City of Birmingham.

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Sincerely,

Gregg Speaks
Managing Director
CIBC Bank USA
34901 Woodward Avenue, Suite 200
Birmingham, MI 48009

EQUAL HOUSING LENDER | MEMBER FDIC

MIDWEST HOSPITALITY GROUP INC.

June 20, 2018

Birmingham City Commission

Birmingham Planning Board

151 Martin Street

Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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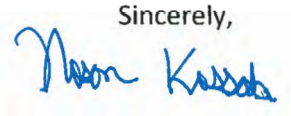

Nason Kassab

35270 Woodward Ave

Birmingham, MI 48009

VISION
INVESTMENT PARTNERS

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.
10. This project would continue to make the City of Birmingham the premier city to live and shop

40700 Woodward Ave. Suite 125 Bloomfield Hills, MI 48304 Phone 248.865.1515

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Kevin Denha
40700 Woodward Ave Suite 125
Bloomfield Hills, MI. 48304

ISHBIA & GAGLEARD, P.C.
ATTORNEYS AND COUNSELORS
MERRILLWOOD BUILDING
251 MERRILL STREET, SUITE 212
BIRMINGHAM, MICHIGAN 48009

(248) 647-8590
(800) 647-6269

FAX (248) 647-8596

JEFFREY A. ISHBIA
MICHAEL A. GAGLEARD *
MARK W. CHERRY
DAVID N. ZACKS **

PHILIP CWAGENBERG
FRANK J. LAROCCA
MICHAEL J. WEISBERG **
SARA E. ROHLAND

ISIDORE B. TORRES, OF COUNSEL
C. GILES SMITH, JR., OF COUNSEL

* ALSO ADMITTED IN CALIFORNIA
** ALSO ADMITTED IN FLORIDA

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable 'gap' between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the D5 zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

ISHBIA & GAGLEARD, P.C.

Jeffrey A. Ishbia

NAJOR

600 N. Old Woodward
Suite 100
Birmingham, MI 48009

T 248.433.7000
F 248.433.0900
www.najorcompanies.com

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Sincerely,

Brian Najor
Najor Companies
600 N. Old Companies, Ste 100
Birmingham, MI 48009

JONNA

luxury homes

6/20/18

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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Sincerely,

Joseph Jonna, Jonna Luxury Homes

YALDO LAW
PLLC

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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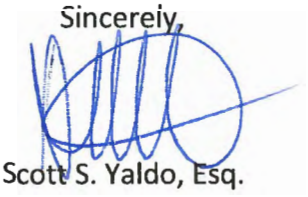
500 S. Old Woodward Ave., Second Floor, Birmingham, MI 48009
Phone: (248)645-5300 Fax: (248)645-5301
www.yaldolaw.com

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,



Scott S. Yaldo, Esq.

Joe Vicari
RESTAURANT GROUP

Phone: 586-268-3200 | Fax: 586-268-3224
7096 E 14 Mile Rd Warren, MI 48092
andiamoitalia.com

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Joseph P. Vicari

Joseph P. Vicari
7096 E. 14 Mile Rd.
Warren, MI 48092

David Breedlove
85 Tradd Street
Charleston, SC. 29401

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project referenced above. I am no longer a resident of Birmingham but maintain a condominium in Birmingham. Birmingham has been my home for most of my 70 years since my parents bought their first home on Villa in 1949. I remember visiting Pearls for a nice Chinese dinner. So, I know the area well. And while we moved from our home on Lincoln to warmer weather after retirement, Birmingham will always be home. I have watched how the character of the town has changed over the last 65 years. I was sad when the City allowed 555 to be built. I will always believe it was a mistake. We do not need another mistake.

I was encouraged when the City leaders realized they needed to protect the character and feel of the city. There was no place for skyscrapers in Birmingham. The city's 2016 Master Plan recognized the need to control the height of new buildings in the city center. I think they have done an excellent job over the last twenty years.

I have watched in my new home, Charleston, as real estate investors have tried to come in and build one more hotel and destroy what makes Charleston attractive. It is an on-going battle. You are faced with the same economic pressures and arguments I hear in Charleston. It is just one more hotel. There are already buildings of similar height in town. The city needs more hotel rooms. It will generate more business in town. The arguments are always the same and unfortunately, so are the results. The town becomes more impersonal. Small businesses are replaced by those that cater to the transient visitors. Residents must go elsewhere to shop.

As city commissioner, you must protect what you have today and what makes Birmingham so attractive as a place to live, work and raise a family. It is unique place in southeast Michigan, beautiful neighborhoods surrounding a friendly and inviting downtown.

I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept I firmly believe is very important to

maintaining the character and long-standing plan for this beautiful city. If someone wants to build a 9 or 10 story hotel, let them go to Troy or Southfield.

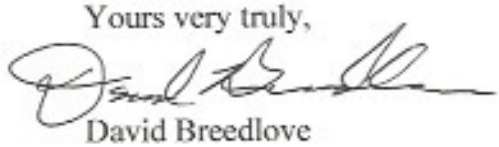
The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population. Approving a change to the zoning will open the door for the next developer to come in and argue for a similar change. What is the argument against building a high rise on the North side of Birmingham Place? Across the street?

I cannot assess the technical implications of the proposal such as traffic, impact on city services, disruption of business during construction and impact on surrounding structures. I leave that to the Commissioners and their technical experts. The parties who purchased the reference property knew the zoning at the time. They are calculating they can change the City Commissioner's minds. They are not concerned with the long term implications to the city but only how to maximize return on their investment. I sincerely hope their calculations are wrong. Another high rise in the southern end of town will ruin the neighborhood feel and open the door for more rezoning requests.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve what is a beautiful and people friendly city.

Yours very truly,



David Breedlove

THE ABRO LAW FIRM

Phone: (248) 723-4545
Fax: (248) 598-4049
E-Mail: gus@abrolaw.com

500 S. Old Woodward
Second Floor, Suite 200
Birmingham, Michigan 48009

ATTORNEYS AND COUNSELORS AT LAW

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

RE: Proposed Project at 469-479 S. Old Woodward Avenue

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Thank you for your attention herein. As always, should you have any question or require any additional information, please do not hesitate to call me directly. I remain,

Very truly yours,

THE ABRO LAW FIRM

Gus J. Abro, Esq.

GA/gja

THE ELIA GROUP

www.theeliagroup.com

The Elia Group, LLC
Real Estate & Development Services

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Sincerely,

The Elia Group, LLC

Zaid D. Elia, President

124 S. Old Woodward • Suite A • Birmingham, MI 48009 • 248.645.7777 (Phone) • 248.645.7771 (Fax)

JONNA
CONSTRUCTION CO.
www.jonnacompanies.com

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

Jonna Construction is a builder and investor in Downtown Birmingham.

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

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JONNA
CONSTRUCTION CO.
www.jonnacompanies.com

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Frank G. Jonna
6200 2nd Ave., Suite D-102
Detroit, MI 48202

LAW OFFICES OF
RANDAL TOMA & ASSOCIATES, P.C.
500 S. OLD WOODWARD AVENUE, SECOND FLOOR
BIRMINGHAM, MICHIGAN 48009
OFFICE (248) 948-1500
FAX (248) 948-1501

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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Very truly yours,
RANDAL TOMA & ASSOCIATES, P.C.

Randal S. Toma
Attorney at Law

2941 Mediterranean
street food

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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Sincerely,

Jacques Van Staden - Founder & CEO
176 S. Old Woodward Ave
Birmingham, MI 48009

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Rezoning issue

1 message

Clinton Baller <cmballer@avidpays.com> Fri, Jun 22, 2018 at 10:17 AM
To: Jana Ecker <Jecker@bhamgov.org>

Jana,

Could you please let the Planning Board know my thoughts on the rezoning request for the former Franklin/First Place/Talmer bank building and Chinese restaurant on Woodward/Old Woodward?

I don't know why that property was not included in the D5 rezoning that occurred several months ago, but it should have been. Birmingham Place is nine stories, and the 555 building is 15. I can't imagine that the city would not allow something of similar height and mass to occupy the space between these two projects.

Beyond that, I think the city ought to insist on a project that brings some vitality to Old Woodward and the side street (Hazel), which are now dead zones. Either that, or just vacate Hazel insist on a use that is advantageous to the city.

My two cents, which are worth at least a nickel, I think.

Cheers!

Clint

STEWARD-MEDIA.COM

June 25, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

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Sincerely,

Derek Dickow
211 E Merrill St., 504
Birmingham, MI 48009

770 SOUTH ADAMS ROAD, SUITE 103, BIRMINGHAM, MI 48009
O :248.973.6070 // F :248.973.6071 // E INFO@STEWARD-MEDIA.COM

411 S. Old Woodward, Suite 631
Birmingham, MI 48009

June 26, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Dennis W. Liu

PETER R. SOBELTON
420 HARMON
BIRMINGHAM, MI 48009
248-433-5200

RECEIVED BY
JUL 3 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

June 27, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin St
Birmingham, MI 48009

I am writing to express my strong support for the Re-Zoning request for the mixed use project being proposed for 469-479 S. Old Woodward Ave.

The proposed project will fit in nicely with its neighbors on either side, bearing in mind, each of which are 9 and 15 stories in height. With this development, rather than the present one story buildings, we will now have a building matching the scale, character and use of those buildings on either side.

Additionally, the proposed project would most certainly attract a greater amount of people to the south end of town, and no doubt also throughout the town, while adding retail shopping, thus tying into the already existing retail in the two neighboring buildings. Perhaps one of the most advantageous parts of the project, will be the alleviation of the necessity to accommodate parking on the street, as a result of the parking that will be provided on site.

This project is a win-win, and should be approved for re-zoning in the most hasty of manners, continuing Birmingham's lead in cutting edge developments, as we continue to see the increasing competition for tenancy from our neighboring cities.

Sincerely,

Peter R. Sobelton

411 S. Old Woodward Avenue
Birmingham, MI 48009

June 27, 2018

RECEIVED BY
JUN 29 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

MICHAEL D. UMPHREY. ESQ.
411 S. Old Woodward Ave., Unit 618
Birmingham, MI 48009-6647
(248) 339-7708 – Telephone
(248) 528-5129 – Facsimile

June 27, 2018

VIA HAND DELIVERY

John M. Connaugton, Fire Chief
572 South Adams
Birmingham, MI 48009

Re: Proposal to Rezone 469-479 S. Old Woodward Avenue

Dear Chief Connaugton:

I am writing, individually and as an officer and director of the Birmingham Place Residential Condominium Association, in response to your letter of June 22 Jana Ecker. A number of residents here discussed this matter with Joel Campbell and wish we had been sent a copy of the letter, but at least we got it as part of the agenda for tomorrow night's Planning Board hearing.

In any event, we have some serious concerns with this situation in general and with your letter in particular, which include:

1. The proposed new building is ***not*** planned to be built "very close to the South Side of Birmingham Place" but rather is proposed to literally abut the southerly walls of Birmingham Place. This may not have a direct bearing on fire issues, but it does raise other issues and should, in any event, be stated accurately.

2. We understand that the fire equipment currently has some, albeit limited, access to Birmingham Place from Hazel Street. Your letter correctly states that you ". . . would not deploy our aerial truck for operations on the South Side of the building," but it fails to note that the proposed building, which would be 22 feet taller than Birmingham Place, completely eliminates whatever access is currently available from Hazel Street.

3. Your letter also states ". . . we do have access from both the East and West sides of the building." If the proposed building is built, a review of the drawings makes it clear that there would, in fact, be no fire equipment access whatsoever to most, if not all, of the residential and office units on the southerly part of Birmingham Place from the east side and only limited access to these units from the west side.

4. Current access from the west side also includes an alley running from Woodward Avenue to the rear of 469 S. Old Woodward. While this alley might well not accommodate larger fire trucks, it certainly provides some access to some equipment, which would be completely cut off by the proposed building.

5. We agree completely with the balance of the second paragraph regarding fighting "high rise" fires from within the building and also detailing the helpful fire fighting fixtures and equipment in Birmingham Place. Nevertheless, the simple fact remains that fire protection for Birmingham Place (and more importantly, the people who live and work here) will be less than it was if the proposed building is built as planned.

Our bottom line, so to speak, is that fire protection to at least the southerly portion of Birmingham Place would be reduced if the proposed building were allowed, and we have to ask you, as Fire Chief, how much increased risk for the sake of new development that hopes to maximize and increase the currently allowable building size is acceptable. The increased risk can easily be avoided by the City denying the rezoning request and maintaining the status quo. The value of adding several stories to a building pales in comparison to any increased risk to the health, safety and welfare of the Birmingham Place residents and occupants as well as the firefighters tasked with protecting the residents and occupants.

We request that you very seriously reconsider your position on this matter and advise both the Planning Board and the City Commission of the same, preferably before the meeting tonight but in any event at your first opportunity. Thank you for your time and attention. Best regards.

Yours very truly,

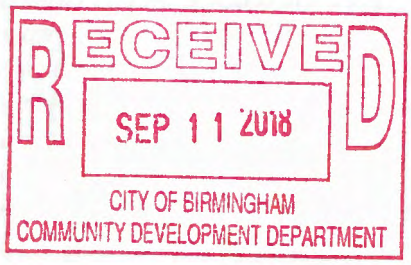
Michael D. Umphrey

xc: All Birmingham Planning Board Members (via hand delivery)
All Birmingham City Commissioners (via hand delivery)

Friedlaender Nykanen & Rogowski PLC

Susan K. Friedlaender
Direct: (248) 406-6088
sfriedlaender@fnrplc.com

September 11, 2018



City of Birmingham
Planning Board
151 Martin St.
Birmingham, MI 48009
Attention: Ms. Jana Ecker

Re: Request for Re-Hearing on Application to include 469 and 479 S. Old Woodward in the D5 Downtown Birmingham Overlay District Zone

Dear Members of the Planning Board and Ms. Ecker:

We are writing this letter on behalf of the Birmingham Place Residential Condominium Association. The Association opposes the rehearing and rezoning of the Applicant's property to the D5 overlay zone for many reasons as detailed in this letter. The dispositive reason to again deny recommendation of the rezoning is because the D5 ordinance was never intended to be applied in the manner requested.

Introduction

It is first baffling to the Association that the Applicant was able to obtain a rehearing of this Board's decision at the June 27, 2018 public hearing to deny the Applicant's request for a tabling of its the rezoning request. The Applicant apparently was able to defy this Board's denial of the tabling request and come back again with the exact same rezoning request. The Applicant's latest submission not only fails to demonstrate any substantial change in facts, evidence or conditions but is also fails to show that the Planning Board made any mistake, failed to consider any relevant facts or was misled by alleged mischaracterizations regarding the clear, history, intent and purpose of the D5 Ordinance. A close examination of the Applicant's rehearing request reveals inconsistencies, fallacies, erroneous assumptions, unsupported assertions, and mischaracterizations of the record and history of the D5 ordinance. The intention of this letter is to provide that closer examination which should leave no doubt that the Planning Board should not change its original vote to deny a positive rezoning recommendation.

There Has Been No Mischaracterization of the Intent of the D5 Ordinance and its Inapplicability to the Applicant's Property.

It is impossible to read through the history of the D5 ordinance and arrive at a good faith conclusion that Birmingham Place or any Planning Board member has mischaracterized the purpose of the D5 ordinance enactment. The facts and history of the D5 ordinance, and its plain language, leave no doubt that the final product was concerned only with existing buildings which were non-conforming due to height over 5 stories and setbacks. The following is a summary of the history of the D5 ordinance. However, attached as Exhibit A, is a detailed timeline with references to the relevant public records which supports the statements made in this summary.

The 555 Building proposed the first draft of the D5 ordinance as the means to renovate and expand its existing non-conforming buildings and develop a new building on the southern portion of its site. The owners could not make those changes under the City's then existing ordinances that governed the renovation and expansion of nonconforming property. Although the Planning Board discussed several different approaches to help the 555 Building overcome its nonconforming status, which included taking a broader look at the Southern Gateway area, the Planning Board ultimately decided to deal only with three nonconforming taller buildings: The 555 Building, Birmingham Place and Merrillwood. It settled on dealing only with nonconforming commercial buildings over 5 stories because there was no consensus on how to address the development of other parcels on the West side of Woodward that did not have the height nonconformity. Moreover, the only direction that the City Commission gave the Planning Board regarding the drafting of a new overlay ordinance was (1) to find a way to make those taller buildings legally conforming structures and (2) draft language that would allow the reasonable renovation and expansion of other commercial nonconforming buildings throughout the City. The City Commission did not direct the Planning Board to draft a new overlay ordinance that allowed any building *under* 5 stories to obtain greater height because located adjacent to a building that was over 5 stories. The Applicant's representations to the contrary are simply opportunistic.

The above conclusion is amply supported by a memorandum from Planning Director Jana Ecker to the Planning Board dated September 22, 2015 (sic) that was included in the City Commission's February 13, 2017 packet.[1] The City Commission voted to approve the D5 ordinance at that February meeting. (Memorandum attached as Exhibit B)

Ecker discusses in the memorandum that the Planning Board faced a dilemma regarding how to deal with the 555 Building. While the Planning Board recognized the importance of the 555 Building, it was hesitant to create "a new classification around a specific building." (Ecker Memorandum, p. 1) The memorandum details the failed attempts to devise a way to not only address the 555 Building but also the future development of several other parcels, including parcels that did not share the height nonconformity. The Planning Board was unable to draft an ordinance regarding the future development of other parcels because *"there were varying viewpoints on whether a new overlay should be created that included multiple properties along Woodward, and if so, which properties to include. No consensus was reached."* (Ecker Memorandum, pp. 2-3) (Emphasis added) The Planning Board considered several options to allow changes to legal non-conforming commercial buildings. [2] The Planning Board considered drafting two new overlay ordinances, one of which could be applied even to conforming property on the west side of Woodward, which would allow building heights that matched the allowable height east of Woodward in the Triangle District. (*Id.* at p. 5) Ecker suggested amending the B-3 ordinance to allow the same development rights that existed when the 555 Building was constructed under that ordinance. Although no consensus could be reached regarding application of the ordinance to the future development of existing properties, there was consensus with the blessing of the City

[1] The contents of the memorandum suggest that the date contains a typographical error because the timeline discussed within the memo extends to setting the December 14, 2016 public hearing.

[2] The Zoning Ordinance already contained a provision that allowed the limited expansion of nonconforming residential buildings. See Section 6.02

Commission that the improvement and expansion of legal nonconforming buildings should be studied. (*Id.* at p. 3) The decision was made therefore only to deal with the nonconformity issue in the new D5 overlay district.

Thus, although Planning Board members correctly remember discussing additional properties in the Southern Gateway during the D5 drafting process, those discussions did not bear fruit or any action because of a lack of consensus. It was not because the Mountain King owners were not before the Board. It was because the Planning Board could not reach a consensus other than allowing valuable buildings such as the 555 Building, Birmingham Place and Merrillwood the greater right to renovate or expand without the disability of being a non-conforming property because of height and setback.

The Applicant was not prejudiced by the Planning Department's Mistaken Statement in its Review of the Community Impact Statement and Preliminary Site Plan

The Applicant claims that this Board made its rezoning recommendation based upon the mistaken assumption that the Property is located within the Parking Assessment District (PAD) and that it allegedly was prejudiced by the asserted mistaken assumption.

First, it is true that the Planning Department's review of the Applicant's Community Impact Statement (CIS) and Preliminary Site Plan review erroneously stated that the Applicant's property was within the PAD. The Planning Department's mistake, however, did not prejudice the Planning Board's review of the rezoning request for several reasons. First, the mistake regarding the PAD was in the Planning Department's CIS and Preliminary Site Plan review and the Planning Board did not consider the CIS or site plan at the rezoning hearing.

Second, the Planning Board did not prevent the Applicant from explaining how the parking requirements impacted its ability to develop the land under the D4 ordinance. The record shows that the Applicant discussed the fact that the property is not in the PAD. (Video of hearing at 2:07:56) In answer to the question why the property could not be developed under the D4 overlay ordinance, the Applicant claimed that it could not develop the Property under D4 because it was not in the PAD.

> Owner: "But office building, to put a. . . . I don't have the parking for it. *I'm not in the Parking Assessment District,* so I'm limited by parking. I can't put a restaurant there, because I . . . you know . . . I, I, don't have the parking to park it. The only thing I can really put there at the end of the day is a hotel. I mean that's the only thing that makes it work. *And again, to make it work as a hotel, I need to fit everything into this package that the hotel wants.*" (emphasis added)

Third, if the Applicant believed that not being part of the PAD was crucial to its rezoning request nothing prevented the Applicant from discussing that fact when initially addressing the standards for the rezoning. The fact that the Applicant made no mention of the PAD in its initial written rezoning request belies its post hoc argument that the issue was so crucial to its request.

Moreover, if parking is the issue as the Applicant now claims that it is, the remedy is not to develop a project that has even greater parking requirements than is required under the existing ordinance. The rezoning is not necessary to meet the parking requirements when the possibility of

variances for parking can resolve parking related problems.

Finally, the Applicant stated that it was its understanding that it is the only D4 site that is not in the PAD. That understanding appears to be wrong. If the GIS website is up to date, it appears that there are two other parcels that also are zoned D4 but shown as outside of the PAD. The parcels are 484 W. Maple and 460 W. Maple. (See Exhibit C, Map with Overlay District and PAD Map)

The Applicant Has not Demonstrated That the Applicable Parking Requirements Prevent Development Under the D4 Overlay Ordinance

The Applicant's supplemental explanation under Section 7.02(B)(2)(b)(i) of "why the rezoning is necessary for the preservation and enjoyment of the rights and usage commonly associated with property ownership" is that it cannot meet the parking requirements if developed under the D4 overlay ordinance. The Applicant asserts that it needs more vertical height for a mixed use project and to meet parking requirements. As discussed below, the Applicant has failed to support this claim. It is hard to determine whether the Applicant claims that the property cannot be used as it currently exists because of the inability to meet parking requirements or that it cannot be redeveloped physically for any purpose under the current zoning classification because of its configuration coupled with the D4/B-3 mixed use and parking requirements.

The Applicant makes the following assertions regarding parking requirements:

> Contrary to what was assumed by the Planning Board, because the Property is not in the Parking Assessment District ... it currently has no possibility of providing off-street parking on the premises. In fact, it is currently non-conforming and cannot comply with Article 4. 46 of the Zoning Ordinance (Off-Street Parking Spaces Required) Letter, p. 2
>
> ***
>
> The off-street parking requirements for this Property make the engineering and design of a mixed-use D-4 seriously impractical if not impossible. Letter, p.3
>
> ***
>
> Not only will the Applicant lack the required area within which to locate all of the mixed uses with a first-floor retail mandate, the Applicant also is absolutely hamstrung by the off-street parking requirements for this site. The maximum use of the underground area will not yield enough parking spaces for a building designed to current zoning. Rezoning the Property to
>
> the D-5 Zone will allow more vertical space within which to accommodate a mixed-use building together with the required parking for all permitted uses. Letter, p. 3
>
> ***
>
> There are serious difficulties with building an underground

> garage within the D-4 design parameters that is deeper than two levels....Consequently , any such garage is limited to approximately 60 parking spaces. Letter, p. 5

Based upon the first quote above, the Applicant appears to be stating that the property as it currently exists cannot support any or very limited off-street parking. Even if that is true, under Section 4.45 (G) 2 and 4 of the zoning ordinance, off-street parking can be provided within 100 feet of the site or via shared parking arrangements. The Applicant claimed in its CIS that it has an agreement with the 555 Building for the use of 45 parking spaces. The Applicant could also apply for parking variances. If the application of the parking provision of the zoning ordinance prevents the property from being used, the likelihood of necessary variances is extremely high.

The next four quotes appear to be referring to a redevelopment under the D4 overlay district requirements. The Applicant essentially makes the logically challenged argument that because it is outside of the PAD it needs to develop a project that requires even more parking to meet the off street parking requirements. The Applicant's proposed use shows a three level underground parking facility with 100 spaces and an agreement with the 555 Building for 45 more spaces.[3] The Applicant does not explain the discrepancy between its proposed plan and its new claim that any underground garage is limited to approximately 60 parking spaces because of D4 design regulations. However, the same D4 design regulations that would apply to an underground garage in the D4 district also apply in the D5 district. The D5 zone does not provide any relief from the design issue. The Applicant, however, asserts that it could meet the parking requirements if it could construct a 9 story building but it cannot meet the parking requirements if it constructs a 5 story building. If the site can only accommodate 60 parking spaces rather than the 100 spaces that the Applicant originally represented, it defies explanation how a taller building is better able to meet even greater parking requirements. Moreover, if there is a design requirement which hampers providing more onsite parking, that is a variance and not a zoning issue.

The Applicant also does not explain whether it means that if restricted to five stories, it cannot develop its preferred 98 hotel units, 29 residential units and a first floor coffee shop/ hotel lobby. The Applicant asserts that it is needs more height because it cannot possibly fit mixed uses and meet parking requirements on it site if limited to 5 stories. According to its proposed plan, however, it can fit approximately 21-26 hotel rooms per floor and 13 residential units per floor. It is unclear if the Applicant is now claiming that it can only build a two level underground parking garage rather than a three level underground garage. In either case, it does not affect the above ground height of the building. The Applicant likely could develop a 5 story mixed use building with for example 70 hotel units, 13 residential units and the same size lobby/coffee shop as proposed. A 5 story development with these specifications might require 73 parking spaces for the hotel, approximately 13-16 spaces for the residential uses (depending on the number of rooms) and 12 spaces for the lobby/coffee shop. Even if the Applicant could only fit 60 spaces onsite, it

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[3] The Applicant appears to have made some mistakes in its parking analysis. For example the residential parking requirement under B-3 is 1 space for a 2 room dwelling and 1.25 spaces for a dwelling that has more than 3 rooms. The Applicant claimed that it needed 1.25 spaces for 26 apartments and 1.5 spaces for 3 apartments for a total of 37 spaces. The actual requirement is 29.75 spaces for 29 units.

could provide 105 spaces with the 555 Building parking agreement for 45 spaces.

The Applicant also has not explained whether it has explored the possibility of parking variances. A good argument exists that it should not have to provide any parking spaces for the lobby/coffee shop. The users of those retail spaces will likely be hotel guests or neighboring occupants who can easily walk to the coffee shop. The coffee shop likely will not be a destination spot for the motoring public. It is also likely that the hotel would not always be at full capacity which could provide a basis for obtaining additional parking variances. The City also is in the process of reviewing parking requirements for residential uses and possibility eliminating them for a site such as the Applicant's property.

Therefore, the answer to not being in the PAD is not to create taller buildings with higher density that requires more parking. The more reasonable solution is developing at lower densities with lower parking requirements and applying for any needed variances.

The Planning Board Appropriately Decided to Table Consideration of the CIS and Preliminary Site Plan Review

The Applicants second supplemental explanation under Sec. 7. 02(B){2)(b)(ii) of "why the existing zoning classification is no longer appropriate" essentially contains a confused diatribe regarding the Planning Board's decision to table consideration of the CIS and preliminary site plan review until after the City Commission acted on the rezoning request. It also discusses the ability to develop and use the property under the existing classification, which was addressed above in this letter. The Applicant also claims under this section that the Board was misled to believe that the D5 overlay zone only applies to existing buildings taller than five stories. That issue has also been addressed earlier in this letter.

First, the Planning Board correctly voted not to review the CIS or proposed site plan until and unless the rezoning was granted. There is no legal or factual basis for the CIS and preliminary site plan review until the petitioner secures the rezoning necessary to develop the property as proposed. In fact, it is an elementary zoning and planning principle that neither a planning board or legislative body should ever consider a particularized site plan at the rezoning stage unless the rezoning is conditional or part of a planned unit development. The reason is that the municipality is supposed to be making the rezoning decision based upon whether the general zoning classification is appropriate for the property and not whether any specific proposed plan is appropriate for the property. Another reason is because once the land is rezoned, the land owner cannot be tied to any specific site plan. The owner is free to develop the land under any provision of the new zoning classification. It would have been an error if the Planning Board had recommended rezoning based upon the CIS or site plan or had been unduly influenced by the proposed use for the site in making a decision.

Second, the Applicant's assertion that the Michigan Zoning Enabling Act, MCL 125.3101, et seq ("MZEA") requires that rezoning decisions be made according to *a site plan* is inaccurate and nonsensical. The MZEA provides that a *zoning ordinance* must be "based on a plan designed to promote the public health, safety and general welfare..." (emphasis added) This means that the zoning ordinance itself and any amendments to it must be based - not on a site plan for the particular use of a single parcel of property - but upon a general land use plan, like the 2016 Birmingham Plan. The MZEA does not require site plans for *rezoning* property. It does require

site plans for the approval of special land uses and planned unit developments. A site plan ensures that property is developed consistent with ordinance requirements. The Planning Board did not prejudice the Applicant in any way by not reviewing a proposed site plan for a zoning that did not exist for the site. The rezoning of property is a legislative rather than administrative act and depends on the implementation and furtherance of general policies. It does not depend on a site plan for a single parcel of property.

The Applicant Failed to Support that the Rezoning Will Not Be Detrimental to Surrounding Properties

The Applicant's supplemental explanation of why the proposed rezoning will not be detrimental to surrounding properties relies on its factually inaccurate statement that the City intended that the D5 overlay zone apply to the Applicant's property and that the Birmingham Place owners will not be harmed by the rezoning.

First, as previously discussed, the history of the D5 zone indisputably supports that the clear intent of the D5 zone is only to apply to existing buildings taller than five stories. It should be noted here however that the Applicant's Letter very misleadingly takes Ms. Ecker's comment regarding new construction in the D5 zone completely out of context. All the participants in the D5 ordinance amendment process understood that the new construction provision was added for the benefit of the 555 Building. The language regarding new construction was not meant for property that had no existing height nonconformity that the D5 ordinance amendment was addressing.

Second, the Birmingham Place owners maintain their position that the proposed rezoning will be detrimental to the use and enjoyment of their property. A vast majority of the residential condominium owners, even those whose views will not be impacted, are opposed to the proposed development for many reasons that will be brought to the Board's and Commission's attention.

The Board Did Not Fail to Make Required Findings of Fact or Misapply the Rezoning Standards

The Applicant further claims that the Planning Board failed to make the required findings under Ordinance Section 7.02(B)(5). Its primary complaint is that the ordinance allegedly does not require the Planning Board to determine whether the property can be used as zoned. This is splitting hairs.

Section 7.02(B)(5) (d) of the zoning ordinance requires that the Planning Board make findings of fact regarding "[t]he suitability of the property in question to the uses permitted under the existing zoning classification." Asking the Applicant why it cannot use the property as zoned is simply a way of determining whether the property is suitable for the uses permitted under the existing zoning ordinance.

Second, the Applicant claims that the Planning Board should have examined the appropriateness of the current zoning and not whether the Applicant could develop under this category. Again this is splitting hairs because it is the same question. The zoning may be inappropriate as applied to this site if the Applicant cannot develop or use its property under this classification. If the property can be used and the zoning classification still furthers master plan

goals and the public interest then it remains appropriate. The only difference between the D4 and D5 overlay zones is building height. The uses are the same. The Applicant's only argument that conditions changed is the rezoning of Birmingham Place and the 555 Building. However that rezoning has not changed any existing land use patterns. The rezoning recognized existing land uses that had become nonconforming because of building height policies that changed after those taller buildings were constructed. Birmingham Place is as tall now as it was when it was rezoned to D5. The rezoning merely normalized the existing heights of the affected buildings.

A community generally should preserve its master plan and existing zoning unless the zoning classification no longer furthers the master plan goals or is no longer suitable for the site because of changed conditions and development patterns. The City certainly can adopt new master plan goals but should not make sweeping changes to the City's land use plan through its zoning ordinances alone without first studying the issue of increasing building heights. The planning study is supposed to precede such zoning changes because the Zoning Enabling Act mandates that zoning be based on a plan. There has been no official study or public notice of any plan to allow more than 5 stories on the West side of Woodward. Moreover, the City weakens its master plan and its ability to defend it in court when it approves rezoning that is inconsistent with the plan. The proposed rezoning was not consistent with the 2016 Plan which reflects a policy decision to limit the height of buildings in the Downtown Overlay Zone to five stories. It is true that the City has since allowed taller buildings in the Triangle District but that new zoning was accomplished according to the Triangle District Plan. Therefore, when asked to depart from the 2016 Plan as it applies to the West side of Woodward, the City is well within its rights to require that the proponent demonstrate that the property cannot physically or viably be developed as zoned. To suggest otherwise ignores established zoning law and planning principles.

CONCLUSION

The Applicant has not provided any new information that should change the Planning Board's original and correct recommendation to rezone the property to the D5 overlay classification. It is beyond dispute that the D5 ordinance was meant only to apply to existing buildings over 5 stories or existing sites that contained buildings over 5 stories. The Planning Board determined when it drafted the D5 ordinance that it would not address the future development of any other parcels in the Southern Gateway. It would be unfair and a failure of process for the Planning Board to ignore that history because the public will then have been misled by the process to enact the D5 ordinance. It is customary for the City to involve the public in any study to raise building heights as it did in the Triangle District.

Moreover, the Applicant made no effort to demonstrate that the D4 ordinance is unreasonable or unworkable as applied to its property. It has not made any credible case to support the rezoning request. At the June 27, 2018 hearing, the Applicant claimed that he could only make the site work with a hotel and in order to develop a hotel "*I need to fit everything into this package that the hotel wants.*" (emphasis added) This is the very reason why the City cannot rezone property based upon a proposed use. The issue is not what this particular hotel wants and the City cannot guarantee by rezoning the property that the hotel will even go through with the development. The issue is what does the existing zoning allow and can any of the allowable uses be reasonably developed consistent with the City's land use polices as reflected in the 2016 Plan and its zoning ordinance.

The Planning Board, therefore, must recommend a denial of this opportunistic and improper rezoning request.

Very truly yours,

Susan K. Friedlaender

Susan K. Friedlaender

EXHIBIT A

TIMELINE AND SUPPORTING MATERIALS REGARDING THE EVOLUTION OF THE INTENT AND PURPOSE OF THE D5 OVERLAY ORDINANCE

INTRODUCTION

It is impossible to read through the history of the D5 ordinance and arrive at a good faith conclusion that Birmingham Place has mischaracterized the purpose of its enactment . The facts and history of the D5 ordinance, and its plain language, leave no doubt that the final and enacted draft was concerned only with existing buildings which were non-conforming due to height over 5 stories and setbacks. In fact, the only direction that the City Commission gave the Planning Board regarding the drafting of a new overlay ordinance was to find a way to allow the renovation and expansion of legal nonconforming commercial buildings. Although the Planning Board discussed several different approaches to help the 555 Building overcome its nonconforming status, which included taking a broader look at the Southern Gateway area, the Planning Board ultimately decided to deal only with three nonconforming taller buildings: The 555 Building, Birmingham Place and Merrillwood. It settled on dealing only with nonconforming commercial buildings over 5 stories because there was no consensus on how to address the development of other parcels on the West side of Woodward that did not have the height nonconformity. This is why it would be completely improper to rezone the Applicant's property to D5. The rezoning would pose a serious question regarding whether the Planning Board properly notified the public and City Commission regarding the intent and application of the D5 ordinance.

June 10, 2015 Planning Board Study Session

In the spring of 2015 the owners of the 555 Building submitted a request to amend the zoning ordinance and create a new D5 overlay district for buildings over five stories. The owners proposed the ordinance after the building department found "that any changes to the existing legal non-conforming building would increase the nonconformity, and thus be prohibited unless numerous variances were approved." (2015-06-10 Minutes from Planning Board Study Session)

When first presented with several different drafts of the proposed D5 ordinance, **the Planning Board discussed that the proposed amendment "should be viewed not only as to how it applies to 555 S. Old Woodward Ave., but possibly to other properties as well."** ***Id.*** The reason for this cautious approach was to counter any charges of spot zoning or undue favoritism. The dilemma that emerged, however, was the valid concern about applying the ordinance to other properties without further study: (Emphasis added)[1]

> Mr. Koseck noted there are all kinds of non-conforming buildings in the City and he doesn't think the goal is that they should all go away and become conforming. That is why the Board of Zoning

[1] Please note that the reason for the inconsistency of referring to the "D-5" and "D5" overlay zone throughout this letter is because while the Zoning Ordinance uses the "D5" appellation, the minutes and other writers often use "D-5" designation. This writer chooses to use the official Zoning Ordinance version.

> Appeals exists. He is in favor of improvements being made to the building, but as the applicant makes enhancements he (page 7) hopes they would go further to be more in compliance with D-4, D-3, D-2, and D-1. It scares him to expand D-5 beyond the limits of this property without further study." *Id.*
>
> Chairman Clein thought of this as an opportunity to take a look at this building along with several parcels in the context of future development. If Bruce Johnson, Building Official, and Tim Currier, City Attorney, would come to a Planning Board meeting and are on board, he would be in favor of providing some relief in a unique situation; but he just doesn't want to do it capriciously. The Ordinance standards were put in place for a reason and he would be supportive of fitting them into the context of a building that obviously is not going away, in order to help make it better.
>
> Ms. Whipple-Boyce was also in support of helping to make this Gateway building better looking. She thought also that it would be helpful to have Messrs. Johnson and Currier come to a Planning Board meeting. She could not imagine why the Planning Board could not somehow help the applicant to get their building re-skinned in some other way. Further, the ordinance proposal should not include some of the things that the board does not want to have in the City.
>
> Ms. Lazar was in full support, as well, of trying to do something with the building. However, she didn't see how this board could whip up a new ordinance in a short period of time. It concerns her that what might be applied to this building could become applicable to some other sites which would not be appropriate. She would rather try to help the applicant get to where they need to be with this building" *Id.*

July 7, 2015 Planning Board Study Session

At the next study session, the Planning Board continued discussions regarding whether to target a larger area between Hazel and Brown or limit the application of the new ordinance to the 555 Building.

> Mr. Williams summed up the discussion by saying the board wants to go the conforming route and use the SLUP process to do it. Maybe the applicant won't get everything but they can probably get a substantial achievement through the combination of the new MU classification plus SLUP exceptions for what they get as of right and what they get as a bonus. Ms. Ecker noted that is consistent with what the City does in other districts and what has been approved by the City Commission. This is a methodology that gives the Planning Board flexibility. It was the consensus that staff should work on

> crafting something to that effect, taking the 555 Bldg. separately so that it gets through the City Commission.

September 9, 2015 Study Session

At the next study session, Ms. Ecker summarized the process as follows:

The applicant is seeking to rezone the 555 S. Woodward Ave. properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded." (2015-09- 09 Minutes, p. 9)

The Planning Board continued to ponder the scope of the work and whether it should go beyond dealing only with the 555 Building. Mr. Williams suggested creating a D5 district for the 555 Building and a D-6 District for other locations which might be nine stories. *Id.* at p. 10.

The Planning Board failed to reach a consensus or agreement with Mr. Williams suggestion.

September 30, 2015 Planning Board Study Session

At the next study session, the purpose of the proposed ordinance was characterized as follows:

> Ms. Ecker explained that in order to renovate and expand the existing building, the owners of the 555 S. Old Woodward Building are requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. The proposal then is to seek rezoning of the 555 S. Woodward Ave. property from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded." (2015-09-30 Minutes, pp 10-11)

The Planning Board again discussed creating two new overlay zones to address not only the nonconformity issue but also to address other property in the Southern Gateway area. The Planning Board continued to debate the expanded approach and could not reach a consensus.

> Ms. Whipple-Boyce said it is important to try to help the applicant have some sort of zoning classification so they can move on with their project. However, she also does not want to see 168 ft. up and down Woodward Ave. **She is not sure that looking at the whole area is even appropriate. So maybe just work with this building and give them a zoning classification.** Steer the applicant toward having their building conform with the sort of downtown standards that the board hopes to have; which for example, isn't the garden level. If they want to continue to have these when they come forward with a new plan that is when they can go to the BZA. (Emphasis Added)

***

> Mr. Share was in favor of having the applicant first exhaust their remedies. If the BZA doesn't provide them with the relief they need and this board concludes that it is really critical, then maybe the board changes the ordinance, takes the heat for it, and tells everyone it is because they don't want the building to fall down.

***

> **Chairman Clein said he is not hearing any clear direction so the board needs to bring this back because it is a complicated issue.** (Emphasis Added)

The Owner's attorney assured the Planning Board that providing the 555 Building with relief would not be spot zoning.

January 17, 2016 Planning Board Study Session

At the opening of the study session, Ms. Ecker recounted the history of the ordinance amendment and rezoning request. She explained that the 555 Building not only wanted to renovate the existing building **but the owners also wanted to add "an addition to the south of the existing residential tower for new retail space and residential units."** (Emphasis Added)

> In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward Building are requesting a Zoning Ordinance amendment to create a new D- 5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded." (2016-01-17 Minutes, pp 3-4)

Ms. Ecker also recounted that as of the last study session the Planning Board could not reach a consensus regarding whether to deal only with the 555 Building or look at properties along Woodward north to Brown Street:

> There was no consensus on whether only the 555 S. Old Woodward Ave. property should be placed in a new overlay classification or whether this should extend north to Brown St. along Woodward Ave.

The minutes from the study session show that the Planning Board continued to debate whether to include properties other than the 555 Building in the proposed overlay district:

> Mr. Share thought there are two separate questions. One relates to the 555 Building and whether or not it ought to be allowed to become conforming; separately, there is a question about general planning principles.

> Mr. Boyle's opinion was there are three issues: the building itself; the corridor; and thirdly how to move forward with the details on S. Old Woodward Ave.
>
> Mr. Williams stated the board should focus on the 555 Building and come up with a practical solution. The problem is that the building isn't right and it needs to be improved.
>
> Ms. Whipple-Boyce said the question is whether a new zoning classification needs to be created, or can the applicant go through the variance process and achieve the same result.

Understandably, the owners of the 555 Building wanted to move forward with their request. The owners' attorney reiterated that the Owner was requesting that "the Zoning Ordinance be amended to accommodate their building; and second that the zoning map include the petitioner's property." (Emphasis added) The attorney did not believe that accommodating the building would be spot zoning, meaning that the Planning Board did not have to concern itself with anything other than moving forward on an ordinance that would apply only to the 555 Building.

> Additionally, he [Mr. Rattner, the attorney] emphasized this is certainly not spot zoning. The idea is to modify the ordinance to make a nonconforming building one that should obviously be conforming in order to allow the owner to make improvements. Mr. Rattner requested that the proposed ordinance be moved forward to a public hearing.

The Planning Board was persuaded and concluded that it needed to focus on the 555 Building and leave discussion of the corridor for another day.

> Chairman Clein summarized that the board has come to the conclusion that it needs to focus on the 555 Building. The rest of the corridor is a different discussion. The board concluded that a sub-committee consisting of Ms. Ecker, Mr. Rattner, the City Attorney, and two board members could have a discussion on this in an open meeting forum. Mr. Share and Mr. Koseck volunteered to represent the Planning Board in the deliberations.

There was one public comment which shows that this member of the public understood that the Planning Board would not be making any new and sweeping changes but only be focusing on how to help the 555 Building.

> Mr. Paul Reagan, 997 Purdy, said he is encouraged by the discussion. No one wants the building to deteriorate. **He is glad that the Planning Board is not going beyond what was asked for, which is to restore the building. That is about how far it should go.** Right now there is real competition for parking on S. Old Woodward Ave. Imagine what expanding the density of that building would do to the neighborhood. Lastly, he was shocked to

> hear the petitioner had a hand in drafting ordinance language for rezoning. (Emphasis Added)

The Planning Board decided to establish a sub-committee to work on the new ordinance amendment. The sub-committee did not present its findings and proposals until September 2016. In the interim however the Planning Board obtained direction from the City Commission regarding dealing with the important issue of nonconforming commercial buildings.

June 20, 2016 Joint Session with City Commission

The Planning Board presented several land use items to the City Commission at the joint session with the understanding that if the City Commission wanted further discussion the matter would be submitted at a subsequent meeting for more formal direction to further study and address the issue. (See 2016-06-13 Memo from J.A. Valentine to City Commission.) Mr. Valentine also submitted a more detailed memo to the City Commission dated June 14, 2016 which in part described the issue of "Existing Commercial Non-Conforming Buildings" and asked the Commission whether the issue merited further discussion. (See June 14, 2016 Valentine Memo.)

The representation made to the City Commission was that the Planning Board wanted to address the 555 Building and other existing non-conforming buildings like Birmingham Place and Merrillwood. There was no representation that the Planning Board would address extending the proposed new overlay ordinance to buildings like the Applicant's building that was not in danger of losing substantial value like the 555 Building if forced to redevelop only by losing substantial building height.

July 25, 2016 City Commission Meeting

Ms. Ecker attended the City Commission meeting to get the Commission's formal direction on how the Planning Board should proceed on the planning issues raised at the joint meeting.

Ms. Ecker represented to the Commission that the Board was only looking for ways to deal with existing nonconforming commercial buildings and not to create a new ordinance that would allow existing sites without any height non-conformity to construct new buildings under the proposed zoning district. The ordinance was not intended to deal with new development that could conform to the existing zoning classification. Ms. Ecker stated:

> if a review of all the buildings in town was done, one would find something slightly non-conforming on many of the buildings that were built, especially if they were built prior to the sixty's when the zoning ordinance came into effect. She noted specifically buildings such as the Merrillwood Building, Birmingham Place, and the 555 building in regards to the height and bulk of the buildings. She explained that the discussion at the workshop was that there should be some regulation in the zoning ordinance that allows for some maintenance or renovation to those types of buildings when they are already nonconforming. (Minutes, p. 6)

***

Mayor Pro Tem Nickita stated that this was an issue that the Commission wanted to address.

> **He questioned if the City is looking at identifying a district or a series of buildings throughout the City.** Ms. Ecker explained that this is to establish a procedure where if there was a nonconforming building in the City and whichever way it is non-conforming, it would give the owner a way to make changes to modernize that building. (Minutes, p. 6) (emphasis added)

The City Commission gave the following direction to the Planning Board:

> MOTION: Motion by DeWeese, seconded by Bordman: To review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures. (*Id.*)

The City Commission's specific directive relative to any new zoning category was to allow for changes to non-conforming buildings and for their renovation and maintenance. It was not to create a new overlay district that allowed any property the option to build taller than 5 stories.

August 10, 2016 Planning Board Meeting

Ms. Ecker briefed the Planning Board on the City Commission's directives regarding the planning issues addressed at the joint meeting. She reported that that the Commission directed the Planning Board as follows:

> 3) Existing Commercial Non-Conforming Buildings - to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements considering creating a new zoning category or categories to allow for changes to nonconforming buildings for maintenance and renovation consistent with those permitted for residential buildings and structures. (Minutes, p.5)
>
> ***
>
> Ms. Ecker suggested creating a win-win situation by offering the ability to renovate or to add an addition, but the City would get something in return. Ms. Whipple-Boyce said it would be nice to have this in place ahead of time for buildings like 555 Woodward and Merrillwood. **Chairman Clein thought the board could consider new zoning categories if there are specific areas that need it; but they can also consider generic language changes. Look at the non-conforming buildings first.** (*Id.*)(Emphasis added)

September 14, 2016 Planning Board Meeting

At this meeting, the Planning Board resumed the discussion of non-conforming building regulation under the City Commission's parameters which did not include allowing sites with buildings under 5 stories the ability to go higher than 5 stories.

Ms. Ecker, along with the attorney for the 555 Building, suggested that instead of creating a new overlay district, the Planning Board could recommend amendments to the B-3 zoning ordinance that would render not only the 555 Building but also Birmingham Place as conforming buildings.

It was during the discussion to amend the B-3 ordinance that the only reference to Mountain King is recorded in any public document concerning the D5 zoning amendment:

> Ms. Ecker stated that the 555 Building, Birmingham Place and Mountain King were the only properties in the City zoned B-3 in the underlying D-4 Zone. She suggested an option that would amend the regulations for height and setback similar to what they were when the buildings were approved. **Mr. Williams wanted to limit the focus on just the 555 Woodward Bldg. as he thinks it needs to be approved**. (Minutes, p. 5) (Emphasis added)
>
> Ms. Ecker noted this option would allow the applicant to have a conforming status and apply for financing to do an expansion and improvement on the building. It would allow them to do an addition to the south and come to zero setback, and to go up to match the height of the building that is there. What it would not do is force them to address the issue of the garden level or the dead zone along Woodward Ave. However, it would permit them to address that. *Id.*

Ecker was mistaken regarding the number of parcels zoned B-3. The Power House Gym property is also zoned B-3. Regardless, it should be clear that the only reason Ecker mentioned Mountain King was to promote the idea that changing the B-3 zoning would alleviate any concern about spot zoning and at the same time would not open the door to many other parcels being able to take advantage of the amended ordinance. However, there was no support for the B-3 amendment option.

> Mr. Koseck was in favor of allowing the building to continue to be updated but that doesn't mean it should be permitted to grow. Any add-on to the south would have to meet the current Ordinance."
>
> ***
>
> **Discussion concerned whether B-3 zoning that allows Birmingham Place and Mountain King to reach 168 ft. in height would be a hard sell to the public. The conclusion was they could not sell it on more than one piece of property**. Mr. Williams proposed they go back to a previous zoning for the 555 Building that existed 45 years ago. He didn't think it should include any other

> property. Because of that they would not be making a special case for this building in the form of spot zoning. The legal argument is that it would be remedying a wrong. (2016-09-14 Minutes, p. 5)(Emphasis added) (Minutes, p. 5) (Emphasis added)

September 28, 2016 Planning Board Meeting

Ms. Ecker provided background information including that at the last study session the Planning Board "resumed their discussion regarding legal nonconforming buildings." The result was that "after much consideration" the Board directed the Planning Staff to meet with the 555 Building applicant to draft proposed ordinance language that addressed "the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of three buildings downtown." (2016-09-28 Minutes, p. 3) [2]

It is clear that by this meeting the Planning Board was only discussing a draft of the D5 overlay ordinance that gave the 555 Building, Birmingham Place and Merrillwood conforming status and nothing more. According to the minutes, the approach, with which the 555 Building applicant agreed, "was first to create a D-5 Zone, and second to recommend rezoning of one or more properties into the new D-5 category. This would allow the board to have further discussion on whether they want it to be the 555 Building property, or include the Birmingham Place and the Merrillwood Building, which are also non-conforming with regard to height." (*Id.* at p. 5.)

It is also very clear that the Planning Board intended that the D5 language regarding new development in the D5 zone was for the benefit of the 555 Building owners, who expressed throughout the process that they wanted the right to use their vacant property for a new building that could be built as tall as the 555 Building. The only issue was whether building higher than 5 stories would require a special land use permit.

> Chairman Clein summarized that the language would make any property that is put into the D-5 Zone legal and conforming as to height and setback. It would allow expansions as part of building maintenance. Undeveloped portions of the property could be built upon so long as it meets the D-4 Overlay standards. The south side of the 555 Building still needs to be resolved." (*Id.*)
>
> Mr. Williams did not agree with limiting the south side to five stories. However, anything built above five stories would require a Special Land Use Permit ("SLUP"). Mr. Share was in favor of tying all of the expansions to a SLUP. Chairman Clein felt the D-4 controls are in place and any expansion must conform. Mr. Share thought the City should have some control over how changes get made. Mr. Koseck liked the SLUP because it allows the City to control the design to meet the spirit and intent of the D-4 Zone. Mr. Jeffares agreed. (*Id.*)

[2] As stated, the Planning Board also amended Section 6.02 so that it applied to nonconforming commercial and residential buildings.

The 555 Building owner's Attorney responded to the discussion as follows:

> Mr. Richard Rattner, Attorney, represented the applicant. He said they are almost there with allowing the 555 Building to be conforming in all respects. Secondly, the proposed expansion language is fine. Third, they would like to see the height of a new building being constructed in the D-5 Zone be up to but not exceeding the height of the building immediately adjacent or abutting it. That means the south building cannot be any higher than the 555 Building. They would like to do that without a SLUP. (*Id.*) (Emphasis added)

October 28, 2016 Planning Commission Meeting

At this meeting, the Planning Board set a public hearing for making a recommendation on the amendment of the D5 ordinance and the proposed rezoning of the 555 Building to the new zoning overlay district category.

First, Ms. Ecker provided a recap which reiterated that the proposed D5 classification would accomplish two goals: (1) render 555 S. Old Woodward a legal conforming structure and (2) allow a new addition at the south end of the building that could be built as tall as the adjacent structure. (2016-10-26 Minutes, p. 4)

Ms. Ecker also suggested that the Board should recommend rezoning Birmingham Place and Merrillwood to the D5 classification because they were also nonconforming in building height. The consensus was to contact the owners before including them. There was no suggestion that they contact the owner of the Mountain King property or include that property in the rezoning because the Mountain King property did not contain an existing building over 5 stories.

The decision to include Merrillwood in the rezoning further establishes that the City did not intend the D5 Overlay ordinance as part of any general development incentive for the South Woodward Gateway as the Applicant has represented to the Board. Merrillwood is not located in the South Woodward Gateway. The Planning Board included Birmingham Place and Merrillwood because the only purpose of the D5 overlay district is to provide legal conforming status to existing buildings over 5 stories.

December 14, 2016 Planning Commission Meeting

At this meeting, the Planning Board held a public hearing on the proposed D5 amendment and the rezoning of the three nonconforming buildings. Ms. Ecker explained that the Planning Board set the public hearing "with the goal of bringing several non-conforming buildings in Birmingham into compliance. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently non-conforming to be considered legal in regards to setbacks, number of stories, and height. The new

D-5 zone would also allow additions or new construction in the D-5 to match the height of abutting or adjacent buildings." (2016-12-14 Minutes, p. 3) (Emphasis added)3

It should be obvious that Ms. Ecker would have notified the public that the new D5 classification could be applied to any property in the City whether or not it was nonconforming in height if that was the intent of the new ordinance. The failure to notify the public of that intent is another reason why the Planning Board must again deny recommendation of the rezoning request. In fact, a resident, who was concerned about the impact on parking demand commented that he did not believe that residents really understood what was being considered. If what was being proposed was other than what has been represented as the goal of the amendment, there has been a serious breach of the public trust.

February 13, 2017 City Commission Public Hearing

At this meeting, the City Commission held a public hearing on the D5 ordinance amendment and rezoning. The planning department briefed the City Manager prior to the hearing.

In a Memorandum dated February 6, 2017 from Senior Planner Matthew Baka he reminded the City Manager that the Planning Board and City Commission discussed the issue of legal non-conforming commercial buildings at the June 2016 joint meeting.

The Memo further provides that the Planning Board held a public hearing

> to consider Zoning Ordinance amendments **with the goal of bringing several non-conforming buildings in Birmingham into compliance**. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently nonconforming to be considered legal in regards to setbacks, number of stories, and height. The new D-5 zone would also allow additions or new construction in the D-5 to match the height of abutting or adjacent buildings. (Memo, p. 1.) (emphasis added)

The Memo advised only that the goal of the zoning ordinance amendment was to render several buildings legally conforming structures. The Memo would have alerted the City Manager if the intention was to allow new construction on sites that did not already contain a building greater than 5 stories.

The minutes from the February 13, 2017 public hearing show that City Planner Ecker advised the Commission that with respect to the new D5 classification and rezoning of the three buildings:

> [The impact of the amendments would make the three buildings legal conforming buildings, and they would be allowed to be

---

[3] As stated, the Planning Board also recommended amending Article 6, Nonconformances, Section 6.02 by removing the limitation that the extension or expansion of nonconforming property applied only to residential property.

> extended or enlarged with a Special Land Use Permit. If a new building was constructed, it could match the height of the existing building with a Special Land Use Permit.
>
> The new category would deal with existing buildings located in the D5 zone. This change enables applicants to obtain funding for significant renovations or improvements as a legal conforming building. The second part allows expansion with the restriction to meet the overlay. (Minutes, p. 15)

First, Ms. Ecker unmistakably represented to the City Commission that the proposed D5 ordinance would apply to taller existing buildings, like the 555 Building, Birmingham Place and Merrillwood, and allow improvements and expansions of those buildings or sites.

Second, Ms. Ecker also led the Commissioners to believe that only the 555 Building would be eligible to build a new taller building in the D5 district because of the vacant land on its site. **Ecker advised Commissioner Boutros that the language regarding new construction of a building as tall as an adjacent building was inserted because "the 555 site has room where a new building could be constructed."** (Id.)

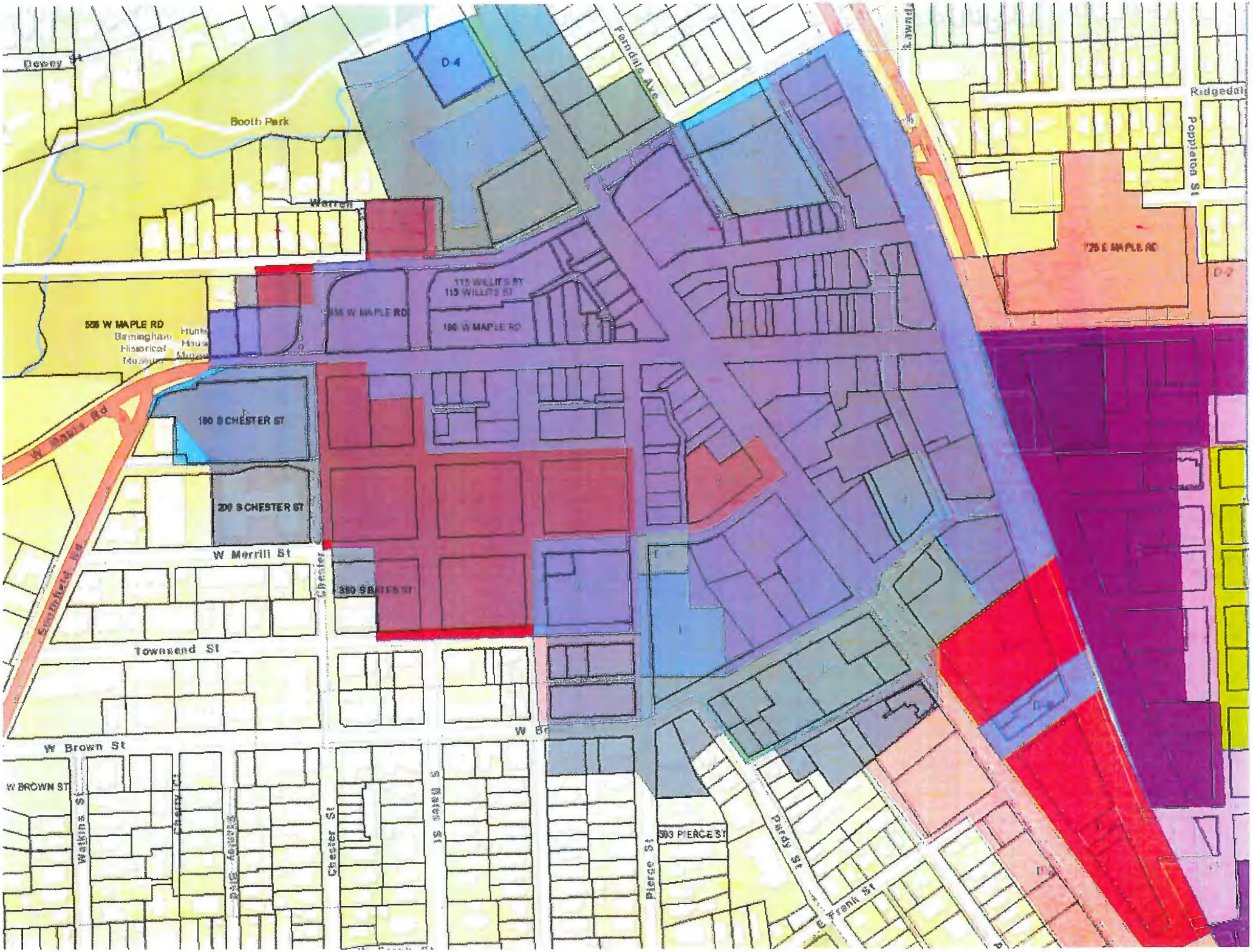
Ecker also assured Commissioner Hoff as follows:

> Commissioner Hoff asked if Birmingham Place or Merrillwood could buy the adjacent structures and then build in the space. City Planner Ecker said that they could not, because the properties next door would not have the D5 zoning classification."

The clear inference is that neither Merrillwood or Birmingham Place could build new taller buildings by simply buying the next door parcels because those parcels would not have been eligible to be part of the D5 district. The 555 Building could construct a new building because its entire site would be zoned D5.

CONCLUSION

The history of the D5 overlay ordinance should clear up any misconception or unsupported assertions by the Applicant that Birmingham Place, its attorneys or any Planning Board member mischaracterized the intent and purpose of the D5 ordinance. The facts show that the only intent was to allow the renovation and expansion of existing buildings taller than 5 stories. It was also to allow the 555 Building the option to build on its vacant property that also was zoned D5. There was no intent that the City apply the ordinance to property like the Applicant's property which can be redeveloped under the D4 ordinance and not lose any preexisting height. As a nonconforming building for reasons other than being taller than 5 stories, the Applicant can seek permission to renovate or expand its existing buildings under Article 6, Section 6.02.



Dewey St
Booth Park
D-4
Ferndale Ave
Ridgedale
Poppleton St
Warren
115 WILLITS ST
113 WILLITS ST
555 W MAPLE RD
190 W MAPLE RD
Birmingham Historical Museum
190 S CHESTER ST
200 S CHESTER ST
W Merrill St
Chester
Townsend St
W Brown St
W BROWN ST
Watkins St
Cherry Ct
Chester St
S Bates St
Pierce St
593 PIERCE ST
Purdy St
E Frank St
D-2

City of Birmingham
A Walkable Community

MEMORANDUM

Community Development Department

DATE: September 22, 2015

TO: Planning Board Members

FROM: Jana L. Ecker, Planning Director

SUBJECT: Study Session on Legal Non-conforming Buildings

Last year, the owners of the 555 S. Old Woodward building applied to the Planning Board to amend the Zoning Ordinance to allow the renovation of the existing building, the addition of new residential units along S. Old Woodward, as well as an addition to the south of the existing residential tower for new retail space and residential units. The Building Official had previously ruled that some changes to the existing legal non-conforming building may be permitted. However, the scale and scope of the changes that the property owner sought to implement would exceed what would be permitted as maintenance and thus were not permitted in accordance with the legal non-conforming regulations contained in the Zoning Ordinance.

In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward building requested a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. The proposal was then to seek rezoning of the 555 S. Old Woodward properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building at 555 S. Old Woodward as a legal, conforming building that could then be renovated and expanded in accordance with new D5 development standards.

On May 13, 2015, the Planning Board began discussing the applicant's proposal to create a new D-5: Downtown Gateway (Over Five Stories) zoning classification in the Downtown Birmingham Overlay District. Planning Board members discussed the desire to review the proposed amendment within the spirit, vision and context of the entire downtown, and not to create a new zoning classification around a specific building. The Planning Board did, however, recognize the importance of the 555 S. Old Woodward building and the need to allow renovations and additions to improve its presence at the south end of Downtown Birmingham. Specific concerns raised regarding the existing 555 S. Old Woodward building were the unwelcome facades of the Woodward elevation, the split level concept on the S. Old Woodward elevation, and the exposed structured parking.

At subsequent Planning Board meetings on June 10th, 2015 and July 8th, 2015 the Planning Board further discussed the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests. The Planning Board indicated that they would like to craft a zoning classification or overlay expansion that allows

the 555 Building to be renovated but also mirrors the development standards in the Triangle District across Woodward, which allows a maximum of 9 stories. Board members discussed taking a look at the 555 building along with several other parcels in the context of future development. It was suggested that this could be accomplished through a combination of a new zoning district and a Special Land Use Permit (SLUP) or the addition of a D6 zone as well, to differentiate permitted height north of Bowers, and south of Bowers along Woodward. The board reviewed multiple examples of similar "gateway corridor" districts in other cities (see attached), along with highlights, notes and sample ordinance language from other cities that were relevant. There were varying viewpoints on whether a new overlay should be created that included multiple properties along Woodward, and if so, which properties to include. No consensus was reached.

On September 9, 2016, the board reviewed a revised draft of the proposed D5 zone. Board members discussed the appropriate height for buildings along the west side of Woodward adjacent to the Triangle District. Some board members felt that the allowable height in a new D5 or D6 zone should mirror the 9 stories permitted in the Triangle District on the east side of Woodward. Other board members felt that additions should be permitted to match the height of existing non-conforming buildings. The board was unable to reach consensus on how to proceed, and requested additional information and direction from the City Attorney on potential options to provide exemptions for non-conforming buildings. The City Attorney's response letter dated September 29, 2016 is attached for your review.

On June 20, 2016 the issue of legal non-conforming commercial buildings was discussed at a joint meeting of the City Commission and Planning Board. The 555 S. Old Woodward building, the Merrillwood Building and Birmingham Place were referenced due to their non-conformity with regards to their height and bulk, and the desire to allow improvements or changes to these buildings. While no action was taken at the joint meeting, there was consensus that the issue of the improvement or expansion of legal non-conforming buildings should be studied.

On July 25, 2016, the City Commission again discussed the issue of legal, non-conforming commercial buildings and directed the Planning Board to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

On September 14, 2016, the Planning Board resumed their discussion regarding legal non-conforming buildings. Specifically, the Planning Board discussed the following options to allow changes to legal non-conforming buildings for maintenance, renovation and/or expansion:

1. **Allow Maintenance and Renovation Only of Existing Legal, Non-conforming Commercial Buildings**

Article 6, Section 6.02 of the Zoning Ordinance could be amended as follows:

6.02 Continuance of Nonconformity

A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:

1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
2. The use shall not be reestablished after discontinuance for 6 months.
3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming ~~**residential**~~ buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

The amendment noted above would allow for the maintenance, extension or enlargement of an existing legal, non-conforming building so long as the addition meets the current zoning standards for the existing zone district. This amendment would allow both commercial and residential legal non-conforming buildings to be expanded using a consistent approach. As an example, this approach would allow a 10 story legal non-conforming building in a 5 story zone district (building that is non-conforming for height only) to construct an addition. However, the addition could not be 10 stories in height to match the existing building, but could be built up to a maximum of 5 stories as currently allowed in the zone district.

2. Allow the Expansion of Existing Legal, Non-conforming Buildings To Match Existing Non-conforming Conditions

Article 6, Section 6.02 of the Zoning Ordinance could be amended as follows:

6.02 Continuance of Nonconformity

A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:

1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
2. The use shall not be reestablished after discontinuance for 6 months.
3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming ~~**residential**~~ buildings may be extended or enlarged, provided that the extension or enlargement does not itself **increase the degree of the dimensional nonconformance, nor** violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

OR

Section 6.02 Continuance of Nonconformity

A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:

1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
2. The use shall not be reestablished after discontinuance for 6 months.
3. The use or building shall not be extended or enlarged except as herein provided. ~~Nonconforming residential buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).~~ **A legally nonconforming structure may expand its square footage provided that the expansion does not exceed the extent of the height and/or setback in nonconformance. All other development standards must be met in the expansion.**

   a. A vertical expansion of a nonconforming building or structure which is legally nonconforming as to one or more setback requirements is a permitted expansion of that nonconformity.

   b. A horizontal expansion of a nonconforming building or structure which is legally nonconforming as to one or more height requirements is a permitted expansion of that nonconformity.

Both of the amendments noted above would allow for the maintenance, extension or enlargement of an existing legal, non-conforming building up to, but not exceeding, the existing non-conforming dimension. The first option listed above is more general in nature, and could include the expansion of any type of non-conformity (height, setbacks, FAR, density, lot coverage etc.). The second option listed above is limited to expanding only height and/or setback non-conformities. As an example, this approach would allow a 10 story legal non-conforming building in a 5 story zone district (building that is non-conforming for height or setbacks) to construct an addition up to 10 stories in height to match the existing building height and setbacks.

3. Convert Existing Legal, Non-conforming Buildings to Conforming Using a Special Land Use Permit

Another option to consider may be to convert buildings or structures in Downtown Birmingham that are legal non-conforming with regards to height into conforming buildings through the use of a Special Land Use Permit. An amendment to Article 3, Overlay Districts, or to Article 6, Nonconformances, could be proposed as follows:

> **Conversion of Non-conforming Status: A building in the Downtown Birmingham Overlay District that is a legal non-conforming building or structure with regards to height may be deemed a conforming building or structure with regards to height if the property owner agrees to specific conditions to control the future extension, enlargement or renovation of the building or structure and said conditions are approved by the City Commission under the provisions of a Special Land Use Permit.**

This approach would allow for the extension or enlargement of existing legal, non-conforming buildings downtown on a case by case basis as negotiated by the City Commission. The amendment noted above would provide flexibility for different site conditions and would provide control over the parameters of future expansion based on site and neighborhood context. As an example, a 10 story legal non-conforming building in a 5 story zone district could be deemed conforming if placed under the provisions of a SLUP that establish the specific conditions for maximum extension or enlargement of the building in the future.

4. Re-establish the Zoning District(s) in effect when Building Permits were Issued for Buildings in Excess of 5 Stories (or amend the B3 Zoning District) to render existing buildings conforming

Another option to consider may be to re-establish the former zoning classification(s) in place in the 1970's when several buildings were legally constructed greater than 5 stories in height, and to rezone properties with non-conforming buildings with regards to height back to this classification. Thus, any extension or enlargement of an existing legal, non-conforming building so rezoned would be permitted as anticipated at the time of construction. As an example, a 10 story building constructed in 1975 under a classification that permitted 11 stories in height could be extended or enlarged up to 11 stories in height.

5. Create a New Zoning District(s)

Another option to consider is to create a new zoning classification(s) that would permit additional building height and rezoning certain properties to this classification, thus rendering legal non-conforming buildings or structures conforming buildings with regard to height. This approach has been discussed by the Planning Board over the past year, and amendments have been drafted to create two new classifications under the Downtown Overlay, D5 and D6, to attempt to address the non-conforming heights of several buildings downtown. The Planning Board has also discussed using this approach to address sites along the west side of Woodward to allow additional height even for existing conforming buildings along the corridor to match the height permitted on the east side of Woodward in the Triangle District. The latest version of

the draft previously discussed by the Planning Board is attached and highlighted to indicate areas noted for further discussion. As an example using this approach, an existing 10 story legal non-conforming building in a 5 story zone district could be rezoned to a new zoning classification to be created that would allow 10 story buildings as of right.

At the Planning Board meeting on September 14, 2016, board members agreed that the improvement and maintenance of existing legal, non-conforming commercial buildings should be permitted, and expansion of such buildings should also be permitted consistent with regulations for residential buildings. Board members also discussed at length the issue of several legal, non-conforming buildings in the Downtown Overlay District, and the desire to allow improvements to those buildings as well. After much discussion, the Planning Board directed Planning staff to meet with the applicant for the 555 Building to craft ordinance language that would make existing buildings downtown conforming with regards to both height and setbacks, and to allow future expansion that would comply with the standards of the D4 Overlay.

On September 28, 2016, the Planning Board discussed draft ordinance language that proposed to create a D5 zone district that would render existing buildings legal and conforming with regards to setback and height. Board members agreed that additions or renovations should be permitted to existing buildings. With regards to the construction of new buildings in the proposed D5 zone district, there was much discussion as to whether such buildings should meet the 5 story maximum height in the D4 zone district, or should be allowed to match the height of the existing adjacent buildings. The consensus of the board was to allow additional height for new buildings in the D5 to match existing adjacent buildings, if the new building was constructed under the provisions of a SLUP. At the end of the discussion, the applicant asked if the Planning Board could simply waive certain requirements in the D5 zone instead of requiring a SLUP. Staff agreed to discuss this with the City Attorney.

Since the September 28, 2016 Planning Board meeting, City staff has met with the applicant to refine the draft ordinance language. Accordingly, please find attached draft ordinance language for your review based on the Planning Board's direction from the last meeting that addresses the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of buildings downtown.

The applicant has also provided another version of a draft ordinance for the Planning Board's discussion as well based on their desire to construct a new building that exceeds the height of the existing 555 building, but maintains the same number of stories. The applicant's revised draft is also attached for your review.

Finally, City staff has reviewed the applicant's request as to whether the Planning Board can simply waive certain requirements in the D5 zone with both the City Manager and the City Attorney. Although it was unclear as to whether there was a legal question, the City Manager directed the City Attorney to respond. The City Attorney has advised that the question of whether the Planning Board can waive specific requirements is not a legal question, but rather a

policy question. Ultimately, the City Commission has the sole authorization to pass zoning legislation, with or without waivers, so long as they remain in compliance with the Michigan Zoning Enabling Act.

Should the Planning Board wish to recommend the attached ordinance amendments, the board may also wish to consider proposing a rezoning of the 555 Building, Birmingham Place and/or the Merrillwood Building to the proposed D5 Zone (over 5 stories).

Suggested Action:

To set a public hearing for December 14, 2016 to consider the following amendments to Chapter 126 Zoning:

(a) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district;
(b) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

AND

To set a public hearing for December 14, 2016 to consider the rezoning of the following properties:

(d) **555 S. Old Woodward** (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
(e) **411 S. Old Woodward** (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
(f) **225 E. Merrilwood** (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712
Fax: (269) 337-7713
Lennon@honigman.com

Via E-Mail and US Mail

October 10, 2018

Mr. Timothy J. Currier
Beier Howlett, P.C.
3001 W. Big Beaver Road
Suite 200
Troy, Michigan 48084

Re: Opposition to Rezoning of Property located at 469 and 479 S. Old Woodward, Birmingham, Michigan (the "Property")

Mr. Currier:

We attempted to reach you by phone earlier today. We are contacting you to inform you, and the others copied on this letter, that our Firm has been engaged by Condominiums at Birmingham Place Association (the "Association") to work along with counsel for the Birmingham Place Residential Condominium Association. The Association is the so-called Master Association for the Birmingham Place development.

Please be advised that the Association opposes the application to rezone the Property to the D-5 Overlay Zone and fully supports the position of the Birmingham Place Residential Condominium Association. We understand the rezoning application is "back" on the Planning Board's agenda for its meeting tonight. Unfortunately, we will not be available to participate in the meeting tonight, but we wanted you to be aware of our involvement and our client's position.

As you might expect, we have recently become involved and have not had the opportunity to thoroughly review all of the extensive information and voluminous documents. However, even based on our limited review, we do not understand how (or why) this matter finds itself back before the Planning Board. In addition, even if the application is properly back before the Planning Board, we also do not see how (or why) any of the so-called "new" information or positions could possibly justify a change to the Planning Board's previous decision.

In any case, please be aware that if the Planning Board elects to reconsider the rezoning application based on so-styled "new" information, and/or if the Planning Board changes from its previous position of recommending denial of the rezoning application, our Firm will continue forward and complete our thorough review of all of the information and will join in also

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

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(269) 337-7712
Fax: (269) 337-7713
Lennon@honigman.com

advising the Association of its legal rights and remedies along with the Residential Condominium Association's counsel.

Thank you for your time and attention to this matter. As always, please feel free to contact me with any questions or comments.

Very truly yours,

HONIGMAN MILLER SCHWARTZ AND COHN LLP

By: _____
J. Patrick Lennon

cc: Ms. Michele Prentice
Ms. Jana L. Ecker
Ms. Susan K. Friedlander
Mr. Richard D. Rattner

Submitted On Behalf of Birmingham Place on 01-23-18

REZONING REQUEST FOR 469-479 S. OLD WOODWARD

RESPONSE TO "SUMMARY OF PRIOR SUBMITTAL FROM THE APPLICANT

AND THE ANALYSIS & FINDINGS OF THE PLANNING DEPARTMENT'S REVIEW

Over the past several months, the applicant has submitted written documentation and evidence in support of applicant's application to rezone 469-479 S. Old Woodward to the D-5 Downtown Overlay District. In addition, the Planning Department has completed a thorough analysis of the applicant's request to rezone the subject property as well as all of the information that was submitted by the applicant during this rezoning process. The following is a summary of the Planning Department's analysis and findings under the City Ordinance regarding the applicant's request to rezone 469-479 S. Old Woodward:

- The subject site consists of two vacant, single story commercial buildings (Mountain King and First Place Bank).

Reply: ***Agreed***

- The 0.423-acre site includes two narrow parcels, one facing 3 streets (Old Woodward, Hazel and Woodward), and the other facing 2 streets (Old Woodward and Woodward).

Reply: Agreed

- The rezoning request is made pursuant to Article 7, section 7.02 of the Zoning Code.

Reply: Agreed

- Section 7.02(B)(2)(b)(i) – Due to the site configuration fronting S. Old Woodward, Hazel and Woodward, and the narrow lot size and the off-street parking requirements, rezoning is necessary to preserve enjoyment of rights and usage commonly associated with ownership.

Reply: This is first of several completely subjective conclusions stated as fact but without any supporting facts or evidence. The actual fact is that the very nature of the lots' size and configuration and the parking requirements make building a nine (9) story building virtually unworkable, especially as regards parking and traffic issues (see report by independent expert retained by the City with findings to the contrary of what the developer claims the Planning Board has made).

- Section 7.02(B)(2)(b)(ii) – Current zoning is no longer appropriate due to off-site parking requirements, narrow lot size configurations, and frontages.

Reply: See immediately above; rezoning would only exacerbate already serious problems.

- Section 7.02(B)(2)(b)(iii) – Rezoning will not be detrimental to surrounding properties as the adjacent and abutting properties are zoned D-5, mixed retail, commercial and residential properties, and applicant's proposal will add consistency to the streetscape in mass and architectural detail.

Reply: The clear facts are that only Birmingham Place and the 555 Building are zoned D-5, that the office portion of the 555 Building on Hazel Street is only five (5) to six (6) stories, and that all other nearby properties are one (1) or two (2) story buildings. It is apparent at a glance that the building the developer proposes would dwarf almost all nearby buildings, would create substantial inconsistency to the area in both mass and architectural detail, the latter, based on the developer's filings with the City to date being a very substantial departure from all adjacent and nearby buildings, make the proposed building "stick out like a sore thumb" in an otherwise very attractive area.

- Section 7.02(B)(5)(a) -- The objectives of the City's master plan and 2016 Plan are met by the rezoning as the proposed streetscape will improve the frontages of S. Old Woodward, Hazel and Woodward and project a strong image of the City toward Woodward with similar massing and architectural detail to adjacent buildings.

Reply: The actual fact is that, based on the developer's drawings submitted to date, the proposed building would have a virtually blank wall facing Woodward Avenue, would crowd the already narrow Hazel Street area with hotel frontage and would be detriment to the Old Woodward frontage by adding inconsistent mass running all the way to the Hazel Street corner. The only "strong image of the City toward Woodward" would be the unwelcoming appearance of a modern day version of a medieval wall running from the north end of Birmingham Place all the way to the south end of the 555 Building.

- Section 7.02(B)(5)(b) -- The existing uses of property in the general area align with applicant's proposed rezoning. Both the Birmingham Place and the 555 Building (neighboring properties) are mixed use buildings with both retail, commercial and residential uses. Properties to the east and west of the subject property are used for parking, retail and commercial.

Reply: The factual portion of the above re mixed use buildings, etc. is accurate, but the statement that the proposed hotel somehow "aligns" with entirely different uses in all nearby buildings is obviously inaccurate at best.

- Section 7.02(B)(5)(c) -- Both neighboring properties are zoned in the D-5 Overlay Zone.

Reply: Correct but irrelevant, especially in light of the subject property having been intentionally zoned D-4 and "both neighboring properties" having been zoned D-5 primarily, if not exclusively, to give them legal conforming status, which was never necessary or intended for the subject property.

- Section 7.02(B)(5)(d) – The applicant's property is suitable for uses in the D-5 which are the same as in the current D-4 Zone. However, if a 5-story or less building is constructed under the D-4 at the site, it would be completely dominated by and inconsistent with the height of the neighboring Birmingham Place and 555 Building.

Reply: In actual fact, a five (5) story or lower building would be entirely consistent with every building in the area other than Birmingham Place and the 555 Building, neither of which dominate or are inconsistent with the one (1) story properties that have occupied the subject property for decades.

- Section 7.02(B)(5)(e) – The requested rezoning is consistent with the trend of development of this area of S. Old Woodward which is dominated by the height of the 555 Building and Birmingham Place.

Reply: The alleged "domination" of Birmingham Place and the 555 Building is patently inaccurate, given the actual facts of the vast majority of development in the S. Old Woodward area. More importantly, the trend of development in Birmingham has complied with D-4 standards. A memo dated May 18, 2018 from the Planning Department to this Board (which may have been removed from this Board's second packet and on which the Planning Department has supposedly completely reversed itself) reads in part:

> ***"Developments trends in Birmingham's Downtown Overlay have seen many buildings built, or approved to be built, to D-4 Standards such as the Maple gateway buildings close by (Greenleaf Trust, Balmoral and the proposed Peabody Redevelopment), the Brookside development, and the proposed mixed use development replacing the Varsity Shop. There have been no buildings erected to D-5 Overlay Zoning standards in some time."***

Further, there has been no change in the trend in development or in the character of this area since the 2016 Plan was adopted – taller buildings existed then, and yet the predominant character of the downtown area remains two- to four-story buildings. All other recent developments (e.g., the Daxton Hotel, Forefront, Bristol, Brookside, Peabody, Westbrown, the new proposed Maple House, even 750 Forest in the Triangle District, etc.) have complied with the Master Plan; so should this development.

- Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established Zoning Ordinance requirements of Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district.

Reply: It is difficult to understand how the Planning Department could come to this conclusion, if it actually has, but even if it actually has, the conclusion is clearly contrary to the obvious facts and should be ignored by the Planning Board.

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Jay Hack
1276 Smith Ave.
Birmingham, MI 48009

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Brenda Knight

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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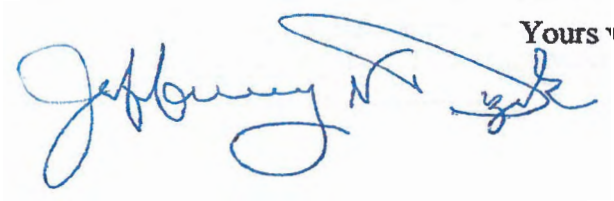
Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,



955 Bird Birmingham, MI 48009

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9-story building on this 0.41-acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

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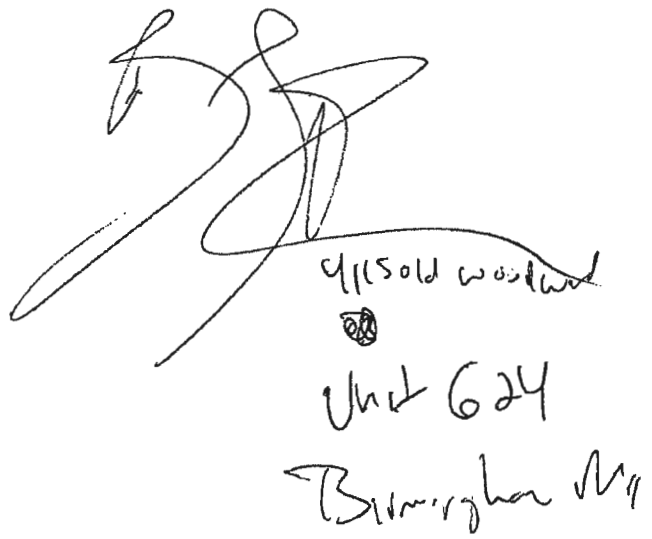

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Birmingham Planning Board
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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Eunice Galperin

Eunice Galperin

ADDRESS:

DATE:

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Jackie Pigeu
642 Oak Ave
Birmingham 48009

ADDRESS

DATE

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

P. Steven Warren
1296 Stanley Blvd
Birmingham, Mich
48009

ADDRESS:

DATE:

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Mark D. Rubinstein
268 Pilgrim
6/23/18

Arlene R. Rubinstein
268 Pilgrim
6/23/18

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

May 6, 2019

Mr. Joseph A. Valentine, City Manager
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: Request to Amend the D5 Overlay Zoning Ordinance

Dear Mr. Valentine:

On March 11, 2019, a request was made to rezone 469-479 South Old Woodward from B3/D4 to B3/D5. The following are the excerpts from the Minutes of that meeting as to the City Commission's discussion:

"**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner DeWeese:
To deny the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5.

City Attorney Currier said he would have to research whether the applicant could submit a new application before a year's time elapses if the City makes changes to the D5 ordinance, because it might sufficiently constitute a material change in circumstance.

Mayor Bordman said she would be supporting the motion because she does not want the issue to go back to the PB.

VOTE: Yeas, 3
Nays, 4 (Boutros, Harris, Nickita, Sherman)

MOTION FAILED

MOTION: Motion by Commissioner Harris
To approve the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5.

MOTION DIED FOR LACK OF A SECOND

MOTION: Motion by Mayor Pro Tem Boutros
To postpone the hearing to do a comprehensive study.

MOTION DIED FOR LACK OF SECOND

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To postpone the public hearing to July 22, 2019 for the purpose of sending it back to the Planning Board with specific direction to look at the issues raised by Commissioner Nickita on the D-5 ordinance and to look at the properties between Haines and Brown, Old Woodward and Woodward for the appropriate zoning classification.

Planning Director Ecker said the ordinance language could possibly be reviewed and brought back by July 22, 2019. She was not sure if the PB would reach consensus in three months on the geographic area to which the D5 zoning should be applied, since they have already studied the issue and were not able to reach consensus.

Commissioner Hoff said she would be interested in knowing whether building heights should be to the eaves or the tallest structure on a building, and the specific meaning of the 'adjacent' and 'abutting' in the context of the ordinance.

Commissioner Sherman said he would be willing to change the date in the motion to allow an additional month of study.

Commissioner Nickita said it should not take four months to define the method of determining building height and the definitions of 'adjacent' and 'abutting'. He said it would be better to keep the date in the motion and to extend it if necessary.

Mayor Bordman invited public comment on the motion.

Mr. Rattner stated the applicant had no objection to the motion.

Mr. Schwartz said that all the interested parties have weighed in on the issue, and the Commission is in effect postponing a civic duty.

Mr. Bloom said he would like to know the impact on the City if the parcel is built up as a hotel, office building, mixed use space, or any other type of development. He would want the PB to report on each building-type's likely impact on parking, public safety, density, and overall quality of life for Birmingham residents.

Mr. Reagan said 'adjacent' and 'abutting' were terms already discussed at the beginning of the 2016 planning process. In addition, the expansion of the geographic area being studied concerned Mr. Reagan because, as he stated, the

neighborhood included within that area already deals with significant congestion, cut-through traffic, and parking issues. If these developments occur, there has to be sufficient parking accommodations. Mr. Reagan asserted parking shortages would stem the possible larger D5 developments the City is considering allowing.

Ms. Friedlander said choosing to raise the heights of buildings should be part of a community study process, and all the buildings around the Merrillwood building should be included in this motion and studied since Merrillwood is also zoned D5.

Mr. Abel said the Commission should make a decision this evening.

Commissioner Hoff said Commissioner Nickita's concerns should be spelled out in the motion.

Mayor Bordman agreed with Mr. Abel and Commissioner Hoff. She asked if there was motion to amend in order to include Commissioner Nickita's comments.

No motion to amend was offered.

VOTE: Yeas, 2 (Nickita, Sherman)
Nays, 5

MOTION FAILED

The Commission took no action. The property remains zoned D4.

Mayor Bordman recessed the meeting for three minutes. The meeting resumed at 10:48 p.m."

The Birmingham Zoning Ordinance provides under Section 7.02B6:

"6. *Underlying Action by the City Commission.* Following receipt of the written report and recommendations from the Planning Board, the City Commission may grant or deny any application for the amendment for rezoning. If the City Commission denies the application, no application shall be reheard for at least one year, unless there have been substantial changes in the facts, evidence, and/or conditions demonstrated by the applicant. The determination of whether there have been such changes shall be made by the Planning Board at the time the application is submitted for processing."

The question is, was the City Commission's motions a denial of the application that prevent it from being reheard for at least one year. In this regard, I refer you to Robert's Rules of Order:

> "SECONDING A MOTION. After a motion has been made, another member who wishes it to be considered says, 'I second the motion,' or, 'I second it," or even, 'Second!'—without obtaining the floor, and in small assemblies without rising. ** In large assemblies, and especially in those where nonmembers may be seated in the hall, the seconder should stand, and without waiting to be recognized should state his name (with other identification, if appropriate) and say, 'Mr. President [or 'Mr. Chairman'], I second the motion.' In some organizations, especially labor unions, the word 'support' is used in place of 'second.'
>
> If no member seconds the motion, the chair must be sure that all have heard it before proceeding to other business. In such a case the chair normally asks, 'Is there a second to the motion?' In a large hall he may repeat the motion before doing so. Or, if a resolution was submitted in writing and read by the chair or the secretary rather than by the mover (as described on p. 33) the chair may say, 'Miss A has moved the adoption of the resolution just read. Is there a second to the resolution?"; or, if the text of the resolution has been distributed to the members in advance and was moved without being read, the chair may say, for example, 'Miss A has moved the adoption of the resolution relating to….., as printed. Is there a second to the resolution?' If there still is no second, the chair says, 'The motion [or 'resolution'] is not a seconded'; or, 'Since there is no second, the motion is not before this meeting.' Then he immediately says, 'The next item of business is …..'; or, if appropriate, 'Is there any further business?'
>
> A second merely implies that the seconder agrees that the motion should *come before the meeting* and not that he necessarily favors the motion. A member may second a motion (even if using the word 'support' as indicated above) because he would like to see the assembly go on record as *rejecting* the proposal, if he believes a vote on the motion would have such a result. A motion made by direction of a board or duly appointed committee of the assembly requires no second from the floor (provided the subordinate group is composed of more than one person), since the motion's introduction has been directed by a majority vote within the board or committee and is therefore desired by at least two assembly members or elected or appointed persons to whose opinion the assembly is presumed to give weight regarding the board's or committee's concerns. (For rules governing the appointment of non-assembly members to committees, see pp. 174-75, 492-93,496.)"

Though the Minutes indicate that the motion to deny the rezoning failed, and the motion to approve the rezoning did not receive a second, the failure to have a second to the motion to approve only means that it was not before the meeting, and, therefore, it was not officially rejected. It is, therefore, our opinion that Section 702B6 is not applicable with respect to the request to amend the D5 Overlay Zoning Ordinance, and re-application can be made without waiting one year to do so.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier
Birmingham City Attorney

TJC/jc

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148181
Receipt 426908
Amount $1,550.00

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

TO THE CITY COMMISSION:

The undersigned hereby makes application to the City Commission to:

1. Zoning Map Change:

Change premises described as:

479 South Old Woodward Avenue
No. Street

Tax ID #: 19-36-208-012; see documents for more information
Legal Description

from its present zoning

classification of B3/D4 to B3/D5.

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reason for request or other data have a direct bearing on the request.

2. Change premises described as:

No. Street

Legal Description

from its present zoning

classification of _____ to _____.

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reasons for request or other data have a direct bearing on the request.

Signature of Applicant: _____

Print Name: Christopher J. Longe

Name of Owner: Birmingham Tower Parters, LLC

Address and Telephone Number: 251 East Merrill Street, Suite 205
Birmingham, Michigan 48009

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148182
Receipt 426908
Amount $100.00

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received: _____ Received By:_____

Resolution No._____ Approved/Denied_____

Application Fee: $1,500.00 Receipt Number_____

The petitioner shall be responsible for any costs incurred by consultant, including but not limited to traffic and environmental, contracted by the city to review the proposed site plan and/or community impact study as determined by the city planner.

ZONING MAP OR ORDINANCE AMENDMENT PROCEDURE

Procedure to be followed on all applications for Zoning Map or Ordinance amendments.

1. Preliminary discussion with the Community Development Director or City Planner.

2. Formal application to City Commission with the following information:

   a) Change requested
   b) Signature and name of persons requesting change
   c) Reasons for requested change

3. City Commission will refer request to the Planning Board for recommendation and final report.

4. Planning Board will hold a public hearing prior to which a notice will be published in an official paper or a paper of general circulation not less than fifteen (15) days prior to the hearing.

5. At the conclusion of a public hearing, the Planning Board will forward a recommendation of the Zoning Map or Ordinance amendment request. The City Commission may, by ordinance, change the Zoning Map or Ordinance only after the Planning Board had held at least one (1) public hearing regarding the proposed amendment and has reported to the City Commission thereon. The City Commission may hold additional public hearings as it deems necessary.

6. Upon the presentation of protest petition meeting the requirements listed below, an amendment to the Zoning Map or Ordinance which is the object of the petition shall be passed only by a three-fourths (3/4) vote of the City Commission. The protest petition shall be presented to the City Commission before final action on the amendment, and shall be signed by one (1) of the following:

   a) The owners of at least twenty percent (20%) of the area of land included in the proposed change.

   b) The owners of at least twenty percent (20%) of the area of the land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

   For the purpose of calculating the twenty percent (20%) requirement, publicly-owned land shall be excluded.

7. The City Commission will then take action on the application upon review of the Planning Board's recommendation and approved minutes of the Public Hearing.

8. Following adoption of a Zoning Map or Ordinance change by the City Commission, one (1) notice of adoption shall be published in the newspaper of general circulation in the City within fifteen (15) days after adoption.

CITY OF BIRMINGHAM
Date 05/07/2018 10:31:32 AM
Ref 00148179
Receipt 426908
Amount $1,550.00

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Legal Description

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Legal Description

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Ref 00148180
Receipt 426908
Amount $100.00

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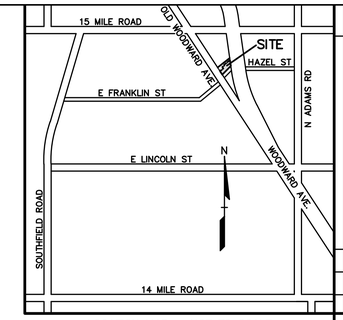
BENCHMARKS:
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U-POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV. = 765.98

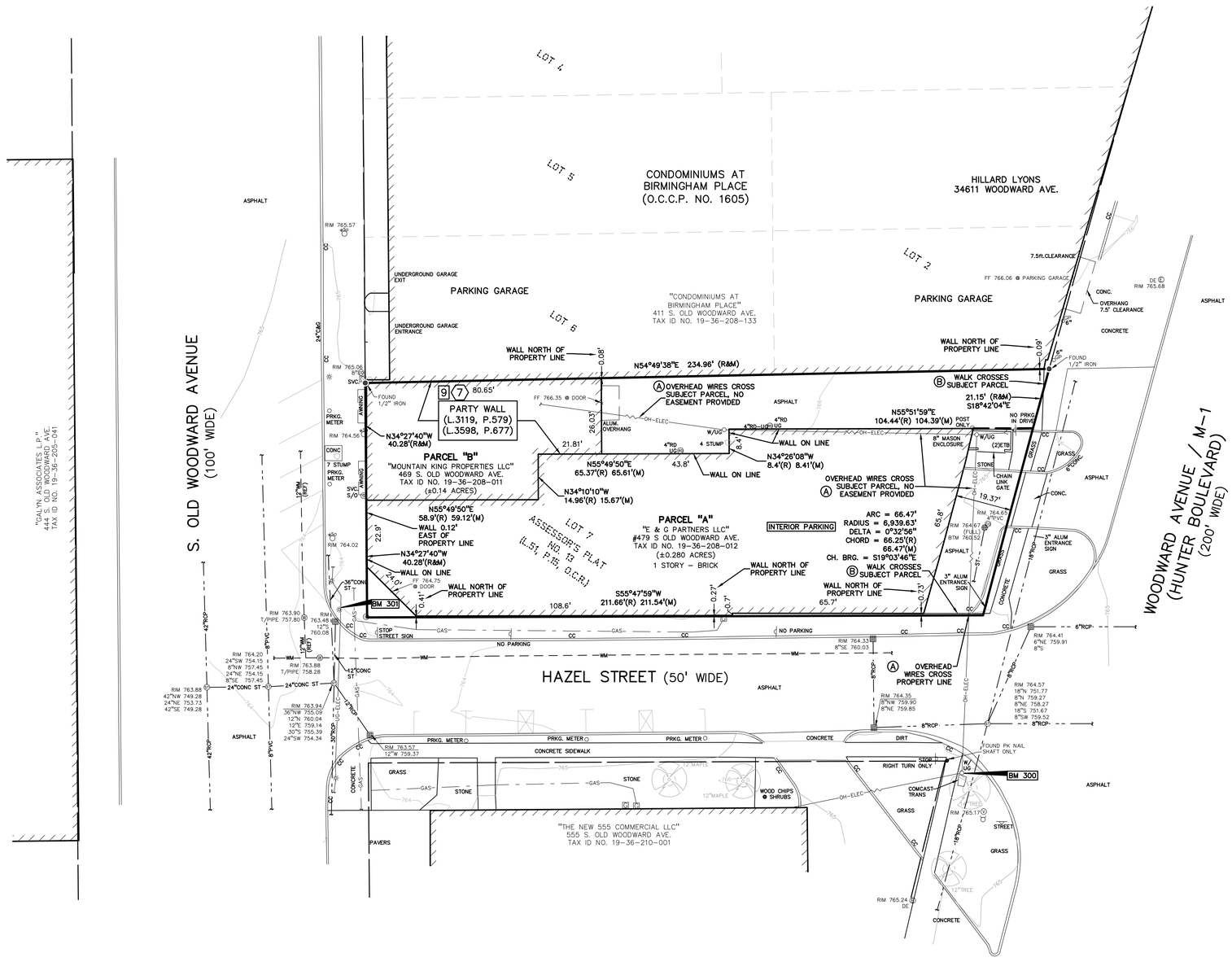
BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV. = 766.58

FLOOD PLAIN:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.



LOCATION MAP – NOT TO SCALE



LEGEND

- IRON FOUND
- IRON SET
- NAIL FOUND
- NAIL & CAP SET
- BRASS PLUG SET
- MONUMENT FOUND
- MONUMENT SET
- SEC. CORNER FOUND
- R RECORDED
- M MEASURED
- C CALCULATED

EXISTING

- ELEC., PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
- UNDERGROUND CABLE TV, CATV PEDESTAL
- TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
- ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
- GAS MAIN, VALVE & GAS LINE MARKER
- WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
- SANITARY SEWER, CLEANOUT & MANHOLE
- STORM SEWER, CLEANOUT & MANHOLE
- COMBINED SEWER & MANHOLE
- SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
- POST INDICATOR VALVE
- WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
- MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
- UNIDENTIFIED STRUCTURE
- SPOT ELEVATION
- CONTOUR LINE
- FENCE
- GUARD RAIL
- STREET LIGHT
- SIGN
- CONCRETE
- ASPHALT
- GRAVEL SHOULDER

REFERENCE DRAWINGS

OTHER ASSESSOR'S PLAT NO. 13, L.51, P.15, O.C.R.
OTHER EXHIBIT B – CONDOMINIUMS AT BIRMINGHAM PLACE, O.C.C.P. NO. 1605

No.	BY	DESCRIPTION	DATE
1	AL	DLC REV. PER ADJACENT PARCEL T.C.	4-24-17

REVISIONS

CAUTION!!
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CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

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f: 248.689.1044
www.peainc.com

MARKUS ASSOCIATES, LLC
BIRMINGHAM, MI 48009

TOPOGRAPHIC & ALTA/NSPS LAND TITLE SURVEY-HAZEL ST./WOODWARD
PART OF THE NE 1/4 OF SECTION 36, T. 02N., R. 10E., CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DES.	DN.	DLC/CSD	SUR.	RS	P.M.	JPB

S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE – JPB\SURVEY-DEPTV\17093ALTA\17093ALTA.dwg

ORIGINAL ISSUE DATE:
APRIL 15, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
1 OF 2

PARCEL "A" LEGAL DESCRIPTION

(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

Land situated in the City of Birmingham, County of Oakland, and State of Michigan, described as:

South part of Lot 7 of ASSESSOR'S PLAT NO. 13, City of Birmingham, according to the plat thereof, as recorded in Liber 51 of Plats, Page 15, Oakland County Records, described as beginning at Southwest corner Lot 7; thence Northerly on West line said Lot, 40.28 feet; thence Easterly 58.9 feet; thence Northerly at right angle 14.96 feet; thence Easterly at right angle 65.37 feet; thence Northerly at right angle 8.4 feet; thence Easterly at right angle 104.44 feet to East line said Lot; thence Southerly along East lot line, 66.25 feet to Southeast corner said Lot; thence Westerly along South lot line 211.66 feet to point of beginning.

PARCEL "A" SURVEYOR'S NOTES:

(A) Overhead wires run through the subject parcel and cross the property lines as shown, no easement provided.

(B) Walk runs through the subject parcel and cross the property lines as shown.

C. Property line matches existing exterior walls and interior party walls on the north side of the subject parcel.

D. Parking on the subject parcel is enclosed in the existing building, no access available at the time of the survey.

E. The current zoning classification was not provided by the client, as item 6(a) in table a of the "minimum standard detail requirements for ALTA/NSPS land title surveys," states.

PARCEL "A" SCHEDULE BII EXCEPTIONS

(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Standard exceptions set forth in jacket.
3. Taxes and/or assessments which become a lien or become due and payable subsequent to the effective date herein.
4. No liability is assumed by the Company for tax increase occasioned by retroactive revaluation or change in land usage status for the Land.
5. Rights of tenants under unrecorded leases and any and all parties claiming by, through and thereunder.
6. Rights of the public to any portion of the Land lying within the bounds of any street, road, alley or highway.
7. Possible deficiencies in the creation, organization or authority of the Insured or its agent to acquire or hold the Title.
8. Railroad line, switches and spur tracks, if any, and all rights therein. [No Railroad line, switches & spur tracks observed at the time of the survey.]

[9.] An instrument entitled Party Wall Agreement, Recording No: Liber 3119, Page 579 and re–recorded in Liber 3598, Page 677. [As plotted.]

PARCEL "B" LEGAL DESCRIPTION

(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

Land situated in the City of Birmingham, County of Oakland, and State of Michigan, described as:

The Northerly part of Lot 7 of ASSESSOR'S PLAT NO. 13, according to the plat thereof recorded in Liber 51 of Plats, page 15, Oakland County Records, City of Birmingham, Oakland County, Michigan, described as beginning at the Northwesterly corner of said Lot 7 on the Easterly line of 100 foot Woodward Avenue; thence Easterly along Northerly line of said Lot, a distance of 234.96 feet to the Westerly line of 200 foot Hunter Blvd. of the Northeast corner of said Lot 7; thence Southerly along the Westerly line of said Hunter Blvd. or Easterly line of said Lot 7, a distance of 21.15 feet to extension of North face of wall of garage building located on Southerly part of said Lot 7; thence Westerly along said extension of North face of wall and along said North face of wall 104.44 feet to a corner of said garage building; thence Southerly at right angles along Westerly face of wall of said garage building 8.40 feet to a corner of said garage building; thence Westerly at right angles along North face of wall of said garage building 65.37 feet to a corner of said garage building; thence Southerly at right angles along West face of wall of said garage building 14.96 feet to a corner of said garage building; thence Westerly at rights angles along North face of wall of said garage building and extension of same 58.90 feet to Westerly line of said Lot 7; thence Northerly along said Westerly line 40.28 feet to the point of beginning.

PARCEL "B" SURVEYOR'S NOTES:

(A) Overhead wires run through the subject parcel and cross the property lines as shown, no easement provided.

(B) Walk runs through the subject parcel and cross the property lines as shown.

C. Property line matches existing exterior walls and interior party walls on the south side of the subject parcel.

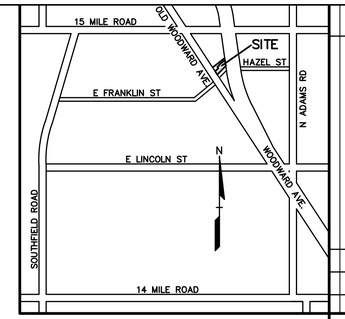
D. The current zoning classification was not provided by the client, as item 6(a) in table a of the "minimum standard detail requirements for ALTA/NSPS land title surveys," states.

PARCEL "B" SCHEDULE BII EXCEPTIONS

(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

1. The Company does not make any representation as to the value of the property.
2. Rights of the public and any governmental unit in any part of the land taken, deeded or used for street, road or highway purposes.
3. Any provisions contained in any instruments of record which provisions pertain to the transfer of divisions under Section 109(2) of the Subdivision Control Act of 1967, as amended.
4. Taxes which are a lien pursuant to Public Act 143 of 1995 and any other taxes and/or assessments which become a lien or become due and payable subsequent to the date of the commitment, including all assessments for weed cutting, grass cutting or any other matters for which City services were provided but not assessed against the tax rolls prior to the effective date of the Commitment.
5. This Policy does not insure against any delinquent or current water charges pertaining to the subject matter property as the parties failed to produce a final meter reading and/or final paid water bill prior to Closing.
6. Rights of tenants under any unrecorded leases, as to tenants only.

(7.) Terms and conditions of Party Wall Agreement as disclosed by instrument recorded in Liber 3119, page 579 and re–recorded in Liber 3598, page 677, Oakland County Records. [As plotted.]



LOCATION MAP – NOT TO SCALE

CERTIFICATE OF SURVEY

To: First American Title Insurance Company
Title Connect, L.L.C.
Markus Associates, LLC

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 2, 3, 4, 5, 7(a), 8, 10(a), 11, and 13 of Table A thereof. The fieldwork was completed on March 24, 2017.

_____

Daniel Cole, PS No. 59791
Agent for PEA, Inc.

No.	BY	AL	DLC	CHK	DESCRIPTION	DATE
1			DLC		REV. PER ADJACENT PARCEL T.C.	4-24-17

REVISIONS

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DES.	DN.	DLC/CSD	SUR.	RS	P.M.	JPB

E:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE – JPB\SURVEY-dSPT\17093ALTA\17093ALTA.dwg

ORIGINAL ISSUE DATE:
APRIL 15, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
2 OF 2

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U-POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

PARCEL "A" LEGAL DESCRIPTION
(per Fidelity National Title Insurance Company, Commitment No. 17–110744, dated January 5, 2017)

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, AND STATE OF MICHIGAN, DESCRIBED AS:

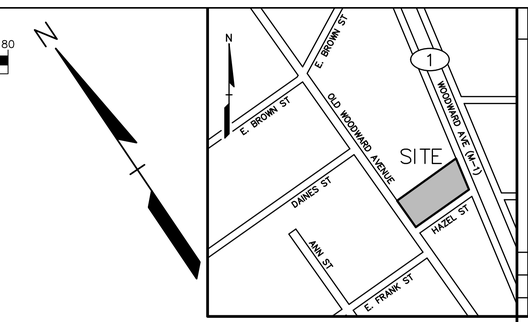
SOUTH PART OF LOT 7 OF ASSESSOR'S PLAT NO. 13, CITY OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN LIBER 51 OF PLATS, PAGE 15, OAKLAND COUNTY RECORDS, DESCRIBED AS BEGINNING AT SOUTHWEST CORNER LOT 7; THENCE NORTHERLY ON WEST LINE SAID LOT, 40.28 FEET; THENCE EASTERLY 58.9 FEET; THENCE NORTHERLY AT RIGHT ANGLE 14.96 FEET; THENCE EASTERLY AT RIGHT ANGLE 65.37 FEET; THENCE NORTHERLY AT RIGHT ANGLE 8.4 FEET; THENCE EASTERLY AT RIGHT ANGLE 104.44 FEET TO EAST LINE SAID LOT; THENCE SOUTHERLY ALONG EAST LOT LINE, 66.25 FEET TO SOUTHEAST CORNER SAID LOT; THENCE WESTERLY ALONG SOUTH LOT LINE 211.66 FEET TO POINT OF BEGINNING.

PARCEL "B" LEGAL DESCRIPTION
(per First American Title Insurance Company, Commitment No. TC13–69882, dated February 9, 2017)

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, AND STATE OF MICHIGAN, DESCRIBED AS:

THE NORTHERLY PART OF LOT 7 OF ASSESSOR'S PLAT NO. 13, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 51 OF PLATS, PAGE 15, OAKLAND COUNTY RECORDS, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 7 ON THE EASTERLY LINE OF 100 FOOT WOODWARD AVENUE; THENCE EASTERLY ALONG NORTHERLY LINE OF SAID LOT, A DISTANCE OF 234.96 FEET TO THE WESTERLY LINE OF 200 FOOT HUNTER BLVD. OF THE NORTHEAST CORNER OF SAID LOT 7; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID HUNTER BLVD. OR EASTERLY LINE OF SAID LOT 7, A DISTANCE OF 21.15 FEET TO EXTENSION OF NORTH FACE OF WALL OF GARAGE BUILDING LOCATED ON SOUTHERLY PART OF SAID LOT 7; THENCE WESTERLY ALONG SAID EXTENSION OF NORTH FACE OF WALL AND ALONG SAID NORTH FACE OF WALL 104.44 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE SOUTHERLY AT RIGHT ANGLES ALONG WESTERLY FACE OF WALL OF SAID GARAGE BUILDING 8.40 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE WESTERLY AT RIGHT ANGLES ALONG NORTH FACE OF WALL OF SAID GARAGE BUILDING 65.37 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE SOUTHERLY AT RIGHT ANGLES ALONG WEST FACE OF WALL OF SAID GARAGE BUILDING 14.96 FEET TO A CORNER OF SAID GARAGE BUILDING; THENCE WESTERLY AT RIGHTS ANGLES ALONG NORTH FACE OF WALL OF SAID GARAGE BUILDING AND EXTENSION OF SAME 58.90 FEET TO WESTERLY LINE OF SAID LOT 7; THENCE NORTHERLY ALONG SAID WESTERLY LINE 40.28 FEET TO THE POINT OF BEGINNING.

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.



LOCATION MAP – NOT TO SCALE

LEGEND

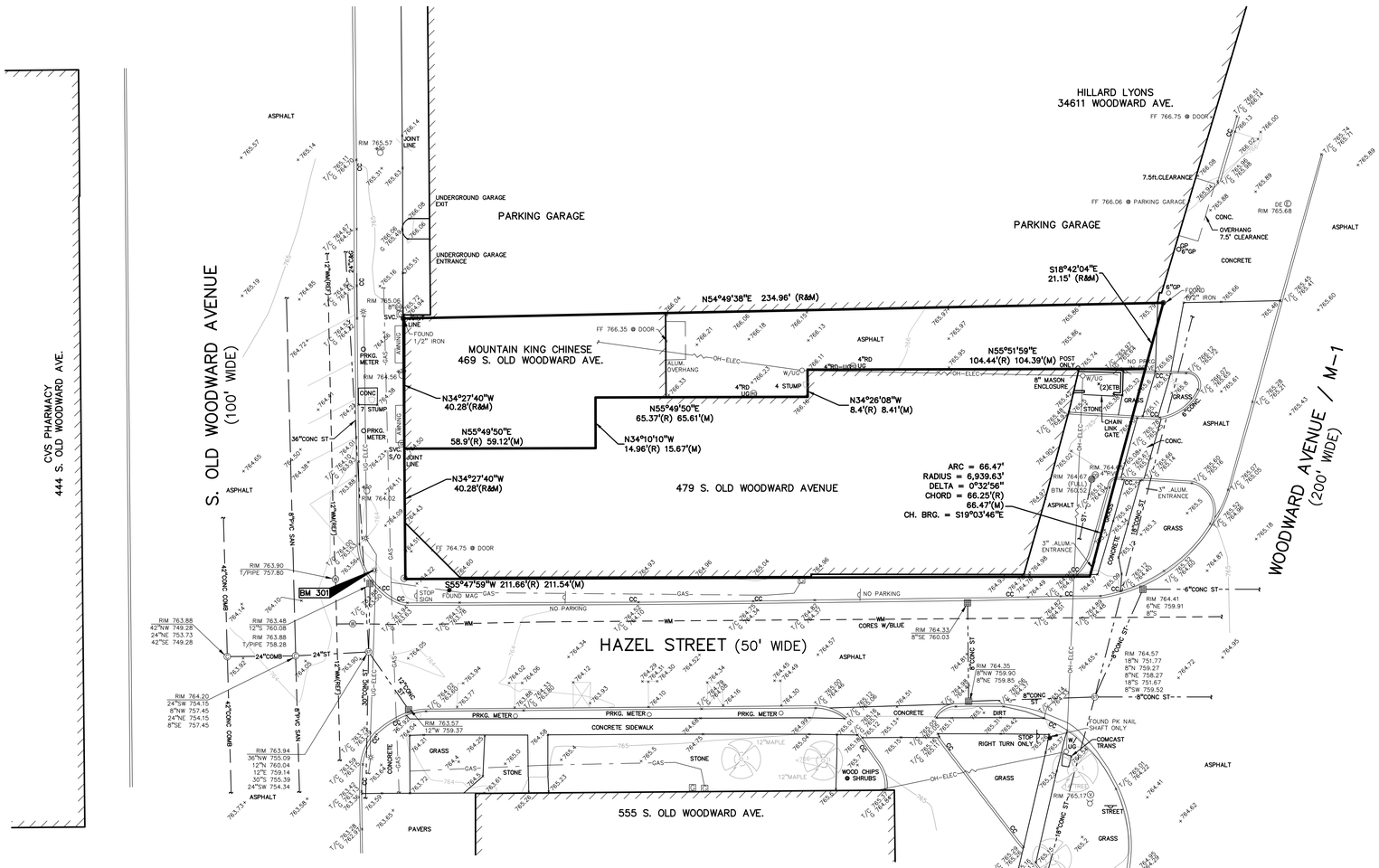
- IRON FOUND
- IRON SET
- NAIL FOUND
- NAIL & CAP SET
- BRASS PLUG SET
- MONUMENT FOUND
- MONUMENT SET
- SEC. CORNER FOUND
- R RECORDED
- M MEASURED
- C CALCULATED

EXISTING

- ELEC., PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
- UNDERGROUND CABLE TV, CATV PEDESTAL
- TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
- ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
- GAS MAIN, VALVE & GAS LINE MARKER
- WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
- SANITARY SEWER, CLEANOUT & MANHOLE
- STORM SEWER, CLEANOUT & MANHOLE
- COMBINED SEWER & MANHOLE
- SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
- WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
- MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
- UNIDENTIFIED STRUCTURE
- 816.06 SPOT ELEVATION
- 670 CONTOUR LINE
- FENCE
- GUARD RAIL
- STREET LIGHT
- SIGN
- CONC. CONCRETE
- ASPH. ASPHALT

REFERENCE DRAWINGS

WATER MAIN	NOT RECEIVED AT TIME OF SURVEY
SANITARY SEWER	NOT RECEIVED AT TIME OF SURVEY
STORM SEWER	NOT RECEIVED AT TIME OF SURVEY
COMBINED SEWER	NOT RECEIVED AT TIME OF SURVEY
ELECTRIC	NOT RECEIVED AT TIME OF SURVEY
TELEPHONE	NOT RECEIVED AT TIME OF SURVEY
GAS	NOT RECEIVED AT TIME OF SURVEY
PETROLEUM	NOT RECEIVED AT TIME OF SURVEY
CATV	NOT RECEIVED AT TIME OF SURVEY
FLOOD PLAIN	ZONE X, FEMA FIRM 26125C0537F, DATED 09-29-06


CVS PHARMACY
444 S. OLD WOODWARD AVE.
S. OLD WOODWARD AVENUE
(100' WIDE)
HILLARD LYONS
34611 WOODWARD AVE.
FF 766.75 ● DOOR
FF 766.06 ● PARKING GARAGE
PARKING GARAGE
7.5ft.CLEARANCE
OVERHANG
7.5' CLEARANCE
CONCRETE
ASPHALT
S18°42'04"E
21.15' (R&M)
N54°49'38"E 234.96' (R&M)
MOUNTAIN KING CHINESE
469 S. OLD WOODWARD AVE.
479 S. OLD WOODWARD AVENUE
555 S. OLD WOODWARD AVE.
HAZEL STREET (50' WIDE)
N34°27'40"W
40.28'(R&M)
N55°49'50"E
65.37'(R) 65.61'(M)
N34°10'10"W
14.96'(R) 15.67'(M)
N55°49'50"E
58.9'(R) 59.12'(M)
N34°27'40"W
40.28'(R&M)
N34°26'08"W
8.4'(R) 8.41'(M)
N55°51'59"E
104.44'(R) 104.39'(M)
S55°47'59"W 211.66'(R) 211.54'(M)
ARC = 66.47'
RADIUS = 6,939.63'
DELTA = 0°32'56"
CHORD = 66.25'(R)
66.47'(M)
CH. BRG. = S19°03'46"E
WOODWARD AVENUE / M–1
(200' WIDE)
BM 301
NO PARKING
STOP SIGN
FOUND MAG NAIL
FOUND 1/2" IRON
SET MAG NAIL
FOUND PK NAIL SHAFT ONLY
COMCAST TRANS
RIGHT TURN ONLY
UNDERGROUND GARAGE EXIT
UNDERGROUND GARAGE ENTRANCE
JOINT LINE
CONCRETE SIDEWALK
GRASS
STONE
WOOD CHIPS & SHRUBS
PAVERS
DIRT
CONCRETE ST
HAZEL ST
ASPHALT
CONCRETE
GRASS
STONE
PAVERS
STREET
CHAIN LINK GATE
3" ALUM. ENTRANCE
8" MASON ENCLOSURE
NO PARKING
CORES W/BLUE
RIM 763.88 42"NW 749.28 24"NE 753.73 42"SE 749.28
RIM 763.48 12"S 760.08
RIM 763.88 T/PIPE 758.28
RIM 764.20 24"SW 754.15 8"NW 757.45 24"NE 754.15 8"SE 757.45
RIM 763.94 36"NW 755.09 12"N 760.04 12"E 759.14 30"S 755.39 24"SW 754.34
RIM 763.90 T/PIPE 757.80
RIM 763.57 12"W 759.37
RIM 765.57
RIM 765.08 8"S 763.34
RIM 764.56
RIM 764.02
RIM 764.41 6"NE 759.91 8"S
RIM 764.33 8"SE 760.03
RIM 764.35 8"NW 759.90 8"NE 759.85
RIM 764.57 18"N 751.77 8"W 759.27 8"NE 758.27 18"S 751.67 8"SW 759.52
RIM 765.17
RIM 765.24 6" 763.71
RIM 765.68 DE
RIM 765.24 DE
RIM 764.67 (FULL) BTM 760.52
RIM 764.67 (FULL)
RIM 765.17 DE
RIM 765.24 DE
RIM 765.68 DE
RIM 765.24 DE
RIM 765.24 DE
RIM 765.24

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U-POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

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GRAPHIC SCALE
–20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.

GENERAL NOTES:

THESE NOTES APPLY TO ALL CONSTRUCTION ACTIVITIES ON THIS PROJECT.

1. ALL DIMENSIONS SHOWN ARE TO BACK OF CURB, FACE OF SIDEWALK, OUTSIDE FACE OF BUILDING, PROPERTY LINE, CENTER OF MANHOLE/CATCH BASIN OR CENTERLINE OF PIPE UNLESS OTHERWISE NOTED.
2. REFER TO SHEET C–8.1 FOR ON–SITE PAVING DETAILS.
3. REFER TO M.D.O.T. STANDARD PLAN R–28–J FOR SIDEWALK RAMP DETAILS.
4. 'NO PARKING–FIRE LANE' SIGNS SHALL BE POSTED ALONG ALL FIRE LANES AT 100 FOOT INTERVALS OR AS DIRECTED BY THE FIRE OFFICIAL.
5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH CITY OF BIRMINGHAM CURRENT STANDARDS AND REGULATIONS.
6. THE CONTRACTOR SHALL NOTIFY THE CITY ENGINEER AND/OR THE AUTHORITY HAVING JURISDICTION 3 BUSINESS DAYS PRIOR TO THE BEGINNING OF CONSTRUCTION.
7. ANY WORK WITHIN THE STREET OR HIGHWAY RIGHTS–OF–WAY SHALL BE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THE AGENCIES HAVING JURISDICTION AND SHALL NOT BEGIN UNTIL ALL NECESSARY PERMITS HAVE BEEN ISSUED FOR THE WORK.
8. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO ADJUST THE TOP OF ALL EXISTING AND PROPOSED STRUCTURES (MANHOLES, CATCH BASINS, INLETS, GATE WELLS ETC.) WITHIN GRADED AND /OR PAVED AREAS TO FINAL GRADE SHOWN ON THE PLANS. ALL SUCH ADJUSTMENTS SHALL BE INCIDENTAL TO THE JOB AND WILL NOT BE PAID FOR SEPARATELY.

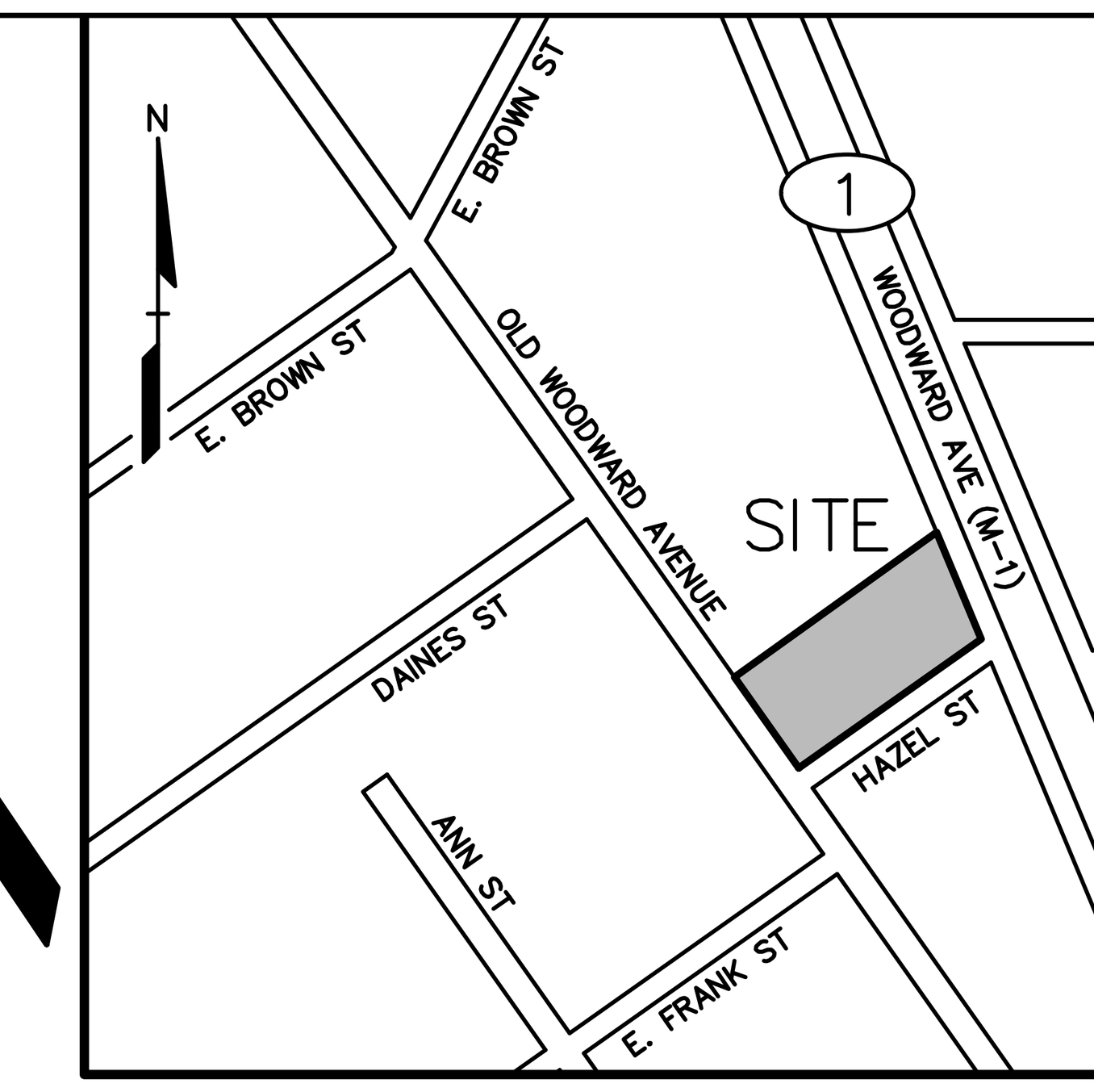
SIDEWALK RAMP LEGEND:

SIDEWALK RAMP 'TYPE D' Ⓓ
SIDEWALK RAMP 'TYPE R' Ⓡ
CURB DROP ONLY Ⓧ

REFER TO LATEST M.D.O.T. R–28 STANDARD RAMP AND DETECTABLE WARNING DETAILS AND CITY OF BIRMINGHAM CBD STREETSCAPE DETAILS FOR SIDEWALK RAMP DETAILS

SIGN LEGEND:

'NO PARKING LOADING ZONE' SIGN [1]
'STOP' SIGN [2]
REFER TO SHEETS C–8.1 FOR SIGN DETAILS



LOCATION MAP – NOT TO SCALE

LEGEND

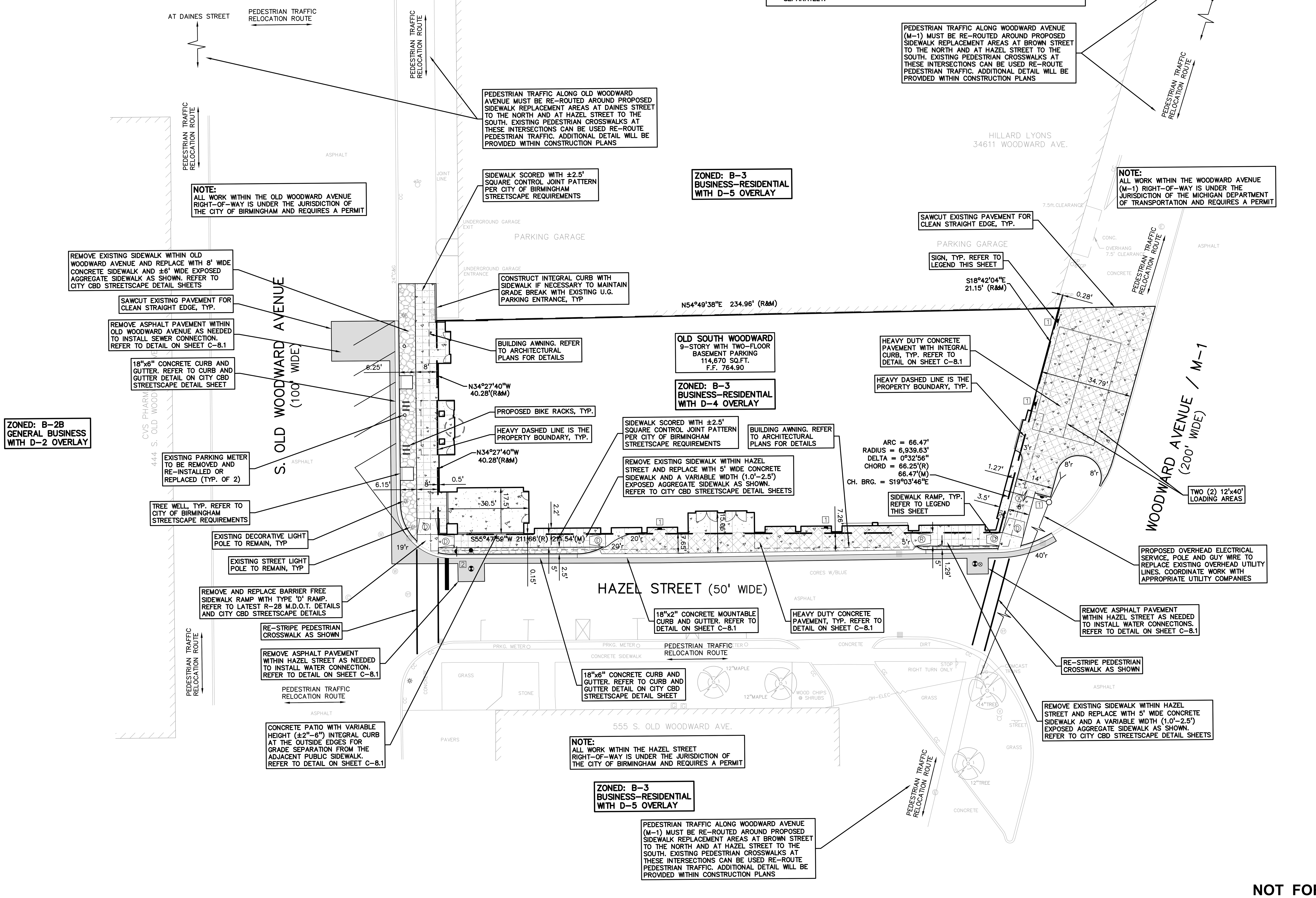
IRON FOUND; IRON SET; NAIL FOUND; NAIL & CAP SET; BRASS PLUG SET; MONUMENT FOUND; MONUMENT SET; SEC. CORNER FOUND; R RECORDED; M MEASURED; C CALCULATED

EXISTING / PROPOSED

- ELEC., PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
- UNDERGROUND CABLE TV, CATV PEDESTAL
- TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
- ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
- GAS MAIN, VALVE & GAS LINE MARKER
- WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
- SANITARY SEWER, CLEANOUT & MANHOLE
- STORM SEWER, CLEANOUT & MANHOLE
- COMBINED SEWER & MANHOLE
- SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
- WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
- MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
- UNIDENTIFIED STRUCTURE
- SPOT ELEVATION (816.06 / 671.21)
- CONTOUR LINE (670 / 671)
- FENCE
- GUARD RAIL
- STREET LIGHT
- SIGN
- CONCRETE (CONC.; WALK, HEAVY DUTY, M.D.O.T. R.O.W.)
- ASPHALT (ASPH.; ASPHALT PATCHING)

REFERENCE DRAWINGS

WATER MAIN	NOT RECEIVED AT TIME OF SURVEY
SANITARY SEWER	NOT RECEIVED AT TIME OF SURVEY
STORM SEWER	NOT RECEIVED AT TIME OF SURVEY
COMBINED SEWER	NOT RECEIVED AT TIME OF SURVEY
ELECTRIC	NOT RECEIVED AT TIME OF SURVEY
TELEPHONE	NOT RECEIVED AT TIME OF SURVEY
GAS	NOT RECEIVED AT TIME OF SURVEY
PETROLEUM	NOT RECEIVED AT TIME OF SURVEY
CATV	NOT RECEIVED AT TIME OF SURVEY
FLOOD PLAIN	ZONE X, FEMA FIRM 26125C0537F, DATED 09–29–06



SITE DATA TABLE:

SITE AREA: 0.423 ACRES, NET AND GROSS

ZONING: B–3, BUSINESS–RESIDENTIAL, D–4 OVERLAY

PROPOSED USE: FIRST FLOOR: COMMERCIAL/LOBBY AND PARKING
SECOND–THRU–FIFTH FLOORS: HOTEL (94 ROOMS)
SIXTH AND SEVENTH FLOORS: APARTMENTS (26 UNITS)
EIGHTH FLOORS: LARGE APARTMENTS (3 UNITS)
NINTH FLOOR: AMENITY LEVEL
THREE BASEMENT FLOORS: PARKING

BUILDING INFORMATION:
MAXIMUM ALLOWABLE BUILDING HEIGHT = 60 FEET (5 STORIES)
MINIMUM ALLOWABLE BUILDING HEIGHT = 20 FEET TO EAVES
PROPOSED BUILDING HEIGHT = 122'–0" TOTAL HEIGHT (INC. MECH. SCREEN)

BUILDING FOOTPRINT AREA = 16,925 SQ.FT.
GROSS BUILDING AREA = 114,670 SQ.FT. (NOT INC. BASEMENT PARKING)

SETBACK REQUIREMENTS:

B–4 ZONING DISTRICT:
FRONT SETBACK (SOUTH, WEST, EAST): 0 FEET REQUIRED 0.15' PROVIDED (MIN)

SIDE SETBACK (NORTH): 0 FEET REQUIRED 0' PROVIDED

PARKING CALCULATIONS:
RETAIL = 1 SPACE PER 300 SQ.FT. FLOOR AREA
HOTEL = 1 SPACE PER UNIT PLUS 1 SPACE PER 25 UNITS
RESIDENTIAL = 1.25 SPACES PER UNIT (3+ ROOMS PER UNIT)

REQUIRED PARKING SPACES:
3,435 SQ.FT. OF RETAIL = 3435/300 = 11 SPACES
94 HOTEL UNITS = 94 + 4 SPACES = 98 SPACES
26 APARTMENTS = 26 x 1.25 = 33 SPACES
3 LARGE APARTMENTS = 3 x 1.5 = 5 SPACES
TOTAL REQUIRED PARKING = 147 SPACES

PARKING PROVIDED IN GARAGE FLOORS = 96 SPACES
ON–STREET PARKING SPACES = 4 SPACES
TOTAL PROVIDED PARKING = 100 SPACES (SHORTFALL OF 47 SPACES)

LOADING CALCULATIONS:
LOADING REQUIRED = TWO LOADING SPACES REQUIRED
TWO LOADING SPACES PROVIDED

REVISIONS

No.	BY	CHK	DESCRIPTION	DATE

CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

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CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

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MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

SITE PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, 48009

DES.	DN.	SUR.	P.M.
PB	PB	DLC	JPB

S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE – JPB\Dwg\Site Plans\(C–3.0)DIM–17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
C-3.0

NOT FOR CONSTRUCTION

XREF: S:PROJECTS\2017\2017093\DWG\17093–TOPOBASE.DWG
XREF: S:PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE–17093.DWG
XREF: S:PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK–17093.DWG

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U–POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

SYMBOLS: GRADING

PROPOSED SPOT GRADE ELEVATION. ADD 700 TO 4–DIGIT ELEVATIONS TO OBTAIN ACTUAL ELEVATION — 64.50

PROPOSED CONTOUR LINE — 764 —

ABBERVIATIONS USED, IF REQUIRED FOR CLARITY:
TOP OF CURB = T/C
GUTTER GRADE = G
TOP OF PAVEMENT = T/P
TOP OF SIDEWALK = T/S
RIM = RIM ELEVATION OF STRUCTURE
FINISH GRADE = F.G.

GENERAL GRADING AND EARTHWORK NOTES:

THESE NOTES APPLY TO ALL CONSTRUCTION ACTIVITIES ON THIS PROJECT

1. CONTRACTOR TO FIELD VERIFY ALL EXISTING TREES AND BRUSH AND REMOVE ALL THAT ARE NECESSARY TO GRADE SITE.
2. ALL GRADES ARE TO TOP OF PAVEMENT UNLESS OTHERWISE NOTED.
3. ALL SOIL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL MEET THE REQUIREMENTS OF THE CITY OF BIRMINGHAM. AN EROSION CONTROL PERMIT MUST BE SECURED FROM THE CITY PRIOR TO CONSTRUCTION.
4. ALL EARTHWORK AND GRADING OPERATIONS SHALL BE PERFORMED IN ACCORDANCE WITH THE FORTHCOMING SOILS INVESTIGATION AND REPORT.
5. SEE ADDITIONAL GRADING AND EARTHWORK NOTES ON DETAIL SHEET C–8.1
6. REFER TO CONSTRUCTION PLANS FOR ALL SOIL EROSION AND SEDIMENTATION CONTROL MEASURES AND NOTES.
7. ALL DISTURBED AREAS SHALL BE SEEDED AND MULCHED OR SODDED IN ACCORDANCE WITH THE LANDSCAPE PLANS. PROVIDE A MINIMUM OF 3" OF TOPSOIL IN THESE AREAS UNLESS OTHERWISE NOTED.
8. THE CONTRACTOR SHALL NOTE EXISTING UNDERGROUND UTILITIES WITHIN AND ADJACENT TO THE SITE. BACKFILL FOR EXISTING UTILITY TRENCHES SHALL BE EXAMINED CRITICALLY. ANY TRENCHES FOUND TO HAVE SOFT, UNSTABLE OR UNSUITABLE BACKFILL MATERIAL, IN THE OPINION OF THE GEOTECHNICAL ENGINEER, THAT ARE TO BE WITHIN THE ZONE OF INFLUENCE OF PROPOSED BUILDINGS OR PAVEMENT SHALL BE COMPLETELY EXCAVATED AND BACKFILLED WITH SUITABLE MATERIAL.

GRAPHIC SCALE
−10 0 5 10 20 40
(IN FEET)
1 inch = 10 ft.

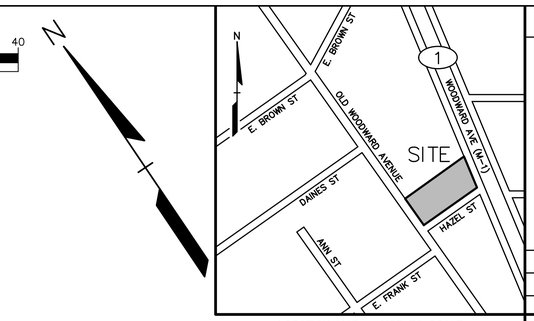
SIDEWALK RAMP LEGEND:

SIDEWALK RAMP 'TYPE D' Ⓓ
SIDEWALK RAMP 'TYPE R' Ⓡ
CURB DROP ONLY Ⓧ

REFER TO LATEST M.D.O.T. R–28 STANDARD RAMP AND DETECTABLE WARNING DETAILS AND CITY OF BIRMINGHAM CBD STREETSCAPE DETAILS FOR SIDEWALK RAMP DETAILS

EARTHWORK BALANCING NOTE:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPORTING OR EXPORTING ALL MATERIALS AS REQUIRED TO PROPERLY GRADE THIS PROJECT TO THE FINISHED ELEVATIONS SHOWN ON THE APPROVED PLANS. THE CONTRACTOR SHALL MAKE THEIR OWN DETERMINATION OF CUT AND FILL QUANTITIES AND ALLOW FOR REMOVAL OF EXCESS OR IMPORTATION OF ADDITIONAL MATERIAL AT NO ADDITIONAL COST TO THE OWNER.



LOCATION MAP – NOT TO SCALE

NOTE:
ALL WORK WITHIN THE OLD WOODWARD AVENUE RIGHT–OF–WAY IS UNDER THE JURISDICTION OF THE CITY OF BIRMINGHAM AND REQUIRES A PERMIT

PARKING GARAGE
UNDERGROUND GARAGE EXIT
UNDERGROUND GARAGE ENTRANCE
MATCH EX. GRADE ±65.15
MATCH EX. GRADE ±65.51
MATCH EX. GRADE ±64.75
MATCH EX. GRADE ±64.82
MATCH EX. GRADE ±65.72
ADJUST RIM TO 65.00
MATCH EX. GRADE ±64.53
MATCH EX. GRADE ±64.32
PROVIDE INTEGRAL CURB AT EDGE OF NEW SIDEWALK IF THE EXISTING SIDEWALK CURB IS OF INSUFFICIENT HEIGHT FOR REVISED GRADING. REFER TO INTEGRAL SIDEWALK CURB DETAIL ON SHEET C–8.1
TAPER CURB TO 2.5" HEIGHT TO MATCH EXISTING.
RIM 64.22
T/C 64.66
G 64.16
TION!! ELECTRIC AND GAS S IN THIS AREA
T/C 64.52
G 64.02
T/C 64.32
G 63.82
MATCH EXISTING PAVEMENT AND CURB GRADES WHEN REPLACING CURB AND GUTTER, TYP.
T/C 64.03
G 63.53
BM 301
MAINTAIN RIM AT 763.48
T/C 63.54
G 63.50
T/C 63.64
G 63.60
TAPER CURB TO 1/2" HEIGHT AT SIDEWALK RAMP, TYP.
F.G. 64.20
RIM 63.75
T/C 64.15
G 63.65
T/C 64.32
G 63.82
T/C 64.44
G 63.94
T/C 64.23
G 64.06
T/C 64.33
G 64.16
T/C 64.45
G 64.28
T/C 64.62
G 64.45
T/C 64.89
G 64.39
T/C 64.59
G 64.55
T/C 64.49
G 64.45
MAINTAIN RIM AT 764.33
MAINTAIN RIM AT 764.41
RIM 64.62
RIM 64.65
TAPER CURB TO 1/2" HEIGHT AT SIDEWALK RAMP, TYP.
MATCH EX. GRADE ±64.50
MATCH EX. GRADE ±65.66
MATCH EX. GRADE ±65.46
MATCH EX. GRADE ±65.79
MATCH EX. GRADE ±65.28
MATCH EX. GRADE ±65.07
MATCH EX. GRADE ±64.96
FIRST FLOOR LOBBY F.F. 764.90
FIRST FLOOR PARKING AREA F.F. VARIES
FIRST FLOOR LOBBY/RETAIL F.F. 764.90
OLD SOUTH WOODWARD 9–STORY WITH TWO–FLOOR BASEMENT PARKING 114,670 SQ.FT. F.F. 764.90
MECHANICAL ROOM F.F. 765.50
SHADING INDICATES AREA OF BUILDING WHERE EXTERIOR FINISH GRADE IS ABOVE FINISH FLOOR ELEVATION, TYP..
DASHED LINE IS THE PROPERTY BOUNDARY, TYP.
OVERHEAD ACCESS DOOR TO MECHANICAL ROOM.
TAPER CURB TO 1/2" HEIGHT AT OVERHEAD DOOR.
TAPER CURB TO 1/2" HEIGHT AT SIDEWALK RAMP, TYP.
SIDEWALK RAMP, TYP. REFER TO LEGEND THIS SHEET
ENTRANCE TO FIRST FLOOR AND UNDERGROUND PARKING.
THERE IS A PROPOSED 3" HIGH RAMP WITHIN THE BUILDING TO TRANSITION FROM THE ENTRY GRADE AT 764.65 TO THE FINISH FLOOR ELEVATION OF 764.90. REFER TO ARCHITECTURAL PLANS FOR ADDITIONAL DETAILS
INTEGRAL CURB AT EDGE OF PATIO AREA TYP. REFER TO DETAIL ON SHEET C–8.1
SIDEWALK RAMP, TYP. REFER TO LEGEND THIS SHEET
DASHED LINE IS THE PROPERTY BOUNDARY, TYP.
FRAME AND GRATE TO BE REPLACED WITH E.J. #7060 WITH TYPE #7040 M1 GRATE AND #7060 T1 BACK (FOR NEW MOUNTABLE CURB INSTALLATION)
CAUTION!! U.G. GAS LINE IN THIS AREA
MATCH EXISTING PAVEMENT AND CURB GRADES WHEN REPLACING CURB AND GUTTER, TYP.
CAUTION!! OVERHEAD UTILITY LINES IN THIS AREA
NOTE: THE AREA TO BE PAVED WITH EXPOSED AGGREGATE CONCRETE BETWEEN THE PROPOSED SIDEWALK AND THE PROPOSED CURB AND GUTTER WILL VARY IN CROSS–SLOPE AND MAY EXCEED THE CROSS–SLOPE ALLOWED FOR AN ACCESSIBLE ROUTE UNDER A.D.A. GUIDELINES. IT IS CONSIDERED A 'TRANSITION' BETWEEN THE PEDESTRIAN ROUTE (SIDEWALK) AND THE STREET CURB LINE.
NOTE: THE AREA TO BE PAVED WITH EXPOSED AGGREGATE CONCRETE BETWEEN THE PROPOSED SIDEWALK AND THE PROPOSED CURB AND GUTTER WILL VARY IN CROSS–SLOPE AND MAY EXCEED THE CROSS–SLOPE ALLOWED FOR AN ACCESSIBLE ROUTE UNDER A.D.A. GUIDELINES. IT IS CONSIDERED A 'TRANSITION' BETWEEN THE PEDESTRIAN ROUTE (SIDEWALK) AND THE STREET CURB LINE.
NOTE: ALL WORK WITHIN THE WOODWARD AVENUE (M–1) RIGHT–OF–WAY IS UNDER THE JURISDICTION OF THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND REQUIRES A PERMIT
NOTE: ALL WORK WITHIN THE HAZEL STREET RIGHT–OF–WAY IS UNDER THE JURISDICTION OF THE CITY OF BIRMINGHAM AND REQUIRES A PERMIT
HAZEL STREET (50' WIDE)
WOODWARD

NOT FOR CONSTRUCTION

XREF: S:\PROJECTS\2017\2017093\DWG\17093–TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE–17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK–17093.DWG

No.	BY	CHK	DESCRIPTION	DATE
			REVISIONS	

CAUTION!!
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MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

GRADING PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN 48009

DES.	PB
DN.	PB
SUR.	PB
DLC	PB
P.M.	JPB

S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE. – JPB\Dwg\Site Plans\C-4.1\SP&C-17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 10'

DRAWING NUMBER:
C-4.1

BENCHMARKS
(GPS DERIVED – NAVD88)

BM #300
BENCH TIE IN NORTH FACE OF U–POLE, SOUTHWEST CORNER HAZEL STREET AND WOODWARD AVENUE (HUNTER BOULEVARD)
ELEV = 765.98

BM #301
TOP OF NORTHEAST ANCHOR BOLT OF LIGHT POLE BASE, NORTHEAST CORNER OF HAZEL STREET AND OLD WOODWARD AVENUE
ELEV = 766.58

FLOODPLAIN NOTE:
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE "X", AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0537F (PANEL 537 OF 704), DATED SEPTEMBER 29, 2006.

Permit No._____
Date: _____

CITY OF BIRMINGHAM
STORM WATER RUNOFF CONTROL

Project Location: Hazel Street at Old Woodward
Designed by: Paul Bater, PEA PE: Yes **No**

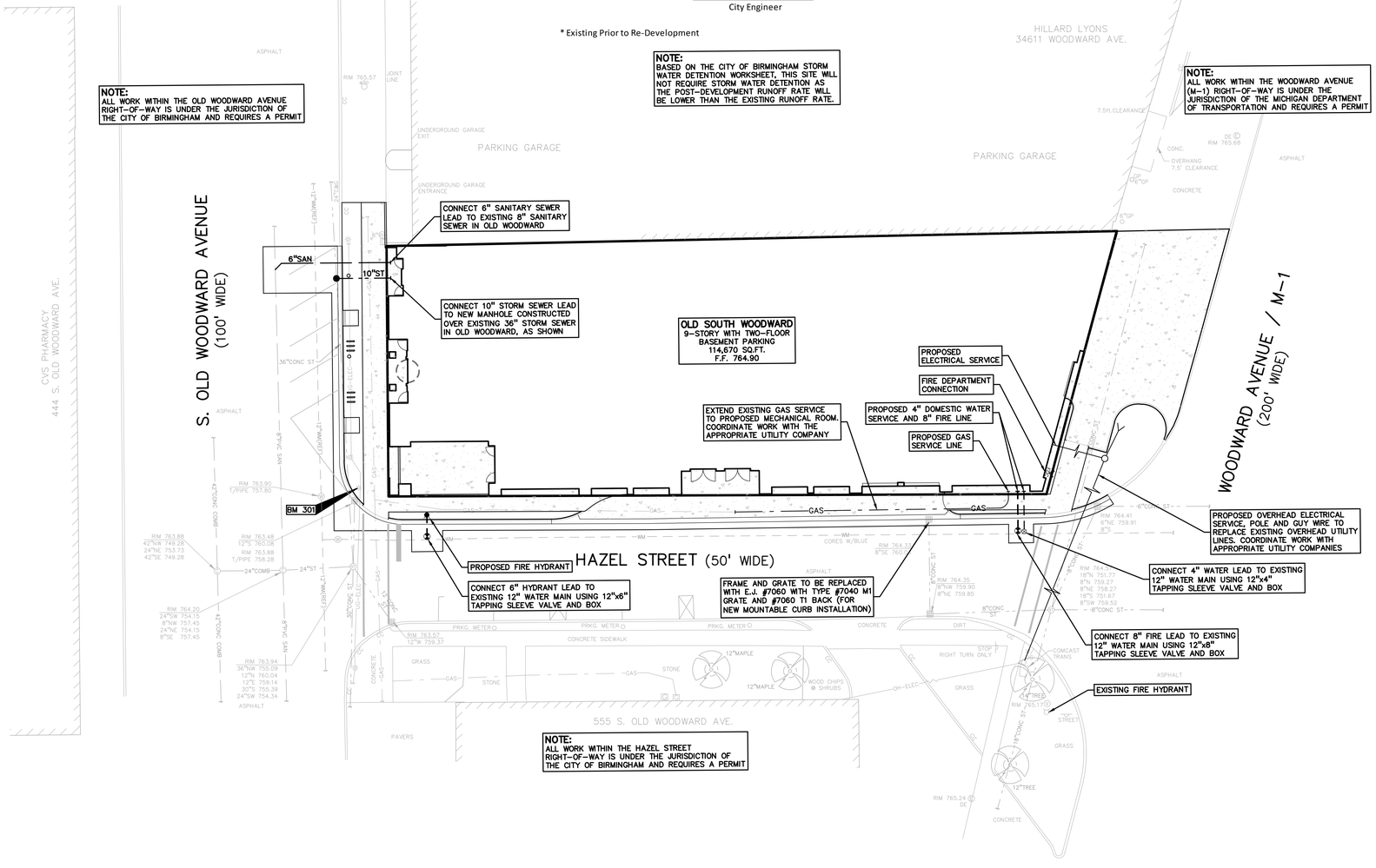
		(A) Exist. *	(B) Proposed	
(1)	Affected Area	0.423	0.423	acres
(2)	Area of Impervious Surface	0.423	0.423	acres
(3)	Percent Impervious	100	100	%
(4)	Runoff Factor	2.4	2.4	cfs/acre
(5)	Unrestricted Runoff Rate	1.02	1.02	cfs
(6)	Maximum Permitted Runoff Rate		1.02	cfs
(7)	Uncontrolled Runoff Area		-	acres
(8)	Area of Impervious Surfaces - Uncontrolled Runoff Area		-	acres
(9)	Runoff Factor - Uncontrolled Runoff Area		-	%
(10)	Runoff Factor - Uncontrolled Runoff Area		-	cfs/acre
(11)	Runoff Rate - Uncontrolled Runoff Area		-	cfs
(12)	Maximum Permitted Runoff Rate via Sewer Service Connection		-	cfs
(13)	Runoff Rate per Acre		-	cfs/acre
(14)	Required Storage per Acre		-	cu.ft./acre
(15)	Required Storage for Parcel		-	cu.ft.
	PROPOSED DESIGN			
(16)	Design Storage		-	cu.ft.
(17)	Design Outlet Capacity to Sewer Service		-	cfs

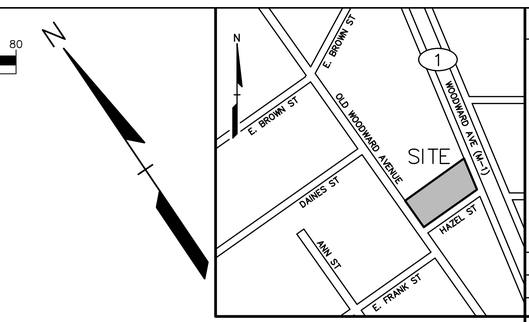
Approved by: _____
City Engineer

* Existing Prior to Re-Development

NOTE:
BASED ON THE CITY OF BIRMINGHAM STORM WATER DETENTION WORKSHEET, THIS SITE WILL NOT REQUIRE STORM WATER DETENTION AS THE POST–DEVELOPMENT RUNOFF RATE WILL BE LOWER THAN THE EXISTING RUNOFF RATE.

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.





LOCATION MAP – NOT TO SCALE

LEGEND

IRON FOUND
IRON SET
NAIL FOUND
NAIL & CAP SET
BRASS PLUG SET
MONUMENT FOUND
MONUMENT SET
SEC. CORNER FOUND
R RECORDED
M MEASURED
C CALCULATED

EXISTING	PROPOSED	
—OH—ELEC—		ELEC., PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
—UG—CATV—		UNDERGROUND CABLE TV, CATV PEDESTAL
—UG—PHONE—		TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
—UG—ELEC—		ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
		GAS MAIN, VALVE & GAS LINE MARKER
		WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
		SANITARY SEWER, CLEANOUT & MANHOLE
		STORM SEWER, CLEANOUT & MANHOLE
		COMBINED SEWER & MANHOLE
		SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
		WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
		MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
		UNIDENTIFIED STRUCTURE
816.06	671.21	SPOT ELEVATION
670	671	CONTOUR LINE
		FENCE
		GUARD RAIL
		STREET LIGHT
		SIGN
CONC.		CONCRETE
ASPH.		ASPHALT

WALK | HEAVY DUTY | M.D.O.T. R.O.W.
ASPHALT PATCHING

REFERENCE DRAWINGS

WATER MAIN	NOT RECEIVED AT TIME OF SURVEY
SANITARY SEWER	NOT RECEIVED AT TIME OF SURVEY
STORM SEWER	NOT RECEIVED AT TIME OF SURVEY
COMBINED SEWER	NOT RECEIVED AT TIME OF SURVEY
ELECTRIC	NOT RECEIVED AT TIME OF SURVEY
TELEPHONE	NOT RECEIVED AT TIME OF SURVEY
GAS	NOT RECEIVED AT TIME OF SURVEY
PETROLEUM	NOT RECEIVED AT TIME OF SURVEY
CATV	NOT RECEIVED AT TIME OF SURVEY
FLOOD PLAIN	ZONE X, FEMA FIRM 26125C0537F, DATED 09–29–06

GENERAL UTILITY NOTES:

1. ALL UTILITY LINES, STRUCTURES AND TRENCHES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS AND REQUIREMENTS OF THE CITY OF BIRMINGHAM.
2. NO PHYSICAL CONNECTION TO THE EXISTING WATER MAIN CAN BE MADE UNTIL ALL NEW WATER MAIN PASSES PRESSURE AND BACTERIOLOGICAL TESTS TO THE SATISFACTION OF THE CITY.
3. REFER TO DETAIL SHEET C–7.1 FOR ADDITIONAL UTILITY DETAILS AND NOTES.
4. ALL WATER MAIN AND FITTINGS (3" DIAMETER AND LARGER) SHALL BE DUCTILE IRON, CLASS 54.
5. WATER MAIN SERVICE LEADS SHALL BE TYPE 'K' ANNEALED SEAMLESS COPPER WITH FLARED FITTINGS, UNLESS OTHERWISE NOTED.
6. ALL WATER MAIN SHALL BE PROVIDED WITH 5.5' OF COVER UNLESS OTHERWISE NOTED.
7. ALL FIRE HYDRANTS SHALL BE EJIW #5BR MODEL #250 PER CITY STANDARDS.
8. ALL HYDRANTS TO BE A MINIMUM OF 5' FROM BACK OF CURB, TYP.
9. ALL NECESSARY FITTINGS, THRUST BLOCKS, RESTRAINING GLANDS, BLOW OFFS, ETC. FOR WATER MAIN ARE CONSIDERED INCIDENTAL TO THIS PROJECT. THE CONTRACTOR SHALL INSTALL THESE ITEMS AS NECESSARY AND AS REQUIRED BY THE CITY OF BIRMINGHAM.
10. ALL SANITARY SEWER LEADS SHALL BE POLYVINYL CHLORIDE (PVC) SDR 23.5 PIPE AND FITTINGS. ALL JOINTS TO BE ELASTOMERIC GASKET JOINTS PER ASTM D3212 UNLESS OTHERWISE NOTED.
11. SANITARY LEADS SHALL BE PROVIDED WITH CLEANOUTS EVERY 100 FEET AND AT EVERY BEND AS SHOWN. ALL CLEANOUTS TO BE PROVIDED WITH E.J.I.W. #1565 BOX OR EQUAL.
12. ALL STORM SEWER 12" DIAMETER OR LARGER SHALL BE REINFORCED CONCRETE PIPE (RCP C–76) CLASS IV WITH MODIFIED TONGUE AND GROOVE JOINT WITH RUBBER GASKETS UNLESS SPECIFIED OTHERWISE (ASTM C–443).
13. ALL STORM SEWER LEADS SHALL BE PVC SCHEDULE 40 WITH GLUED JOINTS UNLESS OTHERWISE NOTED.
14. PIPE LENGTHS ARE GIVEN FROM CENTER OF STRUCTURE AND TO END OF FLARED END SECTION UNLESS NOTED OTHERWISE.
15. THE CITY OF BIRMINGHAM STANDARD DETAIL SHEETS ARE INCORPORATED INTO AND MADE A PART OF THESE PLANS. CONTRACTOR TO REFER TO THE CITY OF BIRMINGHAM STANDARD DETAIL SHEETS FOR ALL STRUCTURE, PIPE MATERIALS, BEDDING, TESTING, ETC. NOTES AND DETAILS.

SAND BACKFILL NOTE:
ALL UTILITIES UNDER PAVEMENT OR WITHIN 3' OF THE EDGE OF PAVEMENT (OR WITHIN THE 45° LINE OF INFLUENCE OF PAVEMENT) SHALL HAVE M.D.O.T. CLASS II GRANULAR BACKFILL COMPACTED TO 95% MAX. DRY DENSITY (ASTM D–1557).

NOT FOR CONSTRUCTION

XREF: S:\PROJECTS\2017\2017093\DWG\17093–TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE–17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK–17093.DWG

No.	BY	CHK	DESCRIPTION	DATE
			REVISIONS	

CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

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f: 248.689.1044
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MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

PRELIMINARY UTILITY PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DES.	DRN.	CHK.	APP.
PB	PB	SUR.	D.L.C.	P.M.	JPB

S:\PROJECTS\2017–093 HAZEL STREET & WOODWARD AVE – JPB\Dwg\Site Plans\C–6.0UTIL–17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
C-6.0

GENERAL NOTES:

1. ALL CONSTRUCTION AND MATERIALS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE CITY OF BIRMINGHAM AND M.D.O.T.
2. THE CONTRACTOR MUST CONTACT THE ENGINEER SHOULD THEY ENCOUNTER ANY DESIGN ISSUES DURING CONSTRUCTION. IF THE CONTRACTOR MAKES DESIGN MODIFICATIONS WITHOUT THE WRITTEN DIRECTION OF THE DESIGN ENGINEER, THE CONTRACTOR DOES SO AT HIS OWN RISK.
3. ALL NECESSARY PERMITS, TESTING, BONDS AND INSURANCES ETC., SHALL BE PAID FOR BY THE CONTRACTOR. THE OWNER SHALL PAY FOR ALL CITY INSPECTION FEES.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DUST CONTROL DURING THE PERIODS OF CONSTRUCTION. THIS SHALL BE CONSIDERED INCIDENTAL TO THE JOB.
5. THE CONTRACTOR SHALL NOTIFY MISS DIG (811) AND REPRESENTATIVES OF OTHER UTILITIES IN THE VICINITY OF THE WORK A MINIMUM OF 72 HOURS PRIOR TO START OF CONSTRUCTION (EXCLUDING WEEKENDS AND HOLIDAYS) FOR LOCATION AND STAKING OF ON-SITE UTILITY LINES. IF NO NOTIFICATION IS GIVEN AND DAMAGE RESULTS, SAID DAMAGE WILL BE REPAIRED AT SOLE EXPENSE OF THE CONTRACTOR. IF EXISTING UTILITY LINES ARE ENCOUNTERED THAT CONFLICT IN LOCATION WITH NEW CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE DESIGN ENGINEER SO THAT THE CONFLICT MAY BE RESOLVED.
6. CONTRACTOR TO VERIFY THAT THE PLANS AND SPECIFICATIONS ARE THE VERY LATEST PLANS AND SPECIFICATIONS AND FURTHERMORE, VERIFY THAT THESE PLANS AND SPECIFICATIONS HAVE BEEN APPROVED. ALL ITEMS CONSTRUCTED BY THE CONTRACTOR PRIOR TO RECEIVING FINAL APPROVAL, HAVING TO BE ADJUSTED OR RE-DONE, SHALL BE AT THE CONTRACTORS EXPENSE. SHOULD THE CONTRACTOR ENCOUNTER A CONFLICT BETWEEN THESE PLANS AND/OR SPECIFICATIONS, THEY SHALL SEEK CLARIFICATION IN WRITING FROM THE ENGINEER BEFORE COMMENCEMENT OF CONSTRUCTION. FAILURE TO DO SO SHALL BE AT SOLE EXPENSE TO THE CONTRACTOR.
7. ALL PROPERTIES OR FACILITIES IN THE SURROUNDING AREAS, PUBLIC OR PRIVATE, DESTROYED OR OTHERWISE DISTURBED DUE TO CONSTRUCTION, SHALL BE REPLACED AND/OR RESTORED TO THE ORIGINAL CONDITION BY THE CONTRACTOR.
8. MANHOLE, CATCH BASIN, GATE VALVES AND HYDRANT FINISH GRADES MUST BE CLOSELY CHECKED AND APPROVED BY THE ENGINEER BEFORE THE CONTRACTOR'S WORK IS CONSIDERED COMPLETE.
9. CONTRACTOR SHALL REMOVE AND DISPOSE OF OFF-SITE ANY TREES, BRUSH, STUMPS, TRASH OR OTHER UNWANTED DEBRIS AT THE OWNER'S DIRECTION, INCLUDING OLD BUILDING FOUNDATIONS AND FLOORS. BURNING OF TRASH, STUMPS OR OTHER DEBRIS SHALL NOT BE PERMITTED.
10. THE CONTRACTOR SHALL PROVIDE ALL NECESSARY BARRICADING, SIGNAGE, LIGHTS AND TRAFFIC CONTROL DEVICES TO PROTECT THE WORK AND SAFELY MAINTAIN TRAFFIC IN ACCORDANCE WITH LOCAL REQUIREMENTS AND THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (LATEST EDITION). THE DESIGN ENGINEER, OWNER, CITY AND STATE SHALL NOT BE HELD LIABLE FOR ANY CLAIMS RESULTING FROM ACCIDENTS OR DAMAGES CAUSED BY THE CONTRACTOR'S FAILURE TO COMPLY WITH TRAFFIC AND PUBLIC SAFETY REGULATIONS DURING THE CONSTRUCTION PERIOD.
11. ALL EXCAVATIONS SHALL BE SLOPED, SHORED OR BRACED IN ACCORDANCE WITH MI-OSHA REQUIREMENTS. THE CONTRACTOR SHALL PROVIDE AN ADEQUATELY CONSTRUCTED AND BRACED SHORING SYSTEM FOR EMPLOYEES WORKING IN AN EXCAVATION THAT MAY EXPOSE EMPLOYEES TO THE DANGER OF MOVING GROUND.

PAVING NOTES:

1. ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE CITY OF BIRMINGHAM AND M.D.O.T.
2. IN AREAS WHERE NEW PAVEMENTS ARE BEING CONSTRUCTED, THE TOPSOIL AND SOIL CONTAINING ORGANIC MATTER SHALL BE REMOVED PRIOR TO PAVEMENT CONSTRUCTION.
3. ON-SITE FILL CAN BE USED IF THE SPECIFIED COMPACTION REQUIREMENTS CAN BE ACHIEVED. IF ON-SITE SOIL IS USED, IT SHOULD BE CLEAN AND FREE OF FROZEN SOIL, ORGANICS, OR OTHER DELETERIOUS MATERIALS.
4. THE FINAL SUBGRADE/EXISTING AGGREGATE BASE SHOULD BE THOROUGHLY PROOFROLLED USING A FULLY LOADED TANDEM AXLE TRUCK OR FRONT END LOADER UNDER THE OBSERVATION OF A GEOTECHNICAL/PAVEMENT ENGINEER. LOOSE OR YIELDING AREAS THAT CANNOT BE MECHANICALLY STABILIZED SHOULD BE REINFORCED USING GEOGRIDS OR REMOVED AND REPLACED WITH ENGINEERED FILL OR AS DICTATED BY FIELD CONDITIONS.
5. SUBGRADE UNDERCUTTING, INCLUDING BACKFILLING SHALL BE PERFORMED TO REPLACE MATERIALS SUSCEPTIBLE TO FROST HEAVING AND UNSTABLE SOIL CONDITIONS. ANY EXCAVATIONS THAT MAY BE REQUIRED BELOW THE TOPSOIL IN FILL SECTIONS OR BELOW SUBGRADE IN CUT SECTIONS, WILL BE CLASSIFIED AS SUBGRADE UNDERCUTTING.
6. SUBGRADE UNDERCUTTING SHALL BE PERFORMED WHERE NECESSARY AND THE EXCAVATED MATERIAL SHALL BECOME THE PROPERTY OF THE CONTRACTOR. ANY SUBGRADE UNDERCUTTING SHALL BE BACKFILLED WITH SAND OR OTHER SIMILAR APPROVED MATERIAL. BACKFILL SHALL BE COMPACTED TO 95% OF THE MAXIMUM UNIT WEIGHT (PER ASTM D-1557) UNLESS OTHERWISE SPECIFIED.
7. BACKFILL UNDER PAVED AREAS SHALL BE AS SPECIFIED ON DETAILS.
8. ANY SUB-GRADE WATERING REQUIRED TO ACHIEVE REQUIRED DENSITY SHALL BE CONSIDERED INCIDENTAL TO THE JOB.
9. FINAL PAVEMENT ELEVATIONS SHOULD BE SO DESIGNED TO PROVIDE POSITIVE SURFACE DRAINAGE. A MINIMUM SURFACE SLOPE OF 1.0 PERCENT IS RECOMMENDED.
10. CONSTRUCTION TRAFFIC SHOULD BE MINIMIZED ON THE NEW PAVEMENT. IF CONSTRUCTION TRAFFIC IS ANTICIPATED ON THE PAVEMENT STRUCTURE, THE INITIAL LIFT THICKNESS COULD BE INCREASED AND PLACEMENT OF THE FINAL LIFT COULD BE DELAYED UNTIL THE MAJORITY OF THE CONSTRUCTION ACTIVITIES HAVE BEEN COMPLETED. THIS ACTION WILL ALLOW REPAIR OF LOCALIZED FAILURE, IF ANY DOES OCCUR, AS WELL AS REDUCE LOAD DAMAGE ON THE PAVEMENT SYSTEM.

GENERAL UTILITY NOTES:

11. ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS OF THE CITY OF BIRMINGHAM.
12. ALL TRENCHES UNDER OR WITHIN THREE (3) FEET OR THE FORTY-FIVE (45) DEGREE ZONE OF INFLUENCE LINE OF EXISTING AND/OR PROPOSED PAVEMENT, BUILDING PAD OR DRIVE APPROACH SHALL BE BACKFILLED WITH SAND COMPACTED TO AT LEAST NINETY-FIVE (95) PERCENT OF MAXIMUM UNIT WEIGHT (ASTM D-1557). ALL OTHER TRENCHES TO BE COMPACTED TO 90% OR BETTER.
13. WHENEVER EXISTING MANHOLES OR SEWER PIPE ARE TO BE TAPPED, DRILL HOLES 4" CENTER TO CENTER, AROUND PERIPHERY OF OPENING TO CREATE A PLANE OF WEAKNESS JOINT BEFORE BREAKING SECTION OUT.
14. THE LOCATIONS AND DIMENSIONS SHOWN ON THE PLANS FOR EXISTING UTILITIES ARE IN ACCORDANCE WITH AVAILABLE INFORMATION WITHOUT UNCOVERING AND MEASURING. THE DESIGN ENGINEER DOES NOT GUARANTEE THE ACCURACY OF THIS INFORMATION OR THAT ALL EXISTING UNDERGROUND FACILITIES ARE SHOWN. CONTRACTOR TO FIELD VERIFY UTILITIES.
15. THE CONTRACTOR MUST COORDINATE TO ENSURE ALL REQUIRED PIPES, CONDUITS, CABLES AND SLEEVES ARE PROPERLY PLACED FOR THE INSTALLATION OF GAS, ELECTRIC, PHONE, CABLE, IRRIGATION, ETC. IN SUCH A MANNER THAT WILL FACILITATE THEIR PROPER INSTALLATION PRIOR TO THE PLACEMENT OF THE PROPOSED PAVEMENT AND LANDSCAPING.
16. REFER TO CITY OF BIRMINGHAM, STANDARD DETAILS FOR PIPE BEDDING DETAILS.
17. REFER TO CITY OF BIRMINGHAM STANDARD DETAIL SHEETS FOR ADDITIONAL INFORMATION.

STORM SEWER NOTES:

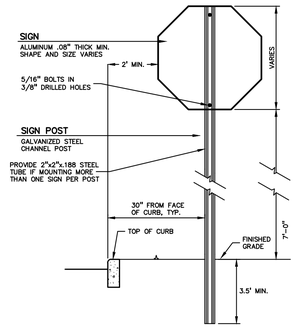
1. ALL STORM SEWER 12" AND LARGER SHALL BE RCP CLASS IV UNLESS OTHERWISE NOTED. REFER TO CITY STANDARD DETAILS SHEETS FOR STANDARD BEDDING DETAILS.
2. JOINTS FOR ALL STORM SEWER 12" AND LARGER SHALL BE MODIFIED TONGUE AND GROOVE JOINT WITH RUBBER GASKETS UNLESS SPECIFIED OTHERWISE (ASTM C-443)
3. ALL STORM SEWER LEADS SHALL BE CONSTRUCTED OF PVC SCHEDULE 40 PIPE AT 1.00% MINIMUM SLOPE WITH GLUED JOINTS, UNLESS OTHERIWSE NOTED.

WATER MAIN NOTES:

1. ALL WATER MAIN SHALL BE INSTALLED WITH A MINIMUM COVER OF 5.5' BELOW FINISH GRADE. WHEN WATER MAINS MUST DIP TO PASS UNDER A STORM SEWER OR SANITARY SEWER, THE SECTIONS WHICH ARE DEEPER THAN NORMAL SHALL BE KEPT TO A MINIMUM LENGTH BY THE USE OF VERTICAL TWENTY TWO AND A HALF (22.5°) DEGREE BENDS, PROPERLY ANCHORED.
2. ALL TEE'S, BENDS, CONNECTIONS, ETC. ARE CONSIDERED INCIDENTAL TO THE JOB.
3. PHYSICAL CONNECTIONS SHALL NOT BE MADE BETWEEN EXISTING AND NEW WATER MAINS UNTIL TESTING IS SATISFACTORILY COMPLETED.
4. MAINTAIN 10' HORIZONTAL CLEARANCE BETWEEN OUTER EDGE OF WATERMAIN AND ANY SANITARY SEWER OR STRUCTURE.
5. ALL WATER MAIN SHALL BE DUCTILE IRON CLASS 54 WITH POLYETHYLENE WRAP.

SANITARY SEWER NOTES:

1. DOWNSPOUTS, WEEP TILE, FOOTING DRAINS OR ANY CONDUIT THAT CARRIES STORM OR GROUND WATER SHALL NOT BE ALLOWED TO DISCHARGE INTO A SANITARY SEWER.
2. ALL SANITARY LEADS SHALL BE CONSTRUCTED OF PVC SDR 23.5 AT 1.00% MINIMUM SLOPE.
3. JOINTS FOR P.V.C. SOLID WALL PIPE SHALL BE ELASTOMERIC (RUBBER GASKET) AS SPECIFIED IN A.S.T.M. DESIGNATION D-3212.



SIGN AND POST INSTALLATION
NOT TO SCALE



NOTE:
EXISTING SIGNS MAY BE SALVAGED AND RE-USED AT THE CONTRACTOR'S OPTION

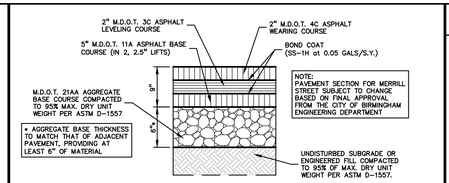
30" x 30" R1-1 STOP SIGN WITH
WHITE ON RED REFLECTORIZED
7'-0" MOUNTING HEIGHT

STOP SIGN DETAIL
NOT TO SCALE

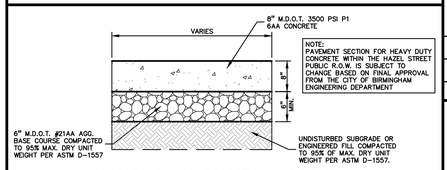


12" x 18"
RED ON WHITE REFLECTORIZED
7'-0" MOUNTING HEIGHT
(LR7-22)

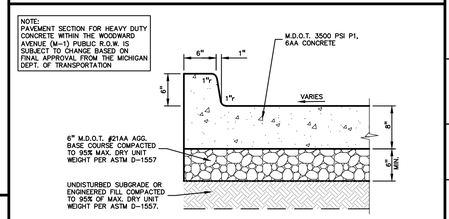
NO PARKING LOADING ZONE SIGN
NOT TO SCALE



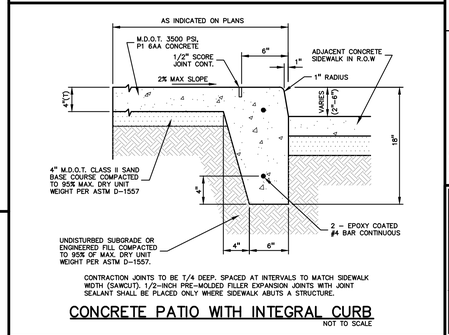
R.O.W. ASPHALT PAVEMENT DETAIL
(FOR OLD WOODWARD & HAZEL ST.) NOT TO SCALE



HEAVY DUTY CONCRETE DETAIL
(FOR USE AT HAZEL STREET ENTRANCE) NOT TO SCALE

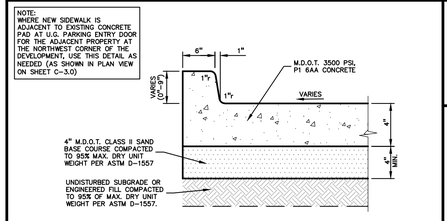


H.D. CONCRETE PAVEMENT WITH INTEGRAL CURB
(FOR USE WITHIN M.D.O.T. R.O.W.) NOT TO SCALE

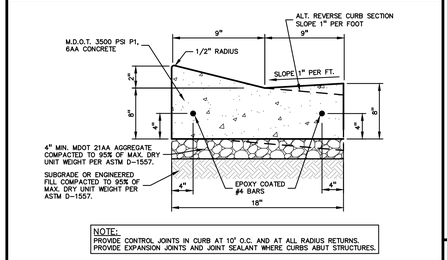


CONTRACTION JOINTS TO BE 1/4 DEEP, SPACED AT INTERVALS TO MATCH SIDEWALK WIDTH (SAWCUT). 1/2-INCH PRE-MOLDED FILLER EXPANSION JOINTS WITH JOINT SEALANT SHALL BE PLACED ONLY WHERE SIDEWALK ABUTS A STRUCTURE.

CONCRETE PATIO WITH INTEGRAL CURB
NOT TO SCALE



INTEGRAL CURB AT SIDEWALK
NOT TO SCALE



NOTE:
PROVIDE CONTROL JOINTS IN CURB AT 10' O.C. AND AT ALL RADIUS RETURNS.
PROVIDE EXPANSION JOINTS AND JOINT SEALANT WHERE CURBS ABUT STRUCTURES.

18"x2" MOUNTABLE CURB AND GUTTER DETAIL
NOT TO SCALE

NOT FOR CONSTRUCTION

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NOTES AND DETAILS
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, 48009

DES.	DN.	PB	SUR	DLC	P.M.	JPB
PB	PB	PB	PB	PB	PB	PB

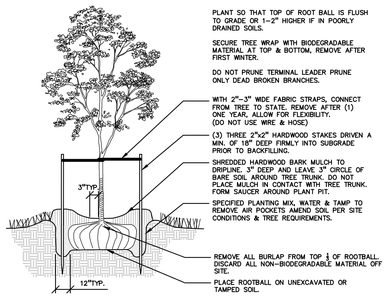
S:\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE - JPB\Dwg\Site Plans\C-4.1 DETAILS-17093.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: NONE

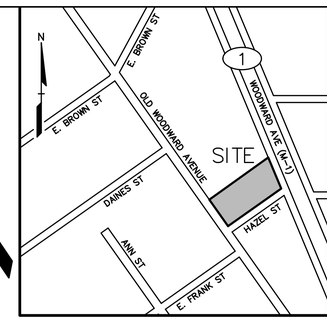
DRAWING NUMBER:
C-8.1



DECIDUOUS TREE PLANTING DETAIL
NOT TO SCALE

GRAPHIC SCALE
−20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.

TREE PLANT LIST:					
QUANTITY	KEY SYMBOL	COMMON NAME	SCIENTIFIC NAME	SIZE	SPEC
2	PJ3	Jack Select Pear	*Pyrus calleryana 'Jaczam'*	3" Cal.	B&B
1	QS3	Streetspire Oak	*Quercus alba 'UFS-KW1QX' (columnar)*	3" Cal.	B&B



LOCATION MAP – NOT TO SCALE

LANDSCAPE REQUIREMENTS PER CITY OF BIRMINGHAM:

STANDARD LANDSCAPE REQUIREMENTS
PER 4.20 LA-01 B3.-FOR PARKING 20 OR MORE SPACES
PER 4.20 LA-01 F. -FOR PARKING LOTS 7500 SF OR GREATER
5% OF INTERIOR PARKING LOT AREA SHALL BE LANDSCAPED WITH 1 TREE/150 SF OF REQ.D AREA

PROPOSED:
PARKING AREA IS LESS THAN 20 CARS,THEREFORE REQUIREMENTS ABOVE ARE NOT APPLICABLE.

FRONTAGE TREES:
1 TREE PER 40 LF OF FRONTAGE REQUIRED

S. OLD WOODWARD AVENUE: 81 LF/40 = 2 TREES
HAZEL STREET: 212 LF/40 = 5 TREES
WOODWARD AVENUE: 88 LF/40 = 2 TREES

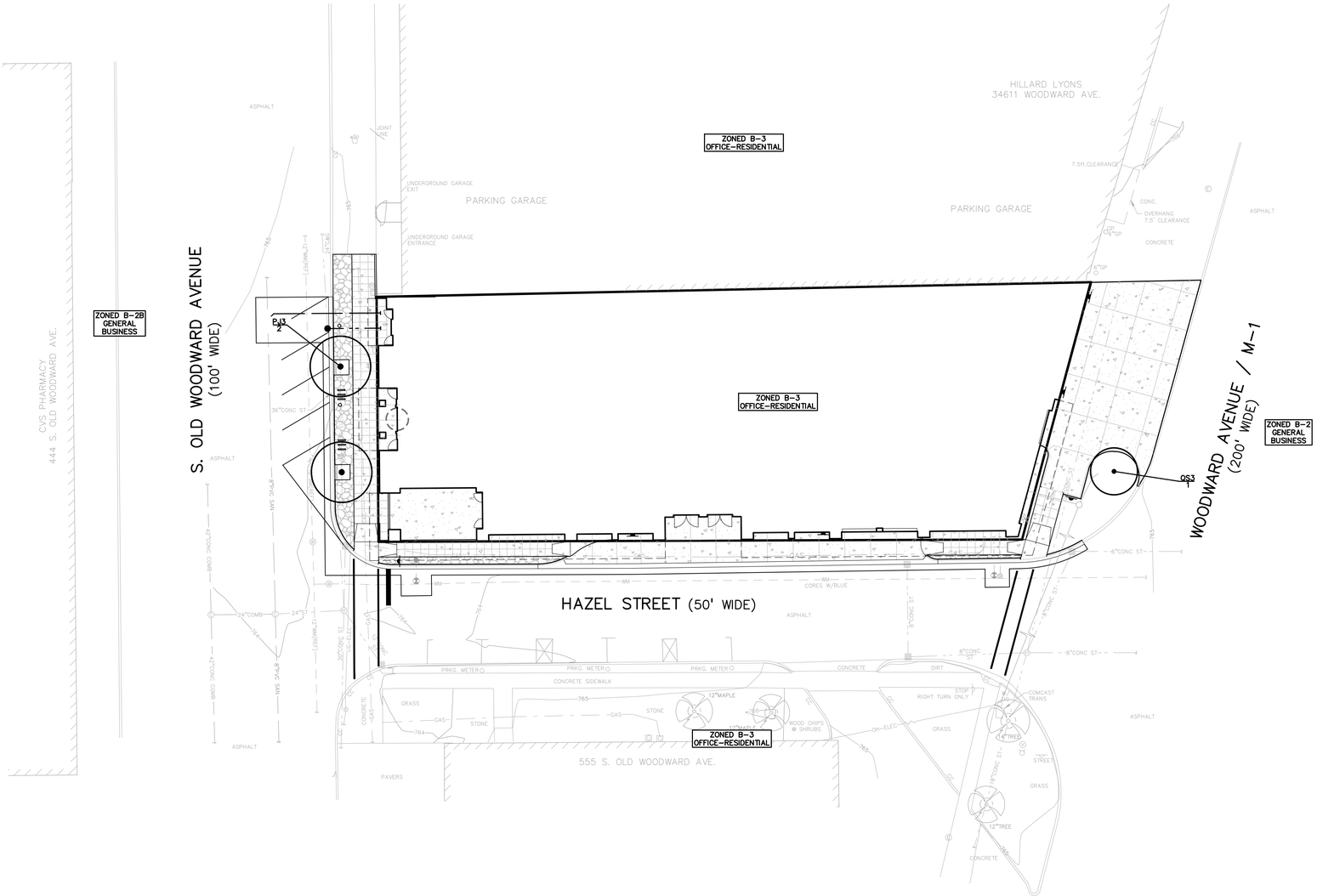
PROPOSED:
S. OLD WOODWARD AVENUE: 2 TREES
HAZEL STREET: 0 TREES DUE TO LACK OF SPACE
WOODWARD AVENUE: 1 TREES DUE TO LACK OF SPACE

KEY

= FRONTAGE TREES

GENERAL PLANTING NOTES:

1. LANDSCAPE CONTRACTOR SHALL VISIT SITE, INSPECT EXISTING SITE CONDITIONS AND REVIEW PROPOSED PLANTING AND RELATED WORK. IN CASE OF DISCREPANCY BETWEEN PLAN AND PLANT LIST, PLAN SHALL GOVERN QUANTITIES. CONTACT LANDSCAPE ARCHITECT WITH ANY CONCERNS.
2. CONTRACTOR SHALL VERIFY LOCATIONS OF ALL ON SITE UTILITIES PRIOR TO BEGINNING CONSTRUCTION ON HIS/HER PHASE OF WORK. ELECTRIC, GAS, TELEPHONE, CABLE TELEVISION MAY BE LOCATED BY CALLING MISS DIG 1-800-482-7171. ANY DAMAGE OR INTERRUPTION OF SERVICES SHALL BE THE RESPONSIBILITY OF CONTRACTOR. CONTRACTOR SHALL COORDINATE ALL RELATED ACTIVITIES WITH OTHER TRADES ON THE JOB AND SHALL REPORT ANY UNACCEPTABLE JOB CONDITIONS TO OWNER'S REPRESENTATIVE PRIOR TO COMMENCING.
3. ALL PLANT MATERIAL TO BE PREMIUM GRADE NURSERY STOCK AND SHALL SATISFY AMERICAN ASSOCIATION OF NURSERYMEN STANDARD FOR NURSERY STOCK. ALL LANDSCAPE MATERIAL SHALL BE NORTHERN GROWN, NO. 1. GRADE.
4. CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL QUANTITIES SHOWN ON LANDSCAPE PLAN PRIOR TO PRICING THE WORK.
5. THE OWNER'S REPRESENTATIVE RESERVES THE RIGHT TO REJECT ANY PLANT MATERIAL NOT MEETING SPECIFICATIONS.
6. ALL SINGLE STEM SHADE TREES TO HAVE STRAIGHT TRUNKS AND SYMMETRICAL CROWNS.
7. ALL SINGLE TRUNK SHADE TREES TO HAVE A CENTRAL LEADER; TREES WITH FORKED OR IRREGULAR TRUNKS WILL NOT BE ACCEPTED.
8. ALL MULTI STEM TREES SHALL BE HEAVILY BRANCHED AND HAVE SYMMETRICAL CROWNS. ONE SIDED TREES OR THOSE WITH THIN OR OPEN CROWNS SHALL NOT BE ACCEPTED.
9. ALL EVERGREEN TREES SHALL BE HEAVILY BRANCHED AND FULL TO THE GROUND, SYMMETRICAL IN SHAPE AND NOT SHEARED FOR THE LAST FIVE GROWING SEASONS.
10. ALL TREES TO HAVE CLAY OR CLAY LOAM BALLS, TREES WITH SAND BALLS WILL BE REJECTED.
11. NO MACHINERY IS TO BE USED WITHIN THE DRIP LINE OF EXISTING TREES; HAND GRADE ALL LAWN AREAS WITHIN THE DRIP LINE OF EXISTING TREES.
12. ALL TREE LOCATIONS SHALL BE STAKED BY LANDSCAPE CONTRACTOR AND ARE SUBJECT TO THE APPROVAL OF THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION OF THE PLANT MATERIAL.
13. IT IS MANDATORY THAT POSITIVE DRAINAGE IS PROVIDED AWAY FROM ALL BUILDINGS.
14. ALL PLANTING BEDS SHALL RECEIVE 3" SHREDDED HARDWOOD BARK MULCH WITH PRE EMERGENT, SEE SPECIFICATIONS. SHREDDED PALETTE AND DYED MULCH WILL NOT BE ACCEPTED.
15. ALL LANDSCAPED AREAS SHALL RECEIVE 3" COMPACTED TOPSOIL.
16. SEE SPECIFICATIONS FOR ADDITIONAL COMMENTS, REQUIREMENTS, PLANTING PROCEDURES AND WARRANTY STANDARDS.
17. FOR NON-LAWN SEED MIX AREAS, AS NOTED ON PLAN, BRUSH MOW ONCE SEASONALLY FOR INVASIVE SPECIES CONTROL.



NOT FOR CONSTRUCTION

XREF: S:\PROJECTS\2017\2017093\DWG\17093-TOPOBASE.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\CBASE-17093.DWG
XREF: S:\PROJECTS\2017\2017093\DWG\SITE PLAN\TBLK-17093.DWG

No.	BY	CHK	DESCRIPTION	DATE
			REVISIONS	

STATE OF MICHIGAN
JANET L. EVANS
LANDSCAPE ARCHITECT
No. 1302
REGISTERED LANDSCAPE ARCHITECT

CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

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CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

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PEA, Inc.
2430 Rochester Ct, Ste 100
Troy, MI 48083-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

PRELIMINARY LANDSCAPE PLAN
SOUTH OLD WOODWARD
OLD WOODWARD AVENUE AT HAZEL STREET
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, 48009

DES.	DN.	SUR.	P.M.
LW	LW		JTS

\\peafile1\shared\PROJECTS\2017\2017-093 HAZEL STREET & WOODWARD AVE - JFB\Dwg\LANDSCAPE\17093-LANDSCAPE PLAN.dwg

ORIGINAL ISSUE DATE:
MARCH 6, 2017

PEA JOB NO. 2017-093

SCALE: 1" = 20'

DRAWING NUMBER:
L-1.0

RECEIVED
MAY 17 2018
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

Since 1973
WWRP
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

May 17, 2018

City of Birmingham
City Commission
151 Martin St.
Birmingham, MI 48009

Re: Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the Planning Board and City Commission:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a Supplement to the referenced rezoning Application file to rezone the Subject Property from the D-3 Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

Executive Summary

The Subject Property is a former single-story restaurant building and bank that sits between two existing tall buildings in the City. Birmingham Place is located to the north and the 555 Buildings are located to the south. The placement of the buildings is not only inconsistent with a cohesive and harmonious streetscape in that area but is contrary to the intent of the Master Plan. This inconsistent height results in a streetscape along South Old Woodward that appears to have a "missing tooth."

If the Subject Property is rezoned to D-5, there is an excellent opportunity for the Subject Property, Birmingham Place and the 555 Buildings to create an impressive southern gateway to Downtown Birmingham. It is therefore reasonable that the Subject Property, sitting directly between the 555 Buildings and Birmingham Place, be included in the same zoning district, that is as part of the D-5 Overlay District, as those neighboring two buildings.

Rezoning the Subject Property to the same classification as the buildings immediately to the north and south will enhance and complete the streetscape of these important two blocks of Downtown Birmingham. Inclusion of the Subject Property in the D-5 Overlay Zone is consistent with the 2016 Master Plan. Moreover, it will allow the Subject Property to enjoy the same development regulations as the neighboring properties.

W|W|R|P

The Subject Property and the Master Plans

A review of the history surrounding the zoning of this area of Downtown is instructive. The minutes of the City Commission during the late 1960s and early 1970s, reveals that the height of the buildings in this area of Downtown were historically zoned for the height of the 555 Buildings and Birmingham Place. However, the zoning ordinance was amended in the 1970's after the construction of those buildings to a maximum of four stories. Therefore, for several years, the taller buildings in the City were burdened with the status of legal nonconforming uses.

In 2016, the City corrected this down zoning for the 555 Building to the south and Birmingham Place to the north, with the creation of the D-5 Zone to allow for existing heights (in the case of the 555 Buildings and Birmingham Place) and to allow for new construction to a height up to the same height of an immediately adjacent or abutting building (see Ordinance 3.04-4-b). While the 555 Building and Birmingham Place are now at allowable heights, sitting in between them, the Subject Property is the only building in that streetscape that cannot be constructed to a height that is consistent to its neighbors. This inconsistency creates an obvious gap in the street's architecture which is not harmonious with the overall downtown design and longer-range plan for that part of South Old Woodward.

The Birmingham of 2016

In 1996, the City Commission adopted the Downtown Birmingham 2016 Plan ("2016 Plan") and amended the Zoning Ordinance to include the Downtown Birmingham Overly District. The Subject Property is located in the D-3 Zone, sitting between two tall buildings in the City that have been rezoned to the D-5 zone. These multi-story buildings are the established character of this particular area of the City. Placing the Subject Property in the D-5 zone would allow development of the Subject Property to be at a similar height to the buildings directly to the north and south. The Applicant desires to develop the Subject Property in a manner that completes the block between Brown and Hazel while adding to the cohesiveness of the South Old Woodward southern gateway area.

The Birmingham Zoning Ordinance at Sec. 1.04 provides that the purpose of the Zoning Ordinance is to "…guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan. A review of the Birmingham Plan (1980) and the Downtown Birmingham 2016 Plan (1996) reveals that this application to include the Subject Property in a D-5 Overlay District meets the spirit and intent of the ordinance as well as the 2016 Plan. It will allow for mixed uses and add to the vitality of the modern streetscape envisioned for this part of town by the 2016 Plan. With rezoning, the Subject Property can become that desired mixed-use space for retail, residential and hotel, and bring new life to the South Old Woodward area.

Any redevelopment of the Subject Property in compliance with its current zoning classification would result in a building with frontage dwarfed by the existing neighboring structures. Therefore, by rezoning the Subject Property to the D-5 overlay, a new building could be built to a similar height as the neighboring buildings, and effectively complete an otherwise missing piece of the streetscape.

In summary, it is clear that the intent of the 2016 Plan includes development of this southern area of the Downtown Overlay District as a gateway to Downtown through enhancing the character of buildings and providing our City with an active, pedestrian-friendly, urban streetscape.

Rezoning Amendment – Sec. 7.02 (B)(2)(b)(i)-(iii)

The Zoning Ordinance at Sec. 7.02 requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission. Please consider the following comments with respect to these issues.

7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership

Rezoning of the Subject Property is necessary to preserve the Applicant's enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the Applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed-use building. Furthermore, the D-5 Ordinance, at section 3.04-4-b, anticipates that the Subject Property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate

The existing D-3 zoning classification is no longer appropriate for the Subject Property. The Subject Property is surrounded by the Birmingham Place, a ten-story building on the north side and the 555 Buildings, a fifteen-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the Subject Property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the

existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the Subject Property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Board has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the Subject Property sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

The proposed rezoning of the Subject Property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-3 Zone. The surrounding properties to the north and south already are in the D-5 Zone. When these neighboring properties were rezoned, the Planning Board anticipated that eventually the Subject Property also may be rezoned for the reasons stated in this letter. Placing the Subject Property in D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Conclusion

The Applicant respectfully requests that the City Commission rezone the Subject Property from the D-3 to the D-5 Zone as discussed in this letter.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner

RDR/cmc

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

Existing Site Development







Use and Parking Data

Current Use		
-	469 2,516 sf Restaurant / 75 =	39 Spaces
-	479 1,873 sf Bank / 150 =	16 Spaces
	Total Required	55 Spaces

1. Cannot redevelop either site with the same use or building size and provide adequate parking

2. Cannot redevelop either site with a single-story building (required to meet the ‘Downtown Birmingham Overlay Ordinance’).

3. Combined sites have 3 separate frontages that are required to meet the ‘Downtown Birmingham Overlay Ordinance’.



CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

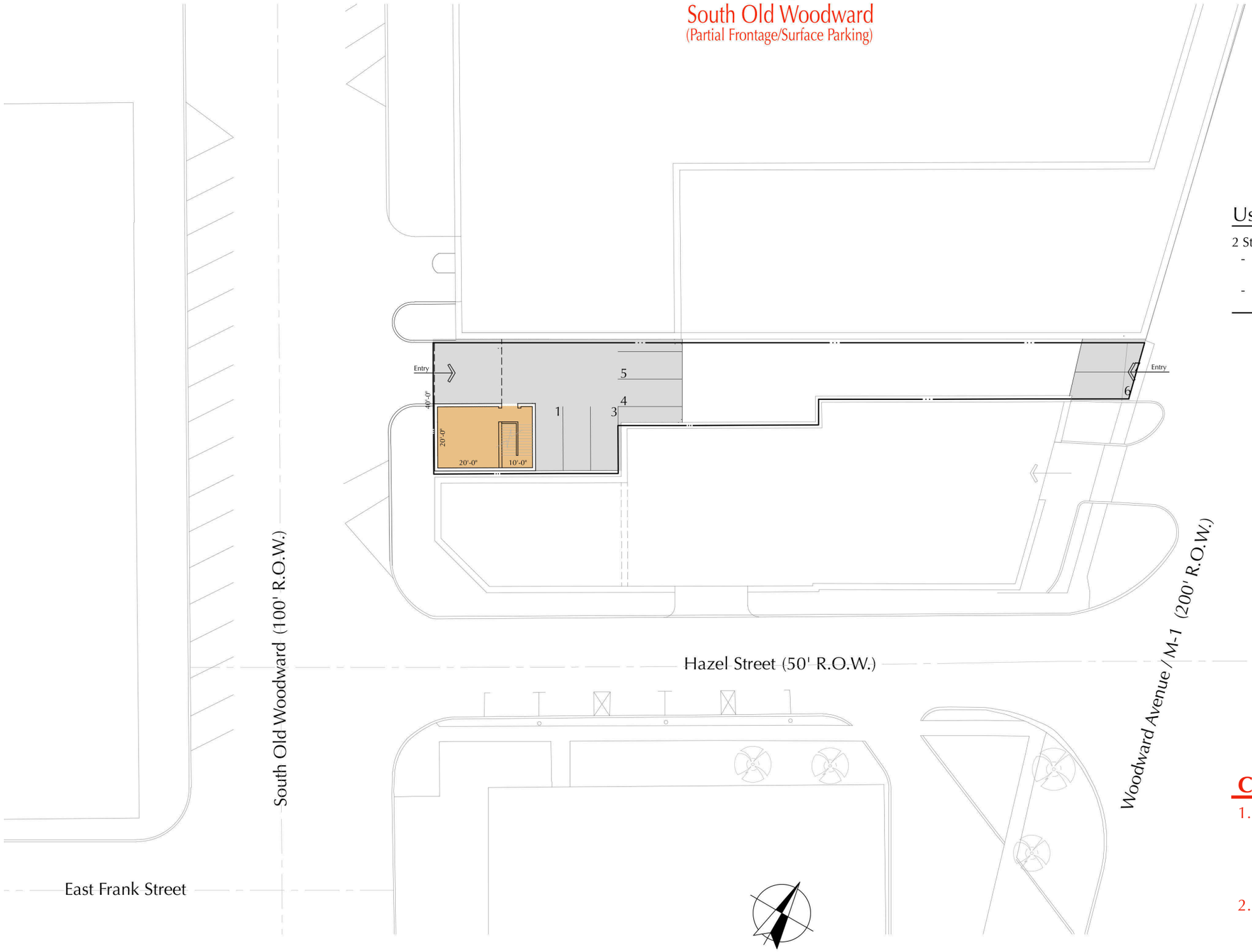
A

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469
South Old Woodward
(Partial Frontage/Surface Parking)



Use and Parking Data

2 Story Building

-	600 sf Retail (1st) / 300 =	2 Spaces
-	800 sf Office (2nd) / 150 =	5.3 Spaces
	Total Required	7.3 Spaces
	Total Provided	7 Spaces

Comments

1. Provides 1,400 square feet of 2 story mixed-use building with surface parking.
2. Leaves 5,750 sf of undeveloped property

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

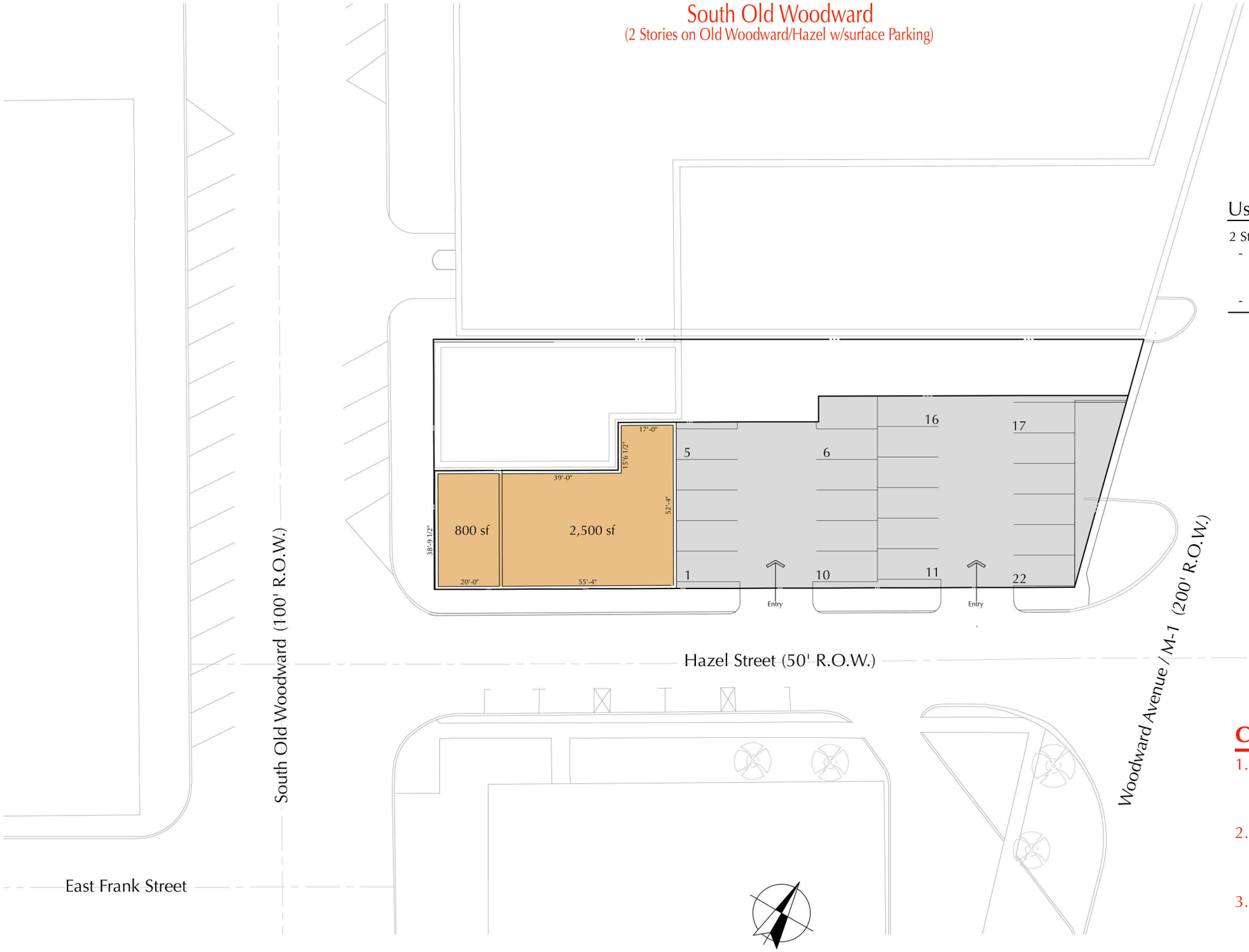
B

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

479
South Old Woodward
(2 Stories on Old Woodward/Hazel w/surface Parking)



Use and Parking Data

2 Story Building

- 800 sf x 2= 1,600 sf
  Retail (1st & 2nd) / 300 = 5.3 Spaces
- 2,500 sf Office (1st) / 150 = 16.7 Spaces

Total Required	22 Spaces
Total Provided	22 Spaces

Comments

1. Provides 2 story frontage (retail) on South Old Woodward
2. Provides 1 story office partially on Hazel
3. Surface parking occupies all of Woodward Avenue and most of Hazel

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

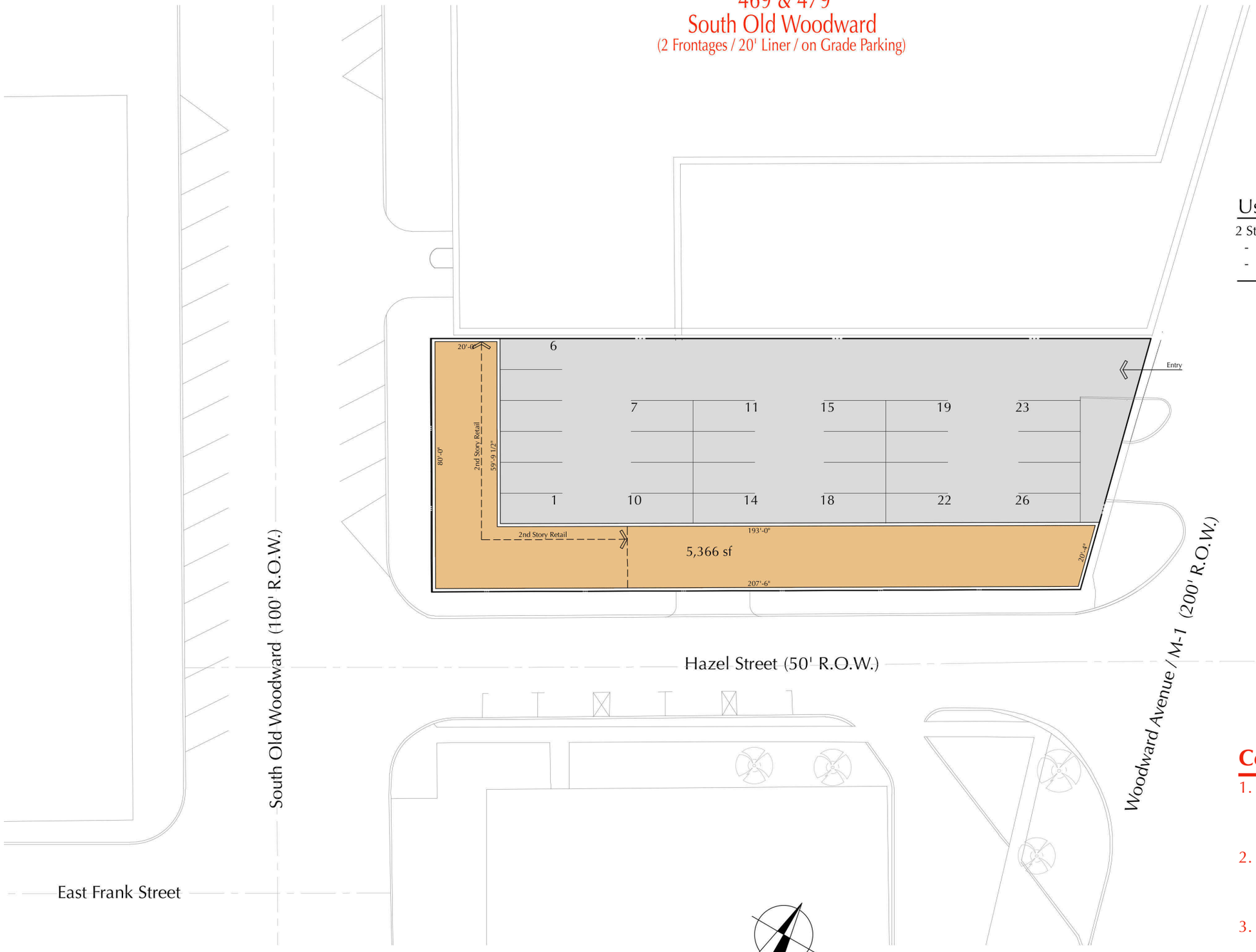
C

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(2 Frontages / 20' Liner / on Grade Parking)



Use and Parking Data

2 Story Building (Retail)

-	5,366 sf Retail (1st) / 300 =	17.9 Spaces
-	2,434 st Retail (2nd) / 300 =	8.1 Spaces
	Total Required	26 Spaces
	Total Provided	26 Spaces

Comments

1. Provides 2 story/single-use (retail) on south Old Woodward
2. Provides 2 story/single-use (retail) partially on Hazel
3. Surface parking occupies most of Woodward Avenue

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

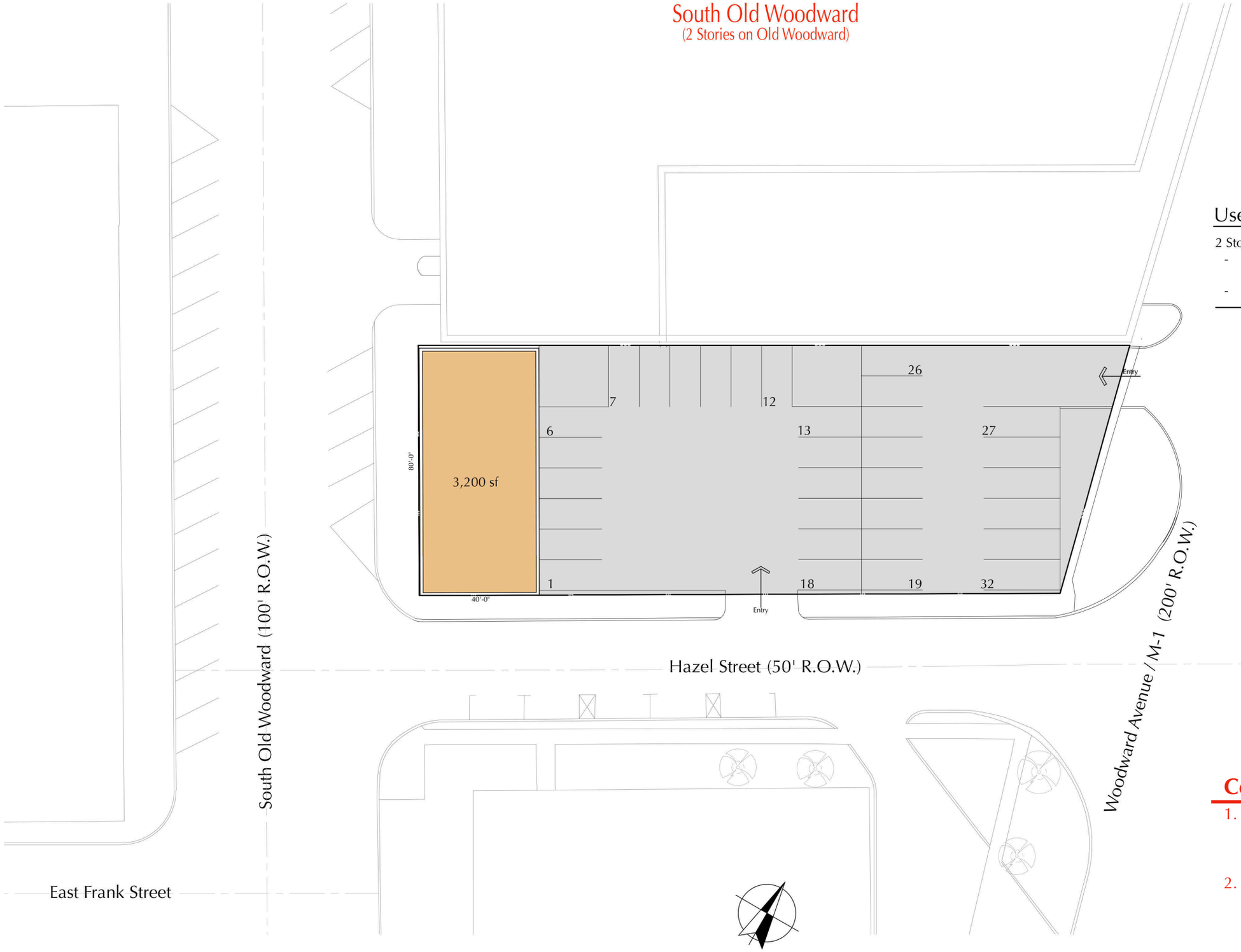
D

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(2 Stories on Old Woodward)



Use and Parking Data

2 Story Building

-	3,200 sf Retail (1st) / 300 =	10.7 Spaces
-	3,200 sf Office (2nd) / 150 =	21.3 Spaces
	Total Required	32 Spaces
	Total Provided	32 Spaces

Comments

1. Provides 2 story/mixed-use (retail/office) on South Old Woodward

2. Surface parking on both Hazel and Woodward Avenue (2 curb cuts)

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

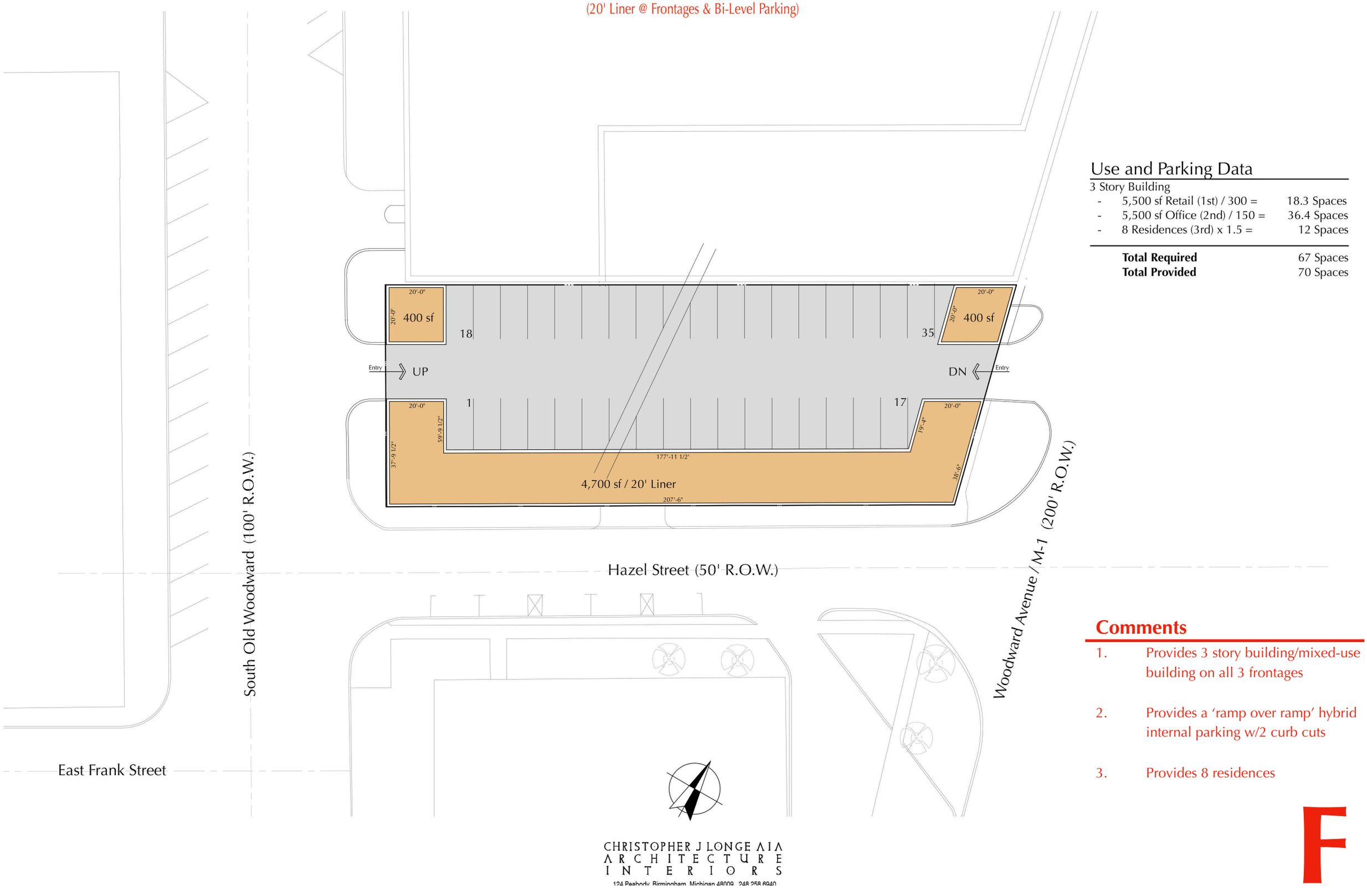
E

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(20' Liner @ Frontages & Bi-Level Parking)



Use and Parking Data

3 Story Building

-	5,500 sf Retail (1st) / 300 =	18.3 Spaces
-	5,500 sf Office (2nd) / 150 =	36.4 Spaces
-	8 Residences (3rd) x 1.5 =	12 Spaces
	Total Required	67 Spaces
	Total Provided	70 Spaces

Comments

1. Provides 3 story building/mixed-use building on all 3 frontages
2. Provides a 'ramp over ramp' hybrid internal parking w/2 curb cuts
3. Provides 8 residences

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248 258 6940

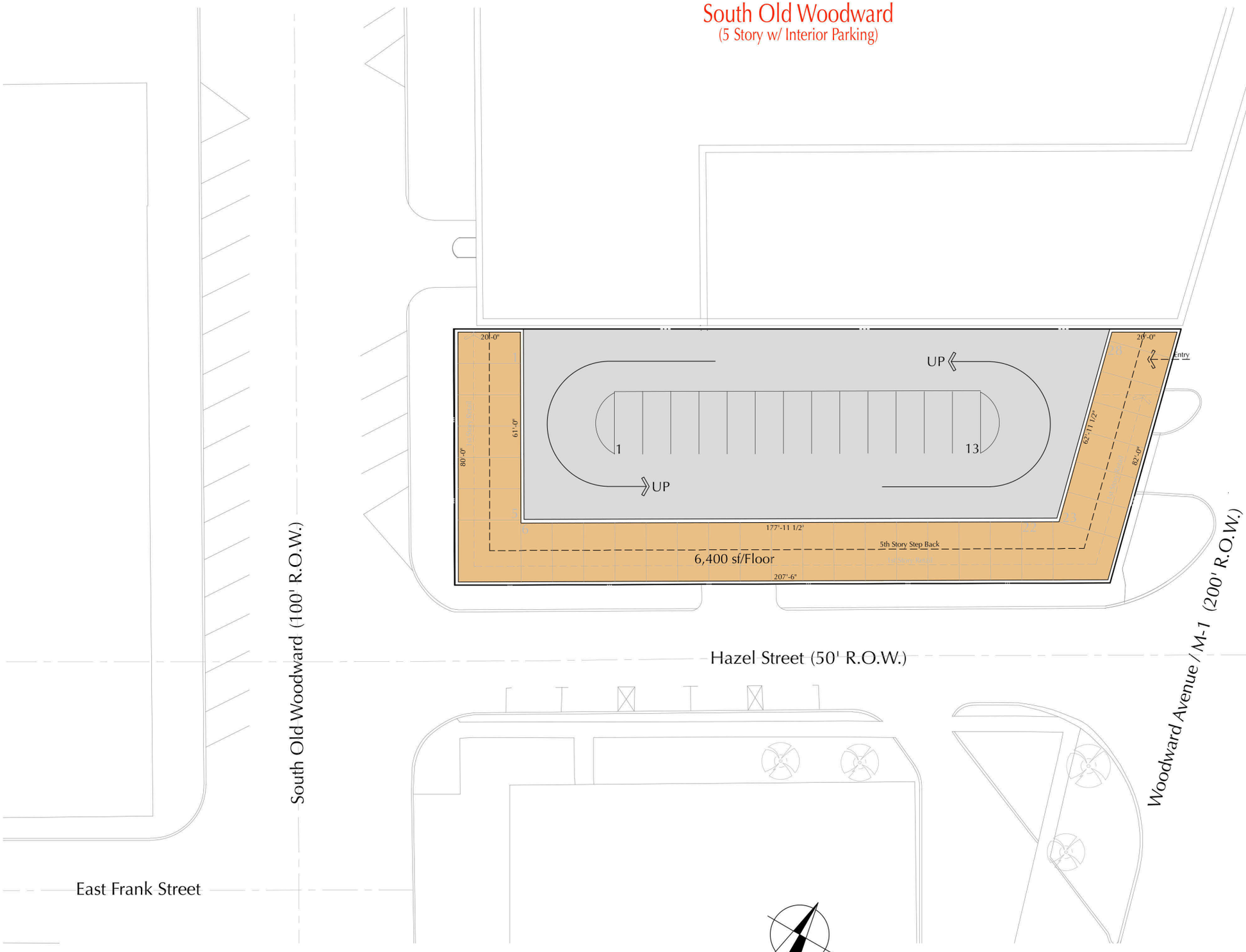
F

Project M1

Markus Management Group LLC

469 + 479 South Old Woodward Avenue
Birmingham, MI 48009

469 & 479
South Old Woodward
(5 Story w/ Interior Parking)



Use and Parking Data

5 Story Building w/ 20' Liner on all frontages
(Interior Parking)

- 6,000 sf Retail (1st) / 300 = 20 Spaces
- 6,400 sf Office (2nd/3rd) / 150 = 85 Spaces
- Parking (4th)
- 5 Units Residential (5th)/ 1.5 = 7.50 Spaces

Total Required 113 Spaces

5 Story Building w/ 20' Liner on all frontages
(Interior Parking)

- 1st, 2nd, 3rd Stories @ +/- 13 ea. 39 Spaces
- 4th Story 41 Spaces

Total Provided 80 Spaces

Comments

1. Provides 5 story building/mixed-use building on all 3 frontages
2. Provides internal parking ramp on 1st, 2nd and 3rd floors
3. Provides parking on entire 4th floor
4. Provides a 20' liner on 1st, 2nd and 3rd floors
5. Provides 5 residential units on 5th floor

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

G

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

October 1, 2018

Ms. Jana L. Ecker and
Planning Board Members
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

Re: Parking Assessment District– 469-479 S. Old Woodward

Dear Members of the Board:

The Board has asked if we have any information as to why the above properties were not included in the Parking Assessment District when they were first created and any explanation as to the City's reasoning at that time. We do not have any files or documents that can assist you in this regard.

If you have any additional questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

October 1, 2018

Ms. Jana L. Ecker and
Planning Board Members
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

Re: Legal Opinion Regarding Rezoning Application for 468-479 S. Old Woodward

Dear Members of the Board:

The Board has requested a legal opinion in connection with the following question:

Is the owner of the property located 469-479 S. Old Woodward (currently zoned D4 in the Downtown Overlay District) legally permitted to apply for rezoning to the newly created D5 zone district in the Downtown Overlay District?

ANSWER: YES.

If you have any additional questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

Since 1973
W|W|R|P
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

August 13, 2018

City of Birmingham
City Commission
Planning Board
151 Martin St.
Birmingham, MI 48009
Attention: Ms. Jana Ecker

Re: Request for Re-Hearing on Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the City Commission, Planning Board and Ms. Ecker:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a Request for Re-Hearing of the Property Owner's rezoning Application to rezone the Subject Property from the D-4 Overlay Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

The information set forth in this letter supplements the information set forth in the Application and the undersigned's letter of May 17, 2018. Please recall that the subject Property is a former single-story restaurant building and drive-through bank that sits between two existing D-5 zoned buildings in the City. The Property is in the B-3 Office-Residential Zone and the D-4 Overlay Zone.

Summary

The Application was considered by the Planning Board at its meeting on June 27, 2018 and the Planning Board denied the Application. The Applicant requests that the Planning Board rehear the Application due to consideration of new information not reviewed and to correct certain factual inaccuracies or errors in the record that quite likely prevented the Planning Board from affording this Application a full and fair hearing. Without such a full consideration of all of these new and pertinent factors, the Board will be in the position of recommending denial of a petition without the opportunity of hearing all of the important issues related to the intent, purpose and consequences of such a zone, and without the advantage of putting those issues in perspective when considering a zoning ordinance that is a crucial part of the Birmingham Downtown Overlay District plan.

The D-5 ordinance is one of the most carefully drafted ordinances produced by the City. It is the subject of over two years of study and research. Multiple alternative drafts were proposed by the City Planning Department over the years, and every section has been fully discussed and vetted by the City Commission and the Planning Board. This D-5 ordinance was recognized as being an integral part of the Downtown Birmingham Overlay District by the City. When the ordinance was passed it was heralded as not only solving existing problems but it fit into the fabric of the Overlay District's plan to encourage mixed use buildings in the Downtown Overlay (especially in the South Old Woodward area) so that our city can maintain a vibrant, pedestrian friendly attractive live, work and entertainment district. It was enacted as part of the City's modern plan to create a sustainable, vibrant downtown.

To mischaracterize this ordinance as a mere correction of nonconformity for three buildings is not only erroneous, but does disservice to the hard work done by the City Commission, Planning Board and Administration. Most importantly, such an analysis does not comply with the spirit, intent and vision exhibited in theory and practice in the Downtown Birmingham Overlay District. Said simply, such an interpretation ignores and discredits all of the good faith hard work that went into the creation of not only the Ordinance, but the master plan process for the future of our growing and vibrant downtown.

The Property is *not* within the Parking Assessment District, Contrary to Information Presented in the Board's Packet

This Property is *not* within the parking assessment district. This is a serious flaw in any zoning analysis and must be corrected in order for the public record of the Board's action and recommendation on the Application to properly reflect the realities of this matter. Correcting this fact leads to new information about the Property and the plan for development of the Property that is central to the question of rezoning pursuant to the Zoning Enabling Act. The Board has not had an opportunity to review this new information in the first instance. The new information significantly changes the analysis of rezoning under Article 7.02B2b and 7.02B5 of the Zoning Ordinance.

Contrary to what was assumed by the Planning Board, because the Property is not in the Parking Assessment District (Parking Assessment District Map is enclosed for your reference at **Exhibit A**), it currently has no possibility of providing off-street parking on the premises. In fact, it is currently non-conforming and cannot comply with Article 4.46 of the Zoning Ordinance (Off-Street Parking Spaces Required).

The Planning Department's Memorandum submitted to the Planning Board, dated May 18, 2018, regarding the Community Impact Statement of the Property's redevelopment, erroneously provides, "The subject Property is in the Parking Assessment District." And not only is the subject Property not in the Parking Assessment District, contrary to what was reported to the Planning Board, but we understand that this Property is the only D-4 zoned property in the

City not included in the Parking Assessment District.

Zoning Analysis – Revisited

Whether or not the Property is within the Parking Assessment District makes a significant difference in terms of the analysis under Sec. 7.02(B)(2)(b)(i-iii), Zoning Amendments. Section 7.02(B) requires the Applicant to provide certain explanations about the rezoning to be considered by the Planning Board and the City Commission. Please consider the following new information regarding the effects of the Parking Assessment District on this analysis, which was not reviewed by the Board.

- **Sec. 7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership**

The issue of location outside of the Parking Assessment District provides new information about the necessity of rezoning the Property to preserve the Applicant's enjoyment of rights associated with ownership. Because of the size and narrow corner configuration of the Property, it will not support street-level retail, residential, ***and the required parking for those uses***. The off-street parking requirements for this Property make the engineering and design of a mixed-use D-4 seriously impractical if not impossible. The 2016 Plan promotes mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Not only will the Applicant lack the required area within which to locate all of the mixed uses with a first-floor retail mandate, the Applicant also is absolutely hamstrung by the off-street parking requirements for this site. The maximum use of the underground area will not yield enough parking spaces for a building designed to current zoning. Rezoning the Property to the D-5 Zone will allow more vertical space within which to accommodate a mixed-use building together with the required parking for all permitted uses.

- **Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate**

The Applicant provided information that the current zoning was no longer appropriate at the June 27, 2108 meeting. However, the Board inadvertently coalesced around a discussion and conclusion that the Applicant had not shown that a "D-4 building would not work" at the site (Mr. Koseck and Ms. Whipple-Boyce at hearing time 2:20:15). But this is not the requirement set forth in the ordinance. Further, the Board denied discussion about the development plan for the Property, until after the Applicant obtained rezoning. The Board applied a standard of proof that is not part of the ordinance, but rather more aptly applies to considering whether the rezoning depended on whether the Applicant can use the property as zoned. This is not the standard under the ordinance. Such a standard is often heard in a discussion of whether the property has been inversely condemned by the application of the ordinance. It is unfair to hold the applicant to a

standard that requires proof that the property cannot be used as zoned rather than the "appropriateness" of current zoning. When properly analyzed in the context of the Master Plan, which is the standard of the Birmingham ordinances, it is appropriate for the subject Property to share the same zoning classification as its immediate neighbors. As will be demonstrated in the next paragraph, the Property is incapable of supporting a structure built to current D-4 or B-3 zoning requirements.

The Property consists of two lots -- 469 and 479 -- which front Old Woodward and Woodward Avenue. The lots are in the "retail/red-line district" and under current zoning, each lot is severely restricted.

469 S. Old Woodward

The 469 lot width narrows as it extends east and has approximately 21 feet of Woodward Avenue frontage. The site has an existing 1 story, 2,900 square feet building, formerly used as a restaurant. Should this parcel be re-used, its only use (by necessity) would need to be a 'nonconforming' restaurant, since any change in use without a parking assessment district designation would require it to provide onsite parking for the new intended uses. However, since the restaurant has been closed for more than six months, it would not be eligible to continue as a nonconforming use!

Given the parcel's narrow configuration, the only onsite parking that could be provided to satisfy the ordinance is two (2) spaces off of Woodward Avenue. Only two onsite parking spaces would limit the building footprint to approximately 300 to 600 square feet, depending on the permitted use. There is no practically feasible way to provide greater parking spaces.

479 S. Old Woodward

The 479 parcel has 211 feet of frontage on Hazel and approximately 40 feet of frontage on Old Woodward. This lot expands as it extends east to approximately 66 feet of Woodward Avenue frontage. The lot has an existing one-story, 11,826 square foot enclosure of which a small portion is a finished bank building. The balance is dedicated to a drive-thru lane for a drive-thru bank. Should this parcel be re-used, its only use (by necessity) must be a 'nonconforming' drive-thru bank since any change in use under the Ordinance would trigger onsite parking requirements for the new intended use. Also, drive-thru banks are specifically prohibited in the downtown Birmingham Overly District. See ordinance at Article 3(4)(C)(2)(b): "The following uses are prohibited…Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services."

Given lot 479's configuration, the only onsite parking that would be practically feasible is approximately 13 spaces to be entered off of Woodward Avenue or Hazel. Thirteen onsite parking spaces would limit the building footprint to not more than from 1,950 square feet to

approximately 3,900 square feet, depending on the permitted use. It is possible for a new building to be multiple stories and this may allow for greater area on the ground floor for parking spaces. At most with a 2200 square foot ground floor, 27 parking spaces could be fit to the site. However, the building would be limited to approximately two stories and would not be contextual to the neighborhood. In essence, the lot would be converted partially to a surface parking lot.

Combined Lots

Seemingly, the combination of the two parcels would create greater opportunity to develop a project conforming to the Master Plan and the 2016 Downtown Plan goals for the B3/D4 zoning. Unfortunately, the combined parcel cannot meet the Master Plan and 2016 Downtown Plan goals of mixed uses and first floor retail without both onsite parking and underground parking. The Ordinance mandates main level retail (20' minimum in depth) on Old Woodward. Of course, onsite parking must be provided for any additional uses. This forces redevelopment toward uses with minimal parking requirements, such as hotels, which is what the Applicant proposes. As stated elsewhere in this letter, there are serious difficulties with building an underground garage within the D-4 design parameters that is deeper than two levels. Clearly, the current zoning unfairly forces the owner into an unreasonable position when considering the parcel's potential use and its place in the Downtown Overly District. Consequently, any such garage is limited to approximately 60 parking spaces.

To discuss these difficulties in a vacuum is not the intention of the Zoning Enabling Act. The Act at MCL 125.3203 provides that zoning must be determined according to a plan. Here, the Applicant attempted to explain to the Board that the site plan is impacted by the fact that the Property is not within the Parking Assessment District. Unfortunately, the Board refused to consider any site plan and its conformance to the 2016 Plan, putting such review off until the Applicant obtained rezoning. This placed the Applicant in a double-bind. He could not demonstrate the inappropriateness of current zoning without an analysis of how the Parking Assessment District, or lack thereof, affects the site plan design. Had the Applicant been allowed to at least discuss a site plan design in relation to the rezoning analysis, he would have demonstrated that there is no feasible option to develop the Property within the current zoning classifications outside of the Parking Assessment District. This would have been a valuable discussion of new information that should have at least been heard by the Planning Board.

Mischaracterization that the D-5 Ordinance was Passed Only to Make Three Properties Conforming

Two attorneys from the same law firm, as representatives of the residents of Birmingham Place, each separately addressed the Board during the June 27th hearing. The main thrust of their argument to the Board was that the only reason the D-5 Zone was added to the ordinance was in order to correct the non-conformity of the 555 Building, Merrill Wood and Birmingham

Place. They argued that the new Zone did not apply to any other properties. This assertion ignores the very careful hard work of the City Commission, the Planning Board, and the Administration. This claim is also clearly contrary to the history of the D-5 ordinances and to its plain language.

The history of the Planning Board's consideration of the D-5 Zone was outlined in detail by Ms. Ecker at the June 27th meeting. The Planning Board studied and considered the revisions to the ordinance for the South Old Woodward area for two years prior to adopting the D-5 Zone. In the Planning Department's Memorandum to the Planning Board, dated September 22, 2016, submitted to the Board for its September 28, 2016 study session, Ms. Ecker wrote: "The consensus of the Board was to allow additional height for new buildings in the D-5 zone district to match existing adjacent buildings, if the new building was constructed under the provisions of a SLUP."

During the June 27, 2018 hearing, Chairman Clein expressed (at time 2:10:25 of the hearing video), that during consideration of the new D-5 Zone, the Board considered the entire southern area of Downtown and positively did discuss the subject Property for potential property rezoning. However, the Board did not include the Property initially because no applicant or interested owner had come forward at that time. Mr. Jeffares also reiterated the same point (at time 1:48:30 of the hearing video). Ms. Ecker clearly stated (at video time 2:09:00) that the new D-5 Zone is a zoning classification that is not limited to the three non-conforming buildings (555 Building, Merrill Wood and Birmingham Place).

Despite clear evidence to the contrary, the mischaracterizations assumed in this hearing were espoused by Ms. Whipple-Boyce who indicated that she understood the D-5 Zone only applied to the three properties, and was not available for the Applicant's Property. These misrepresentations had a direct bearing on consideration of the Applicant's explanation of why the rezoning will not be detrimental to surrounding properties.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

Both the adjacent and abutting properties are in the D-5 Zone. These misrepresentations that the D-5 is closed to other buildings led the Board to bypass the Applicant's D-5 site plan design. Instead the Board envisioned the abutment of a D-5 structure next to the Birmingham Place and the impact of such on the Birmingham Place residents. However, it is clear that when these neighboring properties were rezoned to D-5, the Planning Board anticipated that eventually the owner of the subject Property would apply to be rezoned for the reasons stated in this letter. The idea that an ordinance is created for only a few buildings, when the ordinance itself states otherwise, is unsupportable and unreasonable. Rezoning the subject Property to a D-5 Zone will be putting this parcel on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be

developed as an attractive part of the South Old Woodward gateway and, most importantly, bring that area into compliance with the spirit and intent of the 2016 Master Plan. Many of the condominium owners from Birmingham Place who spoke out against the rezoning, as did their attorneys, will lose their views to the south even with a development compliant with current zoning. Please see the attached depiction of the D-4 height overlaid against the Birmingham Place (**Exhibit B**). However, the Board seemed to acknowledge the mootness of the alleged detriment to Birmingham Place given the potential impact of a conforming D-4 structure, and yet at least one member, Ms. Whipple-Boyce, still maintained that the D-5 Zone was intended to correct the non-conformance of only three properties.

The Board Failed to Make Required Findings of Fact under Ordinance Sec. 7.02(B)(5)

In making its decision on June 27th, the Board denied the Application based on Ordinance Sec. 7.02(B)(2)(b) and the required explanations imposed on the Applicant. As a result of its misunderstanding of the analysis required by the Zoning Amendments section of the Ordinance, the Board committed error in basing its decision on Sec. 7.02(B)(2)(b) rather than on the findings of fact required by Sec. 7.02(B)(5). Section 7.02(B)(5)(a-e) lists five findings the Board must make regarding the Application when making its recommendation to the City Commission. Without these findings by the Planning Board, the recommendation to the City Commission does not give the commission sufficient information to understand why this rezoning Application was denied.

- ***Sec. 7.02(B)(5)(a) - The objectives of the City's then current master plan and the City's 2016 Plan.***

The Board made no findings of fact with respect to the objectives of the City's current master plan and the City's 2016 Plan. A simple motion to deny a recommendation of rezoning was made "to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay." (See **Exhibit C**, June 27, 2018 meeting minutes, at p.10).

The Applicant, however, in its May 17, 2018 letter to the Board, submitted significant information relating to the conformance of D-4 to D-5 rezoning of the Property with the goals of the 2016 Master Plan to promote mixed uses and consistency in architectural details and massing to neighboring structures.

- ***Sec. 7.02(B)(5)(b) - Existing uses of the property within the general area of the property in question.***

The Board made no finding of fact with respect to uses of property within the area of the Property, although the Board acknowledged the D-5 zone to the immediate north and south of the Property. And as stated above, the Board coalesced around the conclusion that the Applicant had not "shown a D-4 building could not work."

In his May 17, 2018 supplemental letter to the Board, the Applicant explained the proposed mix-use of the development as retail, hotel and residential, all uses consistent with surrounding properties.

- ***Sec. 7.02(B)(5)(c) - Zoning classification of the property within the general area of the property in question.***

The Board acknowledged that the entire southern area of Birmingham has been studied for change in zoning possibly to a gateway district due to the established heights of the iconic 555 Building and the Birmingham Place Building. The Board acknowledged the recent rezoning of the abutting and adjacent properties to the D-5 Zone and the current zoning classifications of nearby properties. The Board did not make any findings that addressed the fact that the subject Property is not only located in the area of the D-5 zone, but actually is situated between two D-5 zoned parcels. The adjacent and abutting properties are zoned D-5.

- ***Sec. 7.02(B)(5)(d) - The suitability of the property in question to the uses permitted under the existing zoning classification.***

The Board made no findings of fact regarding the suitability of the Property in question to the uses under the existing zoning classification. The Board's discussion centered on the height of the proposed development under the D-5 versus the D-4. There was no finding or discussion of suitability to permitted uses. The Applicant directs the Board's attention here because the Property sits outside of the Parking Assessment District. The Board failed to engage with this fact and its implications on the Applicant's site plan, which has a significant negative impact on the Applicant's ability to use the Property within the uses promoted by the 2016 Plan. Again, without a factual finding, the Board concluded that the Applicant had not proven that a D-4 building would not work at the Property (June 27, 2018 hearing video, Chairman Clein, starting at video time 2:10:25).

- ***Sec. 7.02(B)(5)(e) - The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.***

There was little discussion of the trend of development in the general area, other than the discussion of the historical development of the 555 Building and Birmingham Place prior to their down-zoning in later amendments to the Ordinance. Again, the Board acknowledged the recent changes in zoning to the 555 Building and Birmingham Place, as well as a mention of a zoning variance obtained for the development of the Pearl property. However, the Board did not make a finding of fact regarding the trend of development and its relationship to its decision to deny the Applicant's request.

W|W|R|P

Conclusion

Applicant respectfully requests that this matter be referred back to the Planning Board to allow full consideration of the following:

- Report of the Planning Department concluding that the Petitioner had satisfied all of the ordinance requirements of Sec. 7.02(B(5)(a-e). No contrary findings of fact were made by the Planning Board.

- The Property is the only D-4 property in the City *not* in the Parking Assessment District. The report in the Planning Department's packet to the Planning Board with regard to the CIS mistakenly stated that the Property was in the Parking Assessment District. This new fact is crucial to an accurate analysis of the rezoning request.

- The purpose of the D-5 ordinance was mischaracterized as merely an ordinance to correct only three buildings in the City. The ordinance clearly states otherwise, and there was much discussion during the years of meetings about the area of the City that should be considered for the D-5 zone.

- The standard used for the discussion of rezoning the Property was not a requirement of the zoning ordinance. An applicant must present facts that support the ordinances in Sec. 7.02(B)(5)(a-e) as well as Sec. 7.02(B)(2)(b)(i-iii). None of those ordinance sections requires the Applicant show that the Property cannot be used as zoned, contrary to what was discussed in the public hearing.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner

RDR/gsm

CITY OF BIRMINGHAM
DOWNTOWN PARKING ASSESSMENT DISTRICT

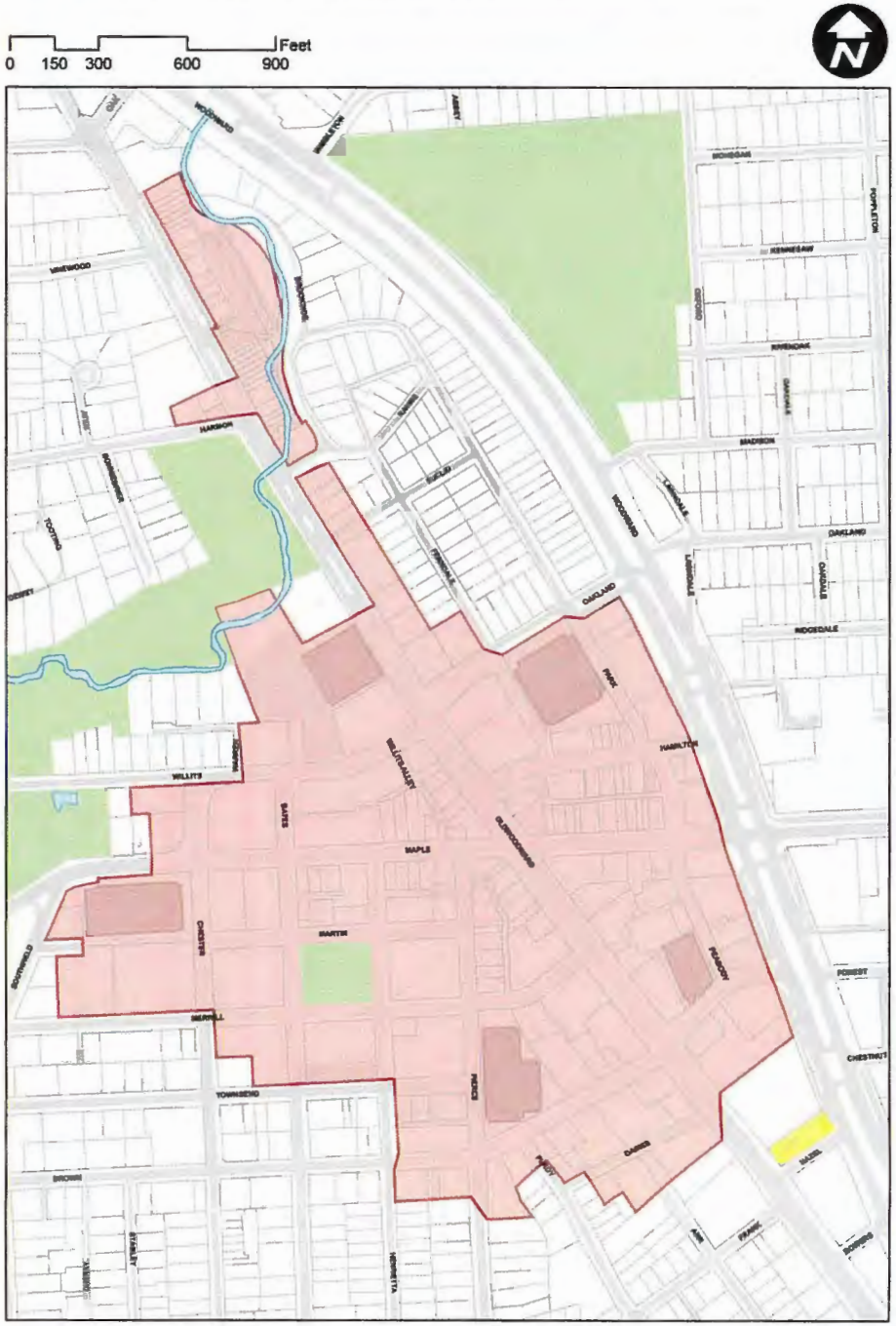


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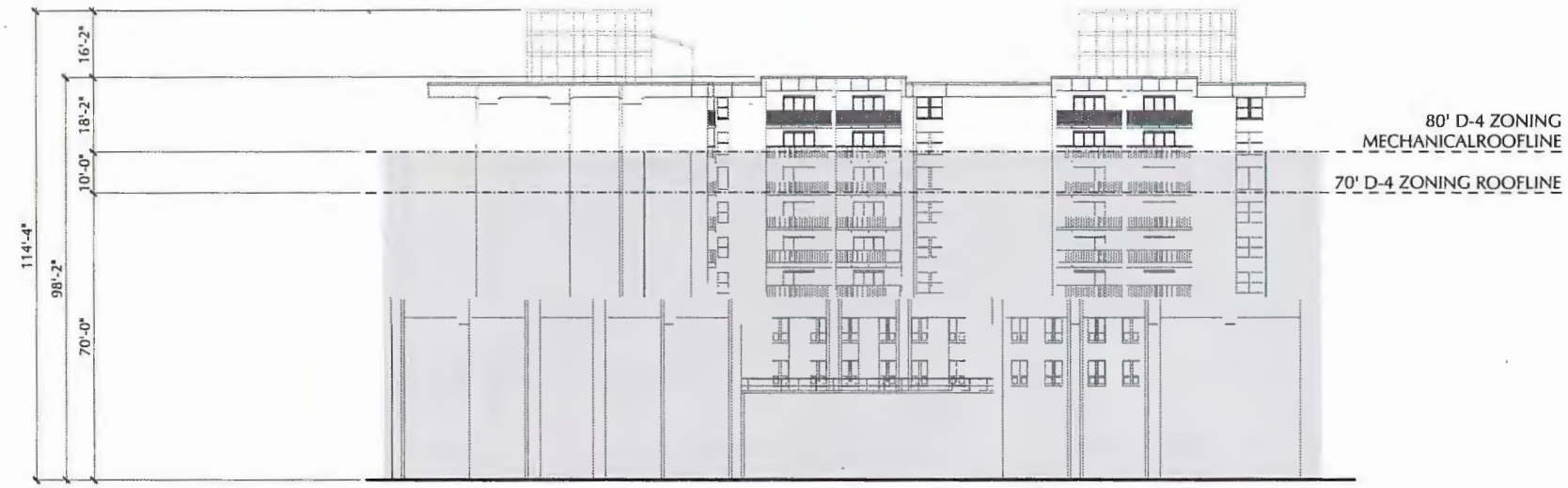
EXHIBIT A

Project M1 - The Hazelton
Birmingham Tower Partners, LLC
469 + 479 South Old Woodward
Birmingham, Michigan 48009





BIRMINGHAM PLACE HEIGHT COMPARISON DIAGRAM

CHRISTOPHER J LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

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EXHIBIT
B

EXHIBIT
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CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, JUNE 27, 2018

Item	Page
SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT **REVISED FINAL SITE PLAN AND DESIGN REVIEW**	
1. 260 N. Old Woodward Ave., The Morrie - Application for Special Land Use Permit ("SLUP") Amendment to allow the addition of a dance floor to the previously approved restaurant	2
Motion by Ms. Whipple-Boyce **Seconded by Mr. Koseck to recommend APPROVAL to the City Commission of the Final Site Plan and SLUP Amendment for 260 N. Old Woodward Ave., The Morrie, to add a dance floor to the previously approved plans with the condition that the applicant comply with Chapter 50, Noise, Division 4.**	2
Motion carried, 7-0.	2
2. 2010 Cole St. (currently vacant) - Application for Final Site Plan and Design Review to renovate the existing building and expand the parking lot	3
Motion by Mr. Jeffares **Seconded by Mr. Koseck to recommend APPROVAL of the Final Site Plan and Design Review for 2010 Cole St. subject to the following conditions:** **1. Applicant submit a signed letter from DTE approving the location of all electrical transformers;** **2. Applicant install City standard bike racks, benches and trash receptacles as required in the Rail District;** **3. Applicant submit all signage details to the Planning Division for approval, including specifications on any wall signs, canopy signs or address signs;** **4. Applicant add pedestrian striping on the west side of the building leading to the west entrance of the building.** **5. Applicant move the arborvitae screening to the north with Administrative Approval from the Planning Dept.** **6. Applicant comply with the requests of all City Departments.**	5
Motion carried, 7-0.	
REZONING APPLICATION	5
1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building	

Item	Page
Motion by Mr. Boyle **Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.**	5 11
Motion failed, 2-5.	
Motion by Ms. Whipple-Boyce **Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.**	11 11
Motion carried, 5-2.	
PRELIMINARY SITE PLAN REVIEW AND COMMUNITY IMPACT STUDY ("CIS")	11
1. 469-479 S. Old Woodward Ave. (former Mountain King) - Application for Preliminary Site Plan and CIS to permit new construction of a nine-story mixed-use building	12
Motion by Mr. Boyle **Seconded by Ms. Whipple-Boyce to postpone this application to August 22, 2018 following the consideration of this rezoning application at the City Commission.**	12
Motion carried, 7-0.	12

APPROVED

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JUNE 27, 2018
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on June 27, 2018.Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce; Alternate Board Members Jason Emerine, Nasseem Ramin

Absent: Board Members Daniel Share, Bryan Williams; Student Representatives Madison Dominato, Sam Fogel, Ellie McElroy

Administration: Matthew Baka, Sr. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

06-108-18

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF JUNE 13, 2018

Mr. Jeffares made a correction:
Page 8 - Fourth paragraph from the bottom insert after "of," "office use for business to business."

Motion by Mr. Koseck
Seconded by Mr. Boyle to approve the Minutes of the Regular Planning Board Meeting of June 13, 2018.

Motion carried, 7-0.

VOICE VOTE
Yeas: Koseck, Boyle, Clein, Jeffares, Ramin, Whipple-Boyce
Nays: None
Abstain: Emerine
Absent: Share, Williams

06-109-18

CHAIRPERSON'S COMMENTS (none)

APPROVED

06-110-18

APPROVAL OF THE AGENDA (no change)

06-111-18

SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT
REVISED FINAL SITE PLAN AND DESIGN REVIEW

1. 260 N. Old Woodward Ave., The Morrie - Application for Special Land Use Permit ("SLUP") Amendment to allow the addition of a dance floor to the previously approved restaurant

Mr., Baka recalled that this application has already been approved by the Planning Board and the applicant is coming back for one change. On May 14th, 2018, the applicant went before the City Commission and indicated that they were also proposing to move tables to clear a dance area when needed. The City Commission determined that a dancing area was not in the original scope or shown on the plans; therefore it must be re-reviewed by the Planning Board.

The applicant has submitted a SLUP Amendment application with associated site plans depicting the location and size of a dancing area proposed in their dining room. The dance floor measures 10 ft. by 38 ft. and is located in front of the raised booth seating area.

At 7:32 p.m., there were no comments from the audience on the proposal.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to recommend APPROVAL to the City Commission of the Final Site Plan and SLUP Amendment for 260 N. Old Woodward Ave., The Morrie, to add a dance floor to the previously approved plans with the condition that the applicant comply with Chapter 50, Noise, Division 4.

Motion carried, 7-0.

There were no comments from the public on the motion at 7:35 p.m.

VOICE VOTE
Yeas: Whipple-Boyce, Koseck, Boyle, Clein. Emerine, Jeffares, Ramin
Nays: None
Absent: Share, Williams

06-112-18

2. 2010 Cole St. (currently vacant) - Application for Final Site Plan and Design Review to renovate the existing building and expand the parking lot

Mr. Baka advised the subject property, located in the Rail District, is a 0.77 acre site currently containing a single-story commercial building and a parking lot. The applicant is proposing to renovate the existing building to allow for three tenant spaces consisting of retail, fitness and potentially storage uses. The existing parking lot is proposed to be expanded, while the landscaping and streetscape will also be improved. The building is proposed to receive new

paint, awnings, lighting and architectural detail. Also, the applicant would like to screen the loading space with arborvitae.

The applicant engaged in a pre-application discussion with the Planning Board on May 23, 2018. At that time the applicant described the plan to beautify and fill the current building to bring the site back into function while the property owners work on a plan to redevelop the entire property in the future. Planning Board members asked the owners to provide active first-floor uses to activate the street, as well as add glazing and architectural details to break the monotony of the existing blank walls.

The submitted site plan shows a new electrical transformer adjacent to the dumpster enclosure at the southeast corner of the property that is screened with arborvitae. The applicant has noted that DTE has been contacted regarding the transformer location and that DTE approval will be acquired in regards to the location. The applicant must still submit a signed letter from DTE approving the location of all electrical transformers.

The applicant is proposing to expand and rework the existing parking lot to a 38 space lot containing both additional landscaping and two ADA parking spaces. The parking requirement for the three tenants is 12 spaces.

Design Review
The applicant is proposing new renovations that include new paint, awnings, lighting and architectural details including new windows and doors along the north and west elevations. Eight new door/window installations with dark bronze metal frames are proposed along the north and west elevations. Four open-ended canvas awnings are also proposed over the new window/door installations. The doors, windows and awnings help to break up the vast blank space that currently exists on the walls.

Article 4, section 4.90 of the Zoning Ordinance requires buildings in the MX Zoning District to provide a minimum of 70% glazing on any ground floor façade that faces a street or parking area.

Signage: The applicant has indicated that the northern portion of the wall on the west elevation will be a potential location for tenant signage. The applicant is also proposing to place their address sign on the parking lot screen wall in front of the building. The applicant must submit all signage details to the Planning Dept. for approval, including specifications on any wall signs, canopy signs or address signs. The applicant has now submitted material samples of each newly proposed material (including new glass, awning fabric, patio pavers) to complete the Design Review.

In response to Mr. Koseck, Ms. Ecker explained the City is in the process of figuring out the street lighting in the Rail District. DTE has installed three different types of lights with three different types of globes, along with different fixtures throughout the Rail District and none of them are correct since the first installation at Armstrong White on E. Lincoln. Basically the negotiations with DTE to correct the problem are down to cost right now.

Mr. Boyle noticed that the plans do not show a safe pedestrian zone through the parking lot. Further, Mr. Boyle noted on the west facade of the building there are grey awnings with small windows underneath; but no windows on the large section that is adjacent to the patio.

Mr. Koseck pointed out that the plans show the driveway bisects the sidewalk. Mr. Baka replied that the Engineering Dept. has stated that the sidewalk must maintain its current configuration by placing it through the driveway approach.

Mr. Baka agreed with Mr. Emerine that clarification is needed because the applicant is required to have six trees in the parking lot and ten are shown in the site plan.

Mr. Jason Krieger, Krieger Klatt Architects, was present with Mr. Tom Lasky and Mr. Andy Petcoff from the ownership, along with Mr. Brian Kowalski, the project architect. Mr. Krieger said the site plan is correct regarding the trees. The windows on the west elevation are up high because a fitness center is proposed and they tried to maintain as much wall space as possible for them. They are trying to add more fenestrations and glass. Windows have been added on the southwest corner of the building. On the north elevation the windows have been lowered down to the ground to create more of a storefront feel.

Their proposal is to basically clean up the building, paint it, improve it, and then occupy it. They will comply with City standards for lights, trash cans, and benches. With regard to the parking lot, they hope to keep as much as they can and add on to it in compliance with City engineering standards. Personally, he would rather see more screening closer to Cole St., behind the retaining wall, and not right at the loading area where it might get hit. Then, just leave the loading zone as a striped area. Mr. Koseck agreed, because typically there is no truck parked in the loading space. He suggested that Mr. Krieger could work with staff to shift the arborvitae to the north where it wouldn't be hit. Additionally, Mr. Koseck thought it would be nice to have some planter boxes in the patio area just to soften it. Mr. Krieger agreed that the patio should be broken up a little with some greenery.

Mr. Krieger explained that tenant to the north is a cabinet shop and the south tenant space is vacant.

Responding to Mr. Boyle, Mr. Krieger said did not see a problem with putting in a pedestrian safety path through the parking lot to the entrance of the center. However they might lose one parking space.

No one from the public cared to comment on the proposal at 8:01 p.m.

Motion by Mr. Jeffares
Seconded by Mr. Koseck to recommend APPROVAL of the Final Site Plan and Design Review for 2010 Cole St. subject to the following conditions:
1. Applicant submit a signed letter from DTE approving the location of all electrical transformers;
2. Applicant install City standard bike racks, benches and trash receptacles as required in the Rail District;
3. Applicant submit all signage details to the Planning Division for approval, including specifications on any wall signs, canopy signs or address signs;
4. Applicant add pedestrian striping on the west side of the building leading to the west entrance of the building.
5. Applicant move the arborvitae screening to the north with Administrative Approval from the Planning Dept.
6. Applicant comply with the requests of all City Departments.

At 8:05 p.m. there were no comments on the motion from members of the audience.

Motion carried, 7-0.

VOICE VOTE
Yeas: Jeffares, Koseck, Boyle, Emerine, Klein, Ramin, Whipple-Boyce
Nays: None
Absent: Share, Williams

06-113-18

REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein said that judging from all of the letters that have been received related to this project, it is very clear that the residents of Birmingham Place oppose the rezoning. All of the letters will be added to the record.

Ms. Ecker explained the applicant for 469-479 S. Old Woodward is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed-use building with three levels of underground parking in between the Birmingham Place and the 555 Building. The maximum height allowed in the D-4 Zoning District is 4-5 stories. In the D-5 Zoning District, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 Zone. The 0.423 acre subject site spans Hazel St. from S. Old Woodward Ave. to Woodward Ave. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Restaurant and Talmer Bank). The applicant is proposing to demolish the present buildings for the construction of a ten-story mixed-use building.

The applicant has noted that when the zoning was changed down to one or two floors in the 1970s, the 555 Building and Birmingham Place were designated to a legal non-conforming use because their height was not allowable. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay that raised the height up to a maximum of five stories Downtown. In 2017, a new D-5 Zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D-5 currently.

Ms. Ecker went through the three items that the applicant must demonstrate for the rezoning of a property and the applicant's reasons as to how they feel they have met them.

Ms. Ecker then went through the planning analysis based on the evidence provided by the application. Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents, current zoning and recent development trends in the area, the Planning Dept. finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay District for the purpose of building as high, but no higher than, the building to the north, Birmingham Place.

Answering Mr. Boyle, Ms. Ecker said the Master Plan which dates back to 1980 did not give specific height requirements like the 2016 Plan recommended. Under the 2016 Plan the recommended height in the Downtown was a maximum of five stories. The 555 Building submitted an application to the City and to the Planning Board to consider creating a new category that would make them a legal and conforming building that would allow them to receive financing to renovate the building and bring it up to current standards in the marketplace. The D-5 Ordinance was crafted by the Planning Board as a result of that application and included the other two buildings in a similar situation.

Mr. Rick Rattner, Attorney, Williams, Williams, Rattner & Plunkett, PC, emphasized that in the D-5 going above five stories subjects the property to a Special Land Use Permit ("SLUP") which is different than just building as of right. Secondly, in 2016 Andres Duany commented favorably on the 555 Building and on Birmingham Place.

He presented a PowerPoint that went to four issues that have to do with rezoning:

- Rezoning Amendment - Sec. 7.02 (B) (2) (b) (i)-(iii) requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission.
- Sec. 7.02 (B) (2) (b) (i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership. Without the ability to go higher with a new building than the zoning allows, the applicant will not have the required area within which to locate a mix of uses that would commonly be associated with the design of a modern, mixed-use building.
- Sec. 7.02 (B) (2) (b) (ii) - An explanation of Why the Existing Zoning Classification is No Longer Appropriate. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. Given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-4 Zone is no longer appropriate.
- Sec. 7.02 (B) (2) (b) (iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the S, Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Plan.

Mr. Rattner concluded by asking the Planning Board to favorably recommend that they are able to use their property and preserve their rights of usage, fit into the streetscape, fit the Master Plan and fit all elements of this Ordinance because they meet every single one of them.

At 8:45 p.m. the Chairman opened the meeting to public comments.

Ms. Susan Friedlander, 1564 Henrietta, attorney for Birmingham Place Residential Condominium Association, made the following points:

- The City created the D-5 District for a singular and special purpose which was to bring several buildings into conforming status.
- The proposed building is not sandwiched between the 10-story Birmingham Place and the 15-story 555 Building - there is Hazel, a 50 ft. right-of-way that provides a proper transition between buildings. There is not even a height difference, because the building that is immediately adjacent to Hazel is 77 ft. tall. So if this proposed building went up to 80 ft, which it is allowed to do under D-4 it would be very consistent with the building right across the street. There would be a perfect transition. It would only be 34 ft. shorter than Birmingham Place.

- If the proposed building is zoned D-5, what about the building on the north, the Powerhouse Building, Jax Car Wash or the Varsity Building. Why shouldn't they get the D-5 Zoning as well?
- There is a process that must be followed so that property is not rezoned on an ad hoc and an arbitrary basis.

Mr. Tom Lasky, 2006 Cole, spoke in support of the rezoning request. This is the face of new Birmingham and will be done responsibly.

Mr. Mike Humphrey, who lives in Birmingham Place, said there is nothing in the record that shows that the D-5 Overlay was created to do anything other than to make the three tall existing buildings legal and conforming. The developer bought the property knowing how it was zoned; but now they say that they cannot develop a four or five-story mixed-use building there. If the City is going to change the Master Plan, go for it, but do it with professional study and community involvement; not a piece at a time.

Mr. David Nykian, 40700 Woodward Ave., said he represents some of the owners in the Birmingham Place Condominium. He believes the facts lead to the conclusion that the D-4 Zoning is actually clearly appropriate for this property:

- The D-5 District was created just to address the non-conformities of three buildings. So the City has already made the decision in the past as to what zoning is appropriate for this site.
- Nothing about the property has changed since then that should cause the City to alter its conclusion about what the appropriate height is.
- The height of the 555 Building on the north is 77 ft. So if the subject site were developed today under D-4, it could be taller than the 555 Building.
- Breaking up the building heights would provide more of an architectural character to the City than one monolithic height across the entire street.
- There is nothing under the D-4 Zoning classification that that would prohibit the developer from developing a mixed-use development.
- The only things that would change by amending the classification from D-4 to D-5 are the height of the building and the profit margin of the developer.

Mr. Mickey Schwartz, 411 Old Woodward Ave., stated that infill has nothing to do with height equality. So he thinks the developer has to have a better excuse for building a 10-story building. The small town feeling is what is unique about Birmingham. Deny the rezoning request.

Dr. Cynthia Neil, a resident of Birmingham Place, said she was deeply offended by the petitioner's statement that the development would not adversely affect the residents. From her balcony she would be able to bounce a tennis ball against the wall of the proposed building.

Mr. Chris Jonna, C&P Real Estate Group, spoke in support of the project. The applicant builds nothing but first-class buildings. Increasing the zoning classification will be a tremendous benefit to Downtown Birmingham by bringing in more people to the area.

Mr. Lewis Rockind, a resident of Birmingham Place, emphasized that the zoning has to be contemplated in the context of what is intended to be developed. As a resident of Birmingham Place he is looking at the detrimental effect on the surrounding properties of increased vehicle and pedestrian traffic.

Mr. Daniel Jacob, 261 E. Maple Rd., said he is 100% in support of the project. The intended use of the property is much needed and would be a huge benefit to the City. Birmingham is changing and this project moves with the times.

Mr. Joseph Shalala, 255 S. Old Woodward Ave., spoke in support of the proposed building. It will support all of the small businesses by bringing in people such as office, residential, and hotel users. All of those things combined will help Birmingham.

Ms. Tony Schwartz, 411 Old Woodward Ave., maintained that it is the height of the building that is in question here, not its quality. Secondly, traffic is a big problem on that corner. There is a new hotel that is starting to be built on the corner of Brown and Old Woodward which will add more traffic to that corner. She understands there may be a pool deck on the top floor of the proposed building - who is going to control music and noise and parties. She lives right across on the tenth floor.

Chairman Clein advised that concerns related to traffic and noise are not part of a rezoning but would be handled under a Site Plan Review, and should this be moved forward to a rezoning the applicant would be required to obtain a Special Land Use Permit ("SLUP") which allows the City Commission to put additional restriction on the uses of the building.

Mr. Duraid Markus, one of the partners in the ownership entity for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank), said if this happened in New York, Chicago or LA there would not be a single skyscraper built. He noted that everybody who opposes this is only one contingent, and it has not been the entire City that comes in to support or not support.

It makes sense to build where the project is harmonious and fits in with the rezoning proposal. For those reasons he asked the board to consider all of the comments and make the decision to allow them to rezone the parcel.

Ms. Wilma Thelman who lives in Birmingham Place said none of them have heard why a conforming building cannot be built on that site.

Mr. Jeffares noted that things change and now Birmingham holds 21 thousand people. Secondly he recalled that the Board did discuss rezoning the subject property; however there was nobody from there to make their case so the Board just rezoned the existing buildings.

Mr. Koseck advised that D-4 Zoning allows a building to be built to 80 ft. So it will already block six floors of Birmingham Place. He did not believe the applicant's contention that they cannot make a five-story building work, He thought that a five-story could be a successful mixed-use building. In some ways it might even fit the form and the transition better and the upper three floors of Birmingham Place will not be affected.

Ms. Whipple-Boyce said when the Board established the D-5 Zoning Classification she felt it applied to three specific buildings. In her mind it had to do with bringing non-conforming buildings into conformity so that they could qualify for financing and improve their properties. Thinking about some of the other properties that could be affected down the road that are adjacent to other properties like this is an unanswered question for her. It causes her to hesitate tonight on recommending the rezoning to D-5.

Mr. Boyle made the following points:

- The Master Plan is meant to have the ability to adapt to changing circumstances. Similarly, zoning is powerful when it is able to adapt. So, change is normal; it is not frequent, but it is usual.
- He was positive about the potential impact on the City as a whole of rezoning this property.
- The potential impact of rezoning on the contiguous properties will affect a number of people. The Board is here to determine who has the weight in this particular discussion, the entire City or the adjacent neighbors.
- There are checks and balances built into the system. If the rezoning were to be approved, the community would have two elements to be brought to the table. One would be the Site Plan Review process, and secondly the height would kick in the SLUP where the Planning Board can recommend controlling modifications to the City Commission who will hold a public hearing on the proposal.
- At the end of the day he is of a mind to approve the rezoning because overall he sees the benefits for the City and for this particular area. However, he does not underestimate the cost for the immediate residents in the contiguous building.

Ms. Ramin stated one of the burdens the applicant must carry to justify rezoning is an explanation of why the existing D-4 classification is no longer appropriate.

Mr. Duraid Markus said they cannot get in a hotel concept on this little parcel so they have to go vertical by a couple of floors. He has to be honest, it is the economics. He cannot get a development off the ground. They are not in the Parking Assessment District and are therefore limited by the required parking for an office building or a restaurant.

Answering Mr. Emerine, Ms. Ecker explained that anyone on any site can apply for a rezoning to any of the existing zoning classifications.

Chairman Clein commented that rezoning is the most difficult thing the Board has to do - balancing the rights of adjacent land owners. To Ms. Ramin's point, the burden has not been met as to why a five-story building will not work. The answer that was given was economics, which has no place in a rezoning discussion. Therefore, he is not supportive of the rezoning.

Mr. Jeffares said he cannot come up with a reason for the height of the proposed building to be lower.

Ms. Whipple-Boyce indicated she has no problem with the subject building being built as high as Birmingham Place. But she doesn't think the applicant has made the case that they deserve to be rezoned and that the current zoning classification is no longer appropriate. She was appalled to hear the applicant say they bought this property and the only thing that will work there is a ten-story hotel and it should be rezoned because that is what they want to build. Therefore she doesn't think the applicant has proved their case.

Mr. Rattner noted that maybe the best thing for them to do is to ask for postponement so they can come back with a different plan. Chairman Clein stated that for him postponing would just be kicking the can down to another meeting. Mr. Boyle said he is in favor of not accepting that proposal and actually making a motion this evening.

Motion by Mr. Boyle
Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board

recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

There were no comments from the public on the motion at 10 p.m.

Motion failed, 2-5.

ROLLCALL VOTE
Yeas: Boyle, Jeffares
Nays: Clein, Koseck, Emerine, Ramin, Whipple-Boyce
Absent: Share, Williams

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant's request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

Motion carried, 5-2.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Koseck, Clein, Emerine, Ramin
Nays: Jeffares, Whipple-Boyce
Absent: Share, Williams

06-114-18

PRELIMINARY SITE PLAN REVIEW AND COMMUNITY IMPACT STUDY ("CIS")

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Application for Preliminary Site Plan and CIS to permit new construction of a nine-story mixed-use building

Motion by Mr. Boyle
Seconded by Ms. Whipple-Boyce to postpone this application to August 22, 2018 following the consideration of this rezoning application at the City Commission.

There was no discussion from the public on the motion at 10:02 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Whipple-Boyce, Clein, Emerine, Jeffares, Koseck, Ramin
Nays: None
Absent: Share, Williams

06-115-18

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approval Requests

- 2211 Cole, Cole II - Approval for screening of two rooftop units.
- East of Woodward Ave. and north of Bennaville, parking lot - Renovate existing parking lot to increase number of parking spots, install new screen wall per code.
- Mr. Baka brought forward a request from a resident of Crosswinds to add to their outdoor deck motorized screening that rolls up and down. It is fastened to the building and would need a permit. The neighbor put one up too. Ms. Ecker said it is a design change from what was approved for the deck and there was not a Building Permit issued. Consensus was they should come to the Planning Board for approval and that Board members should visit the site.

c. Draft Agenda for the next Regular Planning Board Meeting of July 11, 2018

- Bistro Regulations;
- Ongoing discussion of first-floor retail;
- Discussion on parking.

d. Other Business

- Ms. Ecker noted the SLUP request for 191 N. Chester was approved at the City Commission to allow the office use in the old Church of Christ Scientist Bldg.
- The Hazel, Ravines, Downtown SLUP was also approved.
- Also, the Commission established the Master Plan Selection Committee.

06-116-18

PLANNING DIVISION ACTION ITEMS

Staff report on previous requests (none)

Additional items from tonight's meeting (none)

06-117-18

ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 10:10 p.m.

Jana L. Ecker
Planning Director

APPROVED

Submitted by Applicant on 1-18-19

REZONING REQUEST FOR 469-479 S. OLD WOODWARD
SUMMARY OF PRIOR SUBMITTAL FROM THE APPLICANT AND
THE ANALYSIS & FINDINGS OF THE PLANNING DEPARTMENT'S REVIEW

Over the past several months, the applicant has submitted written documentation and evidence in support of applicant's application to rezone 469-479 S. Old Woodward to the D-5 Downtown Overlay District. In addition, the Planning Department has completed a thorough analysis of the applicant's request to rezone the subject property as well as all of the information that was submitted by the applicant during this rezoning process. The following is a summary of the Planning Department's analysis and findings under the City Ordinance regarding the applicant's request to rezone 469-479 S. Old Woodward:

- The subject site consists of two vacant, single story commercial buildings (Mountain King and First Place Bank).
- The 0.423-acre site includes two narrow parcels, one facing 3 streets (Old Woodward, Hazel and Woodward), and the other facing 2 streets (Old Woodward and Woodward).
- The rezoning request is made pursuant to Article 7, section 7.02 of the Zoning Code.
- Section 7.02(B)(2)(b)(i) – Due to the site configuration fronting S. Old Woodward, Hazel and Woodward, and the narrow lot size and the off-street parking requirements, rezoning is necessary to preserve enjoyment of rights and usage commonly associated with ownership.
- Section 7.02(B)(2)(b)(ii) – Current zoning is no longer appropriate due to off-site parking requirements, narrow lot size configurations, and frontages.
- Section 7.02(B)(2)(b)(iii) – Rezoning will not be detrimental to surrounding properties as the adjacent and abutting properties are zoned D-5, mixed retail, commercial and residential properties, and applicant's proposal will add consistency to the streetscape in mass and architectural detail.
- Section 7.02(B)(5)(a) -- The objectives of the City's master plan and 2016 Plan are met by the rezoning as the proposed streetscape will improve the frontages of S. Old Woodward, Hazel and Woodward and project a strong image of the City toward Woodward with similar massing and architectural detail to adjacent buildings.
- Section 7.02(B)(5)(b) -- The existing uses of property in the general area align with applicant's proposed rezoning. Both the Birmingham Place and the 555 Building (neighboring properties) are mixed use buildings with both retail, commercial and residential uses. Properties to the east and west of the subject property are used for parking, retail and commercial.
- Section 7.02(B)(5)(c) -- Both neighboring properties are zoned in the D-5 Overlay Zone.
- Section 7.02(B)(5)(d) – The applicant's property is suitable for uses in the D-5 which are the same as in the current D-4 Zone. However, if a 5-story or less building is constructed under the D-4 at the site, it would be completely dominated by and inconsistent with the height of the neighboring Birmingham Place and 555 Building.
- Section 7.02(B)(5)(e) – The requested rezoning is consistent with the trend of development of this area of S. Old Woodward which is dominated by the height of the 555 Building and Birmingham Place.
- Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established Zoning Ordinance requirements of Article 7, section 7.02(B)(5) to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay district.

Jana Ecker <jecker@bhamgov.org>

RE: Scheduling of Hearing Before Planning Commission - 469 and 479 S Old Woodward (Collectively "Property")

1 message

Richard Rattner <RDRattner@wwrplaw.com> Mon, Jan 27, 2020 at 4:25 PM
To: Jana Ecker <Jecker@bhamgov.org>

Jana:

Thanks for your response.

Rick

Since 1973
W|W|R|P
Williams Williams Rattner & Plunkett, P.C.

Richard D. Rattner

380 North Old Woodward Avenue, Suite 300

Birmingham, Michigan 48009

Main: (248) 642-0333 • Fax (248) 642-0856

rdr@wwrplaw.com







Bio vCard wwrplaw.com

From: Jana Ecker <Jecker@bhamgov.org>
Sent: Monday, January 27, 2020 4:17 PM
To: Richard Rattner <RDRattner@WWRPLaw.com>
Cc: Doraide Marcus (dmarkus@markusllc.com.) <dmarkus@markusllc.com>; Christopher Longe (cjlonge@cjlongeaia.com) <cjlonge@cjlongeaia.com>
Subject: Re: Scheduling of Hearing Before Planning Commission - 469 and 479 S Old Woodward (Collectively "Property")

Good afternoon,

I received your email and I confirm that the rezoning request for 469 - 479 S. Old Woodward will be placed on the February 27, 2020 meeting of the Planning Board.

Jana

On Mon, Jan 27, 2020 at 3:07 PM Richard Rattner <RDRattner@wwrplaw.com> wrote:

> Ms. Ecker:
>
> Pursuant to our prior discussions, please accept this email as our client's request to be added to the Agenda of the Planning Board meeting, scheduled for February 27, 2020. The subject of the hearing is the continuation of the hearing on the application to include 469 and 479 S. Old Woodward, Birmingham, MI in the D-5 Downtown Birmingham Overlay

District Zone (“Application”). The Application and supporting information was filed with the Planning Department and, after a hearing at the Planning Board, the matter was heard by the City Commission on March 11, 2019. The City Commission took no action on the matter. Since the March 11, 2019 meeting, the Planning Board has reviewed certain issues to clarify the language of the D-5 Overlay Ordinance. Now that those discussions have been held, our client now request that the Application for rezoning now be added to the Agenda for the February 27, 2020, hearing at the Planning Board.

Please confirm that this matter has been added to the agenda.

Thank you for your attention to this matter.

Rick Rattner

Since 1973
W|W|R|P
Williams Williams Rattner & Plunkett, P.C.

Richard D. Rattner

380 North Old Woodward Avenue, Suite 300

Birmingham, Michigan 48009

Main: (248) 642-0333 • Fax (248) 642-0856

rdr@wwrplaw.com

ACREL

Richard D. Rattner
Best Lawyers
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Troy, Michigan

SuperLawyers

Bio vCard wwrplaw.com

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--

Jana L. Ecker

Planning Director

City of Birmingham

248-530-1841

/



469/479 S. Old Woodward Avenue

Former Mountain King Restaurant/Drive Thru Bank

Rezone to D5

Pursuant to Zoning Ordinance Sec. 7.02B

Birmingham Planning Board

April 22, 2020



D5 Is the Culmination of Exhaustive Study

- ✓Contemplated for 2 years before enacted
- ✓Many study sessions, discussions, and public meetings
- ✓Advertised and noticed
- ✓Considered many different options
- ✓Multiple iterations of draft amendments
- ✓Studied entire downtown area and study by planning
  - ✓Consultant targeting this specific area of downtown

Article 1, Section 1.04

From 2016 Plan, Vision Statement



D5 will "reinforce [an] identifiable district in the Downtown to provide a sense of place."



D5 will allow for a "diverse mix of uses, including [street-level] retail, commercial . . . and especially residential."



D5 will allow a building that is "compatible, in mass and scale, with its immediate surroundings."

Establishment of Overlay Districts in 2016 Plan Ord. Art I,1.12,A

- The overlay districts …have been established to add additional and unique development standards which will better help the City of Birmingham accomplish the goals of the Downtown Birmingham 2016 Plan…"

D-5 Zoning Satisfies the Required Basic Provisions of Sec. 1.04 and Ord. Sec. 7.02(B)(2)(b)(i-iii)

- **D-5 Satisfies Purpose of Zoning Ordinance Sec. 1.04**
- **Rezoning Preserves Enjoyment of Rights and Usage Associated with Ownership Ord. Sec. 7.02(B)(2)(b)(i)**
- **Existing Zoning Not Appropriate Ord. Sec. 7.02(B)(2)(b)(ii)**
- **Rezoning is Not Detrimental to Surrounding Properties Sec. 7.02(B)(2)(b)(iii)**
- **D-5 Satisfies Purpose of Zoning Ordinance Sec. 1.04**

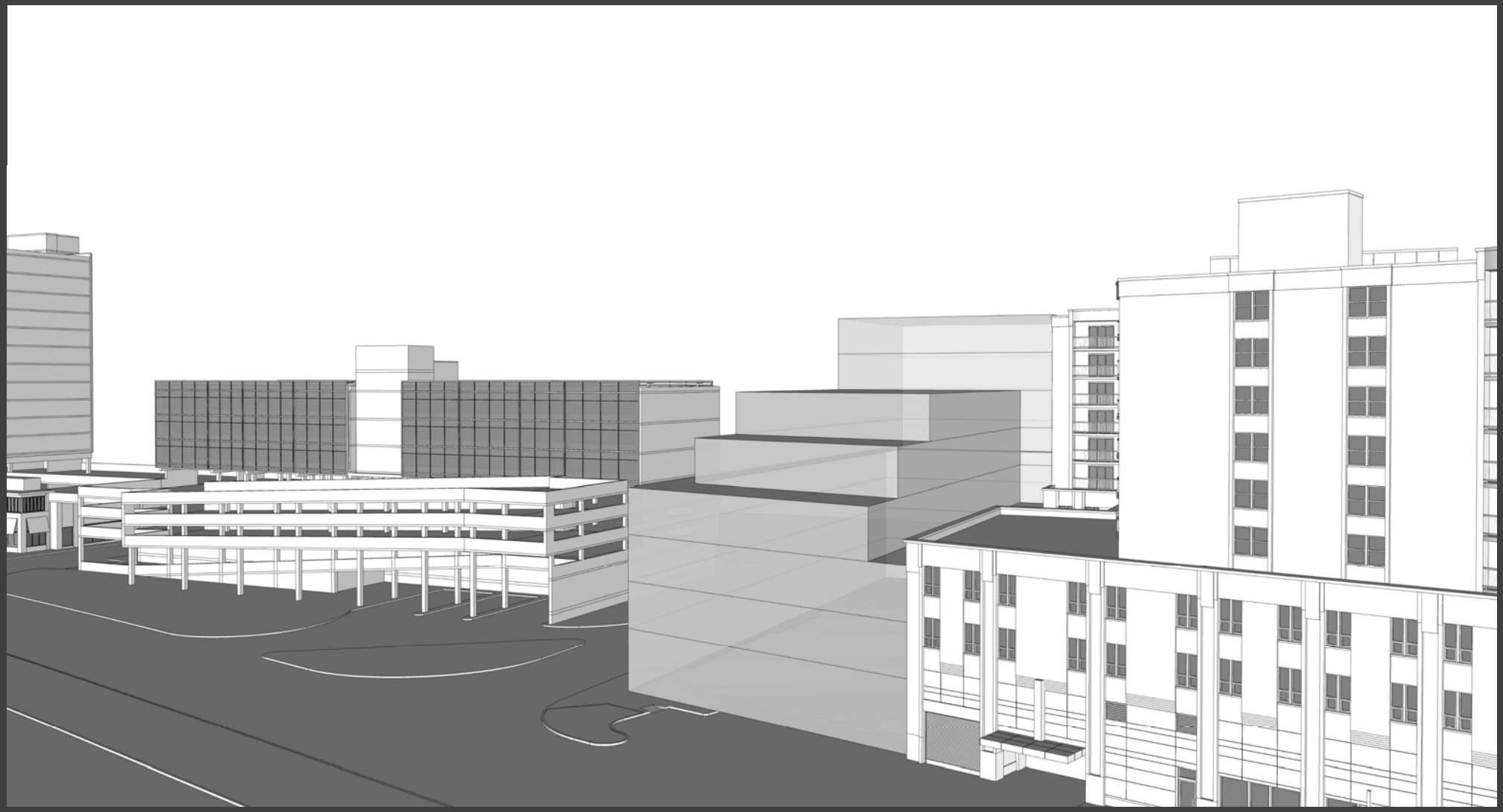
APPLICANT HAS DEMONSTRATED 5 FINDINGS OF ORDINANCE SEC. 7.02(B)(5)(a)-(e)

- ✓Sec. 7.02(B)(5)(a) –conforms to the City's Master Plan and 2016 Plan
- ✓ Sec. 7.02(B)(5)(b) – The proposed mixed uses of the subject property (retail, residential, and hotel) are consistent with existing uses in the neighborhood.
- ✓Sec. 7.02(B)(5)(c) –Properties in the general area (abutting and adjacent) are zoned D-5.
- ✓Sec. 7.02(B)(5)(d) – Property is not suitable to the uses permitted under existing zoning due to constraints of the property and the relationship to neighboring property.
- ✓Sec. 7.02(B)(5)(e) – Trend of development in the area favors D-5 zoning.

City Action

- The City, after consideration, has already amended the new D5 proposed ordinance language


479
ATM





dmarkus@markusllc.com




Thank You
Rezone to D5
Pursuant to Zoning Ordinance Sec. 7.02B
Birmingham Planning Board
April 22, 2020
Google Earth
Marble
Polishing

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, OVERLAY DISTRICTS, SECTION 3.04(A) TO AMEND THE BUILDING HEIGHT STANDARDS IN THE D5 ZONE OF THE DOWNTOWN BIRMINGHAM OVERLAY DISTRICT.

Article 3, section 3.04 (A) of the Zoning Ordinance:

> New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building ~~in the~~ **on a directly abutting** D5 Zone **property,** ~~to which they are immediately adjacent or abutting~~ if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit. **For the purposes of this section, private properties separated by public property (including public right-of-way and public vias), will not be deemed abutting.**

ORDAINED this _____ publication day of_____, 2020 to become effective 7 days after publication.

_____
Pierre Boutros, Mayor

_____
Cheryl Arft, Acting City Clerk

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

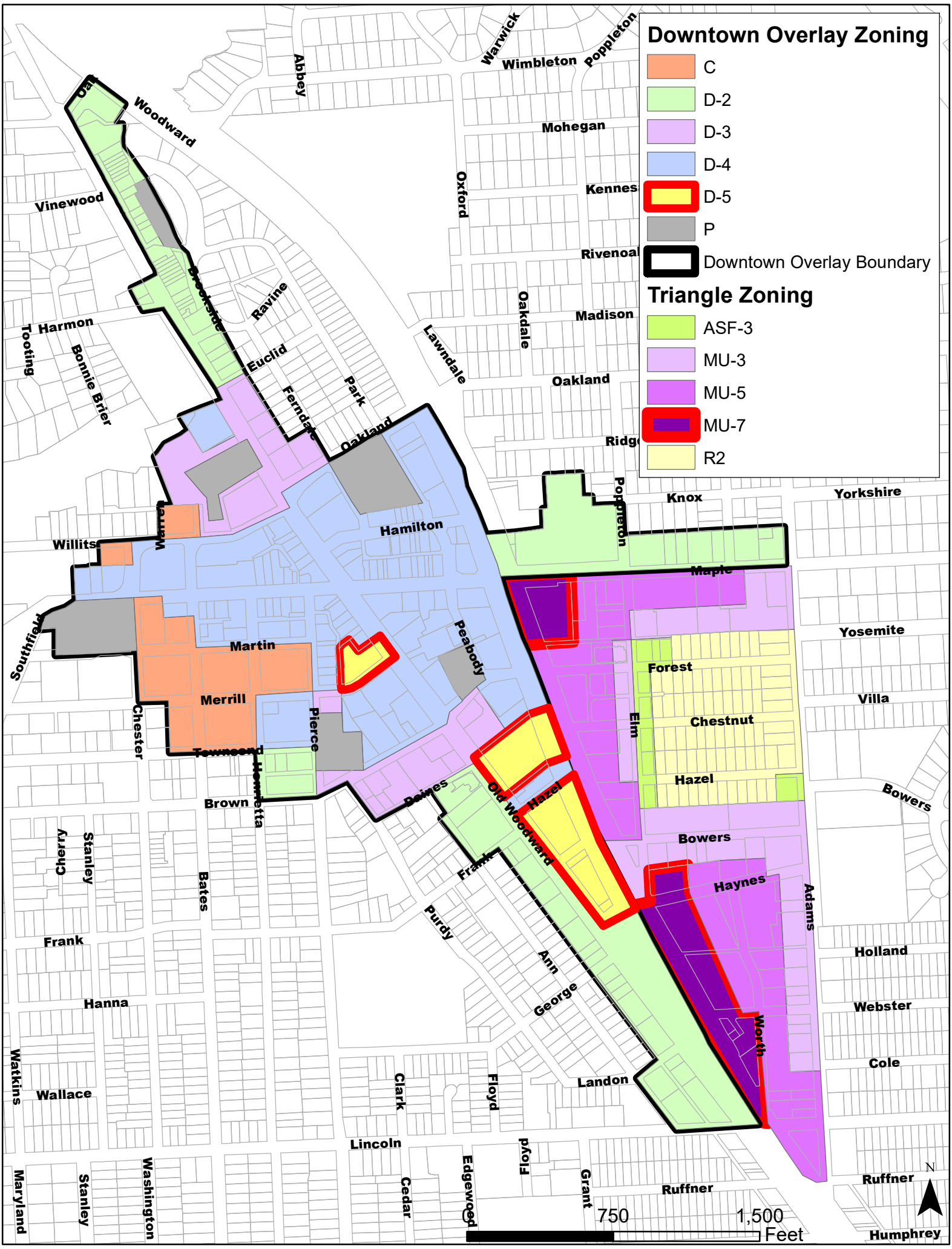
TO AMEND ARTICLE 9, DEFINITIONS, SECTION 9.02 TO DEFINE THE TERM ABUTTING.

<u>Abutting</u>: Sharing a boundary or property line.

ORDAINED this _____ publication day of_____, 2020 to become effective 7 days after publication.

_____
Pierre Boutros, Mayor

_____
Cheryl Arft, Acting City Clerk

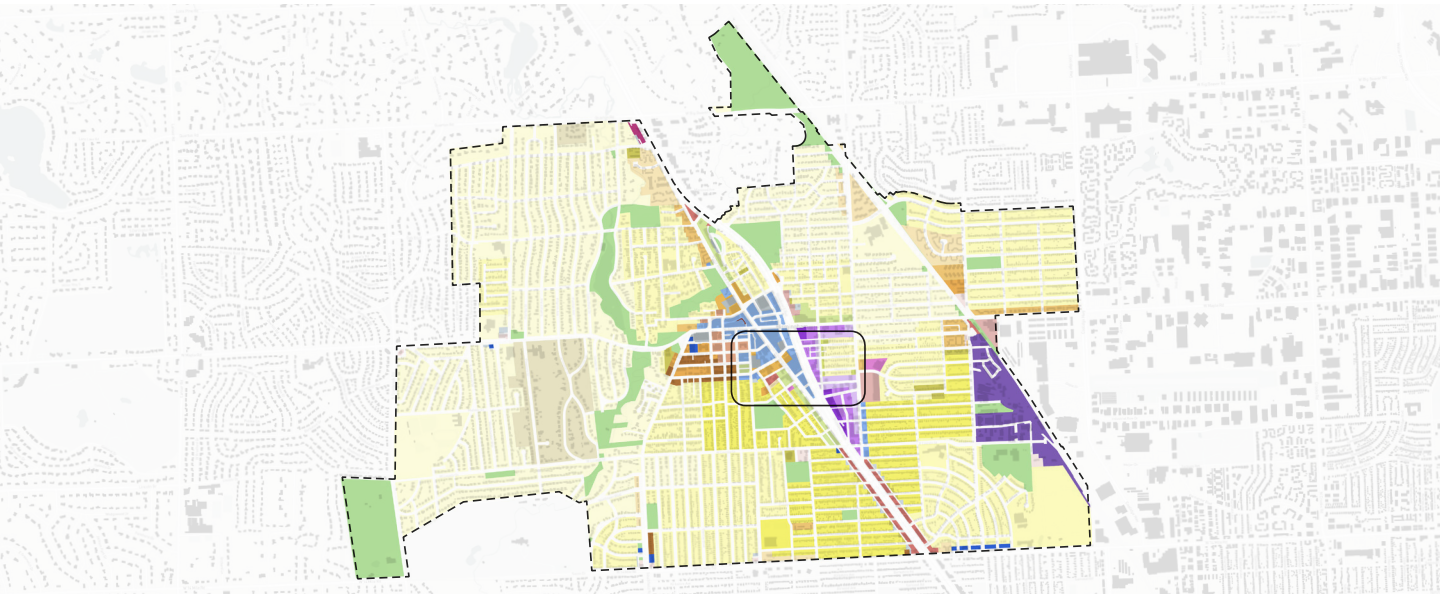

Downtown Overlay Zoning
C
D-2
D-3
D-4
D-5
P
Downtown Overlay Boundary
Triangle Zoning
ASF-3
MU-3
MU-5
MU-7
R2
Oak
Woodward
Vinewood
Abbey
Warwick
Wimbleton
Poppleton
Mohegan
Oxford
Kennes
Rivenoal
Madison
Oakdale
Lawndale
Oakland
Ridge
Brookside
Ravine
Euclid
Ferndale
Park
Harmon
Tooting
Bonnie Brier
Knox
Yorkshire
Maple
Yosemite
Villa
Willits
Martin
Hamilton
Peabody
Southfield
Martin
Merrill
Chester
Townsend
Pierce
Hunnetta
Brown
Forest
Chestnut
Elm
Hazel
Bowers
Old Woodward
Haynes
Adams
Holland
Webster
Cole
Worth
Landon
Ann
George
Purdy
Frank
Cherry
Stanley
Bates
Hanna
Watkins
Wallace
Clark
Floyd
Lincoln
Edgewood
Cedar
Grant
Ruffner
Humphrey
Maryland
Washington
750
1,500
Feet
N

D5 STUDY

DPZ
CODESIGN

D5 Study

Purpose



Purpose:

To conduct a focused study of the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue and make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height, to properties that are currently zoned to allow greater than 5 stories of height or due to other identified factors.

The Planning Board would then review the recommendations and use them to assist in clarifying the terms “abutting” and “adjacent” with regards to the D5 zone.

Zoning Enabling Act Reference:

125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.

Sec. 201.

1. A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state’s citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.
2. Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.
3. A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.
4. A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.

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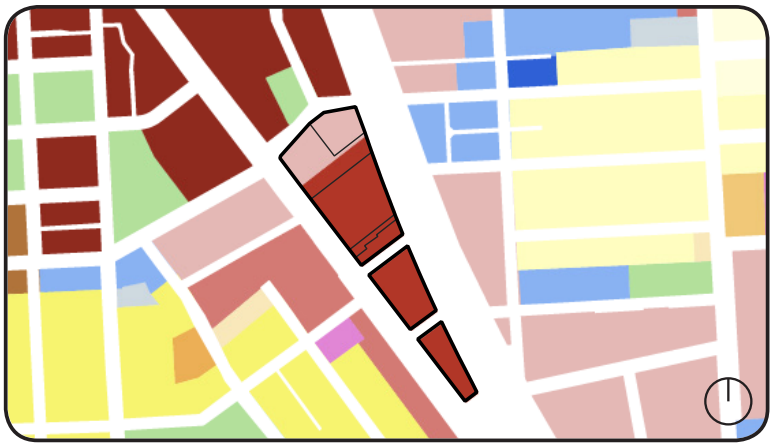
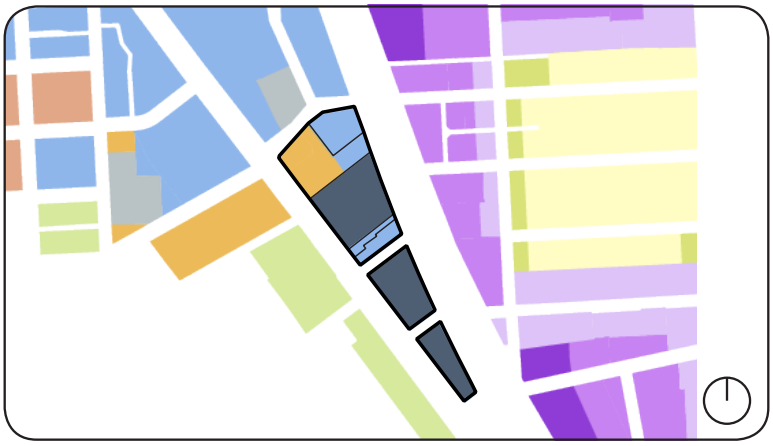
Zoning



Overlay zoning



Zoning district	max height
R3 SFR	28’
R5 MFR	30’
R7 MFR	50’
TZ1 attached SFR	35’
B-2 general business	40’
B-2B general business	40’
B-3 office-residential	60’
B-4 business-residential	60’
0-1 office	28’
0-2 office commercial	28’
P parking	50’
PP public property	-

Downtown overlay	max height
C community use	-
D2 3-story development	56’
D3 4-story development	68’
D4 5-story development	80’
D5 special land use	by permit
P parking structures	50’

Triangle overlay	max height
ASF-3 SFR	35’
R2 MFR	30’
MU-3 MFR	60’
MU-5 attached SF	82’
MU-7 general business	118’

Background:

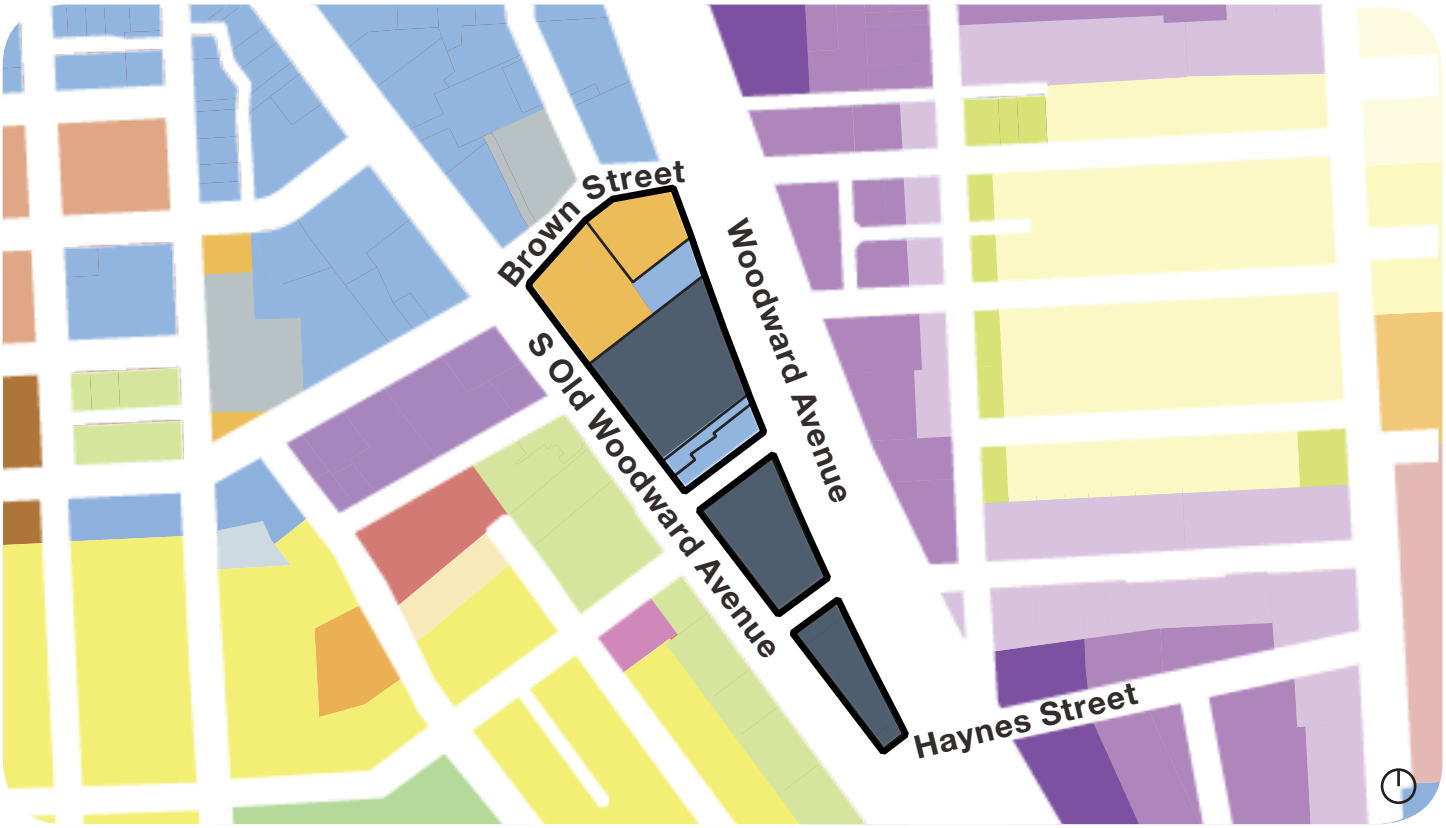
The D5 zone is an overlay zone within the Downtown Birmingham Overlay District (DBOD), which is intended to implement the Downtown Birmingham 2016 Plan. Originally, the DBOD included 3 overlay zones: D2, D3, and D4, as well as Civic and Parking zones for parks and public parking. The D5 zone was established in order to make three otherwise legally non-conforming buildings legally conforming, two of which are within the study area. Prior to D5, the three non-conforming buildings fell within the D4 district, which restricts buildings to 5 stories if the upper floor is residential and 4 stories otherwise. The D5 district permits building height per the D4 requirements, except where a Special Land Use Permit (SLUP) allows heights over 5 stories. Above 5 stories there is no specified limit, outside of the subjective evaluation requirements of the SLUP process requiring recommendation of the Planning Board and approval of the City Commission.

The study area includes D5, D4, and D3 overlay zones, which are mapped over B-3, office-residential, and B-2, general business. D3 limits height to 4 stories where the upper floor is residential and 3 stories otherwise. The limits for D4 were previously stated. Properties mapped with D5 include two existing structures which exceeded 5 stories prior to the DBOD. The D3 and D4 district boundaries do not coincide with property lines at the northern end of the study area where one property is mapped with both D3 and D4. This is likely due to the location of Downtown Overlay zones recommended within the 2016 Plan which were drawn by hand prior to widespread adoption of GIS. Within the mid-block, there are two small properties mapped with D4, properties to the south and north of these being D5. See the map above and on the following page with D5 in dark gray, D4 in light blue, D3 in orange, and D2 in light green. The light gray parcels are public parking.

D5 Study

Background

Effective zoning within and around the study area



The current City Master Plan, from 1980, had recommended reducing the overall development capacity within Downtown from its 4 story limit at the time to 2 stories, due to parking limitations. The buildings which required the D5 zone had already been constructed, and some indicate that their presence at the time is in part what instigated the desire for a Master Plan update in 1980. The 555 Building is specifically discussed in the Master Plan as being out of character due to its bulk, not necessarily its height. The Master Plan also indicates that other high-rise buildings may be appropriate within the downtown to accentuate the skyline, provided careful regulation to ensure compatibility. At the time, most of Downtown was 2 stories or below, with a few taller buildings. The incompatibility between the higher buildings and 2 story downtown as a general practice is noted. Discussion of the Merrillwood Building, a 6 story building which steps back at the 3rd floor, states that its corner location is appropriate for taller buildings as a compliment to the otherwise low height of Downtown.

The Downtown Birmingham 2016 plan provided a recommended overlay district for Downtown and discussed heights such that the area generally retain a cap of five stories as most traditional American downtowns are between 2 and 4 stories. The Downtown Overlay District follows the height recommendations of the 2016 plan and zoning district boundary recommendations, shown below, with the exception of D5 which was added later. The boundary between D3 and D4 within the study area that does not coincide with property lines is a result of this map. Presumably, since D4 generally surrounds the area, the D3 portion is intended to preserve an existing historic building. Across Old Woodward, D3 and D2 districts are intended to provide a transition to the adjacent neighborhood.

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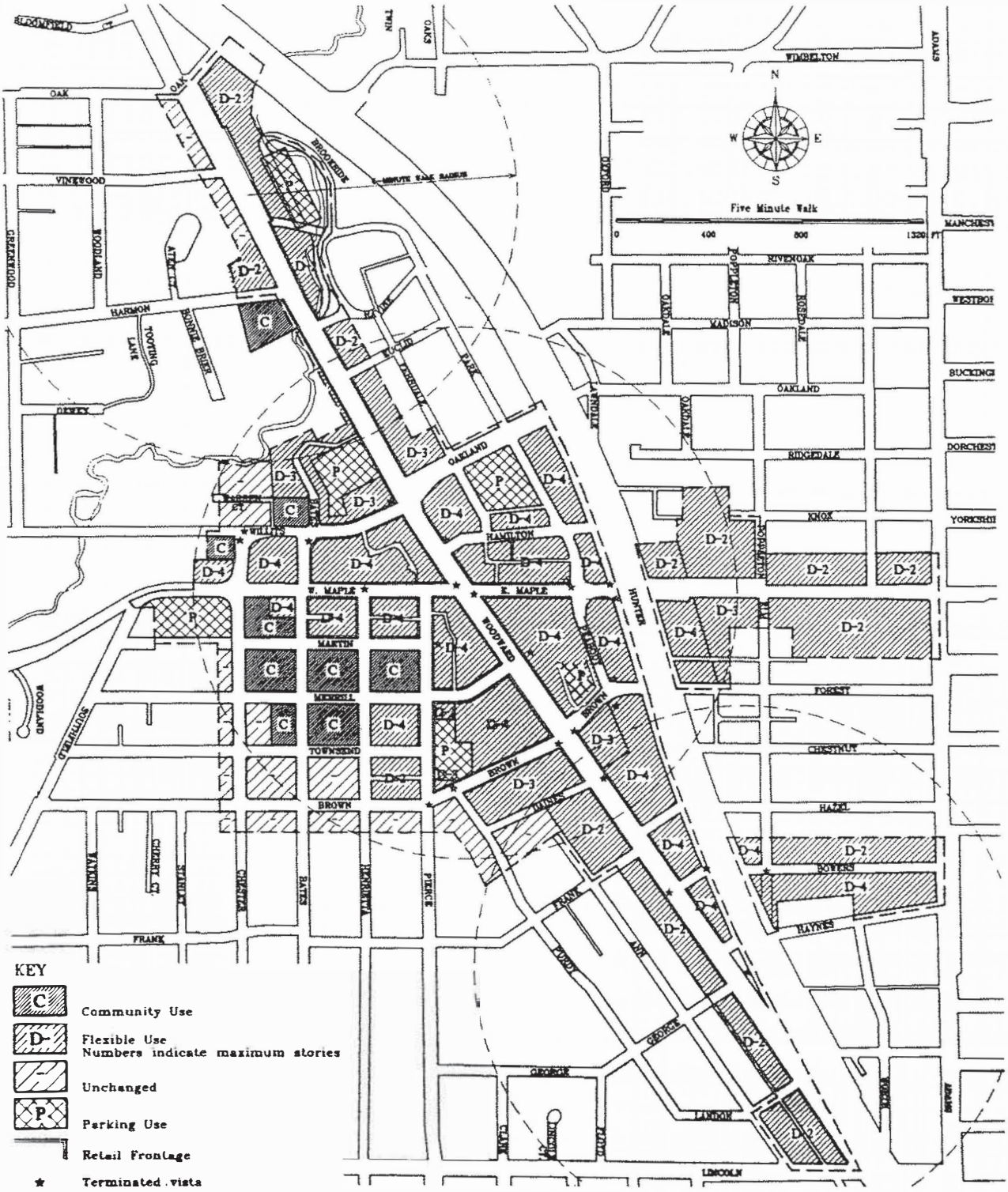
Downtown Birmingham 2016 APPENDIX F – 2

BUILDING 1: REGULATING PLAN



REGULATING PLAN OF THE DOWNTOWN BIRMINGHAM OVERLAY ZONING DISTRICT

D5 Study

Background

In addition to the core Downtown, the vision for the Triangle District, updated in 2007, is important contextually. Both the study area and the Triangle District frame the vision of Downtown Birmingham along big Woodward. The Triangle District Plan recommends that taller mixed-use buildings be located along Woodward, 7 to 9 stories, with medium height mixed-use buildings, 3 to 6 stories, within the District's interior. In all cases, the maximum permitted height is unclear due to the use of height bonuses where each stated height district can be increased in height, such as 3 Story Mixed-Use qualifying for 5 story buildings. The allocation of height and the Triangle District Overlay focus heavily on transitions to adjacent neighborhoods, especially the single-family housing which remains within the District. The study area is generally adjacent to areas of 5 to 6 story mixed-use buildings, due to the adjacency of those properties to residences along Forest, Chestnut, and Hazel. As apparent at Maple and Woodward and at Haynes and south along Woodward, the 7 to 9 story district would be mapped along the entirety of Woodward if residences were further, transitioning upward from the 5 to 6 story district.

The Birmingham Plan for 2040, currently in progress, has proposed that Downtown Birmingham be considered to include 3 districts: Market North, Maple and Woodward, and Haynes Square. This proposal is aimed at bridging the Woodward divide and at improving the quality of retail and development along south Old Woodward. Presently, the experience of travel along Woodward is that one drives by Downtown Birmingham, rather than through Downtown Birmingham. The 2040 plan intends to change this perception to one of driving through the core of Downtown Birmingham. The study area occurs at a key seam between Haynes Square and Maple and Woodward, framing the northern end of Haynes Square. The concept for Haynes Square is to connect Old Woodward with big Woodward at a right-angle, accompanied by a public open space, the square. This alleviates the dangerous traffic condition at the current intersection of these roads, and provides a central public space to mark the entrance to greater Downtown Birmingham.

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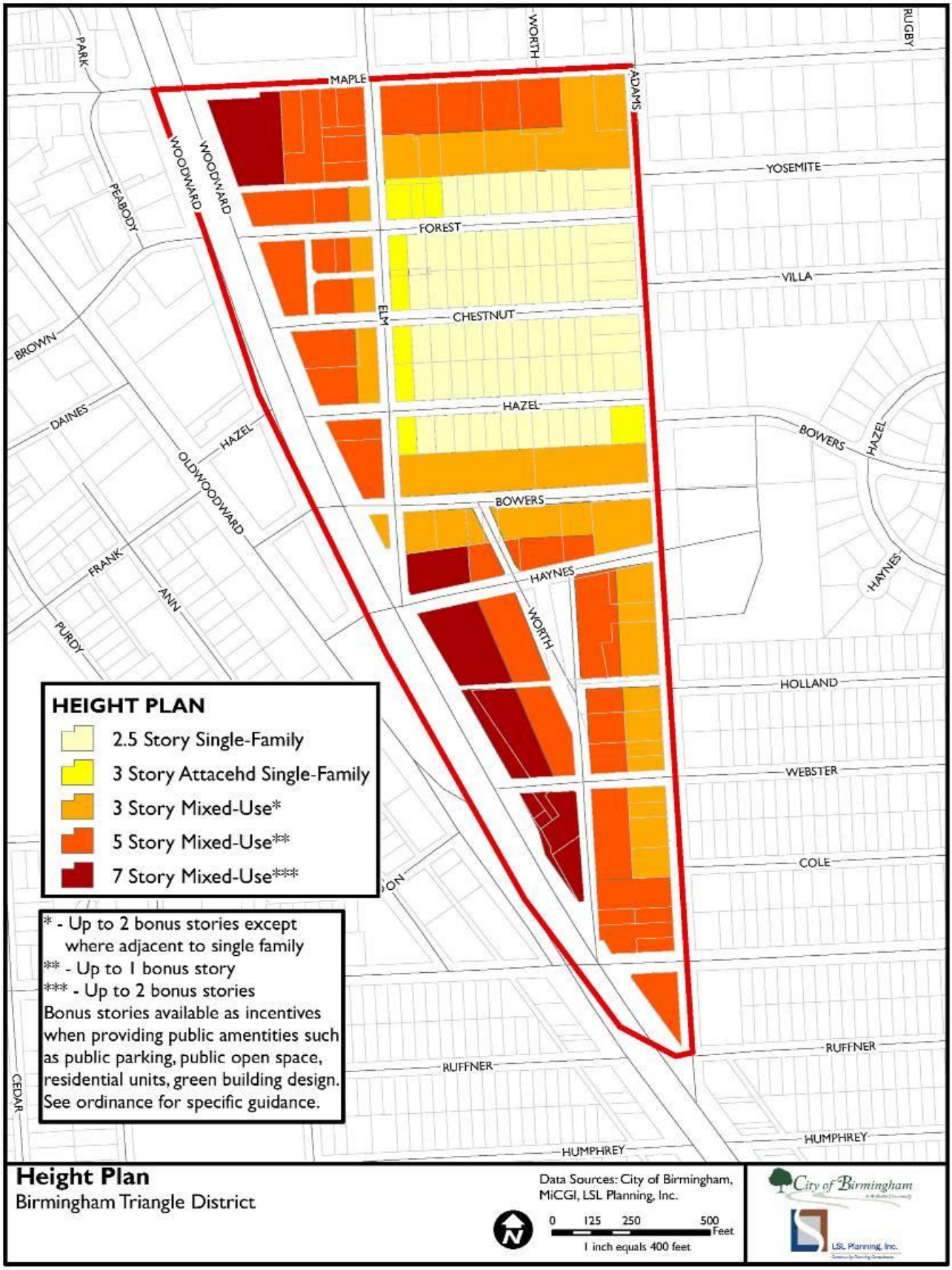
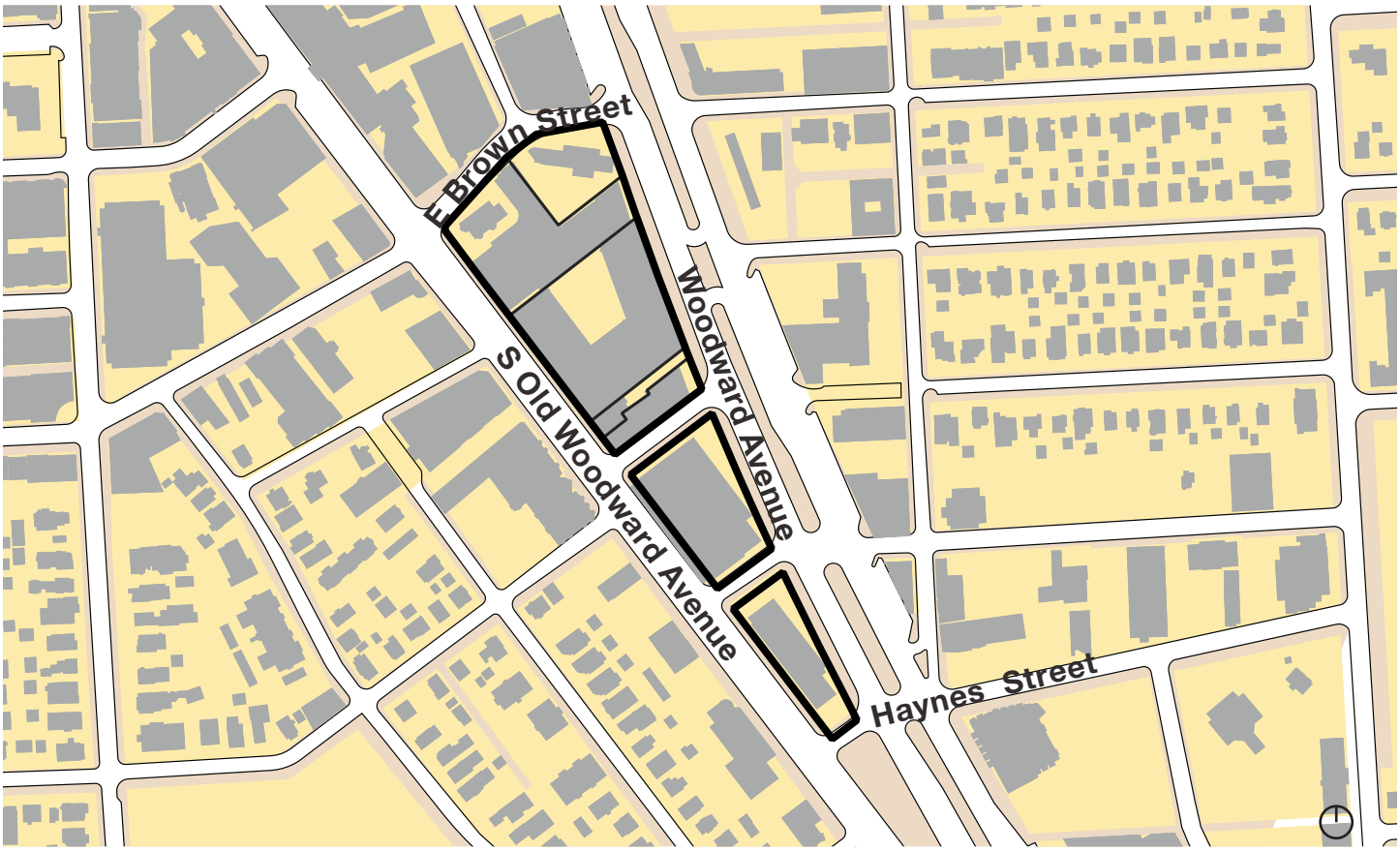

HEIGHT PLAN
2.5 Story Single-Family
3 Story Attacehd Single-Family
3 Story Mixed-Use*
5 Story Mixed-Use**
7 Story Mixed-Use***
* - Up to 2 bonus stories except where adjacent to single family
** - Up to 1 bonus story
*** - Up to 2 bonus stories
Bonus stories available as incentives when providing public amentities such as public parking, public open space, residential units, green building design. See ordinance for specific guidance.
MAPLE
WOODWARD
WORTH
ADAMS
RUGBY
YOSEMITE
FOREST
VILLA
CHESTNUT
ELM
HAZEL
BOWERS
HAYNES
HOLLAND
WEBSTER
COLE
RUFFNER
HUMPHREY
PARK
PEABODY
BROWN
DAINES
OLDWOODWARD
FRANK
ANN
PURDY
CEDAR
Height Plan
Birmingham Triangle District
Data Sources: City of Birmingham, MiCGI, LSL Planning, Inc.
0 125 250 500 Feet
1 inch equals 400 feet
City of Birmingham
LSL Planning, Inc.

D5 Study

Discussion and Recommendation

Current Building Footprints



Discussion:

In order to evaluate the request, DPZ Partners Matthew Lambert and Marina Khoury discussed the conditions of the study area and surrounding Downtown Districts. Marina was consulted due to her extensive code experience and her lack of familiarity with the specifics of Birmingham, and objective party. Matthew provided familiarity with the conditions of the study area, the 2040 plan in progress, and the reason for this request.

Prior to being informed about further specifics, Marina was provided the information included in the Background section of this document, including the 3d models of the current conditions and present zoning allowances. Her initial take away was based upon 3 assertions:

1. Nothing in the present assignment of height through zoning justifies retaining a lower height for any properties within the study area.
2. Zones should generally be contiguous.
3. The design of buildings has a greater impact on compatibility than height.

Initial assertions from Marina reinforced the conclusions that Matthew had also arrived at. Further discussion ensued, addressing other issues of design compatibility and public benefit that are beyond the scope of the request, and addressed through the existing Special Land Use Permit (SLUP) process that is embedded in the D5 zone.

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Overall, it is clear that the entire study area merits rezoning to D5. This triangle of land occupies a very special position in Downtown Birmingham where Woodward and Old Woodward separate from each other. Already, the study area has been developed at a scale above the majority of the downtown area. Were the Triangle District height map extended in concept across Woodward, the study area would be mapped with the 7 to 9 story district. The most significant position within the study area is the site of the 555 building, which merits the greatest height. The remainder of the study area provides background to that key site: a podium which is capped by place where the Woodwards meet.

Impact overall must also be addressed. The sites within the study area that are not currently D5 would only impact directly abutting (sharing a property line) properties, Birmingham Place, which is already a taller building within D5. Context is established by the nearby properties, which includes the 555 building even though it is in the study area, properties zoned between 6 and 9 stories in the Triangle District, and 4 to 5 story properties within the overall Downtown District. Old Woodward and Woodward are both very wide roads where taller buildings on one side of the road have a limited impact on those adjacent properties across the road. In fact, due to the size of both roads, they require taller buildings to create a street room, greater height along Woodward than Old Woodward, as is recognized by the Triangle District zoning. Brown is also a relatively wide road, a portion of which is occupied by a parking structure. Taller buildings along the south side of Brown may require one or more stepbacks, which is already provided for in D4 and further requirements possible through D5's SLUP process. Hazel is the street where nearby properties are most impacted, however the only impacted property is the 555 building which is already tall and presents a mostly blank wall to the north.

One concern remains which is the preservation of the Ford-Peabody Mansion. This concern reflects the Downtown Overlay mapping of the 2016 Plan. While presently a listed historic resource, the Historic Preservation Ordinance provides little protection for the building overall. While the allocation of heights and zoning districts is not necessarily to be concerned with preservation in a downtown area, allocating significant additional height may induce development and loss of the historic asset. Yet the mansion could be relocated were the site to be redeveloped. This is a consideration left for the appointed boards and elected officials to address. Concerning the specifics of the request made, setting aside the question of historic significance, this site would also qualify for rezoning to D5.

Lastly, we want to reiterate an important point: the design of buildings is more impactful to compatibility than height. This sentiment was discussed at length in review of the study area, and also stated in the 1980 Master Plan which considered this same issue of the impact of height on the city. As also stated in the 1980 plan, the design of the 555 building was considered to be less compatible due to the long mass of the larger portion of the building. Should the study area be rezoned to D5 as recommended, it is incumbent upon the Planning Board and City Commission to ensure that the massing and design of any new building is compatible with the context.

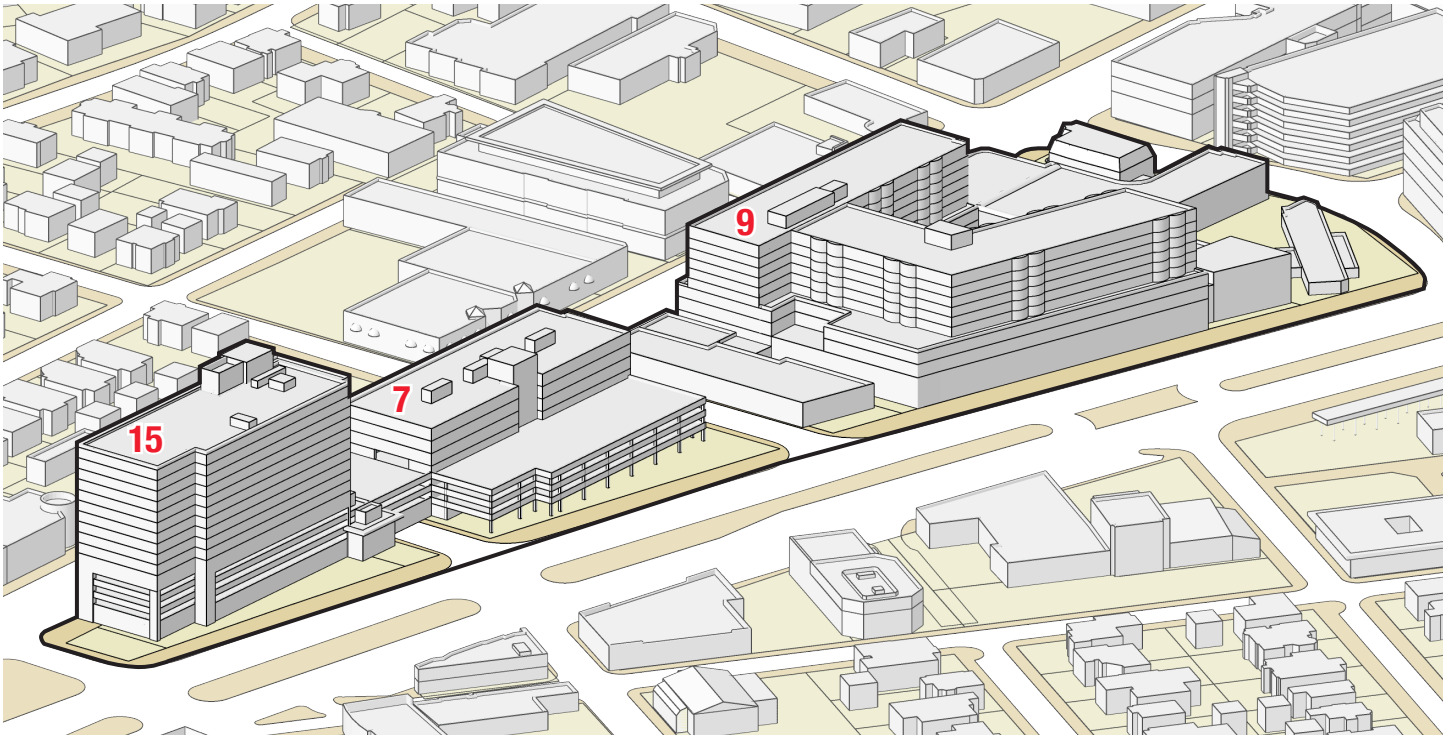
Recommendation:

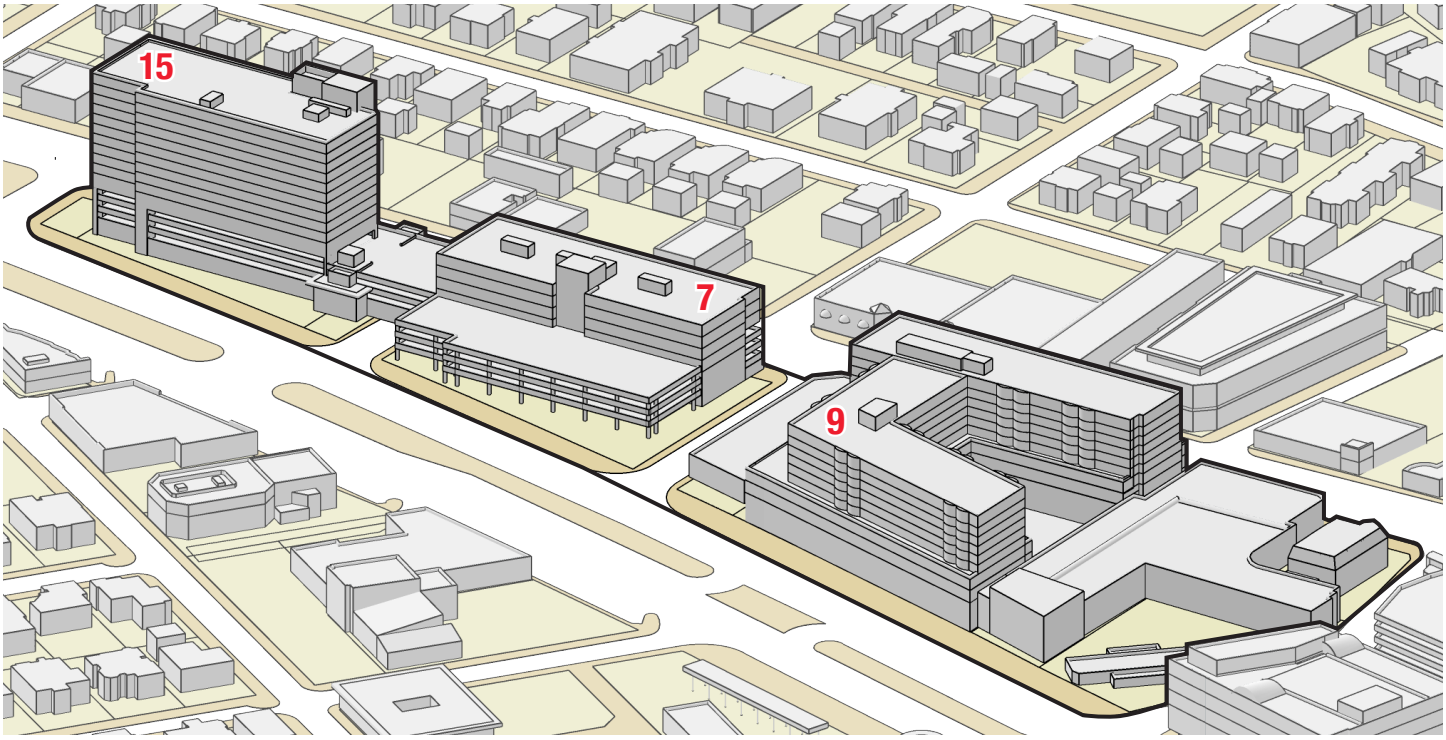
All properties within the study area should be eligible for rezoning to D5, with the potential exception of the Ford-Peabody Mansion for considerations related to preservation.

D5 Study

Massing Studies - Existing condition

 # Height of buildings in stories





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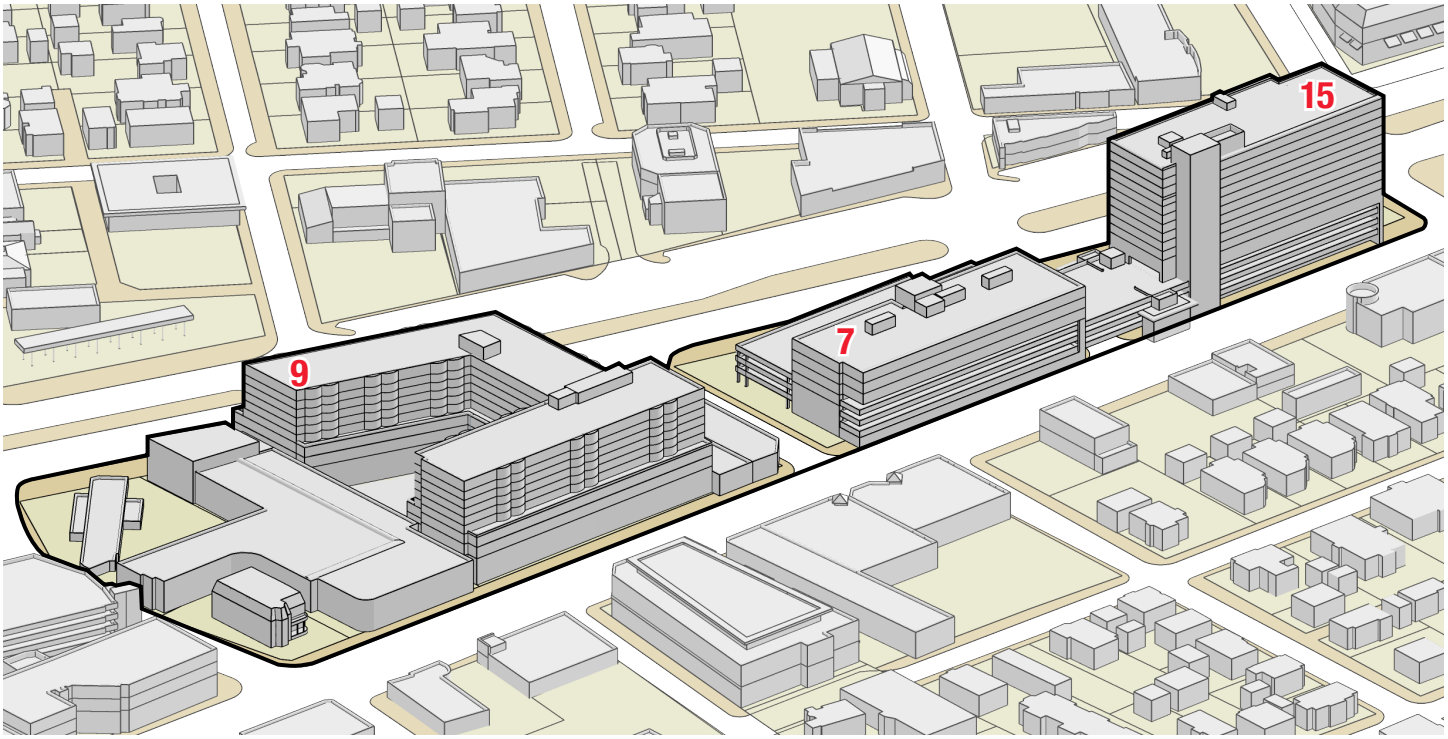
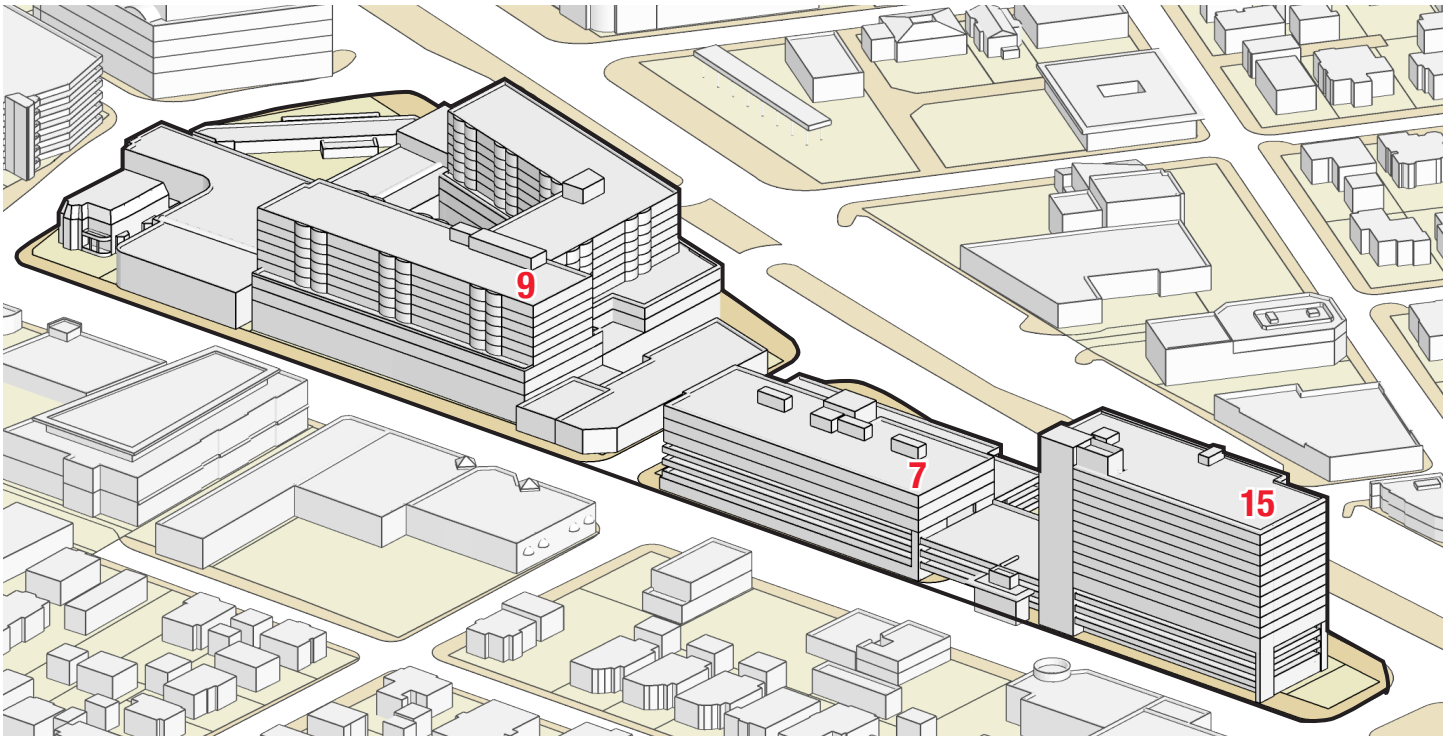
 # Height of buildings in stories





D5 Study

Massing Studies - Development potential under current zoning

Downtown Overlay

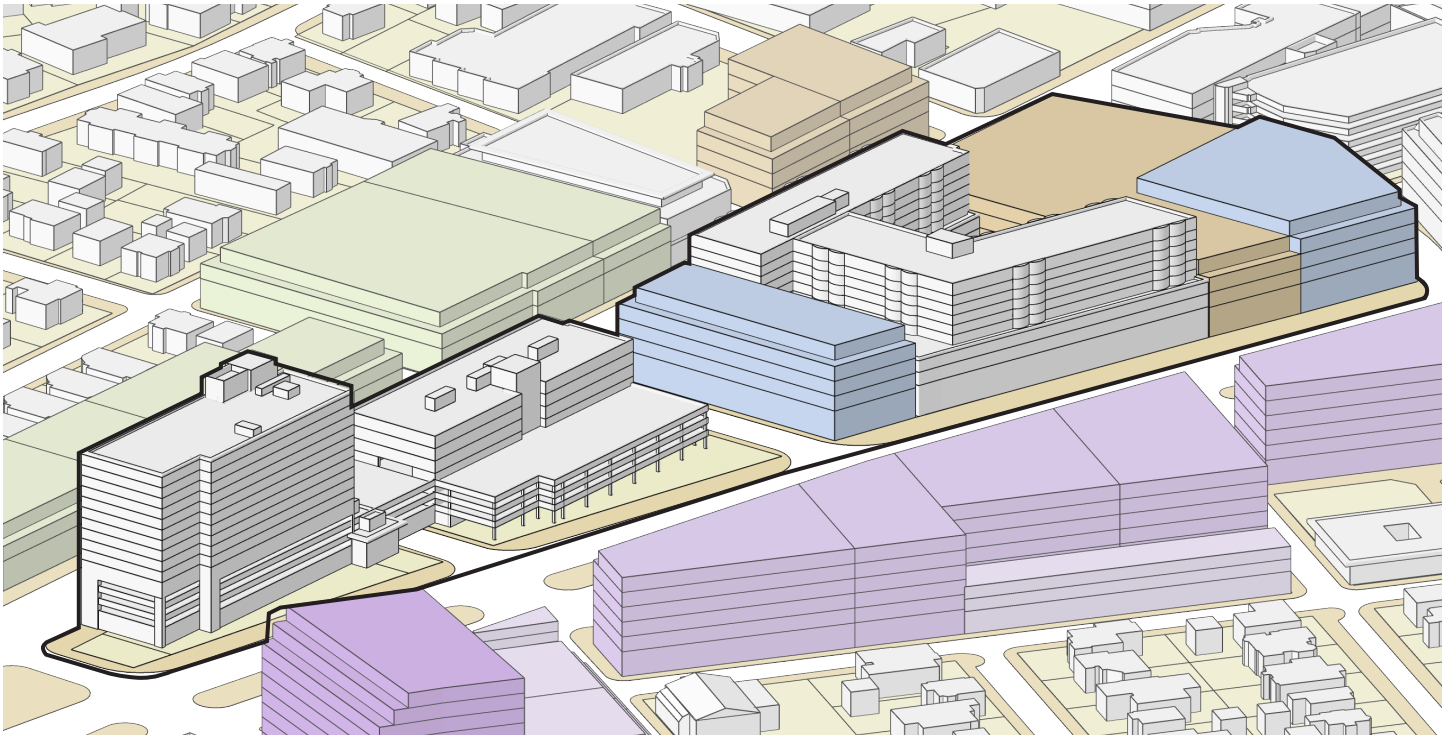
max allowable heights:

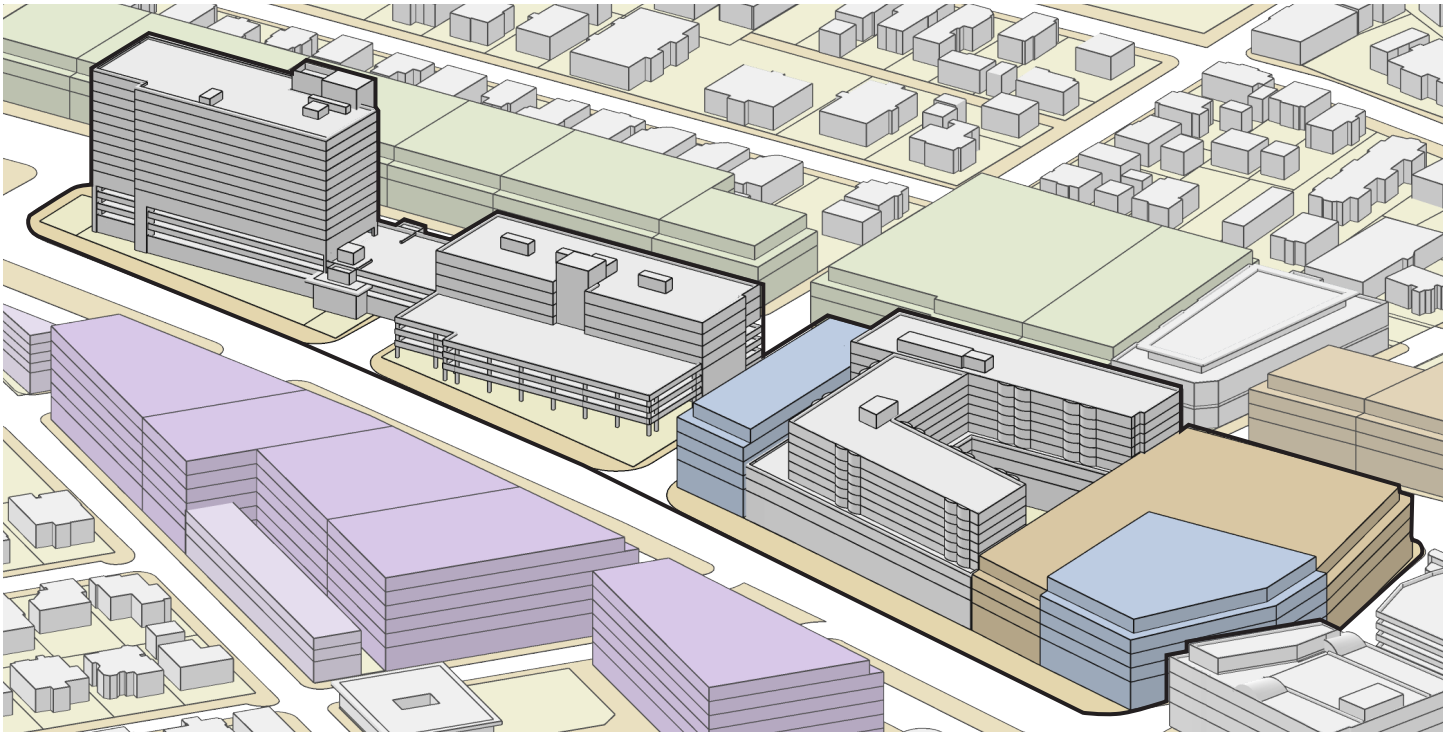
- **D2** 3-story development - **56’**
- **D3** 4-story development - **68’**
- **D4** 5-story development - **80’**

Triangle Overlay

max allowable heights:

- **MU-3** MFR - **60’**
- **MU-5** attached SF - **82’**
- **MU-7** general business - **118’**





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Massing Studies - Development potential under current zoning

Downtown Overlay

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Triangle Overlay

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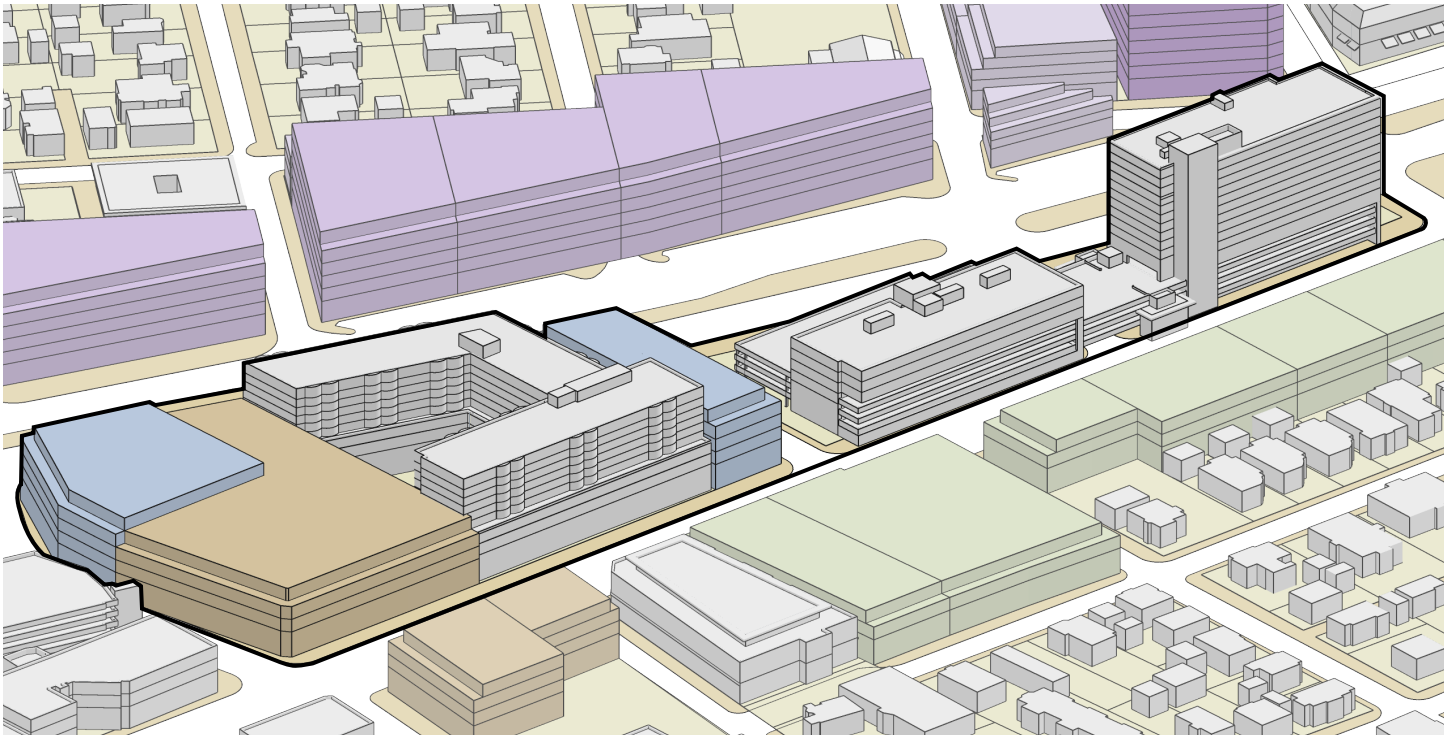

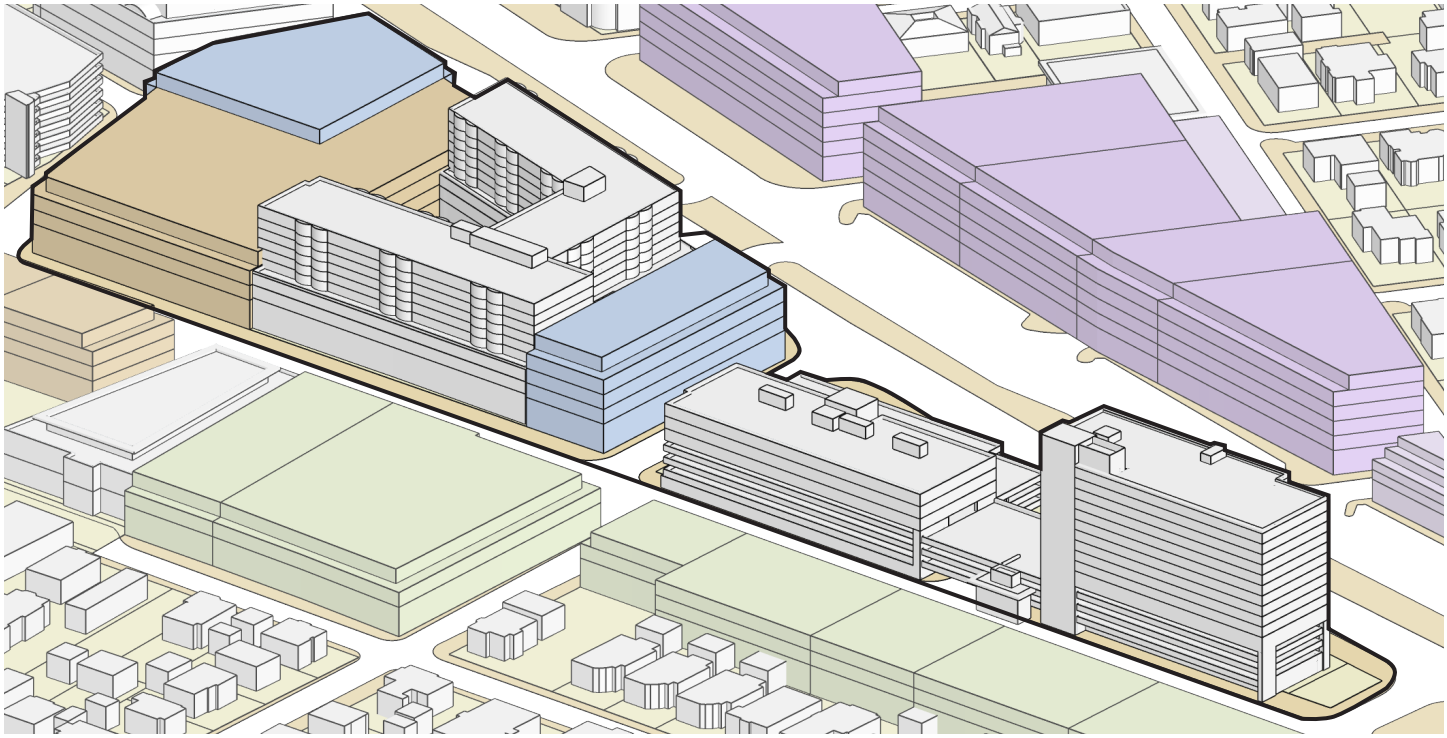

411 S. Old Woodward Ave., Unit 1018
Birmingham, MI 48009
May 16, 2018

VIA HAND DELIVERY

Ms. Jana Ecker, Director
City of Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Development")
Request to Rezone from B3/D4 to B3/D5 Filed by Christopher Long
on Behalf of Birmingham Tower Partners, LLC (the "Applicant ")
Hearing Scheduled for Wednesday, May 23, 2018 (the "Hearing")

Dear Ms. Ecker:

I request that the Hearing be rescheduled for two (2) reasons. First, I received notice of the Hearing by mail on May 8, 2018 and visited the City Planning Office on Friday, May 11, 2018 to review the application. As of that date, the Applicant had not filed the statements required under subsection 7.02 B.2.b of the Rezoning Amendments (i.e., explanations of why rezoning is necessary, of why the existing zoning classification is no longer appropriate, and of why the proposed rezoning will not be detrimental to the surrounding properties). I suggest that failure to timely file those explanations caused the notice of the Hearing not to meet the fifteen (15) day advance notification required under subsection 7.02 B.4.a.i of the Rezoning Amendments.

Second, as a Birmingham resident living adjacent to the Proposed Development, I would appreciate time to review the very extensive documents filed by the Applicant. I suggest that public input is critical on a project that seeks to permission to erect the first building greater than five (5) stories to be built in downtown Birmingham in decades, which could well set a precedent for continuing development of high rise structures in our beautiful community. Substantial additional time will be required for myself and the many other Birmingham residents who are affected by the Proposed Development to adequately review and to respond to these filings.

Please contact me at the above address, via email to mickeyschwartz@gmail.com, or at telephone numbers (248) 229-9989 or (248) 593-3155 with any questions or further requirements and in any event with the new hearing date. Thank you for your time and attention.

Yours very truly,

Michael Schwartz, MD

xc: Applicant (via email to dsmarkus@yahoo.com)
Planning Board Members (via separate emails)

Eric and Janis Sterling
411 S. Old Woodward Avenue, Unit 615
Birmingham, MI 48009

June 7, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Eric Sterling

Janis Sterling

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Fwd: 469-479 S. Old Woodward Ave. (the " Proposed Project") Objection

1 message

Stuart Jeffares <stuartjeffares@gmail.com> Wed, Jun 13, 2018 at 9:52 PM
To: Jana Ecker <jecker@bhamgov.org>

---------- Forwarded message ---------
From: Alice Lezotte <zareyskid@gmail.com>
Date: Sun, Jun 10, 2018, 12:53 PM
Subject: Fwd: 469-479 S. Old Woodward Ave. (the " Proposed Project") Objection
To: <stuartjeffares@gmail.com>

Sent from my iPad

Begin forwarded message:

From: Alice Lezotte <zareyskid@gmail.com>
Date: June 10, 2018 at 12:47:33 PM EDT

Subject: 469-479 S. Old Woodward Ave. (the " Proposed Project") Objection

411 S. Old Woodward. #511
Birmingham, MI. 48000
June 8, 2018
Mr. Jeffares, I am a city of Birmingham constituent. I would like to express my disapproval and opposition to the request for rezoning and to the Proposed Project itself.

The Birmingham city code has many statements to keep in mind when considering a new city project (I paraphrase):

1. Regulation and control of a project should promote the public health, safety, and general welfare of the city
2. Provide orderly growth and HARMONIOUS development
3. Secure adequate traffic circulation and "lessen" congestion on our streets
4. Ensure adequate provisions for water drainage, sanitary sewer facilities, and other health requirements
5. Achieve the maximum utility and "livability" of a project
6. Natural features must be preserved and changes should "add" to the attractiveness and "value" of the neighborhood
7. Any Proposed project should take into consideration as to the impact on adequate supply of light and air to adjacent properties and the capacity of essential public facilities, such as police and fire protection, drainage structures, municipal water, sanitary sewers, and refuse disposal

Wise decisions have been made in the past (e.g., Forefront, Bristol,etc.) in accordance with The city's 2016 Master Plan and our Building Codes.

It is my hope similar consideration will prevail and this proposal will be denied.
Maple Road and Woodward on the south east corner would be an ideal location for this proposed project.
We want to keep our "Walkable" community as safe and pleasant as possible.
Best regards,
Alice Lezotte

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Fwd: Proposal for a 9 story building on S. Old Woodward, Birmingham

1 message

Stuart Jeffares <stuartjeffares@gmail.com> Wed, Jun 13, 2018 at 9:52 PM
To: Jana Ecker <jecker@bhamgov.org>

---------- Forwarded message ---------
From: Julie Wolfe <julie@moosejaw.com>
Date: Sun, Jun 10, 2018, 1:08 PM
Subject: Proposal for a 9 story building on S. Old Woodward, Birmingham
To: Julie Wolfe <julie@moosejaw.com>

From: Julie Wolfe

411 S. Old Woodward #1021

Birmingham, MI 48009

6/10/18

Birmingham City Commission

Birmingham Planning Board

151 Martin Street

Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project ”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. More construction to this area is very disturbing and frustrating. The city has been torn up enough.

Thank you.

Julie Wolfe



2 attachments



image001.png
6K



image003.png
7K

Edwin B. and Felicia P. Shaw
411 South Old Woodward Ave. Unit #910
Birmingham, Michigan 48009

June 12 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Edwin B. Shaw

Felicia P. Shaw

THE ELIA GROUP

www.theeliagroup.com

The Elia Group, LLC
Real Estate & Development Services

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members:

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable 'gap' between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the D5 zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

The Elia Group, LLC

Zaid D. Elia, President

124 S. Old Woodward • Suite A • Birmingham, MI 48009 • 248.645.7777 (Phone) • 248.645.7771 (Fax)

Joe Vicari
RESTAURANT GROUP

Phone: 586-268-3200 | Fax: 586-268-3224
7096 E 14 Mile Rd Warren, MI 48092
andiamoitalia.com

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

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Sincerely,

Joseph P. Vicari

Joseph P. Vicari
7096 E. 14 Mile Rd.
Warren, MI 48092

JONNA
CONSTRUCTION CO.
www.jonnacompanies.com

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

Jonna Construction is a builder and investor in Downtown Birmingham.

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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9. Contribute to the economic vitality of the City of Birmingham.

JONNA
CONSTRUCTION CO.
www.jonnacompanies.com

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Frank G. Jonna
6200 2nd Ave., Suite D-102
Detroit, MI 48202

YALDO LAW
PLLC

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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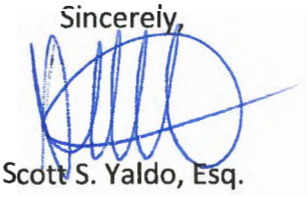
9. Contribute to the economic vitality of the City of Birmingham.

500 S. Old Woodward Ave., Second Floor, Birmingham, MI 48009
Phone: (248)645-5300 Fax: (248)645-5301
www.yaldolaw.com

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,



Scott S. Yaldo, Esq.

VISION
INVESTMENT PARTNERS

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete and old one-story buildings that sit between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.
10. This project would continue to make the City of Birmingham the premier city to live and shop

40700 Woodward Ave. Suite 125 Bloomfield Hills, MI 48304 Phone 248.865.1515

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Kevin Denha
40700 Woodward Ave Suite 125
Bloomfield Hills, MI. 48304

ISHBIA & GAGLEARD, P.C.
ATTORNEYS AND COUNSELORS
MERRILLWOOD BUILDING
251 MERRILL STREET, SUITE 212
BIRMINGHAM, MICHIGAN 48009

(248) 647-8590
(800) 647-6269

FAX (248) 647-8596

JEFFREY A. ISHBIA
MICHAEL A. GAGLEARD *
MARK W. CHERRY
DAVID N. ZACKS **

PHILIP CWAGENBERG
FRANK J. LAROCCA
MICHAEL J. WEISBERG **
SARA E. ROHLAND

ISIDORE B. TORRES, OF COUNSEL
C. GILES SMITH, JR., OF COUNSEL

* ALSO ADMITTED IN CALIFORNIA
** ALSO ADMITTED IN FLORIDA

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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Sincerely,

ISHBIA & GAGLEARD, P.C.

Jeffrey A. Ishbia

NAJOR

600 N. Old Woodward
Suite 100
Birmingham, MI 48009

T 248.433.7000
F 248.433.0900
www.najorcompanies.com

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Brian Najor
Najor Companies
600 N. Old Companies, Ste 100
Birmingham, MI 48009

JONNA

luxury homes

6/20/18

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Joseph Jonna, Jonna Luxury Homes

LAW OFFICES OF
RANDAL TOMA & ASSOCIATES, P.C.
500 S. OLD WOODWARD AVENUE, SECOND FLOOR
BIRMINGHAM, MICHIGAN 48009
OFFICE (248) 948-1500
FAX (248) 948-1501

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

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Very truly yours,
RANDAL TOMA & ASSOCIATES, P.C.

Randal S. Toma
Attorney at Law

Lexi Drew
152 N Old Woodward
Birmingham, MI 48009
248.220.1731

Date 6/20/2018
Birmingham City Commission & Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue
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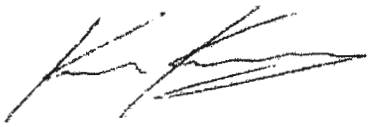

Kevin Kejbou
152 N Old Woodward
Birmingham MI 48009

CBRE

2000 Town Center
Suite 2200
Southfield, MI 48075

248 353 5400 Tel
248 353 8134 Fax

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

David Hesano
First Vice President
David.hesano@cbre.com

DJ MARLUC HOLDINGS LLC

6632 Telegraph Rd. #359
Bloomfield Hills, MI 48301

6/18/2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable 'gap' between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

John Kello

NINE9
THE UNAGENCY

DETROIT ATLANTA CHICAGO CLEVELAND DALLAS HOUSTON LOS ANGELES MIAMI NEW YORK SAN FRANCISCO SOUTH JERSEY WASHINGTON DC

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Anthony Toma
CEO & Founder
Nine9
2653 Industrial Row Dr.
Troy, MI 48084

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

RE: Proposed Project at 469-479 S Old Woodward Avenue

Dear City Commission and Planning Board Members,

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Gregg Speaks
Managing Director
CIBC Bank USA
34901 Woodward Avenue, Suite 200
Birmingham, MI 48009

EQUAL HOUSING LENDER | MEMBER FDIC

MIDWEST HOSPITALITY GROUP INC.

June 20, 2018

Birmingham City Commission

Birmingham Planning Board

151 Martin Street

Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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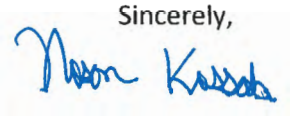
For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,



Nason Kassab

35270 Woodward Ave

Birmingham, MI 48009

2941 Mediterranean
street food

June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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9.Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Jacques Van Staden - Founder & CEO
176 S. Old Woodward Ave
Birmingham, MI 48009

David Breedlove
85 Tradd Street
Charleston, SC. 29401

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project referenced above. I am no longer a resident of Birmingham but maintain a condominium in Birmingham. Birmingham has been my home for most of my 70 years since my parents bought their first home on Villa in 1949. I remember visiting Pearls for a nice Chinese dinner. So, I know the area well. And while we moved from our home on Lincoln to warmer weather after retirement, Birmingham will always be home. I have watched how the character of the town has changed over the last 65 years. I was sad when the City allowed 555 to be built. I will always believe it was a mistake. We do not need another mistake.

I was encouraged when the City leaders realized they needed to protect the character and feel of the city. There was no place for skyscrapers in Birmingham. The city's 2016 Master Plan recognized the need to control the height of new buildings in the city center. I think they have done an excellent job over the last twenty years.

I have watched in my new home, Charleston, as real estate investors have tried to come in and build one more hotel and destroy what makes Charleston attractive. It is an on-going battle. You are faced with the same economic pressures and arguments I hear in Charleston. It is just one more hotel. There are already buildings of similar height in town. The city needs more hotel rooms. It will generate more business in town. The arguments are always the same and unfortunately, so are the results. The town becomes more impersonal. Small businesses are replaced by those that cater to the transient visitors. Residents must go elsewhere to shop.

As city commissioner, you must protect what you have today and what makes Birmingham so attractive as a place to live, work and raise a family. It is unique place in southeast Michigan, beautiful neighborhoods surrounding a friendly and inviting downtown.

I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept I firmly believe is very important to

maintaining the character and long-standing plan for this beautiful city. If someone wants to build a 9 or 10 story hotel, let them go to Troy or Southfield.

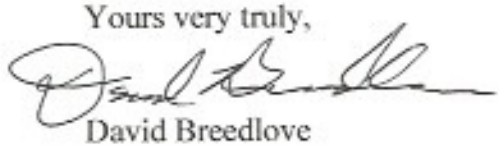
The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population. Approving a change to the zoning will open the door for the next developer to come in and argue for a similar change. What is the argument against building a high rise on the North side of Birmingham Place? Across the street?

I cannot assess the technical implications of the proposal such as traffic, impact on city services, disruption of business during construction and impact on surrounding structures. I leave that to the Commissioners and their technical experts. The parties who purchased the reference property knew the zoning at the time. They are calculating they can change the City Commissioner's minds. They are not concerned with the long term implications to the city but only how to maximize return on their investment. I sincerely hope their calculations are wrong. Another high rise in the southern end of town will ruin the neighborhood feel and open the door for more rezoning requests.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve what is a beautiful and people friendly city.

Yours very truly,



David Breedlove

THE ABRO LAW FIRM

Phone: (248) 723-4545
Fax: (248) 598-4049
E-Mail: gus@abrolaw.com

500 S. Old Woodward
Second Floor, Suite 200
Birmingham, Michigan 48009

ATTORNEYS AND COUNSELORS AT LAW

June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

RE: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Thank you for your attention herein. As always, should you have any question or require any additional information, please do not hesitate to call me directly. I remain,

Very truly yours,

THE ABRO LAW FIRM

Gus J. Abro, Esq.

GA/gja

City of Birmingham Fire Department

572 South Adams • Birmingham, Michigan 48009 • 248.530.1900 Fax 248.530.1950

June 22, 2018

Jana Ecker, Planning Director
City of Birmingham (MI)
151 Martin St.
P.O. Box 3001
Birmingham, MI 48012-3001

Dear Jana:

I am following up on our communications in regards to residents at 411 S. Old Woodward known as Birmingham Place and their concerns with fire protection. The proposed project at 469-479 S. Old Woodward is potentially going to be a nine story building, built very close to the South side of Birmingham Place. Their concern is the fire department's ability to fight a fire at Birmingham Place if the proposed project does not allow aerial operations on the South side of the building.

Though we would not deploy our aerial truck for operations on the South side of the building, we do have access from both the East and West sides of the building. Our aerial truck has an extended 100' ladder which would reach approximately six to seven stories based on the distance the aerial is positioned, due to this most high rise fires are fought from the inside of a high rise building. The Birmingham Place has a fire pump to increase pressure to upper floors, fire suppression sprinklers that when activated would extinguish a fire or contain the spread of the fire, standpipes at each floor allowing firefighters to connect hose lines to fight a fire and a fire alarm which would alert residents of the building. The exterior of the building is of a material that is non-combustible and smoke alarms throughout the building. Our officers and firefighters are well trained to aggressively attack a fire in a high rise building. There should be no concerns that the proposed project would hinder fire operations in the Birmingham Place.

I hope this letter will help ease the concerns of our residents as the Planning Board and other stakeholders discuss the proposal and the future of the site. Please let me know if I can assist you in any other way.

Sincerely,

John M. Connaughton, Fire Chief

John M. Donohue
Assistant Chief / Operations

John M. Connaughton
Fire Chief

Joel Campbell
Acting Fire Marshal

Since 1973
WWRP
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

Corrected
May 17, 2018

City of Birmingham
City Commission
151 Martin St.
Birmingham, MI 48009

Re: Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the Planning Board and City Commission:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a Supplement to the referenced rezoning Application file to rezone the Subject Property from the **D-4** Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

Executive Summary

The Subject Property is a former single-story restaurant building and bank that sits between two existing tall buildings in the City. Birmingham Place is located to the north and the 555 Buildings are located to the south. The placement of the buildings is not only inconsistent with a cohesive and harmonious streetscape in that area but is contrary to the intent of the Master Plan. This inconsistent height results in a streetscape along South Old Woodward that appears to have a "missing tooth."

If the Subject Property is rezoned to D-5, there is an excellent opportunity for the Subject Property, Birmingham Place and the 555 Buildings to create an impressive southern gateway to Downtown Birmingham. It is therefore reasonable that the Subject Property, sitting directly between the 555 Buildings and Birmingham Place, be included in the same zoning district, that is as part of the D-5 Overlay District, as those neighboring two buildings.

Rezoning the Subject Property to the same classification as the buildings immediately to the north and south will enhance and complete the streetscape of these important two blocks of Downtown Birmingham. Inclusion of the Subject Property in the D-5 Overlay Zone is consistent with the 2016 Master Plan. Moreover, it will allow the Subject Property to enjoy the same development regulations as the neighboring properties.

W|W|R|P

The Subject Property and the Master Plans

A review of the history surrounding the zoning of this area of Downtown is instructive. The minutes of the City Commission during the late 1960s and early 1970s, reveals that the height of the buildings in this area of Downtown were historically zoned for the height of the 555 Buildings and Birmingham Place. However, the zoning ordinance was amended in the 1970's after the construction of those buildings to a maximum of four stories. Therefore, for several years, the taller buildings in the City were burdened with the status of legal nonconforming uses.

In 2016, the City corrected this down zoning for the 555 Building to the south and Birmingham Place to the north, with the creation of the D-5 Zone to allow for existing heights (in the case of the 555 Buildings and Birmingham Place) and to allow for new construction to a height up to the same height of an immediately adjacent or abutting building (see Ordinance 3.04-4-b). While the 555 Building and Birmingham Place are now at allowable heights, sitting in between them, the Subject Property is the only building in that streetscape that cannot be constructed to a height that is consistent to its neighbors. This inconsistency creates an obvious gap in the street's architecture which is not harmonious with the overall downtown design and longer-range plan for that part of South Old Woodward.

The Birmingham of 2016

In 1996, the City Commission adopted the Downtown Birmingham 2016 Plan ("2016 Plan") and amended the Zoning Ordinance to include the Downtown Birmingham Overly District. The Subject Property is located in the **D-4**

Zone, sitting between two tall buildings in the City that have been rezoned to the D-5 zone. These multi-story buildings are the established character of this particular area of the City. Placing the Subject Property in the D-5 zone would allow development of the Subject Property to be at a similar height to the buildings directly to the north and south. The Applicant desires to develop the Subject Property in a manner that completes the block between Brown and Hazel while adding to the cohesiveness of the South Old Woodward southern gateway area.

The Birmingham Zoning Ordinance at Sec. 1.04 provides that the purpose of the Zoning Ordinance is to "…guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan. A review of the Birmingham Plan (1980) and the Downtown Birmingham 2016 Plan (1996) reveals that this application to include the Subject Property in a D-5 Overlay District meets the spirit and intent of the ordinance as well as the 2016 Plan. It will allow for mixed uses and add to the vitality of the modern streetscape envisioned for this part of town by the 2016 Plan. With rezoning, the Subject Property can become that desired mixed-use space for retail, residential and hotel, and bring new life to the South Old Woodward area.

Any redevelopment of the Subject Property in compliance with its current zoning classification would result in a building with frontage dwarfed by the existing neighboring structures. Therefore, by rezoning the Subject Property to the D-5 overlay, a new building could be built to a similar height as the neighboring buildings, and effectively complete an otherwise missing piece of the streetscape.

In summary, it is clear that the intent of the 2016 Plan includes development of this southern area of the Downtown Overlay District as a gateway to Downtown through enhancing the character of buildings and providing our City with an active, pedestrian-friendly, urban streetscape.

Rezoning Amendment – Sec. 7.02 (B)(2)(b)(i)-(iii)

The Zoning Ordinance at Sec. 7.02 requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission. Please consider the following comments with respect to these issues.

7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership

Rezoning of the Subject Property is necessary to preserve the Applicant's enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the Applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed-use building. Furthermore, the D-5 Ordinance, at section 3.04-4-b, anticipates that the Subject Property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate

The existing **D-4** zoning classification is no longer appropriate for the Subject Property. The Subject Property is surrounded by the Birmingham Place, a ten-story building on the north side and the 555 Buildings, a fifteen-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the Subject Property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the

existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the Subject Property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Board has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the Subject Property sandwiched between two properties in the D-5 Zone, the **D-4** Zone is no longer appropriate.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

The proposed rezoning of the Subject Property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the **D-4** Zone. The surrounding properties to the north and south already are in the D-5 Zone. When these neighboring properties were rezoned, the Planning Board anticipated that eventually the Subject Property also may be rezoned for the reasons stated in this letter. Placing the Subject Property in D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Conclusion

The Applicant respectfully requests that the City Commission rezone the Subject Property from the **D-4** to the D-5 Zone as discussed in this letter.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner by

RDR/cmc

STEWARD-MEDIA.COM

June 25, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the 'Re-Zoning Request' for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable 'gap' between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Derek Dickow
211 E Merrill St., 504
Birmingham, MI 48009

770 SOUTH ADAMS ROAD, SUITE 103, BIRMINGHAM, MI 48009
O :248.973.6070 // F :248.973.6071 // E INFO@STEWARD-MEDIA.COM

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

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Yours very truly,

Victoria Shoneyra

Victoria Shoneyra

Unit #514

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Alex Shocair

#514

411 S. Old Woodward, Suite 603
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Stuart Glasier

2400 East Lincoln Street, Unit 425
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Alice Legatte #511

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Ted Elsholz

Ted Elsholz

ADDRESS: 411 S. Old Woodward, #1029

DATE: 6/7/2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Nikole Fine

Unit #521

ADDRESS:

DATE:

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Brenda Knight

ADDRESS:

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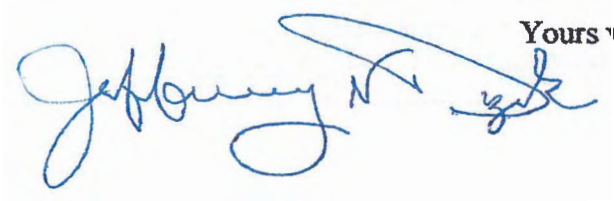

955 Bird Birmingham, MI 48009

ADDRESS:

DATE:

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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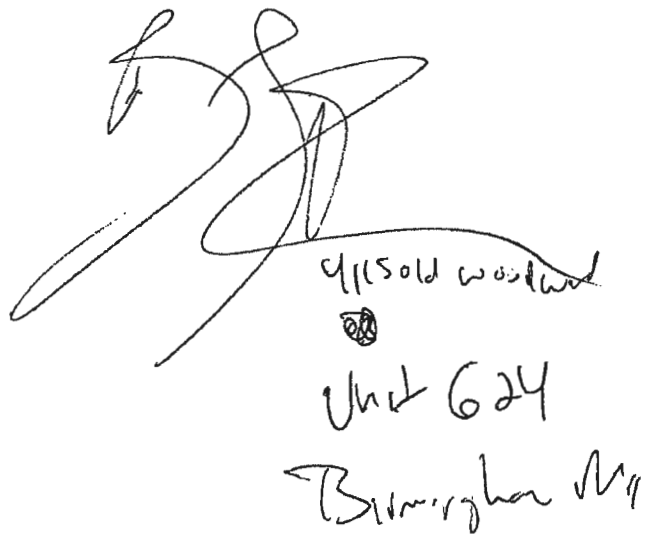

UNIT #806

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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Yours very truly,

Michael C. Schwartz

Toni Schwartz

411 S. Old Woodward #1018

Birmingham 48009

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

T. J. ELSHOLZ

E.A. ELSHOLZ

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411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Gina Tellman

Unit 606
411 S. Old Woodward Ave
Birmingham, MI 48009

411 S. Old Woodward, Suite 902
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Ralph Boyll

Rose Boyll

Rose Boyll

06/08/18

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Eunice Galperin

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411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Vandad Raofi

and

Negar Farhi

Unit # 703

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,



Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Yours very truly,

Debra J. Elsholz

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411 S. Old Woodward, Suite 729
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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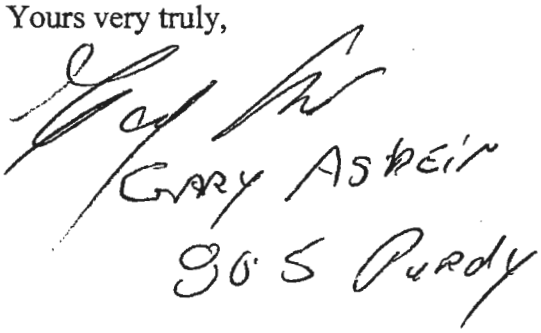

Gary Astrein
905 Purdy

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

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In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

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4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Carol Kozlow

Carol Kozlow

ADDRESS: 411 S. Old Woodward # 1028
Birmingham Mi

DATE: 6-9-2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

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Yours very truly,

Bev Ross

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Yours very truly,

Louis P. Rudkin
Birmingham Place
Unit 310

Birmingham, MI 48009

June 18, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

1034 Waterfall Court
Birmingham MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Judge Susan D. Borman (Retired)

Susan Borman

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Erin Mellott

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Jay Hack
1276 Smith Ave.
Birmingham, MI 48009

411 S. Old Woodward
Birmingham, MI 48009

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

Dana Bassipour

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

RECEIVED BY
JUN 22 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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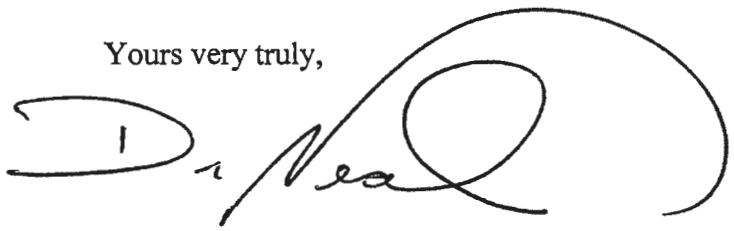
Yours very truly,



411 S. Old Woodward, Suite 1012
Birmingham, MI 48009

June 14, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Catherine Brozek

MICHAEL D. UMPHREY. ESQ.
411 S. Old Woodward Ave., Unit 618
Birmingham, MI 48009-6647
(248) 339-7708 – Telephone
(248) 528-5129 – Facsimile

June 27, 2018

VIA HAND DELIVERY

John M. Connaugton, Fire Chief
572 South Adams
Birmingham, MI 48009

Re: Proposal to Rezone 469-479 S. Old Woodward Avenue

Dear Chief Connaugton:

I am writing, individually and as an officer and director of the Birmingham Place Residential Condominium Association, in response to your letter of June 22 Jana Ecker. A number of residents here discussed this matter with Joel Campbell and wish we had been sent a copy of the letter, but at least we got it as part of the agenda for tomorrow night's Planning Board hearing.

In any event, we have some serious concerns with this situation in general and with your letter in particular, which include:

1. The proposed new building is ***not*** planned to be built "very close to the South Side of Birmingham Place" but rather is proposed to literally abut the southerly walls of Birmingham Place. This may not have a direct bearing on fire issues, but it does raise other issues and should, in any event, be stated accurately.

2. We understand that the fire equipment currently has some, albeit limited, access to Birmingham Place from Hazel Street. Your letter correctly states that you ". . . would not deploy our aerial truck for operations on the South Side of the building," but it fails to note that the proposed building, which would be 22 feet taller than Birmingham Place, completely eliminates whatever access is currently available from Hazel Street.

3. Your letter also states ". . . we do have access from both the East and West sides of the building." If the proposed building is built, a review of the drawings makes it clear that there would, in fact, be no fire equipment access whatsoever to most, if not all, of the residential and office units on the southerly part of Birmingham Place from the east side and only limited access to these units from the west side.

4. Current access from the west side also includes an alley running from Woodward Avenue to the rear of 469 S. Old Woodward. While this alley might well not accommodate larger fire trucks, it certainly provides some access to some equipment, which would be completely cut off by the proposed building.

5. We agree completely with the balance of the second paragraph regarding fighting "high rise" fires from within the building and also detailing the helpful fire fighting fixtures and equipment in Birmingham Place. Nevertheless, the simple fact remains that fire protection for Birmingham Place (and more importantly, the people who live and work here) will be less than it was if the proposed building is built as planned.

Our bottom line, so to speak, is that fire protection to at least the southerly portion of Birmingham Place would be reduced if the proposed building were allowed, and we have to ask you, as Fire Chief, how much increased risk for the sake of new development that hopes to maximize and increase the currently allowable building size is acceptable. The increased risk can easily be avoided by the City denying the rezoning request and maintaining the status quo. The value of adding several stories to a building pales in comparison to any increased risk to the health, safety and welfare of the Birmingham Place residents and occupants as well as the firefighters tasked with protecting the residents and occupants.

We request that you very seriously reconsider your position on this matter and advise both the Planning Board and the City Commission of the same, preferably before the meeting tonight but in any event at your first opportunity. Thank you for your time and attention. Best regards.

Yours very truly,

Michael D. Umphrey

xc: All Birmingham Planning Board Members (via hand delivery)
All Birmingham City Commissioners (via hand delivery)

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

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Yours very truly,

Nancy White
#505

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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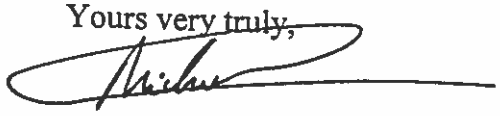

Michael Hanna

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Valerie Foley
411 S. Old Woodward Ave
Unit 508
Birmingham MI
48009

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

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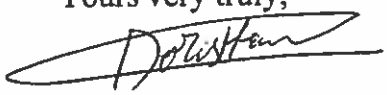
Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,



Doris Hanna

June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am writing, as the owner of one or more residential comdo units in Birmingham Place, to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

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In addition, I have serious safety and other concerns, including:

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Yours very truly,

Moussa Hanna

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Mark D. Rubinstein
268 Pilgrim
6/23/18

Arlene R. Rubinstein
268 Pilgrim
6/23/18

Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Vikki Galpern

460 Park

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

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Yours very truly,

Gavin Butler

411 S. Old Woodward Ave
Unit 508
Birmingham Michigan

411 S. Old Woodward, Suite 631
Birmingham, MI 48009

June 26, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

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Yours very truly,

Dennis W. Liu

ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

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Yours very truly,

Jackie Pigeu
642 Oak Ave
Birmingham 48009

ADDRESS

DATE

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Yours very truly,

P. Steven Warren
1296 Stanley Blvd
Birmingham, Mich
48009

ADDRESS: 319 GREENWOOD
BIRMINGHAM, MI 48009

DATE: JUNE 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Yours very truly,

LISA A. MARTIN

Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Yours very truly,

Leslye Colding

687 Vinewood

PETER R. SOBELTON
420 HARMON
BIRMINGHAM, MI 48009
248-433-5200

RECEIVED BY
JUL 3 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

June 27, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin St
Birmingham, MI 48009

I am writing to express my strong support for the Re-Zoning request for the mixed use project being proposed for 469-479 S. Old Woodward Ave.

The proposed project will fit in nicely with its neighbors on either side, bearing in mind, each of which are 9 and 15 stories in height. With this development, rather than the present one story buildings, we will now have a building matching the scale, character and use of those buildings on either side.

Additionally, the proposed project would most certainly attract a greater amount of people to the south end of town, and no doubt also throughout the town, while adding retail shopping, thus tying into the already existing retail in the two neighboring buildings. Perhaps one of the most advantageous parts of the project, will be the alleviation of the necessity to accommodate parking on the street, as a result of the parking that will be provided on site.

This project is a win-win, and should be approved for re-zoning in the most hasty of manners, continuing Birmingham's lead in cutting edge developments, as we continue to see the increasing competition for tenancy from our neighboring cities.

Sincerely,

Peter R. Sobelton

411 S. Old Woodward Avenue
Birmingham, MI 48009

June 27, 2018

RECEIVED BY
JUN 29 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

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Yours very truly,

411 S. Old Woodward, Suite # 725
Birmingham, MI 48009

June 15, 2018

RECEIVED BY
JUN 29 2018
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the "four stack" valet service recommended by the developer's own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project's plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City's own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer's traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation ("digging half way to China," as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Rose M. Boyll

Ralph G. Boyll

411 S. Old Woodward, Suite #901
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

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2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Helen O. Kane
owner

411 S. Old Woodward, Suite 529
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally ***not*** zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

DAVID SALIBA
Unit 529

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project ")

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Roanne M Saliba

Birmingham Place, unit #529

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Rezoning issue

1 message

Clinton Baller <cmballer@avidpays.com> Fri, Jun 22, 2018 at 10:17 AM
To: Jana Ecker <Jecker@bhamgov.org>

Jana,

Could you please let the Planning Board know my thoughts on the rezoning request for the former Franklin/First Place/Talmer bank building and Chinese restaurant on Woodward/Old Woodward?

I don't know why that property was not included in the D5 rezoning that occurred several months ago, but it should have been. Birmingham Place is nine stories, and the 555 building is 15. I can't imagine that the city would not allow something of similar height and mass to occupy the space between these two projects.

Beyond that, I think the city ought to insist on a project that brings some vitality to Old Woodward and the side street (Hazel), which are now dead zones. Either that, or just vacate Hazel insist on a use that is advantageous to the city.

My two cents, which are worth at least a nickel, I think.

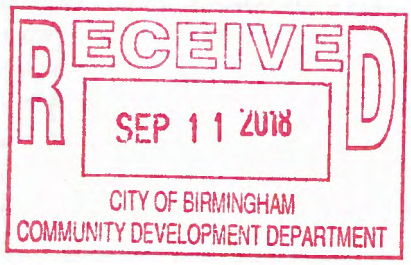
Cheers!

Clint

Friedlaender Nykanen & Rogowski PLC

Susan K. Friedlaender
Direct: (248) 406-6088
sfriedlaender@fnrplc.com

September 11, 2018



City of Birmingham
Planning Board
151 Martin St.
Birmingham, MI 48009
Attention: Ms. Jana Ecker

Re: Request for Re-Hearing on Application to include 469 and 479 S. Old Woodward in the D5 Downtown Birmingham Overlay District Zone

Dear Members of the Planning Board and Ms. Ecker:

We are writing this letter on behalf of the Birmingham Place Residential Condominium Association. The Association opposes the rehearing and rezoning of the Applicant's property to the D5 overlay zone for many reasons as detailed in this letter. The dispositive reason to again deny recommendation of the rezoning is because the D5 ordinance was never intended to be applied in the manner requested.

Introduction

It is first baffling to the Association that the Applicant was able to obtain a rehearing of this Board's decision at the June 27, 2018 public hearing to deny the Applicant's request for a tabling of its the rezoning request. The Applicant apparently was able to defy this Board's denial of the tabling request and come back again with the exact same rezoning request. The Applicant's latest submission not only fails to demonstrate any substantial change in facts, evidence or conditions but is also fails to show that the Planning Board made any mistake, failed to consider any relevant facts or was misled by alleged mischaracterizations regarding the clear, history, intent and purpose of the D5 Ordinance. A close examination of the Applicant's rehearing request reveals inconsistencies, fallacies, erroneous assumptions, unsupported assertions, and mischaracterizations of the record and history of the D5 ordinance. The intention of this letter is to provide that closer examination which should leave no doubt that the Planning Board should not change its original vote to deny a positive rezoning recommendation.

There Has Been No Mischaracterization of the Intent of the D5 Ordinance and its Inapplicability to the Applicant's Property.

It is impossible to read through the history of the D5 ordinance and arrive at a good faith conclusion that Birmingham Place or any Planning Board member has mischaracterized the purpose of the D5 ordinance enactment. The facts and history of the D5 ordinance, and its plain language, leave no doubt that the final product was concerned only with existing buildings which were non-conforming due to height over 5 stories and setbacks. The following is a summary of the history of the D5 ordinance. However, attached as Exhibit A, is a detailed timeline with references to the relevant public records which supports the statements made in this summary.

The 555 Building proposed the first draft of the D5 ordinance as the means to renovate and expand its existing non-conforming buildings and develop a new building on the southern portion of its site. The owners could not make those changes under the City's then existing ordinances that governed the renovation and expansion of nonconforming property. Although the Planning Board discussed several different approaches to help the 555 Building overcome its nonconforming status, which included taking a broader look at the Southern Gateway area, the Planning Board ultimately decided to deal only with three nonconforming taller buildings: The 555 Building, Birmingham Place and Merrillwood. It settled on dealing only with nonconforming commercial buildings over 5 stories because there was no consensus on how to address the development of other parcels on the West side of Woodward that did not have the height nonconformity. Moreover, the only direction that the City Commission gave the Planning Board regarding the drafting of a new overlay ordinance was (1) to find a way to make those taller buildings legally conforming structures and (2) draft language that would allow the reasonable renovation and expansion of other commercial nonconforming buildings throughout the City. The City Commission did not direct the Planning Board to draft a new overlay ordinance that allowed any building *under* 5 stories to obtain greater height because located adjacent to a building that was over 5 stories. The Applicant's representations to the contrary are simply opportunistic.

The above conclusion is amply supported by a memorandum from Planning Director Jana Ecker to the Planning Board dated September 22, 2015 (sic) that was included in the City Commission's February 13, 2017 packet.[1] The City Commission voted to approve the D5 ordinance at that February meeting. (Memorandum attached as Exhibit B)

Ecker discusses in the memorandum that the Planning Board faced a dilemma regarding how to deal with the 555 Building. While the Planning Board recognized the importance of the 555 Building, it was hesitant to create "a new classification around a specific building." (Ecker Memorandum, p. 1) The memorandum details the failed attempts to devise a way to not only address the 555 Building but also the future development of several other parcels, including parcels that did not share the height nonconformity. The Planning Board was unable to draft an ordinance regarding the future development of other parcels because *"there were varying viewpoints on whether a new overlay should be created that included multiple properties along Woodward, and if so, which properties to include. No consensus was reached."* (Ecker Memorandum, pp. 2-3) (Emphasis added) The Planning Board considered several options to allow changes to legal non-conforming commercial buildings. [2] The Planning Board considered drafting two new overlay ordinances, one of which could be applied even to conforming property on the west side of Woodward, which would allow building heights that matched the allowable height east of Woodward in the Triangle District. (*Id.* at p. 5) Ecker suggested amending the B-3 ordinance to allow the same development rights that existed when the 555 Building was constructed under that ordinance. Although no consensus could be reached regarding application of the ordinance to the future development of existing properties, there was consensus with the blessing of the City

[1] The contents of the memorandum suggest that the date contains a typographical error because the timeline discussed within the memo extends to setting the December 14, 2016 public hearing.

[2] The Zoning Ordinance already contained a provision that allowed the limited expansion of nonconforming residential buildings. See Section 6.02

Commission that the improvement and expansion of legal nonconforming buildings should be studied. (*Id.* at p. 3) The decision was made therefore only to deal with the nonconformity issue in the new D5 overlay district.

Thus, although Planning Board members correctly remember discussing additional properties in the Southern Gateway during the D5 drafting process, those discussions did not bear fruit or any action because of a lack of consensus. It was not because the Mountain King owners were not before the Board. It was because the Planning Board could not reach a consensus other than allowing valuable buildings such as the 555 Building, Birmingham Place and Merrillwood the greater right to renovate or expand without the disability of being a non-conforming property because of height and setback.

The Applicant was not prejudiced by the Planning Department's Mistaken Statement in its Review of the Community Impact Statement and Preliminary Site Plan

The Applicant claims that this Board made its rezoning recommendation based upon the mistaken assumption that the Property is located within the Parking Assessment District (PAD) and that it allegedly was prejudiced by the asserted mistaken assumption.

First, it is true that the Planning Department's review of the Applicant's Community Impact Statement (CIS) and Preliminary Site Plan review erroneously stated that the Applicant's property was within the PAD. The Planning Department's mistake, however, did not prejudice the Planning Board's review of the rezoning request for several reasons. First, the mistake regarding the PAD was in the Planning Department's CIS and Preliminary Site Plan review and the Planning Board did not consider the CIS or site plan at the rezoning hearing.

Second, the Planning Board did not prevent the Applicant from explaining how the parking requirements impacted its ability to develop the land under the D4 ordinance. The record shows that the Applicant discussed the fact that the property is not in the PAD. (Video of hearing at 2:07:56) In answer to the question why the property could not be developed under the D4 overlay ordinance, the Applicant claimed that it could not develop the Property under D4 because it was not in the PAD.

> Owner: "But office building, to put a. . . . I don't have the parking for it. *I'm not in the Parking Assessment District,* so I'm limited by parking. I can't put a restaurant there, because I . . . you know . . . I, I, don't have the parking to park it. The only thing I can really put there at the end of the day is a hotel. I mean that's the only thing that makes it work. *And again, to make it work as a hotel, I need to fit everything into this package that the hotel wants.*" (emphasis added)

Third, if the Applicant believed that not being part of the PAD was crucial to its rezoning request nothing prevented the Applicant from discussing that fact when initially addressing the standards for the rezoning. The fact that the Applicant made no mention of the PAD in its initial written rezoning request belies its post hoc argument that the issue was so crucial to its request.

Moreover, if parking is the issue as the Applicant now claims that it is, the remedy is not to develop a project that has even greater parking requirements than is required under the existing ordinance. The rezoning is not necessary to meet the parking requirements when the possibility of

variances for parking can resolve parking related problems.

Finally, the Applicant stated that it was its understanding that it is the only D4 site that is not in the PAD. That understanding appears to be wrong. If the GIS website is up to date, it appears that there are two other parcels that also are zoned D4 but shown as outside of the PAD. The parcels are 484 W. Maple and 460 W. Maple. (See Exhibit C, Map with Overlay District and PAD Map)

The Applicant Has not Demonstrated That the Applicable Parking Requirements Prevent Development Under the D4 Overlay Ordinance

The Applicant's supplemental explanation under Section 7.02(B)(2)(b)(i) of "why the rezoning is necessary for the preservation and enjoyment of the rights and usage commonly associated with property ownership" is that it cannot meet the parking requirements if developed under the D4 overlay ordinance. The Applicant asserts that it needs more vertical height for a mixed use project and to meet parking requirements. As discussed below, the Applicant has failed to support this claim. It is hard to determine whether the Applicant claims that the property cannot be used as it currently exists because of the inability to meet parking requirements or that it cannot be redeveloped physically for any purpose under the current zoning classification because of its configuration coupled with the D4/B-3 mixed use and parking requirements.

The Applicant makes the following assertions regarding parking requirements:

> Contrary to what was assumed by the Planning Board, because the Property is not in the Parking Assessment District ... it currently has no possibility of providing off-street parking on the premises. In fact, it is currently non-conforming and cannot comply with Article 4. 46 of the Zoning Ordinance (Off-Street Parking Spaces Required) Letter, p. 2
>
> ***
>
> The off-street parking requirements for this Property make the engineering and design of a mixed-use D-4 seriously impractical if not impossible. Letter, p.3
>
> ***
>
> Not only will the Applicant lack the required area within which to locate all of the mixed uses with a first-floor retail mandate, the Applicant also is absolutely hamstrung by the off-street parking requirements for this site. The maximum use of the underground area will not yield enough parking spaces for a building designed to current zoning. Rezoning the Property to
>
> the D-5 Zone will allow more vertical space within which to accommodate a mixed-use building together with the required parking for all permitted uses. Letter, p. 3
>
> ***
>
> There are serious difficulties with building an underground

> garage within the D-4 design parameters that is deeper than two levels....Consequently , any such garage is limited to approximately 60 parking spaces. Letter, p. 5

Based upon the first quote above, the Applicant appears to be stating that the property as it currently exists cannot support any or very limited off-street parking. Even if that is true, under Section 4.45 (G) 2 and 4 of the zoning ordinance, off-street parking can be provided within 100 feet of the site or via shared parking arrangements. The Applicant claimed in its CIS that it has an agreement with the 555 Building for the use of 45 parking spaces. The Applicant could also apply for parking variances. If the application of the parking provision of the zoning ordinance prevents the property from being used, the likelihood of necessary variances is extremely high.

The next four quotes appear to be referring to a redevelopment under the D4 overlay district requirements. The Applicant essentially makes the logically challenged argument that because it is outside of the PAD it needs to develop a project that requires even more parking to meet the off street parking requirements. The Applicant's proposed use shows a three level underground parking facility with 100 spaces and an agreement with the 555 Building for 45 more spaces.[3] The Applicant does not explain the discrepancy between its proposed plan and its new claim that any underground garage is limited to approximately 60 parking spaces because of D4 design regulations. However, the same D4 design regulations that would apply to an underground garage in the D4 district also apply in the D5 district. The D5 zone does not provide any relief from the design issue. The Applicant, however, asserts that it could meet the parking requirements if it could construct a 9 story building but it cannot meet the parking requirements if it constructs a 5 story building. If the site can only accommodate 60 parking spaces rather than the 100 spaces that the Applicant originally represented, it defies explanation how a taller building is better able to meet even greater parking requirements. Moreover, if there is a design requirement which hampers providing more onsite parking, that is a variance and not a zoning issue.

The Applicant also does not explain whether it means that if restricted to five stories, it cannot develop its preferred 98 hotel units, 29 residential units and a first floor coffee shop/ hotel lobby. The Applicant asserts that it is needs more height because it cannot possibly fit mixed uses and meet parking requirements on it site if limited to 5 stories. According to its proposed plan, however, it can fit approximately 21-26 hotel rooms per floor and 13 residential units per floor. It is unclear if the Applicant is now claiming that it can only build a two level underground parking garage rather than a three level underground garage. In either case, it does not affect the above ground height of the building. The Applicant likely could develop a 5 story mixed use building with for example 70 hotel units, 13 residential units and the same size lobby/coffee shop as proposed. A 5 story development with these specifications might require 73 parking spaces for the hotel, approximately 13-16 spaces for the residential uses (depending on the number of rooms) and 12 spaces for the lobby/coffee shop. Even if the Applicant could only fit 60 spaces onsite, it

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[3] The Applicant appears to have made some mistakes in its parking analysis. For example the residential parking requirement under B-3 is 1 space for a 2 room dwelling and 1.25 spaces for a dwelling that has more than 3 rooms. The Applicant claimed that it needed 1.25 spaces for 26 apartments and 1.5 spaces for 3 apartments for a total of 37 spaces. The actual requirement is 29.75 spaces for 29 units.

could provide 105 spaces with the 555 Building parking agreement for 45 spaces.

The Applicant also has not explained whether it has explored the possibility of parking variances. A good argument exists that it should not have to provide any parking spaces for the lobby/coffee shop. The users of those retail spaces will likely be hotel guests or neighboring occupants who can easily walk to the coffee shop. The coffee shop likely will not be a destination spot for the motoring public. It is also likely that the hotel would not always be at full capacity which could provide a basis for obtaining additional parking variances. The City also is in the process of reviewing parking requirements for residential uses and possibility eliminating them for a site such as the Applicant's property.

Therefore, the answer to not being in the PAD is not to create taller buildings with higher density that requires more parking. The more reasonable solution is developing at lower densities with lower parking requirements and applying for any needed variances.

The Planning Board Appropriately Decided to Table Consideration of the CIS and Preliminary Site Plan Review

The Applicants second supplemental explanation under Sec. 7. 02(B){2)(b)(ii) of "why the existing zoning classification is no longer appropriate" essentially contains a confused diatribe regarding the Planning Board's decision to table consideration of the CIS and preliminary site plan review until after the City Commission acted on the rezoning request. It also discusses the ability to develop and use the property under the existing classification, which was addressed above in this letter. The Applicant also claims under this section that the Board was misled to believe that the D5 overlay zone only applies to existing buildings taller than five stories. That issue has also been addressed earlier in this letter.

First, the Planning Board correctly voted not to review the CIS or proposed site plan until and unless the rezoning was granted. There is no legal or factual basis for the CIS and preliminary site plan review until the petitioner secures the rezoning necessary to develop the property as proposed. In fact, it is an elementary zoning and planning principle that neither a planning board or legislative body should ever consider a particularized site plan at the rezoning stage unless the rezoning is conditional or part of a planned unit development. The reason is that the municipality is supposed to be making the rezoning decision based upon whether the general zoning classification is appropriate for the property and not whether any specific proposed plan is appropriate for the property. Another reason is because once the land is rezoned, the land owner cannot be tied to any specific site plan. The owner is free to develop the land under any provision of the new zoning classification. It would have been an error if the Planning Board had recommended rezoning based upon the CIS or site plan or had been unduly influenced by the proposed use for the site in making a decision.

Second, the Applicant's assertion that the Michigan Zoning Enabling Act, MCL 125.3101, et seq ("MZEA") requires that rezoning decisions be made according to *a site plan* is inaccurate and nonsensical. The MZEA provides that a *zoning ordinance* must be "based on a plan designed to promote the public health, safety and general welfare..." (emphasis added) This means that the zoning ordinance itself and any amendments to it must be based - not on a site plan for the particular use of a single parcel of property - but upon a general land use plan, like the 2016 Birmingham Plan. The MZEA does not require site plans for *rezoning* property. It does require

site plans for the approval of special land uses and planned unit developments. A site plan ensures that property is developed consistent with ordinance requirements. The Planning Board did not prejudice the Applicant in any way by not reviewing a proposed site plan for a zoning that did not exist for the site. The rezoning of property is a legislative rather than administrative act and depends on the implementation and furtherance of general policies. It does not depend on a site plan for a single parcel of property.

The Applicant Failed to Support that the Rezoning Will Not Be Detrimental to Surrounding Properties

The Applicant's supplemental explanation of why the proposed rezoning will not be detrimental to surrounding properties relies on its factually inaccurate statement that the City intended that the D5 overlay zone apply to the Applicant's property and that the Birmingham Place owners will not be harmed by the rezoning.

First, as previously discussed, the history of the D5 zone indisputably supports that the clear intent of the D5 zone is only to apply to existing buildings taller than five stories. It should be noted here however that the Applicant's Letter very misleadingly takes Ms. Ecker's comment regarding new construction in the D5 zone completely out of context. All the participants in the D5 ordinance amendment process understood that the new construction provision was added for the benefit of the 555 Building. The language regarding new construction was not meant for property that had no existing height nonconformity that the D5 ordinance amendment was addressing.

Second, the Birmingham Place owners maintain their position that the proposed rezoning will be detrimental to the use and enjoyment of their property. A vast majority of the residential condominium owners, even those whose views will not be impacted, are opposed to the proposed development for many reasons that will be brought to the Board's and Commission's attention.

The Board Did Not Fail to Make Required Findings of Fact or Misapply the Rezoning Standards

The Applicant further claims that the Planning Board failed to make the required findings under Ordinance Section 7.02(B)(5). Its primary complaint is that the ordinance allegedly does not require the Planning Board to determine whether the property can be used as zoned. This is splitting hairs.

Section 7.02(B)(5) (d) of the zoning ordinance requires that the Planning Board make findings of fact regarding "[t]he suitability of the property in question to the uses permitted under the existing zoning classification." Asking the Applicant why it cannot use the property as zoned is simply a way of determining whether the property is suitable for the uses permitted under the existing zoning ordinance.

Second, the Applicant claims that the Planning Board should have examined the appropriateness of the current zoning and not whether the Applicant could develop under this category. Again this is splitting hairs because it is the same question. The zoning may be inappropriate as applied to this site if the Applicant cannot develop or use its property under this classification. If the property can be used and the zoning classification still furthers master plan

goals and the public interest then it remains appropriate. The only difference between the D4 and D5 overlay zones is building height. The uses are the same. The Applicant's only argument that conditions changed is the rezoning of Birmingham Place and the 555 Building. However that rezoning has not changed any existing land use patterns. The rezoning recognized existing land uses that had become nonconforming because of building height policies that changed after those taller buildings were constructed. Birmingham Place is as tall now as it was when it was rezoned to D5. The rezoning merely normalized the existing heights of the affected buildings.

A community generally should preserve its master plan and existing zoning unless the zoning classification no longer furthers the master plan goals or is no longer suitable for the site because of changed conditions and development patterns. The City certainly can adopt new master plan goals but should not make sweeping changes to the City's land use plan through its zoning ordinances alone without first studying the issue of increasing building heights. The planning study is supposed to precede such zoning changes because the Zoning Enabling Act mandates that zoning be based on a plan. There has been no official study or public notice of any plan to allow more than 5 stories on the West side of Woodward. Moreover, the City weakens its master plan and its ability to defend it in court when it approves rezoning that is inconsistent with the plan. The proposed rezoning was not consistent with the 2016 Plan which reflects a policy decision to limit the height of buildings in the Downtown Overlay Zone to five stories. It is true that the City has since allowed taller buildings in the Triangle District but that new zoning was accomplished according to the Triangle District Plan. Therefore, when asked to depart from the 2016 Plan as it applies to the West side of Woodward, the City is well within its rights to require that the proponent demonstrate that the property cannot physically or viably be developed as zoned. To suggest otherwise ignores established zoning law and planning principles.

CONCLUSION

The Applicant has not provided any new information that should change the Planning Board's original and correct recommendation to rezone the property to the D5 overlay classification. It is beyond dispute that the D5 ordinance was meant only to apply to existing buildings over 5 stories or existing sites that contained buildings over 5 stories. The Planning Board determined when it drafted the D5 ordinance that it would not address the future development of any other parcels in the Southern Gateway. It would be unfair and a failure of process for the Planning Board to ignore that history because the public will then have been misled by the process to enact the D5 ordinance. It is customary for the City to involve the public in any study to raise building heights as it did in the Triangle District.

Moreover, the Applicant made no effort to demonstrate that the D4 ordinance is unreasonable or unworkable as applied to its property. It has not made any credible case to support the rezoning request. At the June 27, 2018 hearing, the Applicant claimed that he could only make the site work with a hotel and in order to develop a hotel "*I need to fit everything into this package that the hotel wants.*" (emphasis added) This is the very reason why the City cannot rezone property based upon a proposed use. The issue is not what this particular hotel wants and the City cannot guarantee by rezoning the property that the hotel will even go through with the development. The issue is what does the existing zoning allow and can any of the allowable uses be reasonably developed consistent with the City's land use polices as reflected in the 2016 Plan and its zoning ordinance.

The Planning Board, therefore, must recommend a denial of this opportunistic and improper rezoning request.

Very truly yours,

Susan K. Friedlaender

Susan K. Friedlaender

EXHIBIT A

TIMELINE AND SUPPORTING MATERIALS REGARDING THE EVOLUTION OF THE INTENT AND PURPOSE OF THE D5 OVERLAY ORDINANCE

INTRODUCTION

It is impossible to read through the history of the D5 ordinance and arrive at a good faith conclusion that Birmingham Place has mischaracterized the purpose of its enactment . The facts and history of the D5 ordinance, and its plain language, leave no doubt that the final and enacted draft was concerned only with existing buildings which were non-conforming due to height over 5 stories and setbacks. In fact, the only direction that the City Commission gave the Planning Board regarding the drafting of a new overlay ordinance was to find a way to allow the renovation and expansion of legal nonconforming commercial buildings. Although the Planning Board discussed several different approaches to help the 555 Building overcome its nonconforming status, which included taking a broader look at the Southern Gateway area, the Planning Board ultimately decided to deal only with three nonconforming taller buildings: The 555 Building, Birmingham Place and Merrillwood. It settled on dealing only with nonconforming commercial buildings over 5 stories because there was no consensus on how to address the development of other parcels on the West side of Woodward that did not have the height nonconformity. This is why it would be completely improper to rezone the Applicant's property to D5. The rezoning would pose a serious question regarding whether the Planning Board properly notified the public and City Commission regarding the intent and application of the D5 ordinance.

June 10, 2015 Planning Board Study Session

In the spring of 2015 the owners of the 555 Building submitted a request to amend the zoning ordinance and create a new D5 overlay district for buildings over five stories. The owners proposed the ordinance after the building department found "that any changes to the existing legal non-conforming building would increase the nonconformity, and thus be prohibited unless numerous variances were approved." (2015-06-10 Minutes from Planning Board Study Session)

When first presented with several different drafts of the proposed D5 ordinance, **the Planning Board discussed that the proposed amendment "should be viewed not only as to how it applies to 555 S. Old Woodward Ave., but possibly to other properties as well."** ***Id.*** The reason for this cautious approach was to counter any charges of spot zoning or undue favoritism. The dilemma that emerged, however, was the valid concern about applying the ordinance to other properties without further study: (Emphasis added)[1]

> Mr. Koseck noted there are all kinds of non-conforming buildings in the City and he doesn't think the goal is that they should all go away and become conforming. That is why the Board of Zoning

[1] Please note that the reason for the inconsistency of referring to the "D-5" and "D5" overlay zone throughout this letter is because while the Zoning Ordinance uses the "D5" appellation, the minutes and other writers often use "D-5" designation. This writer chooses to use the official Zoning Ordinance version.

> Appeals exists. He is in favor of improvements being made to the building, but as the applicant makes enhancements he (page 7) hopes they would go further to be more in compliance with D-4, D-3, D-2, and D-1. It scares him to expand D-5 beyond the limits of this property without further study." *Id.*
>
> Chairman Clein thought of this as an opportunity to take a look at this building along with several parcels in the context of future development. If Bruce Johnson, Building Official, and Tim Currier, City Attorney, would come to a Planning Board meeting and are on board, he would be in favor of providing some relief in a unique situation; but he just doesn't want to do it capriciously. The Ordinance standards were put in place for a reason and he would be supportive of fitting them into the context of a building that obviously is not going away, in order to help make it better.
>
> Ms. Whipple-Boyce was also in support of helping to make this Gateway building better looking. She thought also that it would be helpful to have Messrs. Johnson and Currier come to a Planning Board meeting. She could not imagine why the Planning Board could not somehow help the applicant to get their building re-skinned in some other way. Further, the ordinance proposal should not include some of the things that the board does not want to have in the City.
>
> Ms. Lazar was in full support, as well, of trying to do something with the building. However, she didn't see how this board could whip up a new ordinance in a short period of time. It concerns her that what might be applied to this building could become applicable to some other sites which would not be appropriate. She would rather try to help the applicant get to where they need to be with this building" *Id.*

July 7, 2015 Planning Board Study Session

At the next study session, the Planning Board continued discussions regarding whether to target a larger area between Hazel and Brown or limit the application of the new ordinance to the 555 Building.

> Mr. Williams summed up the discussion by saying the board wants to go the conforming route and use the SLUP process to do it. Maybe the applicant won't get everything but they can probably get a substantial achievement through the combination of the new MU classification plus SLUP exceptions for what they get as of right and what they get as a bonus. Ms. Ecker noted that is consistent with what the City does in other districts and what has been approved by the City Commission. This is a methodology that gives the Planning Board flexibility. It was the consensus that staff should work on

> crafting something to that effect, taking the 555 Bldg. separately so that it gets through the City Commission.

September 9, 2015 Study Session

At the next study session, Ms. Ecker summarized the process as follows:

The applicant is seeking to rezone the 555 S. Woodward Ave. properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded." (2015-09- 09 Minutes, p. 9)

The Planning Board continued to ponder the scope of the work and whether it should go beyond dealing only with the 555 Building. Mr. Williams suggested creating a D5 district for the 555 Building and a D-6 District for other locations which might be nine stories. *Id.* at p. 10.

The Planning Board failed to reach a consensus or agreement with Mr. Williams suggestion.

September 30, 2015 Planning Board Study Session

At the next study session, the purpose of the proposed ordinance was characterized as follows:

> Ms. Ecker explained that in order to renovate and expand the existing building, the owners of the 555 S. Old Woodward Building are requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. The proposal then is to seek rezoning of the 555 S. Woodward Ave. property from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded." (2015-09-30 Minutes, pp 10-11)

The Planning Board again discussed creating two new overlay zones to address not only the nonconformity issue but also to address other property in the Southern Gateway area. The Planning Board continued to debate the expanded approach and could not reach a consensus.

> Ms. Whipple-Boyce said it is important to try to help the applicant have some sort of zoning classification so they can move on with their project. However, she also does not want to see 168 ft. up and down Woodward Ave. **She is not sure that looking at the whole area is even appropriate. So maybe just work with this building and give them a zoning classification.** Steer the applicant toward having their building conform with the sort of downtown standards that the board hopes to have; which for example, isn't the garden level. If they want to continue to have these when they come forward with a new plan that is when they can go to the BZA. (Emphasis Added)

***

> Mr. Share was in favor of having the applicant first exhaust their remedies. If the BZA doesn't provide them with the relief they need and this board concludes that it is really critical, then maybe the board changes the ordinance, takes the heat for it, and tells everyone it is because they don't want the building to fall down.

***

> **Chairman Clein said he is not hearing any clear direction so the board needs to bring this back because it is a complicated issue.** (Emphasis Added)

The Owner's attorney assured the Planning Board that providing the 555 Building with relief would not be spot zoning.

January 17, 2016 Planning Board Study Session

At the opening of the study session, Ms. Ecker recounted the history of the ordinance amendment and rezoning request. She explained that the 555 Building not only wanted to renovate the existing building **but the owners also wanted to add "an addition to the south of the existing residential tower for new retail space and residential units."** (Emphasis Added)

> In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward Building are requesting a Zoning Ordinance amendment to create a new D- 5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded." (2016-01-17 Minutes, pp 3-4)

Ms. Ecker also recounted that as of the last study session the Planning Board could not reach a consensus regarding whether to deal only with the 555 Building or look at properties along Woodward north to Brown Street:

> There was no consensus on whether only the 555 S. Old Woodward Ave. property should be placed in a new overlay classification or whether this should extend north to Brown St. along Woodward Ave.

The minutes from the study session show that the Planning Board continued to debate whether to include properties other than the 555 Building in the proposed overlay district:

> Mr. Share thought there are two separate questions. One relates to the 555 Building and whether or not it ought to be allowed to become conforming; separately, there is a question about general planning principles.

> Mr. Boyle's opinion was there are three issues: the building itself; the corridor; and thirdly how to move forward with the details on S. Old Woodward Ave.
>
> Mr. Williams stated the board should focus on the 555 Building and come up with a practical solution. The problem is that the building isn't right and it needs to be improved.
>
> Ms. Whipple-Boyce said the question is whether a new zoning classification needs to be created, or can the applicant go through the variance process and achieve the same result.

Understandably, the owners of the 555 Building wanted to move forward with their request. The owners' attorney reiterated that the Owner was requesting that "the Zoning Ordinance be amended to accommodate their building; and second that the zoning map include the petitioner's property." (Emphasis added) The attorney did not believe that accommodating the building would be spot zoning, meaning that the Planning Board did not have to concern itself with anything other than moving forward on an ordinance that would apply only to the 555 Building.

> Additionally, he [Mr. Rattner, the attorney] emphasized this is certainly not spot zoning. The idea is to modify the ordinance to make a nonconforming building one that should obviously be conforming in order to allow the owner to make improvements. Mr. Rattner requested that the proposed ordinance be moved forward to a public hearing.

The Planning Board was persuaded and concluded that it needed to focus on the 555 Building and leave discussion of the corridor for another day.

> Chairman Clein summarized that the board has come to the conclusion that it needs to focus on the 555 Building. The rest of the corridor is a different discussion. The board concluded that a sub-committee consisting of Ms. Ecker, Mr. Rattner, the City Attorney, and two board members could have a discussion on this in an open meeting forum. Mr. Share and Mr. Koseck volunteered to represent the Planning Board in the deliberations.

There was one public comment which shows that this member of the public understood that the Planning Board would not be making any new and sweeping changes but only be focusing on how to help the 555 Building.

> Mr. Paul Reagan, 997 Purdy, said he is encouraged by the discussion. No one wants the building to deteriorate. **He is glad that the Planning Board is not going beyond what was asked for, which is to restore the building. That is about how far it should go.** Right now there is real competition for parking on S. Old Woodward Ave. Imagine what expanding the density of that building would do to the neighborhood. Lastly, he was shocked to

> hear the petitioner had a hand in drafting ordinance language for rezoning. (Emphasis Added)

The Planning Board decided to establish a sub-committee to work on the new ordinance amendment. The sub-committee did not present its findings and proposals until September 2016. In the interim however the Planning Board obtained direction from the City Commission regarding dealing with the important issue of nonconforming commercial buildings.

June 20, 2016 Joint Session with City Commission

The Planning Board presented several land use items to the City Commission at the joint session with the understanding that if the City Commission wanted further discussion the matter would be submitted at a subsequent meeting for more formal direction to further study and address the issue. (See 2016-06-13 Memo from J.A. Valentine to City Commission.) Mr. Valentine also submitted a more detailed memo to the City Commission dated June 14, 2016 which in part described the issue of "Existing Commercial Non-Conforming Buildings" and asked the Commission whether the issue merited further discussion. (See June 14, 2016 Valentine Memo.)

The representation made to the City Commission was that the Planning Board wanted to address the 555 Building and other existing non-conforming buildings like Birmingham Place and Merrillwood. There was no representation that the Planning Board would address extending the proposed new overlay ordinance to buildings like the Applicant's building that was not in danger of losing substantial value like the 555 Building if forced to redevelop only by losing substantial building height.

July 25, 2016 City Commission Meeting

Ms. Ecker attended the City Commission meeting to get the Commission's formal direction on how the Planning Board should proceed on the planning issues raised at the joint meeting.

Ms. Ecker represented to the Commission that the Board was only looking for ways to deal with existing nonconforming commercial buildings and not to create a new ordinance that would allow existing sites without any height non-conformity to construct new buildings under the proposed zoning district. The ordinance was not intended to deal with new development that could conform to the existing zoning classification. Ms. Ecker stated:

> if a review of all the buildings in town was done, one would find something slightly non-conforming on many of the buildings that were built, especially if they were built prior to the sixty's when the zoning ordinance came into effect. She noted specifically buildings such as the Merrillwood Building, Birmingham Place, and the 555 building in regards to the height and bulk of the buildings. She explained that the discussion at the workshop was that there should be some regulation in the zoning ordinance that allows for some maintenance or renovation to those types of buildings when they are already nonconforming. (Minutes, p. 6)

***

Mayor Pro Tem Nickita stated that this was an issue that the Commission wanted to address.

> **He questioned if the City is looking at identifying a district or a series of buildings throughout the City.** Ms. Ecker explained that this is to establish a procedure where if there was a nonconforming building in the City and whichever way it is non-conforming, it would give the owner a way to make changes to modernize that building. (Minutes, p. 6) (emphasis added)

The City Commission gave the following direction to the Planning Board:

> MOTION: Motion by DeWeese, seconded by Bordman: To review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures. (*Id.*)

The City Commission's specific directive relative to any new zoning category was to allow for changes to non-conforming buildings and for their renovation and maintenance. It was not to create a new overlay district that allowed any property the option to build taller than 5 stories.

August 10, 2016 Planning Board Meeting

Ms. Ecker briefed the Planning Board on the City Commission's directives regarding the planning issues addressed at the joint meeting. She reported that that the Commission directed the Planning Board as follows:

> 3) Existing Commercial Non-Conforming Buildings - to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements considering creating a new zoning category or categories to allow for changes to nonconforming buildings for maintenance and renovation consistent with those permitted for residential buildings and structures. (Minutes, p.5)
>
> ***
>
> Ms. Ecker suggested creating a win-win situation by offering the ability to renovate or to add an addition, but the City would get something in return. Ms. Whipple-Boyce said it would be nice to have this in place ahead of time for buildings like 555 Woodward and Merrillwood. **Chairman Clein thought the board could consider new zoning categories if there are specific areas that need it; but they can also consider generic language changes. Look at the non-conforming buildings first.** (*Id.*)(Emphasis added)

September 14, 2016 Planning Board Meeting

At this meeting, the Planning Board resumed the discussion of non-conforming building regulation under the City Commission's parameters which did not include allowing sites with buildings under 5 stories the ability to go higher than 5 stories.

Ms. Ecker, along with the attorney for the 555 Building, suggested that instead of creating a new overlay district, the Planning Board could recommend amendments to the B-3 zoning ordinance that would render not only the 555 Building but also Birmingham Place as conforming buildings.

It was during the discussion to amend the B-3 ordinance that the only reference to Mountain King is recorded in any public document concerning the D5 zoning amendment:

> Ms. Ecker stated that the 555 Building, Birmingham Place and Mountain King were the only properties in the City zoned B-3 in the underlying D-4 Zone. She suggested an option that would amend the regulations for height and setback similar to what they were when the buildings were approved. **Mr. Williams wanted to limit the focus on just the 555 Woodward Bldg. as he thinks it needs to be approved**. (Minutes, p. 5) (Emphasis added)
>
> Ms. Ecker noted this option would allow the applicant to have a conforming status and apply for financing to do an expansion and improvement on the building. It would allow them to do an addition to the south and come to zero setback, and to go up to match the height of the building that is there. What it would not do is force them to address the issue of the garden level or the dead zone along Woodward Ave. However, it would permit them to address that. *Id.*

Ecker was mistaken regarding the number of parcels zoned B-3. The Power House Gym property is also zoned B-3. Regardless, it should be clear that the only reason Ecker mentioned Mountain King was to promote the idea that changing the B-3 zoning would alleviate any concern about spot zoning and at the same time would not open the door to many other parcels being able to take advantage of the amended ordinance. However, there was no support for the B-3 amendment option.

> Mr. Koseck was in favor of allowing the building to continue to be updated but that doesn't mean it should be permitted to grow. Any add-on to the south would have to meet the current Ordinance."
>
> ***
>
> **Discussion concerned whether B-3 zoning that allows Birmingham Place and Mountain King to reach 168 ft. in height would be a hard sell to the public. The conclusion was they could not sell it on more than one piece of property**. Mr. Williams proposed they go back to a previous zoning for the 555 Building that existed 45 years ago. He didn't think it should include any other

> property. Because of that they would not be making a special case for this building in the form of spot zoning. The legal argument is that it would be remedying a wrong. (2016-09-14 Minutes, p. 5)(Emphasis added) (Minutes, p. 5) (Emphasis added)

September 28, 2016 Planning Board Meeting

Ms. Ecker provided background information including that at the last study session the Planning Board "resumed their discussion regarding legal nonconforming buildings." The result was that "after much consideration" the Board directed the Planning Staff to meet with the 555 Building applicant to draft proposed ordinance language that addressed "the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of three buildings downtown." (2016-09-28 Minutes, p. 3) [2]

It is clear that by this meeting the Planning Board was only discussing a draft of the D5 overlay ordinance that gave the 555 Building, Birmingham Place and Merrillwood conforming status and nothing more. According to the minutes, the approach, with which the 555 Building applicant agreed, "was first to create a D-5 Zone, and second to recommend rezoning of one or more properties into the new D-5 category. This would allow the board to have further discussion on whether they want it to be the 555 Building property, or include the Birmingham Place and the Merrillwood Building, which are also non-conforming with regard to height." (*Id.* at p. 5.)

It is also very clear that the Planning Board intended that the D5 language regarding new development in the D5 zone was for the benefit of the 555 Building owners, who expressed throughout the process that they wanted the right to use their vacant property for a new building that could be built as tall as the 555 Building. The only issue was whether building higher than 5 stories would require a special land use permit.

> Chairman Clein summarized that the language would make any property that is put into the D-5 Zone legal and conforming as to height and setback. It would allow expansions as part of building maintenance. Undeveloped portions of the property could be built upon so long as it meets the D-4 Overlay standards. The south side of the 555 Building still needs to be resolved." (*Id.*)
>
> Mr. Williams did not agree with limiting the south side to five stories. However, anything built above five stories would require a Special Land Use Permit ("SLUP"). Mr. Share was in favor of tying all of the expansions to a SLUP. Chairman Clein felt the D-4 controls are in place and any expansion must conform. Mr. Share thought the City should have some control over how changes get made. Mr. Koseck liked the SLUP because it allows the City to control the design to meet the spirit and intent of the D-4 Zone. Mr. Jeffares agreed. (*Id.*)

[2] As stated, the Planning Board also amended Section 6.02 so that it applied to nonconforming commercial and residential buildings.

The 555 Building owner's Attorney responded to the discussion as follows:

> Mr. Richard Rattner, Attorney, represented the applicant. He said they are almost there with allowing the 555 Building to be conforming in all respects. Secondly, the proposed expansion language is fine. Third, they would like to see the height of a new building being constructed in the D-5 Zone be up to but not exceeding the height of the building immediately adjacent or abutting it. That means the south building cannot be any higher than the 555 Building. They would like to do that without a SLUP. (*Id.*) (Emphasis added)

October 28, 2016 Planning Commission Meeting

At this meeting, the Planning Board set a public hearing for making a recommendation on the amendment of the D5 ordinance and the proposed rezoning of the 555 Building to the new zoning overlay district category.

First, Ms. Ecker provided a recap which reiterated that the proposed D5 classification would accomplish two goals: (1) render 555 S. Old Woodward a legal conforming structure and (2) allow a new addition at the south end of the building that could be built as tall as the adjacent structure. (2016-10-26 Minutes, p. 4)

Ms. Ecker also suggested that the Board should recommend rezoning Birmingham Place and Merrillwood to the D5 classification because they were also nonconforming in building height. The consensus was to contact the owners before including them. There was no suggestion that they contact the owner of the Mountain King property or include that property in the rezoning because the Mountain King property did not contain an existing building over 5 stories.

The decision to include Merrillwood in the rezoning further establishes that the City did not intend the D5 Overlay ordinance as part of any general development incentive for the South Woodward Gateway as the Applicant has represented to the Board. Merrillwood is not located in the South Woodward Gateway. The Planning Board included Birmingham Place and Merrillwood because the only purpose of the D5 overlay district is to provide legal conforming status to existing buildings over 5 stories.

December 14, 2016 Planning Commission Meeting

At this meeting, the Planning Board held a public hearing on the proposed D5 amendment and the rezoning of the three nonconforming buildings. Ms. Ecker explained that the Planning Board set the public hearing "with the goal of bringing several non-conforming buildings in Birmingham into compliance. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently non-conforming to be considered legal in regards to setbacks, number of stories, and height. The new

D-5 zone would also allow additions or new construction in the D-5 to match the height of abutting or adjacent buildings." (2016-12-14 Minutes, p. 3) (Emphasis added)3

It should be obvious that Ms. Ecker would have notified the public that the new D5 classification could be applied to any property in the City whether or not it was nonconforming in height if that was the intent of the new ordinance. The failure to notify the public of that intent is another reason why the Planning Board must again deny recommendation of the rezoning request. In fact, a resident, who was concerned about the impact on parking demand commented that he did not believe that residents really understood what was being considered. If what was being proposed was other than what has been represented as the goal of the amendment, there has been a serious breach of the public trust.

February 13, 2017 City Commission Public Hearing

At this meeting, the City Commission held a public hearing on the D5 ordinance amendment and rezoning. The planning department briefed the City Manager prior to the hearing.

In a Memorandum dated February 6, 2017 from Senior Planner Matthew Baka he reminded the City Manager that the Planning Board and City Commission discussed the issue of legal non-conforming commercial buildings at the June 2016 joint meeting.

The Memo further provides that the Planning Board held a public hearing

> to consider Zoning Ordinance amendments **with the goal of bringing several non-conforming buildings in Birmingham into compliance**. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently nonconforming to be considered legal in regards to setbacks, number of stories, and height. The new D-5 zone would also allow additions or new construction in the D-5 to match the height of abutting or adjacent buildings. (Memo, p. 1.) (emphasis added)

The Memo advised only that the goal of the zoning ordinance amendment was to render several buildings legally conforming structures. The Memo would have alerted the City Manager if the intention was to allow new construction on sites that did not already contain a building greater than 5 stories.

The minutes from the February 13, 2017 public hearing show that City Planner Ecker advised the Commission that with respect to the new D5 classification and rezoning of the three buildings:

> [The impact of the amendments would make the three buildings legal conforming buildings, and they would be allowed to be

---

[3] As stated, the Planning Board also recommended amending Article 6, Nonconformances, Section 6.02 by removing the limitation that the extension or expansion of nonconforming property applied only to residential property.

> extended or enlarged with a Special Land Use Permit. If a new building was constructed, it could match the height of the existing building with a Special Land Use Permit.
>
> The new category would deal with existing buildings located in the D5 zone. This change enables applicants to obtain funding for significant renovations or improvements as a legal conforming building. The second part allows expansion with the restriction to meet the overlay. (Minutes, p. 15)

First, Ms. Ecker unmistakably represented to the City Commission that the proposed D5 ordinance would apply to taller existing buildings, like the 555 Building, Birmingham Place and Merrillwood, and allow improvements and expansions of those buildings or sites.

Second, Ms. Ecker also led the Commissioners to believe that only the 555 Building would be eligible to build a new taller building in the D5 district because of the vacant land on its site. **Ecker advised Commissioner Boutros that the language regarding new construction of a building as tall as an adjacent building was inserted because "the 555 site has room where a new building could be constructed."** (Id.)

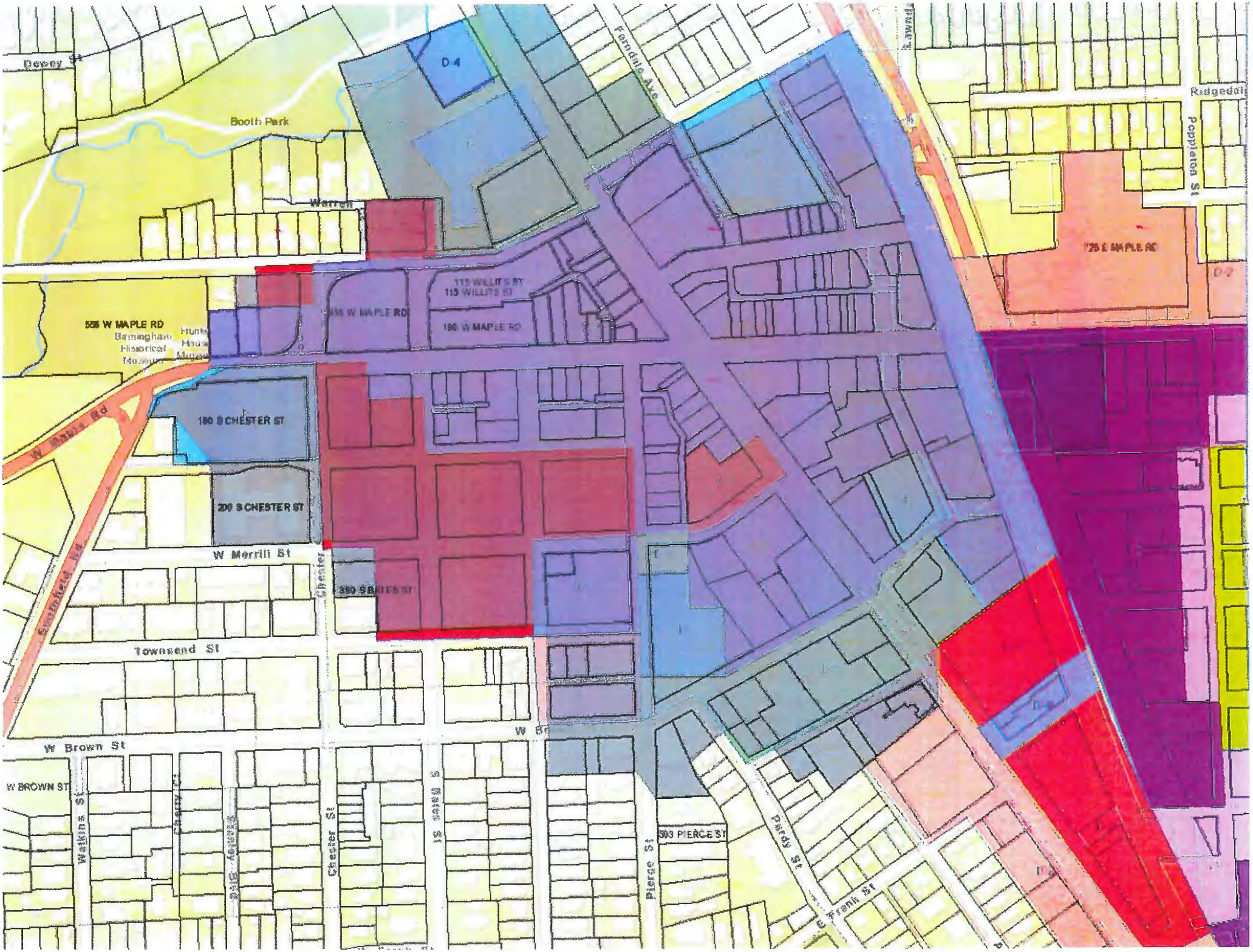
Ecker also assured Commissioner Hoff as follows:

> Commissioner Hoff asked if Birmingham Place or Merrillwood could buy the adjacent structures and then build in the space. City Planner Ecker said that they could not, because the properties next door would not have the D5 zoning classification."

The clear inference is that neither Merrillwood or Birmingham Place could build new taller buildings by simply buying the next door parcels because those parcels would not have been eligible to be part of the D5 district. The 555 Building could construct a new building because its entire site would be zoned D5.

CONCLUSION

The history of the D5 overlay ordinance should clear up any misconception or unsupported assertions by the Applicant that Birmingham Place, its attorneys or any Planning Board member mischaracterized the intent and purpose of the D5 ordinance. The facts show that the only intent was to allow the renovation and expansion of existing buildings taller than 5 stories. It was also to allow the 555 Building the option to build on its vacant property that also was zoned D5. There was no intent that the City apply the ordinance to property like the Applicant's property which can be redeveloped under the D4 ordinance and not lose any preexisting height. As a nonconforming building for reasons other than being taller than 5 stories, the Applicant can seek permission to renovate or expand its existing buildings under Article 6, Section 6.02.



Dewey St
Booth Park
D-4
Ferndale Ave
Ridgedale
Poppleton St
Warren
115 WILLITS ST
113 WILLITS ST
555 W MAPLE RD
190 W MAPLE RD
Birmingham Historical Museum
190 S CHESTER ST
200 S CHESTER ST
W Merrill St
Chester
Townsend St
W Brown St
W BROWN ST
Watkins St
Cherry Ct
Chester St
S Bates St
Pierce St
593 PIERCE ST
Purdy St
E Frank St
D-2

City of Birmingham
A Walkable Community

MEMORANDUM

Community Development Department

DATE: September 22, 2015

TO: Planning Board Members

FROM: Jana L. Ecker, Planning Director

SUBJECT: Study Session on Legal Non-conforming Buildings

Last year, the owners of the 555 S. Old Woodward building applied to the Planning Board to amend the Zoning Ordinance to allow the renovation of the existing building, the addition of new residential units along S. Old Woodward, as well as an addition to the south of the existing residential tower for new retail space and residential units. The Building Official had previously ruled that some changes to the existing legal non-conforming building may be permitted. However, the scale and scope of the changes that the property owner sought to implement would exceed what would be permitted as maintenance and thus were not permitted in accordance with the legal non-conforming regulations contained in the Zoning Ordinance.

In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward building requested a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. The proposal was then to seek rezoning of the 555 S. Old Woodward properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building at 555 S. Old Woodward as a legal, conforming building that could then be renovated and expanded in accordance with new D5 development standards.

On May 13, 2015, the Planning Board began discussing the applicant's proposal to create a new D-5: Downtown Gateway (Over Five Stories) zoning classification in the Downtown Birmingham Overlay District. Planning Board members discussed the desire to review the proposed amendment within the spirit, vision and context of the entire downtown, and not to create a new zoning classification around a specific building. The Planning Board did, however, recognize the importance of the 555 S. Old Woodward building and the need to allow renovations and additions to improve its presence at the south end of Downtown Birmingham. Specific concerns raised regarding the existing 555 S. Old Woodward building were the unwelcome facades of the Woodward elevation, the split level concept on the S. Old Woodward elevation, and the exposed structured parking.

At subsequent Planning Board meetings on June 10th, 2015 and July 8th, 2015 the Planning Board further discussed the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests. The Planning Board indicated that they would like to craft a zoning classification or overlay expansion that allows

the 555 Building to be renovated but also mirrors the development standards in the Triangle District across Woodward, which allows a maximum of 9 stories. Board members discussed taking a look at the 555 building along with several other parcels in the context of future development. It was suggested that this could be accomplished through a combination of a new zoning district and a Special Land Use Permit (SLUP) or the addition of a D6 zone as well, to differentiate permitted height north of Bowers, and south of Bowers along Woodward. The board reviewed multiple examples of similar "gateway corridor" districts in other cities (see attached), along with highlights, notes and sample ordinance language from other cities that were relevant. There were varying viewpoints on whether a new overlay should be created that included multiple properties along Woodward, and if so, which properties to include. No consensus was reached.

On September 9, 2016, the board reviewed a revised draft of the proposed D5 zone. Board members discussed the appropriate height for buildings along the west side of Woodward adjacent to the Triangle District. Some board members felt that the allowable height in a new D5 or D6 zone should mirror the 9 stories permitted in the Triangle District on the east side of Woodward. Other board members felt that additions should be permitted to match the height of existing non-conforming buildings. The board was unable to reach consensus on how to proceed, and requested additional information and direction from the City Attorney on potential options to provide exemptions for non-conforming buildings. The City Attorney's response letter dated September 29, 2016 is attached for your review.

On June 20, 2016 the issue of legal non-conforming commercial buildings was discussed at a joint meeting of the City Commission and Planning Board. The 555 S. Old Woodward building, the Merrillwood Building and Birmingham Place were referenced due to their non-conformity with regards to their height and bulk, and the desire to allow improvements or changes to these buildings. While no action was taken at the joint meeting, there was consensus that the issue of the improvement or expansion of legal non-conforming buildings should be studied.

On July 25, 2016, the City Commission again discussed the issue of legal, non-conforming commercial buildings and directed the Planning Board to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

On September 14, 2016, the Planning Board resumed their discussion regarding legal non-conforming buildings. Specifically, the Planning Board discussed the following options to allow changes to legal non-conforming buildings for maintenance, renovation and/or expansion:

1. **Allow Maintenance and Renovation Only of Existing Legal, Non-conforming Commercial Buildings**

Article 6, Section 6.02 of the Zoning Ordinance could be amended as follows:

6.02 Continuance of Nonconformity

A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:

1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
2. The use shall not be reestablished after discontinuance for 6 months.
3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming ~~**residential**~~ buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

The amendment noted above would allow for the maintenance, extension or enlargement of an existing legal, non-conforming building so long as the addition meets the current zoning standards for the existing zone district. This amendment would allow both commercial and residential legal non-conforming buildings to be expanded using a consistent approach. As an example, this approach would allow a 10 story legal non-conforming building in a 5 story zone district (building that is non-conforming for height only) to construct an addition. However, the addition could not be 10 stories in height to match the existing building, but could be built up to a maximum of 5 stories as currently allowed in the zone district.

2. Allow the Expansion of Existing Legal, Non-conforming Buildings To Match Existing Non-conforming Conditions

Article 6, Section 6.02 of the Zoning Ordinance could be amended as follows:

6.02 Continuance of Nonconformity

A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:

1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
2. The use shall not be reestablished after discontinuance for 6 months.
3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming ~~**residential**~~ buildings may be extended or enlarged, provided that the extension or enlargement does not itself **increase the degree of the dimensional nonconformance, nor** violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

OR

Section 6.02 Continuance of Nonconformity

A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:

1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
2. The use shall not be reestablished after discontinuance for 6 months.
3. The use or building shall not be extended or enlarged except as herein provided. ~~Nonconforming residential buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).~~ **A legally nonconforming structure may expand its square footage provided that the expansion does not exceed the extent of the height and/or setback in nonconformance. All other development standards must be met in the expansion.**

   a. A vertical expansion of a nonconforming building or structure which is legally nonconforming as to one or more setback requirements is a permitted expansion of that nonconformity.

   b. A horizontal expansion of a nonconforming building or structure which is legally nonconforming as to one or more height requirements is a permitted expansion of that nonconformity.

Both of the amendments noted above would allow for the maintenance, extension or enlargement of an existing legal, non-conforming building up to, but not exceeding, the existing non-conforming dimension. The first option listed above is more general in nature, and could include the expansion of any type of non-conformity (height, setbacks, FAR, density, lot coverage etc.). The second option listed above is limited to expanding only height and/or setback non-conformities. As an example, this approach would allow a 10 story legal non-conforming building in a 5 story zone district (building that is non-conforming for height or setbacks) to construct an addition up to 10 stories in height to match the existing building height and setbacks.

3. Convert Existing Legal, Non-conforming Buildings to Conforming Using a Special Land Use Permit

Another option to consider may be to convert buildings or structures in Downtown Birmingham that are legal non-conforming with regards to height into conforming buildings through the use of a Special Land Use Permit. An amendment to Article 3, Overlay Districts, or to Article 6, Nonconformances, could be proposed as follows:

> **Conversion of Non-conforming Status: A building in the Downtown Birmingham Overlay District that is a legal non-conforming building or structure with regards to height may be deemed a conforming building or structure with regards to height if the property owner agrees to specific conditions to control the future extension, enlargement or renovation of the building or structure and said conditions are approved by the City Commission under the provisions of a Special Land Use Permit.**

This approach would allow for the extension or enlargement of existing legal, non-conforming buildings downtown on a case by case basis as negotiated by the City Commission. The amendment noted above would provide flexibility for different site conditions and would provide control over the parameters of future expansion based on site and neighborhood context. As an example, a 10 story legal non-conforming building in a 5 story zone district could be deemed conforming if placed under the provisions of a SLUP that establish the specific conditions for maximum extension or enlargement of the building in the future.

4. Re-establish the Zoning District(s) in effect when Building Permits were Issued for Buildings in Excess of 5 Stories (or amend the B3 Zoning District) to render existing buildings conforming

Another option to consider may be to re-establish the former zoning classification(s) in place in the 1970's when several buildings were legally constructed greater than 5 stories in height, and to rezone properties with non-conforming buildings with regards to height back to this classification. Thus, any extension or enlargement of an existing legal, non-conforming building so rezoned would be permitted as anticipated at the time of construction. As an example, a 10 story building constructed in 1975 under a classification that permitted 11 stories in height could be extended or enlarged up to 11 stories in height.

5. Create a New Zoning District(s)

Another option to consider is to create a new zoning classification(s) that would permit additional building height and rezoning certain properties to this classification, thus rendering legal non-conforming buildings or structures conforming buildings with regard to height. This approach has been discussed by the Planning Board over the past year, and amendments have been drafted to create two new classifications under the Downtown Overlay, D5 and D6, to attempt to address the non-conforming heights of several buildings downtown. The Planning Board has also discussed using this approach to address sites along the west side of Woodward to allow additional height even for existing conforming buildings along the corridor to match the height permitted on the east side of Woodward in the Triangle District. The latest version of

the draft previously discussed by the Planning Board is attached and highlighted to indicate areas noted for further discussion. As an example using this approach, an existing 10 story legal non-conforming building in a 5 story zone district could be rezoned to a new zoning classification to be created that would allow 10 story buildings as of right.

At the Planning Board meeting on September 14, 2016, board members agreed that the improvement and maintenance of existing legal, non-conforming commercial buildings should be permitted, and expansion of such buildings should also be permitted consistent with regulations for residential buildings. Board members also discussed at length the issue of several legal, non-conforming buildings in the Downtown Overlay District, and the desire to allow improvements to those buildings as well. After much discussion, the Planning Board directed Planning staff to meet with the applicant for the 555 Building to craft ordinance language that would make existing buildings downtown conforming with regards to both height and setbacks, and to allow future expansion that would comply with the standards of the D4 Overlay.

On September 28, 2016, the Planning Board discussed draft ordinance language that proposed to create a D5 zone district that would render existing buildings legal and conforming with regards to setback and height. Board members agreed that additions or renovations should be permitted to existing buildings. With regards to the construction of new buildings in the proposed D5 zone district, there was much discussion as to whether such buildings should meet the 5 story maximum height in the D4 zone district, or should be allowed to match the height of the existing adjacent buildings. The consensus of the board was to allow additional height for new buildings in the D5 to match existing adjacent buildings, if the new building was constructed under the provisions of a SLUP. At the end of the discussion, the applicant asked if the Planning Board could simply waive certain requirements in the D5 zone instead of requiring a SLUP. Staff agreed to discuss this with the City Attorney.

Since the September 28, 2016 Planning Board meeting, City staff has met with the applicant to refine the draft ordinance language. Accordingly, please find attached draft ordinance language for your review based on the Planning Board's direction from the last meeting that addresses the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of buildings downtown.

The applicant has also provided another version of a draft ordinance for the Planning Board's discussion as well based on their desire to construct a new building that exceeds the height of the existing 555 building, but maintains the same number of stories. The applicant's revised draft is also attached for your review.

Finally, City staff has reviewed the applicant's request as to whether the Planning Board can simply waive certain requirements in the D5 zone with both the City Manager and the City Attorney. Although it was unclear as to whether there was a legal question, the City Manager directed the City Attorney to respond. The City Attorney has advised that the question of whether the Planning Board can waive specific requirements is not a legal question, but rather a

policy question. Ultimately, the City Commission has the sole authorization to pass zoning legislation, with or without waivers, so long as they remain in compliance with the Michigan Zoning Enabling Act.

Should the Planning Board wish to recommend the attached ordinance amendments, the board may also wish to consider proposing a rezoning of the 555 Building, Birmingham Place and/or the Merrillwood Building to the proposed D5 Zone (over 5 stories).

Suggested Action:

To set a public hearing for December 14, 2016 to consider the following amendments to Chapter 126 Zoning:

(a) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district;
(b) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

AND

To set a public hearing for December 14, 2016 to consider the rezoning of the following properties:

(d) **555 S. Old Woodward** (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
(e) **411 S. Old Woodward** (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
(f) **225 E. Merrilwood** (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

September 11, 2018

Ms. Jana Ecker, Planning Director
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: Rezoning Application Before the Planning Board

Dear Ms. Ecker:

This letter is in response to your request to clarify the procedure by which applications for rezoning and determinations of rezoning are made. The Zoning Ordinance states in Section 7.02 B.2. *Application for Rezoning,* as follows:

"2. *Application for Rezoning.*

1. *Persons Entitled to Seek Rezoning.* Only a person who has a fee interest in a piece of property, or a contractual interest which may become a fee interest in a piece of property, may seek an amendment in the zoning classification of that property under this section.

2. *Application for Rezoning.*
   a. An application for an amendment to change the zoning classification of a particular property must be filed with the Building Official on such forms and accompanied by such fees as may be specified by the City Commission. The application and any supporting documentation shall be forwarded by the City Building Department to the Planning Board for study and recommendation.
   b. Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:
      i. An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.
      ii. An explanation of why the existing zoning classification is no longer appropriate.
      iii. An explanation of why the proposed rezoning will not be detrimental to surrounding properties.
   c. Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. The plot plan shall be drawn to a scale of not less than one inch equals 50 feet for a property of less than 3 acres and one inch equals 100

feet for property of 3 acres or more in size. Information required on plot plans shall be as follows:

i. Applicant's name, address and telephone number.
ii. Scale, north point, and dates of submission and revisions.
iii. Zoning classification of petitioner's parcel and all abutting parcels.
iv. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
v. Existing use of the property.
vi. Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
vii. Location of existing drainage courses, floodplains, lakes, streams, and wood lots.
viii. All existing easements.
ix. Location of existing sanitary systems and/or septic systems.
x. Location and size of existing water mains, well sites and building service.
xi. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans.

If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply, and, furthermore, why the items are not applicable."

The foregoing is the information that is to be provided by the applicant to provide the materials to assist the Planning Board in making its findings of fact. It does not set the criteria by which findings of fact or recommendations should be made. Those are set forth in Section 7.02 B.5, which reads as follows:

"5. *Findings of Fact and Recommendation of the Planning Board.* The Planning Board shall make written findings of fact and transmit same, together with its recommendation, to the City Commission. The City Commission may hold additional hearings if the City Commission considers it necessary. The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:

a. The objectives of the City's then current master plan and the City's 2016 Plan.
b. Existing uses of property within in the general area of the property in question.
c. Zoning classification of property within the general area of property in question.
d. The suitability of the property in question to the uses permitted under the existing zoning classification.

e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

The foregoing Section 7.02 B.5. sets forth the criteria upon which the Planning Board makes written findings of fact. Thereafter, the findings of fact, together with its recommendations, are sent to the City Commission to determine possible rezoning of the subject property.

* * * * * * * *

I have also been asked to outline the procedure for the Board to consider a petition by the applicant for rehearing of the rezoning application. The instant case involves 469-479 South Old Woodward. The *first* matter the Planning Board should consider is whether they will grant the rehearing of this matter to the applicant. If they believe there is not sufficient information to grant a rehearing, it could be denied at that time and no rehearing will be granted.

Second, if the Planning Board believes a rehearing should be granted, then a ruling granting the rehearing should be entered, followed by a rehearing on the substance of the matter before the Board. At such time, the Planning Board can take into account such additional information that is submitted by the applicant or by any person opposing the application. This will create an additional record upon which the Planning Board will then make its findings of fact and recommendation pursuant to 7.02 B.5.

A rehearing does not automatically grant the request of the applicant, nor does it automatically deny it. The Planning Board is free to make whatever decision it deems appropriate based on the material and the facts placed before it by the applicant and those in opposition.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier
Birmingham City Attorney

TJC/jc

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712
Fax: (269) 337-7713
Lennon@honigman.com

Via E-Mail and US Mail

October 10, 2018

Mr. Timothy J. Currier
Beier Howlett, P.C.
3001 W. Big Beaver Road
Suite 200
Troy, Michigan 48084

Re: Opposition to Rezoning of Property located at 469 and 479 S. Old Woodward, Birmingham, Michigan (the "Property")

Mr. Currier:

We attempted to reach you by phone earlier today. We are contacting you to inform you, and the others copied on this letter, that our Firm has been engaged by Condominiums at Birmingham Place Association (the "Association") to work along with counsel for the Birmingham Place Residential Condominium Association. The Association is the so-called Master Association for the Birmingham Place development.

Please be advised that the Association opposes the application to rezone the Property to the D-5 Overlay Zone and fully supports the position of the Birmingham Place Residential Condominium Association. We understand the rezoning application is "back" on the Planning Board's agenda for its meeting tonight. Unfortunately, we will not be available to participate in the meeting tonight, but we wanted you to be aware of our involvement and our client's position.

As you might expect, we have recently become involved and have not had the opportunity to thoroughly review all of the extensive information and voluminous documents. However, even based on our limited review, we do not understand how (or why) this matter finds itself back before the Planning Board. In addition, even if the application is properly back before the Planning Board, we also do not see how (or why) any of the so-called "new" information or positions could possibly justify a change to the Planning Board's previous decision.

In any case, please be aware that if the Planning Board elects to reconsider the rezoning application based on so-styled "new" information, and/or if the Planning Board changes from its previous position of recommending denial of the rezoning application, our Firm will continue forward and complete our thorough review of all of the information and will join in also

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712
Fax: (269) 337-7713
Lennon@honigman.com

advising the Association of its legal rights and remedies along with the Residential Condominium Association's counsel.

Thank you for your time and attention to this matter. As always, please feel free to contact me with any questions or comments.

Very truly yours,

HONIGMAN MILLER SCHWARTZ AND COHN LLP

By: _____
J. Patrick Lennon

cc: Ms. Michele Prentice
Ms. Jana L. Ecker
Ms. Susan K. Friedlander
Mr. Richard D. Rattner

Gayle Goodman

411 S. Old Woodward, Unit 912, Birmingham, Mi 48009 248-891-0908

3/2/2020

City Clerk
City of Birmingham
151 Martin
Birmingham, MI 48009

Dear City Clerk,

I am writing this letter to **strongly oppose** the rezoning request for **469-479 Old Woodward Avenue (former Mountain King and Talmer Bank).**

A 9 story building would completely impede and block any view that I have from my condo unit. I paid a lot for my condo and have an amazing view of both old Woodward and Woodward. This 9 story building will not only impede on my view, but also devalue and depreciate my condo, which I paid handsomely for. I have no objection for a new building on the site as it would be a nice addition, however, 4 - 5 story building would be perfect, in my opinion. That said, I hope that this rezoning does **NOT** pass.

Best,

Gayle Goodman

411 S. Old Woodward Ave., Unit 1018
Birmingham, MI 48009
February 19, 2020

RECEIVED
2020
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

VIA HAND DELIVERY

Ms. Jana Ecker, Director
City of Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Development")
Request to Rezone from B3/D4 to B3/D5 Filed by William Rattner
Hearing Scheduled for Wednesday, February 27, 2020 (the "Hearing")

Dear Ms. Ecker:

I request that the Hearing be rescheduled for two (2) reasons as the legal requirements for a hearing have not been met.

First, the Developer has not met the legal requirement to request a hearing. As of last night (February 18, 2020), the Applicant had not posted the notice sign required under subsection 7.02 B.4.a.v of the Rezoning Amendments. As stated "A notice sign shall be posted in a conspicuous place on the subject property. . ." I would be glad to share with the planning board the photos of the property which demonstrated the lack of notice.

Second, the Planning Board errored in the required 15-day notice to adjacent property owners. (7.02 B3aiii). Specifically, the postcard mailed regarding Notice of Public Hearing stated the hearing would occur on "Wednesday, February 27, 2020". No such date exists. Either the meeting is on Wednesday February 26 or Thursday February 27. This confusion is unfair to concerned Birmingham citizens. Most importantly, accurate 15-day notification has not been mailed.

I request the Planning Board follow City Rules and Regulations and only hold a rezoning hearing when all regulations are met.

Please contact me via email to mickeyschwartz@gmail.com, or at (248) 229-9989 with any questions or further requirements and in any event with the new hearing date.

Thank you for your time and attention.

Yours very truly,

Michael Schwartz, MD

xc: Planning Board Members (via separate emails)

Board Member		Term Expires/Email	
Janelle Boyce	Residential/Interior Designer Member	03/28/2020	j/wboyce@hotmail.com
Robin Boyle	Planner/Professor	03/28/2022	r.boyle@wayne.edu
Scott Clein	Regular Member	03/28/2022	s.clein@comcast.net
Stuart Jeffares	Regular Member	03/28/2021	stuartjeffares@gmail.com
Bert Koseck	Architect	03/28/2020	bkosek@comcast.net
Nasseem Ramin	Alternate Member	11/02/2020	nramin@dykema.com
Daniel Share	Building Owner	03/28/2021	dshare@bsdd.com
J. Bryan Williams	Attorney	03/28/2021	jwilliams@dickinsonwright.com
Jason Emerine	Alternate Member	11/02/2020	
Sofia Trimble	Student Representative	12/31/2019	
John Utley	Student Representative	12/31/2019	

Jana Ecker <jecker@bhamgov.org>

Re: Confirmation of postponement

1 message

Jana Ecker <Jecker@bhamgov.org> Thu, Feb 20, 2020 at 9:07 AM
To: Mickey Schwartz <mickeyschwartz@gmail.com>, James J Arpin <jjarpin@gmail.com>

Good morning gentlemen,

As I indicated via email last evening, the **rezoning hearing for 469 - 479 S. Old Woodward will not be heard at the Planning Board meeting on February 27, 2020**. Please note that it will remain listed on the agenda, but there will be a note in bold type requesting postponement to March 25, 2020. We will send out new notices on the matter for that date. The applicant was advised yesterday that they are required to place the required notice sign on the property at least 15 days prior to the hearing, and to ensure that it remains posted until after the hearing.

Thank you for bringing this matter to our attention.

Jana Ecker

On Wed, Feb 19, 2020 at 8:55 PM Mickey Schwartz <mickeyschwartz@gmail.com> wrote:

> Jana,
>
> Can you please confirm that the rezoning hearing scheduled for next week's Planning Board meeting is postponed as per my concerns raised in my letter of 2/19/2020.
>
> Thank you,
>
> Mickey Schwartz, MD
> 248 229-9989
> mickeyschwartz@gmail.com

--
Jana L. Ecker

Planning Director
City of Birmingham
248-530-1841

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

October 1, 2018

Ms. Jana L. Ecker and
Planning Board Members
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

Re: Legal Opinion Regarding Rezoning Application for 468-479 S. Old Woodward

Dear Members of the Board:

The Board has requested a legal opinion in connection with the following question:

Is the owner of the property located 469-479 S. Old Woodward (currently zoned D4 in the Downtown Overlay District) legally permitted to apply for rezoning to the newly created D5 zone district in the Downtown Overlay District?

ANSWER: YES.

If you have any additional questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

October 1, 2018

Ms. Jana L. Ecker and
Planning Board Members
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

Re: Legal Opinion Regarding Rezoning Application for 468-479 S. Old Woodward

Dear Members of the Board:

The Board has requested a legal opinion in connection with the following question:

Is the owner of the property located 469-479 S. Old Woodward (currently zoned D4 in the Downtown Overlay District) legally permitted to apply for rezoning to the newly created D5 zone district in the Downtown Overlay District?

ANSWER: YES.

If you have any additional questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

Jana Ecker <jecker@bhamgov.org>

400 S Old Woodward and 469-479 South Old Woodward

1 message

LYNN GROTH <lgroth@comcast.net> Tue, Apr 7, 2020 at 5:10 PM
To: ndupuis@bham.org, jecker@bhamgov.org

To Whom it May Concern:

I am the Co- owner of the building at 444-494 S Old Woodward. We have tenants that pay a premium in their rent because they have dedicated parking for their customers. We are concerned that the change in usage, as in more tenants, for 400 South Old Woodward and 469-479 South Old Woodward could force people to look for offsite parking. We have a problem with the 555 South Old Woodward and 411 South Old Woodward building customers parking in our lot when they are not patronizing our businesses. Every week we have people looking to rent parking spaces. We can not handle more people looking for places to park because the building wasn't designed to accommodate it's tenants. Please consider the businesses that provide parking for their patrons when you contemplate usage changes to buildings on South Old Woodward.

Thank you,

Lynn Groth
Galyn Associates

Re: Upcoming Virtual Hearing for 469-479 S. Old Woodward Rezoning Request

1 message

Jana Ecker <Jecker@bhamgov.org> Mon, Apr 13, 2020 at 3:38 PM
To: James J Arpin <jjarpin@gmail.com>
Cc: j/wboyce@hotmail.com, "r.boyle@wayne.edu" <r.boyle@wayne.edu>, Scott Clein <s.clein@comcast.net>, Stuart Jeffares <stuartjeffares@gmail.com>, bkosek@comcast.net, Nasseem Ramin <nramin@dykema.com>, Dan Share <dshare@bsdd.com>, Bryan Williams <jwilliams@dickinsonwright.com>

Good afternoon Mr. Arpin,

I received your email and will include it in the Planning Board's agenda for April 22, 2020.

Please allow me to respond to several of the comments in your email. The Planning Board meeting of April 22, 2020 was posted in a newspaper of general circulation on Sunday, April 5, 2020. Please see attached notice that was sent to the Oakland Press. Postcards were also mailed to all owners and occupants within 300' of the property requesting the rezoning more than 15 days prior to the scheduled public hearing, also attached. These are the required notices that must be posted/distributed 15 days prior. Both were completed, and both contained the details required to participate in the virtual meeting using a computer, smartphone or regular telephone.

The Planning Board's page on the City's website to which you refer that was listed in the postcard notice was to obtain copies of previously approved minutes of the Planning Board. All previously approved minutes are posted there for past meetings as noted on the postcard. This page will also be updated with the full agenda and all accompanying reports etc. on the Friday before the meeting as usual (Friday, April 17, 2020).

In addition, please find attached an easy to follow instruction sheet that may assist you in participating in virtual meetings.

Have a great day, and stay healthy,

Jana

On Mon, Apr 13, 2020 at 2:47 PM James J Arpin <jjarpin@gmail.com> wrote:

> Hello Jana,
>
> I hope this letter finds you safe and healthy. Thank you for reaching out.
>
> In these unprecedented times of the ongoing pandemic, I realize the City must resort to Zoom virtual meetings in an attempt to conduct “essential" business.
>
> Given that 469-479 South Old Woodward project application has gone through active public open forum discussions on;
>
> - site plan reviews
> - incomplete community impact studies
> - extreme disagreements from Commissioners, PB members and outside counsels on the purpose of a D5 district
> - parking district inclusion misinterpretatations
> - planning board rehearings
> - no decision results from the City Commission
> - D5 Subarea studies (and re-studies) by outside consultants
> - Birmingham Master Plan impacts
> - modifications to the D5 ordinance zoning code
>
> I am respectfully requesting that the Planning Board consider postponing a hearing on the 469-479 rezoning application in a Zoom virtual meeting on April 22, 2020. Given the controversial nature and length of time the 469-479 South Old Woodward application(s) have been in discussion, I believe it is unfair to the community to hold a hearing that impedes equitable participation and can not guarantee open fair discussion by the public.
>
> Given the governor’s orders, our group who has concerns about the 469-479 South Old Woodward rezoning application, is unable to meet in a safe environment with each other or counsel to prepare for the upcoming April 22, 2020 hearing.
>
> When I log onto https://www.bhamgov.org/government/boards/planning_agendas.php#outer-173 as of this letter it indicates there are "No documents” in the Virtual Meeting Notice section. Chapter 126 in the City ordinance states
>
> a. i. Notice of the time and place of the public hearing shall be published in an official newspaper or a paper of general circulation in the city, not less than 15 days before the date the application will be considered for approval.
>
> If the PB is going to have a Zoom meeting, should the meeting be posted according to the zoning ordinance, not lees than 15 days before the hearing?
>
> Again, I realize the City has the technical capabilities and the concurrence of the MML / Governor (Orders 2020-15, 2020-42 ++) to hold Zoom virtual meetings, I am asking you and the PB to seriously consider whether you **should hold such a significant impactful rezoning hearing in the middle of a pandemic on a decision that will impact the City of Birmingham significantly forever.**
>
> Regards,
>
> Jim Arpin
>
> m: +1 313 949 0252
>
> On Apr 9, 2020, at 2:51 PM, Jana Ecker <Jecker@bhamgov.org> wrote:
>
> Good afternoon,

I am reaching out to both of you as representatives of Birmingham Place to make sure you know that the upcoming rezoning request will be considered at a **virtual meeting** on April 22, 2020. Hopefully you have received your notice postcards with the Zoom link for the meeting. If you do not have the equipment (computer or smartphone) or desire to join the meeting over the internet, there is also a phone in option that allows you to listen and participate in the meeting in real time.

If you need any further information, please let me know.

Jana L. Ecker

Planning Director
City of Birmingham
248-530-1841

--

Jana L. Ecker

Planning Director
City of Birmingham
248-530-1841

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3 attachments

469 - 479 S. Old Ww Rezoning - Virtual Meeting -4-22-20.doc
47K

469 -479 S. Old Woodward - Rezoning - 4-22-20.doc
47K

Public Meetings on Zoom - Guide for Members of the Public.docx
381K

/

Fwd: Virtual Planning Board Meeting

1 message

Mickey Schwartz <mickeyschwartz@gmail.com> Tue, Apr 14, 2020 at 3:37 PM
To: Jana Ecker <jecker@bhamgov.org>

As per your email, please forward this to the Planning Board members.
I am disappointed and do not understand why I can not communicate directly.

---------- Forwarded message ---------
From: **Mickey Schwartz** <mickeyschwartz@gmail.com>
Date: Tue, Apr 14, 2020 at 2:45 PM
Subject: Virtual Planning Board Meeting
To: <pboutros@bhamgov.org>, <tlonge@bhamgov.org>, <cballer@bhamgov.org>, <rackyhoff@hotmail.com>, <bhost@bhamgov.org>, <mnickita@bhamgov.org>, <ssherman@bhamgov.org>

To: City Commissioners (and Planning Board Members):

The Birmingham Planning Board has scheduled a virtual meeting to address a non-essential, controversial rezoning issue that had been under consideration for years (469-479 Old Woodward Rezoning). In light of the current COVID-19 pandemic, this borders on the absurd. The notion that they MAY legally do this does not mean that it should be done. The new concept of virtual meetings for non-essential issues is fraught with problems in a democratic society particularly for citizens without technical skills.

I object to the meeting and formally request the Planning Board to defer this issue pending the resolution of the Michigan mandated shutdown.

We have no knowledge of the long-term effects of this horrible pandemic. Will we want more tall buildings and an increase in population density in downtown? What will happen to Birmingham retail as the society moves more to online shopping? We are in unprecedented times and uncharted territory. Why the urgency to consider changes now that the City may regret in the future?

Rather than business as usual, perhaps the Planning Board should be studying how the proposed Master Plan should be updated for a post COVID-19 environment.

Please postpone this rezoning issue.

(I tried to send this to the Planning Board members but their emails are not included in the City Web Page).

Mickey Schwartz, MD
411 South Old Woodward Ave. Unit 1018
Birmingham, MI 48009
248 229-9989
mickeyschwartz@gmail.com

Jana Ecker <jecker@bhamgov.org>

Re: Virtual Planning Board Meeting

1 message

Joe Valentine <Jvalentine@bhamgov.org> Tue, Apr 14, 2020 at 5:18 PM
To: mickeyschwartz@gmail.com
Cc: Jana Ecker <Jecker@bhamgov.org>

Mr. Schwartz,

I am in receipt of your email to the City Commission and wanted to provide a reply given your concern for the application of 469-479 S.Old Woodward being considered by the Planning Board on April 22nd. Given the applicant had submitted their application for consideration and their request to move it forward, they maintain their right to petition their government and continue the scheduled public hearing. A postponement at this time could come at the request of the applicant or by motion of the Planning Board if determined necessary in further considering their application. However, the City Commission does not have the ability to postpone a scheduled public hearing before the Planning Board.

In regard to watching this meeting, it should be streamed from our website and also broadcast over the normal cable stations for viewing, just as prior meetings.

I hope you find this information helpful.

Best regards,
Joe Valentine

> **From:** Mickey Schwartz <mickeyschwartz@gmail.com>
> **Date:** April 14, 2020 at 2:45:41 PM EDT
> **To:** pboutros@bhamgov.org, tlonge@bhamgov.org, cballer@bhamgov.org, Rackyhoff@hotmail.com, bhost@bhamgov.org, mnickita@bhamgov.org, ssherman@bhamgov.org
> **Subject: Virtual Planning Board Meeting**
>
> To: City Commissioners (and Planning Board Members):
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> Mickey Schwartz, MD
> 411 South Old Woodward Ave. Unit 1018
> Birmingham, MI 48009
> 248 229-9989
> mickeyschwartz@gmail.com

--
Joseph A. Valentine
City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
jvalentine@bhamgov.org

Twitter: @JoeValentine151

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/

JPHOWE PLLC

280 N. Old Woodward
Suite 12
Birmingham, MI 48009
O 248.385.3112
C 248.835.2068
F 888.450.1682
jphowe@jphowe.com
www.jphowe.com

April 15, 2020

VIA EMAIL ONLY

Birmingham Planning Board
c/o Ms. Jana Ecker
Planning Director
City of Birmingham
151 Martin St.
Birmingham, MI 48009

Re: Request to Adjourn Hearing on Request to Rezone 469-479 S. Old Woodward Ave. Until the Rescission or Expiration of (i) Michigan Stay at Home Executive Order No. 2020-42, and (ii) Michigan Executive Order 2020-15 Suspending Compliance with the Michigan Open Meetings Act

Dear Members of the Birmingham Planning Board,

On behalf of the Birmingham Place Residential Condominium Association and Birmingham Place Commercial Condominium Association, we respectfully request that the Planning Board adjourn the hearing on the rezoning of 469-479 S. Old Woodward Ave., until such time that the hearing can be held in person under the requirements of the Michigan Open Meetings Act. Holding this meeting "virtually" on April 22, 2020 is not only unfair and prejudicial to the condominium owners of Birmingham Place and various other stakeholders in the City of Birmingham, but is completely contrary to Governor Whitmer's Executive Directive No. 2020-02. That Executive Directive, which supplements Governor Whitmer's Executive Order 2020-15 that authorized virtual meetings which are not otherwise permissible under the Open Meetings Act, is in full force and effect, and states that:

> *All public bodies of departments and agencies of the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils,* ***must, to the extent practicable****, considerer postponing public meetings and/or agenda items that may be deferred until a later time.*

Birmingham Planning Board
c/o Ms. Jana Ecker
Planning Director
City of Birmingham

April 15, 2020

If there ever was an agenda item that may be deferred to a later time under the circumstances we are currently facing, this is one of them. This rezoning application has been **pending since June 2018**. Now, while our community is under extreme uncertainty, stress, and anxiety, we have to revisit this difficult case, which could have many negative impacts on our community, and Birmingham Place residents and commercial occupants. If that were not enough, the Birmingham Place residents must find the means to participate virtually through an app or telephone. This is simply an unreasonable request,and does not allow residents to participate in a meaningful and productive way. Many of the residents of Birmingham Place are senior citizens, and either do not understand how to participate virtually, or are not comfortable participating in this manner. My clients have participated in all of the hearings related to this rezoning case to date, and based on that experience, the Planning Board should anticipate a packed and confusing virtual meeting room. Is this really the best way to handle a rezoning case of this magnitude?

Other than the applicant's presumed desire to move this application forward, there is certainly no reason why the Planning Board must consider this rezoning application in a virtual format under these circumstances. While it is a nice accommodation that virtual meetings are authorized under Governor Whitmer's Executive Order 2020-15 so **essential business** can be dealt with during this crisis, a postponement of a rezoning request that was initiated in 2018 is clearly required under the Governor's Executive Directive 2020-02. We strongly urge the Planning Board to postpone this hearing to comply with the Governor's orders. If this matter must be heard in a virtual format on April 22nd, we demand that the Planning Board place on the record why this rezoning application could not be deferred to a later date as required in the Governor's Executive Directive 2020-02.

Thank you for your consideration of our request. We look forward to hearing from you prior to April 22nd.

Sincerely,

JPHOWE, PLLC

J. Patrick Howe

cc: Timothy J. Currier, City Attorney (via email)
Joseph A. Valentine, City Manager (via email)
Birmingham Place Residential Condominium Association
Birmingham Place Commercial Condominium Association

City of Birmingham
A Walkable Community

Jana Ecker <jecker@bhamgov.org>

Adjournment of Planning Board Virtual Meeting April 22,2020

1 message

larry rochkind <larryproch@gmail.com> Wed, Apr 15, 2020 at 3:03 PM
To: Jana Ecker <jecker@bhamgov.org>, jvalentine@bhamgov.org, pboutros@bhamgov.org, larry rochkind <larryproch@gmail.com>

To: Birmingham Planning Board c/o Jan Ecker, Planning Director

Cc. Mayor, City Manager

From: Louis P. Rochkind

Date: April 15, 2020

REQUEST TO ADJOURN VIRTUAL HEARING ON REZONING REQUEST FOR 469-479 S. OLD WOODWARD SCHEDULED FOR APRIL 22, 2020

I am the owner of a condominium at 411 South Old Woodward. I ask that you adjourn the above hearing for these reasons, more fully discussed below:

1. *The Board is required by Executive Order 2020-1(1) to adjourn this hearing until a hearing can be held in person.*
2. *The format of a virtual hearing does not provide a fair and adequate forum for objectors to state their views, particularly for seniors, especially given the unusual importance of the issues and the unique complexity of the issues.*
3. *Before taking the drastic action requested, the Board should wait until it has time to digest the effects of the pandemic on the needs of Birmingham.*
4. *The virtual notice of the hearing is not timely and this requires adjournment of the hearing..*

1. *The Board is required by Executive Order 2020-1 (1) to adjourn this hearing until a hearing can be held in person.*

Executive Order 2020-02, Sect. 1, which remains in effect, provides (emphasis added):

All public bodies of departments and agencies of the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils, ***must,*** *to the extent practicable, consider postponing public meetings and/or agenda items that may be deferred until a later time.*

In other words, this is in effect an order to bodies such as the Birmingham Planning Board to adjourn hearings until they can be held in person unless there is a compelling reason not to do so.

This is no doubt a recognition that virtual meetings are simply not as good as in person meetings for many reasons, including the ability of participants to actually participate fully. This is even more true for senior citizens, as discussed below.

The severe limitations of virtual meetings are described in this article:
When meeting face to face, people are freer with each other than they would be online. People are able to express themselves by using body language, gestures and words all of which work together to convey a message. Communication is better in face to face meetings because misunderstandings are less likely.[Ed. Note: All of this is especially critical for senior citizens, who may have more difficulty following the proceeding in the best of circumstances.]

When you go in for a physical meeting, it is the primary reason why you are at the particular place at any given time. You will be with others attending the meeting as well and none will tolerate the other wasting their time. Everyone will be disciplined and will not be easily distracted by things like phones and computers. The serious environment will emphasize the need to concentrate fully on the meeting and keep off any distractions...

However the chances of having a communication breakdown are increased in virtual meetings. Distractions by personal and work related issues are more likely to happen during virtual meetings than face to face ones.

As discussed below, this meeting requires a decision by the Board which will affect the daily lives, home values, and probably financial futures and retirement planning of many residents. It is just too important to limit public participation to a virtual meeting which has all the detriments described above.

There is no “practicable” reason why this hearing should not be adjourned. It has been pending for almost two years with no effort by the Developer to expedite the proceeding. There is no prejudice to anyone to an adjournment, but a tremendous benefit to many in an adjournment for an in person hearing. (It is worth noting that this proceeding has been delayed on more than one occasion by the Developer’s failure to comply with certain requirements or the Developer’s request.)

2. *The format of a virtual hearing does not provide a fair and adequate forum for objectors to state their views, particularly seniors, especially given the unusual importance of the issues and the unique complexity of the issues.*

There are doubtless many matters before the Planning Board which may work well in a virtual meeting. This is not one of them. It is of unusual significance to an unusually large number of residents and is remarkably complex.

This application for rezoning involves rezoning a parcel abutting Birmingham Place's residential condominiums to permit construction of a tall commercial building. As the Manager of Birmingham Place told this Board, the mere possibility of this rezoning has deflated the market value of a number of units and, if built out, would obstruct the views of a number of units. Furthermore, together with the hotel completing construction at Brown and Old South Woodward, vehicle and pedestrian traffic will soar. And this is just the beginning. This is a very big and unusual deal.

The Request for Rezoning was first heard by the Board on June 27, 2018. The issue went to the Council, which sent it back for rehearing by the Board. After a rehearing on December 12, 2018, the matter was heard by the City Council on February 11, 2019. The Council failed to pass motions to approve, deny, or adjourn. The Council President advised at the meeting the Council would need to consult with the City attorney as to further proceedings. In the meantime, an entirely different proceeding changed the wording of the zoning ordinance applicable to this parcel.

Even with the help of counsel, it is a difficult proceeding to understand. And currently we cannot even meet with counsel or among ourselves. The many prior meetings on this rezoning request have been very well attended by objectors, including residents of Birmingham Place which has its own counsel. We have prepared for these meetings with our own meetings, including meeting before and after the hearing. This has enabled us to coordinate our presentations to be effective and to save time. In addition, we have sometimes changed our presentation depending on what happens at the hearing itself, which is impossible at a virtual hearing. In addition, the hearings have often involved visual aids, which even on a zoom conference will be difficult to appreciate.

A virtual meeting is useless to people who are not very computer literate and especially hopeless for many seniors. I am 71. Trust me when I tell you me and my friends are overwhelmed by the pandemic. Just arranging for food, taking care of our medical appointments and medications, and worrying about and trying to stay in touch with our children and grandchildren is wearying in and of itself. Many of us are not comfortable with computers.

As a recent study explained:

The study also highlights the obstacles older adults experience such as a significant decrease in sensory keenness, particularly with vision and hearing, as well as a decrease in motor skills due to health problems, such as arthritis and tremors."Often a large challenge for older adults when using the computer is navigating the mouse and keyboard, which is commonly due to a health problem like arthritis."

Many of us when we look at instructions for a Zoom meeting will give up before we even start. In addition, simply navigating and being heard at a large Zoom meeting (and I have been in those) is challenging for the best of us. Have a heart.

There is no prejudice to anyone by a postponement. The application for rezoning was filed on June 27, 2018 and was before the City Council on February 11, 2019. The Developer has made no effort to expedite its request. Even if the request were approved, no outside activities could proceed at this point anyway. The matter has already been pending for close to two years.

3) *Before taking the drastic action requested, the Board should wait until it has time to digest the effects of the pandemic on the needs of Birmingham.*

We don't know what the future holds even in the short term, but one thing is for sure, life will not return to what we knew before the pandemic. As has been noted*:*

Yet cities since then have thrived and grown. They're much cleaner and safer than they were a century ago. That's because cities are by their nature adaptable organisms. More efficient than rural areas and more flexible than suburbs, they are constantly reinventing themselves — sometimes so quickly that it's startling, sometimes so slowly that we don't even notice.

The world after COVID-19 will be different — as it is after any disaster. And COVID-19 will accelerate changes that have been brewing in cities for a long time. The result will be a new kind of city, different than what we have seen before. A city that should be able to withstand shocks like COVID-19 in a sturdier fashion.

The Board needs to see what this new world might require before so dramatically changing our downtown as it has existed for years.

4) The virtual notice of the hearing is not timely and this requires adjournment of the hearing.

The well-known Open Meetings Act requires hearings like this one to be held in a public place with personal attendance. The only reason there is a "virtual" alternative is due to Executive Order 2020-15 which exempts compliance with the Act under detailed and specific requirements because of the pandemic. One of those requirements prescribes the necessary notice (Sect. 1(e):

> *(e) If a public body directly or indirectly maintains an official internet presence, the public body must, consistent with and in addition to any other applicable notice requirements under the OMA, post advance notice of a meeting held electronically on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings and accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings. Notice of a meeting of a public body that will be held electronically must include all of the following:*
>
> *(i) An explanation of the reason why the public body is meeting electronically.*

(ii) Detailed procedures by which the public may participate in the meeting electronically, including a telephone number, internet address, or both.

(iii) Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(iv) Procedures by which persons with disabilities may participate in the meeting.

As with any notice, this one is necessary to provide everyone with an adequate opportunity to prepare and attend, The more complex the meeting, the longer the notice period should be.

The detailed requirements in the Order are in obvious deference to the fact that virtual meetings are more difficult for the participants. This means the public should have the maximum time available for notice. But it did not.

Our ordinance requires 15 days' notice of a zoning request with notice personally sent to residents within 300 feet. But the Board's virtual notice was (a) not sent to persons within 300 feet, and (b) published on the website on April 14, only seven, not fifteen, days before the hearing.

For all the reasons discussed above, maximum notice is necessary to give the public even a chance to participate meaningfully in the hearing.

But aside from that, the notice is inadequate under the ordinance and requires adjournment of the hearing, which should be to a time when a hearing can be held in person,

Jana Ecker <jecker@bhamgov.org>

Re: Planning Board meeting

1 message

Joe Valentine <Jvalentine@bhamgov.org> Wed, Apr 15, 2020 at 5:20 PM
To: Mickey Schwartz <mickeyschwartz@gmail.com>
Cc: Jana Ecker <Jecker@bhamgov.org>

Mr. Schwartz,

Thank you for your email. The public hearing was previously scheduled and noticed for this upcoming meeting by the board. As long as the applicant wishes to proceed, the public hearing would continue under the applicant's prior request. The Executive Directive you are referencing applies to State agencies and is not an Executive Order covering municipalities. There is no question these are challenging times, however, we are following the guidance from this State as well as our obligations as a municipality.

I hope this helps provide some clarity on this matter.

Regards,
Joe Valentine

On Wed, Apr 15, 2020 at 9:37 AM Mickey Schwartz <mickeyschwartz@gmail.com> wrote:

> As a follow up to yesterdays, email:
> Just to be clear, are you stating that the Planning Board (and any Birmingham City government Board (elected or appointed)) acts totally independent of the City Commissioners?
>
> Do the City Commissioners not have the legislative ability to enforce Governor Whitmer's Executive Directive No. 2020-02.
>
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> including but not limited to boards, commissions, committees,
> subcommittees, authorities, and councils, must, to the extent
> practicable, considerer postponing public meetings and/or agenda
> items that may be deferred until a later time".
>
> Why is this issue which has been under consideration for almost 2 years now so critical that it can not be postponed pending resumption on non-virtual meetings?
>
> Mickey Schwartz, MD
> 248 229-9989
> mickeyschwartz@gmail.com

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Joseph A. Valentine
City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
jvalentine@bhamgov.org
Twitter: @JoeValentine151

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Jana Ecker <jecker@bhamgov.org>

Re: Planning Board meeting

1 message

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City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
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Twitter: @JoeValentine151

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Regarding PB meeting to discuss rezoning request for downtown Birmingham:

Last night I attended a Birmingham Virtual Meeting. This **NONCONTROVERSIAL** virtual meeting was fraught with problems. The take home lesson is that **VIRTUAL MEETINGS ARE PROBLEMATIC** in a democracy and should be limited whenever possible. **AS SUCH, I AGAIN ASK FOR POSTPONEMENT OF PLANNING BOARD MEETINGS THAT REQUIRE PUBLIC PARTICIPATION UNTIL THESE HORRIBLE BUT NECESSARY COVID PANDEMIC RESTRICTIONS ARE EASED**.

The Birmingham Design Review Board (DRB) meeting was scheduled for 4/15/2020 at 7:15. Apparently, another meeting started first and the DRB was delayed for about an hour. I joined the meeting about 7:30 and had no concept of why the DRB meeting was not taking place. I could not ask for clarification. How is this fair to participants?

Nick Dupis handled the technical aspects of a virtual meeting as best as possible. Nonetheless, he could not overcome systematic limitations. **The limitations on citizen's ability to participate defeats the intent of the Open Meeting Act**.
Examples of problems include:

Participants that could not be seen, could not be easily called on to speak. To overcome this, Nick appropriately unmuted all participants but unfortunately, chaos pursued. Consider how challenging it is to try to let people speak when they all speak at the same time. Remember the story of the tower of Babel. One participant, unknowly had background noise and had to be muted.

Nick suggested participants use a "raise hand" button on ZOOM to be recognized. This option is not available on all ZOOM devices and may require software updates on some computers. Citizen participation is limited. Telephone call-in citizens obviously cannot "raise hand".

One of the Board members had occasional random background noise in their house resulting in confusion to participants.

At times voices of speakers were muffled or frozen (due to external Internet issues) and potential important communications between the Board and Public were lost.

The pending rezoning issue before the Planning Board involves 100's (more realistically 1000's) of pages of documents. In a virtual meeting, citizens cannot review documents and participate without 2 computers/tablets. It is near impossible on an iPhone. How is this appropriate?

Zoom meetings limit open dialogue between board members due to initial inexperience (first zoom meeting ever for PB) and outcomes are unknown without any previous experiences in this technology. Goes without saying that the same tech issues apply to the public.

FOR ALL THESE CONCERNS AND MANY MORE, PLEASE POSTPONE THE REZONING HEARING PENDING A FAIR PROCESS ON AN ISSUE THAT ALL AGREE IS CONTROVERSIAL.



469/479 S. Old Woodward Avenue

Former Mountain King Restaurant/Drive Thru Bank

Rezone to D5

Pursuant to Zoning Ordinance Sec. 7.02B

Birmingham Planning Board

April 22, 2020



D5 Is the Culmination of Exhaustive Study

- ✓Contemplated for 2 years before enacted
- ✓Many study sessions, discussions, and public meetings
- ✓Advertised and noticed
- ✓Considered many different options
- ✓Multiple iterations of draft amendments
- ✓Studied entire downtown area and study by planning
  - ✓Consultant targeting this specific area of downtown

Article 1, Section 1.04

From 2016 Plan, Vision Statement



D5 will "reinforce [an] identifiable district in the Downtown to provide a sense of place."



D5 will allow for a "diverse mix of uses, including [street-level] retail, commercial . . . and especially residential."



D5 will allow a building that is "compatible, in mass and scale, with its immediate surroundings."

Establishment of Overlay Districts in 2016 Plan Ord. Art I,1.12,A

- The overlay districts …have been established to add additional and unique development standards which will better help the City of Birmingham accomplish the goals of the Downtown Birmingham 2016 Plan…"

D-5 Zoning Satisfies the Required Basic Provisions of Sec. 1.04 and Ord. Sec. 7.02(B)(2)(b)(i-iii)

- **D-5 Satisfies Purpose of Zoning Ordinance Sec. 1.04**
- **Rezoning Preserves Enjoyment of Rights and Usage Associated with Ownership Ord. Sec. 7.02(B)(2)(b)(i)**
- **Existing Zoning Not Appropriate Ord. Sec. 7.02(B)(2)(b)(ii)**
- **Rezoning is Not Detrimental to Surrounding Properties Sec. 7.02(B)(2)(b)(iii)**
- **D-5 Satisfies Purpose of Zoning Ordinance Sec. 1.04**

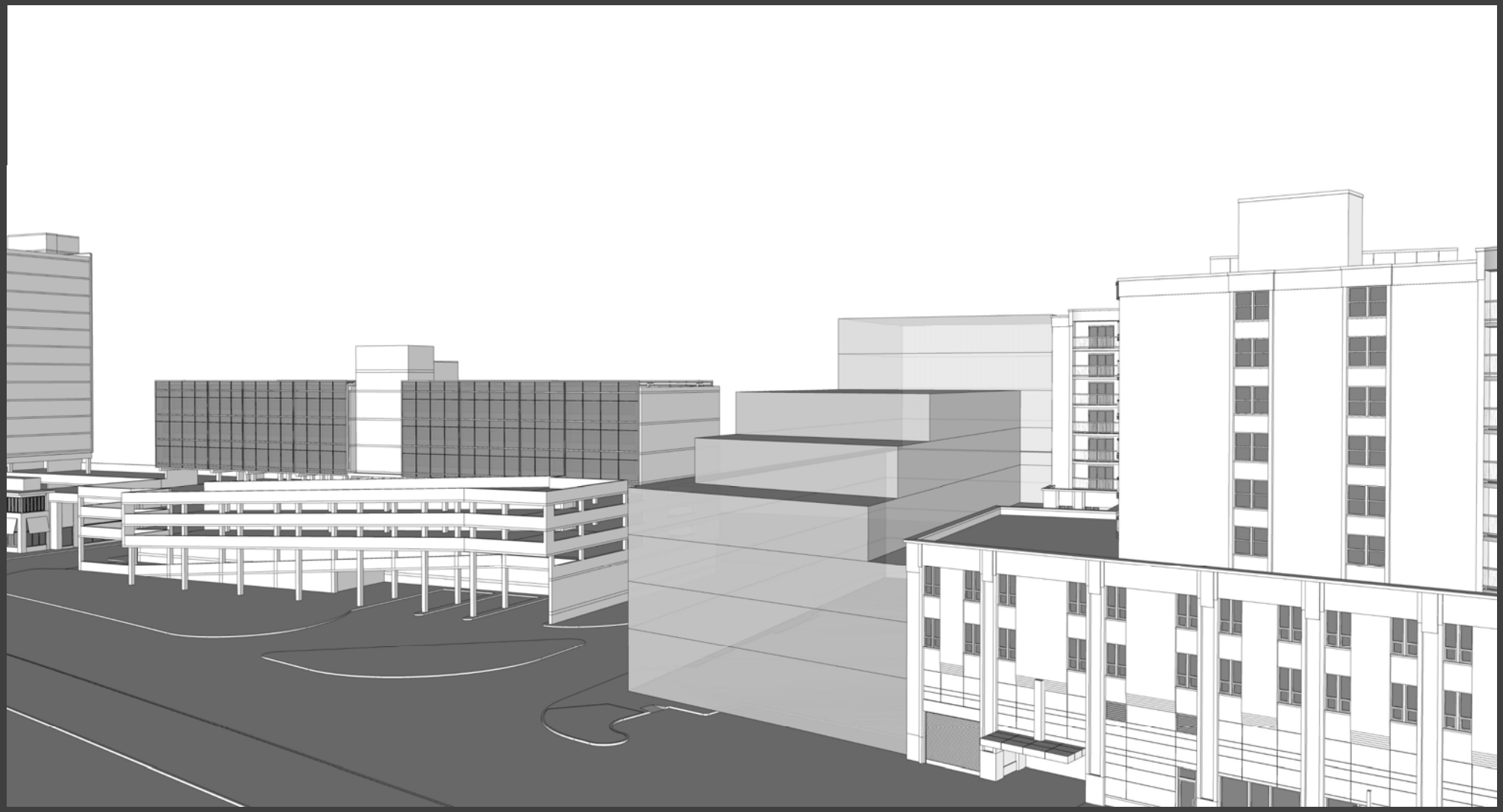
APPLICANT HAS DEMONSTRATED 5 FINDINGS OF ORDINANCE SEC. 7.02(B)(5)(a)-(e)

- ✓Sec. 7.02(B)(5)(a) –conforms to the City's Master Plan and 2016 Plan
- ✓ Sec. 7.02(B)(5)(b) – The proposed mixed uses of the subject property (retail, residential, and hotel) are consistent with existing uses in the neighborhood.
- ✓Sec. 7.02(B)(5)(c) –Properties in the general area (abutting and adjacent) are zoned D-5.
- ✓Sec. 7.02(B)(5)(d) – Property is not suitable to the uses permitted under existing zoning due to constraints of the property and the relationship to neighboring property.
- ✓Sec. 7.02(B)(5)(e) – Trend of development in the area favors D-5 zoning.

City Action

- The City, after consideration, has already amended the new D5 proposed ordinance language


479
ATM





dmarkus@markusllc.com




Thank You
Rezone to D5
Pursuant to Zoning Ordinance Sec. 7.02B
Birmingham Planning Board
April 22, 2020
Google Earth
Marble
Polishing

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

April 15, 2020

Ms. Jana Ecker, Planning Director
City of Birmingham
151 Martin St.
Birmingham, MI 48009

Re: Mr. J. Patrick Howe's Letter of April 15, 2020

Dear Ms. Ecker:

You forwarded the above referenced letter to this office for review, and in particular, to review the citations contained in the letter to the Governor's Directives and Orders.

In this regard, Mr. Howe stated the following:

> "Holding this meeting 'virtually' on April 22, 2020 is not only unfair and prejudicial to the condominium owners of Birmingham Place and various other stakeholders in the City of Birmingham, but is completely contrary to Governor Whitmcr's Executive Directive No. 2020-02. That Executive Directive, which supplements Governor Whitmer's Executive Order 2020-15 that authorized virtual meetings which are not otherwise permissible under the Open Meetings Act, is in full force and effect, and states that:
>
> > *All public bodies of departments and agencies of' the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils,* ***must, to the extent practicable****, considerer (sic) postponing public meetings and/or agenda items that may be deferred until a later time."*

What is not apparent from Mr. Howe's description, is there is a difference between Executive Directives and Executive Orders. Executive Directives, in this case, are sent only to State Department Directors and Autonomous Agency Heads. If you examine Executive Director 2020-02 which is attached hereto and incorporated by reference, you will see it is addressed as follows:

> "Executive Directive 2020-02
> Executive Directive
> No. 2020-2
>
> To: State Department Directors and Autonomous Agency Heads
> From: Governor Gretchen Whitmer
> Date: March 13, 2020"

In addition, you will note that the operative section, which is also quoted by Mr. Howe, states in paragraph in 1, as follows:

> "1. All public bodies of departments and agencies of the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils, must, to the extent practicable, consider postponing public meetings and/or agenda items that may be deferred until a later time." (Emphasis Added)

This Directive was not sent to cities, school districts or local government, but to State Department Directors and Agency Heads of the State. Therefore, it is not applicable in circumstances before the Planning Board.

Executive Order 2020-48, which rescinds 2020-15, was directed to local units of government, and all entities that are subject to the Open Meetings Act. On page 2 of the Governor's Executive Order, she states as follows:

> "To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is crucial that all Michiganders take steps to limit in-person contact. These critical mitigation measures include social distancing and limiting the number of people interacting at public gatherings.
>
> To that end, it is reasonable and necessary to temporarily suspend rules and procedures relating to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan. These public bodies and entities must continue to conduct public business during this emergency, including actions to respond to COVID-19, and the general public must be able to continue to participate in government decision-making without unduly compromising public health, safety, and welfare.
>
> Executive Order 2020-15 provided this limited and temporary relief from certain rules and procedures. This order clarifies and extends the duration of that relief, as it remains reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents. With this order, Executive Order 2020-15 is rescinded." (Emphasis Added)

You will note that this Order directs public bodies, and entities to continue to conduct public business. This document, which I have included for your review, does not direct that public bodies postpone business, but merely directs how remote meetings are to be conducted.

As you will note from a thorough review of Executive Order 2020-48, there is no requirement that business be postponed. It is merely a modification of the requirements of the Open Meetings Act as to how remote meetings are to be conducted. In so doing, the Governor did not order any changes to the authority of the Planning Board in conducting its meetings or in the manner in which it considers requests for adjournments or postponements. Such requests are certainly still within the discretion of the Planning Board as to whether they wish to grant a postponement or not. It is not dictated by the Governor's Order 2020-48 and, as stated above, the Executive Directive 2020-02 is not applicable to cities and school districts.

We hope this is of assistance to you.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier
Birmingham City Attorney

TJC/jc

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Executive Directive 2020-02

Executive Directive

No. 2020-2

To: State Department Directors and Autonomous Agency Heads

From: Governor Gretchen Whitmer

Date: March 13, 2020

Re: Public Meetings of State of Michigan Public Bodies During the COVID-19 Emergency

---

As governor, one of my most solemn obligations is to protect the health, safety, and welfare of Michigan residents, particularly in times of crisis. It is a core and critical duty of the executive branch to respond quickly and effectively to emergent threats to the public health, safety, and welfare of Michiganders, and to faithfully execute the laws of this state in a manner consistent with that priority.

With Executive Order 2020-4, I declared a statewide state of emergency due to the spread of the novel coronavirus (COVID-19). This is a new strain of coronavirus that had not been previously identified in humans, can easily spread from person to person, and can result in serious illness or death. To mitigate the spread of COVID-19 and to provide essential protections to vulnerable Michiganders and this state's health care system and other critical infrastructure, it is crucial that all Michiganders take steps to limit in-person contact, particularly in the context of large groups.

One of the cornerstones of public engagement in governmental activities is the ability to participate in the meetings of public bodies. The Open Meetings Act ("OMA"), 1976 PA 267, as amended, MCL 15.261-.275, sets forth guideposts to ensure that the public has meaningful access to the meetings and decision-making processes of certain public bodies. The OMA requires that "[a]ll meetings of a public body shall be open to the public and shall be held in a place available to the general public," and "[a]ll decisions of a public body" and "deliberations of a public body" must take place at a meeting open to the public. MCL 15.263(1)-(3). It further provides that "[a]ll persons shall be permitted to attend any meeting except as otherwise provided in this act" and "shall be permitted to address a meeting of a public body under rules established and recorded by the public body." MCL 15.263(1), (5). Finally, the OMA provides that "[a] meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body." MCL 15.265(1).

The OMA promotes governmental accountability and fosters open and responsible governmental decision making. In conducting its business during this time of emergency, state government must ensure that it preserves these important governmental objectives without unduly compromising the public health, welfare, and safety of this state.

Acting under sections 1 and 8 of article 5 of the Michigan Constitution of 1963, I direct the following:

1. All public bodies of departments and agencies of the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils, must, to the extent practicable, consider postponing public meetings and/or agenda items that may be deferred until a later time.

2. All public bodies of departments and agencies of the State subject to the OMA that must continue to meet must do so by means sufficient to enable meaningful access and communication for all participants. Participation by remote access technology, including conference calling, real-time streaming, or other platforms is acceptable, and sufficient to form a quorum, so long as public access and participation is preserved.

3. Public notice of the time and date of each meeting of a public body of a department or agency of the State subject to the OMA must be given in the manner required by the OMA, which includes publication of the notice on the public body's internet website. The public

notice must include sufficient information such that the public's right to address a meeting of the public body is preserved.

This directive is effective immediately and will remain in effect until further notice.

Thank you for your cooperation in implementing this directive.

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MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 84 of 2020
House: Adjourned until Thursday, April 16, 2020 10:00:00 AM
Senate: Adjourned until Thursday, April 16, 2020 10:00:00 AM

Legislature

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E.O. NO. 2020-3	EXECUTIVE ORDER No. 2020-3 Amendment of Executive Order 2019-14 UP Energy Task Force Department of Environment, Great Lakes, and Energy PDF
E.O. NO. 2020-4	EXECUTIVE ORDER No. 2020-4 (COVID-19) Declaration of State of Emergency PDF
E.O. NO. 2020-5	EXECUTIVE ORDER No. 2020-5 (COVID-19) - rescinded - Temporary prohibition on large assemblages and events, temporary school closures PDF
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E.O. NO. 2020-7	EXECUTIVE ORDER No. 2020-7 (COVID-19) Temporary restrictions on entry into health care facilities,residential care facilities, congregate care facilities, and juvenile justice facilities Rescission of Executive Order 2020-6 PDF
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E.O. NO. 2020-9	EXECUTIVE ORDER No. 2020-09 (COVID-19) Temporary restrictions on the use of places of public accommodation PDF
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E.O. NO. 2020-26	EXECUTIVE ORDER No. 2020-26 (COVID-19) Extension of April 2020 Michigan income tax filing deadlines PDF
E.O. NO. 2020-27	EXECUTIVE ORDER No. 2020-27 (COVID-19) Conducting elections on May 5, 2020 using absent voter ballots PDF

E.O. NO. 2020-28	EXECUTIVE ORDER No. 2020-28 (COVID-19) Restoring water service to occupied residences during the COVID-19 pandemic PDF
E.O. NO. 2020-29	EXECUTIVE ORDER No. 2020-29 (COVID-19) Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers PDF
E.O. NO. 2020-30	EXECUTIVE ORDER No. 2020-30 (COVID-19) Temporary relief from certain restrictions and requirements governing the provision of medical services PDF
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E.O. NO. 2020-40	EXECUTIVE ORDER No. 2020-40 (COVID-19) Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons PDF
E.O. NO. 2020-41	EXECUTIVE ORDER No. 2020-41 (COVID-19) Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic PDF
E.O. NO. 2020-42	EXECUTIVE ORDER No. 2020-42 (COVID-19) Temporary requirement to suspend activities that are not necessary to sustain or protect life - Rescission of Executive Order 2020-21 PDF

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GOVERNOR GRETCHEN WHITMER

Executive Order 2020-15 (COVID-19)

EXECUTIVE ORDER

No. 2020-15

Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945, provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is crucial that all Michiganders take steps to limit in-person contact. These critical mitigation measures include social distancing and limiting the number of people interacting at public gatherings.

To that end, it is reasonable and necessary to temporarily suspend rules and procedures relating to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan. These public bodies and entities must continue to

conduct public business during this emergency, including actions to respond to COVID-19, and the general public must be able to continue to participate in government decision-making without unduly compromising public health, safety, and welfare.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Effective immediately and continuing until April 15, 2020 at 11:59 pm, to the extent that the Open Meetings Act, 1976 PA 267, as amended, MCL 15.261 to 15.272 ("OMA") requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with section 3 of the OMA,

MCL 15.263, is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements, as follows:

(a) A meeting of a public body may be held electronically, including by telephonic conferencing or video conferencing, in a manner in which both the general public and the members of the public body may participate by electronic means.

(b) A meeting of a public body held electronically must be conducted in a manner that permits two-way communication so that members of the public body can hear and be heard by other members of the public body and so that general public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. The public body also may use technology to facilitate typed public comments that may be read to or shared with members of the public body and other participants.

(c) Members of a public body and of the general public participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present at the meeting.

(d) All persons must be permitted to participate in any meeting of a public body held electronically, except as otherwise provided in the OMA.

(e) If a public body directly or indirectly maintains an official internet presence, the public body must, consistent with and in addition to any other applicable notice requirements under the OMA, post advance notice of a meeting held electronically on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings and accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings. Notice of a meeting of a public body that will be held electronically must include all of the following:

(i) An explanation of the reason why the public body is meeting electronically.

(ii) Detailed procedures by which the public may participate in the meeting electronically, including a telephone number, internet address, or both.

(iii) Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(iv) Procedures by which persons with disabilities may participate in the meeting.

(f) The right of a person to participate in a meeting of a public body held electronically includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of the public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations to minimize the possibility of disrupting the meeting.

(g) A public body may not require a person as a condition of participating in a meeting of the public body held electronically to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in a public comment period of the meeting.

(h) A person must be permitted to address a meeting of a public body held electronically under rules established and recorded by the public body. A person must not be excluded from a meeting held electronically otherwise open to the public except for a breach of the peace actually committed during the meeting.

(i) During a meeting of a public body held electronically, members of the public body are urged to take all votes by roll call to avoid any questions about how each member of the public body votes.

(j) If a public body holding a meeting electronically directly or indirectly maintains an official internet presence, the public body is encouraged to make available to the general public through the public body's website homepage an agenda and other materials relating to the meeting.

(k) Members of the general public otherwise participating in a meeting of a public body held electronically may be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.

2. A public body holding a meeting electronically as provided under this order is encouraged to do so in a manner that effectuates as fully as possible the purposes of the OMA, which include promoting government accountability and fostering openness in government to enhance responsible decision-making. Discussions or deliberations at an open meeting that cannot at a minimum be heard by the general public participating in the meeting are contrary to these purposes. Accordingly, members of a public body must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision, and must avoid "round-the-horn" decision-making in a manner not accessible to the public at an open meeting.

3. If a decision or other action of a public body is in compliance with the requirements of this order and the other requirements of the OMA, it is in compliance with the OMA.

4. Effective immediately and continuing until April 15, 2020 at 11:59 pm, if a statute or rule other than the OMA requires that public comments be permitted or a public hearing be held, including in conjunction with the issuance of a permit or a hearing required under the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 to 141.440a, a public body or department or agency may provide a means for remote public comment or participation through the use of any technology that would facilitate a member of the general public's ability to participate remotely to the same extent as if the member of the general public appeared in person. If not expressly authorized by statute or rule, written comment, including by electronic means, also is permitted.

5. Effective immediately and continuing until April 15, 2020 at 11:59 pm, strict compliance with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, 1976 PA 451, as amended, MCL 380.11a(6), MCL 380.384(7), and MCL 380.418a(1), is temporarily

suspended so as not to require school district boards to hold meetings at least once each month.

6. Nothing in this order permits a public body to limit or restrict the rights of the press or other news media. Members of public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held electronically and to members of public bodies.

7. As used in this order, the terms "decision," "meeting," and "public body" mean those terms as defined under section 2 of the OMA, MCL 15.262, except this order does not apply to state legislative bodies.

8. A provision of this order will prevail over any conflicting provision of a local charter, ordinance, or rule.

9. This order supersedes sections 2 and 3 of Executive Directive 2020-2.

Given under my hand and the Great Seal of the State of Michigan.



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Timothy Currier

From: Jana Ecker <Jecker@bhamgov.org>
Sent: Wednesday, April 15, 2020 3:37 PM
To: Timothy Currier
Subject: Fwd: Adjournment of Planning Board Virtual Meeting April 22,2020

---------- Forwarded message ---------
From: **larry rochkind** <larryproch@gmail.com>
Date: Wed, Apr 15, 2020 at 3:03 PM
Subject: Adjournment of Planning Board Virtual Meeting April 22,2020
To: Jana Ecker <jecker@bhamgov.org>, <jvalentine@bhamgov.org>, <pboutros@bhamgov.org>, larry rochkind <larryproch@gmail.com>

To: Birmingham Planning Board c/o Jan Ecker, Planning Director
Cc. Mayor, City Manager
From: Louis P. Rochkind
Date: April 15, 2020

REQUEST TO ADJOURN VIRTUAL HEARING ON REZONING REQUEST FOR 469-479 S. OLD WOODWARD SCHEDULED FOR APRIL 22, 2020
I am the owner of a condominium at 411 South Old Woodward. I ask that you adjourn the above hearing for these reasons, more fully discussed below:

1. *The Board is required by Executive Order 2020-1(1) to adjourn this hearing until a hearing can be held in person.*
2. *The format of a virtual hearing does not provide a fair and adequate forum for objectors to state their views, particularly for seniors, especially given the unusual importance of the issues and the unique complexity of the issues.*
3. *Before taking the drastic action requested, the Board should wait until it has time to digest the effects of the pandemic on the needs of Birmingham.*
4. *The virtual notice of the hearing is not timely and this requires adjournment of the hearing..*

1. *The Board is required by Executive Order 2020-1 (1) to adjourn this hearing until a hearing can be held in person.*

Executive Order 2020-02, Sect. 1, which remains in effect, provides (emphasis added):
All public bodies of departments and agencies of the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils, ***must,*** *to the extent practicable, consider postponing public meetings and/or agenda items that may be deferred until a later time.*
In other words, this is in effect an order to bodies such as the Birmingham Planning Board to adjourn hearings until they can be held in person unless there is a compelling reason not to do so.
This is no doubt a recognition that virtual meetings are simply not as good as in person meetings for many reasons, including the ability of participants to actually participate fully. This is even more true for senior citizens, as discussed below.
The severe limitations of virtual meetings are described in this article:
When meeting face to face, people are freer with each other than they would be online. People are able to express themselves by using body language, gestures and words all of which work together to convey a message. Communication is better in face to face meetings because misunderstandings are less likely.[Ed.

Note: All of this is especially critical for senior citizens, who may have more difficulty following the proceeding in the best of circumstances.]

When you go in for a physical meeting, it is the primary reason why you are at the particular place at any given time. You will be with others attending the meeting as well and none will tolerate the other wasting their time. Everyone will be disciplined and will not be easily distracted by things like phones and computers. The serious environment will emphasize the need to concentrate fully on the meeting and keep off any distractions... However the chances of having a communication breakdown are increased in virtual meetings. Distractions by personal and work related issues are more likely to happen during virtual meetings than face to face ones.

As discussed below, this meeting requires a decision by the Board which will affect the daily lives, home values, and probably financial futures and retirement planning of many residents. It is just too important to limit public participation to a virtual meeting which has all the detriments described above.

There is no "practicable" reason why this hearing should not be adjourned. It has been pending for almost two years with no effort by the Developer to expedite the proceeding. There is no prejudice to anyone to an adjournment, but a tremendous benefit to many in an adjournment for an in person hearing. (It is worth noting that this proceeding has been delayed on more than one occasion by the Developer's failure to comply with certain requirements or the Developer's request.)

2. *The format of a virtual hearing does not provide a fair and adequate forum for objectors to state their views, particularly seniors, especially given the unusual importance of the issues and the unique complexity of the issues.*

There are doubtless many matters before the Planning Board which may work well in a virtual meeting. This is not one of them. It is of unusual significance to an unusually large number of residents and is remarkably complex.

This application for rezoning involves rezoning a parcel abutting Birmingham Place's residential condominiums to permit construction of a tall commercial building. As the Manager of Birmingham Place told this Board, the mere possibility of this rezoning has deflated the market value of a number of units and, if built out, would obstruct the views of a number of units. Furthermore, together with the hotel completing construction at Brown and Old South Woodward, vehicle and pedestrian traffic will soar. And this is just the beginning. This is a very big and unusual deal.

The Request for Rezoning was first heard by the Board on June 27, 2018. The issue went to the Council, which sent it back for rehearing by the Board. After a rehearing on December 12, 2018, the matter was heard by the City Council on February 11, 2019. The Council failed to pass motions to approve, deny, or adjourn. The Council President advised at the meeting the Council would need to consult with the City attorney as to further proceedings. In the meantime, an entirely different proceeding changed the wording of the zoning ordinance applicable to this parcel.

Even with the help of counsel, it is a difficult proceeding to understand. And currently we cannot even meet with counsel or among ourselves. The many prior meetings on this rezoning request have been very well attended by objectors, including residents of Birmingham Place which has its own counsel. We have prepared for these meetings with our own meetings, including meeting before and after the hearing. This has enabled us to coordinate our presentations to be effective and to save time. In addition, we have sometimes changed our presentation depending on what happens at the hearing itself, which is impossible at a virtual hearing. In addition, the hearings have often involved visual aids, which even on a zoom conference will be difficult to appreciate.

A virtual meeting is useless to people who are not very computer literate and especially hopeless for many seniors. I am 71. Trust me when I tell you me and my friends are overwhelmed by the pandemic. Just arranging for food, taking care of our medical appointments and medications, and worrying about and trying to stay in touch with our children and grandchildren is wearying in and of itself. Many of us are not comfortable with computers.

As a recent study explained:

The study also highlights the obstacles older adults experience such as a significant decrease in sensory keenness, particularly with vision and hearing, as well as a decrease in motor skills due to health problems, such as arthritis and tremors."Often a large challenge for older adults when using the computer is navigating the mouse and keyboard, which is commonly due to a health problem like arthritis."

Many of us when we look at instructions for a Zoom meeting will give up before we even start. In addition, simply navigating and being heard at a large Zoom meeting (and I have been in those) is challenging for the best of us. Have a heart.

There is no prejudice to anyone by a postponement. The application for rezoning was filed on June 27, 2018 and was before the City Council on February 11, 2019. The Developer has made no effort to expedite its request. Even if the request were approved, no outside activities could proceed at this point anyway. The matter has already been pending for close to two years.

3) *Before taking the drastic action requested, the Board should wait until it has time to digest the effects of the pandemic on the needs of Birmingham.*

We don't know what the future holds even in the short term, but one thing is for sure, life will not return to what we knew before the pandemic. As has been noted:

Yet cities since then have thrived and grown. They're much cleaner and safer than they were a century ago. That's because cities are by their nature adaptable organisms. More efficient than rural areas and more flexible than suburbs, they are constantly reinventing themselves — sometimes so quickly that it's startling, sometimes so slowly that we don't even notice.

The world after COVID-19 will be different — as it is after any disaster. And COVID-19 will accelerate changes that have been brewing in cities for a long time. The result will be a new kind of city, different than what we have seen before. A city that should be able to withstand shocks like COVID-19 in a sturdier fashion.

The Board needs to see what this new world might require before so dramatically changing our downtown as it has existed for years.

4) The virtual notice of the hearing is not timely and this requires adjournment of the hearing.

The well-known Open Meetings Act requires hearings like this one to be held in a public place with personal attendance. The only reason there is a "virtual" alternative is due to Executive Order 2020-15 which exempts compliance with the Act under detailed and specific requirements because of the pandemic. One of those requirements prescribes the necessary notice (Sect. 1(e):

> *(e) If a public body directly or indirectly maintains an official internet presence, the public body must, consistent with and in addition to any other applicable notice requirements under the OMA, post advance notice of a meeting held electronically on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings and accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings. Notice of a meeting of a public body that will be held electronically must include all of the following:*
>
> > *(i) An explanation of the reason why the public body is meeting electronically.*
> > *(ii) Detailed procedures by which the public may participate in the meeting electronically, including a telephone number, internet address, or both.*
> > *(iii) Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.*
> > *(iv) Procedures by which persons with disabilities may participate in the meeting.*

As with any notice, this one is necessary to provide everyone with an adequate opportunity to prepare and attend, The more complex the meeting, the longer the notice period should be.

The detailed requirements in the Order are in obvious deference to the fact that virtual meetings are more difficult for the participants. This means the public should have the maximum time available for notice. But it did not.

Our ordinance requires 15 days' notice of a zoning request with notice personally sent to residents within 300 feet. But the Board's virtual notice was (a) not sent to persons within 300 feet, and (b) published on the website on April 14, only seven, not fifteen, days before the hearing.

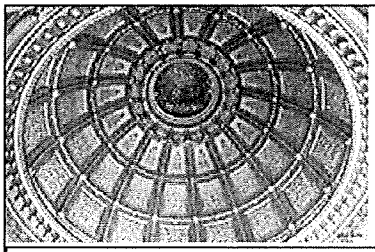
For all the reasons discussed above, maximum notice is necessary to give the public even a chance to participate meaningfully in the hearing.

But aside from that, the notice is inadequate under the ordinance and requires adjournment of the hearing, which should be to a time when a hearing can be held in person,

--

Jana L. Ecker

Planning Director
City of Birmingham
248-530-1841



MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 84 of 2020
House: Adjourned until Thursday, April 16, 2020 10:00:00 AM
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GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

SECRETARY OF SENATE
2020 APR 15 AM 9:23

EXECUTIVE ORDER

No. 2020-48

Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards

Rescission of Executive Order 2020-15

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is crucial that all Michiganders take steps to limit in-person contact. These critical mitigation measures include social distancing and limiting the number of people interacting at public gatherings.

To that end, it is reasonable and necessary to temporarily suspend rules and procedures relating to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan. These public bodies and entities must continue to conduct public business during this emergency, including actions to respond to COVID-19, and the general public must be able to continue to participate in government decision-making without unduly compromising public health, safety, and welfare.

Executive Order 2020-15 provided this limited and temporary relief from certain rules and procedures. This order clarifies and extends the duration of that relief, as it remains reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents. With this order, Executive Order 2020-15 is rescinded.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. To the extent that the Open Meetings Act ("OMA"), 1976 PA 267, as amended, MCL 15.261 to 15.272, requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with section 3 of the OMA, MCL 15.263, is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements, as follows:

   (a) A meeting of a public body may be held electronically, including by telephonic conferencing or video conferencing, in a manner in which both the general public and the members of the public body may participate by electronic means.

   (b) A meeting of a public body held electronically must be conducted in a manner that permits two-way communication so that members of the public body can hear and be heard by other members of the public body and so that general public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. The public body also may use technology to facilitate typed public comments that may be read to or shared with members of the public body and other participants.

   (c) Members of a public body and of the general public participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present at the meeting.

   (d) All persons must be permitted to participate in any meeting of a public body held electronically, except as otherwise provided in the OMA.

(e) If a public body directly or indirectly maintains an official internet presence, the public body must, consistent with and in addition to any other applicable notice requirements under the OMA, post advance notice of a meeting held electronically on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings and accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings. Notice of a meeting of a public body that will be held electronically must include all of the following:

(i) An explanation of the reason why the public body is meeting electronically.

(ii) Detailed procedures by which the public may participate in the meeting remotely, including a telephone number, internet address, or both.

(iii) Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(iv) Procedures by which persons with disabilities may participate in the meeting.

(f) The right of a person to participate in a meeting of a public body held electronically includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of the public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations to minimize the possibility of disrupting the meeting.

(g) A public body may not require a person as a condition of participating in a meeting of the public body held electronically to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in a public comment period of the meeting.

(h) A person must be permitted to address a meeting of a public body held electronically under rules established and recorded by the public body. A person must not be excluded from a meeting held electronically otherwise open to the public except for a breach of the peace actually committed during the meeting.

(i) During a meeting of a public body held electronically, members of the public body are urged to take all votes by roll call to avoid any questions about how each member of the public body votes.

(j) If a public body holding a meeting electronically directly or indirectly maintains an official internet presence, the public body is encouraged to make available to

the general public through the public body's website homepage an agenda and other materials relating to the meeting.

(k) Members of the general public otherwise participating in a meeting of a public body held electronically may be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.

2. A public body holding a meeting electronically as provided under this order is encouraged to do so in a manner that effectuates as fully as possible the purposes of the OMA, which include promoting government accountability and fostering openness in government to enhance responsible decision-making. Discussions or deliberations at an open meeting that cannot at a minimum be heard by the general public participating in the meeting are contrary to these purposes. Accordingly, members of a public body must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision, and must avoid "round-the-horn" decision-making in a manner not accessible to the public at an open meeting.

3. If a decision or other action of a public body is in compliance with the requirements of this order and the other requirements of the OMA, it is in compliance with the OMA.

4. If a statute or rule other than the OMA requires that public comments be permitted or a public hearing be held, including in conjunction with the issuance of a permit or a hearing required under the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 to 141.440a, a public body or department or agency may provide a means for remote public comment or participation through the use of any technology that would facilitate a member of the general public's ability to participate remotely to the same extent as if the member of the general public appeared in person. If not expressly authorized by statute or rule, written comment, including by electronic means, also is permitted.

5. Strict compliance with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, 1976 PA 451, as amended, MCL 380.11a(6), MCL 380.384(7), and MCL 380.418a(1), is temporarily suspended so as not to require school district boards to hold meetings at least once each month.

6. Nothing in this order permits a public body to limit or restrict the rights of the press or other news media. Members of public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held electronically and to members of public bodies.

7. As used in this order, the terms "decision," "meeting," and "public body" mean those terms as defined under section 2 of the OMA, MCL 15.262, except this order does not apply to state legislative bodies.

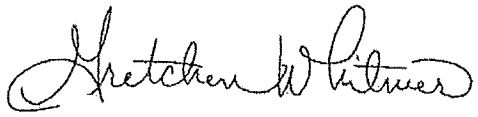
8. A provision of this order will prevail over any conflicting provision of a local charter, ordinance, or rule.

9. This order supersedes sections 2 and 3 of Executive Directive 2020-2.

10. This order is effective immediately and continues through May 12, 2020.

11. Executive Order 2020-15 is rescinded.

Given under my hand and the Great Seal of the State of Michigan.



GRETCHEN WHITMER
GOVERNOR

Date: April 14, 2020

Time: 8:17 pm

By the Governor:

SECRETARY OF STATE

Jana Ecker <jecker@bhamgov.org>

Thoughts regarding a successful ZOOM Planning Board Meeting

1 message

Mickey Schwartz <mickeyschwartz@gmail.com> Wed, May 13, 2020 at 9:45 AM
To: Jana Ecker <jecker@bhamgov.org>

Jana,

In an effort to facilitate Mr. Clein's request for a successful BP Zoom meeting, please forward this to the Planning Board members and anyone in IT involved in the upcoming meetings:

TO: SCOTT CLEIN and all BIRMINGHAM PLANNING BOARD MEMBERS
FROM: DR. MICHAEL SCHWARTZ
RE: SUCCESSFUL ZOOM MEETINGS
MAY 13, 2020

MR. CLEIN:

I'm sure that all parties want resolution of the requested rezoning of 469-479 S Old Woodward. As such, I write to you (and the Planning Board) to offer my feedback and suggestions as a Birmingham citizen on Zoom PB Public Meetings. The following is based on several ZOOM meetings I attended.

I would encourage you to have an IT person handle the logistics of a ZOOM meeting so that you can manage your role as the Chair and not have to also be the IT director.

At the beginning, please have an IT person discuss how to use the "Raise Hand' option. Two meetings I attended mentioned it but did not address how to use it. This option is in different locations (some of which are difficult to find) depending on the device being used (e.g. computer, tablet, phone). At the last PB meeting, I received a call from a participant who could not find the "Raise Hand" option. The individual is a Vice President of a Fortune 500 firm with considerable technical knowledge. Nonetheless, she could not communicate with the PB limiting citizen participation.

The call-in number can be problematic. I attempted to call in to the last PB meeting and received a message "more than 50 participants" I was then placed on hold with a message that the meeting is being recorded and would be available. Again, citizen participation may be restricted.

Meeting needs to start on time. The last PB meeting started late and several individuals expressed concern that the meeting may not be occurring, again limiting participation. If it can not start on time, perhaps some type of 'STANDBY MEETING STARTING SOON' message could be used.

Please remind PB members that they are being viewed. Walking, eating etc. during a professional meeting can be very distracting.

I hope these suggestions are helpful and look forward to this new means of citizen participation.

Mickey Schwartz, MD
248 229-9989
mickeyschwartz@gmail.com

W|W|R|P
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856
www.wwrplaw.com

Richard D. Rattner
rdr@wwrplaw.com

May 19, 2020

By Email

Planning Board
City of Birmingham
151 S. Martin Street
Birmingham, MI 48009
Attn: Jana Ecker

Re: Application to Rezone to D5 469/479 S. Old Woodward ("Application")

Dear Members of the Planning Board:

This letter is submitted to you on behalf of our client ("Applicant"), the owner of the former Mountain King restaurant and drive-thru bank property at 469/479 S. Old Woodward ("Property"). Please accept the following as a brief summary outline of certain relevant facts concerning the history of the review and significant issues discussed and resolved regarding the appropriateness of the rezoning of the Property to a D5 zoning district.

Two Years Ago. The Property owner first submitted this Application to rezone the Property from D4 to D5 in May of 2018.

- Over the past two years, multiple hearings and study sessions have been held regarding the Application. The Planning Board has heard comments at the hearings, or received written communications, from those citizens that were either in favor of, or those that objected ("Objectors") to, this Application.

- Over this period of two years, the Applicant has consistently demonstrated that this Application complies with all Ordinances of the City regarding the appropriateness of rezoning the Property to D5, including but not limited to, as set forth in Article 1, Sections 1.04 and 1.12(A), and Article 7, Sections 7.02(B)(2)(b)(i-iii) and 7.02(B)(5)(a)-(e) of the Birmingham Zoning Ordinances. Further, this conclusion has been recognized by the reports provided by the Planning Department.

- One objection to the rezoning claimed that the Property should not be eligible for rezoning to D5 because the D5 was intended to apply to 3 non-conforming properties only. Another objection was that any further rezoning to D5 should be part of a Master Plan for this area.

    - The Planning Board responded to the first objection by seeking and receiving an opinion from the City Attorney that responded to the question: "Is the owner of the property located at 460/470 Old South Woodward, legally permitted to apply for rezoning to the newly created D5 zoned district in the Downtown Overlay District". In a letter dated October 1, 2018, the City Attorney responded: "yes".

- As to the second objection, after a detailed discussion during its January 23, 2019 public hearing on the Application, the Planning Board confirmed that the D5 was intended as a zoning district in the same manner as other zoning districts set forth in the Ordinance and that the D5 is not limited to 3 nonconforming properties. Accordingly, on January 23, 2019, the Planning Board recommended to the City Commission that the Property be rezoned to the D5 zoning district.

- The City Commission took no action on March 11, 2019, but rather, during the discussion at the Commission level, there were comments made regarding a review of certain details of the Ordinance at the Planning Board and the possibility of clarifying three parts of the proposed Ordinance, to wit: (1) the maximum building height; (2) the definition of "immediately adjacent or abutting"; and (3) the properties within the City to which the D5 district should apply.

- On July 10, 2019, the Planning Board addressed these three issues in a study session. The result was as follows:

    - The Board believed that the zoning ordinance adequately defined building height and no further definition was required to address maximum building height in the D5;

    - The Planning Board proposed that the D5 Ordinance should be amended to clarify the definition of "immediately adjacent and abutting," to remove reference to "adjacent" and to add a definition of "abutting,"; and

WWRP

- With regard to the properties within the City to which the D5 district should apply, the Planning Board asked the City to engage its professional planning consultant, DPZ Co-Design ("DPZ"), to make a study of this area of the downtown (called the "Study Area" in their report) to determine where D5 is appropriate and to study if it was within good planning practices for the Planning Board to entertain further applications for additional buildings to be placed into the D5 district.

- On September 11, 2019 the Planning Board reviewed the DPZ report. That report confirmed that D5 was indeed an appropriate zone for this Property and that it is good planning practice to allow additional buildings into the D5 district. DPZ's conclusion was that "…All properties within the study area should be eligible for rezoning to D5, with the potential exception of the Ford-Peabody Mansion for considerations related to preservation."

- On November 13, 2019 the Planning Board took the extra step of reviewing additional massing studies provided DPZ.

- On December 11, 2019 the Planning Board recommended to the City Commission approval of the text amendment to the ordinance.

- On January 13, 2020 the City Commission approved the text amendment to the Ordinance as recommended by the Planning Board.

In conclusion, this Application has received a detailed and exhaustive study over its two-year pendency. It has been thoroughly studied by the Planning Board, the City's Planning Department, the City Commission, and DPZ, and an independent outside expert planning consultant that has been a part of Birmingham's Master Plan preparation for many years. Every report, planning study, legal opinion and planning consultant's conclusion has indicated that D5 rezoning is appropriate for the Property. In fact, a denial of this rezoning Application clearly ignores the obvious fact that the Application offers a real benefit to the City. It complies with the concepts provided in the Master Plan as well as the latest plan provided by DPZ that focuses on this Property and the "Study Area" as described in that study. A D5 zone for this Property not only satisfies every requirement of the Birmingham Zoning Ordinances, and the spirt and intent of those ordinances, but will be a benefit to the entire community.

Applicant respectfully requests that the Planning Board recommend that the City Commission grant approval of the Application.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner

Richard D. Rattner

cc: Mr. Joseph Valentine
Mr. Timothy Currier, Esq.
Mr. Doraid Markus
Mr. Christopher Longe



469/479 S. Old Woodward Avenue

Former Mountain King Restaurant/Drive Thru Bank

Rezone to D5

Pursuant to Zoning Ordinance Sec. 7.02B

Birmingham Planning Board

April 22, 2020



D5 Is the Culmination of Exhaustive Study

- ✓Contemplated for 2 years before enacted
- ✓Many study sessions, discussions, and public meetings
- ✓Advertised and noticed
- ✓Considered many different options
- ✓Multiple iterations of draft amendments
- ✓Studied entire downtown area and study by planning consultant targeting this specific area of downtown

Article 1, Section 1.04

From 2016 Plan, Vision Statement



D5 will "reinforce [an] identifiable district in the Downtown to provide a sense of place."



D5 will allow for a "diverse mix of uses, including [street-level] retail, commercial . . . and especially residential."



D5 will allow a building that is "compatible, in mass and scale, with its immediate surroundings."

Establishment of Overlay Districts in 2016 Plan Ord. Art I,1.12,A

- The overlay districts …have been established to add additional and unique development standards which will better help the City of Birmingham accomplish the goals of the Downtown Birmingham 2016 Plan…"

D-5 Zoning Satisfies the Required Basic Provisions of Sec. 1.04 and Ord. Sec. 7.02(B)(2)(b)(i-iii)

- **D-5 Satisfies Purpose of Zoning Ordinance Sec. 1.04**
- **Rezoning Preserves Enjoyment of Rights and Usage Associated with Ownership Ord. Sec. 7.02(B)(2)(b)(i)**
- **Existing Zoning Not Appropriate Ord. Sec. 7.02(B)(2)(b)(ii)**
- **Rezoning is Not Detrimental to Surrounding Properties Sec. 7.02(B)(2)(b)(iii)**
- **D-5 Satisfies Purpose of Zoning Ordinance Sec. 1.04**

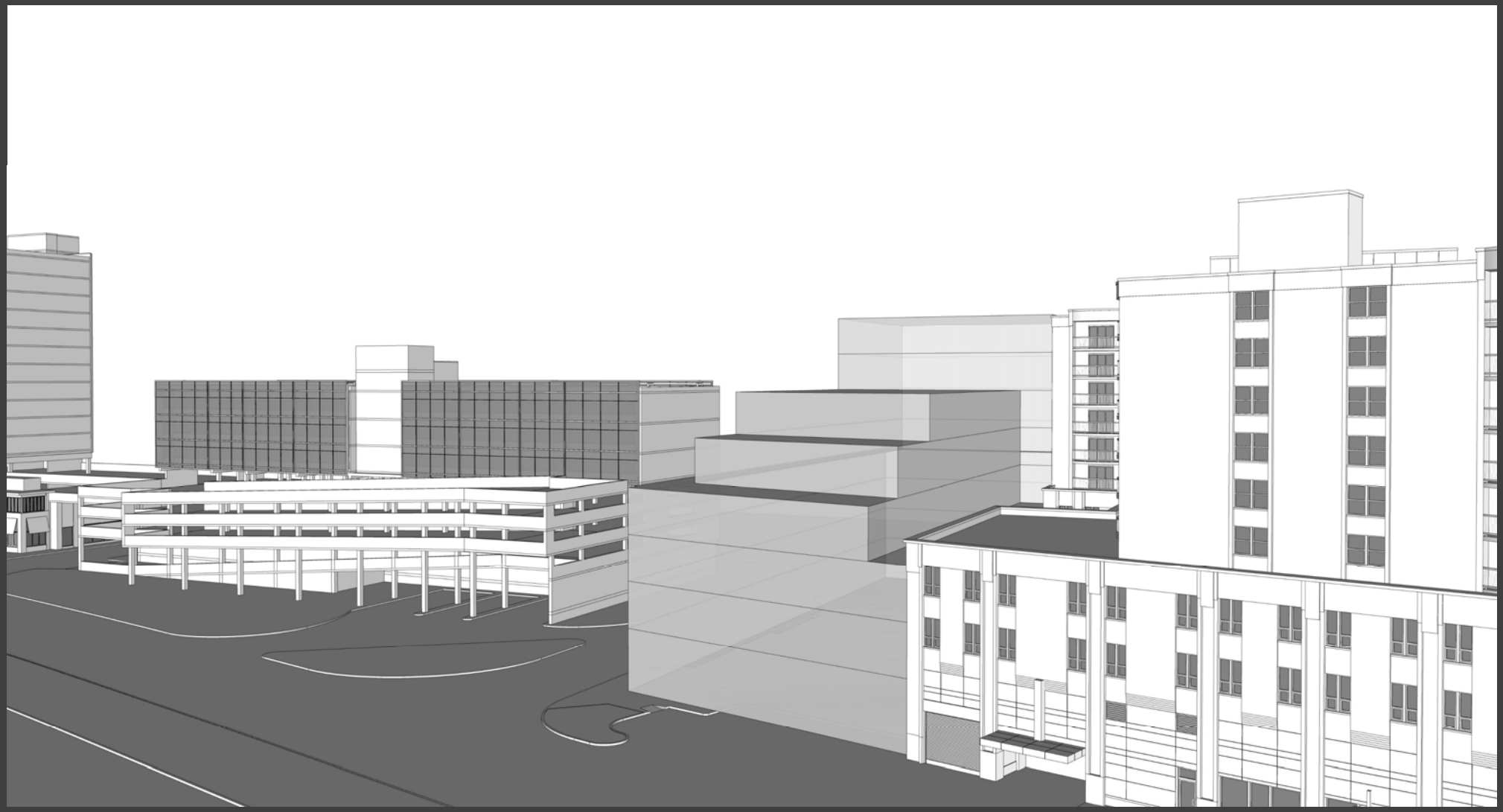
APPLICANT HAS DEMONSTRATED 5 FINDINGS OF ORDINANCE SEC. 7.02(B)(5)(a)-(e)

- ✓Sec. 7.02(B)(5)(a) –conforms to the City's Master Plan and 2016 Plan
- ✓ Sec. 7.02(B)(5)(b) – The proposed mixed uses of the subject property (retail, residential, and hotel) are consistent with existing uses in the neighborhood.
- ✓Sec. 7.02(B)(5)(c) –Properties in the general area (abutting and adjacent) are zoned D-5.
- ✓Sec. 7.02(B)(5)(d) – Property is not suitable to the uses permitted under existing zoning due to constraints of the property and the relationship to neighboring property.
- ✓Sec. 7.02(B)(5)(e) – Trend of development in the area favors D-5 zoning.

City Action

- The City, after consideration, has already amended the new D5 proposed ordinance language.


479
ATM





dmarkus@markusllc.com




Thank You
Rezone to D5
Pursuant to Zoning Ordinance Sec. 7.02B
Birmingham Planning Board
April 22, 2020
Google Earth
Marble
Polishing

Jana Ecker <jecker@bhamgov.org>

469 - 479 S Old Woodward Zoning Application

1 message

Prentice, Michele <Michele.Prentice@colliers.com> Tue, May 19, 2020 at 1:36 PM
To: Jana Ecker <Jecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>, "s.clein@comcast.net" <s.clein@comcast.net>

Per the request made by Scott Clein at the April 22, 2020 Planning Board meeting, please find attached are pre-meeting written comments and the consensus of 70 Birmingham Residents for the Planning Board and City Commission members review prior to the May 27, 2020 Planning Board meeting. Please add this submittal as part of the official record for the D5 rezoning application and acknowledge its receipt. Thank you.

Michele Prentice
Senior Property Manager | Detroit
Dir +1 248 642 9000 | Fax +1 248 236 1490
401 S. Old Woodward, Birmingham MI 48009
michele.prentice@colliers.com

www.colliers.com

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May 12, 2020

RE: 469 – 479 South Old Woodward Rezone Application from D4 to D5

To: City of Birmingham, MI Planning Board & City Commission:

At the April 22, 2020 Planning Board meeting, Chairman Scott Clein requested that any interested parties that have comments or objections to the application to rezone 469-479 S. Old Woodward Ave. from D4 to D5 (the "D5 Rezoning Application"), submit written material prior to the May 27, 2020 Planning Board meeting wherein the D5 Rezoning Application will be considered. The residents and commercial tenants of the Condominiums of Birmingham Place object to the D5 Rezoning Application, and for the reasons outlined herein, respectfully request that: (i) the Planning Board recommend to the City Commission that the D5 Rezoning Application be denied, and (ii) the City Commission deny the D5 Rezoning Application.

It is our desire to assist the Planning Board and City Commission in their efforts to manage a productive Zoom Planning Board meeting on May 27, 2020, and any future virtual meetings held by the City Commission. Therefore, we are substituting our pre-meeting written comments below with signatures of individuals that agree with these points and would have been speaking at the Planning Board meeting if it were held in person. We respectfully request that: (i) the Planning Board members review our opposition points prior to the Zoom meeting, (ii) Chairman Clein acknowledge this submittal from the residents and commercial tenants of the Condominiums of Birmingham Place at the Zoom meeting, and (iii) this submittal be made part of the official record for the D5 Rezoning Application.

Resident & Commercial Tenants of Condominiums of Birmingham Place Opposition Points to 467-479 S. Old Woodward D4 to D5 Rezoning Request

1. **REZONING THE SUBJECT PROPERTY IS NOT NECESSARY.** The applicant has not demonstrated why it cannot develop the subject property under the current D4 zoning, nor has it demonstrated why rezoning the subject property to D5 is necessary. This is a required element for the City to approve a rezoning under the City Zoning Ordinance, which the applicant has simply not demonstrated.

2. **D4 ZONING FOR THE SUBJECT PROPERTY IS, AND CONTINUES TO BE APPROPRIATE**: The applicant has not demonstrated that the current D4 zoning is no longer appropriate, which is required under the City Zoning Ordinance to rezone a

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property. Mixed uses are permitted under D4 and D5 zoning. The only difference between D4 and D5 zoning is building height. Why is D4 building height no longer appropriate, after it has been applied to many buildings over many years (eg. Daxton Hotel, Greenleaf Trust, Balmoral, Brookside Residences, Varsity Shop redevelopment, Peabody redevelopment)? Why should the subject property be treated differently now? It shouldn't!

3. **THE DEVELOPMENT TREND IN THE CITY IS CLEARLY 5 STORY BUILDINGS**: The development trend in the City is 5 stories or less, not above 5 stories. To make the argument that this portion of the City has experienced a development trend above 5 stories ignores that fact that the zoning ordinance that allowed Birmingham Place and the 555 Building to be developed over 5 stories was rejected years ago, and the City has intentionally permitted and encouraged the development of 5 story buildings since then. To say that there is a "development trend" above 5 stories in the City of Birmingham is misleading and disingenuous.

4. **JUST BECAUSE THE LANGAUGE OF THE D5 ORDINANCE WAS RECENTLY UPDATED BY THE CITY, DOES NOT MEAN THAT IT SHOULD BE APPLIED TO THE SUBJECT PROPERTY**: The question before that Planning Board is whether the D5 zoning designation is appropriate for the subject property under the requirements of Section 7.02 of the City Zoning Ordinance. The fact that the subject property is adjacent to two formerly legal non-confirming buildings, does not mean that it should be developed to the same standards as those buildings. The D5 Ordinance was clearly created to address the non-conforming status of three existing buildings, and to address expansions or modifications to those three buildings....not to encourage new development above 5 stories on other properties that were not zoned D5 when the D5 ordinance was created.

5. **PROPOSED REZONING IS INCONSISTENT WITH THE INTENT OF THE D5 ORDINANCE**: The intent of the D5 Ordinance was to address the legal non-conforming status of three existing buildings, not to encourage new development above 5 stories on properties not zoned D5. The record is clear on this fact. Had the residents and commercial tenants of the Condominiums of Birmingham Place known that the subject property could be developed above 5 stories, many of them may have decided to pass on the purchase or lease, or assign a different purchase or rental value to certain condominium units.

6. **D4 ZONING ALLOWS FOR A DEVELOPMENT THAT IS CONSISTENT WITH THE MASTER PLAN AND 2016 PLAN**: The development of a mixed use building is permitted under both D4 and D5 zoning, and a 5 story building a consistent with the goals of the City Master Plan and the 2016 Plan. Neither of these Plans call for the City to raise building heights in downtown Birmingham above 5 stories.

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7. **DEVELOPMENT OVER 5 STORIES WAS REJECTED MANY YEARS AGO**: Rezoning the subject property to D5 is essentially allowing the owner to develop the property at a height that the City of Birmingham rejected many years ago, and has consistently prohibited. The residents and commercial tenants of the Condominiums of Birmingham Place had no reason to believe that the City would "turn back the clock" on them and allow a development over 5 stories on the subject property to proceed.

8. **PARKING AND CONGESTION WILL GO FROM BAD TO WORSE**: The subject property is not within the Parking Assessment District, and must provide its own on-site parking or shared parking within 100 ft. of the subject property. Given this constraint, why would the City allow this property to be developed in a way that requires far more parking than it would under the existing D4 zoning? This is not logical, and will exacerbate the parking problems in Birmingham.

9. **DEVELOPING THE SUBJECT PROPERTY ABOVE 5 STORIES WILL BE DETRIMENTAL TO SURROUNDING RESIDENTS**: Rezoning the subject property to D5 would be detrimental to the residents and commercial tenants of the Condominiums of Birmingham Place, which has been described in the many letters filed with the City and placed on the record at previous hearings on this rezoning request.

10. **D4 ZONING ALLOWS THE SUBJECT PROPERTY TO BE BUILT TALLER THAN THE ADJACENT SOUTHERN BUILDING**: The existing D4 zoning of the subject property would allow it to be built higher than the northern edge of the 555 Office Building. A 5 story building would make for a more harmonious transition from Birmingham Place to the 555 Building, as opposed to abutting a 9-story building that would tower over the northern edge of the 555 Building.

11. **A 9 STORY BUILDING ON THE SUBJECT PROPERTY WOULD DWARF MOST OF ITS NEIGHBORING BUILDINGS**: The proposed 9 story development of the subject property would dwarf almost all surrounding buildings except for the three (3) buildings that were constructed under a zoning ordinance that was rejected by the City many years ago. If the proposed development was compared to the vast majority of buildings in this neighborhood, one could only conclude that a 5-story development is more harmonious with the neighborhood than a 9-story development.

12. **A 9 STORY BUILDING WOULD NOT CREATE A STRONG IMAGE**: The proposed 9 story building on the subject property would not improve the frontages of S. old Woodward, Hazel and Woodward. The proposed elevation drawings show a crowding of a narrow right of way on Hazel and S. Old Woodward, and a blank wall facing Woodward. This is not the type of welcoming strong image envisioned in the City Zoning Ordinance and Master Plan.

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13. **THE CITY SHOULD WAIT FOR THE BIRMIMGHAM 2040 PLAN TO BE ADOPTED, AND LOOK TO THAT FOR GUIDANCE.** The City is well aware that we are in the midst of updating the City Master Plan, which will guide the development of the City for the next 20 years. Before taking drastic action to increase building heights above 5 stories in downtown Birmingham, we should wait for the updated City Master Plan to guide us and follow that. To do otherwise would undermine the thousands of hours that various City stakeholders have been put into updating the City Master Plan.

14. **THE APPLICANT HAS AN ECONOMIC PROBLEM NOT A ZONING PROBLEM**: The City should not rezone a property to meet a developer's economic requirements, unit counts, or hotel brand mandates. The applicant has admitted on the record at previous hearings that the economics and unit count are driving this rezoning request. The City should stick to the City Zoning Ordinance that has been in place for many years. Economics, financial return, and adding hotel room or residential unit count has no place in a rezoning decision. The wellbeing of the community and the existing residents should outweigh an applicant's own financial interests.

Owner's Name	Unit #
Jim & Kim Zagurski	928
Lou & James Arpin	706
Jane & Eric Sterling	615
Richard Hamilton	823
Patrick Roberts	907
Shane & Anna Spalding	525
Cynthia Neal	612
Chris & Barb Ammann	1025

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Owner's Name	Unit #
Ed Shaw	910
Melvyn Sloanfield	802
Jerry Baker	629
Valerie Foley	508
Dawn Foley	508
Trevor Worthington	522
Kyle A. Markey	603
Carol Kozlow	729
Gayle Goodman	912
Michael Frezza	812
Souheil Saba	903
Reema Abu Mazen	1022
Larry Rochkind	710
Dennis Lui	631

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Owner's Name	Unit #
Julie Wolfe	1021
Susan Sosnick	810/811
Estelle Miller	924
Nikki Fine	521
Dana Bassarpour	1014
Rachel Mady	801
Catherine Brozek	1012
Susan Winshall	828
Wilson Chwang	712
Carlos Maidagan	1013
Farris & Bernice Kalil	801
Brenda Knight	1029
Betty Billys	918
Toni Schwartz	1018

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Owner's Name	Unit #
Mickey Schwartz, MD	1018
Toni Street	523
Jeanette & Frances Englhart	904
MTM Investments Holdings LLC	1
Frederick & Kathleen Fromm	1006
Michelle Rentas	100
Charles Nalbandian	522
Stuart Sheer	1003
Steve & Virginia Keller	605
Cynthia Ranzilla	702
Bavand Hamidi	814
William Kolb	518
Debra Elsholz	703
David & Laura Szczupak	618

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14. **THE APPLICANT HAS AN ECONOMIC PROBLEM NOT A ZONING PROBLEM**: The City should not rezone a property to meet a developer's economic requirements, unit counts, or hotel brand mandates. The applicant has admitted on the record at previous hearings that the economics and unit count are driving this rezoning request. The City should stick to the City Zoning Ordinance that has been in place for many years. Economics, financial return, and adding hotel room or residential unit count has no place in a rezoning decision. The wellbeing of the community and the existing residents should outweigh an applicant's own financial interests.

Owner's Name	Unit #
Jin Kim	1029
Alec Shoneyka	514
Karen & David Durrell	1008
Alexander & Claudia Pfau	611
Bradley Steel	704
Mark Banks	410
Rosemary Sarafa	825
Andy Rappin	410

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Peter Chang #711
Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

Owner's Name Unit #

JPHOWE PLLC

280 N. Old Woodward
Suite 12
Birmingham, MI 48009
O 248.385.3112
C 248.835.2068
F 888.450.1682
jphowe@jphowe.com
www.jphowe.com

May 19, 2020

VIA EMAIL ONLY

Birmingham Planning Board
c/o Ms. Jana Ecker
Planning Director
City of Birmingham
151 Martin St.
Birmingham, MI 48009

Re: Birmingham Place Residential Condominium Association & Birmingham Place Commercial Condominium Association Objection to Application to Rezone 469-479 S. Old Woodward Ave. from D4 to D5 Zoning Designation

Dear Members of the Birmingham Planning Board,

This firm represents the Birmingham Place Residential Condominium Association and Birmingham Place Commercial Condominium Association, the members of which are the residents and commercial tenants of *Birmingham Place* located at 401-411 S. Old Woodward Ave. The record in the Application to Rezone 469-479 S. Old Woodward Ave. from D4 to D5 (the "D5 Rezoning Application"), contains numerous objections previously filed by my clients, and individual residents and commercial tenants of Birmingham Place. The purpose of this letter is to supplement all prior objections, and to summarize why the D5 Rezoning Application must be denied under the City's Zoning Ordinance.

You will likely hear from the applicant for the D5 Rezoning Application (the "Applicant"), that this request is the culmination of years of exhaustive study in this area of downtown Birmingham regarding the appropriateness of rezoning the subject parcel to a mixed-use building that exceeds 5 stories. This self-serving statement is just wrong and misleading. The truth is, the D5 zoning designation was created to address the non-conforming status of three existing buildings, and to address expansions or modifications to those three buildings on their parcels….not to encourage new development on a property that was not zoned D5 when the D5 zoning designation was created. The fact that the Planning Board and City Commission recently reviewed the simple language of the D5 zoning designation to clarify various ambiguities, is irrelevant to the appropriateness of

rezoning the subject property from D4 to D5, and should have no bearing on the Planning Board's recommendation to the City Commission, or the City Commission's decision. The fact is, the original short and simple D5 zoning designation language needed a second look, as it was never intended to do anything more than correct the legal non-conforming status of three buildings. Setting aside the fact that the Applicant is attempting to utilize a zoning designation that was created to address three legal non-conforming buildings to obtain City approval for a new 9-story building, the question before that Planning Board is whether the D5 zoning designation is appropriate for the subject property under the requirements set forth in Section 7.02 of the City Zoning Ordinance. For the reasons set forth herein, along with numerous other reasons previously placed into the record, one must conclude that the Applicant has not met the burden required under the City's Zoning Ordinance to justify rezoning the subject property from D4 to D5.

All rezoning applications in the City are governed by the City Zoning Ordinance. The purpose of the Zoning Ordinance is to "guide the growth and development of the City in accordance with the goals, objectives, and strategies stated within the Birmingham Master Plan and Downtown Birmingham 2016 Plan" (see Section 1.04 of the City Zoning Ordinance). With respect to the D5 Rezoning Application, the question becomes: does rezoning the subject property from D4 to D5 further the goals, objectives, and strategies stated within the City Master Plan and Birmingham 2016 Plan? The answer is NO. The Applicant would enjoy the ability to utilize the subject property for the exact same mixture of uses under the D4 zoning classification and the D5 zoning classification. Then why does the Applicant need to rezone the subject property one might ask? Building height - that is the only distinction between the D4 and D5 zoning classification. The Applicant has summarily stated that allowing the subject property to be developed higher than the 5 stories "conforms to the City's Master Plan and Birmingham 2016 Plan." No, it does not actually. The Applicant has not provided, and the undersigned cannot find, one single section in either the City Master Plan or the Birmingham 2016 Plan, which calls for, or even impliedly encourages, the development of mixed-use buildings in downtown Birmingham that exceed 5 stories in height. For this reason, the D5 Rezoning Application does not further the goals, objectives, and strategies stated within the City Master Plan and Birmingham 2016 Plan, and must be denied.

In addition to proving that a proposed rezoning furthers the spirit of the City Zoning Ordinance, under Section 7.02(B)(2)(b) of the City Zoning Ordinance, an applicant for a rezoning must explain:

i. why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership;
ii. why the existing zoning classification is no longer appropriate; and
iii. why the proposed rezoning will not be detrimental to surrounding properties.

The Applicant's position as outlined in the D5 Rezoning Application, and our client's position with respect to each of these factors, is as follows:

i. why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership;

Applicant's Response: Rezoning of the subject property is necessary to preserve the Applicant's enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the Applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed use building. Furthermore, the D-5 Ordinance, at Section 3.04-4-b, anticipates that the subject property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

Our Response: The Applicant's response is confusing and misleading, and does not demonstrate how the Applicant is unable to use the property if it is not rezoned to D5. That is because the Applicant certainly can use and enjoy the subject property under the D4 zoning designation. The fact is that the mixed uses permitted under D4 are the same mixed uses permitted under D5. Somehow, we are supposed to believe that if we raise the building height to 9 stories as opposed to 5 stories, the Applicant's usage rights will somehow change? That does make any sense, and for this reason the Applicant has not demonstrated that rezoning the subject property to D5 is necessary for the preservation and enjoyment of the Applicant's rights of usage commonly associated with property ownership.

ii. why the existing zoning classification is no longer appropriate;

Applicant's Response: The existing D-4 zoning classification is no longer appropriate for the subject property. The subject property is surrounded by the Birmingham Place, a 10-story building on the north side and the 555 Buildings, a 15-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an "infill" rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner

consistent with the existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the subject property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Board has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

Our Response: Again, the Applicant's response is misleading. D4 and D5 zoning designations allow for the same mixture of uses, so there is no way the Applicant can argue that the uses allowed under D4 are no longer appropriate. With respect to the 5-story height restriction in the D4 zoning designation, it is impossible to find that such a restriction is no longer appropriate. If you look at all of the major developments in Birmingham over the past 10 years, the 5-story restriction has been applied to all of them (eg. Greenleaf Trust, Balmoral, Brookside Residences, Daxton Hotel, Varsity Shop redevelopment, Peabody redevelopment). Furthermore, the Applicant has not provided, and the undersigned cannot find, one single section in either the City Master Plan or the Birmingham 2016 Plan which calls for, or even impliedly encourages, the development of mixed-use buildings in downtown Birmingham that exceed 5 stories in height.

The Applicant states that a 9-story building on the subject property would fill a gap between the 10 story Birmingham Place building to the north, and the 15-story 555 building to the south. This is just not accurate. Yes, the 10 story Birmingham Place building directly abuts the subject property to the north, but to the immediate south across Hazel is the 7 story 555 Office Building, which contains ground story retail, 3 stories of office, and 3 stories of parking. 4 floors of usable office space to the immediate south is a far cry from the 15-story tower as described by the Applicant. The 15 story 555 Residential Building is further to the south across Bowers St., hundreds of feet away from the subject property. Under current height regulations, a 5-story building built on the subject property **could actually exceed** the height of the 555 Office Building to the south. The Planning Board has no obligation to rezone the subject property to D5 as it did for Birmingham Place and the 555 Building. The D5 zoning designation was specifically created for those two (2) buildings (along with the Merrillwood Building), to simply remedy their legal non-conforming status, and to address expansions or modifications to those three buildings on their parcels. A 5-story mixed use building would also create a more unified block and would enhance the gateway area to downtown Birmingham – we don't need a 9-story building to accomplish this goal. Accordingly, 5 stories has been, and continues to be, appropriate.

iii. why the proposed rezoning will not be detrimental to surrounding properties.

Applicant's Response: The proposed rezoning of the subject property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-4 Zone. The surrounding properties to the north and south are already in the D-5 zone. When these neighboring properties were rezoned the Planning Board anticipated that eventually the subject property also may be rezoned for the reasons stated in this letter. Placing the subject property in the D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Our Response: Neither the residents of Birmingham Place nor any other stakeholders in the City of Birmingham ever anticipated that that the subject property would be rezoned for a development above 5 stories. The fact is (and the February 13, 2017 City Commission meeting transcript substantiates), that the D5 zoning designation was approved by the City Commission for the sole purpose of addressing the legal non-conforming status of 3 buildings constructed under 1960's / 1970's zoning regulations that were rejected by the City many years ago, and to address expansions or modifications to those three buildings on their parcels. To state that this D5 Rezoning Application was anticipated by the City is self-serving and wrong. Allowing a 9-story building over a 5 story building will be detrimental to surrounding properties for many reasons already placed into the record, including:

- Increased congestion
- Parking deficiency
- Traffic congestion along southbound Woodward Ave., Hazel St., and N. Old Woodward
- Increased noise
- Unexpected diminution in surrounding property values and rental values that were not be anticipated by nearby owners and tenants due to the fact that the City Zoning Ordinance, City Master Plan and the Birmingham 2016 Plan do not call for, or even impliedly encourage, the development of mixed-use buildings in downtown Birmingham that exceed 5 stories in height.

- Blocked sun and view by neighbors to the north and south of the subject parcel

For the reasons outlined above, we submit that rezoning the subject property is not necessary for the Applicant to enjoy its property rights, D4 has been and remains the appropriate zoning designation for the subject property, and allowing the subject property to be developed above 5 stories would be to the extreme detriment of surrounding property owners, **who never had reason to believe that the City would allow the subject property to be developed above 5 stories.**

Based on the evidence presented in connection with a rezoning application, the Planning Board must make findings of fact under Section 7.02(B)(5) of the City Zoning Ordinance. Based on the record and the forgoing analysis, we submit that the Planning Board should find as follows:

a. Does the Rezoning Application meet the objectives of the City's then current master plan and the City's 2016 Plan?

Finding: No, insofar as the D5 zoning designation was created to correct the legal non-conforming status of three buildings, and there is not one section of the City Master Plan or Birmingham 2016 Plan that calls for, or even impliedly encourages, the development of mixed-use buildings in downtown Birmingham that exceed 5 stories in height.

b. Is the proposed rezoning compatible with the existing uses of property within in the general area of the property in question.

Finding: The D4 and D5 zoning classifications allow for the same mixed uses. Accordingly, this finding is not applicable to the D5 Rezoning Application.

c. How does the proposed rezoning compare to the zoning classification of property within the general area of the property in question?

Finding: A 9-story building on the subject property would dwarf almost all surrounding buildings except for the three buildings that were constructed under a 1960's / 1970's zoning ordinance that was rejected by the City many years ago. If the proposed 9 story building was compared to the vast majority of both older and recently constructed buildings in downtown Birmingham, one could only conclude that a 5-story building under the D4 zoning designation is more harmonious in downtown Birmingham than a 9-story building.

d. Is the subject property suitable for the existing zoning classification?

Finding. The D4 and D5 zoning classifications allow for the same mixed uses. Accordingly, there is no reason why a 5-story mixed use building under the existing D4 zoning classification is not suitable for the subject property, but a 9-story mixed use building under the D5 zoning classification is suitable. It appears that the Applicant just wants to rezone the subject property so it can increase the number of residential or hotel units in the building. This factor has no place in a rezoning decision.

e. What is the trend of development in the general area of the subject property in question, and have any changes taken place in this zoning classification?

Finding: The development trend in the City is 5 stories or less, not above 5 stories. The 1960's / 1970's zoning ordinance that allowed Birmingham Place and the 555 Building to be developed over 5 stories was rejected by the City years ago, and the City has intentionally permitted and encouraged the development of 5 story buildings since then.

In summary, it is our position that: (i) the D5 zoning designation was created to address the non-conforming status of three existing buildings, and to address expansions or modifications to those three buildings on their parcels, (ii) the D5 Rezoning Application does not further the spirit or intent of the City Zoning Ordinance, City Master Plan, or Birmingham 2016 Plan, (iii) rezoning the subject property to D5 is not required to preserve the Applicant's property rights, (iv) the existing D4 zoning classification remains appropriate and suitable for the subject property, (v) constructing a 9 story building as opposed to a 5 story building would be detrimental to surrounding properties owners in a manner that they had no reason to anticipate, (vi) the development trend in downtown Birmingham is 5 stories not 9, and (vii) nothing has changed in downtown Birmingham that justifies creating a new trend for new buildings to be constructed over 5 stories.

For these reasons, we respectfully submit that the Planning Board is bound under the City Zoning Ordinance to recommend that the City Commission deny the D5 Rezoning Application, and the City Commission is required to deny it.

Thank you for your consideration of our objections.

Very truly yours,

JPHOWE, PLLC

J. Patrick Howe

cc: Timothy J. Currier, City Attorney (via email)
Joseph A. Valentine, City Manager (via email)
Birmingham Place Residential Condominium Association
Birmingham Place Commercial Condominium Association

Birmingham Planning Board
151 Martin
Birmingham, MI 48009

May 25, 2020

Re: Comment for May 27, 2020 Meeting on Rezoning 469-479 S. Old Woodward to D5

Birmingham should not be giving developers zoning changes worth millions of dollars without getting any community benefits in return. The owner of this property knew it was zoned D4 when he bought it. The owner knew the economics involved in developing a property zoned D4 and paid a price associated with the D4 zoning.

Now the owner comes in front of this Planning Board, hat in hand, asking for a rezoning change worth millions of dollars but offering nothing in return.

- The City has a goal of adding affordable housing into the downtown area. Why is the owner not offering that say 50% of the residential units will be affordable based in Birmingham's median income of $114,537?

- The owner is offering to build three underground parking decks – will this be enough capacity for the building? Will it add capacity to the already strained parking system? If the new parking adds to the system, another community benefit.

- Will the ground floor retail be locally owned businesses? Another community benefit.

Birmingham has some of the most desirable development property in the State and this parcel is prime real estate. Our City should insist on clearly defined community benefits from this developer before even considering the D5 rezoning approval.



Brad Coulter
498 Wimbleton
Birmingham, MI

Jana Ecker <jecker@bhamgov.org>

469-479 S Old Woodward rezoning proposal

1 message

LYNN GROTH <lgroth@comcast.net> Sun, Jul 12, 2020 at 4:14 PM
To: jecker@bhamgov.org

To Whom it May Concern:

I am the Co- owner of the building at 444-494 S Old Woodward. We have tenants that pay a premium in their rent because they have dedicated parking for their customers. We are concerned that the change in usage, as in more tenants, for 400 South Old Woodward and 469-479 South Old Woodward could force people to look for offsite parking. We have a problem with the 555 South Old Woodward and 411 South Old Woodward building customers parking in our lot when they are not patronizing our businesses. Every week we have people looking to rent parking spaces. We can not handle more people looking for places to park because the building wasn't designed to accommodate it's tenants. Please consider the businesses that provide parking for their patrons when you contemplate usage changes to buildings on South Old Woodward.

Thank you,

Lynn Groth
Galyn Associates
248-642-8289

Birmingham City Commission
151 Martin
Birmingham, MI 48009

July 15, 2020

Re: Comment for July 20, 2020 Meeting on Rezoning 469-479 S. Old Woodward to D5

Birmingham should not be giving developers zoning changes worth millions of dollars without getting any community benefits in return. The owner of this property knew it was zoned D4 when he bought it. The owner knew the economics involved in developing a property zoned D4 and paid a price associated with the D4 zoning.

Now the owner comes in front of the City Commission, hat in hand, asking for an extremely valuable rezoning change but offering nothing in return.

- The City has a goal of adding affordable housing into the downtown area. Why is the owner not offering that say 50% of the residential units will be affordable based in Birmingham's median income of $114,537?

- The owner is planning to build three underground parking decks – has this been agreed to in writing and will this parking add capacity to the already strained parking system? If the new parking adds to the system, another community benefit.

- Will the ground floor retail be locally owned businesses? Another community benefit.

- There is no guarantee the owner won't immediately flip the property for a profit after getting the rezoning approval. And if that happens, the owner benefits and Birmingham gets nothing.

Birmingham has some of the most desirable development property in the State and this parcel is prime real estate. **Our City should insist on clearly defined community benefits from this developer before even considering the D5 rezoning approval. Therefore, I believe this zoning change should not even be considered until specific community benefits have been defined for this property.**



Brad Coulter
498 Wimbleton
Birmingham, MI

City of Birmingham
A Walkable Community

MEMORANDUM

Museum

DATE: **July 20, 2020**

TO: **Joseph A. Valentine, City Manager**

FROM: **Leslie Pielack, Museum Director**

SUBJECT: **Amendment to Sec. 62-26 of City Code to Add Alternate Member to Composition of Museum Board**

INTRODUCTION:

The Museum Board currently lacks an alternate member position. Adding an alternate member would allow board business to proceed without interruption in the event of absence/lack of quorum, and contribute to board continuity as is the current practice for other city boards.

BACKGROUND:

The Museum Board consists of seven regular members as defined by of the City Code under PART II, CHAPTER 62-HISTORICAL PRESERVATION, ARTICLE II.-MUSEUM BOARD, Sections 62-26 through 62-35, without a provision for an alternate board member. Amending the existing ordinance to allow for an alternate board member would bring the Museum Board in line with other city boards.

LEGAL REVIEW:

The city attorney's office created a draft document for the Museum Board's consideration. On March 5, 2020, the Museum Board voted 6-0 to approve the addition of an alternate board member per the city attorney's draft ordinance amendment (attached).

FISCAL IMPACT:

There is no fiscal impact for this ordinance amendment.

SUMMARY

In light of the advantages offered by the addition of an alternate board member to the Museum Board, it is recommended that the City Commission adopt the amendment to PART II OF THE CITY CODE, CHAPTER 62-HISTORICAL PRESERVATION, ARTICLE II.- MUSEUM BOARD, SEC. 62-26 ESTABLISHMENT; COMPOSITION as drafted by the city attorney and recommended by the Museum Board.

ATTACHMENTS:

1. Proposed draft ordinance amendment to PART II OF THE CITY CODE, CHAPTER 62-HISTORICAL PRESERVATION, ARTICLE II.- MUSEUM BOARD, SEC. 62-26 ESTABLISHMENT; COMPOSITION
2. Excerpt of the minutes of the Museum Board meeting on March 5, 2020 approving the ordinance amendment language prepared by the city attorney's office.

SUGGESTED RESOLUTION:

To adopt an ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 62-HISTORICAL PRESERVATION, ARTICLE II.- MUSEUM BOARD, SEC. 62-26 ESTABLISHMENT; COMPOSITION, to include an alternate member, and to direct the City Clerk to certify and publish the amended ordinance on behalf of the City.

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 62 – HISTORICAL PRESERVATION, ARTICLE II. – MUSEUM BOARD, SEC. 62-26 ESTABLISHMENT; COMPOSITION.

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 62 – Historical Preservation, Article II. Museum Board, Sec. 62-26 – Establishment; Composition, shall read as follows:

DIVISION 1. – GENERALLY

Sec. 62-26. - Establishment; composition.

(a) There is hereby established the Museum Board for the City which shall consist of seven members who shall serve without compensation. Six of the members shall be appointed by the City Commission and shall be qualified city electors. One member shall be the owner of a business located in the City to be appointed by the City Manager with the concurrence of the City Commission (need not be a resident). A majority of the members of the Museum Board shall also be members of the Birmingham Historical Society.

(b) In addition to the seven members of the Museum Board, the City Commission shall appoint one alternate member to serve a term of three (3) years, who shall be a qualified city elector.

All other Sections of Chapter 62 – Historical Preservation, shall remain unaffected.

Ordained this _____ day of _____, 2020. Effective upon publication.

I, Alexandria D. Bingham, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____, 2020 and that a summary was published _____, 2020.

_____
Alexandria D. Bingham, City Clerk

board emphasized that the museum grounds, although public, do not fit the category of "Neighborhood Park" as reflected in the plan, and as a historic site, recommendations in The Birmingham Plan would not be appropriate for the museum. Others, such as improved pathways, seating, etc. may be beneficial, but should be coordinated with our 2018 Birmingham Museum Landscape Master Plan as implemented by the city.

- The board also was very supportive of aspects of The Birmingham Plan that calls for improvements and management of the Rouge corridor as a natural resource.
- As the Birmingham Museum is not identified as a civic resource and only mentioned briefly, the Museum Board developed descriptive verbage to recommend for inclusion in the final Birmingham Plan:

    - The Birmingham Museum is a unique civic and natural resource consisting of two designated historic buildings as well as a three-acre park along the Rouge corridor. It shares some characteristics of other public sites in the city, but as a standalone institution and preserved historic property, has distinct features and needs. These are set forth by guidelines from the Secretary of the Interior Standards for the Treatment of Historic Properties as well as in separate museum Master and Strategic Plan documents. These circumstances make some aspects of The Birmingham Plan more applicable and appropriate than others, which would be considered on a case-by-case basis as The Plan is implemented.

MOTION: by Keefer, seconded by Rosso:

To approve the Museum Board recommendations to the Planning Director as discussed for the Birmingham Plan subject to final refinement by the Museum Director.

VOTE: Yeas, 6
Nays, 0

B. The Board reviewed the draft ordinance language from the city attorney's office to amend the existing ordinance to add an alternate Museum Board member to the existing seven-member board.

MOTION: by Haugen, seconded by Rosso:

To approve the draft ordinance language as presented to add one alternate member to serve a term of three (3) years, who shall be a qualified city elector.

VOTE: Yeas, 6
Nays, 0

City of Birmingham
A Walkable Community

MEMORANDUM

Office of the City Manager

DATE: July 17, 2020

TO: City Commission

FROM: Joseph A. Valentine, City Manager

SUBJECT: Parks Bond Opportunity

The last Parks and Recreation Bond was authorized in 2001 and issued in two series; one in 2002 in the amount $16,122.688 and another in 2008 in the amount of $4,014,789. Since 2002, updates to the Parks and Recreation Master Plan occurred in 2006, 2011 and 2018. In November of 2019, a priority list was presented to the City Commission in follow-up to the most recently adopted plan. In January of 2020 at the City's Long Range Planning meeting, the opportunity for a potential Parks and Recreation Bond was presented as an option for funding future parking improvements. With the onset of COVID-19 this spring, this discussion was tabled as the City assessed the economic and operational challenges that were presented in this new environment. At the regular meeting of June 22, 2020, the Commission requested this item be brought back for consideration given the opportunity for a November ballot question was approaching.

The opportunity for Parks and Recreation Bond was again presented on July 13, 2020 for consideration of setting a date to consider approval of a bond proposal. A copy of the report outlining this opportunity is attached. On July 13th the Commission passed a resolution setting July 20, 2020 as the date to consider approval of a local ballot proposal to be presented at the November general election for a parks and recreation bond in support of the Parks and Recreation Master Plan. A copy of a final bond resolution and related ballot language is attached along with an estimate of issuance costs related to the bond. In total, the bond amount based on the Parks Board priority list would be $11,250,000 which could be issued in two series; the first in the amount of $4,750,000 in 2021 and the second series in the amount of $6,500,000 in 2024 as existing bond debt would be retired in these respective years.

The City's existing debt levy is approximately 1.0099 mills and would reduce to .5448 mills in the 2020-21 fiscal year and by 2024-25 the City's debt levy would reduce to .1156 mills. The addition of the proposed two bond series would change this reduction from .1156 mills in fiscal year 2024-25 to .2871 mills.

It was suggested by Commissioner Baller at the July 13, 2020 Commission meeting that he would like to consider the opportunity to not reduce the City's debt service levy and bond for an amount equal to our debt service millage levy at the current rate of .5448 mills. This would generate roughly an additional $16.4 million, but would not have any specific projects assigned to it, only provide funding for unidentified future projects. A schedule has been developed to outline this scenario and is attached. This would increase the bond issuance from $11,250,000 to $28,105,000. The average annual impact to the taxpayer with a taxable value of $250,000 for a $28,105,000 issuance would be roughly $135.98 per year over the life of the bonds. For the

original amount of $11,250,000 the average annual impact to the taxpayer with a taxable value of $250,000 would be $51.60 per year over a 21 year debt service for the bonds. Other bond and millage issues that have had preliminary discussions by the Ad Hoc Unimproved Street Study Committee and Ad Hoc Joint Senior Services Study Committee include a potential road bond and senior millage. If advanced, these initiatives could also have a potential increase in the overall tax levy for residents and should be part of the consideration for future debt service obligations. Maintaining the existing debt service levy for the next 20 years for solely a Parks Bond would certainly impact the City's tax rate in the coming years. With the pressures from Headlee reducing our future taxing capacity there should be further discussion if the Commission decides to move in this direction.

In follow up to the motion at the July 13, 2020 meeting, a final version of the local ballot proposal in support of the Parks and Recreation Master Plan has been submitted for your consideration along with the opportunity to engage with a communications firm to assist the public education of the ballot proposal.

ATTACHMENTS:

- Bond Resolution
- Estimate of Bonding Costs
- Revised Schedule of Debt Service for $28,105,000 bond
- Memorandum of July 1, 2020

SUGGESTED ACTION:

To adopt the resolution submitting a Parks and Recreation Bond Proposal in the amount of $11,250,000 at the general election to be held on Tuesday, November 3, 2020

AND

To engage VanDyke*Horn to perform communication services as outlined in their July 1, 2020 communication bond proposal in the amount of $30,000 charged to Other Contractual Services Account #101-170.000-811.00.

RESOLUTION SUBMITTING PARKS AND RECREATION BOND PROPOSAL

CITY OF BIRMINGHAM
County of Oakland, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Birmingham, County of Oakland, State of Michigan, conducted electronically in conformity with Governor Whitmer's Executive Order No. 2020-129, on the 20th day of July, 2020, at 7:30 p.m., prevailing Eastern Time.

PRESENT: Members_____

_____

ABSENT: Members_____

The following preamble and resolution were offered by Member _____ and supported by Member _____.

WHEREAS, the City Commission (the "City Commission") of the City of Birmingham (the "City") has determined that it is necessary to pay all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments (the "Project"); and

WHEREAS, the City Commission has determined that the City should borrow money in an amount not to exceed Eleven Million Two Hundred Fifty Thousand Dollars ($11,250,000), and issue unlimited tax general obligation bonds of the City, in such amount for the purpose of paying part of the cost of the Project; and

WHEREAS, the City Commission has determined that a proposal to issue bonds for the Project shall be submitted to the qualified electors of the City at the general election to be held in the City on Tuesday, November 3, 2020 (the "Election Date"); and

WHEREAS, in order for the bond proposal to be submitted to the qualified electors, it is necessary for the City Commission to certify the ballot wording of the proposal to the City Clerk and to the County Clerk of the County of Oakland (the "County Clerk"), as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law").

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The bond proposal attached hereto as Exhibit A (the "Bond Proposal") shall be submitted to a vote of the qualified electors of the City on the Election Date.

2. The ballot wording of the Bond Proposal is hereby certified to the City Clerk and

the County Clerk for submission to the City's electors on the Election Date. The City Clerk is hereby authorized and directed to file this Resolution and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission by no later than 4:00 p.m. on Tuesday, August 11, 2020.

3. The City Clerk and the County Clerk are hereby directed to (a) post and publish notice of last day of registration and notice of election as required by the Michigan Election Law; and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the bond proposal at the election, which ballots shall contain the Bond Proposal, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

4. The estimated millage rate in the first year and simple average annual millage rate set forth in the Bond Proposal, which have been prepared for the City by Bendzinski & Co., financial advisors to the City, are reasonable estimates of such millage rates based on current assumptions.

5. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

(a) If the ballot proposal is approved by the electors, the City reasonably expects to reimburse itself with proceeds of the Bonds for certain costs of the Project which were paid or will be paid from the general funds of the City subsequent to sixty (60) days prior to today.

(b) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is $11,250,000.

(c) A reimbursement allocation of the capital expenditures described above with the proceeds of the Bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the Bonds to reimburse the City for a capital expenditure made pursuant to this resolution.

6. All resolutions and parts of resolutions, insofar as they conflict with the provisions of this resolution, are hereby repealed.

AYES: Members _____

_____

NAYS: Members _____

RESOLUTION DECLARED ADOPTED.

_____
City Clerk

I HEREBY CERTIFY that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Birmingham, County of Oakland, State of Michigan, at a regular meeting held on July 20, 2020, and that the meeting was conducted and public notice of the meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as temporarily modified by Governor Whitmer's Executive Order No. 2020-129 and that the minutes of the meeting were kept and will be or have been made available as required by the Act.

_____
City Clerk

EXHIBIT A

PARKS AND RECREATION BOND PROPOSAL

Shall the City of Birmingham, Oakland County, Michigan, borrow the principal sum of not to exceed Eleven Million Two Hundred Fifty Thousand Dollars ($11,250,000), and issue its unlimited tax general obligation bonds in one or more series, payable over a period not to exceed twenty-one (21) years from the date of issuance, to be used by the City for the purpose of paying all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments? The estimated millage to be levied in 2021 is 0.0485 mills ($0.05 per $1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is 0.2064 mills ($0.21 per $1,000 of taxable value).

YES ☐

NO ☐

36085432.2\008626-00031

Bendzinski & Co.
municipal finance advisors

$11,250,000
CITY OF BIRMINGHAM
COUNTY OF OAKLAND, STATE OF MICHIGAN
GENERAL OBLIGATION UNLIMITED TAX BONDS, SERIES 2021

ESTIMATE OF COST

	Series A $4,750,000	Series B $6,500,000	Total
CONSTRUCTION, ENGINEERING, AND CONTINGENCIES	$ 4,619,650	$ 6,343,350	$ 10,963,000
COST OF ISSUANCE			
Bond Counsel	$ 32,500	$ 38,500	71,000
Registered Municipal Advisor	28,500	30,250	58,750
Official Statement	4,000	4,000	8,000
Rating Fees	14,000	15,000	29,000
MAC Fee	400	400	800
Bond Discount (1.0%)	47,500	65,000	112,500
Printing and Publishing	2,500	2,500	5,000
Michigan Treasury Fee (.02% of par $1,000 max)	950	1,000	1,950
TOTAL COST OF ISSUANCE	$ 130,350	$ 156,650	$ 287,000
TOTAL PROJECT COST	$ 4,750,000	$ 6,500,000	$ 11,250,000

17000 Kercheval Ave. Suite 230, Grosse Pointe, Michigan 48230
PHONE: (313) 961-8222 FAX: (313) 961-8220

The information contained herein was derived from sources generally recognized as reliable and does not make any representations as to correctness or completeness and has in no way been altered except to the extent that some information may be summarized, and is in no way intended to be a solicitation for orders.

Bendzinski & Co.
municipal finance advisors

$28,105,000
CITY OF BIRMINGHAM
COUNTY OF OAKLAND, STATE OF MICHIGAN

SCHEDULE OF DEBT SERVICE REQUIREMENTS

Maximum Issue Supported by .5448 Mills
On a Fiscal Year Basis
20 Years

Year	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 *NEXT*		Total Principal & Interest Requirements	Taxable Value in 1,000	Fiscal Year Millage Requirement	
2021	$ 700,000	2.750%	$ 386,444	$ 376,819	*	$ 1,463,263	$ 2,691,050	0.5438	
2022	750,000	2.750%	376,819	366,506		1,493,325	2,744,871	0.5440	
2023	800,000	2.750%	366,506	355,506		1,522,013	2,799,768	0.5436	
2024	855,000	2.750%	355,506	343,750		1,554,256	2,855,764	0.5443	
2025	910,000	2.750%	343,750	331,238		1,584,988	2,912,879	0.5441	
2026	965,000	2.750%	331,238	317,969		1,614,206	2,971,137	0.5433	
2027	1,025,000	2.750%	317,969	303,875		1,646,844	3,030,559	0.5434	
2028	1,090,000	2.750%	303,875	288,888		1,682,763	3,091,171	0.5444	
2029	1,155,000	2.750%	288,888	273,006		1,716,894	3,152,994	0.5445	
2030	1,220,000	2.750%	273,006	256,231		1,749,238	3,216,054	0.5439	
2031	1,290,000	2.750%	256,231	238,494		1,784,725	3,280,375	0.5441	
2032	1,360,000	2.750%	238,494	219,794		1,818,288	3,345,982	0.5434	
2033	1,435,000	2.750%	219,794	200,063		1,854,856	3,412,902	0.5435	
2034	1,515,000	2.750%	200,063	179,231		1,894,294	3,481,160	0.5442	
2035	1,595,000	2.750%	179,231	157,300		1,931,531	3,550,783	0.5440	
2036	1,680,000	2.750%	157,300	134,200		1,971,500	3,621,799	0.5443	
2037	1,765,000	2.750%	134,200	109,931		2,009,131	3,694,235	0.5439	
2038	1,855,000	2.750%	109,931	84,425		2,049,356	3,768,120	0.5439	
2039	1,950,000	2.750%	84,425	57,613		2,092,038	3,843,482	0.5443	
2040	2,045,000	2.750%	57,613	29,494		2,132,106	3,920,352	0.5439	
2041	2,145,000	2.750%	29,494	-		2,174,494	3,998,759	0.5438	
	$ 28,105,000		$ 5,010,775	$ 4,624,331		$ 37,740,106	$69,384,196	0.5439	Average

Assumptions:

Bonds Dated:	04/01/2021
First Interest Payment:	10/01/2021
Number of Days:	180 *
Subsequent Interest Payment:	04/01/2022
Number of Days:	180
First Principal Payment:	10/01/2021
Projected Interest Rate	2.75%
2020 Taxable Value	2,638,284,320
Growth Rate in Taxable Value	2.00%

17000 Kercheval Ave., Suite 230, Grosse Pointe, Michigan 48230
PHONE: (313) 961-8222 FAX: (313) 961-8220

The information contained herein was derived from sources generally recognized as reliable and does not make any representations as to correctness or completeness and has in no way been altered except to the extent that some information may be summarized, and is in no way intended to be a solicitation for orders.

City of Birmingham
A Walkable Community

MEMORANDUM

Office of the City Manager

DATE: **July 1, 2020**

TO: **City Commission**

FROM: **Joseph A. Valentine, City Manager**

SUBJECT: **Potential Park Bond Opportunity**

INTRODUCTION:

Every five to six years, the City's Parks and Recreation Master Plan is updated to reflect a vision for the City's parks and recreation facilities: their operations, maintenance, and enhancements for the next several years. This plan also forms the basis for potential recreation grant funding from the Michigan Department of Natural Resources (MDNR) and other agencies and foundations. In addition, municipal funding options are explored, as applicable, to achieve the desired improvements. One such option is the potential for a Parks and Recreation Bond as the last bond issuance for park improvements occurred in 2008. With current bond debt expiring in fiscal years 2021 and 2024, there is an opportunity to replace this retiring debt with new debt service, which would be less than the debt being retired, and achieve the goals of the Parks and Recreation Master Plan, if desired.

BACKGROUND:

The last Parks and Recreation Bond was authorized in 2001 and issued in two series; one in 2002 in the amount $16,122.688 and another in 2008 in the amount of $4,014,789. Since 2002, updates to the Parks and Recreation Master Plan occurred in 2006, 2011 and 2018. In November of 2019, a priority list was presented to the City Commission in follow-up to the most recently adopted plan. In January of 2020 at the City's Long Range Planning meeting, the opportunity for a potential Parks and Recreation Bond was presented as an option for funding future parking improvements. With the onset of COVID-19 this spring, this discussion was tabled as the City assessed the economic and operational challenges that were presented in this new environment. At the regular meeting of June 22, 2020, the Commission requested this item be brought back for consideration given the opportunity for a November ballot question was approaching.

The filing deadlines for county and local proposals are governed by the State of Michigan Secretary of State and a copy of their 2020 Michigan elections dates' summary is attached. Ballot wording of county or local proposals to be presented at the November general election (November 3, 2020) must be certified to the County Clerk by 4:00pm on August 11, 2020. With this prerequisite, bond counsel has advised the regular meeting of July 20, 2020 would be the optimal meeting to approve ballot language to be placed on the November ballot, should the Commission elect to do so.

In anticipation of a local ballot proposal moving forward by the City Commission, draft Ballot language has been prepared by bond counsel. This language is below.

PARKS AND RECREATION BOND PROPOSAL

Shall the City of Birmingham, Oakland County, Michigan, borrow the principal sum of not to exceed Eleven Million Two Hundred Fifty Thousand Dollars ($11,250,000), and issue its unlimited tax general obligation bonds in one or more series, payable over a period not to exceed twenty-one (21) years from the date of issuance, to be used by the City for the purpose of paying all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments? The estimated millage to be levied in 2021 is 0.0485 mills ($0.05 per $1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is 0.2064 mills ($0.21 per $1,000 of taxable value).

YES ☐
NO ☐

The bonding amount of $11,250,000 was derived from the priority list presented in November of 2019, which was in the amount of 12,195,000. In the current fiscal year 2020-2021 budget, funds have been budgeted in the amount of $2 million to address the needed replacement of mechanical equipment at the City's ice arena. This reduced the original priority list amount to $10,195,000. This amount did not include bonding costs or allow for any inflationary impacts given the timeframe from development of the budget estimates to implementation. The proposed amount of $11,250,000 takes into account bonding costs and inflation and is a not to exceed amount. The intention would be to continue to issue bonds in two series or phases so a planned group of projects could be completed before additional bonds were needed to be issued for the remaining elements. The first series could be issued in 2021 when current debt service would be retiring and again in 2024 when exist debt service would again be retired. The retirements of existing debt service would be more than the debt service added for a Parks and Recreation Bond in the amount of $11,250,000.

Funding for the first series of bonds would address projects and programs that already have concept plans prepared and could be moved forward to implementation rather quickly. This would be in the amount of $4,750,000. The remaining projects would require further work to either develop or finalize concept plans and this could be initiated during the first phase. Then for the second phase, projects would be ready for implementation beginning in 2024 when the next series of bonds were issued. This would be in the amount of $6.5 million.

FISCAL IMPACT:

The opportunity for a Parks and Recreation Bond would be in a not to exceed amount established by the ballot language approved by the Commission. In addition to bond funding, other funding opportunities can be explored such as possible state and federal grants, crowdfunding initiatives and private contributions.

Presuming the full amount is bonded, the impact on the City's overall debt service would be minimal. Public Act 279 of 1909 sets a debt limit of 10% of the total assessed valuation of both real and personal property. Currently, the City's debt limit is $344,532,318. The City's outstanding debt limit as of June 20, 2020 was $9,539,280 or 3% of its debt limit. Assuming an $11,250,000 Parks and Recreation Bond broken into two bond series of approximately $4,750,000 in 2021 and $6.5 million in 2024 with a 21 year debt service, the average fiscal year millage requirement would be .2064 mills. The impact on the City's overall debt levy is outlined below.

	2020-21 Required Millage	2021-22 Required Millage	2022-23 Required Millage	2023-24 Required Millage	2024-25 Required Millage
Existing City Debt Levy	1.0099	.5448	.5140	.5507	.1156
1st Bond Series	0	.0485	.0476	.0467	.0975
2nd Bond Series	0	0	0	0	.0740
Total	1.0099	.5973	.5616	.5974	.2871

As noted above the existing City debt levy would reduce in 2021 with existing sewer bonds being paid off and reduce again in 2024 with the first Parks and Recreation Bond being paid off. The average annual impact to the taxpayer with a taxable value of $250,000 is $51.60 (based on an average required mill levy of .2064) over a 21 year debt service for the bonds.

LEGAL REVIEW:

Staff have been working with the City's bond counsel, Miller Canfield, in the preparation of the draft bond language. Bond counsel has also been involved in the development of the bond schedules in conjunction with our municipal finance advisors, Bendzinski & Co. Copies of the draft ballot language and bond schedules are attached.

PUBLIC COMMUNCATIONS

To assist in a public information campaign of a potential Parks and Recreation Bond proposal, staff has obtained a proposal from our current contracted communications firm, Van Dyke*Horn, to assist with educating the community about the ballot question, if desired. Van Dyke*Horn has worked in close partnership with organizations and coalitions to deliver integrated and impactful communications campaigns in support of public policy and ballot initiatives. A copy of their proposal is attached for review.

Should the Commission wish to engage Van Dyke*Horn, they have proposed a project fee of $30,000 to cover the 17-18 week campaign, excluding significant out-of-pocket expenses and production costs which are outlined in their proposal. These expenses could be reimbursable under the bond, if it was decided to apply them in this manner.

SUMMARY

This information has been provided in order to assess if there is a desire to move forward with a Parks and Recreation Bond at this time. The work by the Parks and Recreation Board in the development of the Parks and Recreation Master Plan and related priority list carry forward the interest of the community for respective park enhancements. Bonding for these

enhancements at this time would take advantage of the City's AAA bond rating, large debt capacity, upcoming diminishing debt service, the appeal for municipal bonds in the market and allows for improvements to occur in the near term. For a November 2020 ballot question, timing is essential if the decision is made to proceed. Additionally, the economic environment resulting from COVID-19 may be a consideration as well.

In order to determine if there is a desire to move forward with a ballot question for a Parks and Recreation Bond for this November, it is recommended to set the date of July 20, 2020 for further discussion and any action to be taken on this effort for this year.

ATTACHMENTS:

- Original Parks & Recreation Priority List
- Revised Parks & Recreation Priority List
- Schedule of Debt Service and Millage Requirements
- Draft Bond Resolution
- 2020 Michigan Election Dates Summary
- Communication program proposal

SUGGESTED RESOLUTION:

To set the date of July 20, 2020 to consider approval of a local ballot proposal to be presented at the November general election for a parks and recreation bond in support of the Parks and Recreation Master Plan.

Recommended Parks & Recreation Bond Priority List

Phase I		Cost Estimate
Adams Park Development	$	700,000
Booth Park Phase III Entry plaza with gardens and seating	$	300,000
Ice Arena New Refrigeration System Locker Room Expansion	$	5,100,000
Springdale Park Playground	$	350,000
Crestview Playground	$	250,000
Howarth Playground	$	150,000
Pickleball	$	150,000
Trail Improvements New Trail Entry/Plazas, Accessible material upgrades, stream bank preservation	$	300,000
Total Phase I	**$**	**7,300,000**

Phase II		Cost Estimate
Lincoln Well & Pumphouse Park Playground	$	350,000
Linden Park Playground	$	150,000
Pembroke Playground/Shelter	$	400,000
St. James Playground	$	300,000
Splash Pad	$	500,000
Poppleton Park New Inclusive Playground Area including drainage improvements	$	1,020,000
Kenning Park Playground, Fields 1 & 4, New Walking Path	$	1,200,000
Springdale Golf Course- new irrigation and cart paths	$	525,000
Trail Improvements Connect Willits to Maple at Museum- New stone steps, accessible crushed limestone path, river overlook, benches, retaining walls and plant material	$	450,000
Total Phase II	**$**	**4,895,000**
TOTAL:	**$**	**12,195,000**

Recommended Parks & Recreation Bond Priority List

Schedule I		Cost Estimate
Adams Park Development	$	700,000
Booth Park Corner Feature	$	300,000
Ice Arena Building Improvements	$	3,100,000
Pickleball Court	$	150,000
Rouge River Trail Corridor Improvements	$	300,000
Total Schedule I	**$**	**4,750,000** ★

Schedule II		Cost Estimate
Lincoln Well & Pumphouse Park- Inclusive Playgrounds	$	350,000
Linden Park Inclusive Playground	$	150,000
Pembroke Park Inclusive Playground/Shelter	$	400,000
St. James Park Inclusive Playground	$	300,000
Springdale Park Inclusive Playground	$	350,000
Crestview Park Inclusive Playground	$	250,000
Howarth Park Inclusive Playground	$	150,000
Splash Pad	$	500,000
Poppleton Park Inclusive Playground and Drainage Improvements	$	1,020,000
Kenning Park Inclusive Playground and Field Improvements	$	1,200,000
Springdale Golf Course Irrigation Improvements	$	525,000
Rouge River Trail Corridor Improvements	$	450,000
Total Schedule II	**$**	**6,500,000** ★
TOTAL:	**$**	**11,250,000** ★

★ Includes Bond Issuance Costs and Inflation

Recommended by the Parks and Recreation Board- November 12, 2019 Parks and Recreation Board Meeting
Reviewed by City Commission at the January 25, 2020 Long Range Plan Meeting

Bendzinski & Co.
municipal finance advisors

$11,250,000
CITY OF BIRMINGHAM
COUNTY OF OAKLAND, STATE OF MICHIGAN
UNLIMITED TAX GENERAL OBLIGATION BONDS, SERIES 2021 AND SERIES 2024

SCHEDULE OF DEBT SERVICE AND MILLAGE REQUIREMENTS

	2016 EXISTING BONDS					2021 BONDS					2024 BONDS					2021 & 2024	2021 & 2024 BONDS MILLAGE		TOTAL	TOTAL MILLAGE	
Fiscal Year Beginning July 1	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 *NEXT*	Total Principal & Interest Requirements	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 *NEXT*	Total Principal & Interest Requirements	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 *NEXT*	Total Principal & Interest Requirements	Total Principal & Interest Requirements	Taxable Value in 1,000	July 1 Millage Requirement	Total Principal & Interest Requirements	Taxable Value in 1,000	July 1 Millage Requirement
2019	$ -	0.000%	$ -	$ 114,550	$ 114,550	$ -	2.750%	$ -	$ -	$ -	$ -	3.250%	$ -	$ -	$ -	$0	$2,497,255 [1]	0.0000	$114,550	$2,497,255 [1]	0.0459
2020	2,460,000	2.000%	114,550	89,950	2,664,500	-	2.750%	-	-	-	-	3.250%	-	-	-	0	2,638,284 [1]	0.0000	2,664,500	2,638,284 [1]	1.0099
2021	1,310,000	2.000%	89,950	76,850	1,476,800	-	2.750%	65,313	65,313	130,625	-	3.250%	-	-	-	130,625	2,691,050	0.0485	1,607,425	2,691,050	0.5973
2022	1,270,000	2.000%	76,850	64,150	1,411,000	-	2.750%	65,313	65,313	130,625	-	3.250%	-	-	-	130,625	2,744,871	0.0476	1,541,625	2,744,871	0.5616
2023	1,450,000	5.000%	64,150	27,900	1,542,050	-	2.750%	65,313	65,313	130,625	-	3.250%	-	-	-	130,625	2,799,768	0.0467	1,672,675	2,799,768	0.5974
2024	280,000	4.000%	27,900	22,300	330,200	150,000	2.750%	65,313	63,250	278,563	-	3.250%	105,625	105,625	211,250	489,813	2,855,764	0.1715	820,013	2,855,764	0.2871
2025	280,000	4.000%	22,300	16,700	319,000	150,000	2.750%	63,250	61,188	274,438	-	3.250%	105,625	105,625	211,250	485,688	2,912,879	0.1667	804,688	2,912,879	0.2763
2026	280,000	4.000%	16,700	11,100	307,800	150,000	2.750%	61,188	59,125	270,313	70,000	3.250%	105,625	104,488	280,113	550,425	2,971,137	0.1853	858,225	2,971,137	0.2889
2027	280,000	4.000%	11,100	5,500	296,600	175,000	2.750%	59,125	56,719	290,844	80,000	3.250%	104,488	103,188	287,675	578,519	3,030,559	0.1909	875,119	3,030,559	0.2888
2028	275,000	4.000%	5,500	-	280,500	175,000	2.750%	56,719	54,313	286,031	100,000	3.250%	103,188	101,563	304,750	590,781	3,091,171	0.1911	871,281	3,091,171	0.2819
2029	-	0.000%	-	-	-	200,000	2.750%	54,313	51,563	305,875	390,000	3.250%	101,563	95,225	586,788	892,663	3,152,994	0.2831	892,663	3,152,994	0.2831
2030	-	0.000%	-	-	-	245,000	2.750%	51,563	48,194	344,756	400,000	3.250%	95,225	88,725	583,950	928,706	3,216,054	0.2888	928,706	3,216,054	0.2888
2031	-	0.000%	-	-	-	250,000	2.750%	48,194	44,756	342,950	420,000	3.250%	88,725	81,900	590,625	933,575	3,280,375	0.2846	933,575	3,280,375	0.2846
2032	-	0.000%	-	-	-	260,000	2.750%	44,756	41,181	345,938	435,000	3.250%	81,900	74,831	591,731	937,669	3,345,982	0.2802	937,669	3,345,982	0.2802
2033	-	0.000%	-	-	-	265,000	2.750%	41,181	37,538	343,719	450,000	3.250%	74,831	67,519	592,350	936,069	3,412,902	0.2743	936,069	3,412,902	0.2743
2034	-	0.000%	-	-	-	270,000	2.750%	37,538	33,825	341,363	465,000	3.250%	67,519	59,963	592,481	933,844	3,481,160	0.2683	933,844	3,481,160	0.2683
2035	-	0.000%	-	-	-	300,000	2.750%	33,825	29,700	363,525	480,000	3.250%	59,963	52,163	592,125	955,650	3,550,783	0.2691	955,650	3,550,783	0.2691
2036	-	0.000%	-	-	-	330,000	2.750%	29,700	25,163	384,863	495,000	3.250%	52,163	44,119	591,281	976,144	3,621,799	0.2695	976,144	3,621,799	0.2695
2037	-	0.000%	-	-	-	340,000	2.750%	25,163	20,488	385,650	510,000	3.250%	44,119	35,831	589,950	975,600	3,694,235	0.2641	975,600	3,694,235	0.2641
2038	-	0.000%	-	-	-	360,000	2.750%	20,488	15,538	396,025	525,000	3.250%	35,831	27,300	588,131	984,156	3,768,120	0.2612	984,156	3,768,120	0.2612
2039	-	0.000%	-	-	-	365,000	2.750%	15,538	10,519	391,056	545,000	3.250%	27,300	18,444	590,744	981,800	3,843,482	0.2554	981,800	3,843,482	0.2554
2040	-	0.000%	-	-	-	375,000	2.750%	10,519	5,363	390,881	560,000	3.250%	18,444	9,344	587,788	978,669	3,920,352	0.2496	978,669	3,920,352	0.2496
2041	-	0.000%	-	-	-	390,000	2.750%	5,363	-	395,363	575,000	3.250%	9,344	-	584,344	979,706	3,998,759	0.2450	979,706	3,998,759	0.2450
	$ 7,885,000		$429,000	$ 429,000	$ 8,743,000	$4,750,000		$919,669	$ 854,356	$ 6,524,025	$6,500,000		$1,281,475	$1,175,850	$8,957,325	$15,481,350		0.2064 *	$24,224,350		0.3492

* Average
[1] Actual taxable value

2016 Existing Bonds:	
Bonds Dated:	10/01/2019
First Interest Payment:	04/01/2020
Number of Days:	180 *
Subsequent Interest Payment:	10/01/2020
Number of Days:	180
First Principal Payment:	10/01/2020

2021 Bond Assumptions:	
Bonds Dated:	04/01/2021
First Interest Payment:	10/01/2021
Number of Days:	180 *
Subsequent Interest Payment:	04/01/2022
Number of Days:	180
First Principal Payment:	10/01/2024
Projected Interest Rate:	2.75%
2020 Taxable Value (in 1,000s):	$2,638,284,320
Growth Rate in Taxable Value:	2.00%

2024 Bond Assumptions:	
Bonds Dated:	04/01/2024
First Interest Payment:	10/01/2024
Number of Days:	180 *
Subsequent Interest Payment:	04/01/2025
Number of Days:	180
First Principal Payment:	10/01/2026
Projected Interest Rate:	3.25%
2020 Taxable Value (in 1,000s):	$2,638,284,320
Growth Rate in Taxable Value:	2.00%

17000 Kercheval Ave, Suite 230, Grosse Pointe, Michigan, 48230
PHONE: (313) 961-8222 FAX: (313) 961-8220

The information contained herein was derived from sources generally recognized as reliable and does not make any representations as to correctness or completeness and has in no way been altered except to the extent that some information may be summarized, and is in no way intended to be a solicitation for orders.

RESOLUTION SUBMITTING PARKS AND RECREATION BOND PROPOSAL

CITY OF BIRMINGHAM
County of Oakland, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Birmingham, County of Oakland, State of Michigan, conducted electronically in conformity with Governor Whitmer's Executive Order No. 2020-129, on the 20th day of July, 2020, at 7:30 p.m., prevailing Eastern Time.

PRESENT: Members_____

_____

ABSENT: Members_____

The following preamble and resolution were offered by Member _____ and supported by Member _____.

WHEREAS, the City Commission (the "City Commission") of the City of Birmingham (the "City") has determined that it is necessary to pay all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments? (the "Project"); and

WHEREAS, the City Commission has determined that the City should borrow money in an amount not to exceed Eleven Million Two Hundred Fifty Thousand Dollars ($11,250,000), and issue unlimited tax general obligation bonds of the City, in such amount for the purpose of paying part of the cost of the Project; and

WHEREAS, the City Commission has determined that a proposal to issue bonds for the Project shall be submitted to the qualified electors of the City at the general election to be held in the City on Tuesday, November 3, 2020 (the "Election Date"); and

WHEREAS, in order for the bond proposal to be submitted to the qualified electors, it is necessary for the City Commission to certify the ballot wording of the proposal to the City Clerk and to the County Clerk of the County of Oakland (the "County Clerk"), as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law").

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The bond proposal attached hereto as Exhibit A (the "Bond Proposal") shall be submitted to a vote of the qualified electors of the City on the Election Date.

2. The ballot wording of the Bond Proposal is hereby certified to the City Clerk and

the County Clerk for submission to the City's electors on the Election Date. The City Clerk is hereby authorized and directed to file this Resolution and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission by no later than 4:00 p.m. on Tuesday, August 11, 2020.

3. The City Clerk and the County Clerk are hereby directed to (a) post and publish notice of last day of registration and notice of election as required by the Michigan Election Law; and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the bond proposal at the election, which ballots shall contain the Bond Proposal, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

4. The estimated millage rate in the first year and simple average annual millage rate set forth in the Bond Proposal, which have been prepared for the City by Bendzinski & Co., financial advisors to the City, are reasonable estimates of such millage rates based on current assumptions.

5. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

(a) If the ballot proposal is approved by the electors, the City reasonably expects to reimburse itself with proceeds of the Bonds for certain costs of the Project which were paid or will be paid from the general funds of the City subsequent to sixty (60) days prior to today.

(b) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is $11,250,000.

(c) A reimbursement allocation of the capital expenditures described above with the proceeds of the Bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the Bonds to reimburse the City for a capital expenditure made pursuant to this resolution.

6. All resolutions and parts of resolutions, insofar as they conflict with the provisions of this resolution, are hereby repealed.

AYES: Members _____

_____

NAYS: Members _____

RESOLUTION DECLARED ADOPTED.

_____
City Clerk

I HEREBY CERTIFY that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Birmingham, County of Oakland, State of Michigan, at a regular meeting held on July 20, 2020, and that the meeting was conducted and public notice of the meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as temporarily modified by Governor Whitmer's Executive Order No. 2020-129 and that the minutes of the meeting were kept and will be or have been made available as required by the Act.

_____
City Clerk

EXHIBIT A

PARKS AND RECREATION BOND PROPOSAL

Shall the City of Birmingham, Oakland County, Michigan, borrow the principal sum of not to exceed Eleven Million Two Hundred Fifty Thousand Dollars ($11,250,000), and issue its unlimited tax general obligation bonds in one or more series, payable over a period not to exceed twenty-one (21) years from the date of issuance, to be used by the City for the purpose of paying all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments? The estimated millage to be levied in 2021 is 0.0485 mills ($0.05 per $1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is 0.2064 mills ($0.21 per $1,000 of taxable value).

YES ☐

NO ☐

36085432.1\008626-00031

2020

MICHIGAN ELECTION

DATES

Includes list of filing
requirements for federal and
state elective offices



Jocelyn Benson
Secretary of State

Michigan.gov/elections

INFORMATION

ELECTIONS: For information on matters relating to elections, contact your county, city or township clerk. Information can also be obtained from the Michigan Department of State, Bureau of Elections, P.O. Box 20126, Lansing, MI 48901-0726. Phone: (517) 335-3234. Fax: (517) 335-3235. Email: Elections@Michigan.gov. Web site: Michigan.gov/Elections.

FINANCIAL DISCLOSURE: State candidates, local candidates and political groups have financial disclosure obligations under Michigan's Campaign Finance Act. For information, contact your county clerk or the Michigan Department of State, Bureau of Elections.

Candidates running for federal office should contact the Federal Election Commission, 1050 First Street N.W., Washington, D.C. 20463. Toll free line: (800) 424-9530. Web site: fec.gov.

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SUMMARY CALENDAR FOR CANDIDATE AND PROPOSAL DEADLINES

August 4, 2020 Primary and November 3, 2020 General Election

Important Dates and Filing Deadlines

Refer to Michigan compiled law for cited provisions (Legislature.Mi.Gov.) Dates are subject to change through legislative action. If any errors are found, it is the law, itself, which must be followed.

Election Dates

August 4, 2020	State Primary
November 3, 2020	State General Election

Registration Deadlines

July 20, 2020	Last day to register in any manner other than in-person with the local clerk for the August primary. (168.497)
July 21 through 8:00 p.m. August 4, 2020	In-person registration with local clerk with proof of residency. (168.497)
October 19, 2020	Last day to register in any manner other than in-person with the local clerk for the November general election. (168.497)
October 20 through 8:00 p.m. November 3, 2020	In-person registration with local clerk with proof of residency. (168.497)

Filing Deadlines: Candidates

By 5:00 p.m., March 23, 2020	Incumbent Appeals Court, Circuit Court, District Court and Probate Court judges file Affidavit of Candidacy and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 5:00 p.m. on March 26. (168.409b, 413a, 414, 433a, 434, 467c and 467d)
By 4:00 p.m., April 21, 2020	Candidates seeking Appeals Court, Circuit Court, District Court or Probate Court judgeships file nonpartisan nominating petitions, Affidavit of Identity and Affidavit of Constitutional Qualification for the August primary. Withdrawal deadline elapses at 5:00 p.m. on April 24. (168.409b, 409c, 413, 414, 433, 434, 467b and 467d)
By 4:00 p.m., April 21, 2020	Candidates seeking a Wayne County Community College Trustee position file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on April 24. (389.83, 2018 PA 628; 168.303)

By 4:00 p.m., April 21, 2020	Candidates for partisan and nonpartisan offices (other than judicial candidates) file nominating petitions (or fees if applicable) and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 4:00 p.m. on April 24. (168.93, 133 and 163 for federal and state-level offices; assorted other statutes for local offices)
By 4:00 p.m., May 5, 2020	Candidates for county convention delegate (precinct delegate) file an Affidavit of Identity for the August primary. Filing submitted to the clerk of the county in which candidate resides. Withdrawal deadline elapses at 4:00 p.m. on May 8. (168.624, 624a)
By 5:00 p.m., July 6, 2020	Incumbent Supreme Court Justices file Affidavit of Identity and Affidavit of Candidacy forms for the November general election. (168.392a and 558)
By 4:00 p.m., July 16, 2020	District Library Board candidates who wish to seek office at the November general election file an Affidavit of Identity and a nonpartisan nominating petition. (A $100.00 nonrefundable fee may be filed in lieu of a petition.) (Special note: If district library <u>includes</u> a school district, District Library Board candidates file by 4:00 p.m. on August 11, 2020) (397.181)
By 4:00 p.m., July 16, 2020	Candidates without political party affiliation seeking partisan offices file qualifying petitions and Affidavit of Identity for the November general election. Withdrawal deadline elapses at 4:00 p.m. on July 20. (168.590c)
By 4:00 p.m., July 21, 2020	Candidates for Local School Board and Community College Trustee file an Affidavit of Identity and a nonpartisan nominating petition. (A $100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on July 24. (168.303; 389.152)
By 4:00 p.m., July 21, 2020	Candidates for village offices file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on July 24. (168.381)
By 4:00 p.m., July 24, 2020	Write-in candidates <u>other than</u> write-in candidates who seek precinct delegate positions file Declaration of Intent forms for the August primary. (168.737a)
By 4:00 p.m., July 31, 2020	Write-in candidates who seek precinct delegate positions file Declaration of Intent forms with the county clerk for the August primary. (As an alternative, candidates for precinct delegate may file the Declaration of Intent form with appropriate precinct board on election day before the close of the polls.) (168.737a)
August 4, 2020	**STATE PRIMARY ELECTION**

By 4:00 p.m., August 11, 2020	District Library Board candidates (for library districts that include a school district) file an Affidavit of Identity and a nominating petition. (A $100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on August 14, 2020. (Special note: If district library does not include a school district, District Library Board candidates file by 4:00 p.m. on July 16, 2020). (397.181)
By 4:00 p.m., Oct. 23, 2020	Write-in candidates file Declaration of Intent forms for the November general election. (168.737a)
November 3, 2020	**STATE GENERAL ELECTION**

Filing Deadlines: New Parties and State Ballot Proposals

By 5:00 p.m., May 27, 2020	Petitions to place a legislative initiative proposal on the November general election ballot filed with the Secretary of State (340,047 valid signatures required). (168.471)
By 5:00 p.m., July 6, 2020	Petitions to place a proposed constitutional amendment on the November general election ballot filed with the Secretary of State (425,059 valid signatures required). (168.471)
By 4:00 p.m., July 16, 2020	New political parties file petitions to qualify for November general election ballot (42,506 valid signatures required). (168.685)

Filing Deadlines: County and Local Proposals

By 5:00 p.m., April 28, 2020	Petitions to place county and local questions on the August primary ballot filed with county and local clerks. (168.646a)
By 4:00 p.m., May 12, 2020	Ballot wording of county and local proposals to be presented at the August primary certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
By 5:00 p.m., July 28, 2020	Petitions to place county and local questions on the November general election ballot filed with county and local clerks. (168.646a)
By 4:00 p.m., August 11, 2020	Ballot wording of county and local proposals to be presented at the November general election certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)

DETAILED CALENDAR FOR ELECTION ADMINISTRATORS

-- 2020 ELECTION DATES --
AUGUST 4 PRIMARY
NOVEMBER 3 GENERAL ELECTION

All listed dates are in 2020 unless otherwise specified. Refer to Michigan compiled law for cited provisions (Legislature.Mi.Gov.) Dates are subject to change through legislative action. If any errors are found, it is the law, itself, which must be followed.

By Jan. 7	City and township election commissions finalize precinct boundaries for 2020 election cycle. (168.661)
By Feb. 6	Last date precinct boundary alterations made for 2020 election cycle can go into effect. (168.661)
By March 1	Democratic and Republican state party chairpersons notify county and district committee chairs of county convention delegate (precinct delegate) allocation requirements. (168.623a)
By 5:00 p.m., March 23	Incumbent Appeals Court, Circuit Court, District Court and Probate Court judges file Affidavit of Candidacy and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 5:00 p.m. on March 26. (168.409b, 413a, 414, 433a, 434, 467c, 467d)
By April 1	County political party chairpersons certify number of delegates per precinct to county election commissions. (168.623a)
By 4:00 p.m., April 21	Candidates seeking Appeals Court, Circuit Court, and District Court or Probate Court judgeships file nonpartisan nominating petitions, Affidavit of Identity and Affidavit of Constitutional Qualification for the August primary. Withdrawal deadline elapses at 5:00 p.m. on April 24. (168.409b, 409c, 413, 414, 433, 434, 467b, 467d)
By 4:00 p.m., April 21	Candidates for partisan and nonpartisan offices (other than judicial candidates) file nominating petitions (or fees if applicable) and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 4:00 p.m. on April 24. (168.93, 133, 163 for federal and state-level offices; assorted other statutes for local offices)
By 4:00 p.m., April 21	Candidates seeking a Wayne County Community College Trustee position file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on April 24. (389.83, 2018 PA 628; 168.303)
By April 27	City and township clerks forward names and addresses of partisan and nonpartisan candidates to county clerk. (168.321, 349)
By 5:00 p.m., April 28	Challenges against nominating petitions filed by partisan and nonpartisan candidates submitted to filing official. (168.552)

By 5:00 p.m., April 28	Petitions to place county and local questions on the August primary ballot filed with county and local clerks. (168.646a)
May 1	Last date a recall petition can be filed for recall question to appear on August primary ballot. (168.963)
By 4:00 p.m., May 5	Candidates for county convention delegate (precinct delegate) file an Affidavit of Identity for the August primary. Filing submitted to the clerk of the county in which candidate resides. Withdrawal deadline elapses at 4:00 p.m. on May 8. (168.624, 624a)
By 4:00 p.m., May 12	Ballot wording of county and local proposals to be presented at the August primary certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
By 5:00 p.m., May 27	Petitions to place a legislative initiative proposal on the November general election ballot filed with the Secretary of State (340,047 valid signatures required). (168.471)
By June 2	Board of State Canvassers complete canvass of nominating petitions filed by candidates for the August primary; Secretary of State certifies candidates eligible to appear on August primary ballot to county election commissions by June 5. (168.552)
June 5	Final date cities and townships can establish, move or abolish a polling place for the August primary. (168.662)
By June 5	Democratic and Republican Parties call fall state conventions. (168.591)
By June 5	Ballot wording for constitutional amendments and legislative referendums, which the legislature wishes to place on the August primary ballot, presented to Secretary of State. (Art. 12, Sec. 1)
By June 20	Delivery of military and overseas AV ballots must begin for the August election by this date. All requests received since November 5, 2019 from a military or overseas voter must be honored for all 2020 elections. (168.759a)
By June 20	County clerks deliver absent voter ballots for the August primary to local clerks. (168.714)
By June 20	County committees of Democratic and Republican Parties call county conventions. (168.592)
June 25 through July 14	Precinct inspectors for August primary appointed by city and township election commissions. (168.674)
By July 6	Notice of voter registration for August primary published. One notice required. (168.498)
By 5:00 p.m., July 6	Incumbent Supreme Court Justices file Affidavit of Identity and Affidavit of Candidacy forms for the November general election. (168.392a, 558)

By 5:00 p.m., July 6	Petitions to place a proposed constitutional amendment on the November general election ballot filed with the Secretary of State (425,059 valid signatures required). (168.471)
By July 6	Clerk shall post and enter into Qualified Voter File (QVF) the hours the clerk's office will be open on the Saturday or Sunday or both immediately before the election to issue and receive absent voter ballots. (168.761b)
By July 6	Clerk shall post and enter into the QVF any additional locations and hours the clerk will be available to issue and receive absent voter ballots, if applicable. (168.761b)
By 4:00 p.m., July 16	District Library Board candidates who wish to seek office at the November general election file an Affidavit of Identity and a nonpartisan nominating petition. (A $100.00 nonrefundable fee may be filed in lieu of a petition.) (Special note: If district library <u>includes</u> a school district, District Library Board candidates file by 4:00 p.m. on August 11). (397.181)
By 4:00 p.m., July 16	Candidates without political party affiliation seeking partisan offices file qualifying petitions and Affidavit of Identity for the November general election. Withdrawal deadline elapses at 4:00 p.m. on July 20. (168.590c)
By 4:00 p.m., July 16	New political parties file petitions to qualify for November general election ballot (42,506 valid signatures required). (168.685)
July 20	Last day to register in any manner other than in-person with the local clerk for the August primary. (168.497)
July 21 through 8:00 p.m., August 4	In-person registration with local clerk with proof of residency. (168.497)
By 4:00 p.m., July 21	Candidates for Local School Board and Community College Trustee file an Affidavit of Identity and a nonpartisan nominating petition. (A $100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on July 24. (168.303; 389.152)
By 4:00 p.m., July 21	Candidates for village offices file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on July 24. (168.381)
By 5:00 p.m., July 23	Challenges against qualifying petitions filed by candidates without political party affiliation submitted to filing official. (168.552)
By July 23	City and township clerks forward names and addresses of candidates without political party affiliation to county clerk. (168.321, 349)
By 4:00 p.m., July 24	Write-in candidates <u>other than</u> write-in candidates who seek precinct delegate positions file Declaration of Intent forms for the August primary. (168.737a)
By July 25	County clerks deliver remainder of ballots and election supplies for August primary to local clerks. (168.714)

By 5:00 p.m., July 28	Petitions to place county and local questions on the November general election ballot filed with county and local clerks. (If governing law sets an earlier petition filing deadline, earlier deadline must be observed.) (168.646a)
By July 28	Notice of August primary published. One notice required. (168.653a)
By July 30	Public accuracy test must be conducted. (R 168.778) Notice of test must be published at least 48 hours before test. (168.798)
By 4:00 p.m., July 31	Write-in candidates who seek precinct delegate positions file Declaration of Intent forms with the county clerk for the August primary. (As an alternative, candidates for precinct delegate may file form with appropriate precinct board on election day before the close of the polls.) (168.737a)
By 5:00 p.m., July 31	Electors may obtain an absent voter ballot via First Class mail. (168.759)
July 31	Last date a recall petition can be filed for recall question to appear on November general election ballot. (168.963)
By 2:00 p.m., August 1	Voters may submit written request to spoil their absent voter ballot and receive new ballot by mail. (168.765b)
Up to 4:00 p.m., August 3	Electors may obtain an absent voter ballot in person in the clerk's office. (168.761)
By 4:00 p.m., August 3	Voters may submit written request in person to spoil their absent voter ballot and receive new ballot in the clerk's office. (168.765b)
By August 4	Minor parties hold county caucuses; notify county clerk of nominated candidates within one business day after caucus. (168.686a)
By August 4	Minor parties hold state conventions; notify Secretary of State of nominated candidates within one business day after convention. (168.686a)
Up to 4:00 p.m., August 4	Emergency absentee voting for August primary. (168.759b)
Up to 8:00 p.m., August 4	Election Day registrants may obtain and vote an absent voter ballot in person in the clerk's office or vote in person in the proper precinct. (168.761)
August 4	**STATE PRIMARY ELECTION**
By 9:00 a.m., August 6	Boards of county canvassers meet to canvass August primary. (168.821)
By 4:00 p.m., August 11	District Library Board candidates (for library districts that include a school district) file an Affidavit of Identity and a nominating petition. (A $100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on August 14. (Special note: If district library does not include a school district, District Library Board candidates file by 4:00 p.m. on July 16.) (397.181)

By 4:00 p.m., August 11	Ballot wording of county and local proposals to be presented at the November general election certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
By August 11	County clerks notify precinct delegates elected at August primary; certify delegate names and addresses to chairpersons of county committees. (168.608)
August 12 through August 29	Democratic and Republican Parties hold fall county conventions. (168.592)
By August 18	Boards of county canvassers complete canvass of August primary; county clerks forward results to Secretary of State within 24 hours. (168.581, 822, 828)
By August 24	Board of State Canvassers meet to canvass August primary. (168.581)
By Sept. 4	Democratic and Republican Parties hold fall state conventions. (168.591)
By Sept. 4	Cities and townships can establish, move or abolish a polling place for the November general election. (168.662)
By Sept. 4	Ballot wording for constitutional amendments and legislative referendums, which the legislature wishes to place on the November general election ballot, presented to Secretary of State. (Art. 12, Sec. 1)
By Sept. 19	Delivery of military and overseas AV ballots must begin for the November election by this date. All requests received since November 5, 2019 from a military or overseas voter must be honored for all 2020 elections. (168.759a)
By Sept. 19	County clerks deliver absent voter ballots for November general election to local clerks. (168.714)
Sept. 24 through Oct. 13	Precinct inspectors for November general election appointed by city and township election commissions. (168.674)
By Oct. 5	Notice of voter registration for November general election published. One notice required. (168.498)

By Oct. 5	Clerk shall post and enter into QVF the hours the clerk's office will be open on the Saturday or Sunday or both immediately before the election to issue and receive absent voter ballots. (168.761b)
By Oct. 5	Clerk shall post and enter into the QVF any additional locations and hours the clerk will be available to issue and receive absent voter ballots, if applicable. (168.761b)
Oct. 19	Last day to register in any manner other than in-person with the local clerk for the November general election. (168.497)
Oct. 20 through 8:00 p.m., Nov. 3	In-person registration with local clerk with proof of residency. (168.497)
By 4:00 p.m., Oct. 23	Write-in candidates file Declaration of Intent forms for the November general election. (168.737a)
By Oct. 24	County clerks deliver remainder of ballots and election supplies for November general election to local clerks. (168.714)
By Oct. 27	Notice of November general election published. One notice required. (168.653a)
By Oct. 29	Public accuracy test must be conducted. (R 168.778) Notice of test must be published at least 48 hours before test. (168.798)
By 5:00 p.m., Oct. 30	Electors may obtain an absent voter ballot via First Class mail. (168.759)
By 2:00 p.m., Oct. 31	Voters may submit written request to spoil their absent voter ballot and receive new ballot by mail. (168.765b)
Up to 4:00 p.m., Nov. 2	Electors may obtain an absent voter ballot in person in the clerk's office. (168.761)
By 4:00 p.m., Nov. 2	Voters may submit written request in person to spoil their absent voter ballot and receive new ballot in the clerk's office. (168.765b)
Up to 4:00 p.m., Nov. 3	Emergency absentee voting for November general election. (168.759b)
Up to 8:00 p.m., Nov. 3	Election Day registrants may obtain and vote an absent voter ballot in person in the clerk's office or vote in person in the proper precinct. (168.761)
Nov. 3	**STATE GENERAL ELECTION**
By 9:00 a.m., Nov. 5	Boards of county canvassers meet to canvass November general election. (168.821)
By Nov. 17	Boards of county canvassers complete canvass of November general election; county clerks forward results to Secretary of State within 24 hours. (168.822, 828)
By Nov. 23	Board of State Canvassers meet to canvass November general election. (168.842)

RECOUNT FILING DATES

All U.S. Senate, U.S. House and State House Seats

- Districts that lie wholly contained within one (1) county

  * Recount petitions must be filed with the Secretary of State within 48 hours after the adjournment of the meeting of the Board of State Canvassers at which the certificate for determination for that office was recorded. (168.879)

  * Counter petitions must be filed with the Secretary of State at or before 4:00 p.m. on the seventh day after the filing of the recount petition. (168.882)

- Districts located in more than one (1) county

  * Recount petitions must be filed with the Secretary of State within 48 hours after the Board of State Canvassers completes the canvass. (168.879)

  * Counter petitions must be filed with the Secretary of State at or before 4:00 p.m. on the seventh day after the filing of the recount petition. (168.882)

Any Other Office Canvassed by the Board of State Canvassers

* Recount petitions must be filed with the Secretary of State within 48 hours after the Board of State Canvassers completes the canvass. (168.879)

* Counter petitions must be filed with the Secretary of State at or before 4:00 p.m. on the seventh day after the filing of the recount petition. (168.882)

Any Other Office Canvassed by County Boards of Canvassers

* Recount petitions must be filed with the County Clerk within six days after the board of County canvassers completes the canvass. (168.866)

* Counter petitions must be filed with the County Clerk within 48 hours after the filing of the recount petition. (168.868)

OFFICES TO BE ELECTED IN 2020

U.S. President/Vice President

U.S. Senator (1 seat)

U.S. Representative in Congress (all 14 districts)

State Representative (all 110 districts)

State Board of Education (2 seats)

University of Michigan Regents (2 seats)

Michigan State University Trustees (2 seats)

Wayne State University Governors (2 seats)

Justice of the Supreme Court

Judge of the Court of Appeals

Judge of the Circuit Court

Judge of the District Court

Judge of Probate

County and Township Offices

Specified City and Village Offices

Specified School District Positions

Petition Filing Information: Democratic and Republican Candidates

- Democratic and Republican candidates can file nominating petitions for the following federal and state elective offices: U.S. Senate, U.S. Representative in Congress and State Representative (see below for additional elective offices whose Democratic and Republican nominees are determined by caucus or convention.)

- Democratic and Republican candidates must file a *partisan nominating petition* no later than 4:00 p.m., April 21, 2020. Democratic and Republican candidates who seek the office of State Representative may file a $100.00 filing fee in lieu of a petition.

- Democratic and Republican candidates who submit a valid filing for office will be placed on the August primary ballot.

Petition Filing Information: Candidates Without Political Party Affiliation

- Candidates without political party affiliation can file for the following federal and state elective offices: U.S. President, U.S. Senate, U.S. Representative in Congress, State Representative, State Board of Education, University of Michigan Regent, Michigan State University Trustee, Wayne State University Governor and Supreme Court Justice.

- Candidates without political party affiliation who seek a partisan office or the office of Supreme Court Justice must file a *qualifying petition* no later than 4:00 p.m., July 16, 2020.

- All signatures submitted on a qualifying petition must have been collected within the preceding 180-day period; signatures which are dated more than 180 days prior to the date the petition is filed are invalid.

- Candidates without political party affiliation who submit a valid filing will be placed on the November general election ballot.

Affidavit of Identity Required of All Candidates

All candidates, except for President, must submit an Affidavit of Identity in duplicate when filing for office. Affidavit of Identity forms can be obtained from any filing official or from the Department of State's Bureau of Elections in Lansing (Michigan.gov/Elections.) A candidate who fails to comply with this requirement is ineligible to appear on the ballot.

Except for candidates seeking federal elective office or the office of precinct delegate, Michigan election law requires any candidate filing an Affidavit of Identity to state on the form that on the date the affidavit was executed, all statements, reports, late filing fees and fines required of the candidate or any Candidate Committee organized to support the candidate's election under Michigan's Campaign Finance Act have been filed or paid. If a candidate fails to comply with

this requirement or executes an Affidavit of Identity containing a false statement will be disqualified.

Post-Election Campaign Finance Compliance Statement

Except as noted below, Michigan election law requires any candidate elected to office on the state, county or local level to file an affidavit *prior to assuming office* which states that on the date the affidavit was executed all statements, reports, late filing fees and fines required of the candidate or any Candidate Committee organized to support the candidate's election under Michigan's Campaign Finance Act have been filed or paid. The affidavit is *not* required of an elected candidate who did not receive or expend more than $1,000.00 during the election cycle. In addition, the form does not have to be filed by an individual elected to a federal office or a precinct delegate position.

A form developed for distribution to candidates who must comply with the filing requirement ("Post-Election Campaign Finance Compliance Statement") is available through any filing official. An elected candidate who is required to file the statement but who fails to submit the form is guilty of a misdemeanor.

Signature Requirements; Filing Location

The following lists the petition signature requirements for the offices to be filled in 2020.

NOTE: Minor party candidates are nominated by caucus or convention and appear on the November General election ballot.

U.S. PRESIDENT

All candidates who seek the office of U.S. President file with the Department of State's Bureau of Elections in Lansing.

DEMOCRATIC	REPUBLICAN	NO POLITICAL PARTY AFFILIATION	
		MIN	MAX
Nominated at State Convention	Nominated at State Convention	12,000	24,000

A qualifying petition circulated for the office of U.S. President must be signed by at least 100 registered voters in each of at least ½ of the congressional districts in the state.

A candidate without political party affiliation who files for the office of U.S. President is also required to submit the name of his or her running mate and list of presidential electors. For complete information, contact the Michigan Department of State's Bureau of Elections.

U.S. SENATOR

All candidates who seek the office of U.S. Senator file with the Department of State's Bureau of Elections in Lansing.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	**MAX**	**MIN**	**MAX**	**MIN**	**MAX**
15,000	30,000	15,000	30,000	12,000	24,000

A petition submitted for the office of U.S. Senator must be signed by at least 100 registered electors in each of at least ½ of the congressional districts in the state.

U.S. REPRESENTATIVE IN CONGRESS

Multi-County Districts: A candidate who seeks the office of U.S. Representative in Congress in a multi-county district files with the Department of State's Bureau of Elections in Lansing. The multi-county U.S. House Districts are Districts 1-12 and 14.

Single-County Districts: A candidate who seeks the office of U.S. Representative in Congress in District 13 files with the Wayne County Clerk's office.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	**MAX**	**MIN**	**MAX**	**MIN**	**MAX**
1,000	2,000	1,000	2,000	3,000	6,000

STATE BOARD OF EDUCATION
UNIVERSITY OF MICHIGAN REGENT
MICHIGAN STATE UNIVERSITY TRUSTEE
WAYNE STATE UNIVERSITY GOVERNOR
SUPREME COURT JUSTICE

All candidates who seek the following offices file with the Department of State's Bureau of Elections in Lansing: State Board of Education, University of Michigan Regent, Michigan State University Trustee, Wayne State University Governor, Supreme Court Justice (Note: Incumbent Supreme Court Justice files by affidavit.)

DEMOCRATIC	REPUBLICAN	NO POLITICAL PARTY AFFILIATION	
		MIN	MAX
Nominated at State Convention	Nominated at State Convention	12,000	24,000

A petition for one of the above offices must be signed by at least 100 registered electors in each of at least half of the congressional districts in the state.

STATE REPRESENTATIVE

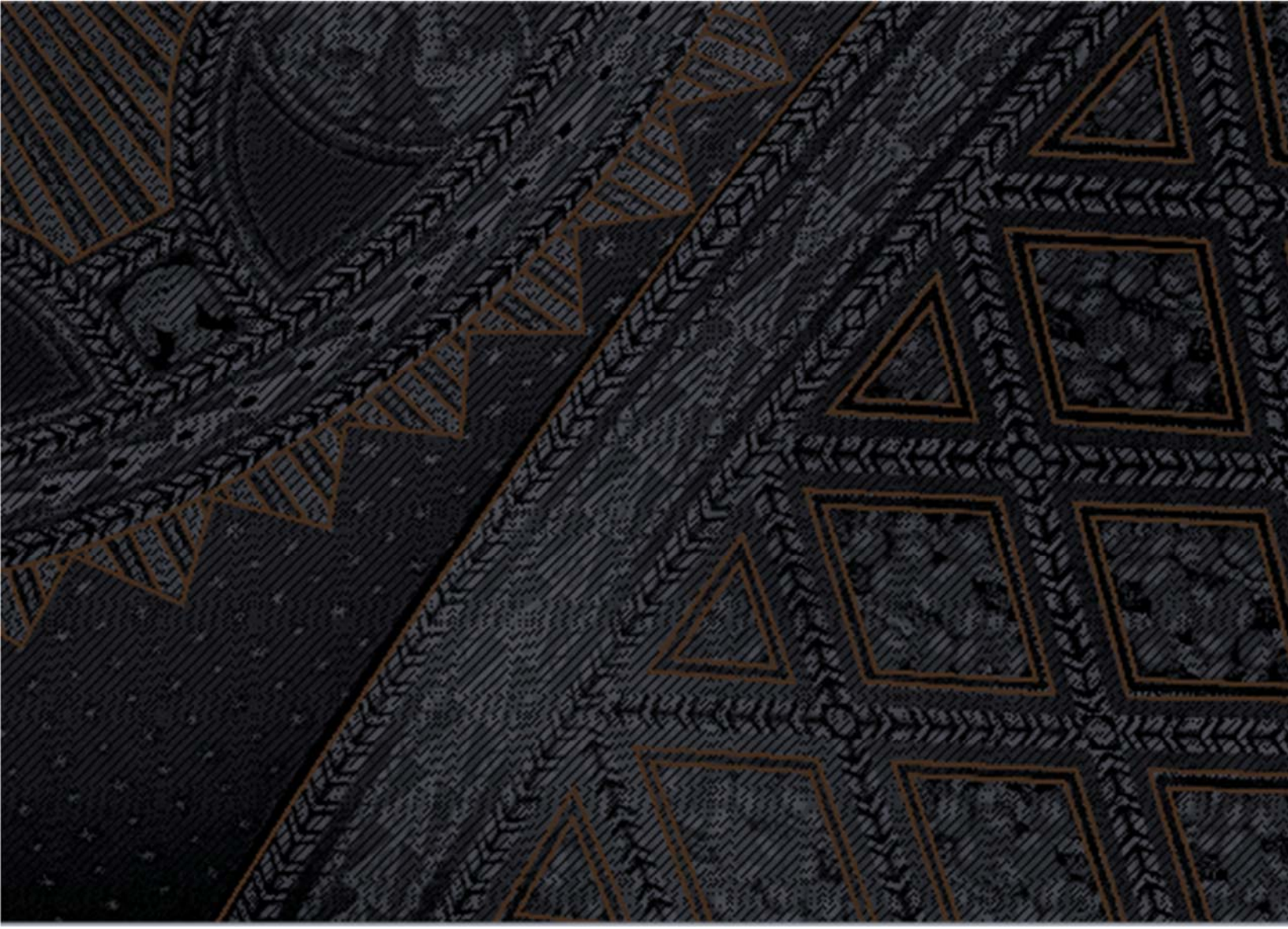
Multi-County Districts: A candidate who seeks the office of State Representative in a multi-county district files with the Department of State's Bureau of Elections in Lansing. The multi-county State House Districts are listed below:

17	32	51	58	59	63	65	66	70	72	78	83
84	85	86	87	93	97	98	99	100	101	102	103
105	106	107	108	109	110						

Single-County Districts: A candidate who seeks the office of State Representative in a district not listed above (single-county districts) files with the county clerk.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	MAX	MIN	MAX	MIN	MAX
200	400	200	400	600	1,200

Democratic and Republican candidates who seek the office of State Representative may file a $100.00 filing fee in lieu of a petition.



City of Birmingham
Support City Parks – Bond Proposal

JULY 1, 2020

3011 West Grand Boulevard | Fisher Building, Suite 2225
Detroit, Michigan 48202 | T: 313.872.2202

VANDYKEHORN.COM

Van Dyke●Horn – Your Campaign Partner

Van Dyke●Horn Public Relations is Michigan's largest minority-owned public relations firm, headquartered in Detroit with an office in Lansing. Since its founding in 1998, our firm has been committed to Southeast Michigan and its diverse communities. We have earned a reputation in Michigan for our award-winning ability to develop and produce communications strategies that are designed to resonate with community needs and interests.

For more than two decades, Van Dyke●Horn has provided comprehensive communications services to education, corporate, government, philanthropic and nonprofit organizations, including successful communications campaigns for ballot initiatives and candidates including:

- The Detroit Institute of Arts' successful 2012 regional millage effort.
- The Detroit Public Library's successful 2014 millage effort.
- The Detroit Zoological Society's successful 2006 and 2016 regional millage efforts.
- MiThrive Coalition to support the Michigan transformational Brownfield Tax Credit
- MiImpact Coalition to support reinstatement of the Michigan Historic Tax Credit
- Warren Evans' successful campaign for Wayne County executive.
- The official launch of Dave Coulter's campaign for Oakland County executive.

Below is a list of other relevant and recent clients for which VDH has conducted public information and outreach campaigns:

- City of Detroit – Departments of Housing and Revitalization, Innovation and Technology, Transportation, and Water and Sewerage
- Detroit Future City
- Detroit Wayne County Airport Authority
- Downtown Detroit Partnership
- Girls Scouts of Southeast Michigan
- Invest Detroit
- John S. and James L. Knight Foundation
- Public Lighting Authority of Detroit
- Michigan Future, Inc.
- State of Michigan – Labor and Economic Opportunity Department

Our agency's philosophy is that by being deeply ingrained in our community, we are best positioned to build lasting and trusting relationships that lay the groundwork for becoming full partners with our clients to develop and lead projects that manifest positive change. We draw on an experienced team of 14 public relations practitioners who work tirelessly to exceed our clients' goals.

Van Dyke●Horn – Our Approach

Van Dyke●Horn has worked in close partnership with organizations and coalitions to deliver integrated and impactful communications campaigns in support of public policy and ballot initiatives. Our current partnership with the City of Birmingham perfectly positions us to provide strategic counsel and implementation leading to the approval of a potential bond proposal to support continued improvements and upgrades to Birmingham's public parks and athletic facilities.

Should the Birmingham City Commission approve a parks bond proposal for the November ballot, we will have about three months to plan and launch a public information campaign. We should plan on a somewhat compressed timeline given an apparent strong trend toward absentee voting this year. The campaign will be sequenced as follows:

Research and Key Messaging

Van Dyke●Horn will work independently and with support from the Birmingham team to gather research-based information on the benefits of public parks and greenspaces from a range of perspectives. For example:

- The effects of strong public parks on home values
- The effects of strong public parks/athletic facilities on individual and community quality of life
- Use of public parks across the age spectrum
- Positive effects of green space on physical and mental health
- Usage data on Birmingham public parks
- Simple explanation of the bond proposal, its effect on the individual homeowner, its impact on City finances and the total investment in parks and public spaces
- Data on the impact of bond approval on an individual tax bill

We will use the data to develop clear and compelling messages in support of the bond, which will be used in interviews and speeches and featured on fact sheets, informational materials, press releases and social media posts.

Endorsements

Maintaining and improving City parks is an initiative that should attract widespread support. This is especially true because the parks bond proposal will follow the retirement of a previous bond limiting additional financial exposure, and parks are spread throughout the community, benefitting residents and businesses. In conjunction with the research effort, Van Dyke●Horn will immediately work to gather endorsements from across the community to illustrate widespread support for the proposal and minimize opposition. Starting with the Mayor and City Commission, we will work to secure support from the Birmingham Shopping District and its members, civic organizations such as The Community House, neighborhood associations, the Birmingham Public School District, Birmingham Youth Assistance, NEXT, Birmingham sports and athletic associations and the Birmingham YMCA. As we secure endorsements, we will also work with each organization to ensure additional support through social media, placards and signage, emails to supporters and coverage in newsletters.

Parks Master Plan

Birmingham's Department of Public Services has developed a multi-year plan for improving parks, green spaces and athletic facilities. Van Dyke●Horn will work with the Birmingham team to develop a brief, informational brochure on the parks plan and its timeline. Research and data on the value of parks will help frame the document and provide strong support for a *yes* vote. The plan document will be prominently featured on the city's website. Electronic and print copies will be provided to every neighborhood association and copies will be available by request at City Hall and in the Public Services Office. We will work with the Birmingham team to ensure this information is posted to the website and updated as needed.

Materials Development and Distribution

Working within an established production/distribution budget, Van Dyke●Horn will develop educational materials that will illustrate the advantages of improving City parks. Because this is a single, community-based effort, we would tend toward communications tools that reach people in their homes and neighborhoods such as direct mail and lawn signs. We will be dealing with a crowded political environment leading up to November 3, so it's important to keep this initiative local and positive, demonstrating broad-based community support whenever possible. Because of cost and clutter, we would limit paid advertising to small, local publications but would develop a print ad template that could be dropped into school, church and organizational newsletters at low or no-cost. Based on budget, we would likely concentrate direct mail in September and October. Based on cost and distribution, lawn signs could be made available immediately after Labor Day. We will manage materials distribution to ensure that every Birmingham household receives at pro-park messages throughout late September and October.

Social Media and Email

Because we work so closely with Birmingham's social media program Van Dyke●Horn is acutely aware of its reach and influence. We will work pro-parks, educational messaging into the established social media calendar on a weekly basis upon approval of the campaign and increase frequency in the months of September and October. We might ask Mayor Boutros to return to social media to help the educational effort, and we could consider including other endorsers on social media, as well. We will develop stories for the September and October e-newsletters and the fall print newsletter that highlight research data and financial impact, and, more importantly, tell stories from Birmingham community members about the importance of neighborhood parks and green spaces. Van Dyke●Horn will use the targeted city emails to promote neighborhood-specific parks improvement, while stressing that parks across the community will benefit. Similarly, we will use the targeted email "affinity" groups to disseminate specific messaging about parks and athletic facilities and the need to support them. We may recommend a limited social media advertising buy, but Birmingham's social media program is well-established locally, and we don't foresee the need for extensive on-line advertising.

Media Relations

Van Dyke●Horn will develop a news release and fact sheet on the bond proposal and distribute it to local media. We will conduct targeted follow-up with local publications that are likely to reach voters at home – the Birmingham Bloomfield Eagle, Hometown Life, Downtown Publications, the Oakland Press

and Birmingham Life. We will work with these publications to secure coverage of the issue and an endorsement of the bond proposal if endorsements are published.

We also will provide the press release and fact sheets to larger publications such as the Detroit Free Press and the Detroit News and to the major broadcast outlets in the area, but our focus is local and the bulk of our efforts will engage those media outlets.

Van Dyke●Horn also will seek out opportunities to place op-ed pieces and letters to the editor in local media. We can work with endorsers, residents and subject matter experts (real estate values, health benefits of parks) to develop these pieces that will both educate the public and encourage support.

Celebrate Birmingham Parks!

If we are able to gather in a socially responsible manner later this summer or in September, we may consider hosting an event(s) to celebrate Birmingham parks. We could work with Birmingham yoga studios to host yoga classes or local gyms could host fitness activities. The event(s) would be free and at the opening we would provide a brief information session on the parks bond and the importance of parks in our community. Lawn signs could be made available for distribution along with educational information on parks. We would work with the Department of Public Services to identify the features and amenities available in the host park(s) and remind attendees of the many outdoor opportunities available to them within Birmingham.

Get Out the Vote

As part of our final push to ensure passage and promote voting, we will develop a plan for a coordinated social media campaign and support the effort with volunteer phone banking in the final days of October. Using voter rolls provided by the City Clerk, we will ask volunteers to call Birmingham residents to remind them to vote on Tuesday, November 3 and encourage them to vote for the parks bond. Van Dyke●Horn will develop a simple script for callers. Calls can be made from home or we can coordinate a phone bank at Shain Park, which will allow for social distancing and promote the bond proposal at the same time. This final push will promote the issue to those who have yet to vote and allow us to thank those who have already voted for exercising their civic responsibility.

Thank You Voters!

Following the successful campaign, Van Dyke●Horn will work with the Birmingham communications team on a coordinated social media/email/newsletter campaign to thank voters for their support and point to parks projects planned in 2021. Budget and locations permitting, we can also post thank-you banners in some or all City parks.

Tracking Our Efforts

Van Dyke●Horn will take a layered approach tracking each communications initiative and its target audience to ensure that we have reached every Birmingham neighborhood. We will work with neighborhood associations and our endorsers to ensure that they are engaged and reaching their

audiences effectively. While we don't anticipate the budget or need to do polling, we will track social media "likes" and reactions to gauge acceptance of the proposal as we move through the campaign toward Election Day. We also will track any organized opposition throughout the campaign and working actively to rebut negative comments about the proposal.

Working with the Birmingham team, Van Dyke●Horn will develop a regular schedule of update meetings/calls to ensure that you are continually informed of campaign milestones and progress. We will provide you with a full campaign report at the end of the initiative.

Van Dyke●Horn – Cost Proposal

Because we have been working with Birmingham and continue to manage your social media efforts, Van Dyke●Horn can begin work immediately and efficiently to educate the public on the bond proposal. Pending commission approval, we would hope to begin concept development in mid-July and work through the final report on or before November 20. We propose a project fee of $30,000 to cover the 17-18 week campaign. That fee covers our consulting services, development of campaign themes, slogans and text materials and supervision of materials development. Graphic design, printing, photography and video are billed separately as indicated below. Because of the tight timeline and lean budget, we will engage the Birmingham communications team for support as needed. We will also track hours carefully and work with you to ensure that the core initiatives are managed successfully,

Out-of-Pocket Expenses

Agency's routine out-of-pocket expenses—for items such as photocopies, incidental postage, faxes, telephone calls and the like—will be covered as part of professional service fees.

Significant out-of-pocket expenses, including but not limited to: PR Newswire and media, copying costs (in excess of 10 pieces at $.59 per copy), postage charges (in excess of 10 pieces), telephone charges and mileage ($.50 per mile), travel and lodging are reimbursable expenses and will be billed in addition to professional fees. Expenses in excess of $250 will be submitted to the client as an "expense authorization" for prior approval. All billable expenditures will include a 15 percent handling fee. Any large items ordered by our agency under your direction and authorization will be billed directly to you.

Production Costs

Professional service fees do not cover production costs, such as graphic design and artwork charges, photography, audio-visual, printing, catering charges, purchasing advertising time or space, film and video production and entertainment. Production costs are reimbursable expenses and will be described in an "expense authorization" that will be submitted to you for prior approval and billed in addition to the professional fees.

Conditions

Van Dyke●Horn has devised many successful communication and media strategies for our clients, and we will strive to devise the most effective campaign for this development; however, with the uncertainty of media response we cannot guarantee results.

Our agency agrees to respond quickly to client inquiries whether by telephone, in person, fax or email. Our agency recognizes the need to maintain the confidentiality of information, work papers and reports, if and when provided to our agency by the City of Birmingham and agrees to take the necessary steps to preserve all confidentiality.

Modifications of Agreement

This document is intended to be a full and complete agreement between both parties. This agreement can be modified only in writing, signed by both parties.

Services Agency will not provide

Van Dyke●Horn will not participate in any activities we determine to be immoral, illegal or in violation of the Public Relations Society of America's code of professional standards.

Your signature below will authorize our relationship. Please mail or fax to us a signed agreement and keep the other for your files.



_____

Joe Valentine
City of Birmingham

Peter Van Dyke
Van Dyke●Horn Public Relations

RECEIVED BY
JUL 15 2020
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

CITY CLERK
CITY OF BIRMINGHAM
P.O. BOX 3001, 151 MARTIN STREET
BIRMINGHAM, MI 48012

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION
NOTICE OF HEARING
FOR THE ELECTRIC CUSTOMERS OF
DTE ELECTRIC COMPANY
CASE NO. U-20373

- DTE Electric Company requests Michigan Public Service Commission's approval of its Amended 2020-2021 Energy Waste Reduction Plan and authority to implement EWR surcharges.

- The information below describes how a person may participate in this case.

- You may call or write DTE Electric Company, One Energy Plaza, Detroit, MI 48226, 313-235-8000 for a free copy of its application. Any person may review the documents at the offices of DTE Electric Company.

- A pre-hearing will be held:

DATE/TIME: **Thursday, July 9, 2020 at 9:00 AM**

BEFORE: **Administrative Law Judge Sharon Feldman**

LOCATION: Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, Michigan 48917

PARTICIPATION: Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 284-8090 in advance to request mobility, visual, hearing or other assistance.

The Michigan Public Service Commission (Commission) will hold a pre-hearing to consider DTE Electric Company's (DTE Electric) June 1, 2020 application requesting Commission

INFORMATION ONLY

approval of: 1) DTE Electric's proposed amended 2020-2021 Energy Waste Reduction ("EWR") plan filed pursuant to MCL 460.1001 et seq. (2008 PA 295, the Michigan Clean, Renewable, and Efficient Energy Act as amended by 2016 PA 342); 2) the proposed amended 2020-2021 EWR plan surcharges and the Performance Incentive Mechanism; 3) the necessary accounting authority to implement EWR surcharges; and 4) other related relief.

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets website at: michigan.gov/mpscedockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to: mpscedockets@michigan.gov. If you require assistance prior to e-filing, contact Commission staff at (517) 284-8090 or by email at: mpscedockets@michigan.gov.

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by July 2, 2020. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon DTE Electric Company's attorney, David S. Maquera, One Energy Plaza, Detroit, MI 48226.

Any person wishing to appear at the hearing to make a statement of position without becoming a party to the case may participate by filing an appearance. To file an appearance, the individual must attend the hearing and advise the presiding administrative law judge of his or her wish to make a statement of position. All information submitted to the Commission in this matter becomes public information, thus available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private.

Requests for adjournment must be made pursuant to Michigan Office of Administrative Hearings and Rules R 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 284-8130.

A copy of DTE Electric Company's application may be reviewed on the Commission's website at: michigan.gov/mpscedockets, and at the office of DTE Electric Company. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517)284-8090.

Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; 2008 PA 295, MCL 460.1001 et seq., and Parts 1 & 4 of the Michigan Office of Administrative Hearings and Rules, Mich. Admin Code, R 792.10106 and R 792.10401 through R 792.10448.