

BIRMINGHAM CITY COMMISSION AGENDA
NOVEMBER 9, 2020
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.
VIRTUAL MEETING
MEETING ID: 655 079 760

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

- The Clerk's Office would like to thank all of the Election Inspectors and City Staff that helped with conducting a successful November 3rd General Election. We appreciate all of the voters who participated safely, turnout for this election was about 79% which was above the average for Oakland County.

Recognition of Mayor

- Presentation to Mayor Boutros by Mayor Pro Tem Longe
- Comments by outgoing Mayor

Organization of City Commission

- A. Nominate temporary chair for purposes of conducting election of Mayor and Mayor Pro Tem
- B. Election of Mayor and Mayor Pro Tem:
 - 1. Acceptance of nominations for Mayor from City Commissioners
 - 2. Election of Mayor
 - 3. Acceptance of nominations for Mayor Pro Tem from City Commissioners
 - 4. Election of Mayor Pro Tem
- C. Oath of Office to Mayor and Mayor Pro Tem
- D. Comments by newly elected Mayor and Mayor Pro Tem
- E. Appointment of _____, Mayor, to the Retirement Board
- F. Appointment of _____, Mayor Pro Tem, to the Retirement Board
- G. Appointment of _____, Mayor, to the Retirees Health Care Fund Committee

- H. Appointment of _____, (Mayor or his/her assignee), to the Triangle District Corridor Improvement Authority. *Member shall be appointed by the Mayor, subject to approval by the City Commission.* (Commissioner Sherman is currently serving on the Authority.)
- I. Appointment of _____, to the Foundation for Birmingham Senior Residents. *Member shall be appointed by the Mayor.* (Commissioner Hoff is currently serving on the Foundation.)

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

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 minutes of October 23, 2020.
- B. Resolution approving the City Commission meeting minutes of October 26, 2020.
- C. Resolution approving the warrant list, including Automated Clearing House payments, dated October 28, 2020, in the amount of \$ 1,623,823.66.
- D. Resolution approving the warrant list, including Automated Clearing House payments, dated November 4, 2020, in the amount of \$ 432, 903.76.
- E. Resolution setting a public hearing date for December 7, 2020 to consider the Final Site Plan and Design and Special Land Use Permit at 470 N. Old Woodward to allow for the operation of a new bistro, EM, at 470 N. Old Woodward.
- F. Resolution authorizing the expenditure of \$18,333.80 to restripe all five parking structures using Accurate Parking Lot Services to complete the work to be paid by the Automobile Parking System.
- G. Resolution adopting the Bloomfield Township Automatic Aid Agreement. Further, to authorize the Mayor to sign the agreement on behalf of the City.

VI. UNFINISHED BUSINESS

- A. Resolution accepting the resignation of City Manager Joe Valentine and appoint a subcommittee of the City Commission comprised of _____, _____ and _____ to recognize Mr. Valentine for his years of service to the City of Birmingham,
AND
resolution to appoint Police Chief Mark Clemence as Interim City Manager Designee to begin a transition and serve as Interim City Manager effective January 1, 2021 if a City Manager is not appointed by this date subject to finalization of an interim wage rate through the City's labor counsel.
- B. Discussion with labor council regarding City Manager Candidate Tom Markus.

- C. Resolution directing the administration to issue the RFP for professional executive search firms and present the submittals to the City Commission for consideration.

OR

To make the following changes to the RFP for professional executive search firms and direct the administration to issue the RFP and present the submittals to the City Commission for consideration.

1. _____
2. _____
3. _____

VII. NEW BUSINESS

- A. Public Hearing – 768 N. Old Woodward – The French Lady
1. Resolution approving the Special Land Use Permit and Final Site Plan and Design Review application for 768 N. Old Woodward – The French Lady – to allow the operation of a food and drink establishment in the O2 zoning district.

- B. Public Hearing – 525 N. Old Woodward – Luxe Bistro
1. Resolution approving the Revised Final Site Plan and Design and Special Land Use Permit Amendment to allow the expansion of the existing Luxe bistro into the vacant storefront to the south.

OR

Resolution denying the Revised Final Site Plan and Design and Special Land Use Permit Amendment to allow the expansion of the existing Luxe bistro into the vacant storefront to the south.

- C. Public Hearing – 34350 Woodward & 907-911 Haynes – Lot Combo
1. Resolution to deny the proposed lot combination of 34350 Woodward and 907-911 Haynes, parcel # 19-36-281-022 and parcel #19-36-281-030, as the resulting parcel would not be consistent with the requirements for the MU-5 and MU-7 Zones, nor consistent with the recommendations in the Triangle District Plan.
- D. Resolution approving the use of six parking spaces in the right-of-way adjacent to the property located at N. Old Woodward to fulfill the parking requirements per Article 4, section 4.43 (G)(4) of the Zoning Ordinance.
- E. Resolution approving the proposal from Plante & Moran Cresa, LLC in the amount not to exceed the lump sum fee of \$145,800.00, term beginning November 10, 2020 – November 8, 2021 for the purpose of assisting with capital planning and operational review consulting services for the Birmingham Ice Arena; contingent upon receipt of proper insurance. Further, to waive the formal bidding requirements. Funds are available for this work in the Capital Projects - Ice Arena – Buildings account #401-901.001-977.0000.
- F. Commission Discussion on items from prior meeting. (None)
- G. Commission Items for Future Discussion. A motion is required to bring up the item for future discussion at the next reasonable agenda, no discussion on the topic will happen tonight.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

- A. Birmingham Roast Letter

X. REPORTS

- A. Commissioner Reports
Notice of intent – Board of Review & Birmingham Triangle District Corridor Improvement Authority
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff

INFORMATION ONLY

XI. ADJOURN

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](tel: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
SPECIAL MEETING MINUTES
FRIDAY, OCTOBER 23, 2020
MUNICIPAL BUILDING, 151 MARTIN
3:00 P.M.
VIRTUAL MEETING
MEETING ID: 655 079 760
Video Link: <https://vimeo.com/470031857>**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Alexandria Bingham, City Clerk Designee, called the roll.

PRESENT: Mayor Boutros (location: Birmingham, MI)
Mayor Pro-Tem Longe (location: Birmingham, MI)
Commissioner Baller (location: Birmingham, MI)
Commissioner Hoff (location: Birmingham, MI)
Commissioner Host (location: Birmingham, MI)
Commissioner Nickita (location: Birmingham, MI)
Commissioner Sherman (location: Birmingham, MI)

ABSENT: None

Administration: City Manager Valentine, City Clerk Designee Bingham

IV. NEW BUSINESS

A. Discussion with Thomas Markus on his candidacy for the position of City Manager

Mayor Boutros welcomed all present and explained the purpose of the special meeting. He noted that Thomas Markus was unable to join the meeting via Zoom and so was joining via speakerphone. All participants in the Zoom meeting were still able to hear and engage Mr. Markus.

Public Comment

Jim Arpin thanked the Commission for its efforts towards transparency in its discussion and scheduling of this interview. He cautioned, however, that it seemed inappropriate to offer one candidate an interview separate from whichever broader City Manager search process the Commission might ultimately pursue. Dr. Arpin said that he would have recommended that Mr. Markus submit his application as part of the City's broader search process in order to maintain residents' trust and the transparency the Commission is working to create. He said it was unfair to Birmingham that Mr. Markus was not going through the same vetting process any other potential candidates will likely go through.

David Bloom said he contacted public servants and residents of Lawrence, Kansas, where Mr. Markus served as City Manager from winter 2016 through spring 2019. In asking them for their experiences of working with Mr. Markus, Mr. Bloom said that many had positive things to say. One Lawrence resident and two-decade President of one of their neighborhood associations, however, told Mr. Bloom that while Mr. Markus was reliable when it came to matters of infrastructure and neighborhoods, other concerns were often left undealt with and unaddressed. Mr. Bloom reported the same Lawrence resident found Mr. Markus inflexible in his dealings with residents and other public servants. Mr. Bloom contended that he and other Birmingham residents already have concerns that oppositional speech is stifled by the City administration, and said that Mr. Markus' reported inflexibility would only compound his concerns that City leadership does not sufficiently work to integrate a variety of viewpoints. Mr. Bloom said he was also concerned the City would only be delaying a national search for a City Manager for a few years since Mr. Markus would likely be looking to retire a bit after his proposed five-year tenure. In light of his concerns, and in spite of his stated respect for Mr. Markus, Mr. Bloom encouraged the Commission to decline Mr. Markus' application and to pursue a search for other applicants.

Michael Horowitz said he had sent an email to the Commission regarding this meeting and said it needed to be included in the public record. Mr. Horowitz summarized his email as saying that there is a lot of uncertainty in the world right now due to the Covid-19 pandemic and other circumstances, and that the potential of working with Mr. Markus might present a unique opportunity that could be beneficial to the City given those circumstances. Mr. Horowitz said he was only asking the Commission to fully consider Mr. Markus' offer, and was pleased this special meeting was doing just that. He said he was not endorsing an outcome one way or the other.

Matt Wilde said he had heard a number of positive things about Mr. Markus, and that he had no comment on his character or capabilities. Mr. Wilde said he only joined the meeting to state that when he was recently attending the Ross Business School at the University of Michigan, he had the opportunity to meet many young, enthusiastic, well-educated, innovative and bright people undertaking training in urban planning. Given the skillsets and capacities of the people he met at the University of Michigan, Mr. Wilde strongly encouraged the Commission to undertake a national search for a City Manager because he was confident there would be numerous well-qualified candidates who would be passionate about joining Birmingham and making it an even better place to live.

Scott Aikens said that while he had no problem with Mr. Markus being one of the Commission's candidates for City Manager, he thought that should be determined as part of an overall national search. He said that the 2-to-1 vote against the Bates Street Project in August 2019 was a canary in the coal mine for the City in terms of a mismatch between the City administration's goals and the residents'. In light of the perceived mismatch, Mr. Aikens asserted that a national search for a City Manager should be used as an opportunity to reassess the relationship between the administration and the residents, and to better bring each group's interests into alignment.

Richard Aginian said he had worked extensively with Mr. Markus in the past and said Mr. Markus was both skillful and moral. He said that a national search would be no guarantee of success. Mr. Aginian concluded his statement by saying that 'sometimes the devil you know is better than the devil you don't'.

Brain Bolyard said he and his family were in support of Mr. Markus' candidacy. He said bringing Mr. Markus on would be an opportunity to both benefit from his expertise and to bring on one of those younger individuals Mr. Wilde spoke so glowingly of who could train under Mr. Markus' tutelage during the latter portion of his tenure with the City. He thanked the City administration for organizing this meeting with Mr. Markus.

Jonathan Hofley noted that Birmingham frequently describes itself as a 'world-class city', and that if this is actually the case then it is incumbent on the City to do a wider search for candidates. He said not pursuing a national search would be akin to negligence on the City administration's part. Mr. Hofley also asserted that if the City had previously had poor experiences with national candidate searches, as at least one Commissioner had stated at a previous meeting, then that clearly reflected more on the quality of the search firms hired to conduct the searches than on the quality of the national pool of available candidates. He adjured the Commission to conduct an exhaustive search because even a City Manager working with the City for a short while could enact policies that would have significant long-term impacts on the City.

Paul Reagan noted that City Manager Valentine's December 2020 resignation date gives the City ample time to undertake a national search for a replacement. He said he was confident the City would never intend to convey an intention to pre-empt the national search process through their interviewing of Mr. Markus.

Andrew Haig said the City should not return to a previous City Manager as it has a fantastic opportunity to build forward via a national search process. Mr. Haig also noted the extensive public comment that has been allowed during the present special meeting, and asked for confirmation that the City would be allowing similar public comment periods for every candidate interviewed by the City in order to maintain a fair process for all candidates.

Seeing no further public comment, Mayor Boutros welcomed Mr. Markus and thanked him for reaching out to the City. He invited Mr. Markus to review his experience and qualifications.

Mr. Markus provided an overview of his experience since leaving the position of Birmingham City Manager in 2010. Mr. Markus' email to the Mayor and a written review of his qualifications can be found in the Commission's October 19, 2020 agenda packet. Mr. Markus continued that:

- He understands the importance and value of an executive search, and still wanted to offer the Commission the opportunity to evaluate him independent of that kind of search. If the Commission wanted to interview him as a part of its broader search process that might take approximately five months, at which point he may have accepted another position.
- He has been looking for positions with other municipalities as well and has another interview scheduled in the near future for a position.
- Executive searches do not guarantee long tenure. He noted that his 22-year service as City Manager of Birmingham came from an executive search, as did the service of a City Manager for Birmingham who lasted only three years with the City after Mr. Markus' departure.
- He was hired via executive searches in his last two cities of employment, Lawrence, KS and Iowa City, IA. He stated that he competes very well in those processes as evidenced by his hiring for both positions.
- When he wrote about staying with Birmingham, if hired, for five years, he was not asking for a five year contract. He was saying that he could commit on his end to remaining for five years should that be the will of the Commission. He said he could also be flexible about staying for about two to three years if the Commission deemed that appropriate.
- He would have no difficulty expressing his professional opinion while serving as City Manager if hired. He would expect to by turns agree and disagree with the different Commissioners' opinions, and would respectfully offer his perspective, but understands his roll would be enacting the will of the City Commission's as a whole once a decision is made. He would work on behalf of the entire Commission without bias. He said the same would go for enacting the will of the electorate if a matter was decided by vote.
- Covid-19 and matters of social justice and injustice will have a notable impact on an executive search process. He stated that he knew of two well-known university cities in the midwest that

recently undertook national executive searches and ultimately concluded those searches by hiring internally.

- Bringing on new staff to manage the City during this tumultuous period could prove difficult. Hiring someone more familiar with many of the routine aspects of administering Birmingham could allow that person to better focus on guiding the City through some of the more complicated aspects of keeping a city vibrant during a global pandemic.
- Working as a City Manager is fulfilling. He enjoys being of service to cities in such a capacity.
- While he understood people's mentioning of his age, he could assure the public that he remains both active and capable.
- One of his guiding principles is 'attack the issues, not the person'. That idea guides his actions even when discussing contentious issues around municipal management, and even if residents are critical of particular positions or actions he takes. At the same time, he also strives to learn from others' feedback so as not to come across as arrogant, disinterested or dismissive.
- Succession planning would be one of his priorities, whether it would be training an interim manager or training a more permanent replacement.

Commissioner Sherman cited some residents' concerns that since Mr. Markus had already worked for the City once, hiring him again would be a backwards step. Noting that Mr. Markus has worked in two other cities since his time in Birmingham, Commissioner Sherman asked what new knowledge and experience Mr. Markus would bring to the City if hired again.

Mr. Markus explained:

- Both Lawrence, KS and Iowa City, IA are university towns, and as such, tended to lean liberal.
- In his time there was a fair amount of discourse around social justice concerns and that in both jurisdictions he aided in implementing social justice reforms.
- He helped conduct disproportionate minority contact studies which indicate whether there is bias in terms of minority interactions with juvenile justice systems at a local level. There usually is disproportionate minority contact, and that is due to institutionalized racism.
- Community police review boards, where the public has the opportunity to review complaints about the police, were another tool he helped the communities utilize.
- He also helped the communities develop body cam processes for the police force to determine when and how they would be used.
- Both communities had high neighborhood association engagement, and as such the City hired staff liaisons to go out to the association meetings, interact with the community, and convey their concerns and comments back to the city management.

Commissioner Sherman asked Mr. Markus if he thought he would be stymied by his previous policy decisions and positions.

Mr. Markus emphatically said he would not. Since discourse around policies is constantly evolving, Mr. Markus said it is a City Manager's obligation to help guide the changes that stem from those community discussions. He cited an instance during his Birmingham tenure where he and City staff evolved in their position about street widths after some regular advocacy on the part of a particular Commissioner. He explained that staff listened and undertook a study of what the Commissioner proposed, and determined that the Commissioner's recommendations were a better way of proceeding. As a result the City shifted its policy regarding street widths. Mr. Markus said he does not covet authorship or feel any obligation to defend the status quo.

Commissioner Host noted that Mr. Markus was a key driver of the City's 2016 Plan, which Commissioner Host said has resulted in a strained parking system due to its increases in commercial and office space.

Commissioner Host asked if Mr. Markus had any regrets about the 2016 Plan, and asked if Mr. Markus had any ideas regarding how the City might reduce the strain on the parking system stemming from the 2016 Plan.

Mr. Markus said he had less influence over the 2016 Plan than Commissioner Host might think. He explained that former Commissioner Lanzetta had been the one to advocate for Andres Duany coming in and developing the 2016 Plan. Mr. Markus said his preliminary thoughts were that remote parking and shuttles would be one possibility for addressing a parking shortage, and advocating for alternative forms of transportation would be another. He noted that it in some ways the strain on the parking system demonstrates the 2016 Plan's success in increasing office and commercial uses in the City. Mr. Markus said he would also be in favor of moving people away from single-occupancy vehicles, which create a lot of the parking strain both in downtown and in the neighborhoods. Mr. Markus said he would not likely recommend increasing parking structures in Birmingham at this time.

In reply to Commissioner Host, Mr. Markus said he would not be interested in serving in a one-year City Manager term for the City due to the costs and disruption of moving.

Commissioner Nickita asked Mr. Markus how aware he is of the changes that have occurred in Birmingham since he left, and what his anticipated learning curve would be if he were hired for the City Manager position.

Mr. Markus replied that he returns to Birmingham twice a year to visit family, and said that as a prolific walker he has likely walked through all of the neighborhoods and 70% of Birmingham streets in the last two years. He said these walks have kept him up-to-date with how the community is progressing street by street. He said he also keeps up-to-date on Birmingham news and has semi-regular communication with some members of City staff about what goes on in the community. Mr. Markus said it is in his nature to remain interested and engaged in the communities he has served in, and that Birmingham has been no exception. As a result, he said he was confident that he would be bringing a fair amount of foundational knowledge and recent history of Birmingham that would make for a smooth onboarding process if he were hired as City Manager.

In reply to Commissioner Baller, Mr. Markus said he would be in favor of having the public meet and provide feedback on any potential candidate for Assistant City Manager. He said this would allow him to maintain the appropriate independence in staff hiring while allowing public and Commission feedback to be one of the factors considered. Mr. Markus stated that has been his standard practice when hiring staff for a municipality. He also stated that he worked for executive search firms where he helped municipalities find city managers, so he has experience on the other side as well. Mr. Markus advised the Commission that he would be able to design a process for hiring the next City Manager if he were directed to do so. He said that these and other options would both maintain the City Manager's independence in hiring staff, while also creating appropriate procedures for the Commission to hire its next City Manager. He said he would be amenable to discussing any of these options further as part of a potential hiring agreement with the Commission should that be desired.

In reply to an inquiry from Mayor Pro Tem Longe, Mr. Markus said he had been observing some strain in the interactions between the longer-tenured and newer Commission members. He said that the Covid-19 pandemic was also contributing to a feeling of strain overall that is being felt nationally. In light of those issues, Mr. Markus said he hoped that if he were hired as City Manager he could help reduce some of the strain on the Commissioners stemming from both situations in order to make the conversations flow a bit easier than they have been.

In reply to another inquiry from Mayor Pro Tem Longe, Mr. Markus said he thought dissent was essential in

a governing body, but that blocks of Commissioners that always vote one way or the other together is not necessarily healthy dissent. Healthy dissent, in his view, would be when it was difficult to predict who would vote with whom on each issue. One of his biggest recommendations in his previous work has been to 'hold one's vote', and to not decide one's stance until the moment the vote is called. He said that only in this way can a Commissioner, staff member, or other member of the public be sure that they are integrating all of the relevant information to make a fully informed decision based on available information, rather than primarily on prejudice or bias.

In reply to a third inquiry from Mayor Pro Tem Longe, Mr. Markus said the best way to get innovative and outside-the-box thinking from the City's advisory boards is to specifically solicit and encourage that at the Commission level. Letting the advisory board members know that proposing unusual solutions, even if they are not ultimately pursued, is valued by the Commission is the best way to shift the culture towards cutting-edge thinking on how to solve City issues.

In reply to Mayor Boutros, Mr. Markus explained that in each place he has worked he has gauged what in particular the place needed, and then proceeded to act from there. Lawrence, KS and Iowa, IA were both in need of strategic plans when he arrived, so he said he focused on getting to know the community and in designing strategic plans. In the absence of those structures, Mr. Markus explained he was able to make quick, foundational changes in both those communities. Birmingham, in contrast, tends to need more time to make changes. In his experience debate, discussion, and public engagement is prioritized in Birmingham, which means topics require more consideration before implementation. Mr. Markus said his management and leadership style would be responsive to the desires of the Commission and to the desires of the electorate.

In reply to a second inquiry from Mayor Boutros, Mr. Markus said he views the roles of Mayor and Mayor Pro Tem as being the spokespersons for the Commission and as being facilitators for the Commission's conversations. If he were to make changes to the Mayor-Commission dynamic, he would spend more time preparing both the Mayor and the Mayor Pro Tem for their facilitative roles. He would also seek to provide an overview of some of the discussions that could be arising over the next year of their service.

Seeing no further questions from the Commission, Mayor Boutros invited questions from Mr. Markus.

Mr. Markus asked the Commissioners what City topics are looming largest in their minds looking out over the next six to eight months.

Commissioner Baller replied that one of his priorities would be finding a footing to get the City through the Covid-19 pandemic, and setting a course that would also carry the City beyond the pandemic. He said residents also want the roads improved and will likely vote to approve a parks bond in November 2020, which they will expect the Commission to act expeditiously on once it is approved. He noted that in light of Covid-19 there may be landlords in the downtown area wanting to convert office space to residential, and that one of the currently proposed ways to provide more residential parking would be to allow residential parking in the parking decks overnight. The Triangle District Plan has been incompletely implemented because the City has not added the parking it said in the Plan would be necessary to keep pace with future developments in the area. Further development of the Triangle District, then, would also be a priority.

Commissioner Hoff said it would be important to address resident concerns about the currently ongoing 2040 master planning process. She said another priority would be getting a clearer sense of how the Covid-19 pandemic is affecting all aspects of the City's functioning, and how the Commission's actions can best respond to those impacts.

Commissioner Nickita agreed with Commissioner Hoff that the City needs clarity regarding the impacts of Covid-19 and how to best create policy to address those impacts. He said that ensuring a smooth onboarding process for the incoming City Manager would also be essential to creating a foundation that can help the City navigate the uncertainty stemming from the Covid-19 pandemic. Commissioner Nickita said he values the planning process immensely but sees it as being secondary at this moment to the need to have a solid City Manager and a clear sense of how the City will be navigating Covid-19 over the next number of months. He said the master planning process can take place concurrently to creating those solid foundations but that the foundations must be prioritized.

Commissioner Host said that 80% of the Commission's agenda topics are commercial, while 80% of the City's tax revenues come from the neighborhoods. He said the agenda topics must come to better reflect the concerns of the residents and to not so heavily focus on commercial development.

Commissioner Sherman said he sees that there are macro and micro priorities for the City. The macro priority would be, as Commissioners Hoff and Nickita said, gaining clarity on all aspects of Covid-19's impact on the City and how the Commission should respond. He said the more micro concerns are the master planning process and disinformation that is spreading among residents regarding that, the process of improving streets, senior services, and the matter of the Commission's focus on residential versus commercial concerns. He said there needs to be clarification regarding the appropriate role of the Commission and the appropriate role of the City Manager.

Mayor Pro Tem Longe said the City needs clarity on how to balance commercial, residential, and school district concerns, noting that the school district has a large impact on the health of the community overall. She said she would also like to see discussions about accessibility to the community, in terms of welcoming to young families to the City and keeping seniors in the City who may no longer be able to maintain their own homes. She said that the development of large houses in Birmingham, some of which are infrequently occupied, can drive up residential costs in the City and have a negative impact on young families looking to move in. Mayor Pro Tem Longe said she was concerned that Birmingham could end up like some of the Grosse Pointes, where schools are being closed because not enough young families live there.

Mr. Markus thanked the Commission for its insights. He asked how Covid-19 has thus far impacted the City's financial forecast.

City Manager Valentine said property values have not changed thus far, and therefore the tax base in that respect has been unaffected. He estimated that the taxable values in 2021 or 2022 may change, but that in the current environment there has been little financial hardship due to Covid-19. The City also benefited from CARES Act funding that covered some of the costs that were incurred as a result of Covid-19. One area of concern right now would be the costs of operating the district court, because the City pre-funds those costs and revenues associated with the court have been reduced. Overall City Manager Valentine said the City is in fine financial shape at this point.

Mr. Markus asked the Commission why the master planning process is 'taking so long'.

Mayor Boutros said in his view it is the result of having to navigate Covid-19 at the same time.

Commissioner Baller said that even without Covid-19, the City decided to solicit feedback from residents on each aspect of the first draft of the master plan which takes some time. Those comment sessions are being done at the Planning Board level, and Commissioner Baller noted the Planning Board meets only twice a month and must solicit feedback while also keeping up with their regular Board business. Commissioner Baller contrasted this process with the process for creating the 2016 Plan, which had a newly created Board

appointed to carry out that work.

Mr. Markus asked, if hired, what he could do that would make the single biggest positive difference in the community.

Commissioner Sherman said the most important thing in his view would be to reassure City staff that things are under control both in regards to Covid-19 and in regards to City Manager Valentine's departure.

Commissioner Baller concurred with Commissioner Sherman. He said a new City Manager should operate in general from a position of confidence, knowledge, ability, respect for due process and respect for democratic functions. A new City Manager should also emphasize to the City overall that the City operates from courage and not from fear.

Commissioner Hoff agreed with Commissioner Sherman as well, but said the reassurance and efforts towards stability should also extend to the Commission and the community. She said that between Mr. Markus' experience in other cities and his experience in Birmingham he would be an ideal candidate to bring that stability to the City.

Commissioner Nickita concurred with Commissioner Hoff that stability and confidence would be important for City staff, the Commission, and the broader community. He also said clarifying the City's upcoming challenges, and the best ways to navigate those, would be essential.

Commissioner Host said increasing transparency on the part of City administration and Commission would be immensely important.

Mayor Boutros said he would want a City Manager committed to treating everyone equally, being honest and being respectful in all interactions. He said that from those stability, trust, and transparency will follow.

In response to Mayor Pro Tem Longe, City Attorney Currier said there was no statute requirement for a public posting of the City Manager position.

Mayor Pro Tem Longe commented that the present meeting was noticed as a discussion, and not an interview, with Mr. Markus. She said she wanted to be careful about the distinction between the two since the public might be expecting a more formal interview in which they could participate.

Commissioner Host said that while closed session would be appropriate for a potential discussion of terms, doing so presently would be premature. He noted the City has not had an official interview with Mr. Markus nor has there been sufficient public engagement on the matter, especially due to the present meeting's last-minute nature.

City Attorney Currier said section 8(f) of the Open Meetings Act allows the Commission to consider an application for employment in closed session.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To enter into closed session at prior to its October 26, 2020 to discuss Thomas Markus' application for the position of City Manager pursuant to Section 8(f) of the Open Meetings Act.

Public Comment

Mr. Bloom said that if the Commission came out of their closed session on October 26, 2020 with a decision to hire Mr. Markus he was concerned it could be legally problematic since the present meeting was noticed as a discussion and not as an interview.

Mr. Reagan agreed with Mr. Bloom's concerns. He said he was also disappointed that he had the impression that the Commission would be entering into closed session partially with the intent to avoid a national search for a City Manager.

Mr. Haig concurred with Mr. Bloom and Mr. Reagan. He said the Commission should also receive more information from executive search firms before going into closed session regarding Mr. Markus' application. He said that would allow the Commission to proceed in its evaluation in a more unbiased manner.

ROLL CALL VOTE: Ayes, Commissioner Sherman
 Commissioner Hoff
 Commissioner Host
 Commissioner Nickita
 Commissioner Baller
 Mayor Boutros
 Mayor Pro-Tem Longe

Nays, None

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| V. ADJOURN |
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Mayor Boutros adjourned the meeting at 5:52 p.m.

BIRMINGHAM CITY COMMISSION

OCTOBER 26, 2020

MEETING MINUTES

7:00 P.M.

VIRTUAL MEETING

MEETING ID: 655 079 760

Video Link: <https://vimeo.com/event/3470/videos/471566474/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Cheryl Arft, Acting City Clerk, called the roll.

Present: Mayor Boutros (location: Birmingham, MI)
Mayor Pro Tem Longe (location: Birmingham, MI)
Commissioner Baller (location: Birmingham, MI)
Commissioner Hoff (location: Birmingham, MI)
Commissioner Host (location: Birmingham, MI)
Commissioner Nickita (location: Birmingham, MI)
Commissioner Sherman (location: Birmingham, MI)

Absent: None

Administration: City Manager Valentine, Acting City Clerk Arft (until 7:05 p.m.), City Clerk Designee Bingham (arrived at 7:05 p.m.), Planning Director Ecker, Police Commander Grewe, City Attorney Kucharek

10-199-20 Thomas Markus' City Manager Application

The Commission originally intended to go into closed session at 7 p.m. to discuss Mr. Markus' application for City Manager at the beginning of this evening's Commission meeting. City Attorney Kucharek explained that, according to the Michigan Open Meetings Act, if Mr. Markus did not ask that his application remain confidential the Commission must discuss his application in open session.

Since City Attorney Kucharek said Mr. Markus' application should be discussed in open session, Commissioner Host said the Commission should pause their discussion until 7:30 p.m. as the public is accustomed to joining Commission meetings at that time.

MOTION: Motion by Commissioner Host, seconded by Commissioner Baller:
To not begin Commission discussion until 7:30 p.m.

Commissioner Baller asked City Attorney Kucharek for her legal opinion regarding whether the Commission should wait until 7:30 p.m. to begin their discussion.

Public notices for the meeting listed the start time as 7 p.m. Resultantly, City Attorney Kucharek advised the Commission that they were within their rights to commence discussion presently.

ROLL CALL VOTE: Ayes, Commissioner Host

 Nays, Commissioner Sherman
 Commissioner Nickita
 Commissioner Baller
 Commissioner Hoff
 Mayor Boutros
 Mayor Pro-Tem Longe

10-200-20 Labor Council Discussion with Thomas Markus

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Baller:
To send the City's labor council, Keller Thoma, to ask Mr. Markus what possible City Manager contract terms he would be seeking. Also, to ask Keller Thoma to meet with the Commission to determine what City Manager contract terms they might be interested in offering.

There was Commission consensus that if this motion passed Keller Thoma must be asked to undertake these conversations expeditiously.

In response to some questions from the Commission, City Attorney Kucharek said she would look into the case law regarding whether discussion of private contract terms should be held in closed or open session. City Attorney Kucharek said she would return a written opinion to the Commission by Wednesday or Thursday of the present week.

Regarding Mr. Markus' application, Commissioner Baller said all discussion permissible to hold in open session should be held in open session. If the Commission has to discuss limited items in closed session, that should be done carefully and with an eye towards returning to open session as soon as possible.

Mayor Pro Tem Longe noted that the Commission still needs to schedule an official interview with Mr. Markus so that the public has the opportunity to submit and ask questions.

Mayor Boutros realized he had forgotten to invite public comment on the previous motion and apologized to the public. He invited comment on the present motion.

Public Comment

David Bloom said he had agreed with Commissioner Host's previous motion and stated reasoning.

Mr. Bloom attempted to make additional comments not regarding the motion at hand.

Mayor Boutros advised Mr. Bloom that comments at this time should only regard the present motion. He asked Mr. Bloom if he had comments on the present motion.

Mr. Bloom said he had no issue with the motion.

Paul Reagan said that if Keller Thoma discusses possible contract terms outside a public meeting, residents might interpret that as a subversion of the Open Meetings Act. He warned that such an impression could have consequences for the City administration.

Andrew Haig said Mr. Markus should be treated identically to any other City Manager candidates, and noted that is not currently happening. Mr. Haig asked City Attorney Kucharek why a discussion of contract terms for Mr. Markus would be any different from the discussion regarding a severance package for City Manager Valentine that occurred in open session in November 2019. He continued that, in his opinion, in order to avoid liability issues the City should conduct non-interview discussions with every other candidate like they did with Mr. Markus. He concluded by saying that the Commission should offer its terms and conditions to City Manager candidates instead of asking the candidates for their ideal terms and conditions.

ROLL CALL VOTE: Ayes, Commissioner Hoff
 Mayor Boutros
 Mayor Pro-Tem Longe
 Commissioner Sherman
 Commissioner Nickita
 Commissioner Baller

Nays, Commissioner Host

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

- The Clerk's office is open to the public for voting purposes only, be sure to use the Martin Street entrance. Voters are reminded to turn in an absentee ballot application if they wish to vote early for the November 3, 2020 General Election. Return your absentee ballot to the clerk's office as soon as possible via drop box or mail, return postage for absentee ballots has been covered by the city for this election. To review your specific voting information and preview your ballot visit mi.gov/vote.
- Precinct 6 voters will be directed to the Community House for voting on Election Day, voters should use the Townsend entrance to the Ballroom. Email elections@bhamgov.org or call 248-530-1880 for any voting or election related questions.
- The City wishes to thank Lara Edwards for her service on the Multi-Modal Transportation Board since 2014.

APPOINTMENTS:

10-201-20 Appointment Of Kevin Hart to the Board of Zoning Appeals

The Commission interviewed Kevin Hart for the appointment.

Commissioner Hoff asked Mr. Hart about his attendance.

Mr. Hart noted he had to recuse himself from a couple of items and said he did not anticipate that happening with any frequency in the future. He also said that prior to virtual meetings he only missed one meeting when he was out of state, which should also not be an issue moving forward.

MOTION: Nomination by Commissioner Host:
To appoint Kevin Hart as a regular member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2023.

ROLL CALL VOTE: Ayes, Commissioner Host
Commissioner Hoff
Mayor Boutros
Mayor Pro-Tem Longe
Commissioner Sherman
Commissioner Nickita
Commissioner Baller

Nays, None

10-202-20 Appointment Of Jason Canvasser to the Board of Zoning Appeals

The Commission interviewed Jason Canvasser for the appointment.

MOTION: Nomination by Commissioner Nickita:
To appoint Jason Canvasser as a regular member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2023.

ROLL CALL VOTE: Ayes, Commissioner Nickita
Commissioner Hoff
Mayor Boutros
Commissioner Sherman
Commissioner Baller
Commissioner Host
Mayor Pro-Tem Longe

Nays, None

10-203-20 Appointment Of Richard Lilley to the Board of Zoning Appeals

The Commission interviewed Richard Lilley for the appointment.

MOTION: Nomination by Mayor Pro Tem Longe:
To appoint Richard Lilley as a regular member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2023.

ROLL CALL VOTE: Ayes, Mayor Pro-Tem Longe
Commissioner Baller
Commissioner Hoff
Mayor Boutros
Commissioner Sherman
Commissioner Nickita
Commissioner Host

Nays, None

Mr. Attia was absent from the meeting. Commissioner Hoff noted that Mr. Attia had only attended 11% of the meetings in 2020 and had not filled out the application to be reappointed as an alternate, which raised questions regarding whether he wanted to continue in the position. Commissioner Hoff said it would be important for the Commission to speak with Mr. Attia before taking any action on his potential reappointment.

Mayor Boutros recommended that Mr. Attia be contacted to determine his interest in a potential reappointment.

No action was taken.

10-204-20 Appointment Of Ron Reddy to the Board of Zoning Appeals

The Commission interviewed Ron Reddy for the appointment.

MOTION: Nomination by Commissioner Hoff:

To appoint Ron Reddy as an alternate member to the Board of Zoning Appeals to serve the remainder of a three-year term to expire February 17, 2023.

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| ROLL CALL VOTE: | Ayes, | Commissioner Hoff Commissioner Host Mayor Boutros Mayor Pro-Tem Longe Commissioner Sherman Commissioner Nickita Commissioner Baller |
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| Nays, | None |
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Mr. Attia was absent from the meeting. Commissioner Hoff noted that Mr. Attia had only attended 11% of the meetings in 2020 and had not filled out the application to be reappointed as an alternate, which raised questions regarding whether he wanted to continue in the position. Commissioner Hoff said it would be important for the Commission to speak with Mr. Attia before taking any action on his potential reappointment.

Mayor Boutros recommended that Mr. Attia be contacted to determine his interest in a potential reappointment.

Commissioner Baller thanked all the BZA appointees for their continued service. Noting that the BZA members are often much more well-versed in City ordinances than the petitioners, Commissioner Baller enjoined the appointees to continue to be both firm in their findings and empathetic in their dealings with the public. He also stressed that dissent is an important part of the democratic process, and stated that a unanimous vote need not be the goal of every case. He encouraged the appointees to continue to be independent thinkers.

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| IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA |
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Mr. Bloom echoed his comments from previous recent Commission meetings regarding Mr. Markus' application for City Manager. He added that, in his view, it could be appropriate to hire Mr. Markus for up to 18 months to supervise the search process for a more permanent replacement of the City Manager. Mr. Bloom shared his feeling that the Commission has been insufficiently transparent in its discussions of Mr. Markus' application so far. Mr. Bloom also said it would be inappropriate to require a majority vote of the Commission before a Commissioner would be allowed to pose an informational inquiry to City staff. He concluded by noting that his group, Birmingham Residents for Responsible Government (BRRG), consulted an attorney over the past weekend to determine whether going into closed session to discuss Mr. Markus' application would be legal. When the lawyer for BRRG found it would not be legal, a letter was sent to the City documenting that finding. Mr. Bloom said he wanted it noted that it was independent citizens that brought the matter to the City's attention.

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.

10-205-20 CONSENT AGENDA

The following items were pulled from the Consent Agenda:

Commissioner Host and
Mayor Pro Tem Longe:

Item A – City Commission Meeting Minutes October 19, 2020

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To approve the Consent Agenda with the exception of Item A.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Commissioner Baller
Mayor Boutros
Mayor Pro-Tem Longe

Nays, None

- B. Resolution approving the warrant list, including Automated Clearing House payments, dated October 21, 2020, in the amount of \$442,572.13.
- C. Resolution authorizing the IT department to purchase the VEEAM backup software and Synology NAS storage drive from SHI using MiDeal government extendable contracts for a total cost of \$6,818.41 Using funds from the IT account # 636-228.000-933.0600.
- D. Resolution approving Change Order #1 for the Lakeview Avenue Paving Project, Contract #2-20(P), to DiPonio Contracting, Inc., in the amount of \$50,556.75, to be charged to account number 591-536.001-981.0100.Irrigation Contract Extension (Wood)
- E. Resolution approving the contract extension with Techseven Company through October 31, 2021 for a cost not to exceed \$10,320.00 with all other provisions of the Agreement remaining the same. Funds are available in the Parks-Other Contractual Services Account #101-

751.000- 811.0000 and the Property Maintenance-Other Contractual Services Account #101-441.003- 811.0000 for these services.

- F. Resolution adopting the City of Birmingham Electronic Meeting Procedures for all city boards and commissions that meet virtually.

10-206-20 (Item A) City Commission Meeting Minutes Of October 19, 2020

Mayor Pro Tem Longe said the end of her motion on page six should read "invite former Birmingham City Manager Thomas M. Markus for a discussion and interview to explore his interest in the City Manager position."

Commissioner Host said that on page nine, during discussion of the joint Planning Board-City Commission meeting, he recommended that the joint meeting be held in January 2021. He asked that be added to the minutes.

MOTION: Motion by Commissioner Host, seconded by Mayor Pro Tem Longe:
To approve the City Commission meeting minutes of October 19, 2020 as amended.

Public Comment

None.

ROLL CALL VOTE: Ayes, Commissioner Host
 Mayor Pro-Tem Longe
 Commissioner Nickita
 Commissioner Baller
 Commissioner Hoff
 Mayor Boutros
 Commissioner Sherman

Nays, None

VI. UNFINISHED BUSINESS

10-207-20 Parking Management Study Agreement

City Manager Valentine presented the item.

Commissioner Hoff noted that while in general she would be supportive of a study, now may not be the appropriate time to proceed with this item because of the uncertainty stemming from the Covid-19 pandemic. She noted that currently there is no parking point-person on the City staff, there is reduced parking demand, and that the parking revenues and expenses are different than usual. She stated that the City's parking needs may change as circumstances continue to shift. Given Mission North's recent self-described pivot to consulting in 2018, Commissioner Hoff continued she would also want them to provide information regarding their experience conducting studies of parking management models in municipalities similar to Birmingham.

Commissioner Baller said he also thought the City should wait on this item, though his reason was that the City should wait until a new City Manager has come onboard and had time to review the matter. He said a new City Manager might have ideas regarding this item and that a study may prove unnecessary.

He said he was mostly in favor of waiting but could possibly be persuaded of the value of moving forward with the study.

Commissioner Nickita concurred with Commissioner Hoff that now would not be the most appropriate time to proceed with a parking management study.

Commissioner Host said he agreed with all the previous comments. He said they had relevance to his concerns about the master planning process as well. He noted that all the proposals in the draft 2040 Plan were written pre-Covid-19, and that it was not clear if and how those proposals should change as a result of the pandemic.

Commissioner Baller drew the meeting's attention to the fact that this study would be one of the system of parking management in the City, and not of parking demand or other factors more likely to be impacted by the pandemic.

No action was taken.

10-208-20 Legal Services

Commissioner Host noted that he had been in dialogue with the Michigan Municipal League regarding this item, and also commended CM Valentine on the quality of the information provided. Through his research, Commissioner Host said he had found that both Stephen O. Schultz and Kevin J. Roragen come with impeccable references and ample experience. He explained that both would be very impartial and have not done work in Birmingham or in the local area.

Commissioner Host moved to pursue an engagement with Stephen O. Schultz, and if Mr. Schultz is unavailable, Kevin J. Roragen to advise the Commission on matters relating to the procurement of legal services as well as the framework and options that should be considered when undertaking an engagement in legal services.

The motion died for lack of a second.

Mayor Boutros recommended the item be tabled in order to maintain some consistency while the City seeks a new City Manager and navigates the effects of the Covid-19 pandemic.

The Commission took no action.

10-209-20 Professional Recruitment Firms for City Manager Position

CM Valentine reviewed the item.

Commissioner Baller noted that the Commission had not yet officially accepted the resignation of CM Valentine, and recommended they do so in a manner at least as gracious as the way in which it was offered. He said a formal recognition of CM Valentine's years of service to the community would be appropriate. Commissioner Baller said the Commission should also discuss CM Valentine's recommendation that Police Chief Mark Clemence be considered for the interim City Manager position.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:

To accept CM Valentine's resignation, to appoint a subcommittee of the Commission to create a proposal for formally recognizing CM Valentine's contributions to the City, and to note that Police Chief Clemence would be the future interim City Manager upon CM Valentine's departure from the City in December 2020.

Commissioner Sherman said he appreciated the intent of the motion. He said it would be more appropriate for the Commission to hold off on potentially appointing an interim City Manager until

closer to City Manager Valentine's departure date. He said the hope would be that an interim CM may not be needed.

A number of Commissioners said they would want to see an RFP for recruitment firms instead of a short list.

Commissioners Sherman, Hoff and Nickita said they would not want to work with the Mercer Group again.

Commissioner Host said he saw no reason to delay any of the items recommended in the motion.

Since this discussion was not noticed as part of the agenda, Commissioner Hoff recommended postponing it to a future agenda so the public would be able to attend and comment. She said it would have been most appropriate for the matters in the motion to be brought up under the 'Commission Items for Future Discussion' section of the present evening's agenda.

Commissioners Nickita and Sherman concurred with Commissioner Hoff.

Commissioner Host noted matters of an RFP or particular recruitment firms were not addressed as part of Commissioner Baller's motion, and that the discussion should be focused on the motion before the Commission.

Mayor Pro Tem Longe agreed that the City should formally accept CM Valentine's resignation. She said she also agreed with the other two points of the motion. She noted that recognizing CM Valentine's years of service is not controversial, and that the recommendation to appoint Police Chief Clemence as interim City Manager has been in at least two previous agenda packets, thereby satisfying other Commissioners' concerns about sufficient notice. She explained that she had not moved an RFP at the last regular Commission meeting given the amount of time the process can take. In light of the other Commissioners' concerns regarding the list of search firms presented, Mayor Pro Tem Longe said there would be nothing wrong with accepting Commissioner Baller's motion.

Commissioner Baller said it was not particular to CM Valentine, but noted that a person's perspective changes once they know they will be leaving a position.

A number of Commissioners commented that it would be beneficial to have CM Valentine and the interim City Manager overlap.

City Attorney Kucharek said a strict reading of the City Charter would indicate that an interim City Manager should not be appointed until there is an absence on the part of the City Manager. She also said that any administrative staff member would be eligible for appointment to the interim City Manager position. She recommended that the Commission state that Police Chief Clemence is the anticipated or designee interim City Manager if that is the case, and that the Commission then direct CM Valentine and Police Chief Clemence to begin working together on training Police Chief Clemence for the interim City Manager position.

CM Valentine said he had no issue with City Attorney Kucharek's recommendation.

Commissioner Baller said he would maintain his motion, but that he would be willing to modify it to state that Police Chief Clemence would be designated as the person who will become the interim City Manager upon CM Valentine's departure from the City in December 2020 if Commissioner Host accepted it.

Commissioner Host accepted the modification.

A number of Commissioners said they would want to have a dialogue with Police Chief Clemence regarding the interim City Manager position.

Public Comment

Mr. Haig said he supported the motion and its offered modification for all the prior reasons given.

Mr. Bloom said he would be supportive of either passing the motion this evening or of delaying the matter for two weeks so as to provide more notice to the public. He said that either way he wanted to commend Commissioner Baller for raising the issues since they had previously gone unaddressed.

Mr. Reagan echoed Mr. Haig, adding that to his knowledge Police Chief Clemence is widely respected and would make an excellent choice for interim City Manager.

ROLL CALL VOTE: Ayes, Commissioner Baller
 Commissioner Host
 Mayor Pro-Tem Longe

 Nays, Commissioner Nickita
 Mayor Boutros
 Commissioner Sherman
 Commissioner Hoff

Mayor Boutros shared that Oakland County Executive David Coulter recommended GovHR, saying that both he and the City of Royal Oak had a positive experience with them.

Commissioner Host said that the best executive recruitment firms are Russell Reynolds and Korn Ferry. He said TJ Adams does work for MML. He recommended that Birmingham should be global in its selection of a recruitment firm.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:

To direct the administration to prepare an RFP to locate an executive recruitment firm for the position of City Manager.

CM Valentine said he could send the RFP to specific firms the Commission is interested in as well as posting the RFP more broadly. He stated that the RFP would not be difficult to create and that the City's Human Resources Department would be tasked with putting it together and presenting it to the Commission before it is sent out.

Commissioner Sherman confirmed for Commissioner Baller that issuing the RFP would not obligate the Commission to hire any of the firms that respond.

Public Comment

Mr. Bloom recommended that the position also be posted widely on online job boards.

ROLL CALL VOTE: Ayes, Commissioner Sherman
 Commissioner Nickita
 Commissioner Baller
 Commissioner Hoff
 Commissioner Host
 Mayor Pro-Tem Longe
 Mayor Boutros

 Nays, None.

VII. NEW BUSINESS

10-210-20 Bistro Applications and Whistle Stop

PD Ecker reviewed the item.

Joseph Shallal, attorney for the project, and Matthew Kenney, consultant, reviewed the bistro application for Bloom Birmingham which can be found in the evening's agenda packet.

Mayor Boutros asked Mr. Kenney why he was interested in opening Bloom in Birmingham.

Mr. Kenney said he visited Birmingham while on a book tour of the Detroit area and that it was the nicest community he visited during that trip. He said he gravitates towards making higher-end restaurants because they tend to be more memorable, and that Birmingham is an appropriate market for that type of experience.

In reply to Commissioner Hoff, Mr. Kenney reviewed the Bloom team. Nina Paletta and Meghan Shaw, chefs at Street Beet in Detroit and intended chefs at Bloom, introduced themselves and reviewed their career bios.

Mr. Kenney told Commissioner Baller that he is not a financial partner in Bloom. The interior design renderings included in the agenda packet are representative of the types of the materials that will be used even if the layout and designs may not be exactly the same. The budget for doing the interior would be \$500,000. Mr. Kenney estimated Bloom would open within four to six months of receiving Commission approval.

PD Ecker stated that it generally takes bistros three to six months to go through the City's approval process.

Mr. Shallal stated that the rent on the location is paid a year in advance at this point in time.

Ms. Paletta and Ms. Shaw confirmed that Street Beet would remain in operation.

Mayor Boutros thanked the team for their application.

Chris Bakos reviewed the bistro applications for Rustico Kitchen & Cocktails and Vinewood Kitchen & Cocktails, both of which can be found in the evening's agenda packet. He stated he was proposing either Rustico or Vinewood, depending on the Commission's preference. He confirmed he would be interested in creating a possible outdoor dining space next to the river if the Vinewood location were selected. He confirmed he would also be able to fit the required number of seats for a bistro at both proposed locations.

Commissioner Baller said the outdoor concept at Vinewood could be pleasant, and that he would want the idea to be thoroughly vetted by the Planning Board if selected by the Commission. He also recommended that Mr. Bakos start a dialogue with the residential neighbors that would be across the river from Vinewood if the application moves forward.

In reply to Commissioner Nickita, Mr. Bakos stated that Brian Najor would be a partner in the project and that the owner split would be relatively even.

PD Ecker said it would be unlikely that there would be a conflict between the proposed outdoor dining at Vinewood and the Birmingham Farmer's Market.

Kelly A. Allen, attorney for the project, reviewed the bistro application for Sushi Japan which can be found in the evening's agenda packet.

In reply to Commissioner Nickita, Ms. Allen said there would be significant updates to the interior space, including tiling of the floor and ceiling, before opening. Ms. Allen confirmed that Ximing 'Charlie' Yu,

owner, would be very interested in creating an outdoor dining platform if the City determines there is sufficient space.

In reply to Commissioner Baller, Mr. Yu explained that the restaurant would be called 'Sushi Japan', even though it would be a majority Chinese restaurant, because the name holds special meaning to the family. He confirmed that there would be limited types of sushi and ramen available.

Commissioners Baller and Hoff noted Birmingham does not currently have a Chinese restaurant.

Mr. Yu said there would be 50 seats with an additional six at the bar and an additional eight outdoors.

Mr. Yu confirmed for Mayor Boutros that he was prepared to open the restaurant without liquor service if he is not granted a bistro license. If he is granted a bistro license, he would be prepared to update the restaurant to make it an appropriate space for serving alcohol.

Kelly Schaefer, co-owner, reviewed the bistro application for Tino's which can be found in the evening's agenda packet.

In reply to Commissioner Baller, Ms. Schaefer confirmed 7Greens would remain if the bistro application for Tino's is not granted.

In reply to Commissioner Nickita, Ms. Schaefer stated she and Hank Wineman, co-owner, would have a relatively equal ownership split for Tino's. She stated that she and Mr. Wineman have been working together for five years thus far. She stated emphatically that she would create an outdoor dining platform for Tino's if approved.

In reply to Mayor Boutros, she explained that maintaining 7Greens in Birmingham has been somewhat difficult due to a number of factors. She noted that while she loves 7Greens and is proud of the concept, she has come to believe that Birmingham is not the right market for it. Ms. Schaefer cited Panera Bread's departure from Birmingham's downtown in 2019 as evidence that the fast casual genre of restaurants are difficult to operate in Birmingham. She said she was confident that Tino's, in contrast, with creative food and ambiance would better meet the needs of the Birmingham market.

J. Patrick Howe, attorney for the project, introduced himself and the owners Elda and Valter Xhomaqi. Mr. Howe reviewed the bistro application for Whistle Stop Diner, which can be found in the evening's agenda packet.

Ms. Xhomaqi said she had no plans to expand the restaurant's operations into the evening hours. She said the hope is to close down this November, December or January for the updates, and said that the updates and repairs are anticipated to take about five months.

Commissioner Nickita said Ms. Xhomaqi would have to work with the City to figure out how to install the outdoor platform in a way that will not result in a ruined patch of grass when the platform is not there. He also recommended the Xhomaqis consider installing clear exterior windows during their updates to replace the current much darker exterior glass.

Mayor Boutros thanked all the applicants for their interest in Birmingham.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:

To direct the Whistle Stop Diner application as an existing restaurant that has been in operation for more than 5 years, to the Planning Board for full site plan and design review and Special Land Use Permit review.

Public Comment

None.

ROLL CALL VOTE: Ayes, Commissioner Sherman

Commissioner Host
Mayor Pro-Tem Longe
Mayor Boutros
Commissioner Nickita
Commissioner Baller
Commissioner Hoff

Nays, None.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:

To direct the bistro application for new restaurants for Vinewood Kitchen and Cocktails to the Planning Board for full site plan and design review and Special Land Use Permit review.

Public Comment

None.

ROLL CALL VOTE: Ayes, Commissioner Baller
 Commissioner Host
 Commissioner Sherman
 Mayor Pro-Tem Longe
 Mayor Boutros
 Commissioner Nickita
 Commissioner Hoff

Nays, None.

MOTION: Motion by Commissioner Nickita, seconded by Mayor Pro Tem Longe:

To direct the bistro application for new restaurants for Bloom Birmingham to the Planning Board for full site plan and design review and Special Land Use Permit review.

Public Comment

None.

ROLL CALL VOTE: Ayes, Commissioner Nickita
 Mayor Pro-Tem Longe
 Commissioner Baller
 Commissioner Host
 Commissioner Sherman
 Mayor Boutros
 Commissioner Hoff

Nays, None.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:

To direct the bistro applications for new restaurants for Sushi Japan and Tino's to the Planning Board for full site plan and design review and Special Land Use Permit review.

Public Comment

None.

ROLL CALL VOTE: Ayes, Commissioner Baller
 Commissioner Host
 Commissioner Hoff
 Commissioner Nickita
 Mayor Pro-Tem Longe
 Commissioner Sherman
 Mayor Boutros

 Nays, None.

10-211-20 Update to Parking Signs on Commerce

Police Commander Grewe presented the item.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:

To remove the "No Parking" signs on the west side of Commerce from Lincoln north to the south side of the second driveway and install "2 Hour Parking" signage in their place.

Commissioner Nickita said that on street parking is a mechanism for traffic calming and that he was all in favor of the motion.

Public Comment

None.

ROLL CALL VOTE: Ayes, Commissioner Sherman
 Commissioner Nickita
 Commissioner Baller
 Mayor Boutros
 Commissioner Host
 Commissioner Hoff
 Mayor Pro-Tem Longe

 Nays, None.

10-212-20 Commission Discussion On Items From Prior Meeting

None.

10-213-20 Commission Items For Future Discussion

A motion is required to bring up an item for future discussion on the next reasonable agenda. No discussion regarding these topics will occur during the present meeting.

There was Commission consensus that on the next agenda there should be a formal acceptance of CM Valentine's resignation, discussion of creating a subcommittee of the Commission to find a way to formally recognize CM Valentine's contributions to the City, and discussion regarding Police Chief Clemence's interest in assuming the interim City Manager upon CM Valentine's departure from the City in December 2020.

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| VIII. REMOVED FROM CONSENT AGENDA |
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Discussed earlier in the meeting.

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| IX. COMMUNICATIONS |
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None.

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| X. REPORTS |
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- A. Commissioner Reports
- B. Commissioner Comments

Mayor Boutros thanked and commended all involved in the Maple Road updates.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff

INFORMATION ONLY

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| XI. ADJOURN |
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Mayor Boutros adjourned the meeting at 11:02 p.m.

City of Birmingham
Warrant List Dated 10/28/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|--------------------|---------------|----------|--------------------------------|-----------|
| <u>PAPER CHECK</u> | | | | |
| 276086 | * | 008649 | ROBERT ABRAHAM JR. | 25.00 |
| 276088 | | 000167 | ANDERSON ECKSTEIN WESTRICK INC | 2,112.50 |
| 276089 | | MISC | ANTHONY BRANHAM | 100.00 |
| 276090 | | 000500 | ARTECH PRINTING INC | 427.00 |
| 276091 | | MISC | ARTISTIC DESIGN CONSTRUCTION | 500.00 |
| 276092 | * | 009034 | ASPHALT SPECIALISTS INC | 20,414.50 |
| 276093 | * | MISC | ASTHETIC DENTISTRY | 5.74 |
| 276094 | * | 006759 | AT&T | 326.80 |
| 276095 | * | 006759 | AT&T | 294.15 |
| 276098 | | MISC | BCM HOME IMPROVEMENT | 100.00 |
| 276099 | | 002231 | BILLINGS LAWN EQUIPMENT INC. | 86.46 |
| 276100 | | 009215 | BOONES EXPRESS LLC | 1,747.50 |
| 276101 | | 003526 | BOUND TREE MEDICAL, LLC | 508.68 |
| 276102 | | 009078 | CANON SOLUTIONS AMERICA INC | 163.20 |
| 276103 | | MISC | CAPALDI BUILDING CO | 100.00 |
| 276105 | | 008919 | CHRISTMAS DONE BRIGHT | 1,990.00 |
| 276106 | | 000605 | CINTAS CORPORATION | 100.70 |
| 276108 | * | 008006 | CLEAR RATE COMMUNICATIONS, INC | 1,392.29 |
| 276109 | * | 000627 | CONSUMERS ENERGY | 2,046.62 |
| 276110 | | 002668 | CONTRACTORS CLOTHING CO | 552.13 |
| 276111 | | 001367 | CONTRACTORS CONNECTION INC | 558.00 |
| 276112 | | 000233 | DEAN SELLERS | 445.92 |
| 276114 | | MISC | DG RESIDENTIAL SALES LLC | 1,900.00 |
| 276115 | | MISC | DIAMEDICAL USA | 87.18 |
| 276116 | * | MISC | DONNA KRAMER | 55.00 |
| 276117 | * | 000179 | DTE ENERGY | 1,890.68 |
| 276118 | * | 000179 | DTE ENERGY | 25.08 |
| 276119 | * | 000179 | DTE ENERGY | 30.13 |
| 276120 | * | 000179 | DTE ENERGY | 149.29 |
| 276121 | * | 000179 | DTE ENERGY | 5,976.71 |
| 276122 | * | 000179 | DTE ENERGY | 1,373.18 |
| 276123 | * | 000179 | DTE ENERGY | 4,257.63 |
| 276124 | * | 000179 | DTE ENERGY | 3,098.62 |
| 276125 | * | 000179 | DTE ENERGY | 15.87 |
| 276126 | * | 000179 | DTE ENERGY | 1,846.60 |
| 276127 | * | 000179 | DTE ENERGY | 44.12 |
| 276128 | * | 000179 | DTE ENERGY | 15.88 |
| 276129 | * | 000179 | DTE ENERGY | 17.27 |
| 276130 | * | 000179 | DTE ENERGY | 522.35 |
| 276131 | * | 000179 | DTE ENERGY | 812.02 |
| 276132 | * | 000179 | DTE ENERGY | 17.99 |
| 276133 | * | 000179 | DTE ENERGY | 20.20 |

City of Birmingham

Warrant List Dated 10/28/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|--------------|---------------|----------|------------------------------------|------------|
| 276135 | | 009210 | DUCENTA SQUARED ASSEST MANAGEMENT | 8,698.53 |
| 276137 | * | MISC | ELLEN SHUSTER | 508.59 |
| 276138 | * | 003186 | ENGLISH GARDENS | 2,996.27 |
| 276139 | | 004367 | ENSEICOM, INC. | 3,640.00 |
| 276140 | | 008663 | FEDERAL RESOURCES | 636.28 |
| 276141 | | 000936 | FEDEX | 204.36 |
| 276142 | | 008161 | FIERA CAPITAL INC | 8,923.32 |
| 276143 | | 007992 | FIRST DUE FIRE SUPPLY | 95.48 |
| 276144 | | 007172 | GARY KNUREK INC | 2,067.10 |
| 276146 | | 001531 | GUNNERS METER & PARTS INC | 1,630.00 |
| 276147 | | MISC | HUNTER ROBERTS HOMES | 2,225.00 |
| 276148 | | 006416 | HUNTINGTON WOODS POOLS & SPAS, INC | 158.98 |
| 276149 | | 000342 | IBS OF SE MICHIGAN | 281.90 |
| 276150 | * | 003823 | JAY'S SEPTIC TANK SERVICE | 764.50 |
| 276151 | * | 009234 | JEFFREY RONDEAU | 115.00 |
| 276152 | * | MISC | JOY L CANTOR REVOC TRUST | 2,216.01 |
| 276153 | | MISC | LADUC SIDING COMPANY | 100.00 |
| 276154 | | MISC | LYNCH CUSTOM HOMES | 2,500.00 |
| 276155 | | MISC | MACDONALD, SCOTT | 2,000.00 |
| 276156 | | 008207 | METAL MART U.S.A. | 99.38 |
| 276157 | | 009085 | MGSE SECURITY LLC | 260.00 |
| 276159 | | 007755 | NETWORK SERVICES COMPANY | 2,395.20 |
| 276161 | | MISC | O'DWYER BUILDING COMPANY | 600.00 |
| 276162 | | 002853 | OAKLAND COMMUNITY COLLEGE | 1,700.00 |
| 276163 | | 008657 | OCBOA | 105.00 |
| 276164 | | 008657 | OCBOA | 700.00 |
| 276165 | * | 000481 | OFFICE DEPOT INC | 1,606.82 |
| 276166 | * | 003629 | PREMIUM AIR SYSTEMS INC | 303.86 |
| 276167 | * | 002852 | QMI GROUP INC | 110.15 |
| 276168 | * | 008852 | REDGUARD FIRE & SECURITY | 300.00 |
| 276169 | * | MISC | RICHARD ARGAS | 651.68 |
| 276170 | * | MISC | RICHARD HUGHES | 276.38 |
| 276171 | | MISC | RONNISCH CONSTRUCTION GROUP | 1,400.00 |
| 276172 | | MISC | ROOF ONE LLC | 100.00 |
| 276173 | | 009232 | THE SAFETY COMPANY LLC | 323.70 |
| 276174 | | 009222 | SAVERS WHOLESALE PRINTING | 2,162.23 |
| 276175 | | MISC | SCHOENHERR HOMES LLC | 100.00 |
| 276177 | * | 008073 | SITEONE LANDSCAPE SUPPLY, INC | 518.41 |
| 276178 | | 001104 | STATE OF MICHIGAN | 613,534.83 |
| 276179 | * | 006749 | SUPERIOR SCAPE, INC | 4,615.00 |
| 276180 | | MISC | T & F CONSTRUCTION | 200.00 |
| 276182 | | MISC | THOMAS SEBOLD & ASSOCIATES, IN | 500.00 |
| 276183 | | MISC | TONY AMOUD & ASSOCIATES INC | 2,000.00 |

City of Birmingham
Warrant List Dated 10/28/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|--------------------------|---------------|----------|-------------------------------------|--------------|
| 276184 | * | MISC | TRANE U.S. INC. | 966.64 |
| 276185 | * | 007587 | TRI-COUNTY AQUATICS, INC. | 3,800.00 |
| 276186 | | 005331 | UBS FIN SERVICES, INC | 15,501.74 |
| 276187 | | 005806 | ULINE | 260.51 |
| 276188 | | MISC | UNIQUE REMODELING CONCEPTS INC | 100.00 |
| 276189 | * | 000293 | VAN DYKE GAS CO. | 42.18 |
| 276190 | * | 000158 | VERIZON WIRELESS | 980.80 |
| 276191 | * | 000158 | VERIZON WIRELESS | 49.25 |
| 276192 | | MISC | WEIGANT, SHANNON | 100.00 |
| 276194 | * | 007978 | WEST BLOOMFIELD TOWNSHIP | 2,700.00 |
| 276195 | | 001490 | WEST SHORE FIRE INC | 352.90 |
| 276196 | * | 008391 | XEROX CORPORATION | 157.99 |
| 276197 | * | 008438 | JORDAN ZALE | 109.07 |
| 276198 | * | 008902 | ZORO TOOLS, INC. | 324.84 |
| SUBTOTAL PAPER CHECK | | | | \$755,922.87 |
| <u>ACH TRANSACTION</u> | | | | |
| 3002 | * | 008847 | ABS- AUTOMATED BENEFIT SVCS, INC | 24,354.70 |
| 3003 | * | 002284 | ABEL ELECTRONICS INC | 439.80 |
| 3005 | * | 000282 | APOLLO FIRE EQUIPMENT | 10,175.00 |
| 3006 | * | 007624 | BIRMINGHAM OIL CHANGE CENTER, LLC | 39.96 |
| 3007 | * | 008840 | BIRMINGHAM PUBLIC SCHOOLS-TAXES | 36,169.81 |
| 3008 | * | 003282 | LISA MARIE BRADLEY | 148.50 |
| 3009 | | 009195 | CROWN CASTLE FIBER LLC | 643.00 |
| 3010 | | 009181 | DELTA TEMP SERVICES INC | 223.50 |
| 3011 | * | 006077 | DI PONIO CONTRACTING INC | 619,638.62 |
| 3012 | * | 001035 | DOUGLASS SAFETY SYSTEMS LLC | 407.26 |
| 3013 | * | 000995 | EQUATURE | 1,081.06 |
| 3014 | * | 000243 | GRAINGER | 367.04 |
| 3016 | * | 002407 | J & B MEDICAL SUPPLY | 571.20 |
| 3017 | | 000261 | J.H. HART URBAN FORESTRY | 21,033.00 |
| 3019 | * | 005550 | LEE & ASSOCIATES CO., INC. | 921.40 |
| 3021 | * | 006359 | NYE UNIFORM COMPANY | 290.47 |
| 3022 | * | 008843 | OAKLAND COUNTY TREASURER- TAX PYMNT | 78,539.33 |
| 3023 | * | 000478 | ROAD COMM FOR OAKLAND CO | 2,867.34 |
| 3024 | * | 001181 | ROSE PEST SOLUTIONS | 696.00 |
| 3025 | | 000254 | SOCRRA | 68,287.00 |
| 3025 | * | 000254 | SOCRRA | 200.00 |
| 3026 | | 000298 | VESCO OIL CORPORATION | 106.80 |
| 3027 | * | 000926 | WRIGHT TOOL COMPANY | 700.00 |
| SUBTOTAL ACH TRANSACTION | | | | \$867,900.79 |

City of Birmingham
Warrant List Dated 10/28/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|--------------|---------------|----------|--------|----------------|
| GRAND TOTAL | | | | \$1,623,823.66 |

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
Warrant List Dated 11/04/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|--------------------|---------------|----------|-----------------------------------|----------|
| <u>PAPER CHECK</u> | | | | |
| 276200 | * | 000855 | 48TH DISTRICT COURT | 100.00 |
| 276201 | * | 006759 | AT&T | 187.23 |
| 276202 | * | 006759 | AT&T | 2,108.70 |
| 276203 | * | 007216 | AT&T | 96.59 |
| 276204 | * | 003703 | AT&T MOBILITY | 142.83 |
| 276206 | * | 003012 | BATTERIES PLUS BULBS | 395.70 |
| 276207 | | 002982 | BLOOMFIELD TWP FIRE DEPT | 310.00 |
| 276208 | | 009233 | BOAT LIFT AND CANOPY | 1,360.00 |
| 276209 | | 009215 | BOONES EXPRESS LLC | 800.00 |
| 276210 | | 003526 | BOUND TREE MEDICAL, LLC | 473.99 |
| 276211 | * | 006953 | JACQUELYN BRITO | 104.29 |
| 276212 | | 006520 | BS&A SOFTWARE, INC | 1,598.00 |
| 276213 | * | 000444 | CDW GOVERNMENT INC | 2,808.30 |
| 276214 | * | 007710 | CINTAS CORP | 206.46 |
| 276215 | | 000605 | CINTAS CORPORATION | 149.59 |
| 276216 | | 004188 | COFFEE BREAK SERVICE, INC. | 43.75 |
| 276217 | * | 008955 | COMCAST | 898.36 |
| 276218 | * | 007774 | COMCAST BUSINESS | 1,256.20 |
| 276219 | * | 000627 | CONSUMERS ENERGY | 159.78 |
| 276220 | | 001367 | CONTRACTORS CONNECTION INC | 558.00 |
| 276221 | | 008512 | COOL THREADS EMBROIDERY | 70.00 |
| 276222 | * | 007638 | MARSHALL CRAWFORD | 150.00 |
| 276223 | | 008303 | DATA PARTNER, INC. | 217.80 |
| 276224 | * | 000177 | DELWOOD SUPPLY | 67.10 |
| 276225 | | MISC | DEN-MAN CONTRACTORS | 161.25 |
| 276227 | * | 000179 | DTE ENERGY | 511.66 |
| 276228 | * | 000179 | DTE ENERGY | 177.51 |
| 276229 | * | 000179 | DTE ENERGY | 23.20 |
| 276230 | * | 000179 | DTE ENERGY | 1,930.40 |
| 276231 | * | 000179 | DTE ENERGY | 82.87 |
| 276232 | * | 000179 | DTE ENERGY | 77.86 |
| 276233 | * | 000179 | DTE ENERGY | 1,354.52 |
| 276234 | * | 000179 | DTE ENERGY | 114.99 |
| 276235 | | 004671 | ELDER FORD | 596.55 |
| 276236 | * | 001223 | FAST SIGNS | 64.45 |
| 276237 | * | 004604 | GORDON FOOD | 106.89 |
| 276238 | * | 001956 | HOME DEPOT CREDIT SERVICES | 1,741.79 |
| 276240 | | MISC | HUNTLEY WEGA CO | 65.00 |
| 276241 | | MISC | JEFF ANTAYA | 28.82 |
| 276242 | | MISC | JLH ELECTRIC LLC | 123.75 |
| 276243 | | 000347 | JOHN R. SPRING & TIRE CENTER INC. | 637.82 |
| 276244 | * | MISC | KEENER INVESTMENT ENTERPRISES | 3,000.00 |

City of Birmingham

Warrant List Dated 11/04/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|------------------------|---------------|----------|-------------------------------------|-------------|
| 276247 | | 000972 | MCKESSON MEDICAL-SURGICAL | 528.39 |
| 276249 | * | 003461 | OBSERVER & ECCENTRIC | 466.98 |
| 276251 | * | 000481 | OFFICE DEPOT INC | 455.73 |
| 276252 | | 000486 | PLANTE & MORAN PLLC | 19,712.50 |
| 276253 | | MISC | R D WHITE COMPANY INC | 337.50 |
| 276254 | * | 008342 | RAIN MASTER CONTROL SYSTEMS | 29.85 |
| 276255 | * | 006130 | RESCUE RESPONSE GEAR INC | 997.00 |
| 276257 | * | MISC | ROGERS, ROCHELLE A | 6.44 |
| 276258 | | 009232 | THE SAFETY CO LLC DAB MTECH | 952.66 |
| 276259 | * | 007142 | SHERWIN-WILLIAMS COMPANY | 94.81 |
| 276260 | | 005128 | SOCPPA | 40.00 |
| 276261 | | 004544 | STRYKER SALES CORPORATION | 6,432.15 |
| 276262 | | 008697 | T-MOBILE USA, INC | 150.00 |
| 276263 | | 000275 | TIRE WHOLESALERS CO INC | 446.58 |
| 276264 | | 007226 | VALLEY CITY LINEN | 57.45 |
| 276265 | * | 000158 | VERIZON WIRELESS | 1,065.65 |
| 276266 | * | 000158 | VERIZON WIRELESS | 87.23 |
| 276267 | | 000299 | WEINGARTZ SUPPLY | 1,136.05 |
| 276268 | * | 000301 | PAUL WELLS | 23.31 |
| 276269 | * | MISC | WHITFIELD, CHARLES & JUDITH | 933.69 |
| 276270 | | 009128 | WITMER PUBLIC SAFETY GROUP INC | 2,363.52 |
| 276271 | | 007620 | WJE-WISS, JANNEY, ELSTNER ASSOC.INC | 5,447.60 |
| 276272 | | 009185 | ZOOM VIDEO COMMUNICATIONS INC | 979.66 |
| SUBTOTAL PAPER CHECK | | | | \$67,806.75 |
| <u>ACH TRANSACTION</u> | | | | |
| 3028 | * | 008847 | ABS- AUTOMATED BENEFIT SVCS, INC | 17,474.96 |
| 3030 | | 008655 | ANGELO IAFRATE CONSTRUCTION | 80,202.00 |
| 3031 | * | 000518 | BELL EQUIPMENT COMPANY | 330.92 |
| 3032 | * | 007345 | BEVERLY HILLS ACE | 64.83 |
| 3033 | | 006683 | BIRMINGHAM LAWN MAINTENANCE | 24,165.00 |
| 3034 | | 009183 | BOB ADAMS TOWING | 1,650.00 |
| 3035 | | 007875 | CANFIELD EQUIPMENT SERVICE INC. | 240.00 |
| 3036 | | 009235 | CITY OF BIRMINGHAM #242 | 32,039.63 |
| 3037 | * | 000565 | DORNBOS SIGN & SAFETY INC | 130.95 |
| 3038 | * | 001035 | DOUGLASS SAFETY SYSTEMS LLC | 370.26 |
| 3039 | * | 000207 | EZELL SUPPLY CORPORATION | 88.54 |
| 3040 | | 000217 | FOUR SEASON RADIATOR SERVICE INC | 425.95 |
| 3041 | * | 007807 | G2 CONSULTING GROUP LLC | 24,339.57 |
| 3042 | * | 000243 | GRAINGER | 171.00 |
| 3043 | * | 008851 | INSIGHT INVESTMENT | 5,185.58 |
| 3044 | | 000261 | J.H. HART URBAN FORESTRY | 12,684.00 |
| 3044 | * | 000261 | J.H. HART URBAN FORESTRY | 3,183.00 |
| 3045 | | 000186 | JACK DOHENY COMPANIES INC | 1,559.16 |

City of Birmingham
Warrant List Dated 11/04/2020

Meeting of 11/09/2020

| Check Number | Early Release | Vendor # | Vendor | Amount |
|--------------------------|---------------|----------|----------------------------|--------------|
| 3046 | * | 002576 | JAX KAR WASH | 154.00 |
| 3047 | * | 003458 | JOE'S AUTO PARTS, INC. | 592.03 |
| 3048 | * | 005550 | LEE & ASSOCIATES CO., INC. | 1,056.02 |
| 3049 | | 001864 | NOWAK & FRAUS ENGINEERS | 40,546.00 |
| 3050 | * | 003554 | RKA PETROLEUM | 7,457.73 |
| 3051 | | 002974 | VILLAGE OF BEVERLY HILLS | 110,985.88 |
| SUBTOTAL ACH TRANSACTION | | | | \$365,097.01 |
| GRAND TOTAL | | | | \$432,903.76 |

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.



MEMORANDUM

Planning Division

DATE: November 2, 2020

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: To set a Public Hearing for a Special Land Use Permit and Final Site Plan and Design Review at 470 N. Old Woodward – EM Bistro

INTRODUCTION:

On April 1, 2020, the owners of Market North End Bistro submitted an application for a Special Land Use Permit ("SLUP") and Final Site Plan and Design Review ("FSP") for approval to open a new restaurant at 470 N. Old Woodward in the vacant storefront south of Market North End.

BACKGROUND:

The subject site is located at 470 N. Old Woodward Street, south of Market North End. The parcel is zoned B2 (General Business). The applicant is seeking approval to operate a new bistro named EM under Chapter 10, Alcoholic Liquors, of the City Code to allow the service of alcoholic beverages in the proposed bistro. Chapter 10 requires that the applicant obtain a Special Land Use Permit and approval from the City Commission to operate an establishment with a Bistro License within the City of Birmingham. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit, and then obtain approval from the City Commission for the Final Site Plan, Special Land Use Permit, and for the operation of a Bistro License.

On October 28, 2020, the applicant appeared before the Planning Board for a review of the SLUP and FSP for EM bistro. After much discussion, the Planning Board voted unanimously to recommend approval to the City Commission of the SLUP and FSP.

LEGAL REVIEW:

The City Attorney has reviewed this request and has no concerns.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

SUMMARY:

The Planning Division requests that the City Commission set a public hearing date for **December 7, 2020** to consider approval of the Final Site Plan and Design and Special Land Use Permit to allow the operation of a new bistro EM at 470 N. Old Woodward.

ATTACHMENTS:

Please find attached the following documents for your review:

- Draft Special Land Use Permit Resolution
- Plans and photos of proposed changes
- Staff Report to the Planning Board
- Application and additional documents submitted by applicant
- Partially Executed Bistro Contract signed by applicant
- All relevant meeting minutes
- Letters from residents

SUGGESTED RESOLUTION:

To set a public hearing date for December 7, 2020 to consider the Final Site Plan and Design and Special Land Use Permit at 470 N. Old Woodward to allow for the operation of a new bistro, EM, at 470 N. Old Woodward.

EM BISTRO
470 N. OLD WOODWARD
SPECIAL LAND USE PERMIT AMENDMENT 2020

WHEREAS, EM BISTRO filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a bistro in the Downtown Birmingham Overlay District in accordance Article 3, Section 3.04(C)(10) of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of N. Old Woodward, south of Ravine;

WHEREAS, The land is zoned B-2, and is located in the D-2 zone within the Downtown Birmingham Overlay District, which permits the operation of 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 applicant submitted an application for a Special Land Use Permit and Final Site Plan and Design for EM BISTRO to operate at 470 N. Old Woodward;

WHEREAS, The Planning Board on October 28, 2020 reviewed the application for a Special Land Use Permit and Final Site Plan and Design Review and recommended approval to the City Commission to permit a Bistro License for EM BISTRO at 470 N. Old Woodward with the condition that the following items be provided prior to the hearing at the City Commission:

1. A signed contract with the City that must be fully executed upon approval of the SLUP and bistro license;
2. Provide the proposed hours of operation for EM Bistro;
3. Submit a roof plan and specification sheets on the proposed rooftop mechanical equipment and screening;
4. Clarify how they intend to manage trash, and if they intend to share the existing dumpster behind Market North End, and verify receptacles in the outdoor dining areas;
5. Provide full lighting details for any proposed exterior lighting;
6. Provide specification sheets for the proposed outdoor furniture; and
7. The applicant comply with the requests of all City departments.

WHEREAS, The applicant has agreed to provide all requested information and to comply with the requests of all City departments, thus fulfilling the conditions noted by the Planning Board;

WHEREAS, The Birmingham City Commission has reviewed EM BISTRO's Special Land Use Permit 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 EM BISTRO's application for a Special Land Use Permit and Final Site Plan and Design at 470 N. OLD WOODWARD 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 subject to the following conditions:

1. EM BISTRO will close outdoor dining areas at midnight each day of the week;
2. EM BISTRO shall abide by all provisions of the Birmingham City Code; and
3. The Special Land Use Permit Amendment may be canceled by the City Commission upon finding that the continued use is not in the public interest.

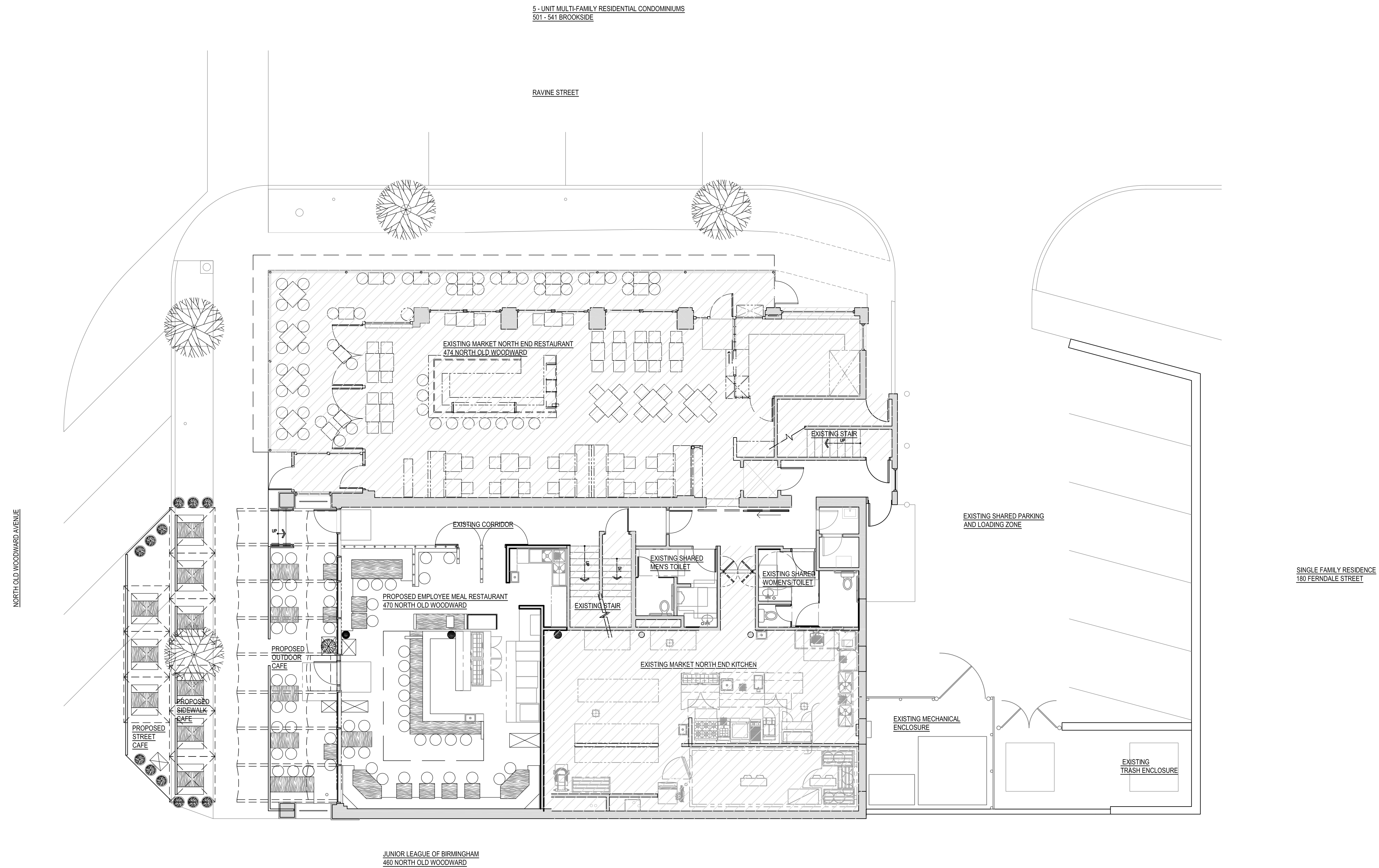
BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, EM BISTRO 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 EM BISTRO to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that EM BISTRO is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises, with a Class C Liquor License, above all others, subject to final inspection.

I, Alexandria Bingham, Acting 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 December 7, 2020.

Alexandria Bingham
City Clerk Designee



Project:

Employee Meal
470 North Old Woodward, Birmingham, MI 48009

Seal:

Issue Date:

| | |
|------------|------------|
| REVIEW | 01.08.2020 |
| REVIEW | 03.20.2020 |
| BISTRO APP | 03.31.2020 |
| REVISION | 09.25.2020 |
| | |
| | |
| | |
| | |
| | |

Sheet Title:

Proposed Site Plan

Sheet Number:

| SEATING TOTALS: | |
|-----------------|----|
| INTERIOR | |
| DINING | 36 |
| BAR | 10 |
| SUBTOTAL: | 46 |
| SEASONAL | |
| CAFE | 28 |
| SIDEWALK | 24 |
| STREET | 12 |
| SUBTOTAL: | 64 |

EXISTING CITY TREE
EXISTING PARKING METER (TYP.)
EXISTING STREET PARKING (TYP.)

NEW STAINED AND SEALED WOOD TRELLIS
WITH SUNBRELLA FABRIC BETWEEN

NEW RELOCATED GLAZED AND PAINTED WOOD ENTRY DOOR

NEW CONCRETE STEPS - REPLACE/EXTEND EXISTING

PAINTED STEEL CAFE RAIL

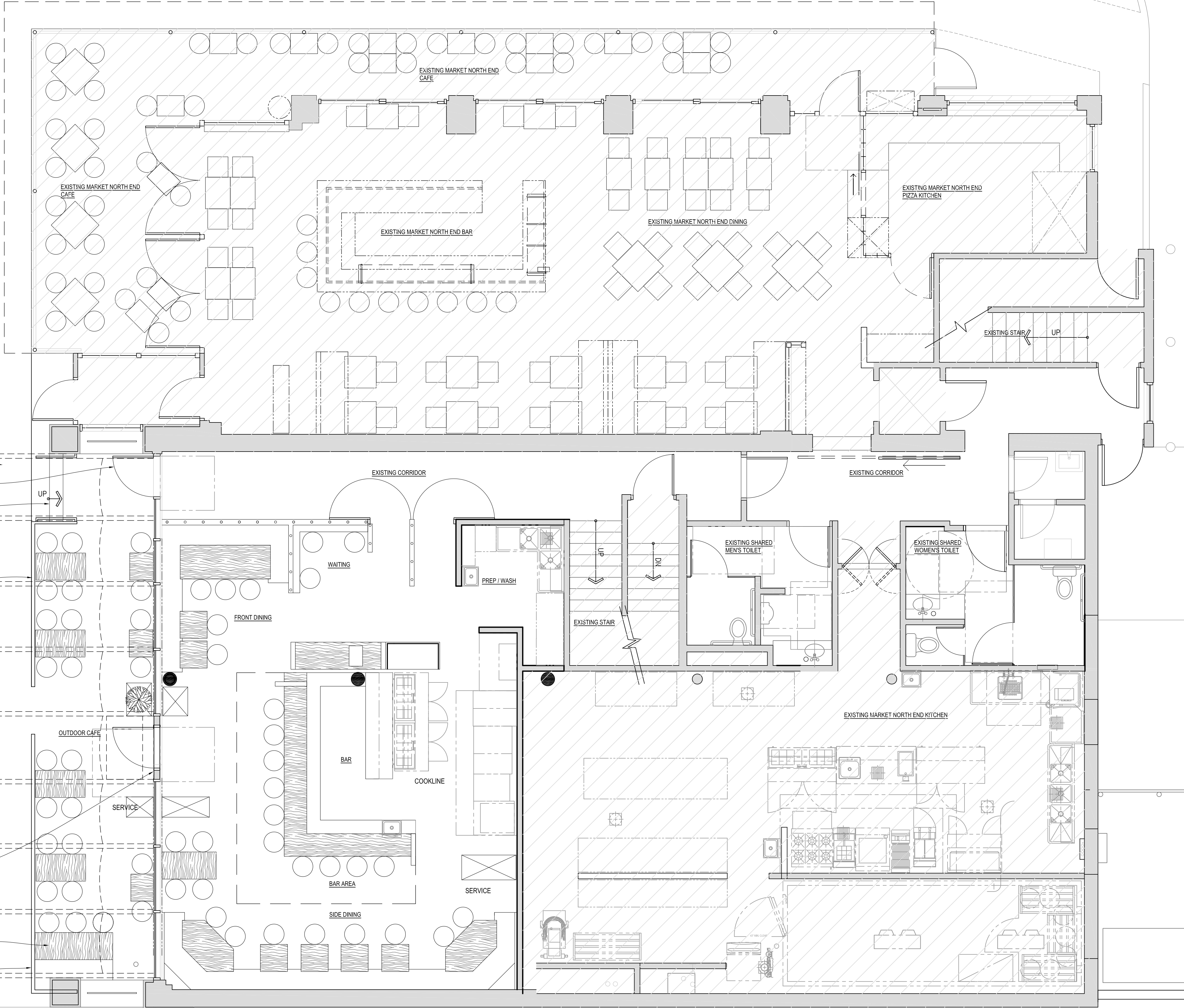
TREX ARTIFICIAL WOOD PLATFORM
UMBRELLAS (SUNBRELLA "WHEAT")
OVER STAINED AND VARNISHED
WOOD TABLES AND BENCHES
WITH INTEGRAL SIDE RAILS AT CURB
STAINED CONCRETE PLANTERS
WITH SKYROCKET JUNIPERS

PAINTED STEEL CAFE RAIL
STAINED AND VARNISHED WOOD TABLES
SAWHORSE STYLE BASES
FABRIC UMBRELLAS (8)
COLOR: SUNBRELLA "WHEAT"
EXISTING CITY TREE

DOOR AND SIDEPANELS
FACED WITH SEALED RUSTED STEEL
WITH NARROW GLAZED CENTER PANEL
IN REWORKED DARK BRONZE
AND CLEAR INSULATED GLAZED STOREFRONT

STAINED CONCRETE PLANTERS
WITH SKYROCKET JUNIPERS

STAINED AND VARNISHED WOOD TABLES
WITH METAL BASES AND
PAINTED WOOD CHAIRS
PAINTED STEEL CAFE RAIL



1 Floor Plan
scale: 1/4" = 1'-0"



Project:

Employee Meal
470 North Old Woodward, Birmingham, MI 48009

Seal:

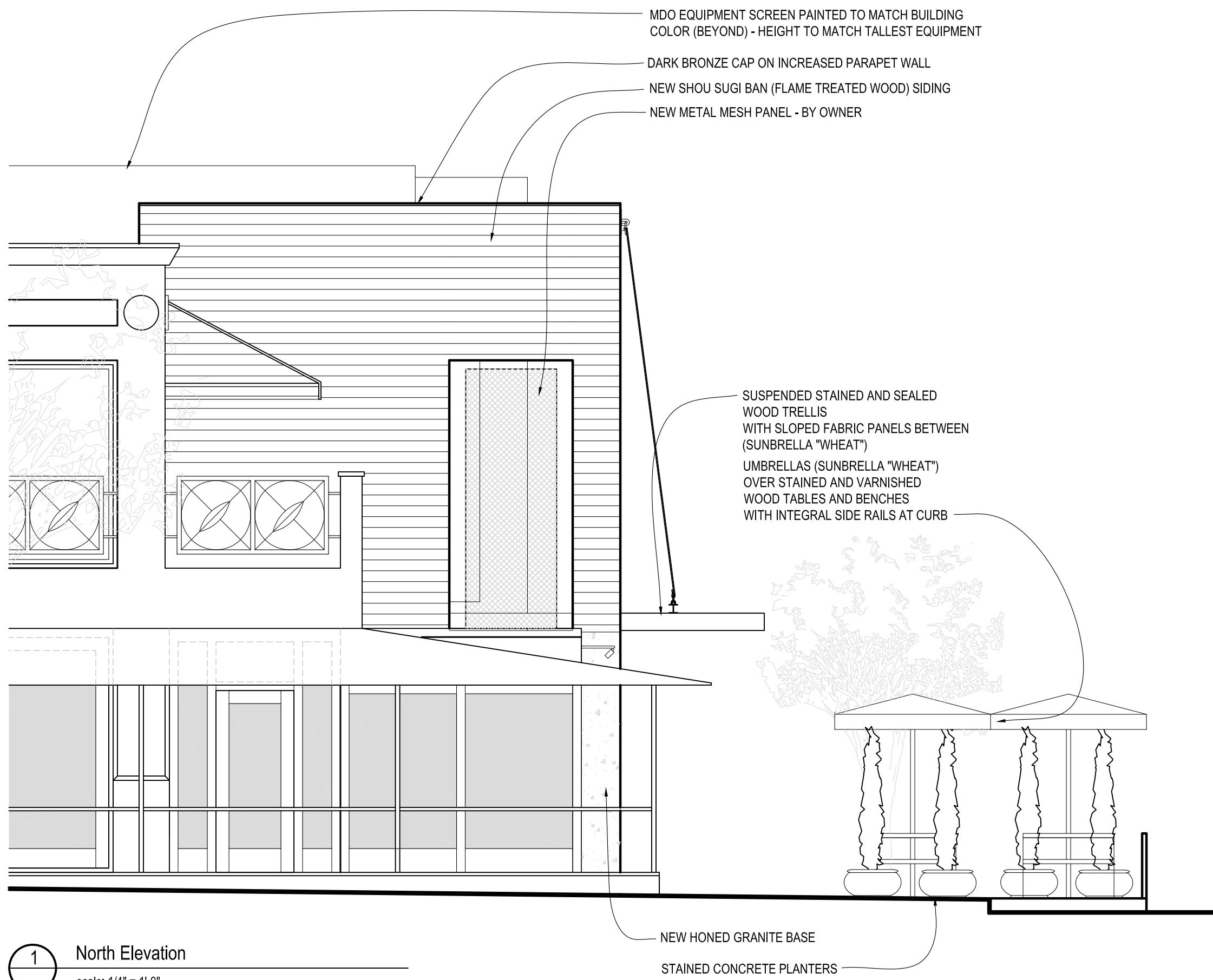
Issue Date:

| | |
|------------|------------|
| REVIEW | 01.08.2020 |
| REVIEW | 03.20.2020 |
| BISTRO APP | 03.31.2020 |
| REVISION | 09.25.2020 |
| | |
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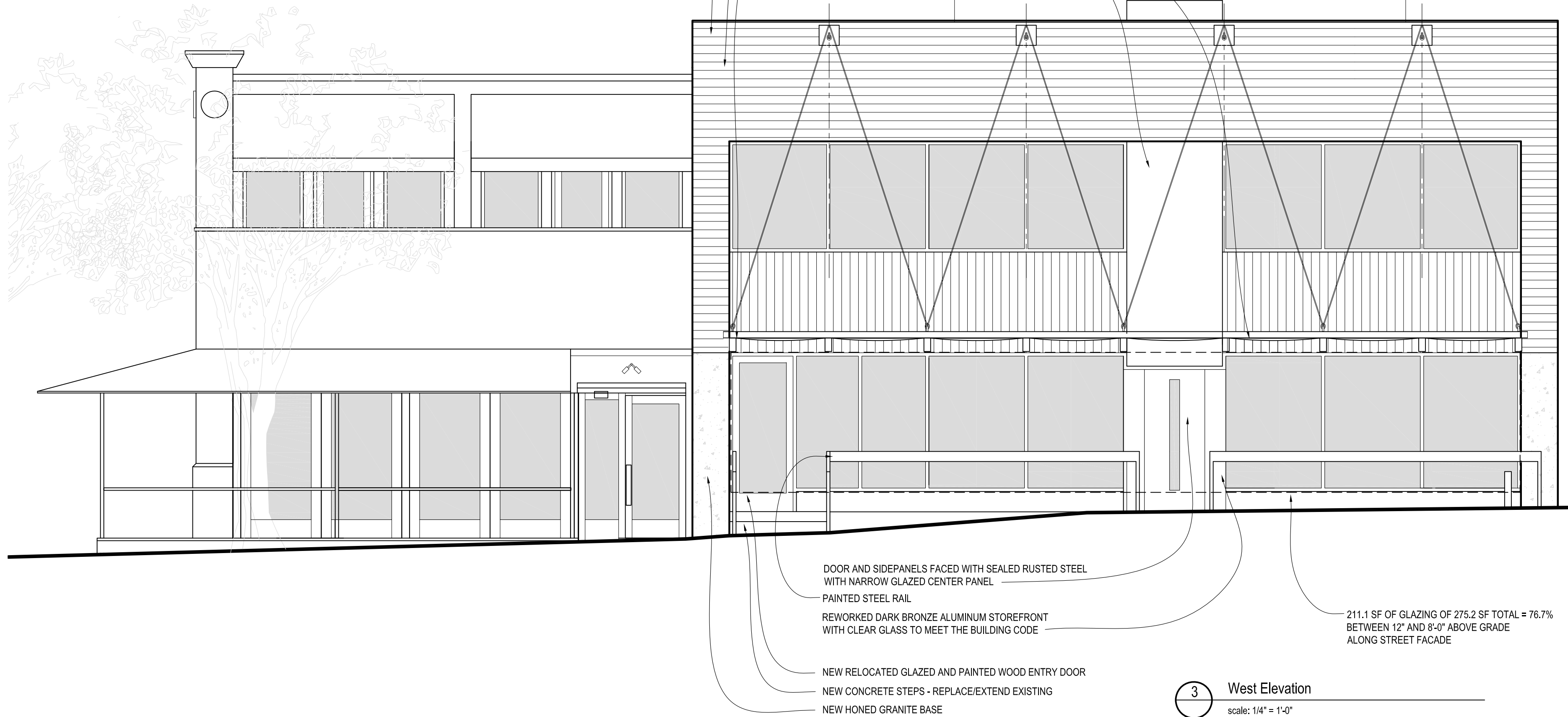
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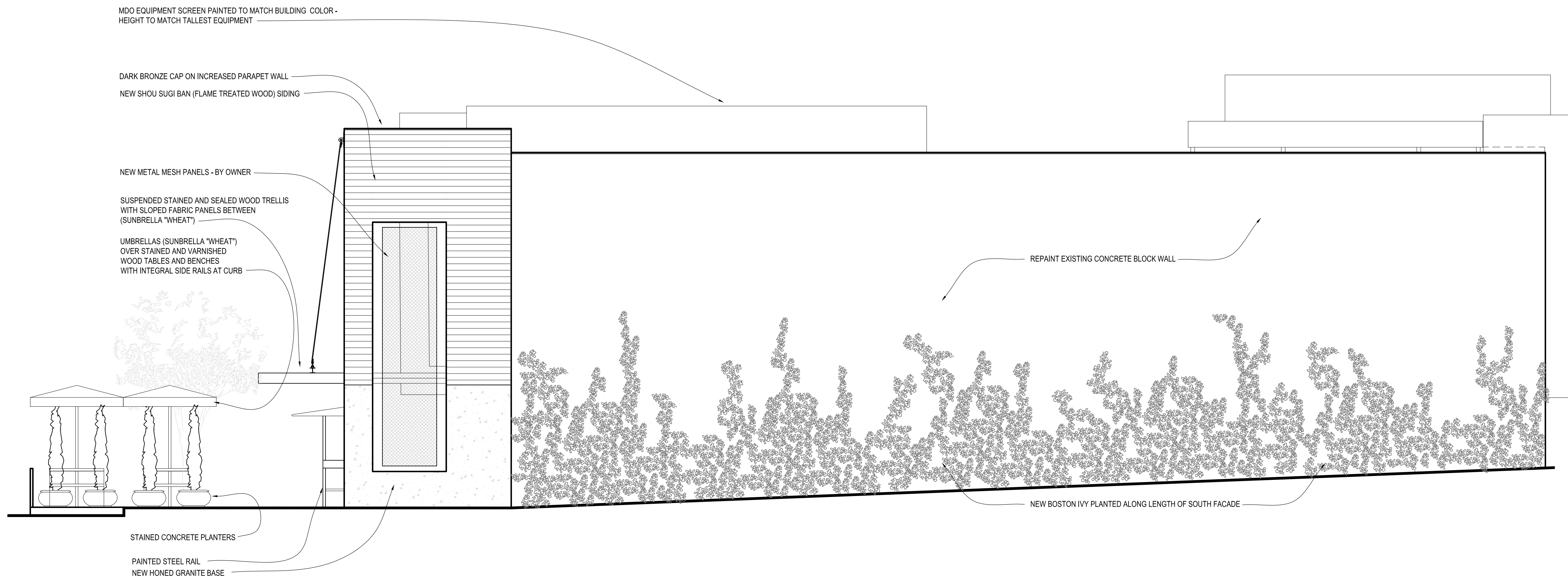
Sheet Number:



1 North Elevation
scale: 1/4" = 1'-0"



3 West Elevation
scale: 1/4" = 1'-0"



2 South Elevation
scale: 1/4" = 1'-0"

Project:

Employee Meal
470 North Old Woodward, Birmingham, MI 48009

Seal:

Issue Date:

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| REVIEW | 01.08.2020 |
| BISTRO APP | 03.31.2020 |
| REVISION | 09.25.2020 |
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Sheet Title:

Exterior Elevations

Sheet Number:



NEW GLAZED AND PAINTED WOOD SHARED ENTRY DOOR

UMBRELLAS (SUNBRELLA "WHEAT")
OVER STAINED AND VARNISHED
WOOD TABLES AND BENCHES
WITH INTEGRAL SIDE RAILS AT CURB

STAINED CONCRETE PLANTERS

NEW BRONZE CAP ON INCREASED PARAPET WALL
NEW SHOU SUGI BAN (FLAME TREATED WOOD) SIDING

(4) EXISTING RECESSED CAN LIGHTS TO REMAIN
(8) EXISTING RECESSED SPECIALTY CAN LIGHTS REMOVED
(NOT SHOWN)

NEW METAL MESH PANELS - BY OWNER
SEALED RUSTED STEEL WRAPPED SHAFT
SUSPENDED STAINED AND SEALED WOOD TRELLIS
WITH SLOPED FABRIC PANELS BETWEEN
(SUNBRELLA "WHEAT")

DOOR AND SIDEPANELS FACED WITH SEALED RUSTED STEEL
WITH NARROW GLAZED CENTER PANEL

NEW HONED GRANITE BASE
REWORKED DARK BRONZE ALUMINUM STOREFRONT
WITH CLEAR GLASS TO MEET THE BUILDING CODE

PAINTED STEEL RAIL

1 Looking North from Old Woodward
not to scale



NEW BRONZE CAP & EXTENDED FASCIA ON INCREASED
PARAPET WALL
NEW SHOU SUGI BAN (FLAME TREATED WOOD) SIDING

(4) EXISTING RECESSED CAN LIGHTS TO REMAIN
(8) EXISTING RECESSED SPECIALTY CAN LIGHTS REMOVED
(NOT SHOWN)

SEALED RUSTED STEEL WRAPPED SHAFT
SUSPENDED STAINED AND SEALED WOOD TRELLIS
WITH SLOPED FABRIC PANELS BETWEEN
(SUNBRELLA "WHEAT")

DOOR AND SIDEPANELS FACED WITH SEALED RUSTED STEEL
WITH NARROW GLAZED CENTER PANEL

UMBRELLAS (SUNBRELLA "WHEAT")
OVER STAINED AND VARNISHED
WOOD TABLES AND BENCHES
WITH INTEGRAL SIDE RAILS AT CURB

STAINED CONCRETE PLANTERS
PAINTED STEEL RAIL
REWORKED DARK BRONZE ALUMINUM STOREFRONT
WITH CLEAR GLASS TO MEET THE BUILDING CODE
NEW CONCRETE STEPS - REPLACE/EXTEND EXISTING
NEW HONED GRANITE BASE

2 Looking South from Old Woodward
not to scale

R O N A N D R O M A N
architects et al.
275 E. Frank St. Birmingham, MI 48009
o) 248.723.5790 f) 248.723.5795

Project:

Employee Meal
470 North Old Woodward, Birmingham, MI 48009

Seal:

Issue Date:

| | |
|------------|------------|
| REVIEW | 01.08.2020 |
| BISTRO APP | 03.31.2020 |
| REVISION | 09.25.2020 |
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Sheet Title:

Exterior Renderings

Sheet Number:

A202



1 Aerial View of Adjacent Properties



② Old Woodward Ave. Street View Looking Northeast



3 Ravine Road Street View Looking Southeast

architects et al.
275 E. Frank St. Birmingham MI 48009
o) 248.723.5790 f) 248.723.5795

Project:

Employee Meal
470 North Old Woodward, Birmingham, MI 48009

Deal:

Issue Date:

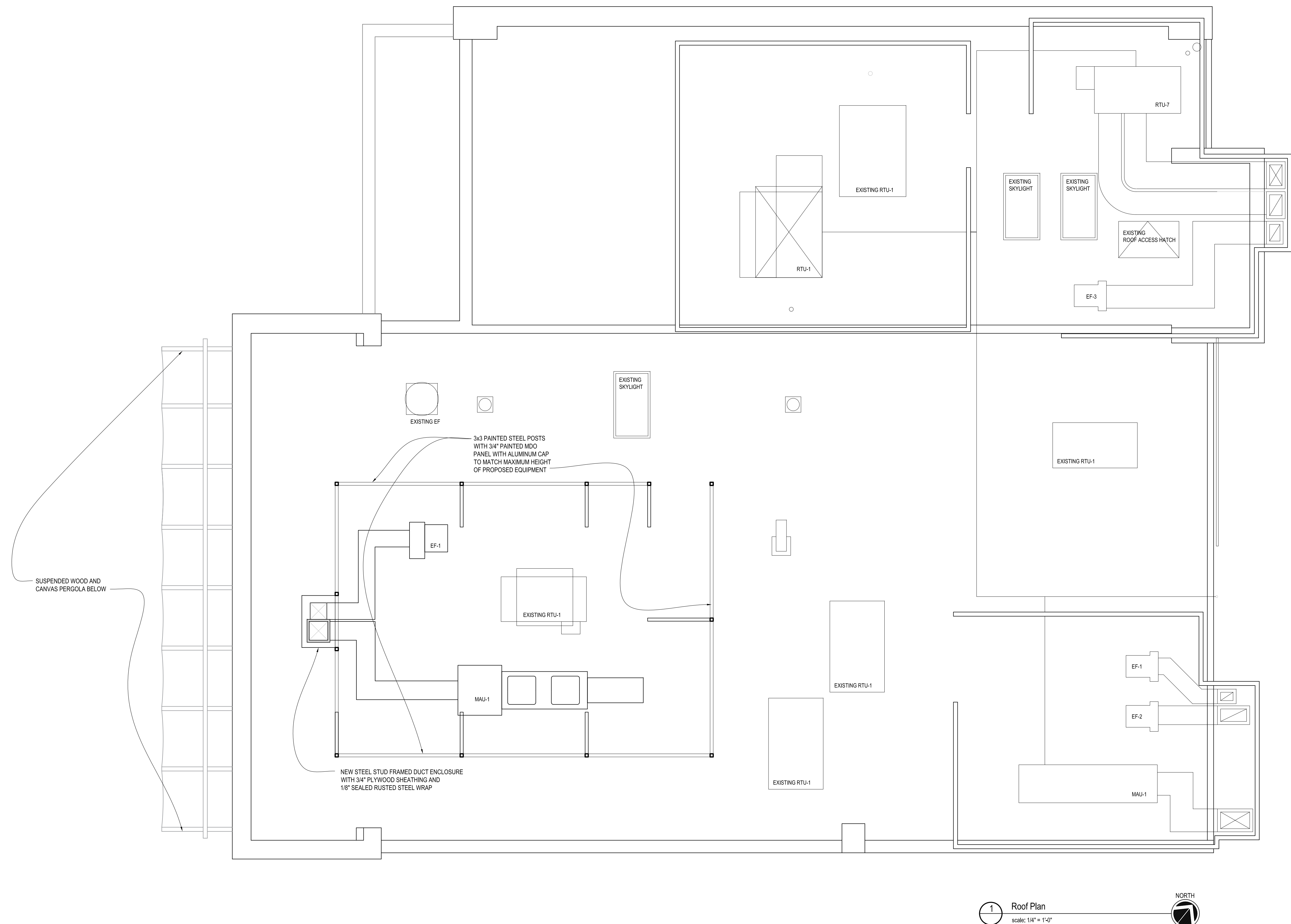
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| REVIEW | 01.08.2020 |
| BISTRO APP | 03.31.2020 |
| REVISION | 09.25.2020 |
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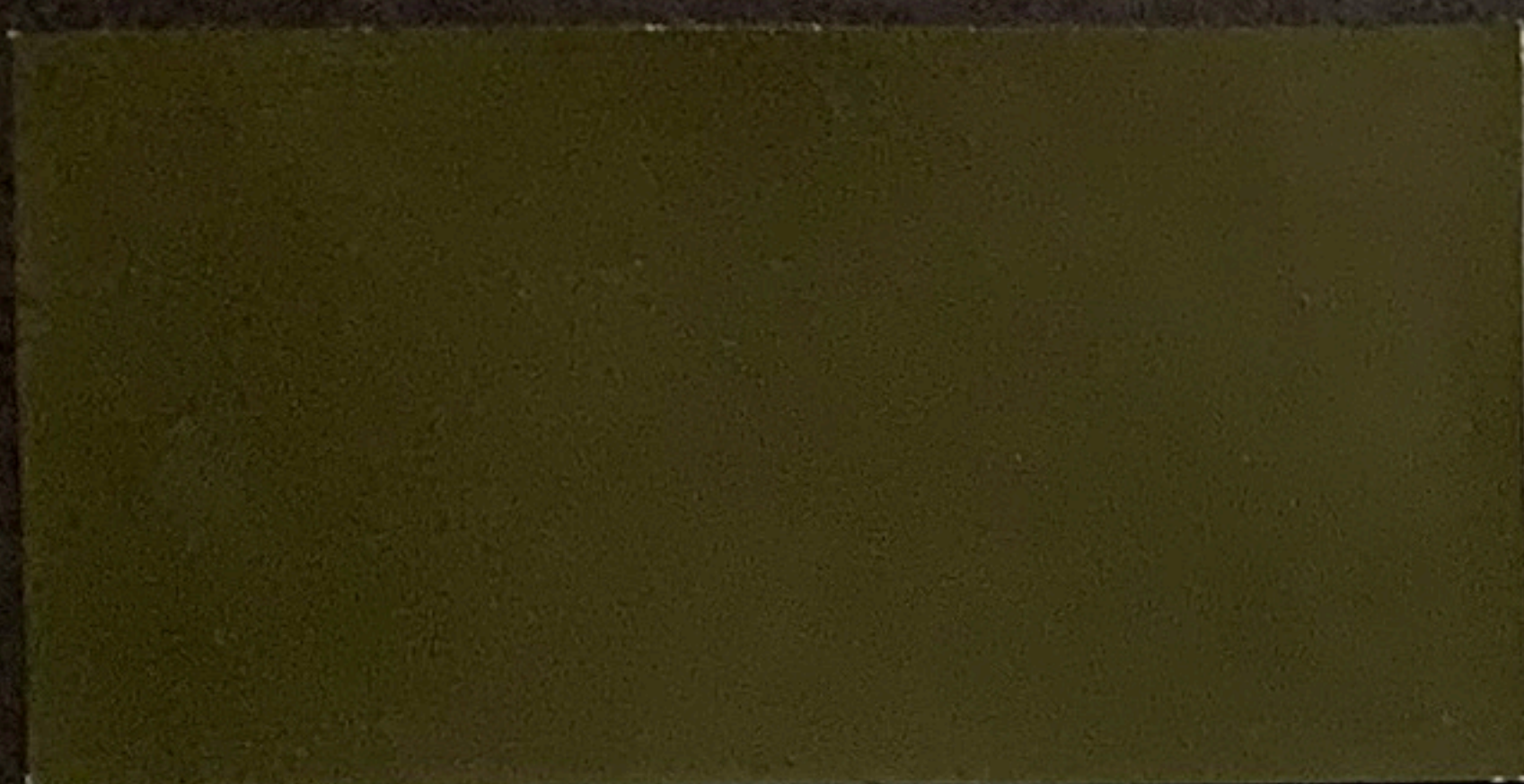
Sheet Title:

Aerial & Street Views

Sheet Number:

A301





BUILDING PAINT BM 2138-10
 & RAILING PAINT



SEALED RUSTED STEEL
 VERTICAL SHAFT ENCLOSURE



6' SQUARE UMBRELLAS
 DARK BRONZE POSTS
 SUNBRELLA "WHEAT" FABRIC
 (MATCHES TRELLIS FABRIC)

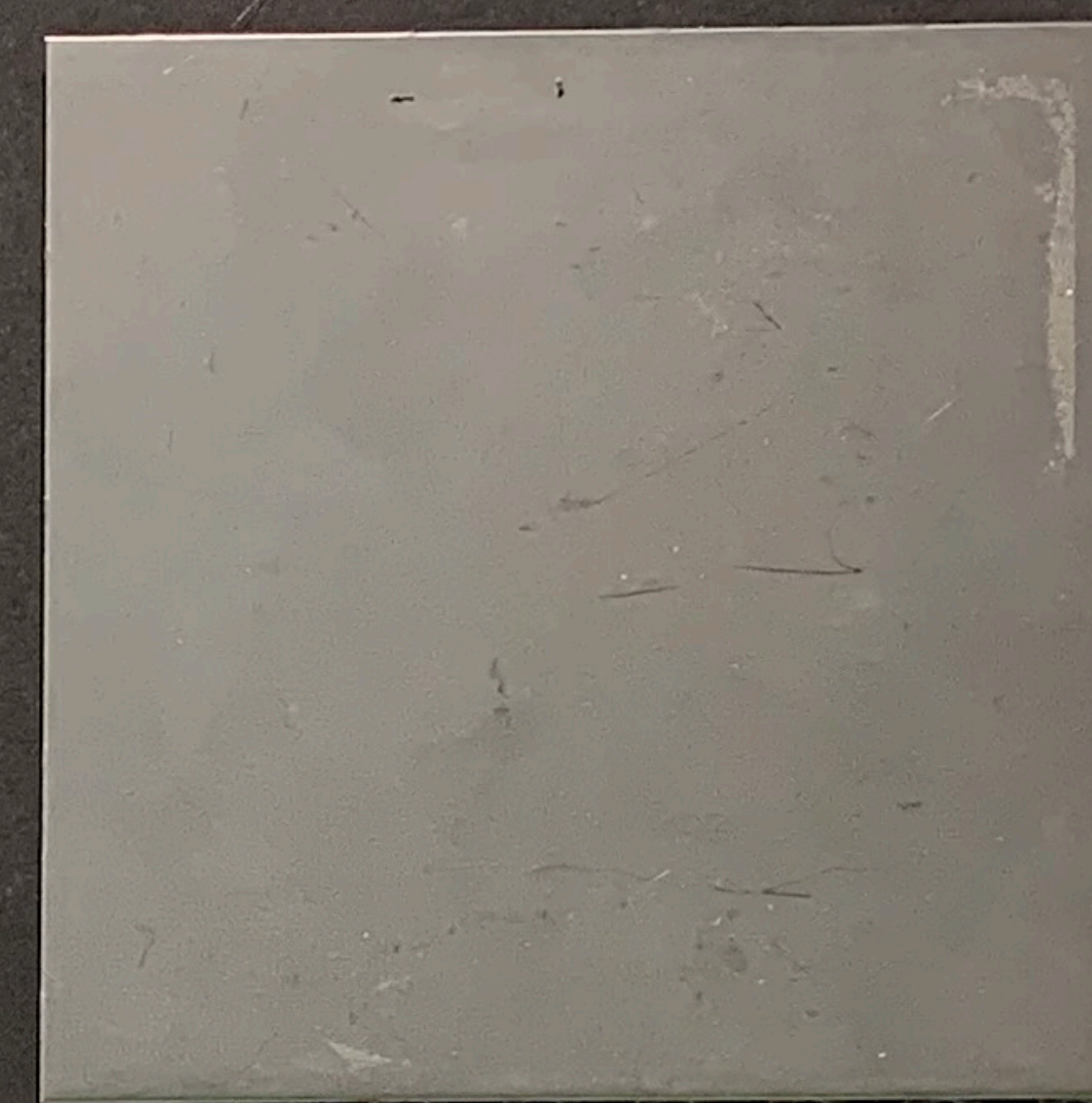


STAINED OAK TABLES
 BENTWOOD CHAIRS

SKY-
 ROCKET
 JUNIPER
 (PE IN)



CUSTOM CONCRETE
 PLANTER



PERFORATED STAINLESS
 STEEL SCREEN FEATURES



HONED GRANITE PIER BASES



WOOD SIDING
 NAKAMOTO
 GENDAI NM1807



"MOCHA" PLATFORM
 DECKING



MEMORANDUM

Planning Division

DATE: October 20, 2020

TO: Planning Board

FROM: Jana L. Ecker, Planning Director

SUBJECT: 470 N. Old Woodward, EM Bistro – Special Land Use Permit and Final Site Plan Review

Executive Summary

The subject site is located at 470 N. Old Woodward Street, south of Market North End. The parcel is zoned B2 (General Business). The applicant is seeking approval to operate a new bistro named EM.

Thus, at this time the applicant is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code to allow the service of alcoholic beverages in the proposed bistro. Chapter 10 requires that the applicant obtain a Special Land Use Permit and approval from the City Commission to operate an establishment with a Bistro License within the City of Birmingham. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit, and then obtain approval from the City Commission for the Final Site Plan, Special Land Use Permit, and for the operation of a Bistro License.

1.0 Land Use and Zoning

- 1.1 Existing Land Use – There is an existing two story building on the site with Red Salon the most recent tenant on the ground floor where EM is proposed.
- 1.2 Existing Zoning – The property is currently zoned B2 (General Business). The existing use and surrounding uses appear to conform to the permitted uses of the Zoning Ordinance.
- 1.3 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.

| | North | South | East | West |
|---------------------------------|----------------------|----------------------|-------------------------------|------------|
| Existing Land Use | Retail & Commercial | Commercial | Single Family Residential | Booth Park |
| Existing Zoning District | B2, General Business | B2, General Business | R2, Single Family Residential | PP |
| Overlay Zoning District | D2 | D2 | N/A | P |

2.0 Use, Setback and Height Requirements

The applicant is not proposing any changes to the footprint of the existing building. All exterior changes to the building facades have already been approved by the Design Review Board, with the exception of signage and outdoor dining areas.

3.0 Bistro Requirements

Article 9, section 9.02, Definitions, of the Zoning Ordinance defines a bistro as a restaurant with a full service kitchen with interior seating for no more than 65 people and additional seating for outdoor dining. EM is proposing 44 seats in the main dining room, including 10 seats at the bar. A total of 64 outdoor dining seats are proposed; 28 immediately adjacent to the building, and 36 seats west of the sidewalk extending into the on street parking zone. EM Bistro will be a new restaurant applying for a new bistro license.

The Zoning Ordinance permits bistros in the Downtown Birmingham Overlay District, provided the following conditions are met:

- (a) No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
 - (b) Alcohol is served only to seated patrons, except those standing in a defined bar area;
 - (c) No dance area is provided;
 - (d) Only low key entertainment is permitted;
 - (e) Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
 - (f) A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1' and 8' in height;
-

- (g) All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
- (h) Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, enclosed platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.

As stated, EM is proposing 10 seats at a bar located at the center of the bistro. No direct connect additional bar permit will be permitted from this license if approved. Alcohol may only be served to seated patrons and those standing in the bar area. The applicant has provided a 89.5 sq.ft. designated bar area, which includes 10 seats at the bar and standing room behind the seating.

EM does not propose any dancing or entertainment.

EM is proposing to have 44 seats in the restaurant, including dining tables in the storefront space lining N. Old Woodward. A total of 21 seats line the storefront space along N. Old Woodward. The applicant has proposed a glazing percentage of 76.7% for the street facing building façade, thus meeting the required 70% minimum.

The applicant will be required to enter into a contract with the City that must be fully executed upon approval of the SLUP and bistro license.

As required, EM is proposing outdoor dining along S. Old Woodward. A total of 64 outdoor dining seats are proposed, of which 28 are proposed immediately adjacent to the building, and 36 of which are proposed west of the sidewalk extending into the on street parking zone. The outdoor dining areas are proposed to be enclosed with painted steel café rails and 12 stained concrete planters with Skyrocket Junipers inside along the northern and southern edges of the dining area located west of the sidewalk extending into the street.

The applicant has not yet provided the proposed hours of operation for EM Bistro, and is required to do so.

4.0 Screening and Landscaping

- 4.1 Mechanical Screening –The applicant is proposing to construct an MDO screening enclosure painted to match the building (charcoal grey) to screen all of the rooftop mechanical units. However, at this time, the applicant has not provided a roof plan nor specification sheets for the proposed rooftop mechanical units to demonstrate that the screening proposed complies with the screening requirements contained in the Zoning Ordinance. **The applicant will be required to submit a roof plan and specification sheets on the proposed rooftop mechanical equipment and screening prior to consideration of approval by the City Commission.**
-

-
- 4.2 Dumpster Screening – The application does not include the addition of a new dumpster or enclosure. **The applicant must clarify how they intend to manage trash, and if they intend to share the existing dumpster behind Market North End.**
- 4.3 Parking Lot Screening – The applicant is not required to provide any off street parking as the site is located within the Parking Assessment District.
- 4.4 Landscaping – There is currently 1 street tree existing along the frontage of 470 N. Old Woodward, and this tree is proposed to remain. In accordance with Article 4, section 4.20 LA-01; street trees are required along all streets, at a rate of at least 1 street tree / 40' of street frontage unless it is determined by the staff arborist not to be feasible. This requirement has been met.

The applicant is also proposing the addition of 12 concrete planters of define the northern and southern edges of the outdoor dining proposed in the street. Each planter will contain one Skyrocket Juniper columnar shrub.

5.0 Parking, Loading, Access, and Circulation

- 5.1 Parking – As stated above, the applicant is not required to provide any parking spaces for commercial or retail uses as the site is located in the Parking Assessment District.
- 5.2 Loading – No loading spaces are required for the proposed bistro as it is less than 5,000 sq.ft. in size.
- 5.3 Vehicular Access & Circulation – There is a small parking lot to the rear of the building behind Market North End. Most patrons that will arrive at EM will park on the street or in a City parking garage to access the proposed bistro.
- 5.4 Pedestrian Access & Circulation – There is a City sidewalk running along S. Old Woodward that provides access to a proposed front door for EM bistro, as well as to a front door for the building as a whole. From the main building entry, patrons can also access EM bistro off the shared corridor. The applicant is proposing to maintain the required 5' of pedestrian pathway along the public sidewalk.
- 5.5 Streetscape – As stated above, there is an existing sidewalk along N. Old Woodward. The applicant is proposing to maintain a continuous 5' wide pedestrian pathway between the outdoor dining areas. The sidewalk is broom finish concrete, and the furnishing zone between the sidewalk and the curb is currently exposed aggregate concrete as required. There are no City standard benches, trash receptacles or pedestrian scale street lights existing in front of the proposed EM storefront, nor are any proposed. There is one bicycle parking u-rack in front of the storefront currently. This is not shown on the proposed plan, thus it appears that the applicant proposes to remove the bike rack from this location.
-

6.0 Lighting

The application submitted for EM bistro states that there are 18 recessed 25 watt equivalent LED lights proposed under the planter canopy. **However, no specification sheets have been provided for these fixtures, nor has a photometric plan been submitted at this time. The applicant will be required to verify if new lighting is proposed, and if so, to provide specification sheets and a photometric plan prior to review by the City Commission.**

7.0 Departmental Reports

- 7.1 **Engineering Division** – The Engineering Department will provide comments for the October 28, 2020 Planning Board meeting.
- 7.2 **Department of Public Services** – The DPS will provide comments for the October 28, 2020 Planning Board meeting.
- 7.3 **Fire Department** – The Fire Department will provide comments for the October 28, 2020 Planning Board meeting.
- 7.4 **Police Department** - The Police Department will provide comments for the October 28, 2020 Planning Board meeting.
- 7.5 **Building Department** –The Building Department will provide comments for the October 28, 2020 Planning Board meeting.

8.0 Design Review

The applicant has provided photos of the existing two story building. The applicant was recently approved by the Design Review Board to make all of the exterior changes shown on the proposed plans with the exception of the signage and the outdoor dining component. Please see attached plans marked approved by the DRB as these changes will not be reviewed below.

Signage

At this time, the applicant is not proposing any signage. The applicant is permitted to have a total of 36 square feet of signage for the proposed bistro. **Should they wish to add signage, review and approval by Planning Board and/or City Commission will be required.**

Outdoor Dining Area

Outdoor cafés must comply with the site plan criteria as required by Article 04, Section 4.42 OD-01, Outdoor Dining Standards. Outdoor cafes are permitted immediately adjacent to the principal use and are subject to site plan review and the following conditions:

1. Outdoor dining areas shall provide and service refuse containers within the outdoor dining area and maintain the area in good order.
2. All outdoor activity must cease at the close of business, or as noted in Subsection 3 below, whichever is earlier.
3. When an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the close of business or 12:00 a.m., whichever is earlier.
4. All tables and chairs provided in the outdoor dining area shall be constructed primarily of metal, wood, or material of comparable quality.
5. Table umbrellas shall be considered under Site Plan Review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.
6. For outdoor dining located in the public right-of-way:
 - (a) All such uses shall be subject to a license from the city, upon forms provided by the Community Development Department, contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
 - (b) In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 feet.
 - (c) An elevated, ADA compliant, enclosed platform may be erected on the street adjacent to an eating establishment to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
 - (d) No such facility shall erect or install permanent fixtures in the public right-of-way.
 - (e) Commercial General Liability Insurance must be procured and maintained 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. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members, as an additional insured. This coverage must be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance, and shall include an endorsement providing for a thirty (30) day advance written notice of cancellation or non-renewal to be sent to the city's Director of Finance.

The applicant has specifically shown a trash receptacle within each of the proposed outdoor dining areas, however they may be included in the boxes marked as "service". **The applicant must confirm the presence of trash receptacles as required by Article 04, section 4.42 OD-01 of the Zoning Ordinance.**

The applicant has not provided the proposed hours of operation, and will be required to do so prior to appearing before the City Commission. The proposed outdoor dining areas are not immediately adjacent to multi-family zoned property.

The applicant has not provided specification sheets for the proposed tables and chairs. However, the materials sheet indicates they are proposing stained oak rectangular tables and Bentwood chairs in dark brown. The applicant is proposing a total of 13 four-top rectangular tables, 3 two-top rectangular tables and 1 six-top rectangular table outdoors. Twenty-five Bentwood round chairs are proposed for the outdoor dining area immediately adjacent to the building. Bench seating is proposed for the entire outdoor dining area extending into the street, and one bench is proposed at the southern end of the outdoor dining area adjacent to the building. A total of 64 seats of outdoor dining are proposed between the two outdoor dining areas. **No specifications have been provided for the bench seating.**

A total of 9 table umbrellas are proposed in the outdoor dining area extending into the street. These umbrellas have dark bronze posts and 6' square Sunbrella "Wheat" fabric to match the awning fabric over the outdoor dining adjacent to the building. The umbrellas do not impede views into a retail establishment, nor impede vehicular or pedestrian access or circulation.

The western outdoor dining area is proposed in the public right-of-way, and extending into the street removing two on-street parking spaces during the outdoor dining season. The portion extending into the street will include the use of an elevated Trex deck dining platform to bring the on-street dining area up to a consistent height with the sidewalk level dining. **The Engineering Department will be required to approve the use of the street, and the applicant will be required to provide details showing how street runoff will continue to drain to existing sewers.**

9.0 Selection Criteria for Bistro Licenses

Chapter 10, Alcoholic Liquors, section 10-82 provides a limitation on the number of Bistro Licenses that the City Commission may approve, and provides selection criteria to assist the Planning Board and City Commission in evaluating applications for Bistro Licenses. For existing restaurants in the City of Birmingham, section 10-82 states:

- (a) **Maximum Number of Bistro Licenses.** The city commission may approve a maximum number of license transfers for Bistro licenses per calendar year as follows:

New establishments. Two (2) Bistro Licenses may be approved each calendar year to applicants who do not meet the definition of existing establishments as set forth in (a)(1) above. In addition to the usual criteria used by the city commission for liquor license requests, the commission shall consider the following non-exclusive list of criteria to assist in the determination of which of the new establishment applicants, if any, should be approved:

- The applicant's demonstrated ability to finance the proposed project.
 - The applicant's track record with the city including responding to city and/or citizen concerns.
 - Whether the applicant has an adequate site plan to handle the bistro liquor license activities.
-

- Whether the applicant has adequate health and sanitary facilities.
- The establishment's location in relation to the determined interest in the establishment of bistros in the Overlay District and the Triangle District.
- The extent that the cuisine offered by applicant is represented in the city.
- Whether the applicant has outstanding obligations to the city (ie property taxes, utilities, etc.).

EM's bistro application was the only bistro application pre-selected for review by the City Commission for the 2020 calendar year. EM will be a new establishment. The selection criteria provided above must be considered to provide a recommendation to the City Commission as to whether or not to approve the operation of a Bistro License at EM.

The applicant has not provided specific financial information indicating assets available for the opening of EM. However, the applicant has submitted an overview of their restaurant experience, and has indicated that they will be using personal funds to finance the proposed bistro.

The applicants have successfully operated Market North End and other establishments in Birmingham. The applicants have worked with the City by responding to City and resident concerns in the past.

The applicant has proposed an adequate site plan to demonstrate the capability of handling the bistro liquor license activities. A small, full service kitchen and bar are proposed, along with 44 indoor seats and 64 outdoor dining seats. Each proposed outdoor dining area does provide for safe and efficient pedestrian flow. Adequate health and sanitary facilities are proposed.

EM is proposed to be located within the Downtown Birmingham Overlay District. The City is interested in attracting bistro operations within the Overlay District, the Triangle District and the Rail District; therefore this operation fits into the parameters outlined by the Bistro Ordinance guidelines.

EM is proposing to specialize in Mexican inspired cuisine, with a particular emphasis on including seafood and a creative twist on favorites. This type of cuisine is not currently represented in the City.

10.0 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.

11.0 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.

12.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend approval of Final Site Plan and a SLUP to the City Commission to permit a Bistro License for EM at 470 N. Old Woodward with the condition that the following items be provided prior to the hearing at the City Commission:

- 1. A signed contract with the City that must be fully executed upon approval of the SLUP and bistro license;
 - 2. Provide the proposed hours of operation for EM Bistro;
 - 3. Submit a roof plan and specification sheets on the proposed rooftop mechanical equipment and screening;
 - 4. Clarify how they intend to manage trash, and if they intend to share the existing dumpster behind Market North End, and verify receptacles in the outdoor dining areas;
 - 5. Provide full lighting details for any proposed exterior lighting;
 - 6. Provide specification sheets for the proposed outdoor furniture; and
-

7. The applicant comply with the requests of all City departments.

13.0 Sample Motion Language

The Planning Board recommends approval of the Final Site Plan and a SLUP to the City Commission to permit a bistro license for EM at 470 N. Old Woodward with the condition that the following items be provided prior to the hearing at the City Commission:

1. A signed contract with the City that must be fully executed upon approval of the SLUP and bistro license;
2. Provide the proposed hours of operation for EM Bistro;
3. Submit a roof plan and specification sheets on the proposed rooftop mechanical equipment and screening;
4. Clarify how they intend to manage trash, and if they intend to share the existing dumpster behind Market North End, and verify receptacles in the outdoor dining areas;
5. Provide full lighting details for any proposed exterior lighting;
6. Provide specification sheets for the proposed outdoor furniture; and
7. The applicant comply with the requests of all City departments.

OR

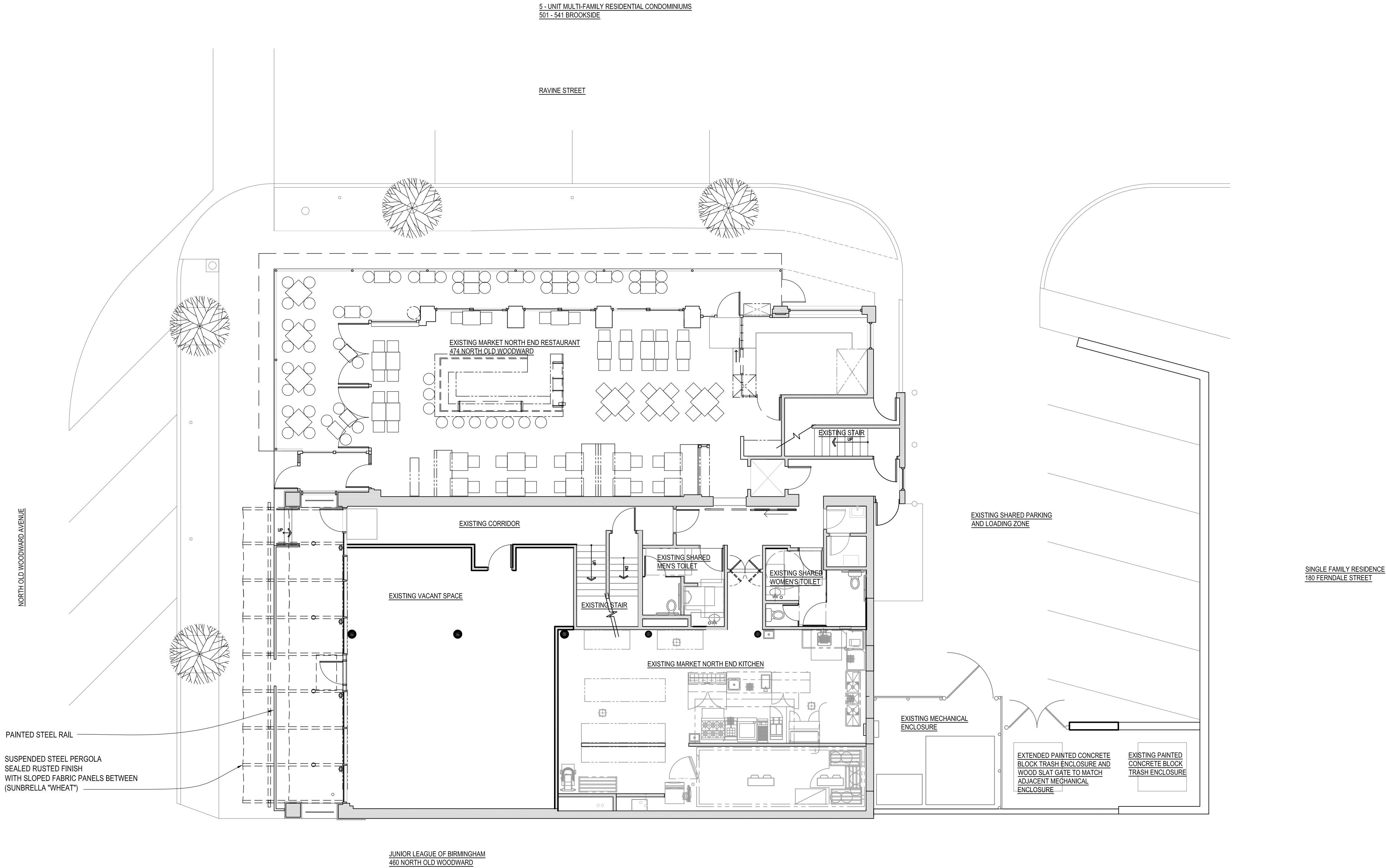
Motion to recommend DENIAL of the Final Site Plan and SLUP to the City Commission for 470 N. Old Woodward, EM for the following reasons:

1. _____
2. _____
3. _____
4. _____
5. _____

OR

Motion to recommend POSTPONEMENT of the Final Site Plan and SLUP for 470 N. Old Woodward, EM.

PLANS PREVIOUSLY APPROVED BY THE DESIGN REVIEW BOARD



Project:

Existing Building Facade Improvements
470 North Old Woodward, Birmingham, MI 48009

Seal:

Issue Date:

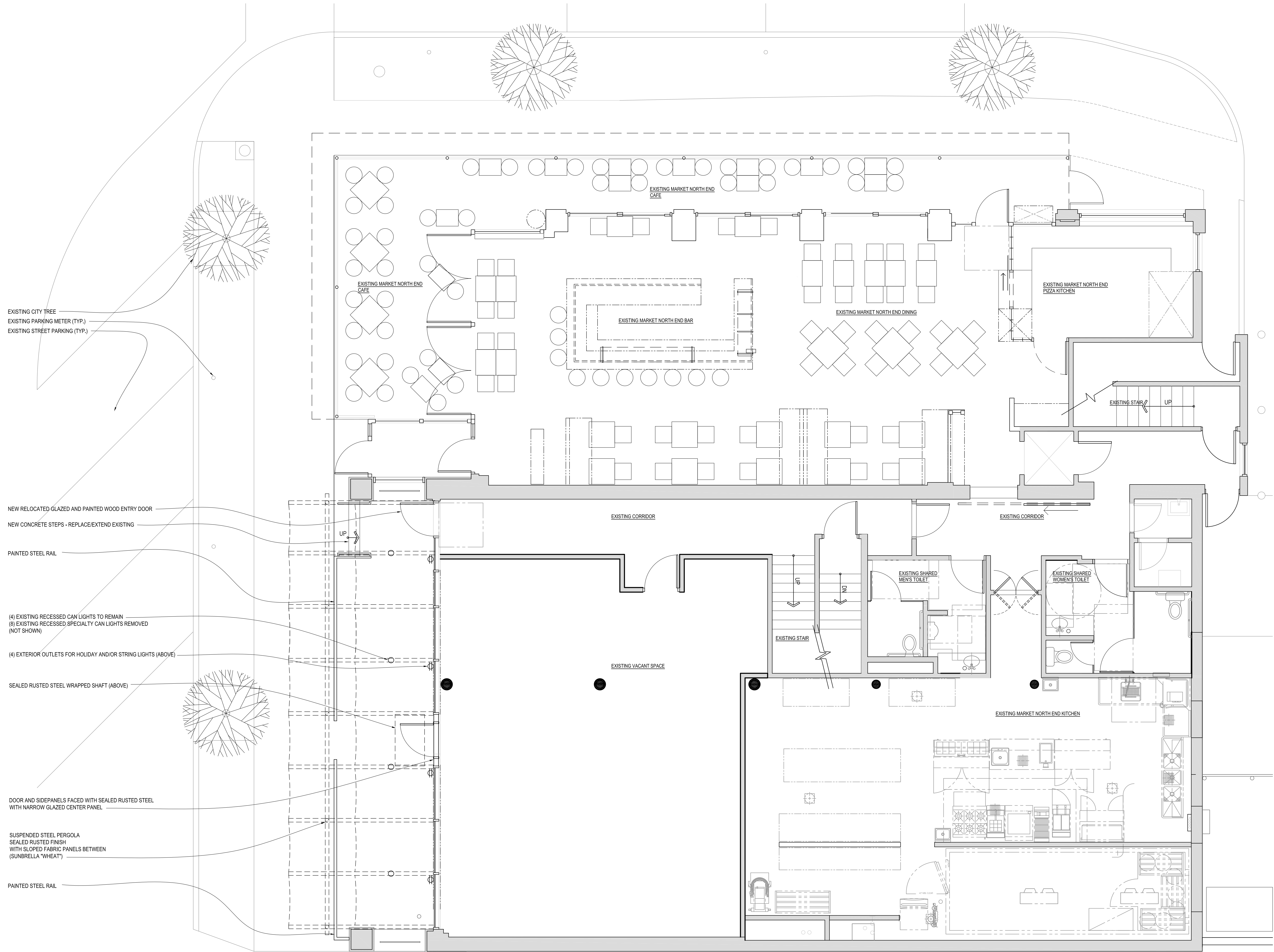
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| REVIEW | 01.08.2020 |
| REVIEW | 03.20.2020 |
| DRB APPLICATION | 04.16.2020 |
| REVISION | 06.03.2020 |
| REVISION | 06.17.2020 |

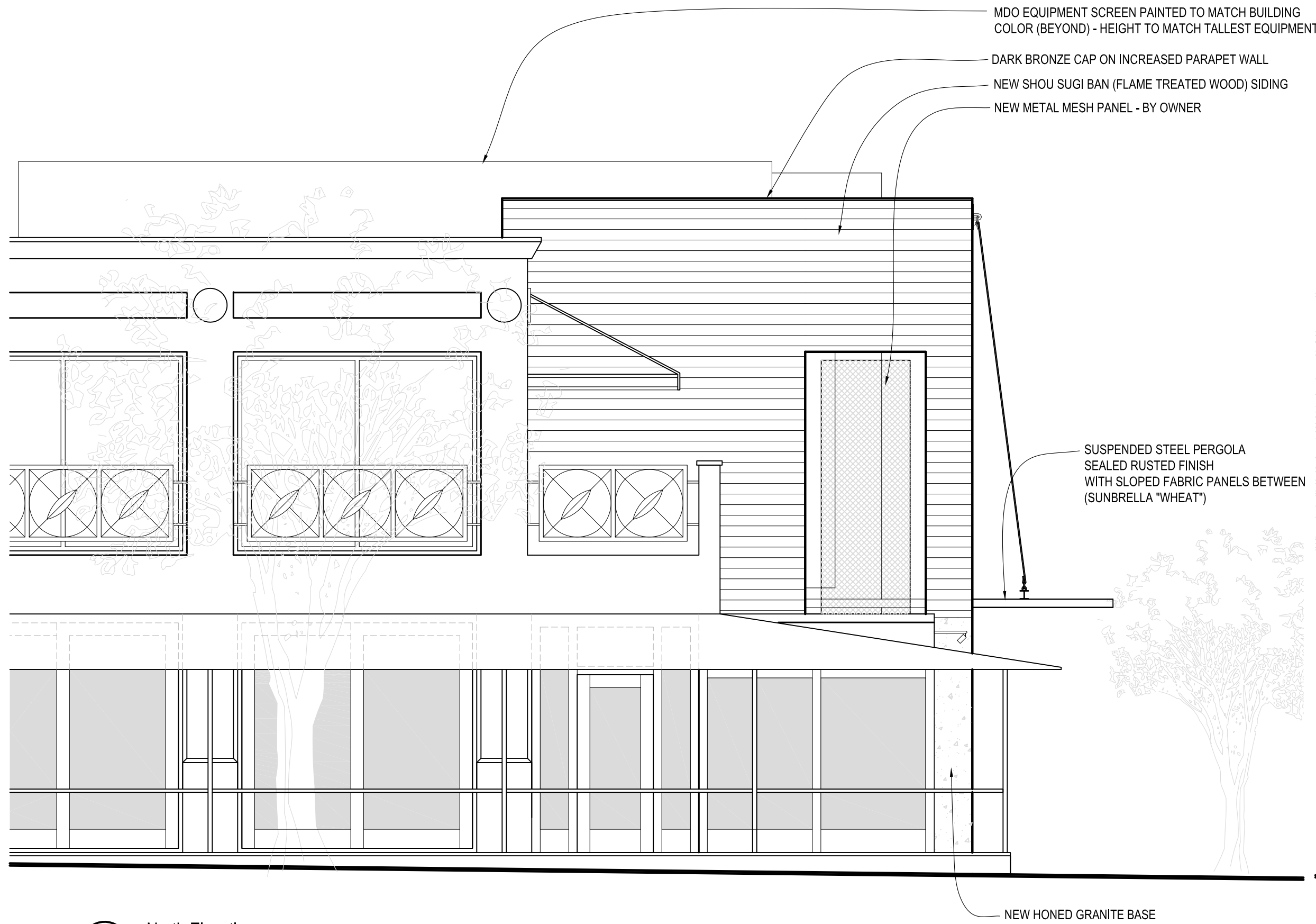
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Proposed Building Plan

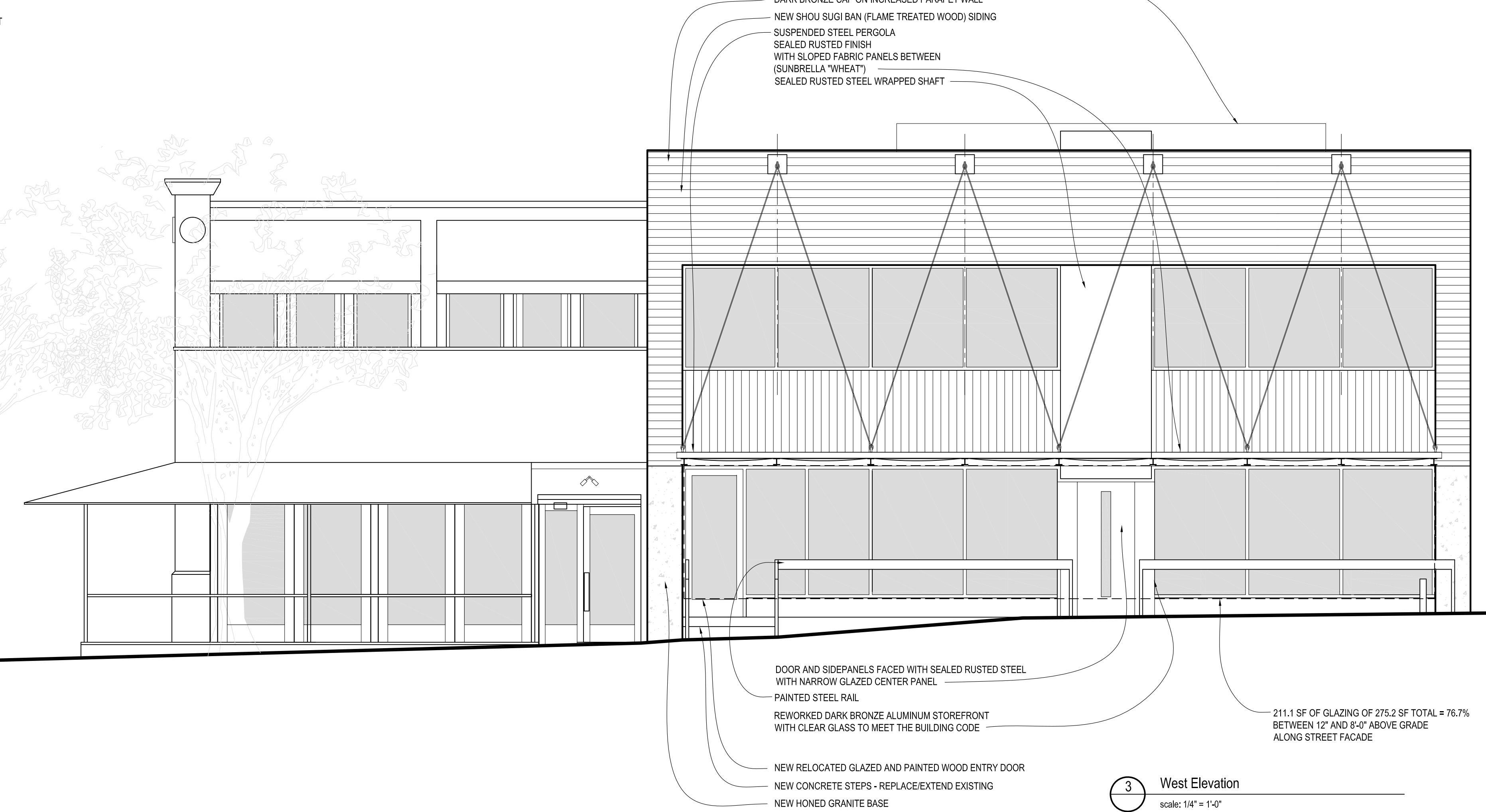
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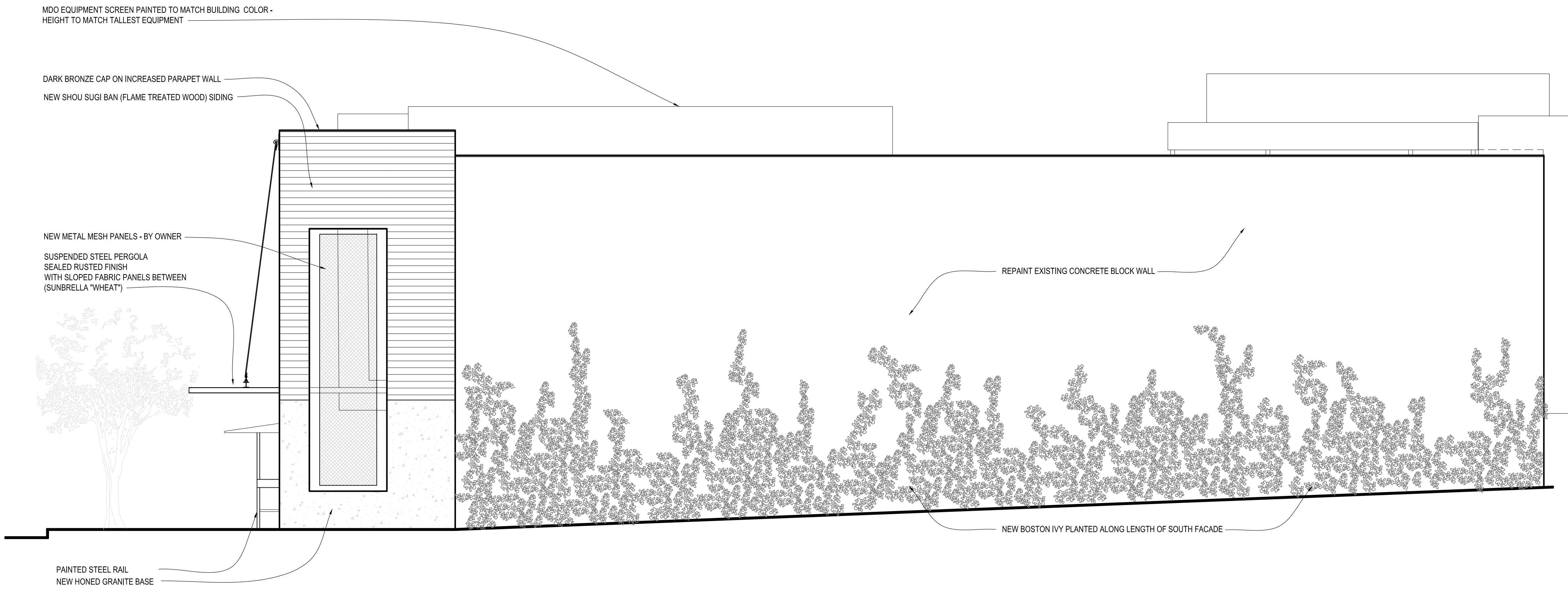




1 North Elevation
scale: 1/4" = 1'-0"



3 West Elevation
scale: 1/4" = 1'-0"



2 South Elevation
scale: 1/4" = 1'-0"

Project:

Existing Building Facade Improvements
470 North Old Woodward, Birmingham, MI 48009

Seal:

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| REVIEW | 01.08.2020 |
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| DRB APPLICATION | 04.16.2020 |
| REVISION | 06.03.2020 |
| REVISION | 06.17.2020 |

Sheet Title:

Exterior Elevations

Sheet Number:

A201

NEW GLAZED AND PAINTED WOOD SHARED ENTRY DOOR



1 Looking North from Old Woodward
not to scale



PAINTED STEEL RAIL
REWORKED DARK BRONZE ALUMINUM STOREFRONT
WITH CLEAR GLASS TO MEET THE BUILDING CODE
NEW CONCRETE STEPS - REPLACE/EXTEND EXISTING
NEW HONED GRANITE BASE

2 Looking South from Old Woodward
not to scale

R O N A N D R O M A N
architects et al.
275 E. Frank St. Birmingham, MI 48009
o) 248.723.5790 f) 248.723.5795

Project:

Existing Building Facade Improvements
470 North Old Woodward, Birmingham, MI 48009

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Sheet Title:

Exterior Renderings

Sheet Number:

A202



1 Aerial View of Adjacent Properties



2 Old Woodward Ave. Street View Looking Northeast



3 Ravine Road Street View Looking Southeast

R O N A N D R O M A N
architects et al.
275 E. Frank St. Birmingham, MI 48009
o) 248.723.5790 f) 248.723.5795

Project:

Existing Building Facade Improvements
470 North Old Woodward, Birmingham, MI 48009

Seal:

Issue Date:

| | |
|-----------------|------------|
| REVIEW | 01.08.2020 |
| REVIEW | 03.20.2020 |
| DRB APPLICATION | 04.16.2020 |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Sheet Title:

Aerial & Street Views

Sheet Number:

A301

Re: New EM Bistro - 470 N. Old Woodward

1 message

Joel Campbell <Jcampbell@bhamgov.org>

To: Jana Ecker <Jecker@bhamgov.org>

Mon, Oct 26, 2020 at 9:24 AM

Hi Jana,

I have no major concerns with this proposed project. A couple of notes:

- The fire department connection (FDC) located at the southwest corner on the front of the building must stay completely unobstructed, and must be accessible at all times.
- Floor plans will need to be submitted for review and approval.

Joel

On Thu, Oct 22, 2020 at 11:28 AM Jana Ecker <Jecker@bhamgov.org> wrote:

The above application is scheduled to go before the Planning Board next week for a Final Site Plan and SLUP review. If you could kindly provide any comments back to me by the end of the day on October 28, 2020 that would be much appreciated.

Thank you!

Jana L. Ecker

Planning Director
City of Birmingham
248-530-1841

Important Note to ResidentsLet's connect! Join the Citywide Email System to receive important City updates and critical information specific to your neighborhood at www.bhamgov.org/citywideemail.

--

Joel Campbell**Fire Marshal**

Birmingham Fire Department

(248)530-1924

***Important Note to Residents***Let's connect! Join the Citywide Email System to receive important City updates and critical information specific to your neighborhood at www.bhamgov.org/citywideemail.



Special Land Use Permit Application – Bistro Planning Division

Form will not be processed until it is completely filled out.

1. Applicant

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

2. Property Owner

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

3. Applicant's Attorney/Contact Person

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

4. Project Designer/Developer

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

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 the 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: _____

Name of development: _____
Sidwell #: _____
Current Use: _____
Proposed Use: _____
Area of Site in Acres: _____
Current zoning: _____
Is the property located in the floodplain? _____
Name of Historic District Site is Located in: _____
Date of Historic District Commission Approval: _____

Date of Application for Preliminary Site Plan: _____
Date of Preliminary Site Plan Approval: _____
Date of Application for Final Site Plan: _____
Date of Final Site Plan Approval: _____
Date of Application for Revised Final Site Plan: _____
Date of Revised Final Site Plan Approval: _____
Date of Design Review Board Approval: _____
Is there a current SLUP in effect for this site? _____
Date of Application for SLUP: _____
Date of SLUP Approval: _____
Date of Last SLUP Amendment: _____

7. Details of the Proposed Development (attach separate sheet if necessary)

8. Buildings and Structures

Number of Buildings on Site: _____
Height of Buildings & # of Stories: _____

Use of Buildings: _____
Height of Rooftop Mechanical Equipment: _____

9. Floor Use and Area (in Square Feet)

Structures:

Restaurant Space: _____
Office Space: _____
Retail Space: _____

Number of Residential Units: _____
Rental or Condominium? _____
Total Floor Area: _____

10. Proposed Bistro Operation

Number of Indoor Seats: _____
Number of Outdoor Seats: _____
Entertainment Proposed: _____
Previous LCC Complaints? _____
Number of Tables along Street Façade: _____
Type of Cuisine: _____

Bar Area? _____
Number of Seats at Bar: _____
Full Service Kitchen? _____
Percentage of Glazing Proposed: _____
Years of Experience in Birmingham: _____
Years of Experience Outside Birmingham: _____

11. Required and Proposed Setbacks

Required Front Setback: _____
Required Rear Setback: _____
Required Total Side Setback: _____

Proposed Front Setback: _____
Proposed Rear Setback: _____
Proposed Total Side Setback: _____

12. Outdoor Dining Facility

Location (sidewalk right-of-way or on-street parking space): _____
Hours of Operation: _____
Width of unobstructed sidewalk between door and café? (5 ft. required): _____
Platform Proposed: _____
Trash Receptacles: _____

Number of Tables/Chairs: _____
Material of Tables/Chairs: _____
Tables Umbrellas Height & Material: _____
Number and Location of Parking Spaces Utilized: _____
Screenwall Material: _____
Enclosure Material: _____

13. Required and Proposed Parking

Required number of parking spaces: _____
Location of parking on site: _____
Screenwall material: _____

Shared Parking Agreement? _____
Location of parking off site: _____
Height of screenwall: _____

14. Landscaping

Location of landscape areas: _____

Proposed landscape material: _____

15. Streetscape

Sidewalk width: _____
Number of benches: _____
Number of planters: _____
Number of existing street trees: _____
Number of proposed street trees: _____
Streetscape plan submitted? _____

Description of benches or planters: _____

Species of existing trees: _____

Species of proposed trees: _____

16. Loading

Required number of loading spaces: _____
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: _____

17. Exterior Waste Receptacles

Required number of waste receptacles: _____
Location of waste receptacles: _____
Screenwall material: _____

Proposed number of waste receptacles: _____

Size of waste receptacles: _____

Height of screenwall: _____

18. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: _____
Size of transformers (L•W•H): _____
Number of utility easements: _____
Screenwall material: _____

Location of all utilities & easements: _____

Height of screenwall: _____

Ground Mounted Mechanical Equipment:

Number of ground mounted units: _____
Size of ground mounted units (L•W•H): _____
Screenwall material: _____

Location of all ground mounted units: _____

Height of screenwall: _____

Rooftop Mechanical Equipment:

Number of rooftop units: _____
Type of rooftop units: _____
Screenwall material: _____
Location of screenwall: _____

Location of all rooftop units: _____

Size of rooftop units (L•W•H): _____

Percentage of rooftop covered by mechanical units: _____

Height of screenwall: _____

Distance from rooftop units to all screenwalls: _____

19. Accessory Buildings

Number of accessory buildings: _____
Location of accessory buildings: _____

Size of accessory buildings: _____

Height of accessory buildings: _____

20. Building Lighting

Number of light standards on building: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light standards on building: _____

Height from grade: _____

Proposed wattage per fixture: _____

21. Site Lighting

Number of light fixtures: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light fixtures: _____

Height from grade: _____

Proposed wattage per fixture: _____

Holiday tree lighting receptacles: _____

22. Adjacent Properties

Number of properties within 200 ft.: _____

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.

Signature of Owner:



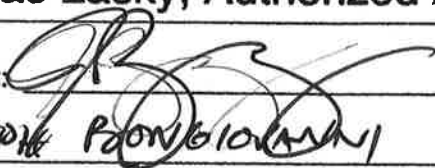
Date:

4.21.20

Print Name:

Thomas Lasky, Authorized Agent

Signature of Applicant:



Date:

4/29/20

Print Name:

JOSEPH P. BONISLAWSKI

Signature of Architect:



Date:

04.17.2020

Print Name:

Roman Bonislawski

Office Use Only

Application #:

Date Received:

Fee:

Date of Approval:

Date of Denial:

Accepted by:

61

Bistro Application Proposal - EM

Please consider our application for a new Bistro License for 470 N.Old Woodward. With a bit of a story.

For over 6 years our restaurant Market North End has worked to provide quality, value and enjoyable guest experiences. We believe that our approach to the restaurant has succeeded in delivering a positive dining option in our town. We fit a niche, we meld with others in our area. We try to be responsive to our closest guests and meet and exceed their expectations. We love taking care of Birmingham residents.

There is no question that many long standing members of staff are the keys to those positive experiences. We are happy to say that the restaurant has developed many individuals, provided a livelihood for everyone involved. We see Market as a place that when staff commit to it...it rewards that commitment.

Twice daily our kitchen staff prepares an 'Employee Meal'. It is an opportunity for the Front of the House and the Back of House to relax and get ready for our guests that day/night. We allow the kitchen to do what they want. Anything goes. Comfort Food, Spicy Food, Indian Cuisine...we've had it. It has inspired new dishes that our guests have had, it often gets staff notes for hoping that items to be included in the regular rotation.

The real star of our meals is anything Mexican. When the guys (and girls) cook from their heart, when they share the items that are in their background, items their Mom's taught them, things that they enjoy...that's when you reach really great meals. It can really be a comforting result. There is a whole scene to this experience, keep in mind that the kitchen, has a few amenities that others may not have...in particular a very good music system. 11 current Market staff are 5+ years.

As a result of success at Market North End, and the people that have been able to develop, the expanded experience we propose would allow growth opportunity for our employees. We have a chance to create ways for senior staff to stay with our group, grow personally and professionally. It's the single most important part of repeating great guest experiences. We value that greatly. We think our guests do too. They tell us regularly.

We are proposing a complimentary option to the Market North District. Excited that the city has recognized this area as a significant region in our town...we are experiencing significant residential population growth that features remodeled single family homes, new condos, many existing apartments and some new ones to our north. The 'secret' of the North End is out: Really great guests that reward quality and value.

Introducing EM: featuring Mexican cuisine. Fresh, traditional, coastal in nature... think Al Pastor, Ceviche, Fresh Fish, Some twists, (did you know that there is a huge middle eastern influence in Mexico?) Very authentic. Our space is small in relation to most Bistros at 1000 sqft. It would feature an attractive exterior change to an older property in an evolving part of town. Visualize rustic, cozy environment. Mid priced...always a value. Expect a personal approach, to cook with 'Love of Food', cravable items that build repeat visits. Tequilas, Palomas, Margaritas. Lot's of Cervezas, friendly faces, and a quality of experience that has been missing in our area. Inspired by seaside Mexican villages; they all specialize in something. We will too.

Sincerely,

Kristin and Joe Bongiovanni



Kristin & Joe Bongiovanni - Owners and Operators

Market North End

474 N.Old Woodward, Birmingham MI 48009

6.5 years in business

O.W.L.

27302 Woodward Ave Royal Oak Mi 48067

4 years in business

Both of us grew up in the business, over 30 years working in the service industry.

Location is at 470 N.Old Woodward

Hours of Operation 12noon-12a Daily

We would hope to open as soon as safely allowed.

We are using personal funds for this project.

Kristin & Joe Bongiovanni - Owners and Operators

Market North End

474 N.Old Woodward, Birmingham MI 48009

6.5 years in business

O.W.L.

27302 Woodward Ave Royal Oak Mi 48067

4 years in business

Both of us grew up in the business, over 30 years working in the hospitality industry.

Location is at 470 N.Old Woodward

Hours of Operation 11a-1a Daily Outdoor Dining till 12a

We would hope to open as soon as safely allowed.

We are using personal funds for this project.

The Menu:

Raw Bar

Ceviche (Fresh Fish, Scallops, Shrimp)

Agua Chiles (Shrimps in Salsa)

Oysters

Grill

Pollo Carbone

Grilled Shrimp Macha

Carne al Pastore (Pork, Chicken, Beef)

Tacos al Mexicana

Torta Shawarma (Tacos Arabes)

Specialties

Albondingas (Meatball Stew)

Enchiladas

Whole Fish del Dia

Pozole

RE: EM Bistro Application

1 message

Darrell Dinges <darrell@ronandroman.com>
To: Jana Ecker <jecker@bhamgov.org>

Wed, Oct 28, 2020 at 1:22 PM

Jana,

To respond to the final open question (VLT for new façade glazing), we determined that the relocation of the door is such that we can simply re-use the existing glass. Therefore no new glass will be required.

Thank you,

Darrell J. Dinges, LEED AP

R O N A N D R O M A N, architects et al.

[275 East Frank Street](#)

[Birmingham, MI 48009](#)

248.723.5790

From: Darrell Dinges [<mailto:darrell@ronandroman.com>]**Sent:** Friday, October 23, 2020 6:32 PM**To:** Jana Ecker (jecker@bhamgov.org)**Subject:** RE: EM Bistro Application

Jana,

Please see responses in **red** below.

Any idea if the public meetings issue has been resolved?

Thank you,

Darrell J. Dinges, LEED AP

R O N A N D R O M A N, architects et al.

[275 East Frank Street](#)

[Birmingham, MI 48009](#)

248.723.5790

From: Jana Ecker [mailto:Jecker@bhamgov.org]
Sent: Thursday, October 22, 2020 3:20 PM
To: Darrell Dinges
Subject: EM Bistro Application

Darrell,

I have several questions/comments on the EM submittal:

1. Application states 18 new lights under canopy. I do not see those marked on the plans and I do not see any spec sheets for the fixtures nor the required photometric plan;

Sorry for the confusion, we changed the lighting on the Façade Improvement and thought I'd picked up everywhere that we are simply keeping four (4) existing fixtures, and removing a group of eight (8) in the soffit above (as called out on the renderings on revised sheet A202).

2. Please send over the VLT specs on the first floor glazing;

Will send Monday.

3. Please send over the square footage of EM (inside only) and a sample menu of food choices and a description of the proposed ambiance (is it the same as proposed this past spring?);

Square footage of EM inside is 965 sf. Menu and Ambiance – forthcoming from Joe.

4. Please send over a roof plan with mechanical equipment;

Please see attached sheet A102 Roof Plan with New Equipment and Screenwall annotated.

5. Please mark trash receptacles in the outdoor dining areas or note if they are included in the "service" boxes; and

Yes, the boxes marked as Service include trash receptacles.

6. Please have Joe B. sign the bistro contract and send it back to me.

Will do.

Thank you. As always, feel free to contact me if you have any questions.

Jana L. Ecker

Planning Director

City of Birmingham

248-530-1841

Important Note to Residents

Let's connect! Join the Citywide Email System to receive important City updates and critical information specific to your neighborhood at www.bhamgov.org/citywideemail.

CONTRACT FOR A PRINCIPAL SHOPPING DISTRICT LIQUOR LICENSE
(BISTRO)

This Contract is entered into this 27 day of October 2020 by and between Kristin Bonniwell whose address is 470 N. Old Woodward (Licensee) and the **CITY OF BIRMINGHAM**, a Michigan Municipal Corporation, whose address is 151 Martin Street, Birmingham, Michigan 48012 (City).

RECITALS:

WHEREAS, Licensee wishes to obtain a liquor license pursuant to MCLA 436.1521a(1)(b); and

WHEREAS, local legislative approval is required by the **CITY OF BIRMINGHAM** for the issuance of a liquor license pursuant to MCLA §436.152a(1)(b) of the Michigan Liquor Control Code of 1998; and

WHEREAS, Licensee desires to enter into this Contract as an inducement to the **CITY OF BIRMINGHAM** to approve the request of the aforementioned issuance of the liquor license; and,

WHEREAS, the **CITY OF BIRMINGHAM** is relying upon this Contract in giving its approval to the issuance of the on-premises licenses as described herein.

NOW, THEREFORE, the parties agree as follows:

1. Licensee shall be permitted to obtain a liquor license for use solely at the Property. Any transfer of the aforementioned license from the Property to any other location in the **CITY OF BIRMINGHAM** shall require the approval of the Birmingham City Commission in accordance with Section 10-83. In addition, any expansion of the building location at the Property shall also require the approval of the Birmingham City Commission.
2. Licensee does hereby agree that it shall establish a bistro, as defined in Birmingham City Code Chapter 126, Zoning, Article 9, section 9.02, at the Property within 18 months from the date of Special Land Use Permit approval granted by the Birmingham City Commission. Licensee agrees that the bistro must be open and fully operational within this time period, or approval of the Special Land Use Permit will automatically be revoked by the City.
3. Licensee further acknowledges that it must secure a special land use permit for a bistro as required by the Birmingham City Code. It is further agreed that it shall comply with all provisions of the special land use permit, or any amendments thereto, as a condition of this contract. Licensee further acknowledges and agrees that a violation of any provision of the special land use permit or the Michigan Liquor Control Code is a violation of the terms of the contract entitling the City to exercise any or all of the remedies provided herein.
4. Licensee acknowledges that no modifications to the site plan, floor plan, elevations or operation of the bistro may be made unless approved by the City Commission through a Special Land Use Permit Amendment as required in the Zoning Ordinance. Modifications include, but are not limited to, name changes, ownership changes, remodeling, changes in the number of interior or exterior seats, the use of eisenglass and other enclosure materials on any outdoor dining area, relocation or addition of bar, etc.
5. Licensee acknowledges that it shall have a duty of continuing compliance with regards to off-street parking as required in the Zoning Ordinance, and further agrees to resolve any future parking issues that may arise, including but not limited to parking overflow and encroachment into residential areas or public parking facilities, to the satisfaction of the City or the Special Land Use Permit may be cancelled by the City Commission.
6. License further acknowledges that outdoor dining is seasonally permitted from April 1st through November 15th only, with a valid Outdoor Dining Permit. The use of an enclosure system(s) does not allow the outdoor dining season to be extended.

is further agreed that there shall be no change, modification, or alteration hereof, except in writing, signed by both of the parties hereto. Neither party shall assign any of the rights under this contract without prior approval, in writing, of the other. Any attempt at assignment without prior written consent shall be void and of no effect.

IN WITNESS WHEREOF, the parties hereby have executed this Contract as of the date set forth above.

By: _____

Its: _____

Date: _____

CITY OF BIRMINGHAM

By: _____

Pierre Boutros, Mayor

Date: _____

By: _____

Alexandra Bingham, City Clerk Designee

Date: _____

**DESIGN REVIEW BOARD
MINUTES OF JULY 1, 2020**

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, July 1, 2020. Chairman John Henke called the meeting to order at 7:36 p.m.

1) ROLLCALL

Present: Chairman John Henke; Vice-Chairman Keith Deyer; Board Members Gigi Debbrecht, Natalia Dukas, Michael Willoughby

Absent: Board Members Patricia Lang, Joseph Mercurio; Alternate Board Member Alexander Jerome

Administration: Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

Chairman Henke thanked everyone for joining the virtual meeting and reviewed protocol for virtual meetings.

07-43-20

2) Approval Of Minutes

Motion by Mr. Willoughby

Seconded by Ms. Dukas to approve the DRB Minutes of June 3, 2020 as submitted.

Motion carried, 5-0.

VOICE VOTE

Yeas: Willoughby, Dukas, Debbrecht, Deyer, Henke

Nays: None

07-44-20

3) Public Hearing

None.

07-45-20

4) Design Review

A. 470 N. Old Woodward – Facade Update

City Planner Dupuis reviewed the item. Roman Bonislawski and Joseph Bongiovanni were present on behalf of the application.

Mr. Deyer asked why it was being called a pergola rather than an awning. He opined that the suspension wires coming down from the top were essentially a design element. He also voiced concern that the pergola may not be able to withstand inclement weather given the way it would lay.

Mr. Bonislowski said the ties that hold up the canopy structure were intended as a design component. He said that there are scalloped pieces that would go into the pergola that would drain during inclement weather onto the sidewalk. Mr. Bonislowski confirmed that the pergola was designed with to meet the loading requirements. He expressed confidence in both the aesthetics and engineering of the design.

Mr. Willoughby said he liked the design.

Ms. Debbrecht said she also liked the design.

Ms. Dukas said she agreed with Mr. Deyer that the design seemed to be more of an awning than a pergola. She said she had concerns about the longevity of the scallop design in terms of maintenance.

Chairman Henke told the Board that an approval of these designs would require the building owner to maintain the pergola.

Mr. Willoughby noted that two aspects of the design would protect the pergola from rapid deterioration: that the pergola was designed to drain water onto the sidewalk, and that the upper roof area of the building actually would protect the pergola from inclement weather. He said he was fully supportive of the application.

Motion by Mr. Willoughby

Seconded by Ms. Debbrecht to approve the Design Review application for 470 N. Old Woodward with the following conditions:

1. The Design Review Board approves the suspended steel pergola to project into the right-of-way.

Motion carried, 5-0.

VOICE VOTE

Yeas: Willoughby, Debbrecht, Dukas, Deyer, Henke

Nays: None

B. 1740 W. Maple – Holiday Market Select – Façade Renovations

City Planner Dupuis presented the item. Jason Krieger was present on behalf of the application.

In reply to Mr. Willoughby, Mr. Krieger said the roof could be painted black to draw less attention to it.

**REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, OCTOBER 28, 2020**

G. Special Land Use Permit (SLUP) and Final Site Plan and Design Review

1. 470 N. Old Woodward, EM Bistro (Former Red Salon) – Request for a Special Land Use Permit to consider approval of a new bistro EM (Employee Meal).

PD Ecker reviewed the item.

Chairman Clein asked why the Planning Board was being asked to perform this review when the exterior changes were already approved by the Design Review Board (DRB).

She explained that since applicant knew they had to change the facade and install ductwork before they had decided on an interior use, they sought approval from the DRB first for those changes. When the applicant subsequently decided to pursue a bistro use for the interior, the need for the present SLUP and final site plan and design review by the Planning Board resulted.

Chairman Clein stated he was not implying that there was anything untoward about the process, only commenting that it was unusual.

In reply to Mr. Williams, PD Ecker said EM Bistro would pay a rental fee for any public property leased from the City, would have to enter into a license agreement with the City, would have to receive an outdoor dining permit, and would pay for the value of the parking space used in front of their building. Those conditions would be part of the signed contract with the City.

Darrell Dinges, architect for the project, said the rails that extend into the parking space would be removed when the Trex deck in the parking space is removed at the end of the outdoor dining season.

Mr. Boyle expressed concern that the four lavatory stalls would not be sufficient for the combined seating capacities of EM Bistro and Market North which could total up to 219 people indoors and out.

Mr. Dinges confirmed that the seating-lavatory ratio meets the requirements of the Building Code.

PD Ecker confirmed for Mr. Share that the Building Department would review the height and solidity of the outdoor dining railings to make sure they meet all requirements. She confirmed that it would be the Planning Board's province to approve or disapprove of the aesthetics of said railings.

In reply to Chairman Clein, PD Ecker confirmed that if the Planning Board recommended the railings for aesthetic approval this evening, and the Building Department then disapproved of the sturdiness or height of the railings, then the applicant would have to submit revisions of their plans for the railings.

Chairman Clein noted the Planning Board could possibly permit those changes to be administratively approved if it came to that.

Mr. Williams shared concern that the rails in the parking space were too close to the adjacent parking space and could cause damage to vehicles. He said it should be set back and that perhaps another juniper could be placed there instead.

Mr. Dinges talked the Board through the style of the proposed bistro chairs and table bases, a sample of the wooden table top, and the design of the bench that would run along the window of the interior of the restaurant. The bench will be custom built from stained wood that will match the stained wood of the tables.

Joe Bongiovanni, co-owner, thanked the Board for reviewing the project. He reviewed the letter he and his wife Kristin submitted as part of the bistro application proposal, which can be found in this meeting's agenda packet. He acknowledged the impact Covid-19 is having on the restaurant business, and stated he was aware that takeout food quality and service would be more important to many customers for the next number of months than ambiance would.

In reply to Board comments, Mr. Bongiovanni said:

- There were some options available to ensure adequate lavatory space including possible upstairs lavatories.
- EM Bistro would be using its own kitchen facilities and not those of Market North End.
- The railing in the parking space could be adjusted so as to minimize potential conflict with adjacent vehicles.

Seeing no further Board discussion, Chairman Clein invited public comment.

Susan Hall said she lives behind Market North End, and listed the following concerns:

- The speed of traffic in the neighborhood, which could be increased by increased traffic to EM Bistro.
- Potential traffic congestion in the neighborhood late at night stemming from the bistro, particularly on weekend evenings.
- Rodent problems in the neighborhood which may be stemming partially from the operation of restaurants nearby.

Ms. Hall stated she enjoys the Bongiovannis' restaurants in general, but wanted to know what could be done either by the City or the owners to address her concerns.

PD Ecker said at this time the City has no plans to change the traffic patterns through the adjoining little San Francisco neighborhood or to introduce traffic calming measures. She encouraged Ms. Hall to contact the Birmingham Police to report her concerns. PD Ecker said the Police Department would then look into possible increased enforcement or other potential safety measures, including possible multi-modal improvements.

Chairman Clein asked Mr. Bongiovanni if there was anything more he could do as the operator to assuage Ms. Hall's concerns.

Mr. Bongiovanni said he has the most influence over the behavior of the restaurant's vendors and suppliers, and that they work to make sure those individuals travel through the neighborhood

safely. He stated that over the past three years Market North End has been working diligently to increase its security in terms of unruly or intoxicated guests. Mr. Bongiovanni said he has also been shocked sometimes at the vehicle speeds through the neighborhood and said he is sympathetic to the concern. Regarding rodent control, he said his businesses are very aggressive about maintaining the area around them to minimize the issue as much as possible. He noted that issues with rodents appear in neighborhoods throughout the City. As part of the efforts towards minimizing rodent issues, he stated that the dumpster outside the restaurant is emptied every day. Mr. Bongiovanni said he believes that the most important guest of any of his restaurants is the guest that lives closest. As a result, he said he prioritizes making the area around his restaurants pleasant for the neighbors, both in order to be a good neighbor and in order to do good business.

Mr. Williams agreed with PD Ecker's recommendation that residents concerned about vehicle speeds reach out to the Police Department for a further discussion.

Mr. Bloom raised concerns about potential lack of parking in the area if this bistro is approved given the other popular bistros and restaurants nearby.

Paul Reagan said he thought the Planning Board should deal with the concerns about traffic speeds, and that tasking Ms. Hall with contacting another City department was an insufficient response to her concerns. He echoed Mr. Bloom's concerns about there being sufficient parking. He also said the Board should be focusing more on the potentially insufficient lavatory space instead of on the stylistic designs of the furniture or interior.

Seeing no further public comment, the discussion was returned to the Board.

PD Ecker notified the Board that since the present meeting's agenda packet went out she has received 16 letters in support of EM Bistro and two letters against. She listed the authors as Brian Najor, Michael Brennan, Melissa Erkelani, Christina Bajaj, Claudia Dekai, Brook Shaw, Amy Gooch, Jeffrey Clarke, Tran Grider, Jeff Delaney-Lehrer, Jeff Sakwa, Craig Karamanian, Kelly Richardson, Mike Richardson, John Locker, Kevin Denha, Jason Scott, Jon Miller, and Natalie Gaeda.

Mr. Williams suggested that if there were only two letters opposed it could be helpful to hear the content of those letters.

PD Ecker read the letters in opposition to EM Bistro, written by Brian Najor and Kevin Denha. In summary, Mr. Najor stated:

- The Bongiovannis already have three bistros in the north end and that another could create a monopoly.
- The City had recently raised concerns about a different owner creating a monopoly situation with their restaurants and an application by that owner was denied as a result.
- If the application for EM Bistro is approved, the City should not cite bistro saturation in the north end as a reason for disallowing other applicants from opening bistros in that area.
- The application for EM Bistro should be denied.

In summary, Kevin Denha stated:

- He was also concerned that the Bongiovannis were creating a monopoly in the area.

- To deal with potential parking difficulties resulting from an increase in traffic to and from EM Bistro, the Bongiovannis should consider providing employee parking by renting parking spaces from businesses with their own dedicated lots.
- If the application for EM Bistro is approved, then more bistros should be allowed in the north end.

PD Ecker stated that 470 N. Old Woodward is located in the Parking Assessment District, which means the applicant is not required to provide parking.

In reply to Mr. Jeffares, PD Ecker confirmed that Mr. Najor has recently has applications for two bistros before the City Commission, one of which was moved forward and one of which was denied. The Commission said they did not want two applications moving forward at the same time from the same investor.

Mr. Jeffares said he also wanted to assure the public that issues with speeding vehicles and rodents are not unique to the little San Francisco neighborhood. He said both were an issue in his neighborhood as well. Mr. Jeffares opined it would be helpful to residents if the City were writing more speeding tickets as a deterrent.

Mr. Williams said the preceding comments indicated why the City must deal with parking as an aspect of its master planning process, and stated that it would be a mistake not to. He said it was also important that the comments about speeding vehicles be minuted, and stated that even in his neighborhood on the west side there were often vehicles traveling at excessively high speeds. He said it was important that the City Commission and Birmingham Police Department be made aware of these issues both through these minutes and through residents showing up to Commission meetings to talk about it. Mr. Williams said that the fact that residents throughout the City have concerns about speeding vehicles shows that the issue is not specific to the area around the Bongiovannis' businesses.

Mr. Bongiovanni asked to make a clarifying comment, which Chairman Clein permitted. Mr. Bongiovanni explained that he and his wife own Market North End, and Salvatore Scallopini and Luxe were owned by his father, who passed about 18 months ago. He said that there was a familial relation, but not an ownership one. Mr. Bongiovanni asked the Planning Board and the Commission to recognize that his family has worked hard to provide this area of the City three distinct restaurants that serve the neighborhood's needs. He said that the family has not marketed their restaurants as being part of one entity, and that it has been important to them to keep the establishments separate. Mr. Bongiovanni concluded by saying it has been a pleasure to serve Birmingham through Market North End thus far, and that he wants to continue to create great food and experiences with EM Bistro. He thanked the City for its support to date of the Bongiovannis' endeavors.

Mr. Boyle said he applauds the work done by the Bongiovanni family and said that the bistros it runs have met the goals Birmingham set out for the north end 14 years ago. He said he concurred with previous comments that the City must also be careful about not packing too much into that area, and should think further about mitigating the parking concerns. Mr. Boyle said the City should find better ways, for instance, to use its technology to publicize the fact that the parking decks are virtually empty in the evenings and should be utilized by restaurant-goers. Mr. Boyle

continued that adding a small, specialized bistro to the area would be appropriate providing that the City provides the area the support it needs.

Mr. Jeffares said there are some restauranteurs that operate reliably good restaurants, and that the Bongiovannis are one such group.

Motion by Mr. Boyle

Seconded by Mr. Jeffares to recommend approval of the Final Site Plan to the City Commission to permit a bistro license for EM at 470 N. Old Woodward with the condition that the following items be provided prior to the hearing at the City Commission:

- 1. A signed contract with the City that must be fully executed upon approval of the SLUP and bistro license;**
- 2. Provide the proposed hours of operation for EM Bistro;**
- 3. Submit a roof plan and specification sheets on the proposed rooftop mechanical equipment and screening;**
- 4. Clarify how they intend to manage trash, and if they intend to share the existing dumpster behind Market North End, and verify receptacles in the outdoor dining areas;**
- 5. Provide specification sheets for the proposed outdoor furniture; and,**
- 6. The applicant comply with the requests of all City departments.**

Ms. Whipple-Boyce noted that the outdoor bench will be custom built, and said that while the City could expect a drawing of the bench they would not likely get a more formal specification sheet for that item. She said she just wanted it noted in regards to condition five of the motion so there was no confusion later on.

Mr. Williams said the contract referenced in condition one should indicate that the benches and rail will be moved further away from the adjacent parking space on the street.

Mr. Share noted that many of the concerns raised by the residents during public comment are problems that come with success. He concurred that the City needs to work on managing those issues. He encouraged business owners and restauranteurs to cooperate with the City to see what options may exist for further mitigation of those concerns. He said it would have been better if the applicant had more specific ideas regarding how they would endeavor to reduce those issues for the neighbors. Mr. Share said he was ultimately supportive of the project because the City wants to keep that area of town vibrant, because it is a good project, and because its modest size will not add too much to the area.

Replying to previous concerns raised by Mr. Boyle and Mr. Reagan, Mr. Dinges commented that the four lavatory stalls accommodate 300 people according to the Building Code.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Boyle, Jeffares, Koseck, Williams, Share, Whipple-Boyce, Clein

Nays: None

Motion by Mr. Jeffares

Seconded by Mr. Share to recommend approval of the SLUP to the City Commission to permit a bistro license for EM at 470 N. Old Woodward with the condition that the following items be provided prior to the hearing at the City Commission:

- 1. A signed contract with the City that must be fully executed upon approval of the SLUP and bistro license;**
- 2. Provide the proposed hours of operation for EM Bistro;**
- 3. Submit a roof plan and specification sheets on the proposed rooftop mechanical equipment and screening;**
- 4. Clarify how they intend to manage trash, and if they intend to share the existing dumpster behind Market North End, and verify receptacles in the outdoor dining areas;**
- 5. Provide full lighting details for any proposed exterior lighting;**
- 6. Provide specification sheets for the proposed outdoor furniture; and,**
- 7. The applicant comply with the requests of all City departments.**

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Jeffares, Share, Williams, Whipple-Boyce, Boyle, Koseck, Clein

Nays: None

Chairman Clein told Mr. Bongiovanni to take the comments from the residents to heart.

Mr. Bongiovanni assured the Planning Board that he would. He shared his gratitude for City staff's work on this item and for the Board's and residents' support.

October 23, 2020

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

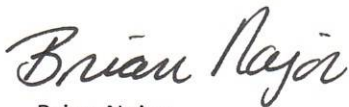
Dear Jana,

I am writing to express my concern regarding the proposed Special Land Use Permit and Final Site Plan & Design Review for a new Bistro at 470 N. Old Woodward, Birmingham. The owners already have Three (3) Bistros in the North End of Birmingham and this seems to be creating a monopoly. In the not too distant past concern has been raised by the Planning Commission about owners creating a monopoly situation, and the applicants were denied. It is my view that the Planning Board should not approve this application, nor should it have been forwarded to the planning commission for consideration.

Furthermore, if the planning commission decides to approve, then additional Bistro's on the North End of town should not be prejudiced against as having "too many" Bistros in this market. In fact, there should be a condition that other Bistros be allowed to open. I respectfully request your and the Planning Board's response to be to decline the plans for this Bistro.

Thank you for your consideration.

Sincerely,



Brian Najor
Maplewood Office Park - 600 N. Old Woodward
344 Building - 344 N. Old Woodward

Market North End

1 message

Michael Brennan <mbrennanconsulting@gmail.com>

Wed, Oct 28, 2020 at 12:17 PM

To: jecker@bhamgov.org

Hi Jana

My name is Mike Brennan and I reside at 1003 N Old Woodward.

I am writing to express my support for the initiative that the owners of the Market North End Restaurant are proposing in the space next to their restaurant.

Thank you

Mike

(no subject)

1 message

Alisa Ercolani <alisaercolani@gmail.com>

Wed, Oct 28, 2020 at 10:19 AM

To: Jana Ecker <Jecker@bhamgov.org>

Good morning Jana. My name is Alisa Locker. I reside at [570 Aspen Road](#) in Birmingham. The reason for this email is to express my opinion as a Birmingham resident for 20 years. I love Market North End. I feel the owners have done an incredible job with the menu and vibe, promoting business in that area and offering something other than a steakhouse. I 100% fully support a new restaurant opening at 470 North Woodward. I feel the North End of Birmingham needs an additional unique, neighborhood feel restaurant to keep our community connected.

Sincerely,
Alisa Locker

Cell # 248 765 5622



Jana Ecker <jecker@bhamgov.org>

Market North End Restautant

1 message

Christina Bajaj <cbajaj19@aol.com>

Wed, Oct 28, 2020 at 1:05 PM

To: jecker@bhamgov.org

Hello Jana

My name is Christine Bajaj, and I live at 1003 North old Woodward ave, and I am in favor of the proposal by Market North End restaurant owners.

Best Regards

Christine Bajaj

Sent from my iPhone



Jana Ecker <jecker@bhamgov.org>

(no subject)

1 message

Claudia Dekhi <claudiadekhi@gmail.com>

Tue, Oct 27, 2020 at 4:14 PM

To: Jana Ecker <Jecker@bhamgov.org>

Hi Jana,

My name is Claudia Dekhi & I live in Birmingham in close proximity to Market North End. I'm happy to hear about the new restaurant opening nearby at [470 N Old Woodward](#). I think the owners are great people & do an amazing job. Looking forward to seeing their new venture.

Best Regards,

Claudia Dekhi

--

Claudia Dekhi

470 N Old woodward.

1 message

Brooke Shaw <brookeeshaw@hotmail.com>
To: "jecker@bhamgov.org" <jecker@bhamgov.org>

Tue, Oct 27, 2020 at 12:07 PM

Good afternoon,

Hi I wanted to reach out as a resident at 1279 Washington Blvd 48009. We lived at 2316 Windemere prior to building on Washington. Love this city and wanted to be closer to restaurants that we can walk to so we moved closer to town. My son rode his bike to see Santa last year!! I would love to see more restaurants towards the north side of town. We enjoy the north side of town walking to the restaurants with our 3 kids. I'm a small business owner myself and love to see cities have success with pro business efforts. If you would like to talk further my cell is below.

Best,

Brooke Geisz
Owner
Goldfish Swim School - Carrollton

4240 International Pkwy Suite 130, Carrollton, TX 75007
O: 972-440-3003 | C: 248-840-9050
www.goldfishswimschool.com | [Like US on Facebook!](#)

Goldfish Swim School-Carrollton is an independently owned and operated franchise.

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Bongioanni Restuarant Opening

1 message

Amy Gooch <akgooch@gmail.com>

Tue, Oct 27, 2020 at 3:47 PM

To: jecker@bhamgov.org

Hello Jenna,

I am a Birmingham resident who enjoys frequenting local restaurants and shopping downtown. I would like to express our excitement for the new restaurant Joe and Kristin Bongiovanni are planning to open next to Market. In difficult economic times it is great news to see an owner investing in our community and bringing a Mexican food option to Birmingham.

Thank you,

Amy Gooch
911 Brookwood St
Birmingham, MI 48009



Jana Ecker <jecker@bhamgov.org>

Market North End

1 message

Jeffrey M Clarke <clarkejm@torchlake.com>

Tue, Oct 27, 2020 at 5:03 PM

To: Jecker@bhamgov.org

Ms Ecker, I am writing in support of the proposal by the owners of Market North End for a “new concept” in the adjoining retail space. As nearby residents in the Little San Francisco neighborhood, we are frequent and enthusiastic supporters of our nearby restaurants and will welcome a new addition.

Jeffrey M Clarke
263 Ravine Road
Birmingham MI 48009
248-723-5991

New Restaurant at 470 North Old Woodward

1 message

Trang Grider <tmle88@gmail.com>

To: jecker@bhamgov.org

Tue, Oct 27, 2020 at 1:31 PM

Hello Ms. Jana Ecker,

I would like to express my excitement for a new Mexican restaurant coming to Birmingham. I think there should be a greater variety of cuisines in the city so we, as Birmingham residents, do not have to travel far to enjoy. Plus, it's always great to support restaurants and establishments in the city we live in.

Thank you,
Trang Grider

New restaurant in Birmingham near my house

1 message

Jeff DeLamielleure <delajd@sbcglobal.net>
To: "jecker@bhamgov.org" <jecker@bhamgov.org>
Cc: Carol Delamielleure <carolsdela@gmail.com>

Tue, Oct 27, 2020 at 4:47 PM

Ms. Ecker:

Hello. My wife and I are writing to express our support for the new restaurant being proposed on Old Woodward next to Market North. We live right at the corner of Brookside and Ravine. We really appreciate having restaurants in walking distance of our house, and we have never had any negative incidents related to the restaurants in our area. Also we recognize and appreciate the jobs and tax revenue that a new business would bring to the city. We are all for another restaurant in the neighborhood. We hope you will approve the request.

Sincerely,

Jeff and Carol DeLamielleure
532 Brookside
Birmingham



Jana Ecker <jecker@bhamgov.org>

New Restaurant

1 message

Jeff Sakwa <jsakwa@noblerealty.com>
To: "Jecker@bhamgov.org" <Jecker@bhamgov.org>

Tue, Oct 27, 2020 at 3:47 PM

My name is Jeff Sakwa and I live in the Dakota 280 Harmon #290 and I am full support of the venture next to market. Their food and service at current locations is excellent and having a bigger variety will be a nice addition for all of us who live downtown.

Sent from my iPhone



Restaurant - 470 North Old Woodward

1 message

Karamanian, Craig <ckaraman@haartz.com>
To: "jecker@bhamgov.org" <jecker@bhamgov.org>

Tue, Oct 27, 2020 at 12:50 PM

Good afternoon

The purpose of this correspondence is to show support for the planned (new) restaurant at [470 North Old Woodward](#). As a long time Birmingham resident, my family has enjoyed the benefits restaurants bring to our beautiful city – togetherness, a time to talk without distractions, laughter and of course excellent food!

We've enjoyed Market and the North end restaurants for years and hope more opportunities arise for this area. Please consider this note as ABSOLUTE SUPPORT for this restaurant and future establishments in this area.

Best regards,

Craig and Gina Karamanian

[972 Pleasant Street](#)

[Birmingham, MI 48009](#)

(248) 535-3939

Support FOR 470 North Old Woodward

1 message

Richardson, Kelli <kelli.richardson@atos.net>

Tue, Oct 27, 2020 at 1:22 PM

To: "jecker@bhamgov.org" <jecker@bhamgov.org>

Hello Joe,

I have been a Birmingham resident for almost 20 years. I currently own two properties—
2287 Windemere and [181 Westchester Way](#). I am compelled to write and ask for your consideration.

I write in support of the new restaurant being requested for approval tomorrow at the site of 470 North Woodward.
We love Market, the owners of Market and the commitment they have made to Birmingham, and the gap this new (excellent) restaurant
would fill on the north side of town!!

I certainly hope that you and the board agree and approve their request tomorrow!

All my best,

Kelli Richardson

Kelli Richardson

Birmingham Resident and advocate for growth

M: +1 (248) 385-761-5420

[181 Westchester Way, Birmingham, MI 48009](#)

Support for 470 Old Woodward

1 message

Mike Richardson <mtr17is@yahoo.com>

Tue, Oct 27, 2020 at 1:09 PM

To: "jecker@bhamgov.org" <jecker@bhamgov.org>

Good Afternoon,

Everyone loves Market!

I lived on Windemere in Pembroke Park for 17 years before moving to Westchester Way 3 years ago. My wife and I love Birmingham and specifically the restraints in town. I understand the owners of Market North End are trying to open a restraint at [470 Old Woodward](#)? Where do we sign up? My family and friends could not be more excited!!!

Everyone loves Market!

Look no further than Market as THE Birmingham restaraunt experience for both "locals" and "not so locals. This is no exaggeration. People come to Birmingham because of Market. The people of Birmingham need to back this "restaurant group" as they help improve the north side of town, continually elevating Birmingham in terms of restaurants and night life experience, Have a great day!

Thanks,

Mike Richardson
248-495-2145

[181 Westchester Way](#)
[Birmingham, MI 48009](#)

470 North Old Woodward Restaurant

1 message

John Locker <john@jlmedicalsolutions.com>

Wed, Oct 28, 2020 at 1:25 PM

To: "jecker@bhamgov.org" <jecker@bhamgov.org>

Jana,

My name is John Locker and I live at 570 Aspen Road in Birmingham. My family and I have lived in Birmingham for over 20 years. We fully support the need for more restaurants at the North End of Birmingham. The group that owns the Market have brought a wonderful dining experience to our city. This is a unique dining place for families to dine as well as adults to gather with friends. This project has our full support.

John Locker
570 Aspen Road
Birmingham, MI
48009
248 563-3030

Sent from my iPhone



October 22, 2020

CITY OF BIRMINGHAM
ATTN: JANA ECKER
151 MARTIN ST
BIRMINGHAM, MI. 48009

RE: BISTRO PROPOSAL 470/740 N. OLD WOODWARD/FORMER RED SALON

Dear Mrs. Ecker,

I am writing to express that I am strongly opposed to this new Bistro. I am the owner of two properties that are very close to the proposed new Bistro. 574 N. Old Woodward and 700 N. Old Woodward. The Ownership Group for this application already owns 3 Bistros in this area and seems to be creating a monopoly.

Moreover, there are no Parking Passes at all for existing or potential tenants in my buildings as well as other office/commercial property owners. How can I lease space out with no parking passes to offer new potential tenants as well as existing tenants

Has the applicant researched or tried to possibly look at leasing parking spaces for their employees with office building owners in the area that have their own dedicated parking lots? There are many in the immediate area on Woodward Ave.

Furthermore, if this application is approved, then more Bistros should be allowed in the North End of town as well

Thank you for your consideration,

Sincerely,

A handwritten signature in blue ink, appearing to be 'Kevin Denha'. Below the signature, the name 'Kevin Denha' is printed in a black, sans-serif font.

Kevin Denha



Jana Ecker <jecker@bhamgov.org>

470 N.Old Woodward

1 message

Jason Scott <jmaascott@comcast.net>

Tue, Oct 27, 2020 at 8:01 PM

To: jecker@bhamgov.org

Hello Janet Ecker/Birmingham planning board- I would like to voice my support for a new restaurant opening on the north end of Birmingham. I'm a Quarton Lake resident that frequents the restaurants that the petitioners are currently operating and welcome a new addition to our neighborhood.

MARLO SCOTT
JASON SCOTT
1030 Lakeside Dr.

scottqualityhomes

248-343-2962

470 North Old Woodward

1 message

Natalie Gaida <natalie.gaida@gmail.com>

Tue, Oct 27, 2020 at 8:55 PM

To: jecker@bhamgov.org

Dear Ms. Ecker,

I am writing on behalf of the proposed restaurant at 470 North Old Woodward. My husband and I, both long time residents of Birmingham feel that the restaurant is vital to the development and diversity of the north end of Birmingham. Market, owned by the same restaurant group, has introduced a more casual dining vibe that the city has so desperately needed. I understand that the project at 470 will also operate in the same realm. Good food, good service, and good atmosphere! My family, along with our other Birmingham friends and neighbors, are excited about a new restaurant in the north end of town!

Sincerely,

Natalie and Brad Gilling

2107 windemere
Birmingham, MI 48009

Sent from my iPhone

Support for Bistro at 470 N. Old Woodward

1 message

John Miller <jnmillerstudio@gmail.com>

Mon, Oct 26, 2020 at 11:30 AM

To: jecker@bhamgov.org

Jana Eckker
Planning Director,

I would like to express my enthusiastic support for the proposed Bistro at [470 Old North Woodward](#). I live within 300ft of the proposed site and feel that this is a perfect location for this type of establishment and will be an exciting addition to our neighborhood!
Being next to 'Market' and with the extra setback for outdoor dining in front, this building will be perfectly suited for the proposed use.
Our urban/residential area has a wonderful close-in-town vibe to it, and this will enhance both the value and ambience of the our Ravines neighborhood.
Being so close to hustle and bustle of city restaurants and commercial activity has always been a strength of our neighborhood.

John N. Miller
544 Brookside Ave.
Birmingham



MEMORANDUM

Police Department

DATE: October 30, 2020

TO: Joseph A. Valentine, City Manager

FROM: Scott Grewe, Operations Commander

SUBJECT: Parking Garage Restriping

INTRODUCTION:

At the June 12, 2019 meeting of the Advisory Parking Committee (APC), a recommendation was made to proceed with a parking structure restriping project. At the July 8, 2019 City Commission meeting, the Commission, as part of the Consent Agenda, approved the recommendation to restripe the Park, Peabody, Chester and Pierce structures.

BACKGROUND:

At the time of this review, the North Old Woodward structure was not part of the bidding as the N.O.W. Project was still in process. The attached memo dated July 8, 2019, written by former Assistant City Manager Gunter, provided three contractors that submitted bids in which Accurate Parking Lot Services was selected.

After approval by the City Commission, this project was put on hold due to an American with Disabilities Act (ADA) lawsuit the City was engaged in. To date, this work has not been completed. The City has since entered into a Consent Decree regarding the lawsuit and updates are underway.

The Police Department conducted a thorough review of all ADA parking spaces within the City's parking structures and surface lots have been reviewed and proposed compliance design updates. Contact has been made with Accurate Parking Lot Services regarding their bid proposal and a meeting was held to review the proposed changes to the ADA spaces. They have submitted an updated quote which includes upgrades to the ADA parking locations. The previous quote for the four structures was \$10,781.85. Their new quote, that includes changes required with the ADA spaces, increased the total by \$4,113.15 for a total of \$14,895.00. With the addition of the North Old Woodward structure (\$3,438.80) the new total to restripe all five parking structures is \$18,333.80.

LEGAL REVIEW:

Staff reviewed the proposed ADA updates with the City Attorney who approved the changes.

FISCAL IMPACT:

The fees would be paid by the Automobile Parking system fund for public improvements for each structure for a total of \$18,333.80.

SUMMARY:

The proposed work that was approved by the City Commission in July of 2019 was put on hold due to a pending lawsuit. Now that a Consent Decree has been agreed upon, the City can now move forward with restriping the parking structures and upgrades to the ADA parking locations to ensure they're compliant with ADA standards.

Accurate Parking Lot Services, who was the chosen contractor, has updated their quotes to include the required ADA changes.

ATTACHMENTS:

1. Accurate Parking Lot Services quote for each structure.
2. July 8, 2019 Memo to the Commission selecting Accurate Parking Lot Services.

SUGGESTED RESOLUTION:

To authorize the expenditure of \$18,333.80 to restripe all five parking structures using Accurate Parking Lot Services to complete the work to be paid by the Automobile Parking System.

ACCURATE PARKING LOT SERVICES, INC.
7091 WINDING BROOK COURT
WEST BLOOMFIELD, MI 48322
office (248) 626-0071 fax (248) 626-0075

Customer Name

Job Location

City of Birmingham Engineering
C/O SP PLUS
P.O. Box 3001
Birmingham, MI 48012
Attn: Ms. Sarah Burton

City of Birmingham
Chester Parking Deck
180 Chester Street
Birmingham, MI 48009
at Martin Street

QUOTE

| DATE | COMPLETION DATE | P.O. # | TERMS |
|---|--|--------|-------------------|
| 10-29-20 | Fall, 2020 | | 15 Days Net |
| <p align="center">WE WILL PROVIDE ALL LABOR, EQUIPMENT AND MATERIALS TO COMPLETE THE FOLLOWING WORK</p> | | | |
| <u>Quantity</u> | <u>Description</u> | | <u>Amount</u> |
| <p align="center"><u>RESTRIPE THE ENTIRE DECK</u> <u>EXCLUDING ANY CURBING</u></p> | | | |
| 26 | Handicap Stalls and Logos | BLUE | \$8.25 \$214.50 |
| 15 | A.D.A. Thatched Zones | BLUE | \$8.25 \$123.75 |
| 954 feet | 4 Inch Wide Thatched Walkway Lines | BLUE | \$0.14 \$133.56 |
| 250 | Double Lined Stalls, Inc. Center Lines | WHITE | \$4.15 \$1,037.50 |
| 576 | Double Lined Stalls, Inc. Center Lines | YELLOW | \$4.15 \$2,390.40 |
| 12 | Thatched Zones | YELLOW | \$8.25 \$99.00 |
| 382 feet | 4 Inch Wide Zone Lines | WHITE | \$0.14 \$53.48 |
| 415 feet | 4 Inch Wide Zone Lines | YELLOW | \$0.14 \$58.10 |
| 8 | Regular Directional Arrows | YELLOW | \$8.25 \$66.00 |
| 42 | Large Directional Arrows | YELLOW | \$16.50 \$693.00 |
| | | | \$4,869.29 |
| Additional Compliance Work per Site Visit | | | \$975.00 |
| | | | \$5,844.29 |
| <p align="center">THANK YOU-- JASON GOLD</p> | | | |
| <p align="center"><i>We Use Only 100% Lead-Free Sherwin-Williams Premium Traffic Paints</i> <i>Fully insured. All materials state specs.</i></p> | | | |

ACCURATE PARKING LOT SERVICES, INC.
7091 WINDING BROOK COURT
WEST BLOOMFIELD, MI 48322
office (248) 626-0071 fax (248) 626-0075

Customer Name

Job Location

City of Birmingham Engineering
C/O SP PLUS
P.O. Box 3001
Birmingham, MI 48012
Attn: Ms. Sarah Burton

City of Birmingham
Pierce Parking Deck
333 Pierce Street
Birmingham, MI 48009
btw Merrill & Brown Streets

QUOTE

| DATE | COMPLETION DATE | P.O. # | TERMS |
|--|--------------------------------------|--------|-------------------|
| 10-29-20 | Fall, 2020 | | 15 Days Net |
| <p align="center">WE WILL PROVIDE ALL LABOR, EQUIPMENT AND MATERIALS TO COMPLETE THE FOLLOWING WORK</p> | | | |
| <u>Quantity</u> | <u>Description</u> | | <u>Amount</u> |
| <p align="center"><u>RESTRIPE THE ENTIRE DECK</u> <u>EXCLUDING ANY CURBING</u></p> | | | |
| 16 | Handicap Stalls and Logos | BLUE | \$8.25 \$132.00 |
| 8 | A.D.A. Thatched Zones | BLUE | \$8.25 \$66.00 |
| 301 feet | 4 Inch Wide Thatched Walkway Lines | BLUE | \$0.14 \$42.14 |
| 131 | Double Lined Stalls | WHITE | \$4.15 \$543.65 |
| 41 | Double Lined Stalls | YELLOW | \$4.15 \$170.15 |
| 134 | Single Lined Stalls | WHITE | \$2.10 \$281.40 |
| 376 | Single Lined Stalls | YELLOW | \$2.10 \$789.60 |
| 8 | Thatched Zones | WHITE | \$8.25 \$66.00 |
| 16 | Thatched Zones | YELLOW | \$8.25 \$132.00 |
| 298 feet | 4 Inch Wide Thatched Crosswalk Lines | WHITE | \$0.14 \$41.72 |
| 178 feet | 4 Inch Wide Zone and Lane Lines | WHITE | \$0.14 \$24.92 |
| 54 feet | 4 Inch Wide Zone Lines | YELLOW | \$0.14 \$7.56 |
| 10 | Regular Directional Arrows | YELLOW | \$8.25 \$82.50 |
| | | | \$2,379.64 |
| Additional Compliance Work per Site Visit | | | \$1,350.00 |
| THANK YOU-- JASON GOLD | | | \$3,729.64 |
| <p align="center"><i>We Use Only 100% Lead-Free Sherwin-Williams Premium Traffic Paints Fully insured. All materials state specs.</i></p> | | | |

ACCURATE PARKING LOT SERVICES, INC.
7091 WINDING BROOK COURT
WEST BLOOMFIELD, MI 48322
office (248) 626-0071 fax (248) 626-0075

Customer Name

Job Location

City of Birmingham Engineering
C/O SP PLUS
P.O. Box 3001
Birmingham, MI 48012
Attn: Ms. Sarah Burton

City of Birmingham
Park Parking Deck
333 Park Street
Birmingham, MI 48009
at Ferndale Avenue

QUOTE

| DATE | COMPLETION DATE | P.O. # | TERMS |
|---|---|--------|-------------------|
| 10-29-20 | Fall, 2020 | | 15 Days Net |
| <p align="center">WE WILL PROVIDE ALL LABOR, EQUIPMENT AND MATERIALS TO COMPLETE THE FOLLOWING WORK</p> | | | |
| <u>Quantity</u> | <u>Description</u> | | <u>Amount</u> |
| | <u>RESTRIPE THE ENTIRE DECK</u> | | |
| | <u>EXCLUDING ANY CURBING</u> | | |
| 20 | Handicap Stalls and Logos | BLUE | \$8.25 \$165.00 |
| 19 | A.D.A. Thatched Zones | BLUE | \$8.25 \$156.75 |
| 246 | Single Lined Stalls | WHITE | \$2.10 \$516.60 |
| 473 | Single Lined Stalls | YELLOW | \$2.10 \$993.30 |
| 17 | Regular Thatched Zones | WHITE | \$8.25 \$140.25 |
| 145 feet | 4 Inch Wide Large Thatched Zone Lines | WHITE | \$0.14 \$20.30 |
| 37 | Regular Thatched Zones | YELLOW | \$8.25 \$305.25 |
| 1 | Long Tailed Directional Arrow | YELLOW | \$21.25 \$21.25 |
| 8 | Regular Directional Arrows (6- Layout on roof) | YELLOW | \$13.50 \$108.00 |
| | | | \$2,426.70 |
| | Additional Compliance Work per Site Visit | | \$1,275.00 |
| | | | \$3,701.70 |
| | THANK YOU-- JASON GOLD | | |
| | <p align="center"><i>We Use Only 100% Lead-Free Sherwin-Williams Premium Traffic Paints</i> <i>Fully insured. All materials state specs.</i></p> | | |

ACCURATE PARKING LOT SERVICES, INC.
7091 WINDING BROOK COURT
WEST BLOOMFIELD, MI 48322
office (248) 626-0071 fax (248) 626-0075

Customer Name

Job Location

City of Birmingham Engineering
C/O SP PLUS
P.O. Box 3001
Birmingham, MI 48012
Attn: Mr. Jose Ascencio

City of Birmingham
Peabody Parking Deck
222 Peabody Street
Birmingham, MI 48009
at Brown Street

QUOTE

| DATE | COMPLETION DATE | P.O. # | TERMS |
|---|------------------------------------|--------|-------------------|
| 10-8-20 | Fall, 2020 | | 15 Days Net |
| <p align="center">WE WILL PROVIDE ALL LABOR, EQUIPMENT AND MATERIALS TO COMPLETE THE FOLLOWING WORK</p> | | | |
| <u>Quantity</u> | <u>Description</u> | | <u>Amount</u> |
| <p align="center"><u>RESTRIPE THE ENTIRE DECK</u> <u>EXCLUDING ANY CURBING</u></p> | | | |
| 8 | Handicap Stalls and Logos | BLUE | \$8.25 \$66.00 |
| 6 | A.D.A. Thatched Zones | BLUE | \$8.25 \$49.50 |
| 137 feet | 4 Inch Wide Thatched Walkway Lines | BLUE | \$0.14 \$19.18 |
| 196 | Single Lined Stalls | WHITE | \$2.10 \$411.60 |
| 235 | Single Lined Stalls | YELLOW | \$2.10 \$493.50 |
| 1 | Thatched Zone | WHITE | \$8.25 \$8.25 |
| 6 | Thatched Zones | YELLOW | \$8.25 \$49.50 |
| 208 feet | 4 Inch Wide Zone Lines | WHITE | \$0.14 \$29.12 |
| 248 feet | 4 Inch Wide Zone and Road Lines | YELLOW | \$0.14 \$34.72 |
| 4 | Regular Directional Arrows | YELLOW | \$8.25 \$33.00 |
| 20 | Long Tailed Arrows | YELLOW | \$21.25 \$425.00 |
| | | | \$1,619.37 |
| <p align="center">THANK YOU-- JASON GOLD</p> | | | |
| <p align="center"><i>We Use Only 100% Lead-Free Sherwin-Williams Premium Traffic Paints</i> <i>Fully insured. All materials state specs.</i></p> | | | |

ACCURATE PARKING LOT SERVICES, INC.
7091 WINDING BROOK COURT
WEST BLOOMFIELD, MI 48322
office (248) 626-0071 fax (248) 626-0075

Customer Name

Job Location

City of Birmingham Engineering
C/O SP PLUS
P.O. Box 3001
Birmingham, MI 48012
Attn: Ms. Sarah Burton

City of Birmingham
North Old Woodward Deck
333 North Old Woodward
Birmingham, MI 48009

QUOTE

| DATE | COMPLETION DATE | P.O. # | TERMS | |
|-----------------|--|--------|-------------|-------------------|
| 10-29-20 | Fall, 2020 | | 15 Days Net | |
| <u>Quantity</u> | WE WILL PROVIDE ALL LABOR, EQUIPMENT AND MATERIALS TO COMPLETE THE FOLLOWING WORK | | | |
| | <u>Description</u> | | | <u>Amount</u> |
| | <u>RESTRIPE THE ENTIRE DECK</u> | | | |
| | <u>EXCLUDING ANY CURBING OR PAINTED ISLANDS</u> | | | |
| 10 | Handicap Stalls and Logos | BLUE | \$8.25 | \$82.50 |
| 8 | A.D.A. Thatched Zones | BLUE | \$8.25 | \$66.00 |
| 1 | Thatched Pedestrian Crosswalk | BLUE | \$8.75 | \$8.75 |
| 105 | Double Lined Stalls | WHITE | \$4.15 | \$435.75 |
| 128 | Double Lined Stalls | YELLOW | \$4.15 | \$531.20 |
| 310 | Single Lined Stalls | YELLOW | \$2.10 | \$651.00 |
| 2 | Thatched Zones | YELLOW | \$8.25 | \$16.50 |
| 54 feet | 4 Inch Wide Zone Lines | WHITE | \$0.14 | \$7.56 |
| 346 feet | 4 Inch Wide Zone Lines | WHITE | \$0.14 | \$48.44 |
| 910 feet | 4 Inch Wide Road Dividing Lines- MOSTLY LAYOUT | YELLOW | \$0.21 | \$191.10 |
| 60 | Regular Directional Arrows- MOSTLY LAYOUT | YELLOW | \$12.50 | \$750.00 |
| | | | | \$2,788.80 |
| | Additional Compliance Work at Surface Lot and in Deck per Site Visit | | | \$650.00 |
| | Note: the Road Dividing Lines and Directional Arrows, which Have Mostly Faded Away, Are Quoted to Be Striped ON THE RAMPS ONLY | | | \$3,438.80 |
| | THANK YOU-- JASON GOLD | | | |
| | We Use Only 100% Lead-Free Sherwin-Williams Premium Traffic Paints | | | |
| | Fully insured. All materials state specs. | | | |



MEMORANDUM

Office of the City Manager

DATE: July 8, 2019

TO: Joseph A. Valentine, City Manager

FROM: Tiffany J. Gunter, Assistant City Manager

SUBJECT: Parking Garage Restriping Initiative

Introduction:

At the June 12, 2019 meeting of the Advisory Parking Committee (APC), a recommendation was made to proceed with a parking garage restriping project to increase aesthetics and enhanced visibility for users of the garage.

Background:

The ability to decipher the dividing lines for parking spaces in the parking garages has diminished significantly in recent years. As such, the APC recommends that four of the five parking decks be re-striped this summer. The restriping will increase visibility and assist motorists in parking in their respective parking spot. The North Old Woodward lot is not being recommended for restriping at this time as it is expected to be taken off line later this year.

The parking management team, SP+, received three bids to complete the proposed striping project. The following table outlines the responses received:

| Vendor | Total Bid Amount |
|-------------------------------|------------------|
| Accurate Parking Lot Services | \$10,781.85 |
| AKLEIN Company | \$10,687.00 |
| TMT Parking Lot Striping | \$12,149.00 |

The APC recommended Accurate Parking Lot Services be awarded the bid based on their availability to begin immediately upon approval and their willingness to make multiple visits to ensure all parking spots are striped given that, at times, there may be vehicles that remain in the structure despite our best efforts to clear the deck prior to the start of the work. Other bidders indicated that structures must remove vehicles from deck prior to the start of the striping process.

Legal Review:

Not applicable:

Fiscal Impact:

The fees would be paid by the Automobile Parking system full for each garage for a total of \$10,781.85.

Attachments:

Accurate Parking Lot Services Proposal

Suggested Recommendation:

To authorize the expenditure of \$10,781.85 to re-stripe the P Pierce, and Chester Street garages using Accurate Parking Lot work to be paid by the Automobile Parking System.

DATE: October 28, 2020

TO: Joseph A. Valentine, City Manager

FROM: Paul A. Wells, Fire Chief

SUBJECT: Bloomfield Township Automatic Aid Agreement

INTRODUCTION:

The Birmingham Fire Department is a member of the OAKWAY mutual aid agreement between other full-time, career fire departments in Oakland County. When needs arise for mutual aid due to fires, our incident commander will request aid through Birmingham Dispatch. With this Automatic Aid Agreement, Birmingham Dispatch will automatically contact Bloomfield Township Fire Department for mutual aid for confirmed structure fires without first contacting Birmingham Fire. This agreement will reduce response times and help with the department's ISO (Insurance Services Office) rating.

BACKGROUND:

The OAKWAY mutual aid agreement (Inter-Local agreement) was formed in the early 1980s. The OAKWAY departments consist of 11 communities; 2 of which just joined in 2019. The original 9 cities are as follows: Birmingham, Royal Oak, Southfield, Madison Heights, Ferndale, Waterford Regional (which includes Pontiac), West Bloomfield, and Bloomfield Township. Farmington Hills and Rochester Hills are OAKWAY's newest member departments. The OAKWAY departments train monthly in areas of hazardous material response, technical rescue, firefighting, and emergency medicine. Daily, the mutual aid departments assist each other in fire and medical responses.

LEGAL REVIEW:

A legal review was conducted and no legal issues exist.

FISCAL IMPACT:

N/A

SUMMARY:

This Automatic Aid Agreement will shorten the fire response times from the Bloomfield Township Fire Department to the City of Birmingham for structure fires. The Agreement will help the City maintain its ISO rating of a 3.

ATTACHMENTS:

Bloomfield Township Automatic Aid Agreement

SUGGESTED RESOLUTION:

To adopt the Bloomfield Township Automatic Aid Agreement. Further, to authorize the Mayor to sign the agreement on behalf of the City.



CITY OF BIRMINGHAM FIRE DEPARTMENT

572 SOUTH ADAMS • BIRMINGHAM, MICHIGAN 48009 • 248.530.1900 FAX 248.530.1950

Mr. John LeRoy, Fire Chief
Bloomfield Township
4200 Telegraph Road
Bloomfield Township, MI 48303-0489

Re: Letter of Understanding

Dear Chief LeRoy:

This letter is to confirm our agreement with Bloomfield Township to provide the City of Birmingham with automatic fire aid consisting of a minimum of three (3) firefighters and one (1) fire officer for all confirmed structure fires in the City of Birmingham. This agreement is in effect until either party wishes to dissolve it with ninety (90) days written notice.

We request that you execute this letter where provided below to confirm the understanding described herein.

Very truly yours,

Paul Wells, Birmingham Fire Chief

ACKNOWLEDGEMENT OF LETTER OF UNDERSTANDING

The undersigned hereby acknowledge and agree to the provisions in this letter of understanding.

CITY OF BIRMINGHAM

By: _____
Pierre Boutros, Mayor

Dated: _____

By: Paul Wells
Paul Wells, Fire Chief

Dated: 10-28-2020

BLOOMFIELD TOWNSHIP

By: Leo Savoie
Leo Savoie, Supervisor

Dated: 10/20/2020

By: John E. LeRoy
John Leroy, Fire Chief

Dated: 10-20-2020

DATE: October 30, 2020

TO: City Commission

FROM: Joseph A. Valentine, City Manager

SUBJECT: City Manager resignation acceptance, Appointment of a committee to recognize the outgoing Manager's service and appointment of an Interim Manager as needed.

INTRODUCTION:

At the City Commission meeting on October 26, 2020, the Commission discussed and with unanimous consent asked me to prepare actions for its next meeting in regard to my pending departure. These actions included accepting the resignation of the City Manager; appointing a committee of the City Commission to identify a way to recognize the outgoing City Manager for his 24 years of service; and to appoint an Interim City Manager in the event a new City Manager was not appointed prior to the current City Manager's departure.

BACKGROUND:

As you will recall, the Commission was presented with my notice of departure and an outline to advance a process to fill the City Manager position at its October 12th meeting. The Commission directed a two pronged approach to address filling the City Manager position. This included engaging in discussions with prior City Manager Tom Markus for this position and being presented with a list of professional recruitment firms. At its October 26th meeting, the Commission further directed an RFP for professional recruitment firms be provided for the Commission's review. In tandem, with the plans to replace the City Manager, there was interest in having an Interim City Manager available should the need arise if a new City Manager is not appointed prior to my departure. In my initial recommendation of October 12th, I had suggested Police Chief, Mark Clemence, as a strong candidate for Interim City Manager given his 35 years with the City and strong leadership and skillsets with collective bargaining and budget that will be especially important during the next several months. A bio on Chief Clemence is attached.

LEGAL REVIEW:

No legal review has been conducted at this time.

FISCAL IMPACT:

There are no known costs at this time.

SUMMARY:

In follow up to the discussion at the October 26th meeting, the following motions have been prepared for your consideration.

ATTACHMENTS:

- Notice of City Manager departure
- Bio of Police Chief Mark Clemence

SUGGESTED RESOLUTION:

To accept the resignation of City Manager Joe Valentine and appoint a subcommittee of the City Commission comprised of _____, _____ and _____ to recognize Mr. Valentine for his years of service to the City of Birmingham,
AND

To appoint Police Chief Mark Clemence as Interim City Manager Designee to begin a transition and serve as Interim City Manager effective January 1, 2021 if a City Manager is not appointed by this date subject to finalization of an interim wage rate through the City's labor counsel.



October 2, 2020

Honorable Mayor Boutros and City Commission
City of Birmingham
151 Martin Street
Birmingham, MI 48009

Dear Mayor Boutros and Commissioners,

As we approach 2021, I will have completed my 24th year of service to the City of Birmingham. The last couple decades of my tenure have been incredibly rewarding and it has been an honor and privilege to have served this city in multiple capacities during this time. As I look ahead to the next couple decades, I have decided to explore new opportunities and will be leaving at the end of this year. My last day will be December 31, 2020. This letter shall serve as notice pursuant to Article 2 of my employment agreement.

Over the past 6 ½ years as City Manager, I am proud of what we have accomplished. Birmingham is set on a path of continued success with fiscally responsible 3 year balanced budgeting, 6 years of decreasing the City's millage levy and strengthening the City's AAA bond rating while accomplishing some significant capital investments such as the completion of the first two phases of much needed downtown infrastructure replacements, the reconstruction of a new fire station and facilitating the completion of the first two phases of renovations to the Baldwin Public Library to note a few. These and so many other accomplishments could not have been achieved without the hard work and talents of a dedicated city staff that I have had the pleasure of leading. Our employees are the backbone of this organization and they each have my heartfelt appreciation for their contributions. Additionally, I would like to acknowledge the time and talents offered by numerous citizen volunteers serving on boards and committees that have also contributed to the goals achieved for this city. Over the span of my career, I have had the pleasure of engaging with thousands of residents, businesses and community stakeholders that all share a special passion for this community. This passion has been a staple of the success Birmingham has realized over the years.

Thank you for opportunity to serve this great community. For those I have been privileged of working with for many years, I thank you for your ongoing support and unwavering leadership and commitment to the citizens of Birmingham.

At the next Commission meeting, I will present an outline for a search process for the Commission to consider for my replacement and am happy to assist in this process any way I can.

I wish you the very best!

Respectfully,

Joseph A. Valentine

Mark H. Clemence – Chief of Police

Chief Clemence was hired in 1985 as a police officer for the City of Birmingham. He has served as a patrol officer, corporal, detective, sergeant, division commander and deputy chief. He was appointed to his current position as chief in 2016.

Chief Clemence earned a B.A. from Michigan State University and graduated Summa Cum Laude. During the course of his career, Chief Clemence has over 2,000 hours of documented training, including graduating from both the Federal Bureau of Investigation's National Academy, a highly respected program for the nation's top 1% of law enforcement leaders and the Law Enforcement Executive Leadership Institute.

Chief Clemence is well known in the law enforcement community for his investigative skills, especially in the area of interview and interrogation and major case administration. As an investigator, Chief Clemence had cases profiled on such television shows as ABC's 20/20 and Fox's Americas Most Wanted. The Chief developed, founded and then led the Major Case Assistance Team (MCAT), a nine-city consortium of police departments who work together on complex criminal cases. As an administrator, Chief Clemence has been instrumental in developing, instituting and supporting local police agencies working together to form multi-jurisdictional teams to enhance areas of specialization in investigations, surveillance, narcotics enforcement and accident investigation. In February of 2016, Chief Clemence was a presenter at the Michigan Association of Chiefs of Police statewide conference to promote local police agency cooperation in forming multijurisdictional teams. Chief Clemence also serves on the Oakland Community College Police Academy Advisory Board and has served as the keynote speaker at an Oakland Police Academy graduation ceremony.

Since taking over in 2016, the Chief has made community engagement a priority, streamlined operations to a 12- hour shift format to reduce costs and increase staffing levels on duty, increased investigative specialization and has undertaken the task of having the police department become an accredited agency under the Michigan Association of Chiefs of Police Accreditation program.

DATE: November 4, 2020

TO: City Commission

FROM: Joseph A. Valentine, City Manager

SUBJECT: RFP for Professional Recruitment Services

INTRODUCTION:

At the City Commission meeting on October 26, 2020, the Commission adopted a resolution directing the administration to prepare a Request for Proposals (RFP) to locate an executive recruitment firm for the position of City Manager.

The follow RFP has been prepared for review by the City Commission and incorporates a scope of work that is common in most municipal search services. Some dates were omitted from this draft RFP and will be added if direction is given to proceed with issuing the RFP. With the tentative appointment of Chief Clemence as Interim City Manager, Chief Clemence has been identified as the staff contact for submittals for the RFP.

LEGAL REVIEW:

The RFP has been reviewed by legal counsel and found to meet legal requirements.

FISCAL IMPACT:

The cost for professional executive search firm may cost between \$20,000 and \$25,000.

SUMMARY:

The Commission may wish to discuss, make changes and/or issue the RFP for professional search firms. Suggested resolutions are enclosed for your consideration.

ATTACHMENTS:

- Draft RFP for professional executive search firms.

SUGGESTED RESOLUTION:

To direct the administration to issue the RFP for professional executive search firms and present the submittals to the City Commission for consideration.

OR

To make the following changes to the RFP for professional executive search firms and direct the administration to issue the RFP and present the submittals to the City Commission for consideration.

1. _____
2. _____
3. _____



REQUEST FOR PROPOSALS For Executive Search Firm

Sealed proposals endorsed **“EXECUTIVE SEARCH FIRM”**, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until _____ after which time bids will be publicly opened and read.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional search firms to provide executive search services and assist the City Commission in its search efforts for a City Manager. 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, ATTENTION: Chief of Police.

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 & Advertised: November , 2020

Deadline for Submissions: November , 2020 at 4:00p.m. Local Time

Contact Person: Mark Clemence, Police Chief
P.O. Box 3001, 151 Martin Street
Birmingham, MI 48012-3001
Phone: (248) 530-1875
Email: mclemence@bhamgov.org



REQUEST FOR PROPOSALS For Executive Search Firm

Contents

| | |
|--|----|
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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 firms to provide executive search services and assist the City Commission in its search efforts for a City Manager. This work must be performed as specified 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 where it may 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 December 21, 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 executive search services and assist the City Commission in its search efforts for a City Manager.

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than _____, 2020 at 4:00 p.m. Local Time to:

City of Birmingham
Attn: Chief of Police
151 Martin Street
Birmingham, Michigan 48009

One (1) paper and one (1) electronic (.pdf) copy of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, "**EXECUTIVE SEARCH FIRM**". 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: Mark Clemence, Police Chief, 151 Martin Street, Birmingham, MI 48009 or emailed to mclemence@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 representatives 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. Overall Costs.
4. Satisfactory Client 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. 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.
7. The Contractor will not exceed the timelines established for the completion of this project.

8. 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. 18)
 - b. Cost Proposal (Attachment C - p. 19)
 - c. Iran Sanctions Act Vendor Certification Form (Attachment D - p. 20)
 - d. Agreement (p. 12 – **only if selected by the City**).
2. Provide a description of completed projects that demonstrate the firm's ability to complete services of similar scope, size, and purpose, and 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.
4. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.
5. Provide a list of sub-contractors and their qualifications, if applicable.
6. Provide three (3) client references from past projects, include current phone numbers.
7. 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.

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

Respondents are to review the timeline and provide confirmation that all dates in the timeline can be met. Respondents are encouraged to provide feedback and suggestions on how the timeline can be accelerated.

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

Respondents must submit a detailed time schedule for completing the SCOPE OF WORK. The City is requesting an aggressive schedule for completion of this project. Any suggestion or creative model which responsibly accelerates the schedule to complete is encouraged and will be considered by the City.

SCOPE OF WORK

Background Information

The City of Birmingham is a full-service city located in Oakland County, Michigan with a population of approximately 20,000. Birmingham has a Council-Manager form of government and established as a Home Rule City in 1933. The City of Birmingham has a General Fund operating budget of \$38 million and overall budget of \$86 million with 150 full-time employees. Birmingham's municipal operations and finances are in good condition and the City maintains a AAA Bond Rating from Standard and Poor's and has a solid economic development environment and public infrastructure plan. Birmingham also has good relationships with surrounding cities and is involved in a number of shared service programs and projects.

It is the desire of the Birmingham City Commission to have a new City Manager ready to serve as soon as possible. The separation is entirely amicable and the current Manager is committed to assisting in a successful transition, and willing to serve through the transition process, if available.

The City is prepared to conduct a national search effort, and will offer a competitive salary and benefit package commensurate with its expectations for a broad field of candidates.

The Contractor shall perform the following services in accordance with the requirements as defined and noted herein:

General Scope of Services included but not limited to:

1. Contractor shall hold meetings with the City Commission to gain an understanding of the community and the role of the City Manager.
2. The Contractor shall develop a community and position profile which accurately depicts both the community and the City Manager characteristics desired by the community for prospective candidates for the City Manager position. The position profile shall include an appropriate description of qualifications and desired characteristics by which applicants will be evaluated.
3. All recruitment and outreach activities shall be focused on recruiting a qualified and diverse pool of applicants and shall follow all State and Federal requirements.
 - a. The Contractor shall develop appropriate marketing materials and advertisements for professional publications, websites, and other communication tools to achieve widespread notification of the City Manager position opening.
 - b. The Contractor shall develop an appropriate process for notifying members of the City Manager profession of the Birmingham City Manager position

opening and an appropriate recruitment program to encourage candidates that meet the position profile characteristics to apply for the position.

- c. The Contractor shall be responsible for responding to all questions and inquiries from candidates.
 - d. Throughout the recruitment process, the Contractor shall provide to the City regular written summaries of all recruitment and outreach activities conducted to date, including number and locations of all advertisements placed, number of recruitment contacts made to potential candidates, and any other information deemed appropriate by the Contractor or as requested by City Commission.
 - e. A written summary of the qualifications of the applicant pool shall be provided to the City following the close of the recruitment process. This summary shall rigorously maintain the confidentiality of each individual candidate while providing sufficient information for the City to verify the overall qualifications of the applicant pool.
 - f. A written summary of the diversity of the applicant pool shall be provided to the City following the close of the recruitment process. This summary shall rigorously maintain the confidentiality of each individual candidate while providing sufficient information for the City to verify the overall diversity of the applicant pool.
- 4. The Contractor shall develop a process to screen & interview candidates, and select leading candidates.
 - 5. Following the closing of the recruitment process, the Contractor shall review the qualifications of all applicants and prepare a written summary of those candidates meeting the qualifications for review by the City Commission. Following a review of this summary, the Contractor shall assist the City Commission in the selection of a number of leading candidates to be invited for in-person public interviews before the City Commission.
 - 6. The Contractor shall work with the designated City representative to make the necessary arrangements in coordinating the City Commission interviews, and related activities, of finalist candidates. The City shall cover the travel and lodging expenses for any out of town candidates, and their spouses/partners (if invited by the City Commission at this stage), selected for in-person interview by the City Commission.
 - 7. The Contractor shall develop interview format and questions for City Commission's consideration and shall support the City Commission during the in-person interview process.

8. The Contractor shall support the City Commission during the offer and contract negotiation phase of the recruitment process.
9. The Contractor shall assist in the development of a set of goals for the new City Manager during the first year of service.
10. The Contractor shall create a follow-up mechanism to ensure the new City Manager and the Birmingham City Commission are satisfied with the relationship during the first year of service.

Proposed Search Plan Submission Required as Part of the Search Proposal:

1. Provide a detailed, comprehensive outline of the approach to be used to accomplish the search.
2. Outline the methods you use to communicate and work with a municipality.
3. Specify the information you require from the City to enable you to conduct the search.
4. Outline methods used to identify prospective candidates and promote their interest in applying.

Conclusion of Scope of Work

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
For Executive Search Firm

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 City Commission, is desirous of having work completed to obtain a professional firm to provide executive search services and assist the City Commission in its search efforts for a City Manager.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to perform executive search services and assist the City Commission in its search efforts for a City Manager, 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 perform executive search services and assist the City Commission in its search efforts for a City Manager.

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 perform executive search services and assist the City Commission in its search efforts for a City Manager 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 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 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.

- F. 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.
- G. 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.
- H. 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.
- I. 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: City Attorney
151 Martin Street
Birmingham, MI 48009

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: _____

Its: Mayor

By: _____

Alex Bingham
Its: City Clerk

Approved:

Mark Gerber, Director of Finance/
Treasurer
(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 - BIDDER'S AGREEMENT
For Executive Search Firm

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
For Executive Search Firm

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 not to exceed cost. Respondents must submit a detailed cost proposal for completing the Scope of Work. As part of the response to the RFP, provide a complete and all-inclusive Cost Proposal including hourly rates for all personnel to be assigned to the project. Clearly define all relative direct and indirect costs. Define all reimbursable expenses and related charges. If sub-consultants are proposed to be utilized, provide the same cost information, as well as additional administrative fees or upcharges.

Provide a breakdown of total fees as follows:

All-inclusive not-to-exceed cost for the project \$_____

The above all-inclusive not-to-exceed cost includes a minimum of _____ on-site meetings with the City.

Provide a breakdown of other fee information as follows:

- Hourly Rates:

- Reimbursable and other expenses:

- Sub-consultant explanation and fees:

Provide a summary of any related additional services (and associated fees) which may be provided by your firm for the City to consider:

Firm Name_____

Authorized signature_____ Date_____

ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
For Executive Search Firm

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.#



MEMORANDUM

Planning Division

DATE: October 29th, 2020

TO: Joseph A. Valentine, City Manager

FROM: Nicholas Dupuis, City Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: 768 N. Old Woodward – The French Lady – Special Land Use Permit & Final Site Plan Review

INTRODUCTION:

The applicant has submitted a Special Land Use Permit (SLUP) application for a food or drink establishment in the O2 (Office Commercial) zoning district at the north end of Downtown Birmingham. A Special Land Use Permit is required in the O2 zoning district for a food or drink establishment. There are no liquor sales proposed for on premise or off premise consumption as a part of this application. The restaurant is currently open for carryout ONLY as a specialty food store.

In the recent past, the building was home to LY Shushi, Cucina Medoro, and the Old Woodward Deli. These food or drink establishments maintained a legal non-conforming status in this building since at least 2008. Unfortunately, the building was struck by a vehicle and was vacant for about a year, which discontinued the legal non-conforming status it previously held.

The proposed new restaurant, The French Lady, will serve authentic French cuisine. The proposal includes the kitchen in the rear, a service counter with select baked goods and deserts, and 28 chairs at 6 tables in a dining area at the front of the building for full service dining. There are no outdoor seats proposed at this time, as the building's location adjacent to a public parking facility in front does not contain ample space for outdoor dining. There is currently a deck in the rear with stairs that lead to Parking Lot 6, but the deck is not for public access. Finally, the applicant has stated that their hours of operation, should a Special Land Use Permit be granted, will be 8:00 AM to 10:00 PM daily.

BACKGROUND:

The application for Special Land Use Permit & Final Site Plan and Design Review (SLUP & FSP) was reviewed at the Planning Board on September 23rd, 2020. The Planning Board voted unanimously to recommend approval to the City Commission for both the SLUP and the FSP with no conditions.

LEGAL REVIEW:

The City Attorney has reviewed the attached application and has no concerns.

FISCAL IMPACT:

There are no fiscal impacts as a result of this application.

PUBLIC COMMUNICATIONS:

As noted above, the application for a SLUP & FSP was reviewed at the public meeting of the Planning Board on September 23rd, 2020. Public notice was provided to all properties within 300 ft. of the property at 768 N. Old Woodward, and a legal notice was published in the Oakland Press as required.

The SLUP & FSP was also placed on the consent agenda for the City Commission meeting on October 19th, 2020 to set the public hearing for November 9th, 2020. The Clerk provided public notice for the application to all properties within 300 ft. of the property at 768 N. Old Woodward, as well as the required legal notice in the newspaper.

SUMMARY:

The Planning Division requests the City Commission consider the Special Land Use Permit and Final Site Plan and Design Review application for 768 N. Old Woodward – The French Lady – to allow for a food and drink establishment in the O2 Zoning District.

ATTACHMENTS:

- SLUP Resolution
- The French Lady Plans and Photos
- Planning Board Report
- Special Land Use Permit & Final Site Plan Review Application
- Planning Board Minutes

SUGGESTED RESOLUTION:

To APPROVE the Special Land Use Permit and Final Site Plan and Design Review application for 768 N. Old Woodward – The French Lady – to allow the operation of a food and drink establishment in the O2 zoning district.

RESOLUTION #: _____

The French Lady

768 N. Old Woodward

Special Land Use Permit

2020

WHEREAS, THE FRENCH LADY filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food or drink establishment in the O2 Zoning District in accordance with Article 2, Section 2.23(C)(2)(g) of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of N. Old Woodward south of Oak Ave.,

WHEREAS, The land is zoned O2, and is located within the Downtown Birmingham Overlay District, which permits the operation of a food or drink establishment 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 applicant submitted an application for a Special Land Use Permit and Final Site Plan Review for THE FRENCH LADY to allow a food or drink establishment in the O2 Zoning District;

WHEREAS, The Planning Board on September 23, 2020 reviewed the application for a Special Land Use Permit and Final Site Plan and recommended approval of both to the City Commission;

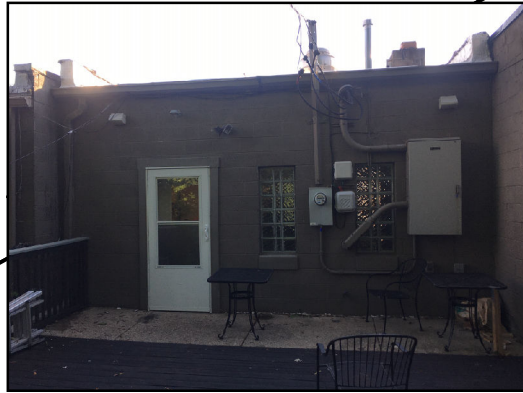
WHEREAS, The Birmingham City Commission has reviewed THE FRENCH LADY's Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met and that THE FRENCH LADY's application for a Special Land Use Permit and Final Site Plan at 768 N. Old Woodward is hereby approved;

BE IT FURTHER RESOLVED, Except as herein specifically provided, THE FRENCH LADY 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 THE FRENCH LADY 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 Designee 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 November 9, 2020.

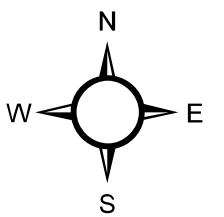
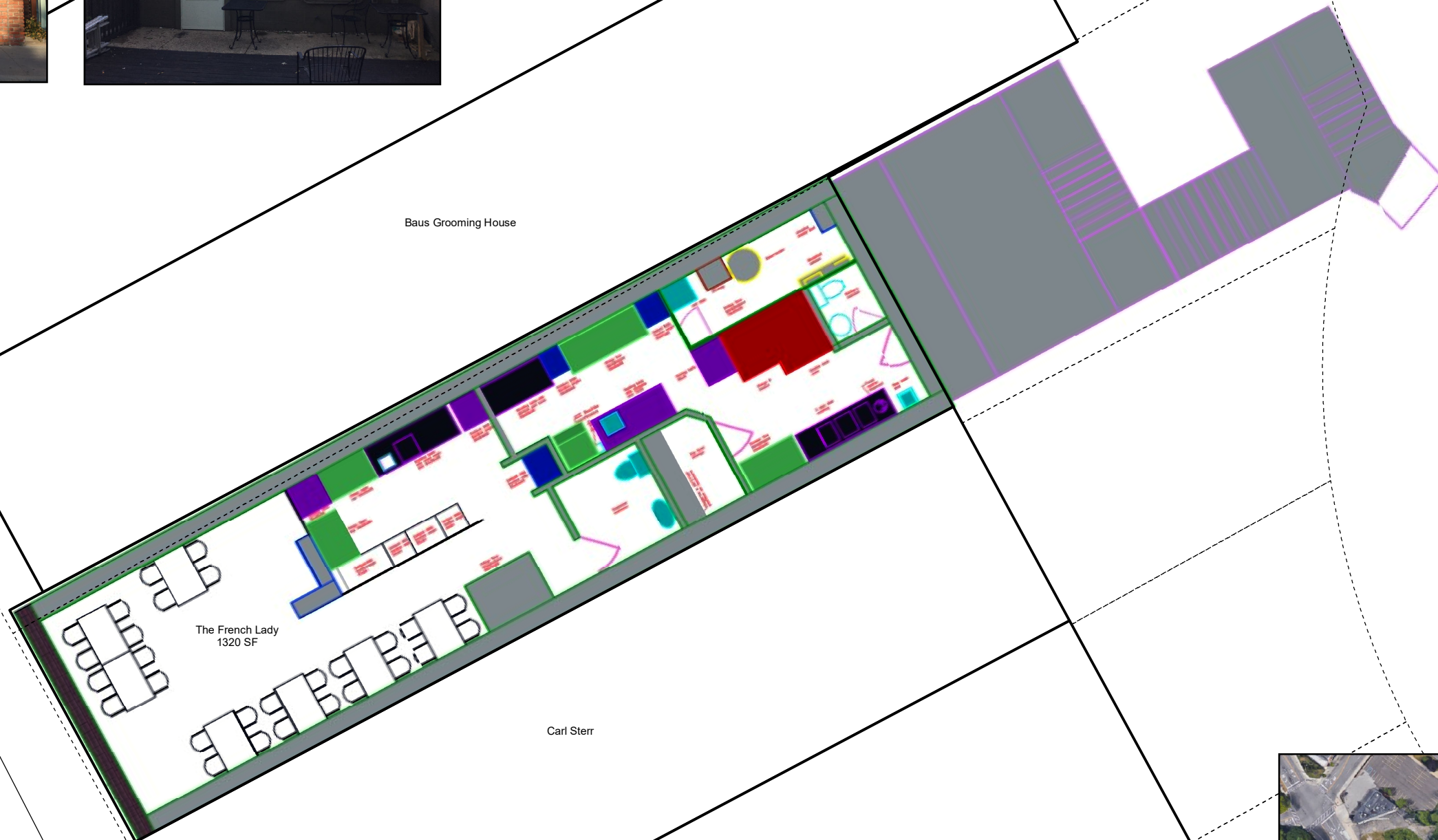
Alexandria Bingham
City Clerk Designee



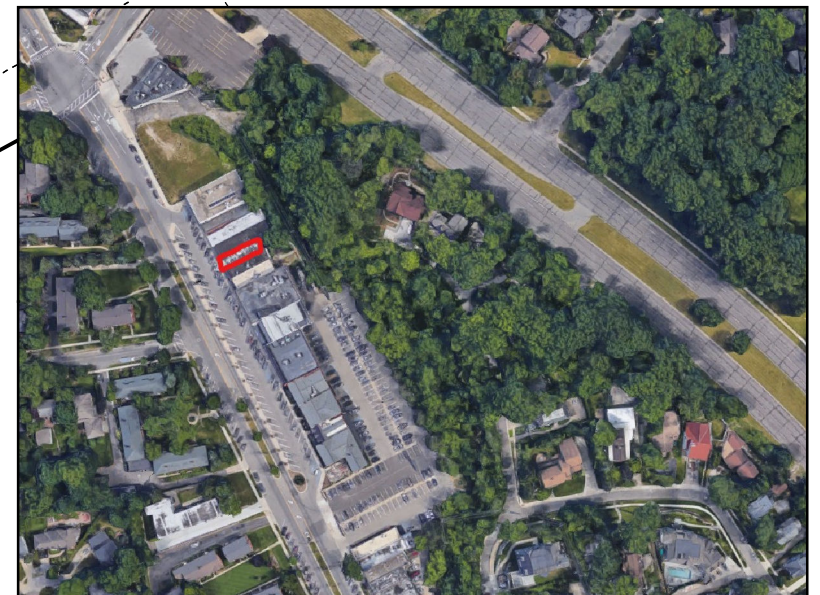
768 N. Old Woodward
The French Lady
*Special Land Use &
Final Site Plan Approval*

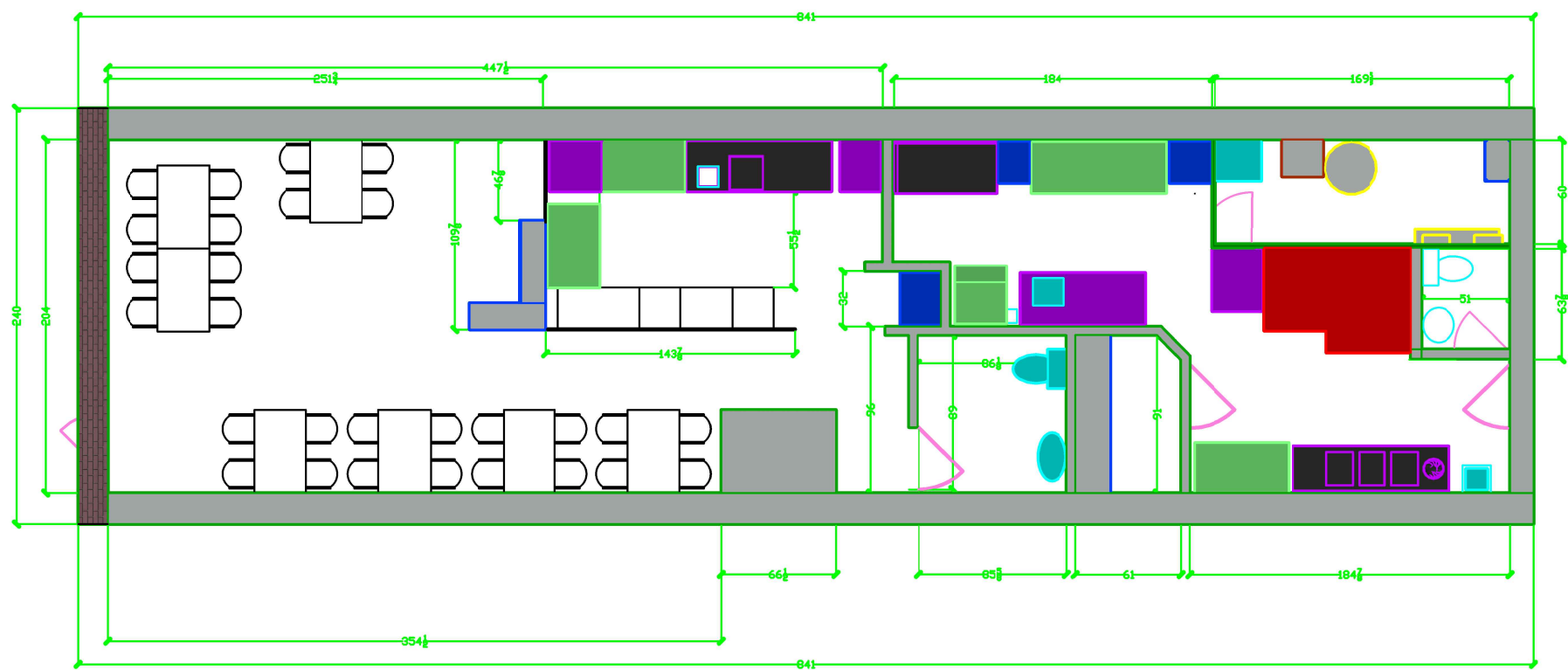


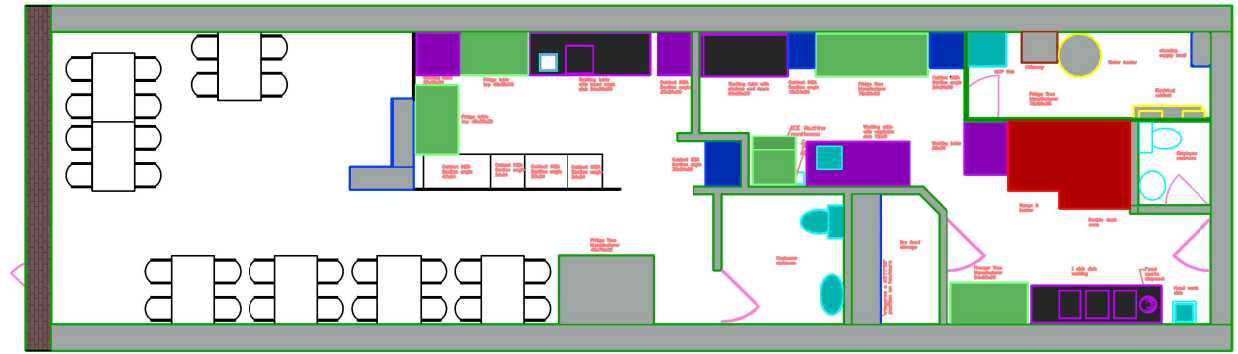
Planning Board 9/23/2020



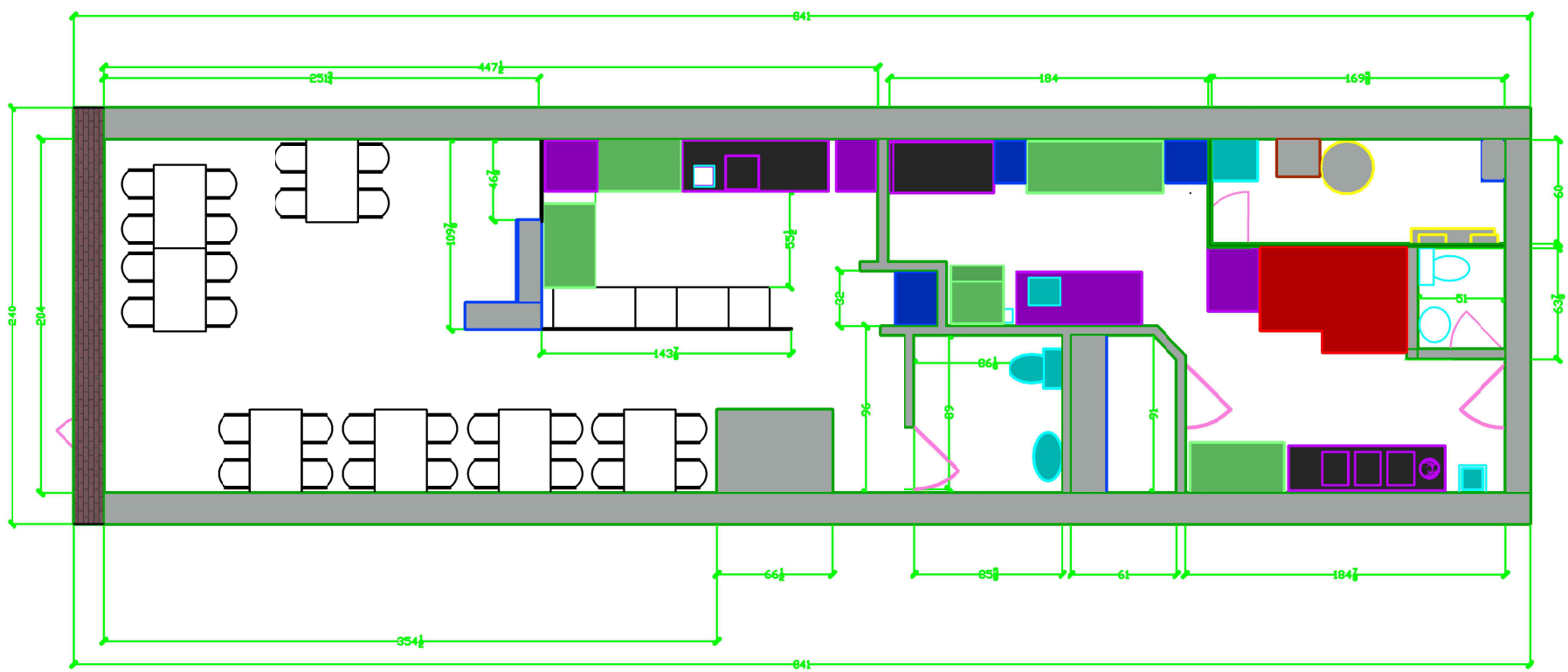
1 inch = 10 feet

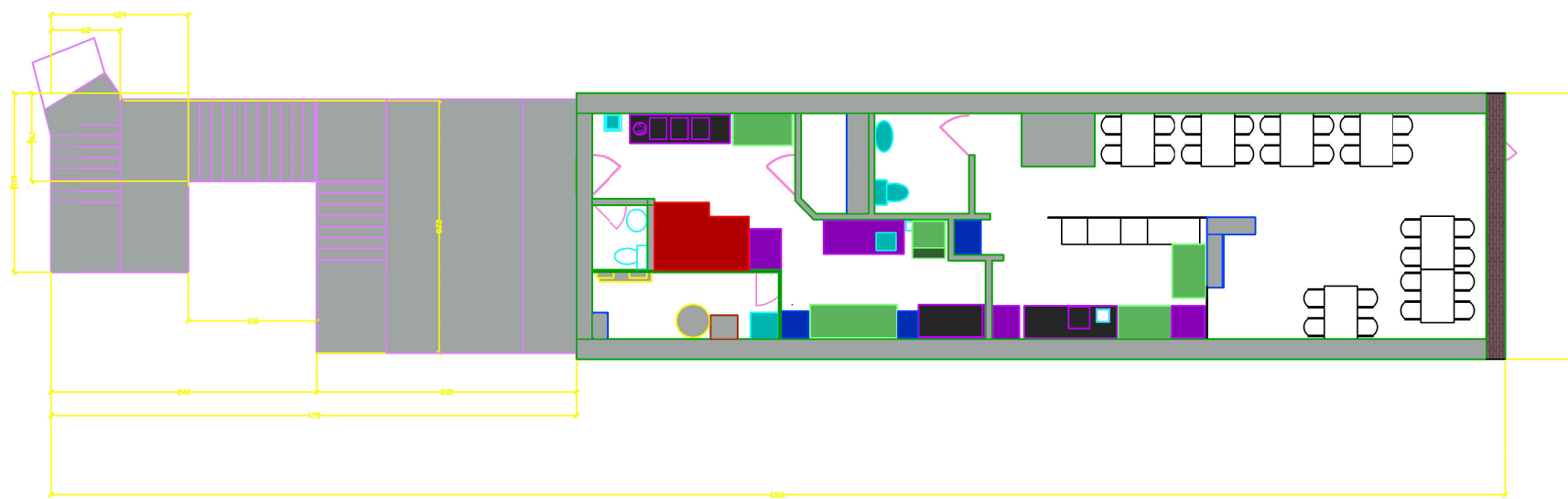


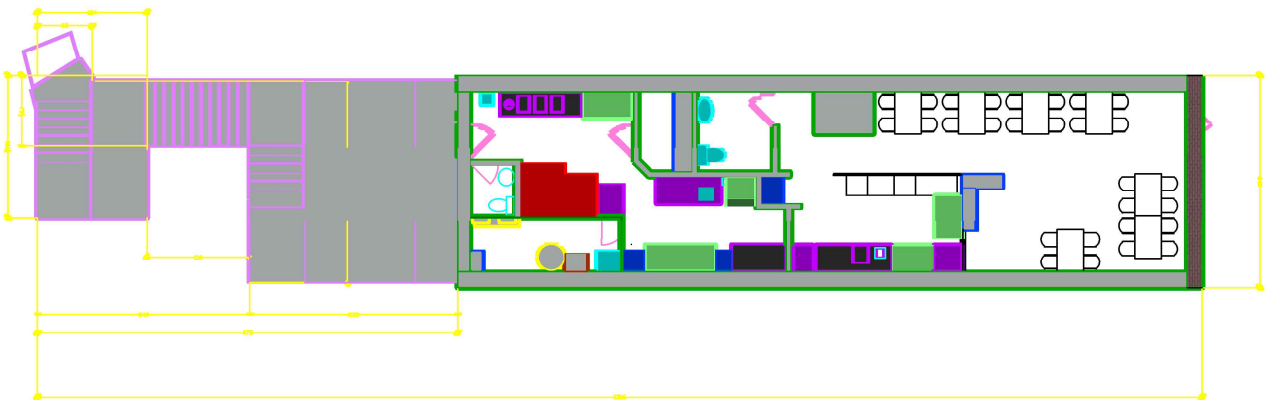


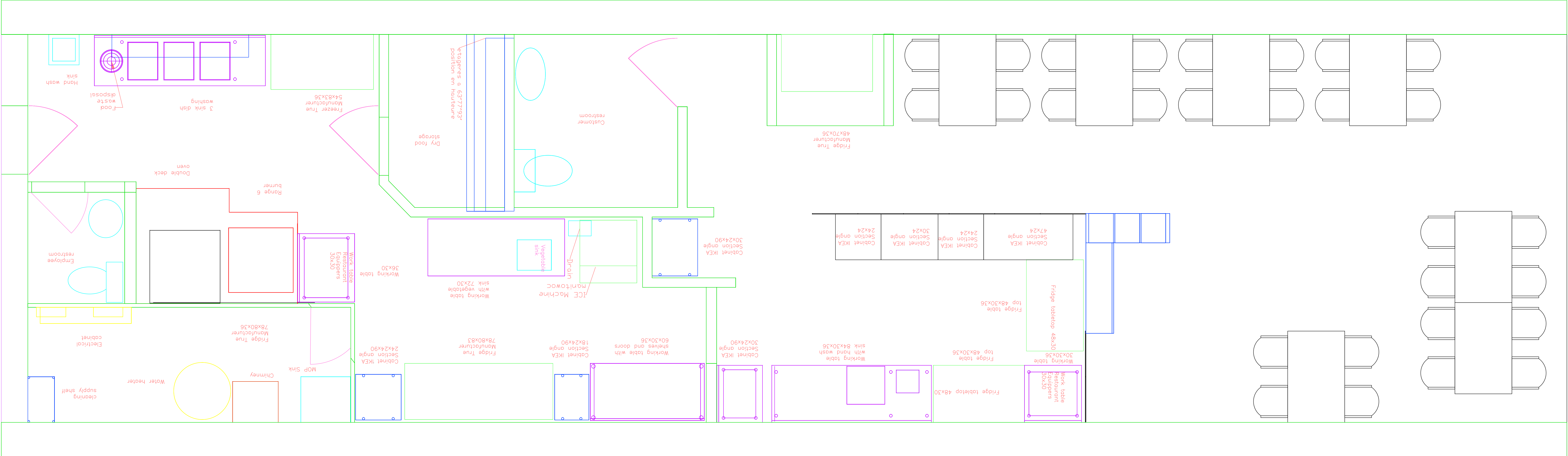


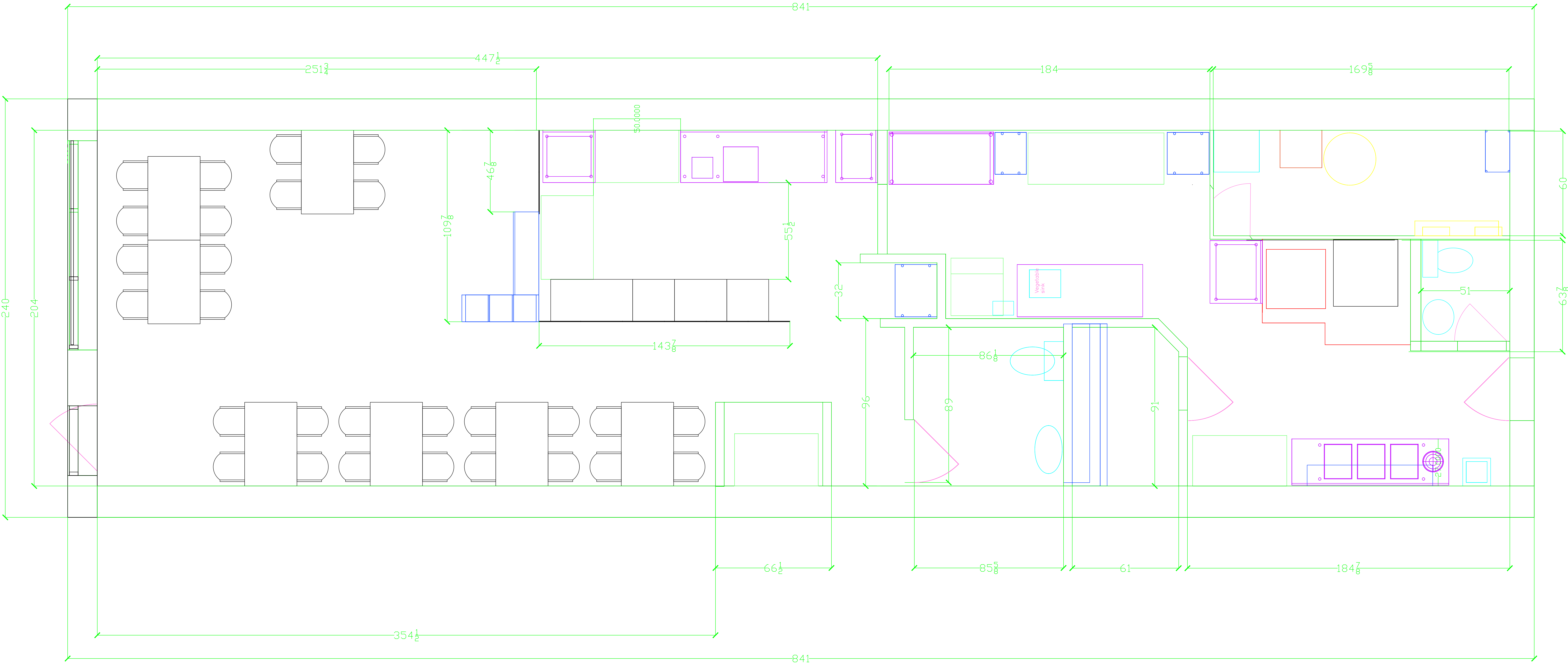


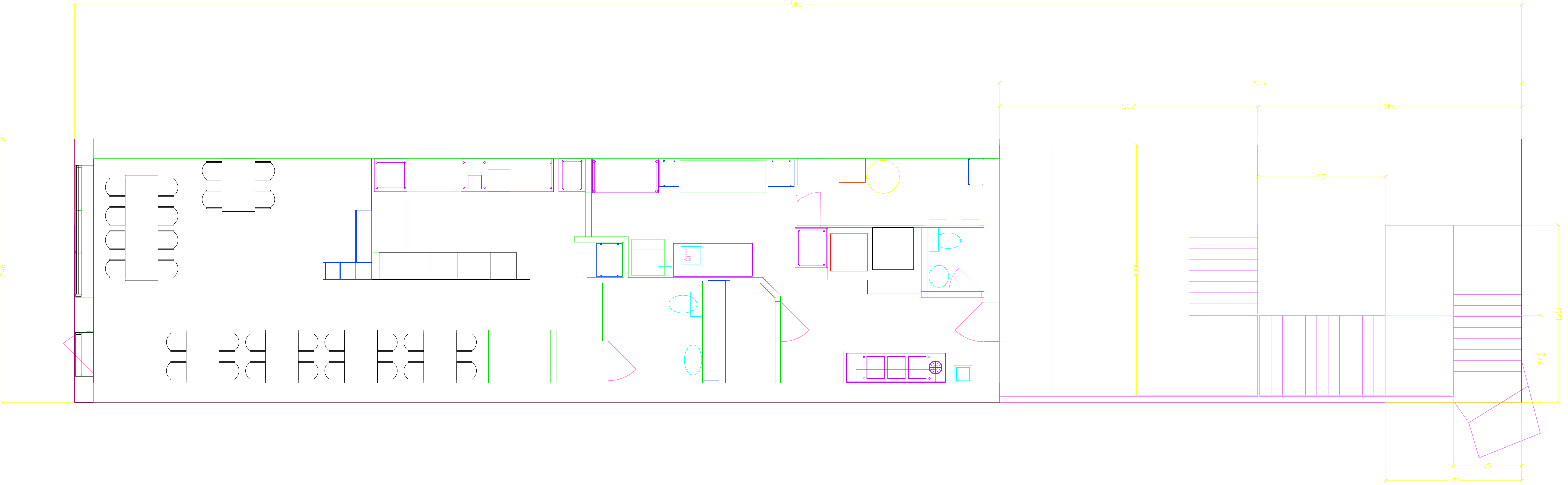






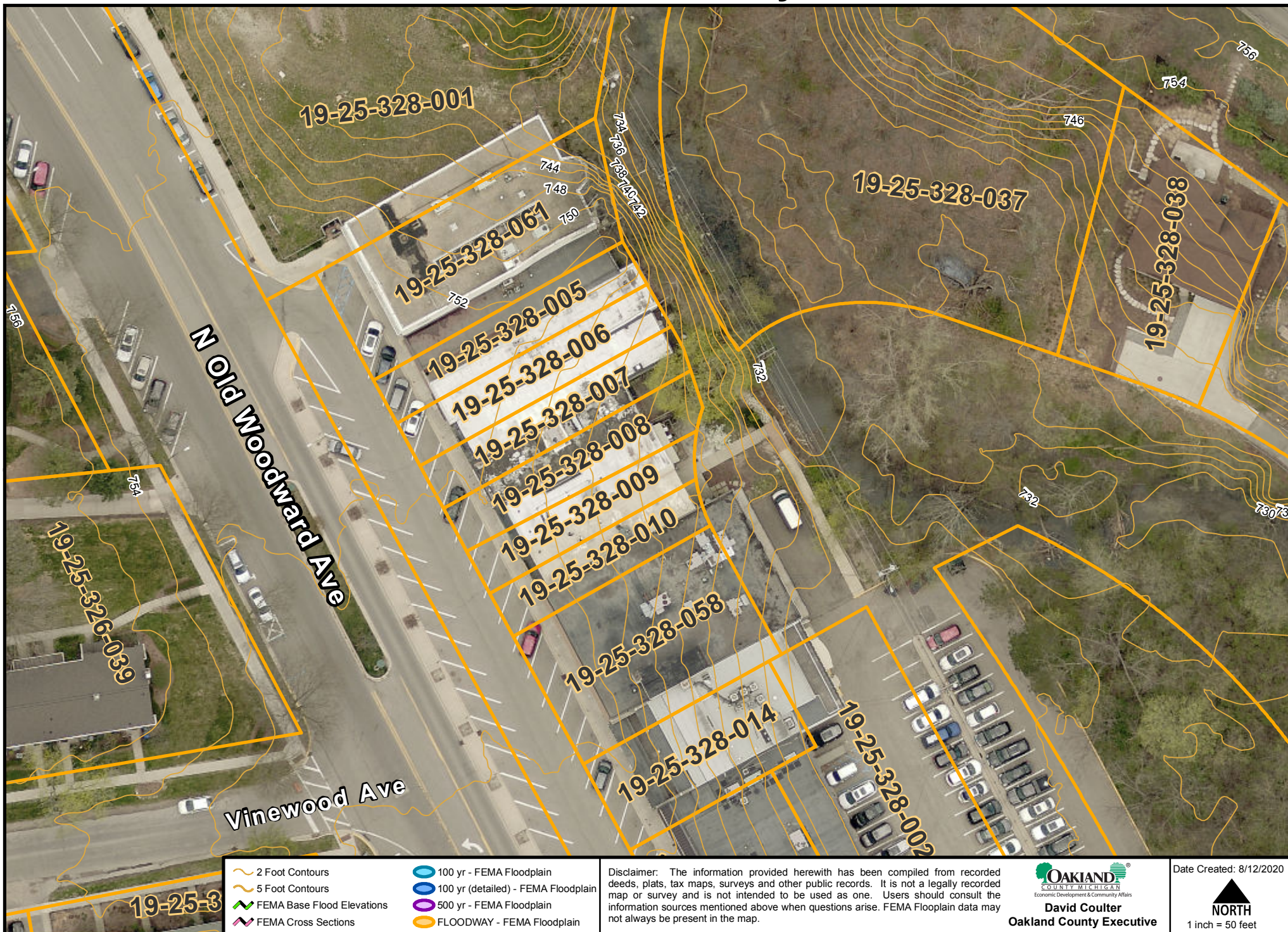








The French Lady





COMING SOON

The French Lady

City of Birmingham
a Waldo Community

PUBLIC NOTICE

SPECIAL LAND USE PERMIT

This property will be the subject of a land development hearing with the City of Birmingham.

768

742

BAU

248-385-
WWW.BAUSGROUN





MEMORANDUM

Planning Division

DATE: September 23rd, 2020

TO: Jana Ecker, Planning Director

FROM: Nicholas Dupuis, City Planner

SUBJECT: 768 N. Old Woodward – The French Lady – Special Land Use Permit & Final Site Plan Review

Introduction

The applicant has submitted a Special Land Use Permit application for a food or drink establishment in the O2 (Office Commercial) zoning district at the north end of Downtown Birmingham. The necessity for a Special Land Use Permit is simple in that the O2 zoning district requires as such for a food or drink establishment. There will be no liquor sales for on premise or off premise consumption at this juncture. The restaurant is currently open for carryout ONLY.

In the recent past, the building was home to LY Shushi, Cucina Medoro, and the Old Woodward Deli. These food or drink establishments maintained a legal non-conforming status in this building since at least 2008. Unfortunately, the building was struck by a vehicle and was vacant for about a year, which discontinued the legal non-conforming status it previously held.

The proposed new restaurant, The French Lady, will serve authentic French cuisine. The proposal includes the kitchen in the rear, a service counter with select baked goods and deserts, and 28 chairs at 6 tables in a dining area at the front of the building for full service dining. There are no outdoor seats proposed at this time, as the buildings location adjacent to a public parking facility in front does not contain ample space for such. There is currently a deck in the rear with stairs that lead to Parking Lot 6, but the deck is not for public access. Finally, the applicant has stated that their hours of operation, should a Special Land Use Permit be granted, will be 8:00 AM to 10:00 PM daily.

1.0 Land Use and Zoning

- 1.1 Existing Land Use – The subject site is currently a 1-story commercial building and is currently operating as a carry out only establishment.
- 1.2 Zoning – The subject site exists within the O2 (Office-Commercial) and D2 (Downtown Overlay) zoning districts.
- 1.3 Summary of Adjacent Land Use and Zoning –

| | North | South | East | West |
|---------------------------------|------------------------|------------------------|----------------------|----------------------------------|
| Existing Land Use | Commercial | Commercial | Public Property | Multiple Family Residential |
| Existing Zoning District | O2 – Office Commercial | O2 – Office Commercial | PP – Public Property | R6 – Multiple Family Residential |
| Overlay Zoning District | D2 | D2 | N/A | N/A |

2.0 Setback and Height Requirements

Please see the attached zoning compliance summary sheet for details on setback and height requirements. There are no bulk, height or placement issues associated with the proposed project.

3.0 Screening and Landscaping

- 3.1 Dumpster Screening – The applicant has stated that although there are no waste receptacles on site, they have secured dumpster privileges with One Source Waste for the common dumpster in the rear public parking lot area. **The Planning Board may wish to require the applicant to screen the shared dumpster.**
- 3.2 Parking Lot Screening – The proposed restaurant does not contain an off-street parking facility, thus the parking lot screening requirements are not applicable.
- 3.3 Mechanical Equipment Screening – There are no changes proposed to the existing rooftop units, nor are any new rooftop or ground mounted mechanical units proposed. **The Planning Board may wish to require the applicant to screen the existing rooftop units.**
- 3.4 Landscaping – There is no existing or proposed landscaping on site.
- 3.5 Streetscape – The subject site's location in the north end of Downtown Birmingham and the public parking facility directly in front of the building create a poor environment for benches, bike racks or waste receptacles. The area across the parking facility and the boulevard on N. Old Woodward contain street trees and streetlights.

4.0 Parking, Loading and Circulation

- 4.1 Parking – The subject site is located within the Parking Assessment District, thus no parking analysis is required for the commercial use proposed.

- 4.2 Loading – Article 4, Section 4.24 does not require commercial uses between 0 and 10,000 sq. ft. to provide any off-street loading facilities. The building is 1,320 sq. ft. and thus does not require an off-street loading space.
- 4.3 Vehicular Circulation and Access – Vehicles access the site via a public parking facility directly adjacent to the site. There are no changes proposed in this regard.
- 4.4 Pedestrian Circulation and Access – Pedestrian access to the building is located through a single door on the N. Old Woodward façade. No changes are proposed to the entrance.

5.0 Lighting

There are no new exterior light fixtures proposed as a part of this project. The building currently contains 4 gooseneck light fixtures and one wall sconce.

6.0 Departmental Reports

- 6.1 Engineering Division – The Engineering Division has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.
- 6.2 Department of Public Services – The Department of Public Services has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.
- 6.3 Fire Department – The Fire Department has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.
- 6.4 Police Department – The Police Department has no concerns at this time.
- 6.5 Building Division – The Building Division has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.

7.0 Design Review

There are no exterior changes proposed to the building at this time. The Planning Division has discussed with the applicant the potential for a new sign in the future, and has explained the process for receiving approval for such.

8.0 Required Attachments

| | Submitted | Not Submitted | Not Required |
|-------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Existing Conditions Plan | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Detailed and Scaled Site Plan | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Certified Land Survey | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Interior Floor Plans | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Landscape Plan | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Photometric Plan | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Colored Elevations | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Material Specification Sheets | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Material Samples | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Site & Aerial Photographs | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

9.0 Approval Criteria

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 nor 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.

Additionally, Article 7, Section 7.36 states that the City Commission shall not approve of any requests for a special land use permit unless it determines that the following standards are met:

1. The use is consistent with and will promote the intent and purpose of this Zoning Ordinance.
2. The use will be compatible with adjacent uses of land, the natural environment, and the capabilities of public services and facilities affected by the land use.
3. The use is consistent with the public health, safety and welfare of the city.
4. The use is in compliance with all other requirements of this Zoning Ordinance.
5. The use will not be injurious to the surrounding neighborhood.
6. The use is in compliance with state and federal statutes.

10.0 Recommendation

Based on a review of the site plan submitted, the Planning Division finds that the proposed Special Land Use Permit and Final Site Plan meets the requirements of Article 7, section 7.27 and 7.36 of the Zoning Ordinance. Thus, the Planning Division recommends that the Planning Board recommend **APPROVAL** to the City Commission the Special Land Use Permit and Final Site Plan for 768 N. Old Woodward – The French Lady.

11.0 Sample Motion Language

Motion to recommend **APPROVAL** to the City Commission the Special Land Use Permit and Final Site Plan for 768 N. Old Woodward – The French Lady.

OR

Motion to **POSTPONE** the Special Land Use Permit and Final Site Plan for 768 N. Old Woodward – The French Lady – pending receipt of the following:

- 1. _____
- 2. _____
- 3. _____

OR

Motion to recommend the **DENIAL** of the Special Land Use Permit and Final Site Plan for 768 N. Old Woodward – The French Lady – for the following reasons:

- 1. _____
- 2. _____
- 3. _____

**Zoning Compliance Summary Sheet
Special Land Use Permit & Final Site Plan
768 N. Old Woodward – The French Lady**

Existing Site: 1-Story Commercial Buildings

Zoning: O2 (Office-Commercial) & D2 (Downtown Overlay)

Land Use: Commercial

Existing Land Use and Zoning of Adjacent Properties:

| | North | South | East | West |
|---------------------------------|-------------------------|-------------------------|-----------------------|-----------------------------|
| Existing Land Use | Commercial | Commercial | Public Property | Multiple-Family Residential |
| Existing Zoning District | B3 (Office-Residential) | B3 (Office-Residential) | B2 (General Business) | B2B (General Business) |
| Overlay Zoning District | D5 | D5 | MU5 | D2 |

| | | |
|-------------------------------|-----------|--|
| Land Area: | Existing: | 0.056 ac. |
| | Proposed: | 0.056 ac. (no changes proposed) |
| Dwelling Units: | Existing: | 0 units |
| | Proposed: | 0 units |
| Minimum Lot Area/Unit: | Required: | N/A |
| | Proposed: | N/A |
| Min. Floor Area /Unit: | Required: | N/A |
| | Proposed: | N/A |
| Max. Total Floor Area: | Required: | In parking assessment district, FAR shall not exceed 100%, except that the maximum FAR may be increased up to 200% by providing 1 parking space for every 300 square feet over the maximum FAR |
| | Proposed: | 54% (no changes proposed) |
| Min. Open Space: | Required: | N/A |
| | Proposed: | N/A |
| Max. Lot Coverage: | Required: | N/A |
| | Proposed: | N/A |

| | | |
|---------------------------------|----------------------------|--|
| Front Setback: | Required: | 0 ft. |
| | Proposed: | 0 ft. |
| Side Setbacks | Required: | 0 ft. |
| | Proposed: | 0 ft. |
| Rear Setback: | Required: | 10 feet when the rear open space abuts a P, B1, B2, B2B, B2C, B3, B4, O1, or O2 Zoning District. |
| | Proposed: | 39.6 ft. (no changes proposed) |
| Min. Front+Rear Setback | Required: | N/A |
| | Proposed: | N/A |
| Min. Bldg. Height: | Permitted: | N/A |
| | Proposed: | N/A |
| Max. Bldg. Height: | Permitted: | 56 ft., 3 stories |
| | Proposed: | 13 ft., 1 story (no changes proposed) |
| Min. Eave Height: | Permitted: | 20 ft. |
| | Proposed: | 13 ft. (no changes proposed) |
| Max. Eave Height: | Required: | 34 ft. |
| | Proposed: | 13 ft. (no changes proposed) |
| Parking: | Required: | 0 spaces (Parking Assessment District) |
| | Proposed: | 0 spaces (Parking Assessment District) |
| Min. Parking Space Size: | Required: | 180 sq. ft. |
| | Proposed: | N/A |
| Loading Area: | Required: | 0 off-street loading spaces |
| | Proposed: | 0 off-street loading spaces |
| Screening: | | |
| | <u>Parking:</u> | Required: 32 in. capped masonry wall or Evergreen |
| | | Proposed: N/A (no parking facility on-site) |
| | <u>Loading:</u> | Required: Completely enclosed within a building or 6 ft. minimum |
| | | Proposed: N/A (no loading facility on-site) |
| | <u>Rooftop Mechanical:</u> | Required: Fully screened from public view |
| | | Proposed: N/A (no changes proposed) |
| | | The Planning Board may wish to consider requiring the applicant to screen the existing RTU's. |

| | | |
|----------------------------|-----------|--|
| <u>Elect. Transformer:</u> | Required: | Fully screened from public view |
| | Proposed: | N/A (no transformer on-site) |
| <u>Dumpster:</u> | Required: | 6 ft. masonry screenwall with wood gates |
| | Proposed: | N/A (no dumpster on-site; shared dumpster) The Planning Board may wish to require the applicant to screen the shared dumpster. |



Special Land Use Permit Application

Planning Division

Form will not be processed until it is completely filled out.

1. Applicant

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

2. Property Owner

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

3. Applicant's Attorney/Contact Person

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

4. Project Designer/Developer

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

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 site's 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: _____

Name of development: _____
Sidwell #: _____
Current Use: _____
Proposed Use: _____
Area of Site in Acres: _____
Current zoning: _____
Is the property located in the floodplain? _____
Name of Historic District Site is located in: _____
Date of Historic District Commission Approval: _____
Date of Application for Preliminary Site Plan: _____
Date of Preliminary Site Plan Approval: _____

Date of Application for Final Site Plan: _____
Date of Final Site Plan Approval: _____
Date of Application for Revised Final Site Plan: _____
Date of Revised Final Site Plan Approval: _____
Date of Design Review Board Approval: _____
Is there a current SLUP in effect for this site? _____
Date of Application for SLUP: _____
Date of SLUP Approval: _____
Date of Last SLUP Amendment: _____
Will proposed project require the division of platted lots? _____

Will proposed project require the combination of platted lots? _____

7. Details of the Proposed Development (attach separate sheet if necessary)

8. Buildings and Structures

Number of Buildings on Site: _____
Height of Buildings & # of Stories: _____

Use of Buildings: _____
Height of Rooftop Mechanical Equipment: _____

9. Floor Use and Area (in Square Feet)

Proposed Commercial Structures:

Total basement floor area: _____
Number of square feet per upper floor: _____
Total floor area: _____
Floor area ratio (total floor area ÷ total land area): _____
Open space: _____
Percent of open space: _____

Office Space: _____
Retail Space: _____
Industrial Space: _____
Assembly Space: _____
Seating Capacity: _____
Maximum Occupancy Load: _____

Proposed Residential Structures:

Total number of units: _____
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: _____
Square footage added per floor: _____
Total building floor area (including addition): _____
Floor area ratio (total floor area ÷ total land area): _____
Open Space: _____
Percent of open space: _____

Use of addition: _____
Height of addition: _____
Office space in addition: _____
Retail space in addition: _____
Industrial space in addition: _____
Assembly space in addition: _____
Maximum building occupancy load (including addition): _____

10. Required and Proposed Setbacks

Required front setback: _____
Required rear setback: _____
Required total side setback: _____
Side setback: _____

Proposed front setback: _____
Proposed rear setback: _____
Proposed total side setback: _____
Second side setback: _____

11. Required and Proposed Parking

Required number of parking spaces: _____
Typical angle of parking spaces: _____
Typical width of maneuvering lanes: _____
Location of parking on site: _____
Location of parking off site: _____
Number of light standards in parking area: _____
Screenwall material: _____

Proposed number of parking spaces: _____
Typical size of parking spaces: _____
Number of spaces <180 sq. ft.: _____
Number of handicap spaces: _____
Shared parking agreement? _____
Height of light standards in parking area: _____
Height of screenwall: _____

12. Landscaping

Location of landscape areas: _____

Proposed landscape material: _____

13. Streetscape

Sidewalk width: _____
Number of benches: _____
Number of planters: _____
Number of existing street trees: _____
Number of proposed street trees: _____
Streetscape plan submitted? _____

Description of benches or planters: _____
Species of existing trees: _____
Species of proposed trees: _____

14. Loading

Required number of loading spaces: _____
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: _____
Location of waste receptacles: _____
Screenwall material: _____

Proposed number of waste receptacles: _____
Size of waste receptacles: _____
Height of screenwall: _____

16. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: _____
Size of transformers (L•W•H): _____
Number of utility easements: _____
Screenwall material: _____

Location of all utilities & easements: _____

Height of screenwall: _____

Ground Mounted Mechanical Equipment:

Number of ground mounted units: _____
Size of ground mounted units (L•W•H): _____
Screenwall material: _____

Location of all ground mounted units: _____

Height of screenwall: _____

Rooftop Mechanical Equipment:

Number of rooftop units: _____
Type of rooftop units: _____

Screenwall material: _____
Location of screenwall: _____

Location of all rooftop units: _____
Size of rooftop units (L•W•H): _____
Percentage of rooftop covered by mechanical units: _____
Height of screenwall: _____
Distance from rooftop units to all screenwalls: _____

17. Accessory Buildings

Number of accessory buildings: _____
Location of accessory buildings: _____

Size of accessory buildings: _____
Height of accessory buildings: _____

18. Building Lighting

Number of light standards on building: _____

Type of light standards on building: _____

Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Height from grade: _____
Proposed wattage per fixture: _____

19. Site Lighting

Number of light fixtures: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light fixtures: _____
Height from grade: _____
Proposed wattage per fixture: _____
Holiday tree lighting receptacles: _____

20. Adjacent Properties

Number of properties within 200 ft.: _____

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? _____

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: _____ Date: _____

Print Name: _____

Signature of Applicant:  _____ Date: _____

Print Name: _____

Signature of Architect: _____ Date: _____

Print Name: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

Date of Approval: _____ Date of Denial: _____ Accepted by: _____



SPECIAL LAND USE PERMIT APPLICATION CHECKLIST – PLANNING DIVISION

Applicant: _____ Case #: _____ Date: _____

Address: _____ Project: _____

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.

Site Plan for Special Land Use Permit

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:

- ___ 1. Name and address of applicant and proof of ownership;
- ___ 2. Name of Development (if applicable);
- ___ 3. Address of site and legal description of the real estate;
- ___ 4. Name and address of the land surveyor;
- ___ 5. Legend and notes, including a graphic scale, north point, and date;
- ___ 6. A separate location map;
- ___ 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;
- ___ 8. Aerial photographs of the subject site and surrounding properties;
- ___ 9. A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair;
- ___ 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;
- ___ 11. Interior floor plans;
- ___ 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");

- ___ 13. Existing and proposed layout of streets, open space and other basic elements of the plan;
- ___ 14. Existing and proposed utilities and easements and their purpose;
- ___ 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;
- ___ 16. General description, location, and types of structures on site;
- ___ 17. Location of sidewalks, curb cuts, and parking lots on subject site and all sites within 200 ft. of the property line;
- ___ 18. Details of existing or proposed lighting, signage and other pertinent development features;
- ___ 19. Elevation drawings showing proposed design;
- ___ 20. Screening to be utilized in concealing any exposed mechanical or electrical equipment and all trash receptacle areas;
- ___ 21. Location of all exterior lighting fixtures;
- ___ 22. A Photometric Plan depicting proposed illuminance levels at all property lines;
- ___ 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
- ___ 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:

- ___ 25. Color elevation drawings showing the proposed design for each façade of the building;
- ___ 26. List of all materials to be used for the building, marked on the elevation drawings;
- ___ 27. Elevation drawings of all screenwalls to be utilized in concealing any exposed mechanical or electrical equipment, trash receptacle areas and parking areas;
- ___ 28. Details of existing or proposed lighting, signage and other pertinent development features;
- ___ 29. A list of any requested design changes;
- ___ 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;
- ___ 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
- ___ 32. Any other information requested in writing by the Planning Division, the Planning Board, or the Building Official deemed important to the development.



Notice Signs - Rental Application Community Development

1. Applicant

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

Property Owner

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email address: _____

2. Project Information

Address/Location of Property: _____
Name of Development: _____
Area in Acres: _____

Name of Historic District site is in, if any: _____
Current Use: _____
Current Zoning: _____

3. Date of Board Review

Board of Building Trades Appeals: _____
City Commission: _____
Historic District Commission: _____
Planning Board: _____

Board of Zoning Appeals: _____
Design Review Board: _____
Housing Board of Appeals: _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to post the Notice Sign(s) at least 15 days prior to the date on which the project will be reviewed by the appropriate board or commission, and to ensure that the Notice Sign(s) remains posted during the entire 15 day mandatory posting period. The undersigned further agrees to pay a rental fee and security deposit for the Notice Sign(s), and to remove all such signs on the day immediately following the date of the hearing at which the project was reviewed. The security deposit will be refunded when the Notice Sign(s) are returned undamaged to the Community Development Department. Failure to return the Notice Sign(s) and/or damage to the Notice Sign(s) will result in forfeiture of the security deposit.

Signature of Applicant: _____ Date: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

Date of Approval: _____ Date of Denial: _____ Reviewed by: _____

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: _____

Date: _____

Print Name: _____

Signature of Applicant: _____

Date: _____

Print Name: _____

CLAUDE PELLERIN

Signature of Architect: _____

Date: _____

Print Name: _____

N/A

Office Use Only

Application #: _____

Date Received: _____

Fee: _____

Date of Approval: _____

Date of Denial: _____

Accepted by: _____

To: Mr. Nichoals Dupuis
City Of Birmingham-Planning Division
Birmingham Michigan 48009

Date: July 30, 2020

From : Gill Chung - CHUNG PROPERTIES INC.
16845 Kercheval Avenue Suite 2
Grosse Pointe Michigan 48230

RE: Special Land Use Permit Application
Claude Pellerin DBA The French Lady
768 N. Old Woodward Avenue
Birmingham Michigan 48009

Dear Mr. Dupuis,

The purpose of this writing is to assist Ms. Pellerin in obtaining final approvals to operate and conduct business in The City Of Birmingham.

I am the Property Owner of the building located at 786 N. Old Woodward, Birmingham Mi. Ms. Pellerin has leased the property to conduct business as a French Restaurant. In her obligations to comply with the municipal codes, she was informed that she must apply for a Special Land Use Permit for this location. I was not aware of this requirement since the building has always been an eatery for many years, as far back as the mid 70's.

I could understand if this were a completely new eatery at this address, but this location has always been an eatery and nothing else. With the exception of minor cosmetics an interior lighting, no major changes, structurally or mechanically have occurred.

Is there any way this permit requirement can be waived due to the buildings history?

Some brief history of this location. In the mid seventies, It was called Michaels Delicatessen. In about the mid eighties, The building was sold, and the new owners then renamed it Birmingham Deli. The business thrived however, the owners decided to sell. In 1992, the building was sold to CHUNG PROPERTIES INC. (Current Owners) and continued to operate as Birmingham Deli until 1998. Birmingham Deli closed and the building was vacant until 2001. CHUNG PROPERTIES INC. still maintains ownership of the building .

In 2002, a leased was signed for the building and it was called Old Woodward Deli. The interior of the building was completely remodeled bringing it up to code with all new plumbing, electrical and HVAC installed. The Architectural Firm, Kevin Hart Associates, located in Birmingham Mi., was hired to assist in the renovations, design and implementation. Old Woodward Deli operated from September 2002 until October 2013.

In December of 2013, a new lease and business was established called Cucina Medoro, an Italian eatery. The business operated from December 2013 until May 2016.

In June of 2016, a new lease and business was conducted call LY SUSHI. The business operated from June 2016 until October 2018. Unfortunately, The business owner was allegedly struck by a vehicle as he was walking across the intersection at Oak and N. Old Woodward. He could no longer work and therefore unable to pay rent.

In December 2018, The building was available for rent. A vehicle drove through the front of the building causing severe damage to the exterior and interior. This action rendered the building unavailable for lease until the repairs could be completed. The entire reconstruction took over 6 months to complete with final approvals granted in July 2019.

In October of 2019, a new lease agreement was established with Ms. Pellerin. She had been working to get her business established and then the Pandemic hit. Because of the restrictions, she was unable to conduct any work, or have work performed by contractors due to the shelter in place edict. She has worked very diligently to comply with all requirements.

As the owner of the building, I have allowed Ms. Pellerin rent forgiveness and deferred rent going forward. I want her to succeed and I believe she will be a great addition to the businesses in Birmingham, especially at that location.

Any consideration that can be afforded to her with this matter is greatly appreciated. Please contact me if you have any questions. My phone is 248.318.1612

Respectfully



Gill Chung
CHUNG PROPERTIES INC.

**Birmingham Planning Board
Proceedings September 23, 2020**

09-117-20

C. Chairperson's Comments

Chairman Clein welcomed everyone to the meeting and reminded everyone that the meeting was being held under the guidance of the City Attorney and City administration to ensure compliance with Governor Whitmer's executive orders. Chairman Clein then reviewed procedures for the meeting.

09-118-20

D. Review Of The Agenda

There were no changes to the agenda.

09-119-20

E. Special Land Use Permit Amendment and Final Site Plan & Design Review

1. 768 N. Old Woodward, The French Lady (Former LY Sushi) – Request for Special Land Use Permit Amendment to operate a food and drink establishment (no alcohol) in an O2 zone.

2. 768 N. Old Woodward, The French Lady (Former LY Sushi) – Request for Final Site Plan & Design Review for design changes to operate a food and drink establishment (no alcohol) in an O2 zone.

City Planner Dupuis presented the item.

In reply to Chairman Clein, City Planner Dupuis stated that 768 N. Old Woodward is not adjacent to any residences.

Claude Pellerin, owner, was present on behalf of the application. Ms. Pellerin confirmed she had a written agreement with the owner of the dumpster in the rear parking lot that permits use by her restaurant. She said her staff would access the dumpster by exiting the restaurant using the rear stairs.

Seeing no further questions from the Board for Ms. Pellerin, Chairman Clein invited public comment.

Seeing no public comment, Chairman Clein invited Board discussion of the item.

Mr. Jeffares stated he visited the site during the mid-afternoon of the day of the present meeting. He said he appreciated that the restaurant was not immediately adjacent to another restaurant, that it was a cuisine Birmingham did not currently have, and that the size of was appropriate for the intent of the restaurant. He also said that if there was ever outdoor seating on the rear deck that it would be the best restaurant seating in all of Birmingham because of the view. Mr. Jeffares said he was not presently concerned about the dumpster being insufficiently screened, especially

since the owner was a third party. He recommended the Board keep the issue in mind for the future with an aim towards getting it screened. He also noted that public access to the rear of the building is so limited that very few members of the public would ever have an opportunity to see the unscreened dumpster. Mr. Jeffares concluded by saying he could not see the rooftop mechanical units from the ground level.

Motion by Mr. Jeffares

Seconded by Mr. Williams to recommend approval to the City Commission for the Final Site Plan and Design Review for 768 N. Old Woodward – The French Lady.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Williams, Clein, Jeffares, Emerine, Boyle, Koseck

Nays: None

Absent: Share (lost connection during vote), Whipple-Boyce

Motion by Mr. Jeffares

Seconded by Mr. Williams to recommend approval to the City Commission for the Special Land Use Permit for 768 N. Old Woodward – The French Lady.

In Mr. Share's absence, Ms. Ramin voted in the matter of the Special Land Use Permit for The French Lady.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Williams, Clein, Jeffares, Emerine, Boyle, Koseck, Ramin

Nays: None

Absent: Share (lost connection during vote), Whipple-Boyce

Mr. Boyle commented that the Board should consider lengthening the time before a legal non-conforming use lapses from six months to a year in light of the Covid-19 pandemic. He noted that doing so would reduce costs and bureaucratic requirements for small businesses during a time when the City is trying to offer small businesses financial support.

Planning Director Ecker explained that the Zoning Ordinance would have to be amended to lengthen the time from six months to a year.

Chairman Clein noted that Mr. Boyle's comment would be minuted. He proposed that the City Commission consider taking Mr. Boyle's recommendation under advisement.

Mr. Williams suggested that Mr. Boyle's proposal could be one of the items discussed at the upcoming joint City Commission-Planning Board meeting.



MEMORANDUM

Planning Division

DATE: October 29, 2020

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing for a Special Land Use Permit Amendment and Revised Final Site Plan and Design Review at 525 N. Old Woodward – Luxe Bistro

INTRODUCTION:

On August 5, 2020, the owners of Luxe Bistro submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan and Design Review for approval to expand the existing Luxe space at 525 N. Old Woodward into the vacant storefront to the south.

BACKGROUND:

The owners of Luxe bistro are requesting approval at this time to expand the existing 31' Luxe storefront into the 28' wide vacant retail space to the south for a total of 59' of frontage. The majority of the current interior at Luxe will remain, and the applicant is proposing to expand the kitchen and cooler area, relocate the host stand, add a new dining counter and several extra tables in the vacant retail space to the south. No additional bar space will be added, nor will the proposed layout exceed the maximum number of 65 seats for a bistro. The applicant has stated that the proposed layout will enhance the functionality of the operation, and will allow for additional spacing between tables. The applicant is required to obtain a recommendation from the Planning Board on the Special Land Use Permit Amendment and Revised Final Site Plan, and then obtain approval from the City Commission.

LEGAL REVIEW:

The City Attorney has reviewed this request and has no concerns.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

SUMMARY:

The applicant is requesting approval of a Revised Final Site Plan and Design and Special Land Use Permit Amendment to allow the expansion of the existing Luxe bistro into the vacant storefront to the south. The City Commission set a public hearing date of November 9, 2020 for consideration of the Revised Final Site Plan and Design and Special Land Use Permit Amendment.

ATTACHMENTS:

Please find attached the following documents for your review:

- Draft Special Land Use Permit Amendment Resolution
- Plans and photos of proposed changes
- Revised Bistro Contract signed by applicant
- Staff Report to the Planning Board
- Application and additional documents submitted by applicant
- All relevant meeting minutes
- Letter from neighbor

SUGGESTED RESOLUTION:

To APPROVE the Revised Final Site Plan and Design and Special Land Use Permit Amendment to allow the expansion of the existing Luxe bistro into the vacant storefront to the south.

OR

To DENY the Revised Final Site Plan and Design and Special Land Use Permit Amendment to allow the expansion of the existing Luxe bistro into the vacant storefront to the south.

LUXE BAR AND GRILL
525 N. OLD WOODWARD
SPECIAL LAND USE PERMIT AMENDMENT
2020

WHEREAS, LUXE BAR AND GRILL filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a bistro in the Downtown Birmingham Overlay District in accordance Article 3, Section 3.04(C)(10) 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 west side of N. Old Woodward, north of Harmon Street;

WHEREAS, The land is zoned O-2, and is located within the Downtown Birmingham Overlay District, which permits the operation of bistros with a Special Land Use Permit Amendment;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit Amendment 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 applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan and Design for LUXE BAR AND GRILL to allow expansion into the vacant storefront to the south;

WHEREAS, The Planning Board on August 26, 2020 reviewed the application for a Special Land Use Permit Amendment and Revised Final Site Plan and Design Review recommended approval of both to the City Commission with the following conditions:

- (1) The applicant must submit official hours of operation to ensure the outdoor dining area is not open past 12 AM;
- (2) The applicant provide specification sheets for the planters, outdoor furnishings, paint colors and glazing prior to appearing before the City Commission for review;
- (3) The applicant comply with the requests of all city departments; and,
- (4) The applicant be permitted to have six seats at the bar.

WHEREAS, The applicant has provided all requested information and agreed to comply with the requests of all city departments, thus fulfilling the conditions noted by the Planning Board;

WHEREAS, The Birmingham City Commission has reviewed LUXE BAR AND GRILL's 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 LUXE BAR AND GRILL's application for a Special Land Use Permit Amendment and Revised Final Site Plan at 525 N. OLD WOODWARD 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 Amendment is granted subject to the following conditions:

1. LUXE BAR AND GRILL will close outdoor dining areas at midnight each day of the week;
2. LUXE BAR AND GRILL shall abide by all provisions of the Birmingham City Code; and
3. The Special Land Use Permit Amendment may be canceled by the City Commission upon finding that the continued use is not in the public interest.

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

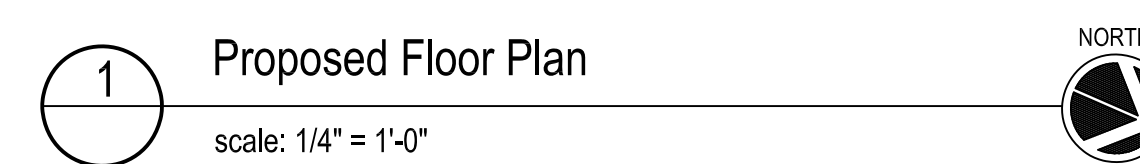
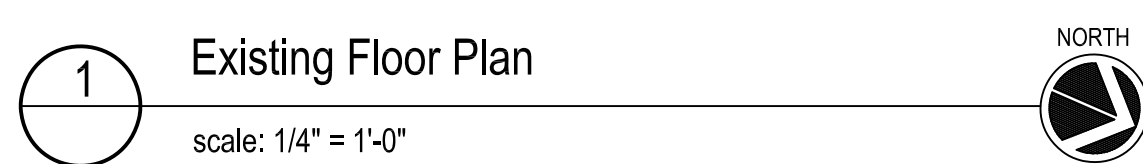
BE IT FURTHER RESOLVED, Except as herein specifically provided, LUXE BAR AND GRILL and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of LUXE BAR AND GRILL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

MAY IT BE FURTHER RESOLVED that LUXE BAR AND GRILL is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises, with a Class C Liquor License, above all others, subject to final inspection.

I, Alexandria Bingham, Acting 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 October 12, 2020.

Alexandria Bingham
Acting City Clerk

R O N A N D R O M A N
architects et al.
275 E. Frank St. Birmingham MI 48009
o) 248.723.5790 f) 248.723.5795



A101

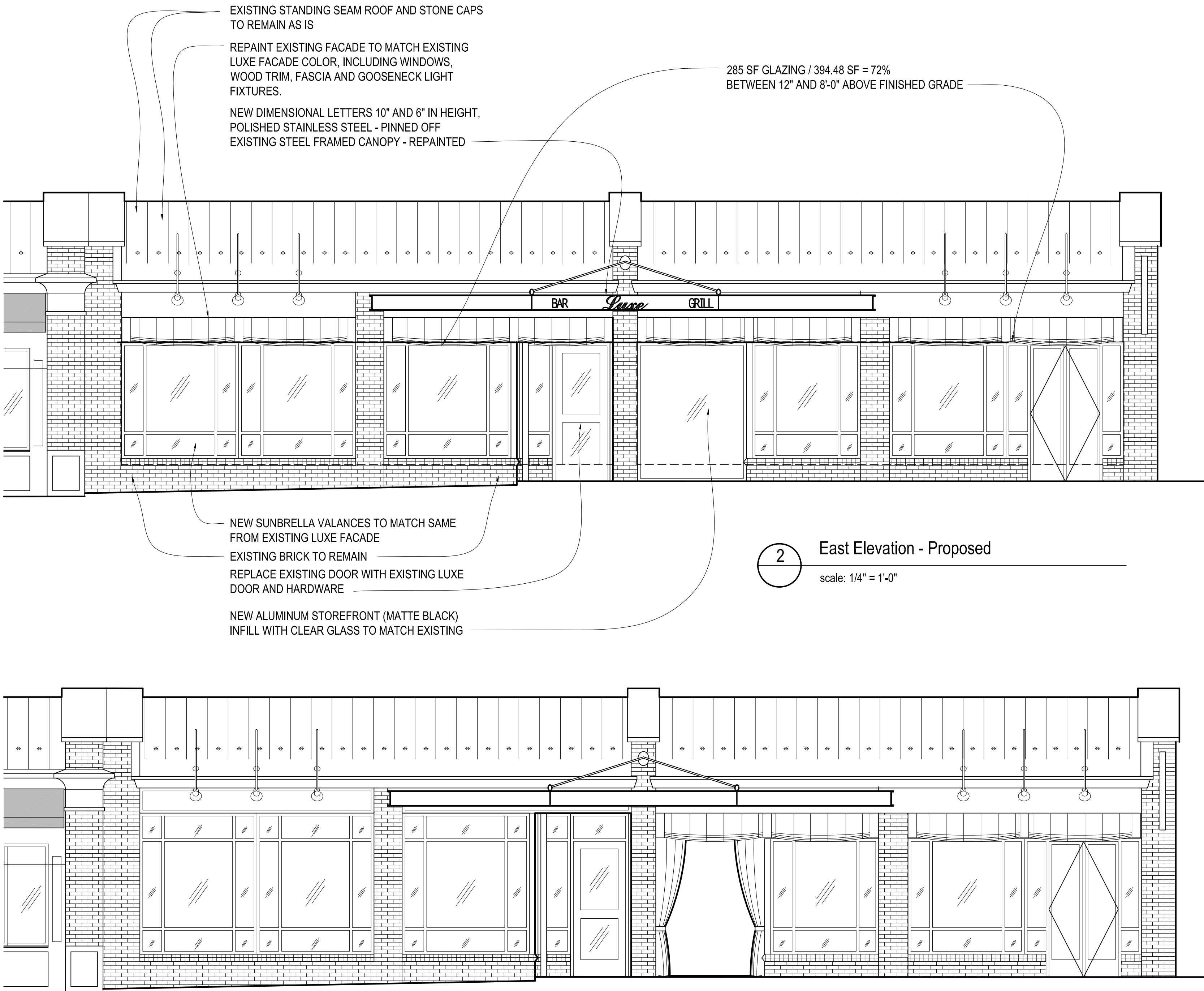


STREET VIEW FROM SOUTH



STREET VIEW FROM NORTH

6 Existing Luxe Exterior Views



EXISTING LUXE PLANTER
PAINTED CAST STONE DECORATIVE URNS



EXISTING LUXE PLANTER
BLACK COMPOSITE VERADEK PLANTERS



EXISTING LUXE FACADE
PAINTED WOOD WINDOWS AND DOORS
SHERWIN WILLIAMS SW 7020 "BLACK FOX"
FABRIC VALANCES
SUNBRELLA "SLATE" AND "PARCHMENT"
BRICK (UNPAINTED)



EXISTING LUXE CAFE TABLE AND CHAIRS
CHAIRS: GAR "BAYHEAD" BLACK POWDERCOATED
WITH WOVEN RESIN SEAT AND BACK
TABLES: GAR "ANTOINETTE" BLACK METAL BASES

5 Existing Luxe Exterior Materials and Furniture to Match



EXISTING LUXE DOOR AND HARDWARE



EXISTING LUXE BAR



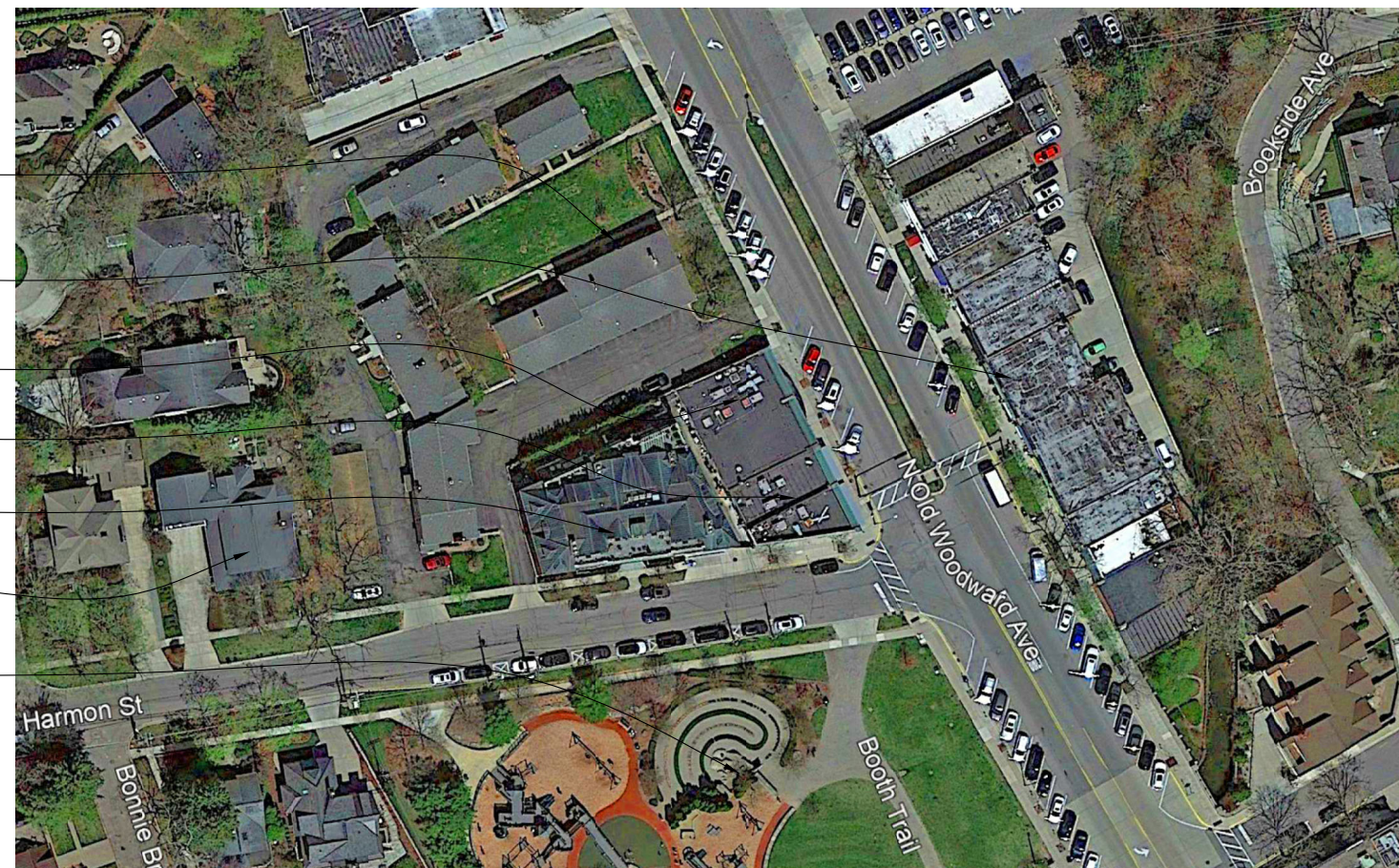
EXISTING LUXE DINING ROOM
SETTEE, TABLES AND CHAIRS



EXISTING LUXE DINING ROOM
BOOTHES

4 Existing Luxe Interiors to Match in Spirit and Feel

- MULTI-FAMILY RESIDENTIAL
- ONE STORY RETAIL
- LUXE BAR AND GRILL
- SALVATORE SCALLOPINI
- MULTI-FAMILY RESIDENTIAL
- SINGLE FAMILY RESIDENTIAL
- PUBLIC PARK



3 Area Map
scale: not to scale







Midori Planter

\$109.99



Size

31 INCH

39 INCH

Color

BLACK

CHARCOAL

ESPRESSO

Quantity - | 1 | +

and specifically treated with UV inhibitors to minimize fading. With a Veradek product you can rest assured that you are receiving the perfect balance of design, convenience and durability.

FEATURES

- Frost resistant for colder climates
- Treated with UV inhibitors to avoid fading
- Flexible and impact resistant
- Sturdy yet lightweight - easy to move
- Single wall molded design, made from high-grade polyethylene composite
- Additional drainage holes can be drilled
- Drainage Holes: Yes
- Indoor and Outdoor Use

DIMENSIONS

- Midori 31: 31" W x 9" D x 16" H
- Midori 39: 39.5" W x 13" D x 20" H

Customer Reviews

Based on 3 reviews

[Write a review](#)

CONTRACT FOR A PRINCIPAL SHOPPING DISTRICT LIQUOR LICENSE
(BISTRO)

This Contract is entered into this 4th day of NOVEMBER, 2020, by and between OLDWOODWARD VENTURES LLC / LUXE BARR whose address is 525 N. OLD WOODWARD (Licensee) and the **CITY OF BIRMINGHAM**, a Michigan Municipal Corporation, whose address is 151 Martin Street, Birmingham, Michigan 48012 (City).

RECITALS:

WHEREAS, Licensee wishes to obtain a liquor license pursuant to MCLA 436.1521a(1)(b); and

WHEREAS, local legislative approval is required by the **CITY OF BIRMINGHAM** for the issuance of a liquor license pursuant to MCLA §436.152a(1)(b) of the Michigan Liquor Control Code of 1998; and

WHEREAS, Licensee desires to enter into this Contract as an inducement to the **CITY OF BIRMINGHAM** to approve the request of the aforementioned issuance of the liquor license; and,

WHEREAS, the **CITY OF BIRMINGHAM** is relying upon this Contract in giving its approval to the issuance of the on-premises licenses as described herein.

NOW, THEREFORE, the parties agree as follows:

1. Licensee shall be permitted to obtain a liquor license for use solely at the Property. Any transfer of the aforementioned license from the Property to any other location in the CITY OF BIRMINGHAM shall require the approval of the Birmingham City Commission in accordance with Section 10-83. In addition, any expansion of the building location at the Property shall also require the approval of the Birmingham City Commission.
2. Licensee does hereby agree that it shall establish a bistro, as defined in Birmingham City Code Chapter 126, Zoning, Article 9, section 9.02, at the Property within 18 months from the date of Special Land Use Permit approval granted by the Birmingham City Commission. Licensee agrees that the bistro must be open and fully operational within this time period, or approval of the Special Land Use Permit will automatically be revoked by the City.
3. Licensee further acknowledges that it must secure a special land use permit for a bistro as required by the Birmingham City Code. It is further agreed that it shall comply with all provisions of the special land use permit, or any amendments thereto, as a condition of this contract. Licensee further acknowledges and agrees that a violation of any provision of the special land use permit or the Michigan Liquor Control Code is a

violation of the terms of the contract entitling the City to exercise any or all of the remedies provided herein.

4. Licensee acknowledges that no modifications to the site plan, floor plan, elevations or operation of the bistro may be made unless approved by the City Commission through a Special Land Use Permit Amendment as required in the Zoning Ordinance. Modifications include, but are not limited to, name changes, ownership changes, remodeling, changes in the number of interior or exterior seats, the use of eisenglass and other enclosure materials on any outdoor dining area, relocation or addition of bar, etc.

5. Licensee acknowledges that it shall have a duty of continuing compliance with regards to off-street parking as required in the Zoning Ordinance, and further agrees to resolve any future parking issues that may arise, including but not limited to parking overflow and encroachment into residential areas or public parking facilities, to the satisfaction of the City or the Special Land Use Permit may be cancelled by the City Commission.

6. Licensee further acknowledges that outdoor dining is seasonally permitted from April 1st through November 15th only, with a valid Outdoor Dining Permit. The use of an enclosure system(s) does not allow the outdoor dining season to be extended.

7. Licensee further agrees that it shall not apply or seek from the Michigan Liquor Control Commission any permit endorsements to its liquor license whether available in the current Michigan Liquor Control Code or in future Michigan Liquor Control Codes, or amendments thereto, without the prior approval of the Birmingham City Commission.

8. Licensee further agrees that it shall not seek any change in its license status/class whether such changes are available now in the current Michigan Liquor Control Code or in future Michigan Liquor Control Codes, or amendments thereto, without prior approval of the Birmingham City Commission.

9. Licensee agrees that it shall adhere to all Federal, State and Local laws currently in effect or as subsequently amended or enacted.

10. Licensee agrees that its failure to follow any of the provisions herein shall be grounds for the Michigan Liquor Control Commission to suspend, revoke or not renew its liquor license and/or for the Birmingham City Commission to revoke the special land use permit, either of which would prohibit Licensee from operating the bistro. Licensee agrees that in addition to the City of Birmingham's right to seek suspension, revocation or non-renewal of its liquor license and/or revocation of the special land use permit, the City retains any and all rights to enforce this Contract that may be available to it in law or in equity. Licensee further agrees that it shall reimburse the City all of its costs and actual attorney fees incurred by the City in seeking the suspension, revocation or non-renewal of its liquor license and revocation of the special land use

permit, as well as enforcing such other rights as may be available at law and/or in equity.

11. To the fullest extent permitted by law, Licensee and any entity or person for whom Licensee 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 all costs and actual 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, by reason of personal injury, including bodily injury, death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with Licensee's operation of a bistro at the Property.

12. In the event Licensee fails to reimburse the City the costs and/or attorney fees as required herein, or any part thereof, then said amount could be transferred to the tax roll in accordance with Section 1-14 of the Birmingham City Code.

13. Any disputes arising under this Contract, not within the jurisdiction of the Michigan Liquor Control Commission, shall be settled either by commencement of a suit in Oakland County Circuit Court or by compulsory arbitration, at the election of the City. The Licensee shall notify the City of any dispute it has arising out of this Contract and shall demand that the City elect whether the dispute is to be resolved by submitting it to compulsory arbitration or by commencement of a suit in Oakland County Circuit Court. The City shall make its election in writing within thirty (30) days from the receipt of such notice. If the City elects to have the dispute resolved by compulsory arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan, with each of the parties appointing one arbitrator and the two thus appointed appointing a third. In the event the City fails to make such an election, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court.

14. This Contract shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan.

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

16. This Contract shall be binding upon and apply and inure to the benefit of the parties hereto and their respective successors or assigns. The covenants, conditions, and the agreements herein contained are hereby declared binding on the CITY OF BIRMINGHAM and Licensee. It is further agreed that there shall be no change, modification, or alteration hereof, except in writing, signed by both of the parties

hereto. Neither party shall assign any of the rights under this contract without prior approval, in writing, of the other. Any attempt at assignment without prior written consent shall be void and of no effect.

IN WITNESS WHEREOF, the parties hereby have executed this Contract as of the date set forth above.

By: 

Its: Owner/Operator

Date: 11/4/2020

CITY OF BIRMINGHAM

By: _____
Pierre Boutros, Mayor

Date: _____

By: _____
Alexandra Bingham,
City Clerk Designee

Date: _____



MEMORANDUM

Planning Division

DATE: August 14, 2020

TO: Planning Board Members

FROM: Jana Ecker, Planning Director

SUBJECT: 525 N. Old Woodward, Luxe – Special Land Use Permit (Bistro) Amendment and Revised Final Site Plan & Design Review

The subject site is located at 525 N. Old Woodward, between Harmon Avenue and Vinewood Avenue. The parcel is zoned O-2, Office-Commercial and D-2 in the Downtown Overlay District. The owners of Luxe bistro are requesting approval at this time to expand the existing 31' Luxe storefront into the 28' wide vacant retail space to the south for a total of 59' of frontage. The majority of the current interior at Luxe will remain, and the applicant is proposing to expand the kitchen and cooler area, relocate the host stand, add a new dining counter and several extra tables in the vacant retail space to the south. No additional bar space will be added, nor will the proposed layout exceed the maximum number of 65 seats for a bistro. The applicant has stated that the proposed layout will enhance the functionality of the operation, and will allow for additional spacing between tables. The applicant is required to obtain a recommendation from the Planning Board on the Special Land Use Permit Amendment and Revised Final Site Plan, and then obtain approval from the City Commission.

1.0 Land Use and Zoning

- 1.1 Existing Land Use – Luxe is currently in operation at 525 N. Old Woodward. The storefront to the south to be used for the proposed expansion is vacant. Land uses surrounding the site are residential, retail, commercial and public property (Booth Park).
- 1.2 Existing Zoning – The property is currently zoned O-2, Office-Commercial, and D-2 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.
- 1.3 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.

| | North | South | East | West |
|---|-------------------------------|--|------------------------|-------------------------------|
| Existing Land Use | Multi-Family Residential | Restaurant, Retail, Booth Park | Commercial / Retail | Multi-Family Residential |
| Existing Zoning District | R-6, Multi-Family Residential | O-2, Office-Commercial/ PP Public Property | O-2, Office-Commercial | R-6, Multi-Family Residential |
| Downtown Overlay Zoning District | N/A | D-2 | D-2 | N/A |

2.0 Bistro Requirements

Article 9, section 9.02, Definitions, of the Zoning Ordinance defines a bistro as a restaurant with a full service kitchen with interior seating for no more than 65 people and additional outdoor seating of no more than 65. Under the existing SLUP, Luxe currently has approval for 54 indoor seats, including 10 at the bar, and has an additional 12 outdoor dining seats (permanent approval, not temporary COVID-19 approved plan). Luxe will continue to have a full service kitchen and offer a classic American menu featuring lunch and dinner.

The plans submitted contain a summary of the interior seating, which totals up to 64 seats split between the bar, high tops, booths, settee's, and a dining counter. As noted above, Luxe is currently approved with 44 indoor seats plus the maximum of 10 seats at the bar (54 total existing). The proposed plan removes 5 of those bar stools from the existing bar. It would seem as though the applicant is proposing to move forward with only 5 bar seats in the same area where there were previously 10. Although the ordinance requirements are being met in this scenario, it is imperative to reiterate that all bistros must maintain the seat totals and general layouts as depicted in the approved site plans. As far as outdoor seating, the applicant is proposing an increase from 12 to 48 outdoor seats where a maximum of 65 is allowed.

Article 3, section 3.04(C)(10) of the Zoning Ordinance permits bistros in the Overlay District as long as the following conditions are met:

- (a) No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
- (b) Alcohol is served only to seated patrons, except those standing in a defined bar area;
- (c) No dance area is provided;
- (d) Only low key entertainment is permitted;
- (e) Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
- (f) A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1' and 8' in height;
- (g) All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
- (h) Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is

not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, enclosed platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.

Although some clarification is needed, the proposed expansion will contain only 5 bar seats where 10 are allowed. No direct connect bar permit will be permitted from this license if it is approved. Alcohol may only be served to seated patrons and those standing in the bar area. Luxe does not currently offer nor propose to offer any dancing or entertainment.

Luxe will continue to have tables located in their existing storefront space lining N. Old Woodward, and also propose to add four new tables in the vacant storefront to the south to provide continuous dining tables along the entire expanded storefront space. The existing Luxe has more than 70% storefront glazing as required, and significant glazing also exists in the vacant storefront to the south. The applicant has provided new glazing calculations that show 72% glazing for the proposed combined space, meeting the requirements of Article 4, Section 4.90 of the Zoning Ordinance.

The applicant will be required to provide a signed copy of the contract with the City that must be fully executed upon approval of the SLUP Amendment and the Revised Final Site Plan and Design Review.

As discussed above, the expansion of Luxe to the south will increase the outdoor dining area from 12 seats to 50 seats, to be situated on the sidewalk directly adjacent to the building, and in the street furnishing zone adjacent to the required 5' minimum pedestrian path (5.5' is provided). Luxe is proposing to maintain the existing doors at the north end of storefront to provide access to the outdoor dining area. The current main entry door is proposed to be reused and relocated to the south. The opening of the existing door is proposed to be filled with a new aluminum storefront window in matte black to match the existing windows. The outdoor dining area as proposed provides for safe and efficient pedestrian flow via the required 5' wide pathway between the proposed seating along the building and the seating proposed in the furnishings zone. The 2016 Plan recommends that this pedestrian way be immediately adjacent to the storefront to allow pedestrians to see into the storefront and to have a consistent and unobstructed walkway. However, the Planning Board has discussed where the location of the pathway should be located (next to the building or closer to the street) and have chosen to review each proposal individually to determine the most logical location based on the current flow of pedestrians.

The expanded outdoor dining area is proposed to be enclosed with 14 black composite Veradek planter boxes, some of which are existing. The applicant has not provided any dimensional specifications for the new planters including the dimensions and planting types proposed. **The applicant must provide the dimension specifications for the required planters.**

The applicant has indicated that Luxe is currently serving from 11 AM – 1AM every day and 11AM – 12AM on Sunday. The applicant has not indicated separate hours for the outdoor

dining area. **The applicant must provide the hours of operation for the outdoor dining area.**

3.0 Screening and Landscaping

- 3.1 Screening – There are no exterior changes shown for mechanical units or venting. However, if any additional mechanical units or venting are required, all changes must be submitted to the Planning Division prior to installation or changes.
- 3.2 Landscaping – The applicant is not proposing to change the existing street tree pattern. As mentioned above, new planters will be added to enclose the outdoor dining area.

4.0 Parking, Loading, Access, and Circulation

- 4.1 Parking – As the subject site is located within the Parking Assessment District, the applicant is not required to provide on-site parking for the proposed commercial use.
- 4.2 Loading - Loading spaces are not required, nor proposed.
- 4.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.
- 4.4 Pedestrian Access & Circulation – Pedestrian access to the outdoor café is available directly from the City sidewalk. Under the 2016 Plan, outdoor cafes are encouraged as they create a more pedestrian friendly environment. All outdoor dining areas must maintain a 5 foot minimum width of unobstructed pedestrian access along the storefront in the public right-of-way, however as mentioned above, the Planning Board has determined that each applicant would be reviewed on a case by case basis to determine the existing pedestrian traffic flow. The proposed expanded layout does provide for outdoor seating along the storefront and adjacent to the curb with the required pedestrian path between these areas.
- 4.5 Streetscape – The existing sidewalk is concrete towards the storefront and aggregate between the sidewalk and curb. This sidewalk conforms to the Downtown Birmingham Streetscape Standards. Two street trees and tree wells are located along N. Old Woodward in front of the existing restaurant and the proposed expansion area to the south. The applicant has also proposed a service area that will contain the required trash receptacle and hand sanitizing station just south of the proposed main entrance closer to the street.

5.0 Lighting

The three existing gooseneck light fixtures are proposed to remain in their current locations on the front facade of the existing Luxe space. The three gooseneck fixtures on the vacant storefront to the south are to remain, and the applicant proposes to paint these to match the color of the existing Luxe lighting.

6.0 Departmental Reports

6.1 Engineering Department – The Engineering Department has no concerns at this time.

6.2 Department of Public Services – The Department of Public Services has no concerns at this time.

6.2 Fire Department – The Fire Department submitted the following comments:

- The Fire Department has no concerns with this proposed restaurant expansion.
- Floor plans that include proposed occupant load, and egress travel distances will need to be submitted for review and approval.
- Plans will need to be submitted for the commercial kitchen hood suppression system for review and approval.

6.4 Police Department – The Police Department has no concerns at this time.

6.5 Building Department – The Building Department submitted the following comments:

As requested, the Building Department has examined the plans for the proposed project referenced above. The plans were provided to the Planning Department for site plan review purposes only and present conceptual elevations and floor plans. Although the plans lack sufficient detail to perform a code review, the following comments are offered for Planning Design Review purposes and applicant consideration:

Applicable Building Codes:

- 2015 Michigan Building Code. Applies to all buildings other than those regulated by the Michigan Residential Code.
 - 2015 Michigan Mechanical Code. (Residential requirements for mechanical construction in all detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures are contained in the Michigan Residential Code)
 - 2015 Michigan Plumbing Code. (Residential requirements for plumbing construction in all detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures are contained in the Michigan Residential Code)
 - 2017 National Electrical Code along with the Michigan Part 8 Rules. (Residential requirements for electrical construction in all detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures are contained in the Michigan Residential Code)
-

Review Comments:

- No code concerns at this time.

7.0 Design Review

The applicant is proposing minor exterior design changes to the vacant storefront to match the finishes to the existing Luxe storefront. All brick, windows, roofing and lighting will remain as is, but the window frames, trim, fascia and light fixtures are proposed to be painted to match the colors used on the existing Luxe storefront. The applicant has stated that they will match the existing paint on the Luxe storefront with Sherwin Williams SW 7020 "Black Fox". As discussed above, the existing Luxe door and hardware will be relocated to the north to replace the entrance door to the vacant storefront space. The former Luxe entry opening will be filled with a clear glass and aluminum window system in matte black to match the existing Luxe windows. Article 4, Section 4.90 of the Zoning Ordinance requires only clear glazing (80% VLT) on first floor facades. The applicant has not submitted specifications on the newly proposed large glass area that is replacing the existing entryway.

The applicant must submit specifications on the new glazing proposed.

Outdoor Dining Area

Outdoor cafés must comply with the site plan criteria as required by Article 04, Section 4.42 OD-01, Outdoor Dining Standards. Outdoor cafes are permitted immediately adjacent to the principal use and are subject to site plan review and the following conditions:

1. Outdoor dining areas shall provide and service refuse containers within the outdoor dining area and maintain the area in good order.
2. All outdoor activity must cease at the close of business, or as noted in Subsection 3 below, whichever is earlier.
3. When an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the close of business or 12:00 a.m., whichever is earlier.
4. All tables and chairs provided in the outdoor dining area shall be constructed primarily of metal, wood, or material of comparable quality.
5. Table umbrellas shall be considered under Site Plan Review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.
6. For outdoor dining located in the public right-of-way:
 - a) All such uses shall be subject to a license from the city, upon forms provided by the Community Development Department, contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
 - b) In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 feet.

-
- c) An elevated, ADA compliant, enclosed platform may be erected on the street adjacent to an eating establishment to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
 - d) No such facility shall erect or install permanent fixtures in the public right-of-way.
 - e) Commercial General Liability Insurance must be procured and maintained 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. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members, as an additional insured. This coverage must be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance, and shall include an endorsement providing for a thirty (30) day advance written notice of cancellation or non-renewal to be sent to the city's Director of Finance.

The applicant is proposing to extend the outdoor seating in front of the existing Luxe storefront to the south along the expanded frontage. The outdoor dining area is proposed to be enclosed with 14 planters. As noted in Section 2.0 of this report, the applicant has not provided any specifications for the proposed planters nor details on the plantings at this time. The required 5' pedestrian pathway is provided along the public sidewalk.

The applicant has provided a service station that contains a trash receptacle and hand sanitizing area. The applicant has indicated that Luxe served from 11 AM – 1 AM everyday but Sunday. **The proposed outdoor dining area is immediately adjacent to multi-family zoned property, and therefore must cease operation by 12 midnight or at the close of business, whichever is earlier. The applicant must provide official indoor and outdoor hours of operation for the restaurant.**

The applicant has proposed the new furniture that will match the existing tables and chairs. The chairs are proposed as black powder coated Gar "Bayhead" with woven resin seat and back and the tables as Gar "Antoinette" black metal. Seven new four top rectangular tables are proposed, along with three new round two top tables, as well as an additional 38 chairs.

No umbrellas are proposed at this time for the outdoor dining area.

The applicant will be required to enter into a revised license agreement with the City for use of the public right-of-way, and to provide the required insurance. Liquor liability insurance will also be required for the service of liquor in the right-of-way.

Signage

The applicant is permitted to have a total of 59 square feet of signage, based on the expanded frontage proposed for Luxe. They are proposing to install three name letter signs on an existing canopy with a 12" high valence. The proposed name letter signs total 4.75 sq. ft. in area, with the signage broken down as follows:

- "Bar" 1 ft. in length by 0.5 ft. in height;
- "Luxe" 3.5 ft. in length by 10 in. in height; and
- "Grill" 1.5 ft. in length by 0.5 ft. in height.

In accordance with the new canopy sign regulations in Article 2, Table B of the Sign Ordinance, canopy signs are permitted if the height of the valence is 18" or less, and if no more than 33% of the canopy valence is occupied by the signage. The applicant meets both of these requirements. The dimensional letters are proposed to be constructed of polished stainless steel. No other signage is proposed.

8.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-2 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. Specifically, the 2016 Plan recommends the addition of outdoor dining areas in the public right-of-way as it is in the public's best interest as it enhances street life, thus promoting a pedestrian friendly environment. The 2016 Plan also recommends that the 5' clear pedestrian passage be provided against the storefronts to ensure that merchants can display and sell their products and so as not to distort the flow of pedestrians. The applicant's proposal to provide an outdoor dining area adjacent to the storefront is not consistent with the recommendations contained in the 2016 Plan, but the Planning Board has determined to review each proposal on a case by case basis and to base decisions on how current pedestrian traffic flows.

Salvatore Scaloppini, the bistro located just south of Luxe, also has outdoor dining located directly next to the building and in the street furnishing zone, thus creating a consistent streetscape and pedestrian walking path.

9.0 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.

10.0 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.

11.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division suggests that the Planning Board recommend **APPROVAL** of the applicant's request for a Revised Final Site Plan and Design Review for Luxe at 525 N. Old Woodward to the City Commission with the following conditions:

- (1) The applicant must submit official hours of operation to ensure the outdoor dining area is not open past 12 AM;
- (2) The applicant provide specification sheets for the planters, outdoor furnishings, paint colors and glazing prior to appearing before the City Commission for review;
- (3) The applicant execute a revised contract with the City of Birmingham; and
- (4) The applicant comply with the requests of all city departments.

12.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Board recommends **APPROVAL** to the City Commission of the applicant's request for Revised Final Site Plan and Design Review to expand Luxe bistro into the storefront space to the south with the following conditions:

- (1) The applicant must submit official hours of operation to ensure the outdoor dining area is not open past 12 AM;
- (2) The applicant provide specification sheets for the planters, outdoor furnishings, paint colors and glazing prior to appearing before the City Commission for review;
- (3) The applicant execute a revised contract with the City of Birmingham; and
- (4) The applicant comply with the requests of all city departments.

OR

Motion to recommend **DENIAL** of the Revised Final Site Plan and Design Review to the City Commission for 525 N. Old Woodward, Luxe, for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the Revised Final Site Plan and Design Review for 525 N. Old Woodward, Luxe, with the following conditions:

1. _____
2. _____
3. _____

AND

Motion to recommend **APPROVAL** to the City Commission for a SLUP Amendment to allow Luxe bistro at 525 N. Old Woodward to expand into the storefront to the south with the following conditions:

- (1) The applicant must submit official hours of operation to ensure the outdoor dining area is not open past 12 AM;
- (2) The applicant provide specification sheets for the planters, outdoor furnishings, paint colors and glazing prior to appearing before the City Commission for review;
- (3) The applicant execute a revised contract with the City of Birmingham; and
- (4) The applicant comply with the requests of all city departments.

OR

Motion to recommend **DENIAL** of the Revised Final Site Plan and Design Review to the City Commission for 525 N. Old Woodward, Luxe, for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **POSTPONEMENT** of the Revised Final Site Plan and Design Review for 525 N. Old Woodward, Luxe, with the following conditions:

1. _____
 2. _____
 3. _____
-



**Special Land Use Permit Application – Economic Development License
Planning Division**

Form will not be processed until it is completely filled out.

1. Applicant

Name: KARA LARRY BONGIOUANNI
Address: 525 N. OLD WOODWARD AVE
BIRMINGHAM, AL 35209
Phone Number: 248 867 8305
Fax Number: 248 644 1733
Email address: SALSCAL@SBCGLOBAL.NET

3. Applicant's Attorney/Contact Person

Name: ROMAN BONISLAWSKI
Address: 275 E. FRANK ST.
BIRMINGHAM, AL
Phone Number: 248 723-5790
Fax Number: 248 723-5795
Email address: ROMAN@RONANDROMAN.COM

2. Property Owner

Name: MASTERPIECE INVESTMENTS
Address: 30777 NORTHWESTERN HWY
FARMINGTON HILLS, MI 48334
Phone Number: 248 681-5400
Fax Number: 248 681-8434
Email address: KORI.PERNOFF@PIUMARKET.COM

4. Project Designer/Developer

Name: ROMAN BONISLAWSKI
Address: 275 E. FRANK ST.
BIRMINGHAM, AL
Phone Number: 248 723-5790
Fax Number: 248 723-5795
Email address: ROMAN@RONANDROMAN.COM

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 the 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: 523 1/2 525 N. OLD WOODWARD BIRMINGHAM
Name of development: LUXE BART & GRILL
Sidwell #: 1925-327-031
Current Use: RE BISTRO AT 525 1/2 FORMER MERRILL
Proposed Use: BISTRO AT 523
Area of Site in Acres: .35
Current zoning: O2 WITH DOWNTOWN OVERLAY D2
Is the property located in the floodplain?
Name of Historic District Site is Located in:
Date of Historic District Commission Approval:

Date of Application for Preliminary Site Plan:
Date of Preliminary Site Plan Approval:
Date of Application for Final Site Plan:
Date of Final Site Plan Approval:
Date of Application for Revised Final Site Plan:
Date of Revised Final Site Plan Approval:
Date of Design Review Board Approval:
Is there a current SLUP in effect for this site? YES
Date of Application for SLUP:
Date of SLUP Approval:
Date of Last SLUP Amendment:

7. Details of the Proposed Development (attach separate sheet if necessary)

EXPAN KITCHEN AREA AND ADDING COOKLINE WITH HOOD INTO ADJACENT SPACE 523
N. OLD WOODWARD. RELOCATING ENTRY FOR LUXE TO THE ADJACENT TENANTS SPACE, AND
EXPANDING FRONT HIGH TOP DINING INTO FORMER EXTERIOR ENTRY NICHE. OPEN EXISTING
WALL BETWEEN TWO TENANCIES AT FRONT FOR PUBLIC AND REAR FOR KITCHEN SERVICE
SMALL DINING AREA EXPANDED INTO THE ADJACENT SPACE FROM LUXE - SEE HEE & COUNTER HEIGHT
DINING - WITH SOUP AND SALAD PREPARATION BEHIND COUNTER. NEW HOSTESS AREA
EXPANDED CARRY OUT CAPACITY. FAÇADE TO BE EXTENSION OF EXISTING MATERIALS &
COLORS OF LUXE. BUILD TO REMAIN ALL WOOD TRIM, FACIAS AND WINDOWS PAINTED TO MATCH
WITH FABRIC VALANCES TO MATCH EXISTING AS WELL.

8. Buildings and Structures

Number of Buildings on Site: 2

Height of Buildings & # of Stories: 1 story NO INCREASE 18'-0" Use of Buildings: BISTRO & MERCANTILE = BOTH BISTRO

Height of Rooftop Mechanical Equipment: 18'-0"

9. Floor Use and Area (in Square Feet)

Structures:

Restaurant Space: 3520

Office Space: 0

Retail Space: 0

Number of Residential Units: 0

Rental or Condominium? 0

Total Floor Area: 3520

10. Proposed Restaurant Operation

Number of Indoor Seats:

Number of Outdoor Seats:

Entertainment Proposed: NO

Previous LCC Complaints? NO

Number of Tables along Street Façade:

Type of Cuisine: AMERICAN

Bar Area? YES

Number of Seats at Bar:

Full Service Kitchen? YES

Percentage of Glazing Proposed:

Years of Experience in Birmingham: 40+

Years of Experience Outside Birmingham: 50+

11. Proposed Setbacks

Required Front Setback:

Required Rear Setback:

Required Total Side Setback:

Proposed Front Setback:

Proposed Rear Setback:

Proposed Total Side Setback:

12. Outdoor Dining Facility

Location (sidewalk right-of-way or on-street parking space):

SIDEWALK RIGHT OF WAY

Hours of Operation: 11AM - 1AM

Width of unobstructed sidewalk between door and café? (5 ft. required):

Platform Proposed:

Trash Receptacles:

Number of Tables/Chairs:

Material of Tables/Chairs:

Tables Umbrellas Height & Material:

Number and Location of Parking Spaces Utilized:

Screenwall Material:

Enclosure Material:

13. Required and Proposed Parking

Required number of parking spaces: DOWNTOWN OVERLAY

Location of parking on site:

Screenwall material:

Shared Parking Agreement?

Location of parking off site:

Height of screenwall:

14. Landscaping

Location of landscape areas:

Proposed landscape material:

15. Streetscape

Sidewalk width: 5'-0" CLEAR
Number of benches: _____
Number of planters: 12
Number of existing street trees: 2
Number of proposed street trees: 2
Streetscape plan submitted? _____

Description of benches or planters: PLANTER SIMILAR TO EXISTING
Species of existing trees: _____

Species of proposed trees: NO NEW TREES

16. Loading

Required number of loading spaces: _____
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: _____

17. Exterior Waste Receptacles

Required number of waste receptacles: _____
Location of waste receptacles: ALLEY
Screenwall material: _____

Proposed number of waste receptacles: 3
Size of waste receptacles: 3 YARDS
Height of screenwall: _____

18. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: _____
Size of transformers (L•W•H): _____
Number of utility easements: _____
Screenwall material: _____

Location of all utilities & easements: _____

Height of screenwall: _____

Ground Mounted Mechanical Equipment:

Number of ground mounted units: _____
Size of ground mounted units (L•W•H): _____
Screenwall material: _____

Location of all ground mounted units: _____

Height of screenwall: _____

Rooftop Mechanical Equipment:

Number of rooftop units: _____
Type of rooftop units: _____
Screenwall material: _____
Location of screenwall: _____

Location of all rooftop units: _____

Size of rooftop units (L•W•H): _____

Percentage of rooftop covered by mechanical units: _____

Height of screenwall: _____

Distance from rooftop units to all screenwalls: _____

19. Accessory Buildings

Number of accessory buildings: _____
Location of accessory buildings: _____

Size of accessory buildings: _____

Height of accessory buildings: _____

20. Building Lighting

Number of light standards on building: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light standards on building: _____

Height from grade: _____

Proposed wattage per fixture: _____

21. Site Lighting

Number of light fixtures: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light fixtures: _____

Height from grade: _____

Proposed wattage per fixture: _____

Holiday tree lighting receptacles: _____

22. Adjacent Properties

Number of properties within 200 ft.: 1

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.

DocuSigned by:
Signature of Owner: Matthew Jonna Date: 08.05.2020
59E6736A5756418...

Print Name: Matthew Jonna

Signature of Applicant: _____ Date: 08.05.2020

Print Name: Larry Bongiovanni

Signature of Architect: _____ Date: 08.05.2020

Print Name: Roman Bonislowski

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

Date of Approval: _____ Date of Denial: _____ Accepted by: _____



SPECIAL LAND USE PERMIT APPLICATION CHECKLIST – PLANNING DIVISION

Applicant: _____ Case #: _____ Date: _____

Address: _____ Project: _____

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.

Site Plan for Special Land Use Permit

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:

- ☐ 1. Name and address of applicant and proof of ownership;
- ☐ 2. Name of Development (if applicable);
- ☐ 3. Address of site and legal description of the real estate;
- ☐ 4. Name and address of the land surveyor;
- ☐ 5. Legend and notes, including a graphic scale, north point, and date;
- ☐ 6. A separate location map;
- ☐ 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;
- ☐ 8. Aerial photographs of the subject site and surrounding properties;
- ☐ 9. A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair;
- ☐ 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 sites property lines;
- ☐ 11. Interior floor plans;
- ☐ 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");

- ☐ 13. Existing and proposed layout of streets, open space and other basic elements of the plan;
- ☐ 14. Existing and proposed utilities and easements and their purpose;
- ☐ 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;
- ☐ 16. General description, location, and types of structures on site;
- ☐ 17. Location of sidewalks, curb cuts, and parking lots on subject site and all sites within 200 ft. of the property line;
- ☐ 18. Details of existing or proposed lighting, signage and other pertinent development features;
- ☐ 19. Elevation drawings showing proposed design;
- ☐ 20. Screening to be utilized in concealing any exposed mechanical or electrical equipment and all trash receptacle areas;
- ☐ 21. Location of all exterior lighting fixtures;
- ☐ 22. A Photometric Plan depicting proposed illuminance levels at all property lines;
- ☐ 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
- ☐ 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:

- ☐ 25. Color elevation drawings showing the proposed design for each façade of the building;
- ☐ 26. List of all materials to be used for the building, marked on the elevation drawings;
- ☐ 27. Elevation drawings of all screenwalls to be utilized in concealing any exposed mechanical or electrical equipment, trash receptacle areas and parking areas;
- ☐ 28. Details of existing or proposed lighting, signage and other pertinent development features;
- ☐ 29. A list of any requested design changes;
- ☐ 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;
- ☐ 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
- ☐ 32. Any other information requested in writing by the Planning Division, the Planning Board, or the Building Official deemed important to the development.



Notice Signs - Rental Application Community Development

1. Applicant

Name: LAWRENCE BONGIOUANNI
 Address: 525 N. OLD WOODWARD
BIRMINGHAM AL 35209
 Phone Number: 248 667 0305
 Fax Number: 248 644 1733
 Email address: SALSCAL@SBCG10341.NET

Property Owner

Name: MASTERPIECE INVESTMENTS
 Address: 30777 NORTH WESTERN HWY
PALMINGTON HILLS, MI 48334
 Phone Number: 248 681 5400
 Fax Number: 248 681 8434
 Email address: KORI.PERNOFF@PIUMARKET.COM

2. Project Information

Address/Location of Property: 525/523 N. OLD WOODWARD
 Name of Development: LUKE PARK GRILL
 Area in Acres: .35

Name of Historic District site is in, if any: _____
 Current Use: DISTO AT 525
 Current Zoning: D2 WITH DOWNTOWN OVERLAY D2

3. Date of Board Review

Board of Building Trades Appeals: _____
 City Commission: _____
 Historic District Commission: _____
 Planning Board: _____

Board of Zoning Appeals: _____
 Design Review Board: _____
 Housing Board of Appeals: _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to post the Notice Sign(s) at least 15 days prior to the date on which the project will be reviewed by the appropriate board or commission, and to ensure that the Notice Sign(s) remains posted during the entire 15 day mandatory posting period. The undersigned further agrees to pay a rental fee and security deposit for the Notice Sign(s), and to remove all such signs on the day immediately following the date of the hearing at which the project was reviewed. The security deposit will be refunded when the Notice Sign(s) are returned undamaged to the Community Development Department. Failure to return the Notice Sign(s) and/or damage to the Notice Sign(s) will result in forfeiture of the security deposit.

Signature of Applicant: _____

Date: 8/5/2020

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

Date of Approval: _____ Date of Denial: _____ Reviewed by: _____

R O N A N D R O M A N
architects et al.
275 E. Frank St. Birmingham MI 48009
o) 248.723.5790 f) 248.723.5795

Luxe

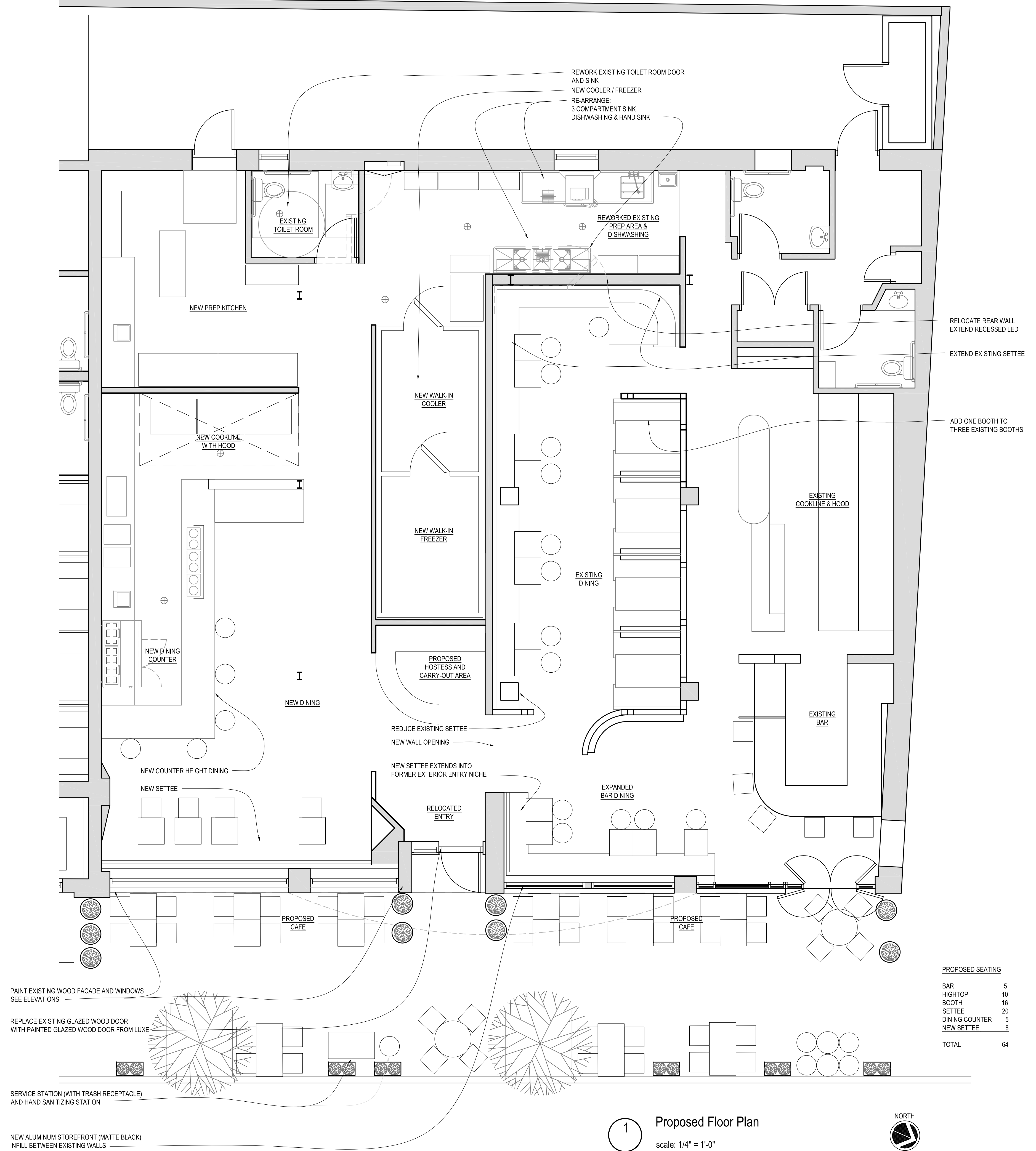
Expanding Kitchen and Dining in Existing and Adjacent Tenant Spaces
525 North Old Woodward, Birmingham, MI 48009

Issue Date:

| | |
|------------|------------|
| SUBMISSION | 08.05.2020 |
| | |
| | |
| | |
| | |
| | |
| | |

Proposed Site & Building Plan

A101





STREET VIEW FROM SOUTH



STREET VIEW FROM NORTH

6 Existing Luxe Exterior Views



EXISTING LUXE PLANTER
PAINTED CAST STONE DECORATIVE URNS



EXISTING LUXE PLANTER
BLACK COMPOSITE VERADEK PLANTERS



EXISTING LUXE FACADE
PAINTED WOOD WINDOWS AND DOORS
SHERWIN WILLIAMS SW 7020 "BLACK FOX"
FABRIC VALANCES
SUNBRELLA "SLATE" AND "PARCHMENT"
BRICK (UNPAINTED)



EXISTING LUXE CAFE TABLE AND CHAIRS
CHAIRS: GAR "BAYHEAD" BLACK POWDERCOATED
WITH WOVEN RESIN SEAT AND BACK
TABLES: GAR "ANTOINETTE" BLACK METAL BASES

5 Existing Luxe Exterior Materials and Furniture to Match



EXISTING LUXE DOOR AND HARDWARE



EXISTING LUXE BAR

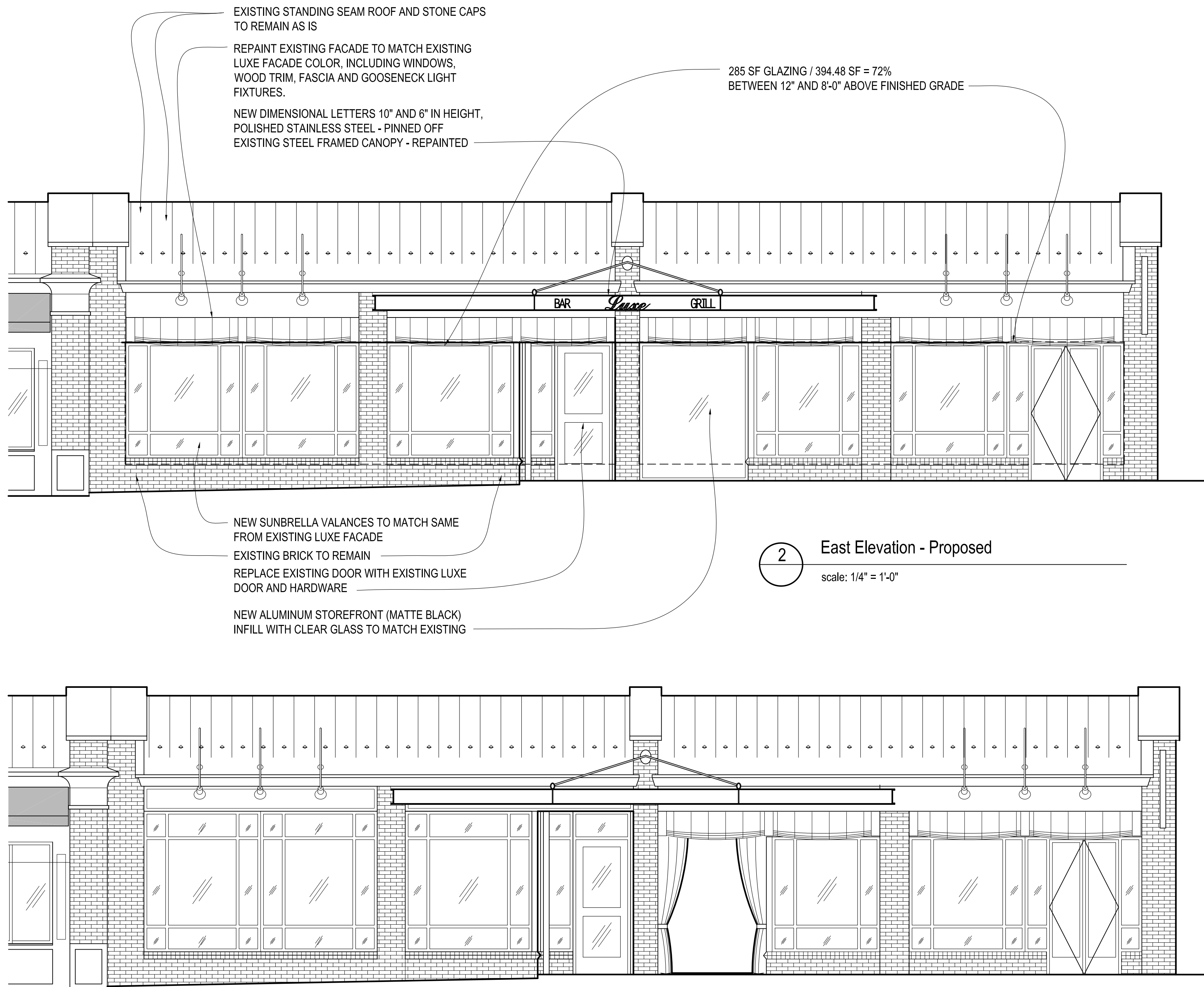


EXISTING LUXE DINING ROOM
SETTEE, TABLES AND CHAIRS



EXISTING LUXE DINING ROOM
BOOTHES

4 Existing Luxe Interiors to Match in Spirit and Feel



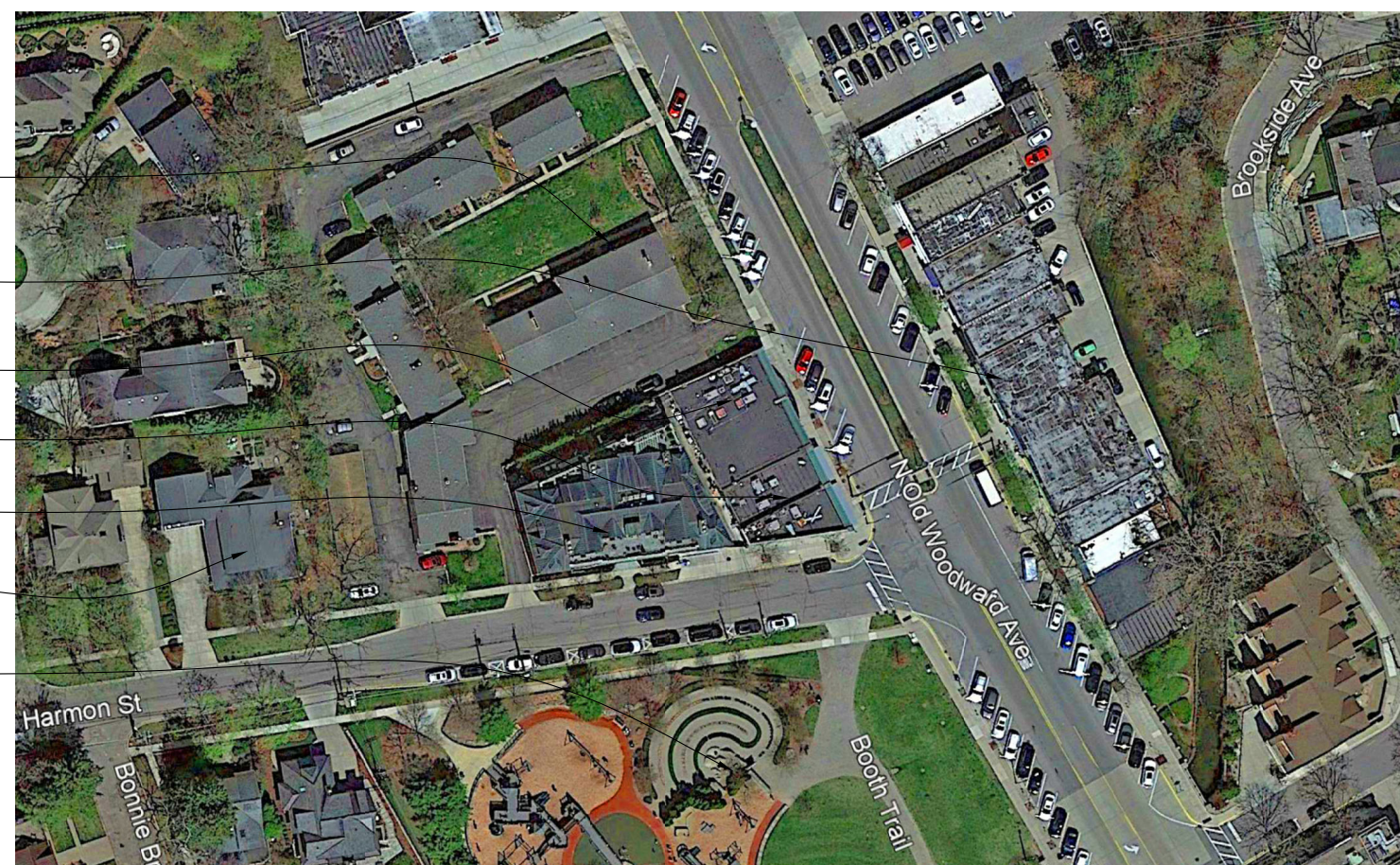
2 East Elevation - Proposed

scale: 1/4" = 1'-0"

1 East Elevation - Existing

scale: 1/4" = 1'-0"

- MULTI-FAMILY RESIDENTIAL
- ONE STORY RETAIL
- LUXE BAR AND GRILL
- SALVATORE SCALLOPINI
- MULTI-FAMILY RESIDENTIAL
- SINGLE FAMILY RESIDENTIAL
- PUBLIC PARK



3 Area Map

scale: not to scale



R O N A N D R O M A N
architects et al.
275 E. Frank St. Birmingham, MI 48009
o) 248.723.5790 f) 248.723.5795

Project:

Luxe
Expanding Kitchen and Dining in Existing and Adjacent Tenant Spaces
525 North Old Woodward, Birmingham, MI 48009

Seal:

Issue Date:
SUBMISSION 08.05.2020

Sheet Title:
Existing and Proposed Elevations

Sheet Number:
A201

Fwd: 525 N. Old Woodward

Darrell Dinges <darrell@ronandroman.com>

Thu, Aug 20, 2020 at 3:02 PM

To: Jana Ecker <jecker@bhamgov.org>, Brooks Cowan <bcowan@bhamgov.org>, Nicholas Dupuis <ndupuis@bhamgov.org>

Jana, Brooks, and Nick,

Attached Please find revised drawings that address Jana's comments 1-5.

Below is a brief statement from Larry and Kara Bongiovanni addressing item 6.

Application will be dropped off by Larry Bongiovanni.

Thanks for considering changes to Luxe current SLUP agreement. We are pleased that you will contemplate adjustments to our footprint, and our ability to meet Birmingham guests needs.

Our thought is to improve our operation by creating better work spaces, improved take out capability, and more acceptable social spacing as made necessary by the virus.

We are proposing moving portions of the kitchen to create more space for staff to work in as well as meet the growing carry out demand. Additionally, using this exhibition area to serve as a dining / lunch counter.

Menu changes will be limited. Expansion of Salad offerings, we will experiment with an idea revolving around the great comfort food, The GRILLED CHEESE Sandwich.

We are currently serving from 11-1a every day except Sunday. We may try to open a little earlier with our addition.

Our hope is to further serve our loyal guests in a manner that they feel safe, one in which allows our staff to have confidence and the environment to be successful.

Thanks again

Kara and Larry Bongiovanni

[Quoted text hidden]

Fwd: 525 N. Old Woodward

Darrell Dinges <darrell@ronandroman.com>

Fri, Aug 21, 2020 at 3:46 PM

To: Jana Ecker <jecker@bhamgov.org>, Brooks Cowan <bcowan@bhamgov.org>, Nicholas Dupuis <ndupuis@bhamgov.org>

Jana, Nick, and Brooks,

Attached please find a revised Elevation sheet A201 that addresses the preliminary report:

1. "Luxe" letters are 10" tall, and new pinned off letters are called out as "polished stainless steel", and are no longer extending above the top of the steel canopy.
2. Café Chairs and tables are identified as GAR products (under the photos)
3. Café rectangular planters are identified as Black Composite Veradek planters, others are painted cast stone decorative urns.
4. Paint color is identified as Sherwin Williams SW 7020 "Black Fox".
5. Valance fabric is identified as Sunbrella "Parchment" and "Slate"

Please see below for revised comments from the Bongiovanni's clarifying their hours of operation:

Thanks for considering changes to Luxe current SLUP agreement. We are pleased that you will contemplate adjustments to our footprint, and our ability to meet Birmingham guests needs. Our thought is to improve our operation by creating better work spaces, improved take out capability, and more acceptable social spacing as made necessary by the virus. We are proposing moving portions of the kitchen to create more space for staff to work in as well as meet the growing carry out demand. Additionally, using this exhibition area to serve as a dining / lunch counter. Menu changes will be limited. Expansion of Salad offerings, we will experiment with an idea revolving around the great comfort food, The GRILLED CHEESE Sandwich. We are currently open from 11am -1am every day except Sunday hours of 11am to 12 am. We may try to open a little earlier with our addition. Our hope is to further serve our loyal guests in a manner that they feel safe, one in which allows our staff to have confidence and the environment to be successful.

Thanks again,

Kara and Larry Bongiovanni

[Quoted text hidden]



Luxe revised 20200820X.pdf
4259K

Luxe Expansion - Additional information required

1 message

Darrell Dinges <darrell@ronandroman.com>
To: Jana Ecker <jecker@bhamgov.org>
Cc: Nicholas Dupuis <ndupuis@bhamgov.org>

Thu, Oct 29, 2020 at 2:12 PM

Jana,

Per our conversation earlier today, here is the additional information requested as required for our next meeting.

1. Hours: Cut from the narrative Larry drafted (previously sent).

"We are currently open from 11am -1am every day except Sunday hours of 11am to 12 am." With outdoor Café not past 12am.

2. Paint: Sherwin Williams SW 7020 "Black Fox" – attachment.

3. Glazing Specification: To match existing - Cardinal Glass VLT: 82% - attachment.

Please let me know if you need any additional information. Enjoy your Friday off!

Thank you,

Darrell J. Dinges, LEED AP

R O N A N D R O M A N, architects et al.

[275 East Frank Street](#)

[Birmingham, MI 48009](#)

248.723.5790

2 attachments



Sherwin Williams Black Fox SW 7020.jpg
169K



Cardinal Glass Double Pane Clear Specification.PNG
101K

SHERWIN-WILLIAMS®



What can we help you find?



SW 7020

Black Fox

Interior / Exterior

Location Number: 244-C7



Glass Performance

| IG TYPE AND COATING | VISIBLE LIGHT | | | FADE TRANSMISSION | | SOLAR | U-FACTOR: <small>IP</small> <small>SI</small> | |
|------------------------|--------------------|-------------------------|-------------------------|-------------------|------|--------------------------|---|---------------|
| | TRANS- MITTANCE | EXTERNAL REFLECTANCE | INTERNAL REFLECTANCE | UV | ISO | HEAT GAIN COEFFICIENT | AIR FILL | ARGON FILL |
| Single-pane, Clear | 90% | 8% | 8% | 0.71 | 0.84 | 0.86 | 1.04 | — |
| Double-pane, Clear | 82% | 15% | 15% | 0.58 | 0.75 | 0.78 | 0.48 | — |
| Ordinary low-e | 76% | 17% | 17% | 0.50 | 0.68 | 0.72 | 0.34 | 0.30 |
| LoE ² -272 | 72% | 11% | 12% | 0.16 | 0.55 | 0.41 | 0.30 | 0.25 |
| LoE ² -270 | 70% | 12% | 13% | 0.14 | 0.53 | 0.37 | 0.30 | 0.25 |

MINUTES OF THE PLANNING BOARD
WEDNESDAY, AUGUST 26, 2020
Held Remotely Via Zoom And Telephone Access

G. Special Land Use Permit Amendment and Final Site Plan & Design Review

1. 525 N. Old Woodward, Luxe Bistro – Request for Special Land Use Permit Amendment to expand the existing restaurant into the storefront space to the south.

2. 525 N. Old Woodward, Luxe Bistro – Request for Revised Final Site Plan Review to expand the existing restaurant into the storefront space to the south.

Planning Director Ecker summarized the proposed Special Land Use Permit (SLUP) Amendment and the Final Site Plan and Design Review. In reply to Chairman Clein, she confirmed that condition three of the proposed motion language could be removed as the applicant submitted the revised contract just prior to the present meeting. She said that for condition two of the proposed motion language the applicant had submitted the colors and glazing specs, but had not yet submitted the spec sheets for the planters and outdoor furnishings.

Joseph, Carrie, and Larry Bongiovanni, owners, Roman Bonislowski, architect, and Darrell Dinges, architect, were present on behalf of the applicant. Of the owners, only Joseph Bongiovanni spoke on behalf of the request.

Mr. Bongiovanni said part of the changes proposed were to allow for more social distancing within the restaurant and to better facilitate carryout service in light of the Covid-19 pandemic.

Kshama Jay spoke as a neighbor of Luxe. She said that she has been pleased to live next to Luxe in general and is a regular patron of their carryout services. Ms. Jay said her concerns were that parking was becoming congested by restaurant patrons and that there has been an accumulation of litter and cigarette butts in front of and adjacent to Luxe. She asked what the owners would be doing to remedy the issues.

Mr. Bongiovanni said that the Park-n-Fly model has reduced the strain on parking and decreases the opportunity to litter. He said that anything the City can do to encourage Park-n-Fly as an option would yield further benefits. He also said that he took responsibility as the owner of Luxe and would make sure that Luxe staff pay more attention to litter generated by restaurant customers.

Chairman Clein asked Mr. Bongiovanni for a confirmation that he would take appropriate action to reduce litter and cigarette butts outside Luxe. He emphasized the importance of being respectful to neighbors as a business in a residential area.

Mr. Bongiovanni confirmed he would.

Mr. Emerine noted that the applicant was allowed 65 seats but was only asking for 64. He said it might be worthwhile for the Board to consider allowing the 65th seat to be at the bar if the applicant wanted that option.

Mr. Bongiovanni said the lack of the 65th seat was an oversight and not intentional.

Mr. Williams said he would be in favor of allowing an additional seat at the bar. He also commended the Bongiovanni family for the commercial vibrancy they have added via their joint ventures to the north end of Birmingham.

Mr. Boyle echoed Mr. Williams' commendation of the Bongiovanni family and noted that their establishments gave Birmingham a model of what bistros could look like.

Motion by Mr. Boyle

Seconded by Mr. Jeffares to recommend approval to the City Commission for a SLUP Amendment to allow Luxe bistro at 525 N. Old Woodward to expand into the storefront to the south with the following conditions:

- (1) The applicant must submit official hours of operation to ensure the outdoor dining area is not open past 12 AM;**
- (2) The applicant provide specification sheets for the planters, outdoor furnishings, paint colors and glazing prior to appearing before the City Commission for review;**
- (3) The applicant comply with the requests of all city departments; and,**
- (4) The applicant be permitted to have six seats at the bar.**

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Boyle, Jeffares, Williams, Share, Whipple-Boyce, Koseck, Clein

Nays: None

Motion by Mr. Boyle

Seconded by Mr. Williams to recommend approval to the City Commission for the revised final site plan and design review to allow Luxe bistro at 525 N. Old Woodward to expand into the storefront to the south with the following conditions:

- (1) The applicant must submit official hours of operation to ensure the outdoor dining area is not open past 12 AM;**
- (2) The applicant provide specification sheets for the planters, outdoor furnishings, paint colors and glazing prior to appearing before the City Commission for review; and,**
- (3) The applicant comply with the requests of all city departments; and,**
- (4) The applicant be permitted to have six seats at the bar.**

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Boyle, Williams, Jeffares, Share, Whipple-Boyce, Koseck, Clein

Nays: None

Chairman Clein reminded Mr. Bongiovanni to take neighbors' comments to heart, noting that successful businesses in the City hinge in part on good relationships with their neighbors.

557 North Old Woodward
Birmingham, MI 48009

City Clerk
City Of Birmingham
151 Martin Street
Birmingham, MI 48009

Good Afternoon,

I am a resident of the neighboring condominium and was at the primary hearing of the Luxe Restaurant site plan meeting held via Zoom earlier this summer. I had voiced a few concerns at that time and would like to know if they have been addressed or will be addressed.

- 1) Due to COVID-19 many customers who order carry out, park their vehicles in the Hickory Hills Condominium parking, which is a Private Parking area, and has visible signage stating so. – This is still occurring as I have had to advise patrons of the restaurant to refrain from parking as they wait in the vehicle for a family member to bring their order.

Solution – We would appreciate if the restaurant would work with us to ensure that vehicles are utilizing the parking meters in front of the restaurant, across the street, and not in the private parking by our condominiums (utilize clear signage)

- 2) The other concern we had and still have is that in waiting for a table the customers congregate by the rock wall, or the green in front of the subdivision. This results in littering. (Cigarettes, empty cans, bottles etc.) The customers are advised to stay close to the restaurant but not in front of the restaurant. (I was informed to do so when I put my name down for a table a few weeks ago). They would not take your number to text you like many other restaurants do.

Solution – Could the restaurant possibly adopt a similar format as most other places do by texting or using a beeper, so customers can move around freely and not lose their place in line? This would help other nearby local businesses benefit by the foot traffic. Also with the cold weather approaching most people would like to sit in their vehicle until a table is ready.

As a healthcare provider, I understand and know how challenging this can be to maintain the safety of workers, customers and have a successful business. Given that one of the family members' lives in our sub-division, I am sure that they do understand the need to maintain the security and privacy of the neighborhood while maintaining the cleanliness and orderliness of the surroundings. (if you need proof, I can provide you the pictures)

Lastly and more importantly I am a fan of the restaurant, its food and the ambiance and like to work together to enjoy the neighborhood.

Thank you for your time,

Kshama Jayasuriya

DATE: October 30th, 2020

TO: Joseph A. Valentine, City Manager

FROM: Brooks Cowan, City Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: Lot Combination of 34350 Woodward Avenue and 907-911 Haynes Street, Parcel # 19-36-281-022 - T2N, R10E, SEC 36 BOWERS ADD LOT 3 EXC THAT PART TAKEN FOR HWY, ALL OF LOTS 4 & 5, ALSO LOT 6 EXC ELY PART BEG AT NE LOT COR, TH W 1.35 FT ALG N LOT LINE, TH SLY 65.50 FT PARA TO E LOT LINE, TH SELY 52.89 FT TO SE LOT COR, TH NLY ALG LOT LINE TO BEG and Parcel # 19-36-281-030 – T2N, R10E, SEC 36 BOWERS ADD ELY PART OF LOT 6 BEG AT NE LOT COR, TH WLY 1.35 FT ALG N LOT LINE, TH S 01-00-00 W 65.50 FT PARA TO E LOT LINE, TH SELY 52.89 FT TO SE LOT COR, TH NLY 118.42 FT ALG E LOT LINE TO BEG, ALSO ALL OF LOTS 7, 8 & 9, ALSO WLY PART OF LOT 10 MEAS 10.14 FT ALG N LOT LINE & 10.58 FT ALG S LOT LINE

INTRODUCTION:

The owner of 34350 Woodward Avenue and 907-911 Haynes Street is seeking approval for a lot combination of two parcels into one in order to accommodate additional parking for the Fred Lavery Porsche Dealership.

BACKGROUND:

The subject properties are located on the northeast corner of the intersection at Haynes Street, Elm Street, and Woodward Avenue. The Fred Lavery Porsche Dealership is located at 34350 Woodward while a two story commercial building is located at 907-911 Haynes Street. The applicant is proposing to combine the two parcels, demolish the current building at 907-911 Haynes, and expand the surface parking lot to accommodate more parking and display space for the Fred Lavery Porsche dealership. Auto sales agencies and auto show rooms within the MU-5 and MU-7 Zone require a Special Land Use Permit (SLUP), which the applicant obtained November 8th, 2010 for the 34350 Woodward parcel only.

In 2016, the applicant received a temporary SLUP amendment to use the 907-911 Haynes property as an office for the Porsche sales and management team for one year while renovations were made to the Porsche dealership at 34350 Woodward. Conditions of approval were that the applicant could not have cars for sale parked on 907-911 Haynes Street and that the applicant provide proof of adequate parking lot landscaping. On January 22nd, 2020, the applicant appeared before the Planning Board for a SLUP amendment which included the proposed lot combination for expanding the parking lot for auto sales, but no motion was finalized due to the applicant withdrawing their application during the meeting.

At this time, the applicant has submitted an application for a lot combination and has requested to appear before the City Commission for a decision on the proposed lot combination prior to returning to the Planning Board to continue the SLUP Amendment process.

The Combination of Land Parcels Ordinance (Chapter 102, Section 102-83) requires that the following standards be met for approval of a lot combination.

- (1) *The Combination will result in lots or parcels of land consistent with the character of the area where the property is located, Chapter 126 of this Code for the zone district in which the property is located, and all applicable master land use plans.*

In regards to character of the area, the property is located within the City's Triangle District. The area is surrounded by a variety of uses and buildings ranging from one story to five stories in height which are mostly surrounded by surface parking.

In regards to zoning, 34350 Woodward is zoned MU-7 in the Triangle Overlay District while 907-911 Haynes Street is zoned MU-5. Both parcels are zoned B-2 in the underlying Zoning District. As previously mentioned, auto sales and auto showrooms are permitted with approval of a Special Land Use Permit in the MU-5 and MU-7 Zones. The subject property's SLUP application in 2010 was for one parcel only at 34350 Woodward and expanding the auto sales and auto showroom use requires a SLUP amendment. **The applicant appeared before the Planning Board on January 22nd, 2020 for a SLUP amendment to expand the auto showroom use, but withdrew their application during the meeting. Therefore, the applicant has yet to obtain SLUP approval to expand the use of the auto show room and auto sales.**

Article 3, Section 3.06(A)(3) of the Zoning Ordinance states that *"Any expansion to an existing use or building that requires site plan approval from the Planning Board shall be subject to the requirements of the Triangle Overlay District and shall be brought into compliance with the requirements of the Triangle Overlay District."* **No changes to the building footprint for the Fred Lavery Porsche Dealership have been proposed. Therefore, it does not appear that the proposed site plan complies with the requirements of Triangle Overlay District.**

In regards to front yard and building frontage requirements for the Triangle Overlay District, the MU-5 and MU-7 Zones require that the building façade be built within 5 feet of the frontage line for a minimum of 75% of the street frontage length. The proposed lot combination does not indicate a building with a front setback within 5 feet for 75% of the street frontage along Elm and Haynes. **Therefore the proposed site that would be created by the lot combination does not satisfy the front yard and building frontage standards and thus is not compliant with the Triangle Overlay District requirements.**

In regards to building height requirements for the Triangle Overlay District, the MU-5 and MU-7 Zones require a minimum of three stories for building height. **The proposed lot combination indicates a one story building with surface parking only, and therefore does not satisfy the minimum building height standards and thus is not in compliance with the Triangle Overlay District requirements.**

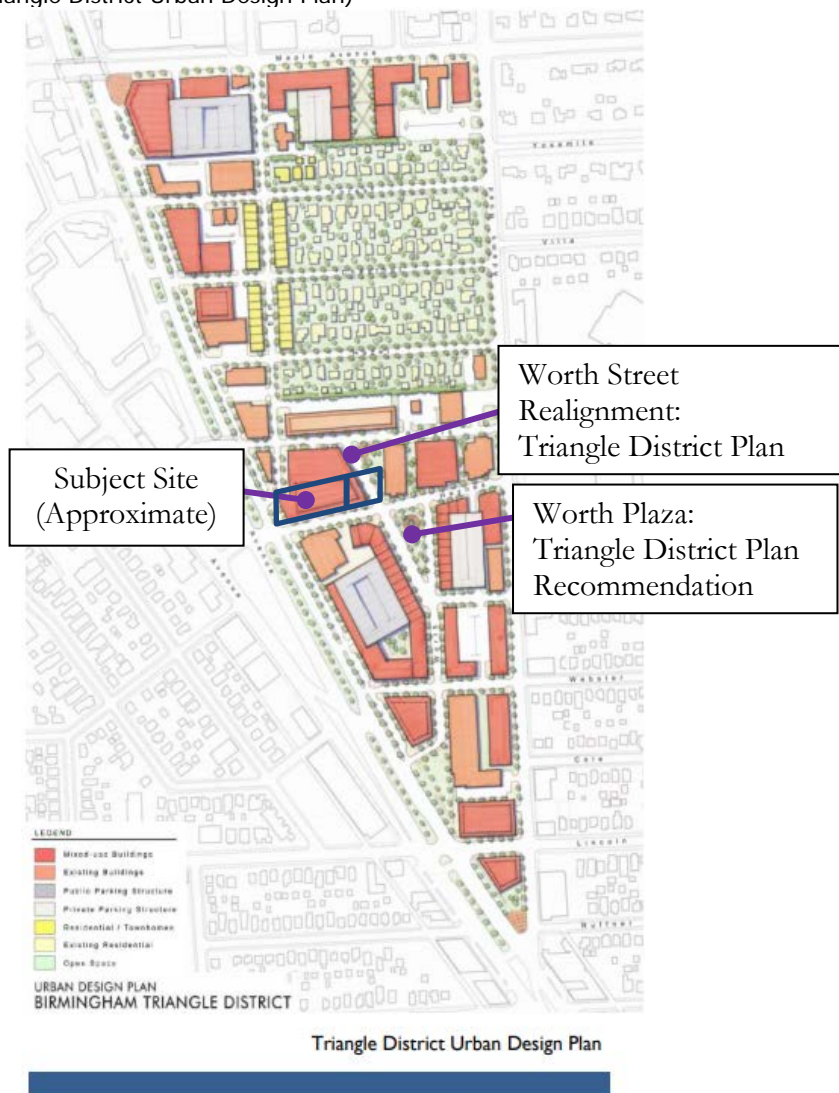
In regards to the placement of the building and parking, Article 3.06(G)(1)(b) requires that corner lots have the building located at the corner of the lot adjacent to the intersection, and

that no more than 60 feet of the frontage be occupied by parking. The proposed lot combination does not indicate a building at the corner of the lot adjacent to the intersection, nor does the proposed lot combination indicate 60 feet or less of parking along the frontage line. **Therefore the proposed site that would be created by the lot combination does not satisfy the parking and building requirements of the Triangle Overlay District.**

In regards to applicable Master Plans, the Triangle District Plan recommends infill development and redevelopment while advocating for an increase in building density to replace the large surface parking areas that currently exist. **The applicant's lot combination is proposed for the purpose of expanding surface parking which does not align with the recommendations of the Triangle District Plan.**

It is also of note that the Triangle District Plan recommends that Worth Street be realigned to connect Bowers Street to the proposed Worth Plaza to improve connectivity within the Triangle District as pictured below in Figure 1. The Triangle District Plan recommends the realignment of Worth Street through the rear of the Walgreens parking lot as well as through the property located between Bowers and Haynes included in the proposed lot combination.

(Figure 1: Triangle District Urban Design Plan)



In regards to the Draft Master Plan which is currently under review, the plan makes no mention of extending Worth Street from Haynes to Bowers, however the renderings related to the proposed Haynes Square and connection to Worth Plaza suggest an infill of commercial space instead of a road extension at the applicant's site.

Accordingly, the lot combination proposal does not meet the requirements of #1.

- (2) *All residential lots formed as a result of a combination shall be a maximum width of no more than twice the average lot width of all lots in the same zone district within 300 feet on the same street.*

The proposed combination is commercial, not residential, therefore this requirement is not applicable.

- (3) *All residential lots formed as a result of a combination shall be a maximum area of no more than twice the average lot area of all lots in the same zone district within 300 feet on the same street.*

The proposed combination is commercial, not residential, therefore this requirement is not applicable.

- (4) *The combination will result in building envelopes on the combined parcels that will allow for the placement of buildings and structures in a manner consistent with the existing rhythm and pattern of development within 500 feet in all directions in the same zone district.*

The Triangle District has a variety of buildings types ranging in height and size, many of which are surrounded by large surface parking lots. **Given the existing conditions of the lower Triangle District, the proposed lot combination and building envelope appear to meet this requirement.**

- (5) *Any due or unpaid taxes or special assessments upon the property have been paid in full.*

There are no outstanding taxes due on this property. **The proposal meets this requirement.**

- (6) *The combination will not adversely affect the interest of the public or the abutting property owners. In making this determination, the City Commission shall consider, but not be limited to the following:*

a.) The location of proposed buildings or structures, the location and nature of vehicular ingress or egress so that the use or appropriate development of adjacent land or buildings will not be hindered, nor the value thereof impaired.

Based on the attached survey the proposed lot combination and building envelope appear to meet this requirement.

b.) The effect of the proposed combination upon any floodplain areas, wetlands and other

natural features and the ability of the applicant to develop a buildable site on the resulting parcel without unreasonable disturbances of such natural features.

The property is not located in a floodplain or wetlands, nor adjacent to a floodplain or wetlands.

c.) The location, size, density and site layout of any proposed structures or buildings as they may impact an 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 sanitary sewer and water, and refuse disposal.

The proposed lot combination does not appear to impact the supply of light and air to adjacent properties or the ability of the City to provide essential services.

LEGAL REVIEW:

The City Attorney has reviewed the application and has no concerns.

FISCAL IMPACT:

Not applicable.

PUBLIC COMMUNICATIONS:

Prior to the application being considered by the City Commission, the City Clerk's office will send out notices to all property owners and tenants within 300 feet of both 34350 Woodward Avenue and 907-911 Haynes Street seeking public comment on the proposal.

SUMMARY:

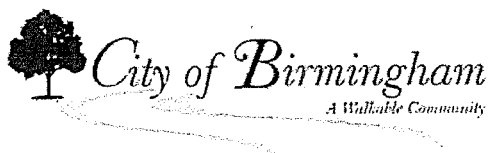
The Planning Division finds that the proposed lot combination is not consistent with the Zoning Ordinance, nor the applicable Master Plan for the Triangle District, therefore the Planning Division recommends that the City Commission deny the applicant's request to combine the two lots for the purpose of accommodating additional surface parking for the Fred Lavery Porsche Dealership.

ATTACHMENTS:

- Application
- Letter to the City
- Proof of ownership
- Registered Land Surveys
- Relevant Planning Board and City Commission minutes for prior SLUP hearings from 2010, 2016, and 2020 related to 34350 Woodward (Formerly 835 Haynes Street)

SUGGESTED ACTION:

To deny the proposed lot combination of 34350 Woodward and 907-911 Haynes, parcel # 19-36-281-022 and parcel #19-36-281-030, as the resulting parcel would not be consistent with the requirements for the MU-5 and MU-7 Zones, nor consistent with the recommendations in the Triangle District Plan.



Combination of Platted Lots Application

Planning Division

Form will not be processed until it is completely filled out.

1. Applicant

Name: Lavery Michigan Dealership No. 1, LLC
Address: _____
440 Lake Park, Birmingham, MI 48009
Phone Number: _____
Fax Number: _____
Email address: _____

2. Property Owner

Name: Lavery Michigan Dealership No. 1, LLC
Address: 440 Lake Park, Birmingham, MI 48009
Phone Number: _____
Fax Number: _____
Email address: _____

3. Applicant's Attorney/Contact Person

Name: Stuart Schwartz
Address: _____
500 Woodward Ave., Suite 3500, Detroit, MI 48226
Phone Number: 313-965-8335
Fax Number: 313-309-6935
Email address: SSchwartz@clarkhill.com

4. Project Designer/Developer

Name: PEA, Inc.
Address: _____
2430 Rochester Ct., Ste. 100, Troy, MI 48083
Phone Number: 248-689-9090
Fax Number: 248-689-1044
Email address: tshelly@peainc.com

5. Project Information

Address/Location of Property: 34350 Woodward Ave./907-911 Haynes
Sidwell #: 19-36-281-030 and 19-36-281-022
Parcel #: _____
Current Zoning: MU5/MU7 Triangle Overlay B-2

Legal Description: See attached survey

6. Required Attachments

- I. Two (2) copies of a *registered* land survey showing:
 - i. All existing and proposed platted lot lines;
 - ii. Legal descriptions of proposed lots;
 - iii. Locations of existing/surrounding structures for at least 500 ft. in all directions;
 - iv. Footprints of proposed development including proposed building envelope with front, side and rear setbacks clearly marked;

- II. One (1) digital copy of plans;
- III. Proof of ownership;
- IV. Written statement of reasons for request;
- V. A letter of authority or power of attorney in the event the application is made by a person other than the property owner;
- VI. Sketches of proposed development (*optional*);
- VII. Other data having a direct bearing on the request.
- VIII. Any other data requested by the Planning Board, Planning Department, or other City Departments.

7. Details of the Proposed Development (attach separate sheet if necessary)

See attached summary.

(I), (We), the undersigned, do hereby request to combine lots of record in the City of Birmingham, Oakland County, Michigan.
(I), (We), do hereby swear that all of the statements, signatures, and descriptions appearing on and with this request are in all respects true and accurate to the best of (my), (our), knowledge.

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 Property Owner:  Date: 8/11/20

Print Name: Fred Lavery member

Signature of Applicant:  Date: 8/11/20

Print Name: Fred Lavery member

Office Use Only

Application#: _____ Date Received: _____ Fee: _____

Date of Approval: _____ Date of Denial: _____ Reviewed By: _____

Combination of Platted Lots

Overview of the Process:

Step 1 – Make an appointment with a city planner: A conceptual survey plan must be presented to a city planner prior to acceptance of an application for Combination of Platted Lots. This meeting is intended for information sharing and general guidance.

Step 2 – Combination of Platted Lots Application filed: An application is deemed complete upon submission and acceptance of the completed application form and all required documentation. Once an application is deemed complete, a petitioner will be scheduled for a public hearing before the Birmingham City Commission, which will be at least 15 days after submission of the application.

Step 3 – Departmental Review: Submitted survey plans are sent to appropriate departments for review. Comments are returned to the Planning Division prior to final review by Planning Division personnel.

Step 4 – Notices of Public Hearing: Notices are sent by the City Clerk to all property owners within 300' of the subject property at least 15 days prior to the City Commission Public Hearing meeting at which the application will be considered.

Step 5 – Review Report: The Planning Division reviews the application and prepares a report to the City Commission for consideration at the public hearing.

Step 6 – Public Hearing at the City Commission: Birmingham City Commission meets to consider the application for Combination of Platted Lots. Petitioner appears before City Commission to answer any questions.

Step 7 – Decision: The City Commission approves, denies, or postpones the Combination of Platted Lots application.

Combination of Platted Lots Application Requirements:

1. A complete Combination of Platted Lots application is to be submitted to the Community Development Department.
2. The application must be completed in its entirety and signed by the owners or applicants.
3. The application must be accompanied by the following supporting documentation:
 - a. Proof of ownership
 - b. Written statement of reasons for request
 - c. A letter of authority or power of attorney in the event the application is made by a person other than the property owner
 - d. Two (2) copies of a **registered** land survey showing:
 - i. All existing and proposed platted lot lines
 - ii. Legal descriptions of proposed lots
 - iii. Locations of existing/surrounding structures and setbacks for at least 500 feet in all directions
 - iv. Footprints of proposed development including proposed building envelope with front, side and rear setbacks clearly marked.
 - v. One set of survey plans mounted on display boards
 - vi. Any other data having a direct bearing on the request
4. All taxes and special assessments must be paid at the time of application.
5. All water bills must be paid at the time of application.
6. All building permits must be obtained at the time of application.
7. Signatures from the City of Birmingham Treasurer, Water Department, and Building Department are required.
8. Signatures of the property owner and applicant are required.
9. Fee: \$200.00 per parcel affected in the request, minimum fee: \$400.00

4 23 1566 106"

CLARK HILL

Stuart M. Schwartz
T (313) 965-8335
F (313) 309-6935
Email:SSchwartz@ClarkHill.com

Clark Hill PLC
500 Woodward Ave., Suite 3500
Detroit, MI 48226
T (313) 965-8300
F (313) 309-6935

clarkhill.com

August 27, 2020

VIA US MAIL AND E-MAIL

City of Birmingham
Planning Department
Attn: Ms. Jana Ecker
151 Martin St.
Birmingham, MI 48009
jecker@bhamgov.org

RE: 34350 Woodward Ave. (the “Woodward Property”) and 907-911 Haynes, Birmingham, MI 48009 (the “Haynes Property”)

Dear Ms. Ecker:

Clark Hill PLC is legal counsel to Lavery Michigan Dealership Properties No. 1, LLC (“LMDP”), the owner of the Woodward Property and the Haynes Property (collectively, “Lavery Properties”). Enclosed herewith, please find the following documents relative to LMDP’s application to combine the Woodward Property and Haynes Property into one lot:

1. Combination of Platted Lots Application;
2. Two (2) copies of the registered land survey;
3. Proof of ownership;
4. Sketches of the proposed development; and
5. One digital copy of plans.

In addition, this letter shall serve as LMDP’s details of the proposed development.

In 2010, LMDP received a Special Land Use Permit (“2010 SLUP”) for the Woodward Property to operate a Porsche car dealership within the B2 Zone and MU-7 Triangle District Overlay. Auto show rooms and sales agencies are permitted uses in the MU-5 and MU-7 zones of the Triangle Overlay District pursuant to a Special Land Use Permit. It is our understanding that in 2016, the Planning Board and City Commission approved an amendment to the 2010 SLUP to allow for the temporary use of the Haynes Property as an office for the Audi sales and management team, while renovations were being completed at the Lavery Audi dealership located at 34602 Woodward Ave., Birmingham, MI (the “Temporary SLUP Amendment”). Under the Temporary SLUP Amendment, LMDP could use the Haynes Property as offices for the Audi car dealership while Spa Mariana remained on the second floor. LMDP now proposes

to modify the site plan of the Woodward Property in combination with the Haynes Property pursuant to the enclosed site plan in order to accommodate changes in Porsche's dealership requirements. To be clear, at this time, LMDP is not requesting a change to the 2010 SLUP or the Temporary SLUP Amendment. Rather, LMDP is only requesting that the Lavery Properties be combined into one lot. LMDP is also not making any modifications to the Porsche dealership or the existing use associated with the Porsche dealership. Upon approval of that combination, LMDP will then seek an amendment to the 2010 SLUP as described below.

By way of background, newly enacted United States and European Union regulations require that Porsche have an all-electric (full electric and hybrid electric) fleet of vehicles by 2025. This new fleet of vehicles requires dealerships to install a new electric vehicle infrastructure. Four parking spaces at the Woodward Property will be converted for electric vehicle charging stations and will no longer be available for customer and inventory parking. Those spaces will be available to the public's use. In order to accommodate customer and inventory parking, spaces will need to be relocated to the Haynes Property. In furtherance of this plan, LMDP will be adding extensive landscaping and a screening wall along Haynes Street as more particularly depicted on the accompanying site plans and drawings.

It is no secret that parking remains a major concern throughout the City of Birmingham. As set forth in the 2007 Triangle District Urban Design Plan, "[p]arking needs to be provided more efficiently than the current configuration of disjointed surface parking lots. Redevelopment should incorporate multi-level parking structures and maximize the use of on-street parking. More efficient use of shared parking facilities will allow for redevelopment that is more pedestrian oriented and less dominated by parking lots." "A more efficient means of accommodating parking is needed in the Triangle District. In the short term, a shared parking program may reduce parking demand. As the Triangle District redevelops, this plan recommends a managed parking system with a combination of parking on-street, in structures and in limited surface lots to ensure that convenient parking is provided to the uses with the greatest demand and that there is efficient use of land. ***Construction of a parking structure is an imperative element of the plan and should be implemented during the first phase.***" (emphasis added). Unfortunately, to date, the City has not constructed a parking structure. After more than a decade since this plan was created, there is no managed parking system for the Triangle System, no parking garage, and no public plans to implement a managed parking system.

LMPD's proposal is meant as a short-term measure until the City can implement the vision set forth in the Triangle District Urban Design Plan, build a parking garage and implement a managed parking system. The use of the combined lots is an appropriate place-holder that will cause the demolition of a dilapidated building and the beautification of the Haynes Property. It is not possible and would not be prudent to redevelop these lots without adequate parking capacity. By approving this lot combination, the land will remain available for future development in accordance with the Triangle District Plan.

August 27, 2020
Page 3

Please schedule this request for the earliest available hearing. If you need any additional information or if you would like to discuss, do not hesitate to contact me.

Sincerely,

CLARK HILL PLC

/s/Stuart M. Schwartz

Stuart M. Schwartz

SMS:at
Enclosure

cc: Mr. Brooks Cowan, City Planner (via email to bcowan@bhamgov.org)

OAKLAND COUNTY TREASURER'S CERTIFICATE
This is to certify that there are no delinquent property
taxes as of the date owed to our office on this property.
No representation is made as to the status of any taxes,
penalties or fines owed to any other entities.

MAY 15 2015

1.00

ANDREW E. MEISNER, County Treasurer
Sec 135, Act 206, 1993 as amended

LIBER 48188 PAGE 142
\$22.00 DEED - COMBINED
\$4.00 REMONUMENTATION
\$17,200.00 TRANSFER TX COMBINED
05/18/2015 03:32:24 PM RECEIPT# 56415
PAID RECORDED - Oakland County, MI
Lisa Brown, Clerk/Register of Deeds



WARRANTY DEED

THEODORE N. MITCHELL AND KATHY MITCHELL, husband and wife, GREGORY MITCHELL AND ATHINA MITCHELL, husband and wife, AND MARK MITCHELL AND MARTHA MITCHELL, husband and wife (collectively, "Grantor"), whose address is 339 N. Center Street, Northville, Michigan 48167 ("Grantor"), conveys and warrants to Lavery Michigan Dealership Properties, a Michigan limited liability company ("Grantee"), whose address is 33583 Woodward Ave. Birmingham, the premises situated in the City of Birmingham, Oakland County, Michigan, more specifically described as: **HI 48009

*No. 1, LLC, a Michigan limited liability company

See Exhibit A hereto

for the sum set forth on the Real Estate Transfer Tax Valuation Affidavit filed herewith, subject only to the exceptions set forth on Exhibit B hereto.

If the land being conveyed is unplatted, the following is deemed to be included:

Grantor grants to Grantee the right to make all division(s) under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated: April 30, 2015

OK-LB

SP
A
Cert

[SIGNATURES BEGIN ON NEXT PAGE]

Warranty Deed

1508076

26

RECEIVED
OAKLAND COUNTY
REGISTER OF DEEDS
2015 MAY 13 AM 10:59

GRANTOR:

Theodore N. Mitchell

Theodore N. Mitchell

Kathy Mitchell

Kathy Mitchell, his wife

Gregory Mitchell

Gregory Mitchell

Athina Mitchell

Athina Mitchell, his wife

Mark Mitchell

Mark Mitchell

Martha Mitchell

Martha Mitchell, his wife

STATE OF MICHIGAN

COUNTY OF OAKLAND

ss.

The foregoing instrument was acknowledged before me in OAKLAND County, Michigan, this 16 day of June, 2010, by Theodore N. Mitchell and Kathy Mitchell, his wife.

Sandra J. Melki

Print name: Sandra J. Melki

Notary Public

State of Michigan, County of _____

My commission expires _____

Acting in the County of _____

| |
|--|
| Sandra J Melki |
| Notary Public of Michigan |
| Oakland County |
| Expires 05/13/2013 |
| Acting in the County of <u>OAKLAND</u> |

Warranty Deed

STATE OF MICHIGAN)
COUNTY OF Oakland) ss.

The foregoing instrument was acknowledged before me in Oakland County, Michigan, this 6th day of June, 2010, by Gregory Mitchell and Athina Mitchell, his wife.

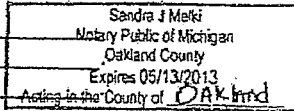
Sandra J. Meeki
Print name: Sandra J. Meeki

Notary Public

State of Michigan, County of _____

My commission expires _____

Acting in the County of _____



STATE OF MICHIGAN)
COUNTY OF Oakland) ss.

The foregoing instrument was acknowledged before me in OAKland County, Michigan, this 10th day of June, 2010, by Mark Mitchell and Martha Mitchell, his wife.

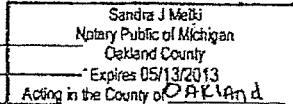
Sandra J. Meeki
Print name: Sandra J. Meeki

Notary Public

State of Michigan, County of _____

My commission expires _____

Acting in the County of _____



Drafted by and when recorded return to:
Howard N. Luckoff, Esq.
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226

Send subsequent tax bills to: Grantee

Recording Fee: \$ _____

Transfer Tax: See Real Estate Transfer Tax Valuation Affidavit

Warranty Deed

EXHIBIT A

LEGAL DESCRIPTION

Land situated in the City of Birmingham, Oakland County, Michigan, more particularly described as:

Lot 3 of "Bowers Addition", according to the plat thereof recorded in Liber 8 of Plats, Page 26, Oakland County Records, except that part taken for highway; also together with:

All of Lots 4 and 5 of "Bowers Addition", according to the plat thereof recorded in Liber 8 of Plats, Page 26, Oakland County Records; also together with

Lot 6 of "Bowers Addition", according to the plat thereof recorded in Liber 8 of Plats, Page 26, Oakland County Records, except the Easterly part, beginning at the Northeast Lot corner; thence West 1.35 feet along the Lot line; thence Southerly 65.50 feet parallel to the East Lot line; thence South 52.89 feet to the Southeast Lot corner; thence Northerly along said Lot line to the beginning.

Sidwell #: 19-36-281-022
Commonly Known As: 835 and 845 Haynes Street

EXHIBIT B

EXCEPTIONS

1. Taxes and assessments for the year 2010 and thereafter which constitute a lien on the Property but are not yet due and payable.
2. Highway Easement recorded in Liber 53, Page 355 of Miscellaneous Records, Oakland County Records, Michigan.

OAKLAND.1841170.1

OAKLAND COUNTY TREASURERS CERTIFICATE
I HEREBY CERTIFY that there are no TAX LIENS or TITLES
held by the state or any individual against the within description
and all TAXES on same are paid for five years previous to the
date of this instrument as appears by the records in the office
except as stated.

JUN 06 2014

ANDREW E. MEISNER, County Treasurer
Sec. 135, Act 206, 1893 as amended

1.00

00-1862

LIBER 47102 PAGE 586
\$19.00 DEED - COMBINED
\$4.00 REMONUMENTATION

06/06/2014 03:17:34 PM RECEIPT# 53438
PAID RECORDED - Oakland County, MI
Lisa Brown, Clerk/Register of Deeds

COVENANT DEED

Agim Bardha and Sheriban Bardha, husband and wife (collectively, "Grantor"), whose address is 550 Bates, Birmingham, Michigan 48009, hereby sells, conveys, grants and bargains to Lavery Michigan Dealership Properties No. 1, LLC, a Michigan limited liability company ("Grantee"), whose address is 440 Lake Park Drive, Birmingham, Michigan 48009, the premises situated in the City of Birmingham, Oakland County, Michigan, more specifically described as:

See Exhibit A hereto

for the sum set forth on the Real Estate Transfer Tax Valuation Affidavit filed herewith.

Grantor, for itself, its successors and assigns, covenants, grants, bargains, and agrees to and with Grantee, its successors and assigns, that, subject to the exceptions set forth on Exhibit B hereto, Grantor has not done, committed or knowingly suffered to be done or committed any act, matter, or thing whatsoever, whereby the premises hereby granted, or any part thereof, is, or shall or may be, charged or encumbered in title, estate or otherwise.

If the land being conveyed is unplatted, the following is deemed to be included:

Grantor grants to Grantee the right to make all division(s) under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

[SIGNATURES ON NEXT PAGE]

OK = LG

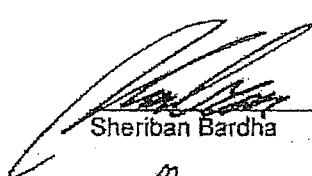
RECEIVED
OAKLAND COUNTY
REGISTER OF DEEDS
2014 JUN -6 PM 3:17

REVENUE TO BE AFFIXED
AFTER RECORDING


Covenant Deed
Page 1 of 2

SIGNATURE PAGE TO COVENANT DEED FROM
SHERIBAN AND AGIM BARDHA TO LAVERY MICHIGAN DEALERSHIP
PROPERTIES NO. 1, LLC

GRANTOR:



Sheriban Bardha

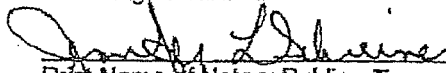


Agim Bardha

Dated as of June 2, 2014

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

This instrument was acknowledged before me in Oakland County, Michigan, on the 2nd of June, 2014, by Sheriban Bardha and Agim Bardha.



Print Name of Notary Public: Jennifer L. Schreiner
Notary Public, State of Michigan, County of Oakland
My commission expires: 4/14/20
Acting in the County of Oakland

~~Drafted by and when recorded return to:~~

Sarah Baumgartner, Esq.
Honigman Miller Schwartz and Cohn LLP
660 Woodward Avenue
2290 First National Building
Detroit, MI 48226-3506

When Recorded Return to:

Title Source, Inc. -
Commercial Team
662 Woodward Avenue
Detroit, MI 48226
TSI#: 58767941

Send subsequent tax bills to: Grantee

Recording Fee: \$ _____

Transfer Tax: See Real Estate Transfer Tax Valuation Affidavit

Covenant Deed
Page 2 of 2

EXHIBIT A - LEGAL DESCRIPTION

Tax ID Number(s): 19-36-281-030

Land Situated in the City of Birmingham in the County of Oakland in the State of MI

Town 2 North, Range 10 East, Section 36, BOWERS ADDITION SUBDIVISION, as recorded in Liber 8, Page 26 of Plats, Oakland County Records. Easterly part of Lot 6 beginning at Northeast lot corner, thence Westerly 1.35 feet along North lot line, thence South 01 degrees 00 minutes 00 seconds West 65.50 feet parallel to East lot line, thence Southeasterly 52.89 feet to Southeast lot corner, thence Northerly 118.42 feet along East lot line to beginning, also all of Lots 7, 8 and 9, also Westerly part of Lot 10 measures 10.14 feet along North lot line and 10.58 feet along South lot line.

Client Reference: 907 & 911 Haynes St., Birmingham, MI 48009

EXHIBIT B

EXCEPTIONS

1. Lease dated June 3, 2010 between Sheriban and Agim Bardha and Spa Mariana, LLC, successor in interest to Corpo Chair Massage, LLC.

CERTIFICATE OF SURVEY
ORIGINAL PARCEL CONFIGURATION

LEGAL DESCRIPTION
(Per Survey Oakland)

19-36-281-030
T2N, R10E, SEC 36 BOWERS ADD ELY PART OF LOT 6 BEG AT NE LOT COR, TH WLY 1.35 FT ALG N LOT LINE, TH S 01-00-00 W 65.50 FT PARA TO E LOT LINE, TH SELY 52.89 FT TO SE LOT COR, TH NLY 118.42 FT ALG E LOT LINE TO BEG, ALSO ALL OF LOTS 7, 8 & 9, ALSO WLY PART OF LOT 10 MEAS 10.14 FT ALG N LOT LINE & 10.58 FT ALG S LOT LINE

LEGAL DESCRIPTION
(Per Survey Oakland)

19-36-281-022
T2N, R10E, SEC 36 BOWERS ADD LOT 3 EXC THAT PART TAKEN FOR HWY, ALL OF LOTS 4 & 5, ALSO LOT 6 EXC ELY PART BEG AT NE LOT COR, TH W 1.35 FT ALG N LOT LINE, TH SLY 65.50 FT PARA TO E LOT LINE, TH SELY 52.89 FT TO SE LOT COR, TH NLY ALG LOT LINE TO BEG



PEA, Inc.

2430 Rochester Ct, Ste 100
Troy, MI 48063-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

CLIENT:
Lavery Michigan Dealership Properties No. 1, LLC
909 HAYNES STREET
BIRMINGHAM, MICHIGAN 48009

SCALE: —

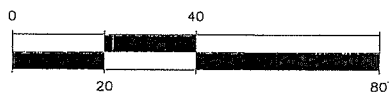
JOB No: 2019-344

DATE: 9/18/19

DWG. No: 1 of 4

LEGEND

- 8" BRICK WALL



S:\PROJECTS\2019\2019-344 LAVERY-BARDHA PARCEL CONSOLIDATION\SURVEY-DEPT\19344BND\DWG\19-344 Parcel consolidation.dwg; RAT

CERTIFICATE OF SURVEY
PROPOSED PARCEL CONSOLIDATION

LEGAL DESCRIPTION

(Per PEA Inc.)

Combined Parcel

Land situated in the City of Birmingham, County of Oakland, State of Michigan
Described as follows:

A parcel of land lying in "Bowers Addition" being a part of Section 36, Town 2 North, Range 10 East, including all of lots 3, 4, 5, 6, 7, 8, 9, and the westerly 10.14 feet along the northerly line of Lot 10 and the westerly 10.58 feet along the southerly line of Lot 10, excluding a portion taken for Right-of-Way purposes, as described in Liber 53 Miscellanies Records, Page 355,, more particularly described as;

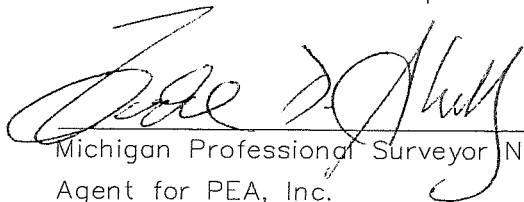
Commencing at the southwest corner of Lot 3, thence N81°00'00"E, 10.79 feet along the south line of said Lot 3 to the Point of Beginning;
thence N24°19'26"W, 25.43 feet;
thence N00°25'32"E, 109.22 feet along the West Line of said Lot 3 and the East Line of Elm Street;
thence N85°26'34"E, 360.70 feet along the North Line of Lots 3-10 of said Bower's Addition;
thence S00°31'00"W, 105.79 feet;
thence S81°00'00"W, 353.29 feet along the South Line of said Lots 3-10 and the North Line of Haynes Street to the Point of Beginning.
Containing 0.99 Acres more or less.

Basis of bearing the south line of Bowers Addition Plat Liber 8 Page 26

CERTIFICATION

I, Todd D. Shelly, being a Licensed Professional Surveyor, hereby certify, that I have surveyed and mapped the parcel(s) heron described and that the relative positional precision of each corner is within the limits accepted by the practice of professional surveying and that all the requirements of P.A. 132 of 1970, as amended, have been complied with.

DATE


Michigan Professional Surveyor No. 41111
Agent for PEA, Inc.

9-19-19



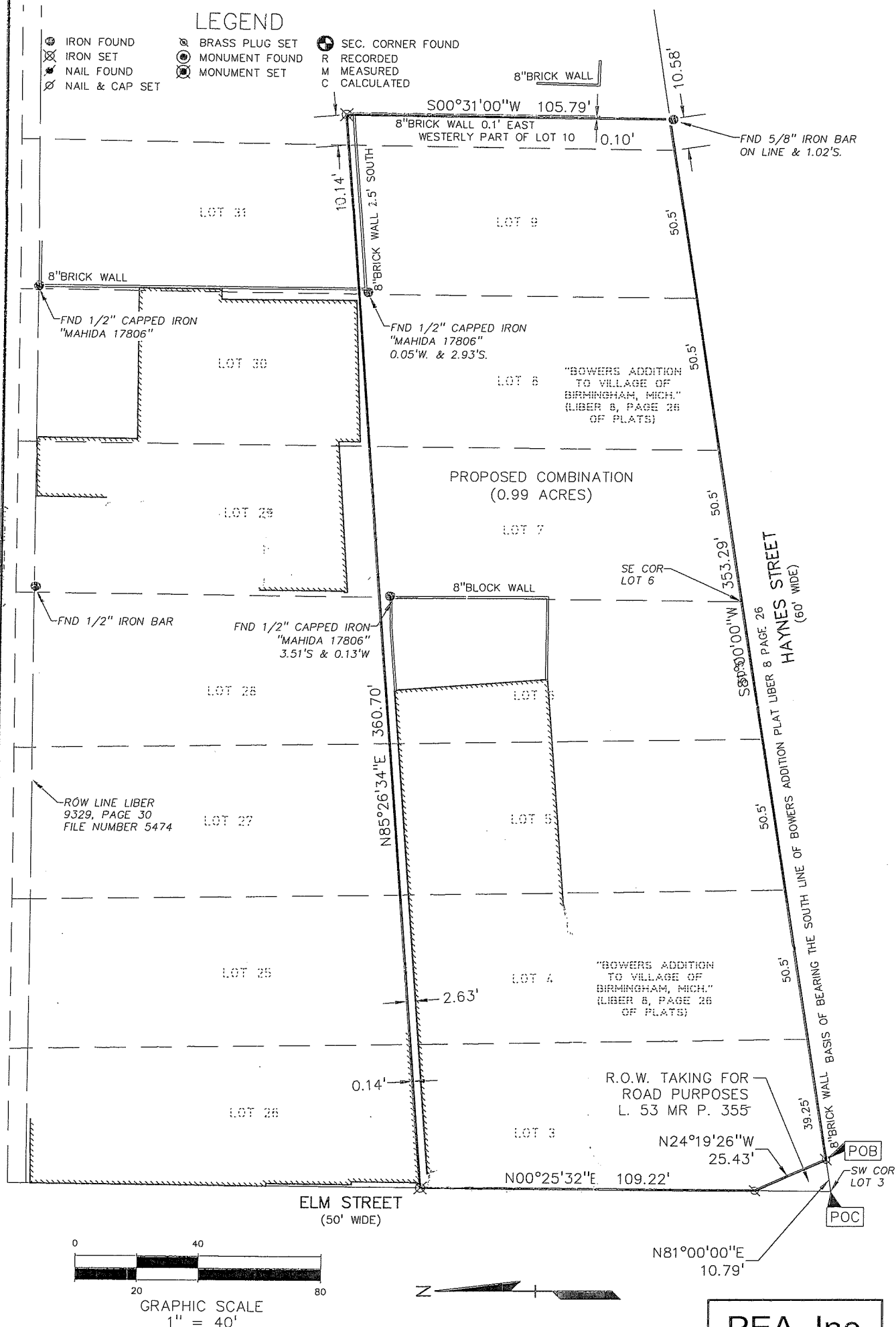
PEA, Inc.

2430 Rochester Ct, Ste 100
Troy, MI 48063-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

| | | |
|--|----------------|------------------|
| CLIENT: Lavery Michigan Dealership Properties No. 1, 909 HAYNES STREET BIRMINGHAM, MICHIGAN 48009 | SCALE: LC — | JOB No: 2019-344 |
| | DATE: 9/18/19 | DWG. No: 3 of 4 |

LEGEND

- SEC. CORNER FOUND
 R RECORDED
 M MEASURED
 C CALCULATED



PEA, Inc.

2430 Rochester Ct, Ste 100
Troy, MI 48063-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

CLIENT:

Lavery Michigan Dealership Properties No. 1, LLC
909 HAYNES STREET
BIRMINGHAM, MICHIGAN 48009

SCALE: 1" = 40'

JOB No: 2019-344

DATE: 9/18/19

DWG. No: 4 of 4

S:\PROJECTS\2019\2019-344 LAVERY-BARDHA PARCEL CONSOLIDATION\SURVEY-DEPT\19344BND\DWG\19-344 Parcel consolidation.dwg; RAT

Luckenbach Ziegelman Gardner Architects PLLC

555 South Old Woodward Suite 27L
Birmingham, Michigan 48009
248.644.0600

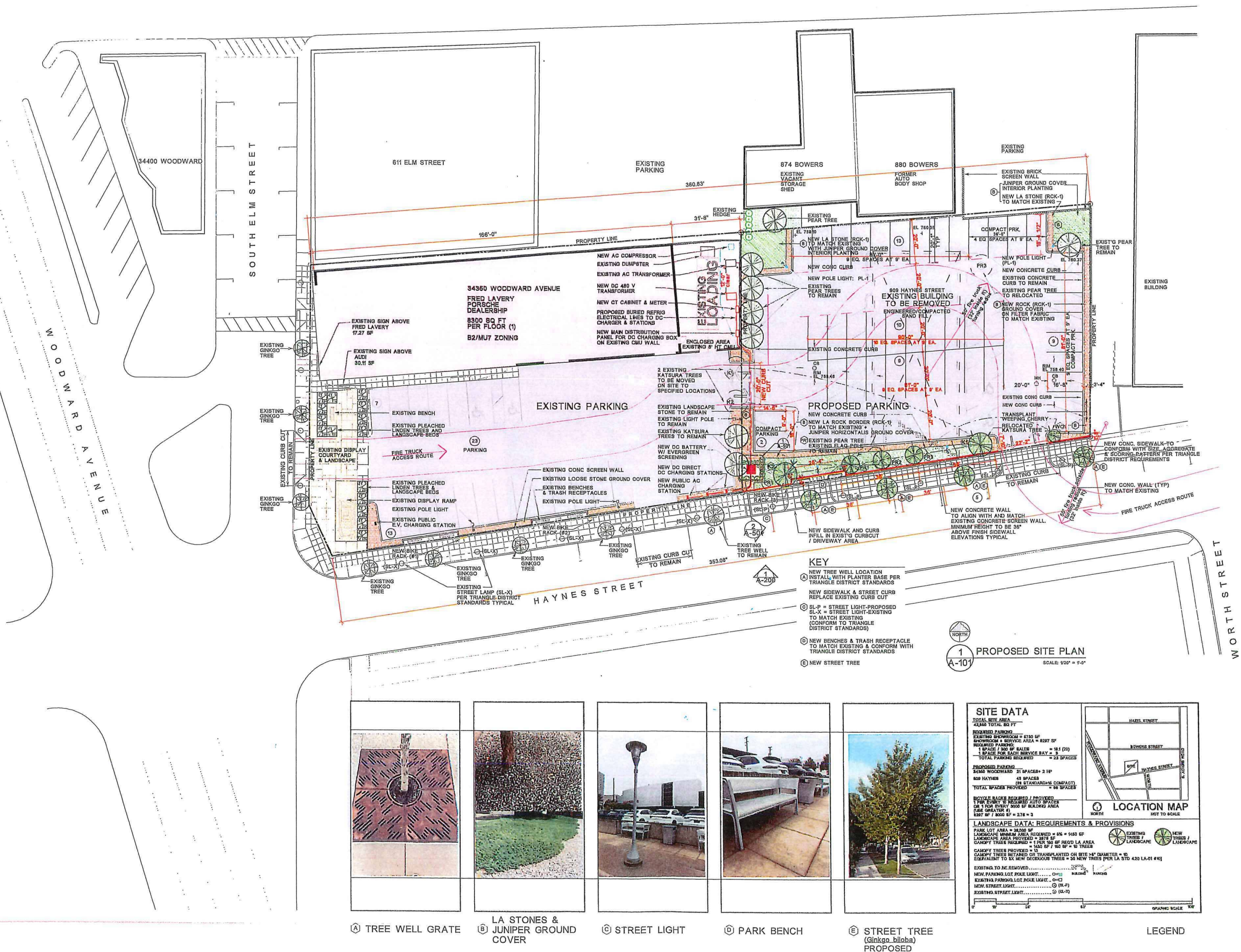
project:
**Fred Lavery
PORSCHE**
Special Land Use
Permit Review
835 Haynes Street
Birmingham, Michigan

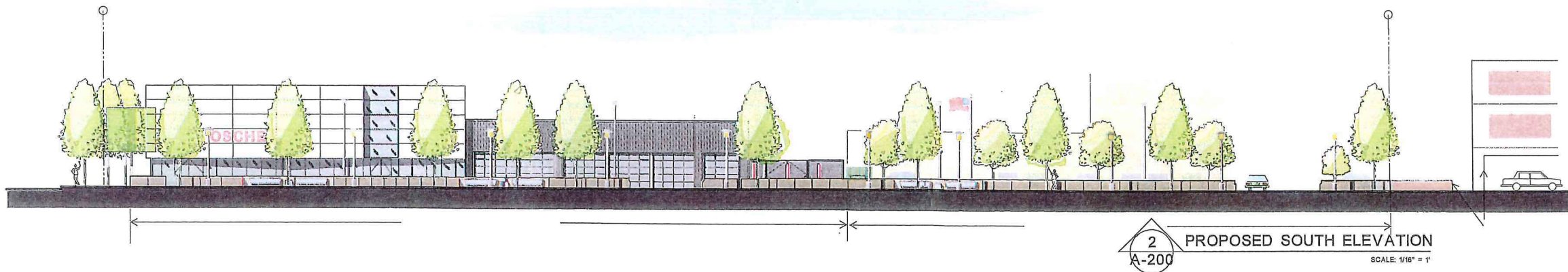
client use:
**PROPOSED SITE PLAN
FOR SPECIAL LAND
USE PLANNING
AMENDMENT**

date issued:
09.23.2019 OWNER REVIEW
09.29.2019 OWNER REVIEW
10.14.2019 OWNER REVIEW
10.16.2019 OWNER REVIEW

project number:
LZG 2019.0025

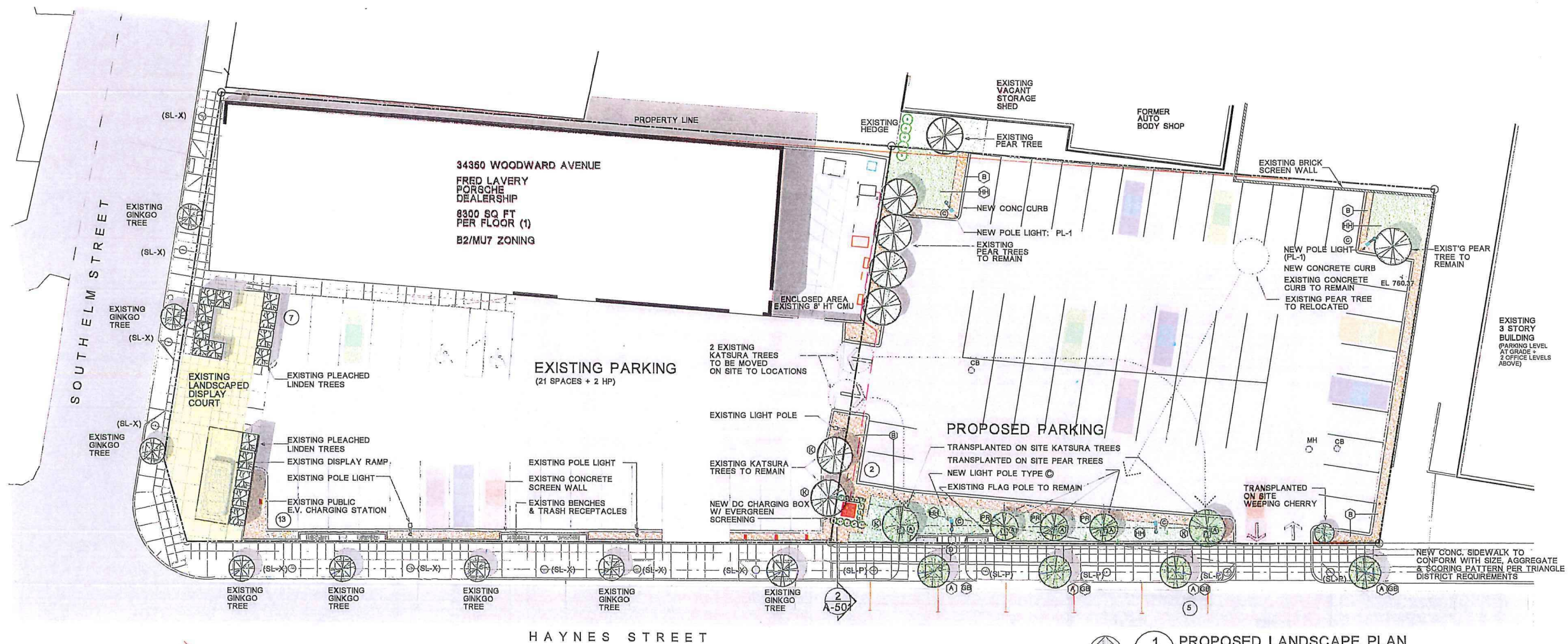
sheet number:
A-101





Luckenbach
Ziegelman
Gardner
Architects
PLLC

555 South Old Woodward Suite 27L
Birmingham, Michigan 48009
248.644.0600



project:
Fred Lavery
PORSCHE
Special Land Use
Permit Review
835 Haynes Street
Birmingham, Michigan

sheet title:
PROPOSED

date issued:

1 PROPOSED LANDSCAPE PLAN
A/LA-200
SCALE: 1/16\"/>

LANDSCAPE KEY

- (A) NEW TREE WELL LOCATION
INSTALL WITH PLANTER BASE PER
TRIANGLE DISTRICT STANDARDS
Ginkgo biloba, "Autumn Gold"
- (B) EXISTING STONE (1\"/>

LIGHTING KEY

- (A) Auraltight 12V LED Micro well Uplight
- (B) Lumenation Street Light Model PT90 - 42W
TO MATCH EXISTING
(CONFORM TO TRIANGLE
DISTRICT STANDARDS)
- (C) PARKING LIGHT POLE
Cooper Lighting - Lumark
Model MPTR (match existing)

project number:
LZG 2019.0025

sheet number:

A-200

land situated in the City of Birmingham, County of Oakland, State of Michigan described as follows:

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 22, 2010**

Commission Chamber, City Hall
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held September 22, 2010. Chairman Robin Boyle convened the meeting at 7:30 p.m.

Present: Chairman Robin Boyle; Board Members Scott Clein, Bert Koseck, Gillian Lazar (arrived at 7:53 p.m.), Janelle Whipple-Boyce, Bryan Williams; Student Representative Aaron Walden

Absent: Board Member Carroll DeWeese

Administration: Matthew Baka, Planning Intern
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

09-170-10

SPECIAL LAND USE PERMIT ("SLUP") REVIEW

835 Haynes St., Porsche Showroom and Sales

Request approval of a SLUP to allow an automobile sales agency in an existing building

FINAL SITE PLAN REVIEW

835 Haynes St., Porsche Showroom and Sales

Request approval of a SLUP to allow an automobile sales agency in an existing building

Mr. Baka explained the subject site is located on the east side of Woodward Ave., on the northeast corner of Haynes and Elm. The parcel is zoned B-2 Business-Residential and MU-7 in the Triangle Overlay District. The applicant, Fred Lavery Company, is seeking approval of an auto sales agency and showroom. The Birmingham Zoning Ordinance requires that the applicant obtain a SLUP and approval from the City Commission to operate an auto sales agency and showroom in the MU-7 District.

Accordingly, the applicant will be required to obtain a recommendation from the Planning Board on the Final Site Plan and SLUP, and then obtain approval from the City Commission for the Final Site Plan and SLUP.

Mr. Baka explained that the applicant is planning minimal changes to the actual site. They are basically looking at some improvements to the screening, lighting and also landscaping. The parking lot is over 7,500 sq. ft., which would kick in the 5 percent landscaping rule. However, because this area is identified as one of the gateways to the Triangle District, the Planning Division thought it would be more beneficial to pedestrians to locate the landscaping at the west end of the site on the outside of the screenwall.

The materials board was passed around for viewing.

The applicant proposes to install two name letter signs and one two-sided ground sign. The total linear building frontage is 165 ft. This permits 165 sq. ft. of sign area per the requirement of Article 1.0, section 104 (B) of the Birmingham Sign Ordinance, Combined Sign Area. The total area of all signs will be 128.59 sq. ft. which meets this requirement.

The proposed Porsche and Fred Lavery sign letters will be constructed of silver finished fabricated aluminum. The proposed Porsche ground sign will be a fabricated aluminum cabinet with an internal aluminum frame.

The Porsche name letter sign will be internally lit with 15mm red neon lamps. The Fred Lavery name letter sign will be halo backlit with 15mm white neon tubes. The Porsche ground sign is proposed to be internally backlit with fluorescent tubes.

Mr. Robert Ziegelman, Luckenbach Ziegelman Architects, PLLC, was present with Messrs. Lavery and Lavery; Mr. Pat Taylor from his office; along with Mr. Mark Daringowski, representing Porsche Cars North America. Mr. Ziegelman indicated they are not touching the footprint of the building. Mr. Koseck observed that floor plans would help to understand why the entry points are where they are.

Ms. Lazar arrived at this time.

Ms. Whipple-Boyce received clarification that the applicant is proposing roughly 700 sq. ft. of landscaping in the parking lot. 600 sq. ft. is required. Moving the screenwall to the inside of the landscaping would take the requirement down significantly.

Chairman Boyle suggested a Porsche display in the parking lot would be astonishingly attractive.

Mr. Fred Lavery, the owner and operator of the Porsche dealership, said they did not consider a car display because it wouldn't be seen as a result of the screenwall requirement.

Mr. Williams was not in favor of the display because it is not easy to negotiate out onto Woodward Ave. from Haynes and the display might be a distraction.

Mr. Koseck noted the existing aisles in the parking lot are 24 ft. wide and they exceed the required width by 4 ft. He thought the width could be reduced and that would allow additional room for landscaping. Further, he expected the main entrance to the building would be at the southwest corner so a pedestrian would not be forced to walk through the parking lot to enter. Mr. Lavery explained there are two pedestrian entrances. The second pedestrian entrance is also used for vehicles. He noted they adhere to the Porsche standards which they have no control over. The entire inside of the showroom is oriented towards the main entrance. Mr. Koseck then pointed out that the upper left hand section shows a thin wall that extends up, as opposed to wrapping around. The elevation that faces to the north is even thinner yet and they both look as though they were glued onto the building.

Ms. Lazar thought perhaps Porsche could offer the applicant some latitude given the fact that they are rehabbing the building.

Mr. Lavery went on to state that parking is an important part of their operation. His experience has been that the parking standards are minimal for a car dealership. They have always utilized other parking spaces in addition to those that have been required on-site.

Mr. Daringowski explained the Porsche concept of a jewel box with all of the Porsches illuminated inside that box. Their flexibility for change is minimal, but they will work with the comments that have been made tonight.

The chairman took the discussion to members of the public at 8:25 p.m.

Mr. James Ellsman, owner of the building immediately to the north, expressed his concern that this building offers no consistency with the concept of the Triangle District. At the entrance point to the Triangle District only a one-story renovated building is being considered. He asked about the longevity of the project.

Mr. Ted Mitchell, the owner of the building, verified that the term of the lease is five years.

Mr. Williams noted this is an area of at times very high traffic congestion and people driving too fast. So he is not troubled by moving access to the building away from Elm, far away from the intersection, He doesn't think that many people will actually walk to the Porsche car dealership.

Mr. Clein was not in favor of giving up on the pedestrian. Rather, implementing the streetscape improvement standards in conjunction with moving the screenwalls should be considered.

Ms. Whipple-Boyce thought that Mr. Koseck's proposal makes a lot of sense; but that said, the main entrance is further east where the interior of the building is oriented. She thinks Mr. Lavery made it clear that rather than turning the three extra parking spots that

aren't required into landscaping, he needs the parking. However, she agrees that the screenwall should be moved to the interior of the parking lot so that the pedestrian side gets all of the greenery. Landscaping might look better than benches along the sidewalk.

Chairman Boyle said he is glad to see that the applicant is coming in to improve this property. A little trees and grass doesn't really help the attractiveness of this particular piece of property. Benches are to be encouraged. This dealership should be vibrant, colorful, lit at night, and have a red, shiny Porsche on display.

Mr. Williams thought the reality is that a five-story building is not going to be built on that site right now. This proposal is a significant improvement over what exists.

Motion by Mr. Williams

Seconded by Mr. Clein that the Planning Board recommends approval of the applicant's request for Final Site Plan and a SLUP to permit an auto sales agency and showroom at 834 Haynes with the following conditions:

- 1) The applicant adds a canopy tree to each of the two landscaped areas;**
- 2) The applicant moves the west facing screenwalls to expose the landscaped areas to the street; and**
- 3) The applicant install tree grates around street trees and implement sidewalk standards along Haynes and Elm.**

Mr. Koseck reiterated that the extended fascia doesn't return on itself and he thinks it will look weird from two vantage points. Mr. Lavery indicated they will certainly suggest that to Porsche. He thinks the return on Elm St. is more critical than the return on Haynes because the building to the east screens that side of the façade. Mr. Daringowski is sitting in the audience and will ultimately be involved in that decision. Mr. Williams was not inclined to make the return on the parapets a condition of his motion.

Mr. Koseck said he will not approve the motion because there are subtle things that can be done that would make huge improvements to the plan.

Ms. Whipple-Boyce expressed her feeling that it is important for the parapets to become part of the motion because as proposed they are unlikely to be attractive to the community. She cannot support the motion without that addition.

The chairman opened discussion to the audience at 9 p.m.

Ms. Dorothy Conrad, 2252 Yorkshire, said that as a resident of the City of Birmingham she hopes that the motion will include the suggestions that have been discussed in great detail tonight. Shame on the board if it doesn't.

Motion failed, 3-3.

VOICE VOTE

Yeas: Williams, Clein, Boyle

Nays: Koseck, Lazar, Whipple-Boyce

Absent: DeWeese

Motion by Ms. Whipple-Boyce

Seconded by Ms. Lazar based on review of the site plan submitted the Planning Board recommends approval of the applicant's request for Final Site Plan and SLUP to permit an auto sales agency at 835 Haynes with the following conditions:

- 1) The applicant adds a canopy tree to each of the two landscaped areas;**
- 2) The applicant moves the west facing screenwalls to expose the landscaped areas to the street;**
- 3) Install tree grates around street trees and implement sidewalk standards along Haynes and Elm; and**
- 4) Create returns on the parapet wall on both Haynes and Elm to disguise the bracing.**

Mr. Williams indicated he would vote in favor of the motion because he thinks the project needs to move forward. Mr. Koseck did not see the urgency. He was uncomfortable because the board has not been provided with readings or a floor plan.

There were no final comments from members of the public at 9:05 p.m.

Mr. Ziegelman said they would be more than happy to discuss improvements with staff.

Motion carried, 5-1.

VOICE VOTE

Yeas: Whipple-Boyce, Lazar, Boyle, Clein, Williams

Nays: Koseck

Absent: DeWeese

BIRMINGHAM CITY COMMISSION MINUTES

NOVEMBER 8, 2010

MUNICIPAL BUILDING, 151 MARTIN

7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor called the meeting to order at 7:30 PM.

II. ROLL CALL

| | | |
|------------|----------|--|
| ROLL CALL: | Present, | Mayor Hoff Commissioner Dilgard Commissioner McDaniel Commissioner Moore Commissioner Nickita Mayor Pro Tem Rinschler Commissioner Sherman |
| | Absent, | None |

Administration: Manager Markus, Attorney Currier, Clerk Broski, Assistant Manager Valentine, Planning Director Ecker, Planner Baka, City Engineer O'Meara, Assistant City Engineer Cousino, Finance Director Ostin, Building Official Johnson, Fire Chief Metz, Fire Marshall Monti, PSD Director Heiney, Assistant to the Manager Wuerth

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

11-269-10 ORGANIZATION OF THE CITY COMMISSION

MOTION: Motion by Rinschler:

To nominate Rackeline Hoff as Temporary Chair of City Commission for purposes of conducting the Mayor and Mayor Pro Tem election.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by McDaniel:

To nominate Commissioner Rinschler as Mayor.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by Moore:

To nominate Commissioner Nickita as Mayor Pro Tem.

VOTE: Yeas, 7
Absent, None

- 7) The applicant submit revised plans with all of these changes to the Planning Dept. prior to going to the City Commission so the Commission would see the revisions when they consider this issue; and
- 8) All work must be completed in concurrence with the installation of the TV screens, to be completed by June 1, 2011.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on September 22, 2010;

WHEREAS, The Birmingham City Commission has reviewed the Speedway SuperAmerica LLC Special Land Use Permit Amendment application as well as the standards for such review as set forth in Article 7, section 7.34 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 the Speedway SuperAmerica LLC application for a Special Land Use Permit Amendment is hereby approved, subject to the attached site plan, and subject to the following conditions:

- 1) Repair the cap on the dumpster enclosure walls and repair the dumpster gate;
- 2) Repair the existing screenwalls on the site;
- 3) Improvement of the existing landscape areas on Woodward Ave. to include the installation of several large canopy trees in each bed along with smaller shrubs and perennials;
- 4) Repair damaged portions of the existing sidewalk and approach off of Chestnut;
- 5) Installation of a shield on the wall pack fixture located on the rear of the building and repair of the existing parking lot light fixtures;
- 6) Repair all items on the list that Speedway provided and previously had agreed to repair;
- 7) The applicant submit revised plans with all of these changes to the Planning Dept. prior to going to the City Commission so the Commission would see the revisions when they consider this issue; and
- 8) All work must be completed in concurrence with the installation of the TV screens, to be completed by June 1, 2011.

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, the Speedway SuperAmerica LLC Company 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 Speedway SuperAmerica LLC Company to comply with all the ordinances of the City, may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7
 Nays, None
 Absent, None

11-274-10 PUBLIC HEARING TO CONSIDER SPECIAL LAND USE PERMIT 835 HAYNES

Mayor Rinschler opened the Public Hearing to consider approval of a Special Land Use Permit application for 835 Haynes to allow the operation of an auto sales agency and showroom 8:34 PM.

In response to a question from Mayor Pro Tem Nickita, Bob Ziegelman, Luckenbach, Ziegelman Architects, explained there are two entry locations - one from the sidewalk and one from the parking lot. He explained that there are two four-foot doors.

Mayor Pro Tem Nickita explained that this is a gateway site. He stated that the planning division recommended the planning board consider additional enhancements to the corner of

the site at Haynes and Elm. He stated that in the submitted rendering the enhancements are minimally addressed.

Mr. Baka explained there was discussion about enhancing the corner. He stated that it is appropriate to fully implement the streetscape standards.

Mr. Ziegelman confirmed that the owner is willing to comply with the streetscape standards.

Brad Lavery, owner, confirmed for Mayor Rinschler that new and used cars will be parked in the parking lot.

James Ellsman, owner of 635 Elm Street, commented that this is an underperforming site.

Mayor Rinschler closed the public hearing at 9:08 PM.

Discussion ensued regarding the streetscape. Mr. Lavery agreed to do the additional streetscape improvements which are a considerable expense.

MOTION: Motion by Nickita, seconded by Hoff:

To approve the request for a Special Land Use Permit at 835 Haynes to allow the operation of an auto sales agency and showroom for Porsche with the following conditions:

- The applicant implements the complete streetscape standards, including exposed aggregate and pedestrian scale lighting.
- In addition to consider the redevelopment of the corner at Haynes and Elm by incorporating enhancements in the adjacent parking space and additionally the entrance at the northwest corner of the parking lot, including the incorporation of parking lot there as well for administrative approval.

WHEREAS, Lavery Porsche has applied for a Special Land Use Permit to operate a Porsche automobile sales agency 835 Haynes,

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the northeast corner of Elm and Haynes,

WHEREAS, The land is zoned B-2 General Business, which permits automobile sales agencies with a Special Land Use Permit,

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, requires a Special Land Use Permit Amendment 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 reviewed the proposed Special Land Use Permit request on September 22, 2010 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following conditions:

- 1) The applicant adds a canopy tree to each of the two landscaped areas;
- 2) The applicant moves the west facing screenwalls to expose the landscaped areas to the street;
- 3) Install tree grates around street trees and implement sidewalk standards along Haynes and Elm; and
- 4) Create returns on the parapet wall on both Haynes and Elm to disguise the bracing.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on September 22, 2010;

WHEREAS, The Birmingham City Commission has reviewed the Lavery Porsche Special Land Use Permit Amendment application as well as the standards for such review as set forth in Article 7, section 7.34 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 the Lavery Porsche application for a Special Land Use Permit is hereby approved, subject to the attached site plan, and subject to the following conditions:

- 1) The applicant adds a canopy tree to each of the two landscaped areas;
- 2) The applicant moves the west facing screenwalls to expose the landscaped areas to the street;
- 3) Install tree grates around street trees and implement sidewalk standards along Haynes and Elm; and
- 4) Create returns on the parapet wall on both Haynes and Elm to disguise the bracing.

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, Lavery Porsche 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 Lavery Porsche to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**11-275-10 REQUEST FOR WAIVER
 LOT 229, FOREST HILLS SUBDIVISION**

Mr. Johnson explained that the property owners of Lot 229 in the Forest Hills Subdivision are seeking a waiver from the provisions of Chapter 102 of the city code to allow a home to be built on a substandard sized lot that has been reduced from its original size.

The Commission received a communication from Daniel Share, Barris, Sott, Denn & Driker, PLLC.

Rick Rattner, representing the petitioner, spoke in favor of the request for waiver to build on the lot.

Daniel Share, representing the adjacent property owner, spoke in opposition to the request for waiver.

Commissioner Sherman questioned whether the attorneys and their clients have spoke with each other to resolve this matter. Mr. Share confirmed that there had been discussion. Mr. Share commented that his clients would be fine with having another discussion. Mr. Rattner commented that further discussion would not be helpful as his client wants to build on the lot.

Commissioner McDaniel moved to waive the requirements of Section 102-51 (1) of the Birmingham City Code for Lot 229 of the Forest Hills Subdivision (19-25-257-001), to allow the construction of a home on said lot in compliance with all zoning regulations of Chapter 126 of the City Code except minimum lot area and minimum lot width. With no second, Commissioner McDaniel withdrew his motion.

The following spoke in opposition to the request:
Dan Roovers, 205 Wimbleton

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 27, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 27, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Lisa Prasad, Janelle Whipple-Boyce; Student Representative Colin Cusimano

Absent: Board Member Bryan Williams; Alternate Board Member Daniel Share

Administration: Matthew Baka, Senior Planner
Brooks Cowan Asst. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

04-73-16

UNFINISHED BUSINESS

Special Land Use Permit ("SLUP") Review

Final Site Plan Review

835-909 Haynes

Fred Lavery Porsche/Audi

Request for a SLUP Amendment to allow the temporary expansion of the existing SLUP at 835 Haynes to include 909 Haynes to allow an Audi sales facility for a maximum of one year. (postponed from March 23, 2016)

Mr. Baka noted the subject site is located on the north side of the street between Woodward Ave. and Elm St. The parcel is zoned B-2 General Business and MU-5 in the Triangle Overlay District. The applicant, Fred Lavery Co., owns the adjacent property to the west, 835 Haynes St., which received a SLUP in 2010 to operate a Porsche car dealership within the B-2 Zone and MU-7 in the Triangle District Overlay.

The applicant is conducting renovations to the existing Audi dealership at 34602 Woodward Ave., and wishes to amend its existing SLUP at 835 Haynes St. to temporarily include 909 Haynes St. while the building on Woodward Ave. is being renovated. The applicant is requesting temporary use of the first floor of 909 Haynes St. for office space and business operations for their Audi car dealership for no more

than 12 months. Along with the dealership, there is an existing beauty spa on the second floor of 909 Haynes St., Spa Mariana.

The Birmingham Zoning Ordinance requires that the applicant obtain a SLUP Amendment and approval from the City Commission to expand the auto sales agency and showroom to temporarily include the property at 909 Haynes St.. Accordingly, the applicant will be required to receive a recommendation from the Planning Board on the Final Site Plan and SLUP Amendment, and then obtain approval from the City Commission for the Final Site Plan and SLUP Amendment.

On March 23, 2016 the Planning Board reviewed the proposal to temporarily expand the SLUP to include 909 Haynes for one year. However, at that time the architect indicated that the property owner would like the expansion to be permanent. The Planning Board and Planning Staff indicated that a permanent expansion would not be considered without the level of details normally provided for a SLUP Amendment. The applicant was postponed until the April 27, 2016 meeting to allow them time to consider how they wished to proceed. The applicant has now indicated that they intend to proceed with the temporary proposal and apply at a later date for a permanent expansion of the SLUP.

The applicant is now proposing to install the five (5) required canopy trees and create three (3) new landscaped areas in the interior of the parking lot. The applicant must provide the dimensions of the landscaped areas to determine if they meet the size requirements mandated by the Zoning Ordinance.

The applicant is not proposing any changes to the existing streetscape. The current streetscape in front of the subject building does not match the Triangle District standard as installed on the Porsche site.

The design for the building on Woodward Ave. has been approved by the Design Review Board and the applicant is getting ready to start the renovations.

Design Review

No changes to the facade are proposed.

Signage Review

The 909 Haynes St. building has 40 ft. of street frontage; therefore a total of 40 sq. ft. of signage is allowed, per the City of Birmingham's Sign Ordinance. The applicant has revised their signage proposal to bring the amount of signage down to 40 sq. ft. so that it complies with the regulations of the Sign Ordinance.

Ms. Ecker explained that because there were violations going on with the storage of vehicles, Code Enforcement went out, but enforcement activities have been put on hold until it is determined if the temporary SLUP is feasible.

Mr. Fred Lavery noted they will not display cars in the building; it will only contain offices for the sales staff and sales manager. They will probably park their demonstrators in the spaces that are not required to meet the parking requirement for the building. The Audi building on Woodward Ave. is being renovated to Audi's current corporate image.

Chairman Clein called for public comments at 8:32 p.m.

Mr. James Ellsman business owner at 635 Elm, asked if the approval of an amended SLUP is a guarantee that the Triangle District restrictions against car dealerships is waived. Ms. Ecker clarified the Triangle District doesn't prohibit the use for car sales agencies, but it only allows it with the strict control and regulation of a SLUP because of the potential impact on the neighborhood. In this case the car dealership is only requesting approval for a period of one year.

Mr. Koseck commented that this is not his vision for the Triangle District. By granting this request it takes the property out of contention for other developments over the next 12 months. After the temporary SLUP amendment has expired he will not support this because the property has a higher and better use. Mr. Lavery responded that a seven story building cannot be constructed on this property without public parking. Only when public parking becomes available will there be a higher and better use for this property. Therefore, the proposed use bridges the gap so he doesn't have a \$7 or \$8 million investment that produces no visible revenue stream until public parking gets approved and constructed.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Boyle that based on a review of the site plans submitted, the Planning Board recommends approval of the applicant's request for Final Site Plan and a SLUP Amendment to the City Commission to allow the temporary expansion of the auto sales agency and showroom for up to one (1) year at 835 Haynes to include 909 Haynes with the following condition:

- **Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.**

There were no comments on the motion from members of the audience at 8:40 p.m.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Whipple-Boyce, Boyle, Clein, Jeffares, Koseck, Lazar, Prasad

Nays: None

Absent: Williams

BIRMINGHAM CITY COMMISSION MINUTES
JUNE 27, 2016
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor, called the meeting to order at 7:33 PM.

II. ROLL CALL

| | | |
|------------|----------|-----------------------|
| ROLL CALL: | Present, | Mayor Hoff |
| | | Commissioner Bordman |
| | | Commissioner Boutros |
| | | Commissioner DeWeese |
| | | Commissioner Harris |
| | | Mayor Pro Tem Nickita |
| | | Commissioner Sherman |
| | Absent, | None |

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, City Planner Ecker, City Engineer O'Meara, Finance Director Gerber, Deputy Treasurer Klobucar, DPS Director Wood, Police Chief Clemence

06-200-16

**PUBLIC HEARING TO CONSIDER
TEMPORARY SPECIAL LAND USE PERMIT
835 & 909 HAYNES, LAVERY PORSCHE**

Mayor Hoff opened the Public Hearing at 10:37 PM to consider the Revised Final Site Plan and Temporary Special Land Use Permit Amendment – 835 & 909 Haynes, Lavery Porsche.

City Planner Ecker explained that renovations are being done to the Audi building. The applicant would like to use 909 Haynes temporarily for the sales office. She noted that the request is to use the building for a period of twelve months. She noted that the Planning Board had a few comments regarding landscape and screening in the parking area. She noted that twenty-four parking spaces are required by ordinance and there are thirty-six dedicated parking spaces for this site. She pointed out that vehicles for sale or lease are not allowed to be stored within the twenty-four spaces required for the building.

Fred Lavery, applicant, explained that the sales staff and managers will have to be relocated due to the renovation to the Audi building. He noted that the twenty-four parking spaces are for the occupants of the building. The difference between the twenty-four required spaces and thirty-six spaces will be used for the storage of cars.

A resident at 635 Elm Street expressed his support of the request, but only for one year.

The Mayor closed the Public Hearing at 10:54 PM.

MOTION: Motion by Nickita, seconded by Bordman:

To approve the Revised Final Site Plan and Temporary Special Land Use Permit Amendment of one year for 835 & 909 Haynes – Lavery Porsche with the condition that applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, Lavery Porsche has applied for a Temporary Special Land Use Permit Amendment of one year to operate an Audi automobile sales agency on the first floor of the building located at 909 Haynes,

WHEREAS, The land for which the Temporary Special Land Use Permit Amendment is sought is located on the north side Haynes east of Elm,

WHEREAS, The land is zoned MU-5, Mixed Use 5, which permits automobile sales agencies with a Special Land Use Permit,

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, requires a Special Land Use Permit Amendment 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 reviewed the proposed Temporary Special Land Use Permit Amendment request on April 27, 2016 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following condition:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on April 27, 2016;

WHEREAS, The Birmingham City Commission has reviewed the Lavery Porsche Temporary Special Land Use Permit Amendment application as well as the standards for such review as set forth in Article 7, section 7.34 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 the Lavery Porsche application for a Temporary Special Land Use Permit amendment is hereby approved for one year from the date of approval, subject to the attached site plan, and subject to the following conditions:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

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, Lavery Porsche 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 Lavery Porsche to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7
Nays, None
Absent, None

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JANUARY 22, 2020**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on January 22, 2020. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin

Absent: Board Member Robin Boyle, Stuart Jeffares

Administration: Jana Ecker, Planning Director
Brooks Cowan, City Planner
Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

01-13-20

F. Special Land Use Permit Reviews

1. 34350 Woodward (previously 835 Haynes, Fred Lavery Porsche) & 907 - 911 Haynes (former Barda Salon Building) - Amendment of Special Land Use Permit at 34350 Woodward to include the property at 907-911 Haynes to allow demolition of the existing Barda Salon Building and construction of a surface parking lot on 907 – 911 Haynes to provide additional parking for the Porsche dealership at 34350 Woodward

City Planner Cowan, Fred Lavery, owner, John Gardner, architect, and Rick Rattner, attorney, reviewed the item for the Board.

Chairman Clein asked Mr. Rattner:

- How the Board could support approval of this proposal when it does not seem to support the purpose of the Triangle District as required by ordinance; and,
- Whether the Board's approval of the proposal would amount to the expansion of a legal non-conforming use, which the Board is not permitted to do.

Mr. Rattner said the proposal supports the Triangle District plans because the surface lot would function as a placeholder for the eventual Worth Street realignment. He said it would not be expanding a legal non-conformity because the lot combination would be allowed under a SLUP as an auxiliary use.

Mr. Share noted that the combined lot could require a variance since the parking lot frontage would be greater than ordinance allows.

After Board discussion, Planning Director Ecker received confirmation from the Board that they were requesting clarification from the Building Official and City Attorney regarding whether the Board has authority to consider granting the requests put forth by the applicant, what impediments exist to granting the requests, and what the remedies to the impediments could be. She said the remedies could include a variance if the City chose to allow more than 25% of the frontage to be parking, an expansion of an existing non-conformity because the lots will be combined, or some other factor in a lot combination that could affect the result.

Motion by Mr. Share

Seconded by Mr. Koseck to postpone consideration of the SLUP amendment for 34350 pending a response from the City Attorney and/or Building Official regarding whether the Board has authority to consider granting these requests, what impediments exist to granting the requests, and what the remedies to the impediments could be.

Mr. Rattner said it would be useful to know what effect an agreement with the City would have vis-a-vis resolving these problems. Mr. Rattner then stated that Mr. Lavery requested to withdraw his application for the SLUP amendment.

The Board allowed Mr. Lavery to withdraw his request and accordingly took no action on the motion.

DATE: November 2nd, 2020

TO: Joseph A. Valentine, City Manager

FROM: Brooks Cowan, City Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: 856 N. Old Woodward – Right-of-Way Parking

INTRODUCTION:

The subject site, 856 N. Old Woodward, also known as The Pearl, is a 4 story mixed-use building with three retail tenants on the first floor and residential units on floors two, three and four. The subject building is not within the Parking Assessment District and therefore must provide all required parking on-site. The applicant is currently seeking permission from the City Commission to include six metered parking spaces in front of the building in the City's right-of-way along N. Old Woodward to assist them in meeting the parking requirements for the three tenant spaces pursuant to Article 4, Section 4.45 (G)(4) of the Zoning Ordinance:

4.45 PK-01 General Parking Standards

G. Methods of Providing Parking Facilities: The required off-street parking facilities for buildings used for other than residential purposes may be provided by any one of the following methods:

4. By providing the required off-street parking on the same lot as the building being served, or where practical, and with the permission of the City Commission, the area in the public right-of-way abutting the property in question may be included as a portion of the required parking area if such area is improved in accordance with plans which have been approved by the engineering department.

BACKGROUND:

The existing site is zoned O2 and D2 in the Overlay. The applicant has applied to occupy the three first floor retail spaces with two salon/spa uses and a specialty foods store which are permitted uses. The building currently has 65 parking spaces with 42 required for residential, leaving 23 parking spaces remaining for the three commercial tenant spaces. In regards to tenant parking, Lash Lounge has seven service chairs and therefore requires 14 parking spaces. Fruition is currently a 1200 SF specialty foods store which requires 4 parking spaces. Aurora Medi-Spa has applied to occupy the third retail space with 5 service chairs which requires 10 parking spaces, though the property only has 5 parking spaces remaining.

| Tenant | Use | Square Feet / Service Chairs | Parking Requirement | Total Required Parking |
|-----------------|----------------------------------|-------------------------------------|----------------------------|-------------------------------|
| Fruition | Specialty Foods Store – Carryout | 1200 | 1 per 300 sq. ft. | 4 spaces |
| Lash Lounge | Salon / Spa | 7 Chairs | 2 per Chair | 14 spaces |
| Aurora Medi-Spa | Salon / Spa | 5 Chairs | 2 per Chair | 10 spaces |
| | | | | = 28 spaces total |

As mentioned above, the existing property currently has 23 parking spaces designated for commercial. The three proposed retail uses for this site require 28 spaces, thus requiring 5 more parking spaces. An approval from the City Commission for 856 N. Old Woodward to count the 6 metered parking spaces in the adjacent right-of-way towards its parking count will allow Aurora Medi-Spa to satisfy the parking requirements for this site.

The applicant received site plan approval for The Pearl in 2016. A condition of approval was that the applicant provide an easement to the City to extend the metered parking access drive and be responsible for all maintenance. The signed easement agreement did not include counting the 6 metered parking spaces towards their parking requirement at the time.

The Engineering Department has reviewed the site and determined no repairs are necessary. The applicant will be responsible for future repairs if necessary.

LEGAL REVIEW

The City Attorney has reviewed the documentation and has no concerns.

FISCAL IMPACT

The proposed request has no fiscal impact on the City.

PUBLIC INPUT:

There has been no public input submitted in regards to the proposal.

SUMMARY:

In accordance with Article 4, section 4.43(G)(4) of the Zoning Ordinance, the applicant requests that the City Commission include six right-of-way parking spaces adjacent to their property in their required parking calculation. The inclusion of these spaces will enable the applicant to meet their parking requirement for a third tenant space without pursuing a variance.

ATTACHMENTS:

- Letter from Frank Simon
- 1st floor interior floor plans

SUGGESTED RESOLUTION:

To approve the use of six parking spaces in the right-of-way adjacent to the property located at N. Old Woodward to fulfill the parking requirements per Article 4, section 4.43 (G)(4) of the Zoning Ordinance.

FLS PROPERTIES #5, LLC

P.O. BOX 689
BLOOMFIELD HILLS, MICHIGAN 48303
TELEPHONE: 248-680-1401
FACSMILIE 248-720-0293

October 26, 2020

Birmingham City Commission
151 Martin Street
Birmingham, MI 48009

Re: The Pearl, 856 N. Old Woodward – Request to Use Parking in City Right of Way

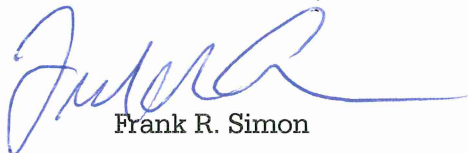
Dear Commissioners,

This letter is to request Commission approval to use the six spaces (6) that are in the City right of way adjacent to the property (as designated on the attached drawing), in the calculation of the parking requirements for our proposed use at 856 N. Old Woodward. Please note that these spaces are not street parking and they have only been used by the tenants in this building. There are also 65 parking spaces within the building parking garage (45 spaces in lower level and 20 spaces in upper level).

Thank you in advance for your time and consideration. I look forward to hearing from and discussing this further.

Very truly yours,

FLS PROPERTIES #5, LLC



Frank R. Simon

856 OLD NORTH WOODWARD
PROPOSED 4 STORY MULTI-FAMILY BUILDING WITH RETAIL

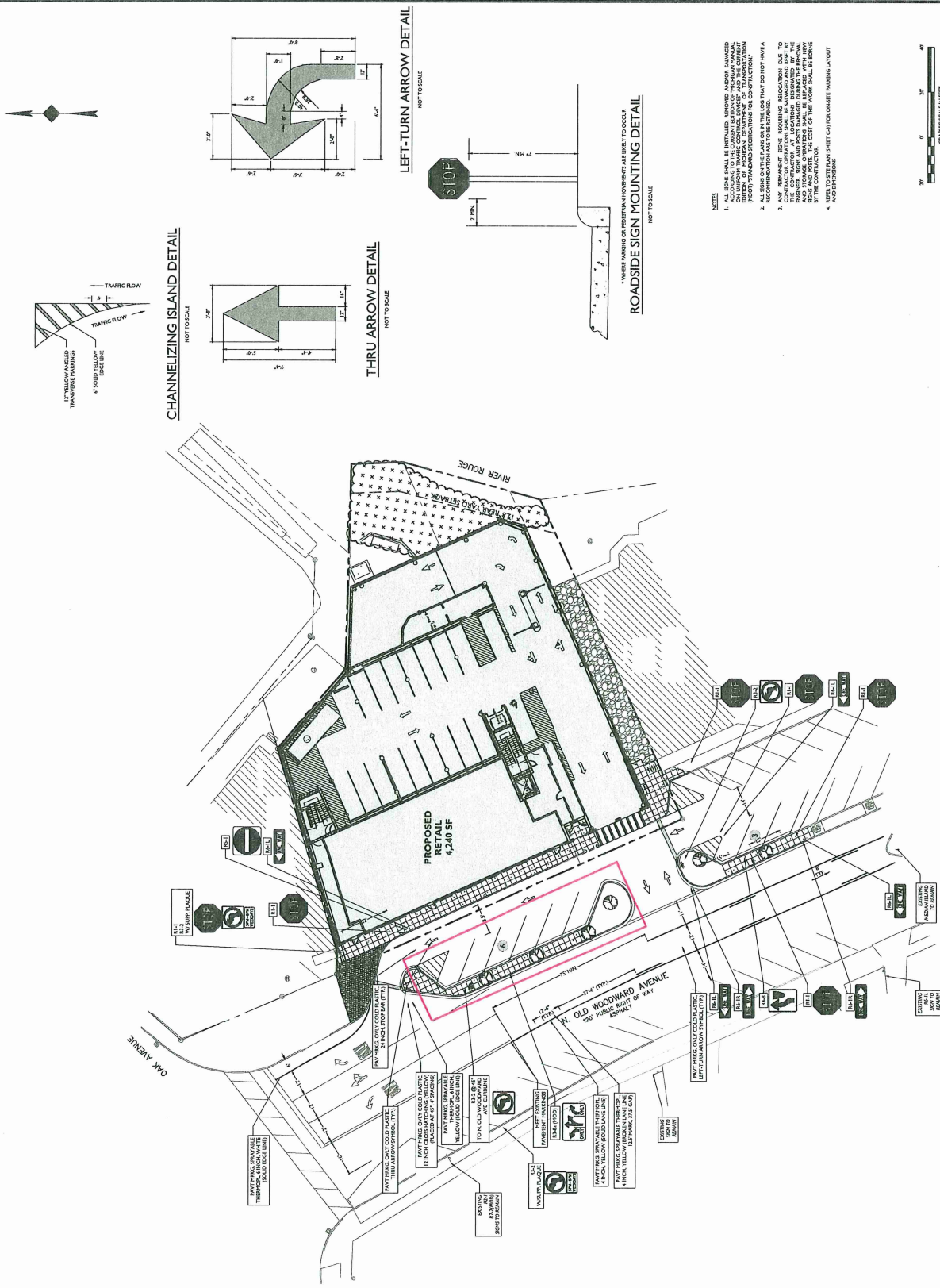
PARCEL ID: 19-25-328-001
856 NORTH OLD WOODWARD ROAD
CITY OF BIRMINGHAM
OAKLAND COUNTY, MICHIGAN

STONEFIELD
engineering & design, llc.

28454 Woodward Avenue Royal Oak, MI 48067
Phone 248.247.1115

Phone 248.247.1115

| ISSUE | DATE | BY | DESCRIPTION |
|-------|------------|-----|---|
| 9 | 07/23/2017 | JAM | ISSUED FOR BIDDERS |
| 10 | 07/23/2017 | JAM | REMOVED PER CITT ENGINEERING COMMENTS |
| 11 | 04/02/2017 | JAM | REMOVED PER CITT ENGINEERING COMMENTS |
| 12 | 07/23/2017 | JAM | REMOVED PER CITT ENGINEERING COMMENTS |
| 13 | 08/28/2017 | MMH | REMOVED PER CITT ENGINEERING COMMENTS |
| 14 | 09/15/2017 | JAM | REMOVED PER CITT LOGISTIC PLAN COMMENTS |
| 15 | 10/03/2017 | JAM | REMOVED PER CITT LOGISTIC PLAN COMMENTS |
| 16 | 01/02/2018 | JAM | REMOVED PER UPDATED ARCHITECTURAL PLANS |
| 17 | 11/20/2018 | JAM | REMOVED PER UPDATED ARCHITECTURAL PLANS |
| 18 | 07/18/2019 | WPM | REMOVED PER CONSTRUCTION CONDITIONS |





MEMORANDUM

Department of Public Services

DATE: November 4, 2020

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: Capital Planning and Consultant Services for Ice Arena

INTRODUCTION:

As the result of the Parks and Recreation Bond proposal passing, we are moving forward on several initiatives as part the recommended project priority list. The overall Parks and Recreation Plan identified several capital improvements projects at numerous City parks, playgrounds, the Rouge River trail system, Ice Arena renovations and irrigation improvements at Springdale Golf Course. Besides this project, there are multiple bond projects in motion simultaneously. Advancing this project to the City Commission was on hold until after the election results for the bond proposal in order to solidify the right scope of work.

Timing for this work and the schedule will be on the fast track for the consultants as mobilization and construction work is targeted to begin in May 2021. The Ice Arena will close in April/May 2021, which is normal practice to remove the ice between May – August every year. The construction schedule as suggested is to coincide with the summer closure period. The ultimate goal is not to interfere with the customary re-opening schedule of the Birmingham Ice Arena.

This request is to continue to engage Plante & Moran Cresa (PMC) to serve as the Owner's Representative during the Ice Arena Renovation Project. This will be the Third Amendment to the current Agreement with PMC. PMC will serve as the Owner's Representative for improvements to the Birmingham Ice Arena. PMC has established a scope of work and fee schedule to accompany the Agreement. PMC will assist the City with the procurement of an Architectural/Engineering firm to complete a formal design of the improvements to the Ice Arena, prepare bid specifications for this work and overall project oversight. The proposed improvements include the following items, an upgrade to the refrigeration system including a sub-floor heating system, building additions to expand the existing locker rooms and interior renovations such as adding a female locker room and team locker room, meeting room space and new concession area upgrades for a total estimated project cost of \$5.1M.

BACKGROUND:

The Birmingham Ice Sports Arena was built in 1973; therefore, there is wear and tear on equipment and materials located in the building. During 2017, the Ice Arena experienced issues with the refrigeration system, causing a slow leak from the coolant system in the floor of the arena area needed repair. Measures are in place to keep all systems operational, despite the unknowns beneath the surface. This not only prompted the analysis and review of the facility, but also creates a sense of urgency due to its age.

As identified as part of the 2018 Ice Sports Arena Assessment Report there are numerous capital priorities for the building. PMC reviewed the 2018 Ice Sports Arena Assessment Report with the City Commission during the 2019 and 2020 Long Range Planning Sessions. Critical needs and property deficiencies were determined as part of the PMC report along with the renovation and expansion project budget for an estimated \$5.1M.

Items related to the Ice Arena mechanical and refrigeration system are identified at a \$2M cost estimate and have been included in the fiscal year 2020-2021 budget. The Recreation Bond funding items identified make up the remaining \$3.1M and include building additions and arena renovations; such as expanding existing locker rooms, new team locker room, new female locker room and concession improvements.

LEGAL REVIEW:

The City Attorney has reviewed the Third Amendment to the Capital Planning and Consulting Services Agreement between the City of Birmingham and Plante & Moran Cresa, L.L.C., as submitted as part of this report.

FISCAL IMPACT:

The fee for the professional consulting services by Plante & Moran CRESA will not exceed \$145,800.00. This fee is already built-in as part of the overall \$5.1M project budget cost. The expected duration by PMC for the performance of this project scope is approximately twelve (12) months. Funds are available for this work in the Capital Projects - Ice Arena - Buildings account #401-901.001-977.0000. Any extension beyond this twelve (12) month term ending November 8, 2021 with PMC, if requested by the City of Birmingham, will be based on a mutually agreed upon monthly lump sum amount.

PUBLIC COMMUNICATIONS:

Plante & Moran Cresa will be having discussions with various user groups of the Ice Arena and City Administration during this assignment.

SUMMARY:

The program management for this work should begin immediately, as timing is critical for potential improvements to occur as soon as the Ice Arena closes for the season and in order for the Ice Arena to be fully functioning by the start of the 2021-2022 season. Therefore, professional procurement of an Architectural/Engineering firm to complete a formal design and prepare bid specifications for all or part of the full scope of work is necessary to achieve the desired results.

The Department of Public Services recommends continuing the capital planning and consulting services of the Birmingham Ice Sports Arena and approve the Third Amendment to the services agreement with Plante & Moran Cresa. Based on the above background information and that Plante & Moran Cresa has been previously engaged in the assessment of the Ice Arena, therefore, no advantage will be gained by the City bidding out these professional services.

Because of their extensive financial knowledge and understanding of the City of Birmingham including client experience with other Ice Arenas, Plante & Moran Cresa has been assisting the City of Birmingham with this project. Timing is very critical that the construction be performed during the summer months, generally when the ice arena is closed. If construction of the ice arena goes beyond the summer, current contract users could potentially find ice time elsewhere.

ATTACHMENTS:

Attached is a copy of the Third Amendment to the Capital Planning and Consulting Services Agreement between the City of Birmingham and Plante & Moran Cresa, L.L.C. along with the associated Exhibits A-1 (Scope of Services) and B-1 (Project Budget & Schedule) and an updated Insurance Certificate.

SUGGESTED RESOLUTION:

To approve the proposal from Plante & Moran Cresa, LLC in the amount not to exceed the lump sum fee of \$145,800.00, term beginning November 10, 2020 – November 8, 2021 for the purpose of assisting with capital planning and operational review consulting services for the Birmingham Ice Arena; contingent upon receipt of proper insurance. Further, to waive the formal bidding requirements. Funds are available for this work in the Capital Projects - Ice Arena - Buildings account #401-901.001-977.0000.

Third Amendment to the Capital Planning and Consulting Services Agreement Between THE CITY OF BIRMINGHAM, and PLANTE & MORAN CRESA, L.L.C.

This Third Amendment (the “Third Amendment”) to the Agreement for Capital Planning and Consulting Services is made as of this 10th day of November 2020 (“Effective Date”), between THE CITY OF BIRMINGHAM (“CB”) and PLANTE & MORAN CRESA, L.L.C. (“PMC”). This Third Amendment modifies that certain Agreement for Capital Planning and Consulting services between such parties, dated as of June 20, 2018 (the “Agreement”), the First Amendment dated August 2, 2019 and the Second Amendment dated December 4, 2019. As used herein and where context dictates, reference to the Agreement may mean the Agreement, as modified by this Third Amendment. Where any provision of the Agreement is modified herein, the provisions of this Third Amendment shall control; otherwise the terms and provisions of the Agreement shall remain unmodified. All defined terms in this Third Amendment shall have the same meanings as set forth in the Agreement, unless the context clearly requires otherwise.

WHEREAS, CB and PMC are parties to the Agreement for PMC to provide Capital Planning and Consulting Services to the CB related to the CB’s ice arena located at 2300 E. Lincoln Street, Birmingham, Michigan (the “Project”); and

WHEREAS, CB desires PMC provide Owner Representation Services related to the Project.

NOW THEREFORE, for good and valuable consideration, CB and the PMC agree as follows:

1. **Recitals.** The above recitals are true and correct and are hereby made part of this Amendment.
2. **Changes to the Agreement.** CB and PMC hereby agree to amend the Agreement as follows:

Scope of Services. The Scope of Services are modified to include assisting the CB with Owner Representation Services detailed in the attached document listed below:

Exhibit A-1 – Scope of Services for Owner Representation

Exhibit B-1 – Preliminary Project Budget, Schedule and Other Assumptions

Term. The Term of the Agreement for Scope of Services detailed in Exhibit A-1 is November 10, 2020 through November 8, 2021 (approximately 12 months).

- a. **Adjustment to Compensation.** The parties mutually agree that the fee for the Scope of Services detailed in Exhibit A1 shall be a lump sum fee of **\$145,800.00** (One hundred Forty-Five Thousand Eight Hundred and No /100 Dollars) payable in (3) \$15,000.00 and (9) \$11,200.00 monthly payments. Reimbursable expenses, such as mileage, printing, overnight courier services, etc. will be invoiced at cost, without mark up.
 - b. **Extended Monthly Compensation.** If PMC is requested to continue Owner Representation Services beyond November 8, 2021, PMC and CB will mutually agree to a monthly lump sum amount for PMC services.
3. **Integration.** When executed, this Third Amendment shall be deemed part of the Agreement and, except as otherwise provided herein, shall be subject to all terms and conditions of the Agreement.
 4. **Amendment Controls.** In the event of any inconsistency between the terms and conditions of this Third Amendment and other contract documents including the Agreement, the terms of this Third Amendment shall control.

5. **Agreement Remains in Force.** Except as expressly modified herein, the Agreement shall remain in full force and effect and the parties hereto acknowledge and agree to be bound by the terms and provisions thereof.
6. **Partial Invalidity.** If any term, covenant, condition or provision of this Third Amendment or the Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.
7. **Entire Agreement.** This Third Amendment and the Agreement constitutes the whole Agreement between the parties with respect to the subject matter contained herein and there are no terms other than those contained herein. No modification to this Amendment shall be valid unless in writing and signed by the parties hereto.
8. **Counterparts.** To facilitate execution of this Third Amendment, the parties may execute this Third Amendment in counterparts and exchange signatures by facsimile transmission or by electronic delivery of a PDF copy of the executed Third Amendment, which facsimile or PDF copy shall be deemed valid and binding.

This Third Amendment is entered into as of the day and year first written herein but shall not be effective unless and until it is signed by the parties.

CITY OF BIRMINGHAM

PLANTE & MORAN CRESA, L.L.C.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A-1
Scope of Services for Owner's Representation Services

Upon execution of this Amendment PMC shall commence providing Owner Representation Services related to the Project. PMC's Owner Representation Services may be comprised of the following:

1. Project Planning/Evaluation and Programming

Assist in the Development of a final Project program that clearly identifies the size, cost, and delivery method(s) of the proposed Project. Activities shall include the following as reasonably required to complete the Project based on the 2018 City of Birmingham Ice Sports Arena Assessment Report dated December 11, 2018:

- Assist CB in the development of final Project scope and program
- Assist CB in the development of the phasing/delivery plan
- Assist CB in the development of a final Project budget and schedule.
- During all Phases of the Project, serve as the key liaison between the CB, the commissioned architect, construction manager and/or general contractor and represent the CB's interests in all phases of construction. This service shall include, but shall not be limited to, the coordination of activities and resolution of any resulting problems and attendance and reporting of progress issues to the CB's Director of Parks and Recreation on a regular basis and to the CB Board at their meetings as necessary or as reasonably requested by the CB. Generally, serve as the advocate of the CB during all Phases of the Project.
- Provide input for the Project in all design stages as required. This service shall include, but shall not be limited to, input regarding product/material selections. Input regarding construction methodology to assure quality levels established by monitoring of budget established to address possible cost savings while not reducing the Scope of Project or quality of design, and input regarding cost estimates prepared by the architect, construction manager and/or general contractor as required by the CB.

2. Architect, Construction Manager and/or General Contractor Selection

If and when applicable, and using a criteria-based selection process, assist the CB in the selection of an architect, construction manager and/or general contractor selection to determine the most effective approach for the Project, keeping in mind to qualify, each must show having successfully completing municipal projects, including:

- Review the qualifications of the architect, construction manager and/or general contractor through evaluation of comparable work experience, staff credentials, reference checks, financial credibility and any prior relationship with the CB.
- Assist the CB with drafting and delivery of Request for Proposals (RFPs) to the architect, construction manager and/or general contractor.
- Participate as an advisor to the CB in pre-bid conferences.
- Participate as an advisor to the CB in interviews of the firms.
- Analyze proposals and qualifications and prepare executive summary in a comparative format.
- Assist CB in determining a recommendation to Council of architect, construction manager and/or general contractor relative to the Project. Assist legal counsel with development of the architect's, construction manager's and/or general contractor's contracts as to business terms but not as to legal terms.
- Conduct same/similar process, as outlined above, for other required consultants and vendors, as may be appropriate:
 - Engineering/ Survey
 - Commissioning

- Move Management
- Geotechnical and Material Testing

3. **Design Process Oversight**

Provide assistance and advise CB throughout the design process. PMC's activities may be comprised of the following:

- Confirm the Project schedule, arranging the time required for the design development, bidding, construction, and move-in and start-up phases
- Monitor architect's progress through the design process
- Schedule and attend progress meetings and produce meeting minutes
- Assist in the selection of finishes (flooring, wall treatments, and lighting)
- Compare budget of design to Project budget at each stage (Schematic, DD, CD)
- Review design for consistency with original Project scope
- Assist the architect, construction manager and/or general contractor, interior designer, and other vendors in the ongoing value-engineering process to identify alternative construction methods or materials, reducing cost and/or construction time
- Assist in providing multiple constructability reviews and assist the architect and construction manager and/or general contractor in the process of preparing cost analyses
- Perform budget and schedule updates as necessary
- Assist in defining the scope for phased construction for the Project
- Assist in determining specifications for major long lead equipment such as air handling units; ice plant equipment, electrical transformers and switchgear
- Monitor trade, labor and construction market trends that could impact the cost or schedule for the Project
- Assess material and labor availability in the local marketplace and evaluate alternative systems and building products
- Assist in the preorder of items requiring long lead times for delivery
- Prior to submittal to the CB for payment, review architect, construction manager and/or general contractor invoices on behalf of the CB and make recommendations for payment
- Develop and monitor final Project budget and schedule
- Assist in the review final drawings and bid packages
- Present monthly updates to the Board at regularly scheduled meetings in the form of a written report and, if requested by the CB, in the form of attending the Board meeting
- Identify and coordinate with the owner any governmental authorities having jurisdiction over the Project; assist in obtaining required approvals and permits

4. **Construction Phase**

In order to have high predictability in the outcome, it will be necessary to have competent contractor(s) that are best suited for the Project. Once the contractor(s) is selected, PMC's shall assist and advise CB and their vendors throughout the construction phase of the Project. PMC's activities may be comprised of the following:

- Schedule and attend a kick-off meeting to review project goals and objectives
- Assist and advise the team through construction process to meet Project objectives
- Assist in obtaining permits
- Define, schedule, attend and produce meeting minutes for weekly construction progress meetings
- Monitor Project expenditures to ensure that the proposed budget is being met
- Provide change order tracking and facilitate issue resolution, including developing an accountability log that will be used for all change orders issued for the CB Project that will

indicate the source and cost of the any and all change orders (e.g., field condition, Owner initiated, Architect initiated, Construction Manager initiated, etc...)

- Update major milestone schedule for Project and identify potential conflicts
- Monitor Project budget including expenses to date versus total budget and remaining Project cost estimates
- Prepare monthly Project status reports for the CB in the form of a written report and, if requested by the CB, in the form of attending the Board meeting
- Coordination of other vendor(s) activities with architect, technology designer, construction manager and/or general contractor and the contractors
- Prior to submittal to the CB for payment, review of payment applications from contractors and consultants (e.g., architect, construction manager) in accordance with contractual arrangements and make recommendations for payment
- Review and ensure timely receipt of insurance certificates, performance and payment bonds, waivers, sworn statements, and other contractor-required or consultant-required information
- Manage on behalf of the CB, to the extent permitted by the Project documents and agreements, construction activities for timeliness, and general compliance with contract documents
- Assist in evaluating disputes relating to contract interpretation and requirements
- Promptly notify Owner if Representative becomes aware that the work of a contractor or consultant is not being performed in accordance with the requirements of the contract documents or industry standards
- Notify Owner when Representative believes the work under a construction contract is substantially complete and that a punch list should be prepared. Representative shall coordinate with the architect/designer and assist in its determination of the date of substantial completion

5. Move Management, Building Commissioning and Project Closeout

Move Management

Assist CB to identify the requirements to relocate and move staff and equipment to allow construction to proceed without interruption of work-flow and to minimize down time. This process formally begins when building plans and specifications are ready for bidding. On behalf of the CB, PMC will coordinate and oversee the process of advertising and soliciting bids from qualified moving vendors. Activities shall include the following as reasonably required to complete the Project:

- Coordinate the logistics of the move with staff to minimize disruptions to operations
- Identification and prequalification of move vendors and write RFP
- Assist the CB in obtaining and reviewing proposals from vendors
- Assist the CB by providing on-site coordination during moves
- Assist in the procurement of temporary facilities, if required
- Provide recommendation to negotiate final moving contract
- Coordinate removal and placement of office, equipment and furniture prior to construction and upon completion of the Project
- Provide an occupancy checklist
- Develop a schedule for occupancy activities

Building Commissioning & Project Closeout

PMC will assist and advise CB to monitor activities of the architect, construction manager and/or

general contractor, and contractor(s) to ensure they complete their respective contractual obligations. Post construction services typically commence after construction is substantially complete. PMC will continue to advocate on behalf of the CB to ensure the closeout procedures are completed in a timely manner. Activities shall include the following as reasonably required to complete the Project:

- Identification of punch list items
- Monitor architect's, construction manager's and/or general contractor's completion of punch list activities
- Conduct final Project walk-through/inspections with the architect, construction manager and/or general contractor, to review compliance with the contract documents for quality of finished construction
- Coordinating of the delivery of warranties and guarantees certificates
- Submittal of release waivers of liens and sworn statements
- Coordination of building systems testing
- Assistance in obtaining occupancy permit
- Coordination of as-built drawings, and operational manuals
- Assistance in scheduling of training staff on building systems
- Assist the CB with the Project until all punch list items are complete or as otherwise agreed to with the CB
- Provide call-back services for a period at least extending through the warranty period

Exhibit B-1
Preliminary Budget, Schedule & Other Assumptions

1. Preliminary Project Budget

- The current preliminary Project Budget is assumed to be \$5,100,000 which includes budgeted construction, professional fees, permits and contingency. This dollar amount assumes both CB general fund and CB Recreational Bond fund allocation approved by the CB voters on November 3, 2020.
- Additional cost impacts could be incurred for double shift and overtime work for renovation and equipment installations to meet the proposed owner occupancy date. Additional project budget allocation may be needed.

2. Preliminary Project Schedule

The CB will provide PMC time sensitive information and provide timely decisions to facilitate the following proposed Project Schedule timeline:

November 9, 2020: CB Commission approval of PMC's engagement for Owner's Representation Services (OR)

November 10, 2020 – December 14, 2020 (5 weeks): Procure A/E firm – define work scope, schedule, prepare RFQ/RFP documents, including assisting CB in drafting contract templates for engagement, develop list of preferred A/E firms, draft bid advertisement, develop criteria based selection document with CB, short list firms, interview, award recommendation to CB Council. Note: RFQ/RFP will be sent to 3 or 4 select A/E firms for this professional service engagement.

December 14, 2020 – March 8, 2021 (12 weeks): A/E Design – SD, DD, CD document development

March 8, 2021 – March 22, 2021 (2 weeks): General Contractor RFQ/RFP development including refining scope, schedule, budget and other pertinent information to be included in the documents; Assist CB in drafting contract templates.

March 22, 2021 – April 5, 2021 (2 weeks): Bid Advertisement and Bid Period

April 5, 2021 – Receive and publicly open bids

April 5, 2021 – April 19, 2021 (2 weeks): Evaluate Bids, Contractor Interviews & Recommendation

May 10, 2021 – CB Commission Approval for Contractor

May 11, 2021 – May 25, 2021 (2 weeks): Finalize & Issue contract with constructor

May 25, 2021 – August 23, 2021 (12 weeks): Ice Plant Material/Equipment order

May 11, 2021 – May 16, 2021 (1 week): Contractor Mobilization

May 11, 2021 – September 6, 2021 (17 weeks): Construction Period

September 6, 2020 – September 20, 2021 (2 weeks): Start-up, Final Inspections and Approvals

September 20, 2021 – Owner Occupancy

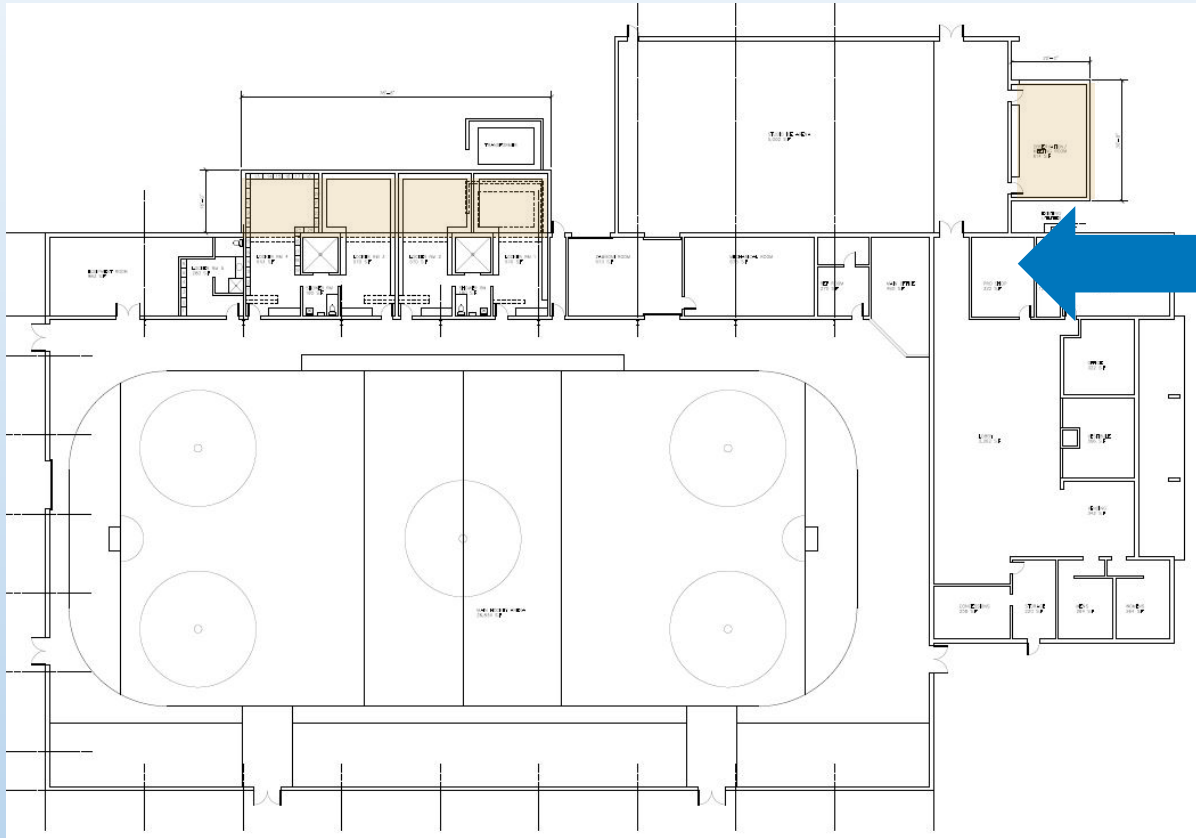
September 20 , 2021 – November 8, 2021 (7 weeks): Commissioning, Punch-list and close out

3. Other Assumptions

- A single Architect will be engaged for the project
- A single General Contractor will be engaged for the project
- CB shall designate a representative with the authority to act on CB's behalf and the ability to make timely decisions for the Project.
- CB will provide all relevant information to PMC regarding the Project
- CB will provide timely decisions and approvals to maintain project schedule
- PMC will be entitled to rely on the information provided by CB



Birmingham Sports Ice Arena



**42,172 s.f. Renovation
& Expansion Project
Budget: \$5,078,183**

- New Ice Plant
- Year round use
- Expanded Locker Rooms
- Team Locker Room
- Women's Locker Room
- New Meeting Room
- ADA Upgrades
- Finish Upgrades



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/10/2020

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 & McLennan Agency LLC 15415 Middlebelt Road Livonia MI 48154-3805 | | CONTACT NAME: Amy Micallef, CIC, CISR, LIC, AAI, AIS PHONE (A/C, No, Ext): 734-525-2445 FAX (A/C, No): 734-525-1841 E-MAIL ADDRESS: amicallef@mma-mi.com | |
| | | INSURER(S) AFFORDING COVERAGE | |
| | | INSURER A: Federal Insurance Company | |
| | | INSURER B: Vigilant Insurance Company | |
| | | INSURER C: | |
| | | INSURER D: | |
| | | INSURER E: | |
| | | INSURER F: | |

COVERAGES**CERTIFICATE NUMBER:** 1400752530**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 | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> 50,000 Deduct GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER: | Y | | 35756613 | 3/13/2020 | 3/13/2021 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$ |
| A | <input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY | | | 73263017 | 3/13/2020 | 3/13/2021 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ | | | 79833330 | 3/13/2020 | 3/13/2021 | EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y / N <input type="checkbox"/> | N / A | 71653087 | 3/13/2020 | 3/13/2021 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |

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

City of Birmingham is included as an additional insured for commercial general liability coverage to the extent provided in the attached form #80-02-2367.

CERTIFICATE HOLDER**CANCELLATION**City of Birmingham
851 South Eton Street
Birmingham MI 48009

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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Endorsement

| | |
|------------------------|--|
| <i>Policy Period</i> | MARCH 13, 2020 TO MARCH 13, 2021 |
| <i>Effective Date</i> | MARCH 13, 2020 |
| <i>Policy Number</i> | 3575-66-13 MBO |
| <i>Insured</i> | P & M HOLDING GROUP LLP AND SUBSIDIARIES |
| <i>Name of Company</i> | FEDERAL INSURANCE COMPANY |
| <i>Date Issued</i> | MARCH 26, 2020 |

This Endorsement applies to the following forms:

GENERAL LIABILITY

Under Who Is An Insured, the following provision is added.

Who Is An Insured**Additional Insured -
Scheduled Person
Or Organization**

Persons or organizations shown in the Schedule are **insureds**; but they are **insureds** only if you are obligated pursuant to a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the person or organization is an **insured** only:

- if and then only to the extent the person or organization is described in the Schedule;
- to the extent such contract or agreement requires the person or organization to be afforded status as an **insured**;
- for activities that did not occur, in whole or in part, before the execution of the contract or agreement; and
- with respect to damages, loss, cost or expense for injury or damage to which this insurance applies.

No person or organization is an **insured** under this provision:

- that is more specifically identified under any other provision of the Who Is An Insured section (regardless of any limitation applicable thereto).
 - with respect to any assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages, loss, cost or expense for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contract or agreement.
-

Liability Endorsement
(continued)

Under Conditions, the following provision is added to the condition titled Other Insurance.

Conditions

**Other Insurance –
Primary, Noncontributory
Insurance – Scheduled
Person Or Organization**

If you are obligated, pursuant to a contract or agreement, to provide the person or organization shown in the Schedule with primary insurance such as is afforded by this policy, then in such case this insurance is primary and we will not seek contribution from insurance available to such person or organization.

Schedule

Persons or organizations that you are obligated, pursuant to a contract or agreement, to provide with such insurance as is afforded by this policy.

All other terms and conditions remain unchanged.

Authorized Representative



November 2, 2020

Birmingham City Commission-

My name is Andrew Vickers, and I am the Lead Operations Manager for Birmingham Roast, a café located at 525 East Brown Street in the lovely city of Birmingham. Due to the COVID-19 pandemic our indoor capacity has been cut to 14 seats inside of our space. We were extremely grateful that Birmingham has allowed us to extend our patio season this year, as it is going to be a life saver for our business. Our operating partner Jesse and myself have been budgeting a solution to enclose our patio and make it accessible year round, in hopes of creating a warm and welcoming environment throughout the tough winter months under the provisions of the City's authorizing resolution through March of 2021. While budgeting for this, we have hit a road block. We have received quotes from anywhere from 5000 dollars up to tens of thousands of dollars to complete this project. We would like to invest a considerable amount of money into this in order to make it very nice for our guests, and would like to go higher end with it, but are nervous in doing so as we are unsure of whether the city will continue to authorize non-alcohol outdoor dining past this winter. When investing tens of thousands of dollars into equipment, the hope is always that you'll be able to use it more than once. So our question is this- Moving forward, would the City Commission consider amending its Zoning Ordinance to allow for year round outdoor dining for such establishments as Birmingham Roast that do not serve alcohol, or is the current authorization through March 2021 only a one time opportunity due to COVID-19?

Mitigating factors to consider-

1. We do not serve alcohol, nor do we have plans to. Strictly coffee, baked goods, and breakfast/lunch.
2. The current restrictions due to COVID are expected past March 31, 2021.
3. The patio space we are operating on is private property and maintained by our staff and our building property team.

I cannot tell you how much it would mean to us if we were able to make this happen. Having outdoor seating year round would make our capacity issues during the winter months so much easier, and provide Birmingham residents a great place to gather year round. Thank you so much for your time.

Best Regards,

Andrew Vickers

Lead Operations Manager, Birmingham Roast



NOTICE OF INTENTION TO APPOINT TO BOARD OF REVIEW

At the regular meeting of Monday, December 7, 2020, the Birmingham City Commission intends to appoint two (2) regular members to serve three-year terms to expire December 31, 2023, and one (1) alternate member to serve a three-year term to expire December 31, 2023. Applicants must be property owners and electors of the City of Birmingham.

The Board of Review, consisting of two panels of three local citizens who must be property owners and electors, is appointed by the City Commission for three-year terms. Although a general knowledge of the City is very helpful, more important are good judgment and the ability to listen carefully to all sides of an issue before making a decision. Approximately three weeks in March are scheduled for taxpayers to protest their assessments and one day each in July and December for correcting clerical errors and mutual mistakes of fact. Two training sessions in February are also required.

Interested citizens may submit an application available at the Clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, December 2, 2020. These documents will appear in the public agenda for the regular meeting at which time the City Commission will interview applicants and may make nominations and vote on appointments.

Board members are paid \$110 per diem.

| Criteria/Qualifications of Open Position | Date Applications Due (by noon) | Date of Interview |
|---|--|--------------------------|
| Members must be property owners and electors (registered voters) of the City of Birmingham. | 12/2/2020 | 12/7/2020 |

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.



**NOTICE OF INTENTION TO APPOINT TO
BIRMINGHAM TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY**

At the regular meeting of Monday, December 7, 2020 the Birmingham City Commission intends to appoint members to the Birmingham Triangle District Corridor Improvement Authority who have an ownership or business interest in property located in the District to the Birmingham Triangle District Corridor Improvement Authority:

- One (1) member to serve a four-year term expiring December 15, 2021;
- Two (2) members to serve four-year terms expiring December 15, 2023; and,
- Two (2) members to serve four-year terms expiring December 15, 2024.

Members shall be appointed by the Mayor, subject to approval by the City Commission.

Not less than a majority of the members shall be persons having an ownership or business interest in property located in the Development Area. Not less than 1 of the members shall be a resident of the Development Area, or of an area within 1/2 mile of any part of the Development Area.

The authority shall operate to correct and prevent deterioration in business districts, to redevelop the City's commercial corridors and promote economic growth, pursuant to Act 280 of the Public Acts of Michigan, 2005, as amended.

Interested parties may recommend others or themselves for these positions by submitting a form available from the city clerk's office. Applications must be submitted to the city clerk's office on or before noon on Wednesday, December 2, 2020. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

| Criteria/Qualifications of Open Positions | Date Applications Due (by noon) | Date of Interview |
|---|--|--------------------------|
| Three members having an ownership or business interest in property located in the Development Area. | 12/2/2020 | 12/7/2020 |

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.