

BIRMINGHAM CITY COMMISSION AGENDA

NOVEMBER 8, 2021

MUNICIPAL BUILDING, 151 MARTIN

7:30 P.M.

AMENDED

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk

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

Announcements

- COVID-19 cases remain high in Michigan, and Oakland County continues to be at a high level of community transmission. As a result, the CDC recommends vaccinated and unvaccinated individuals wear a facemask indoors while in public. The City requires masks in City Hall for all employees, board and commission members, and the public.
- The Clerk's Office would like to thank all of the Election Inspectors and City Staff that helped with conducting a successful November 2nd Election. We appreciate all of the voters who participated safely, turnout for this election was 27.28%, which was above the 22.27% average for Oakland County.
- The Piety Hill Chapter of the National Society Daughters of the American Revolution invites the public to Birmingham's annual Veterans Day Ceremony in Shain Park on Thursday, Nov. 11 at 11 am. The program features guest speaker and veteran advocate Mike Schloff, a Vietnam veteran and Birmingham resident, and will recognize state and city officials. Participating officials should RSVP to Jean Maki at jcmaki@comcast.net or 248-496-9064 by Nov. 1.

Report from City Attorney Regarding Outgoing and Incoming Elected Officials

- Memorandum about the pending certification of election results from the Oakland County Board of Canvassers, and how a potential recount would affect elected officials

Recognition of Outgoing City Commissioners

- Commissioner Rackeline J. Hoff
- Commissioner Stuart Lee Sherman
- Commissioner Mark Nickita

Commissioner Transition

Administration of Oath to Elected Officials

- A. Administration of Oath of Office to City Commissioners

- B. Administration of Oath of Office to Library Board Members

Organization of City Commission

- A. Election of Temporary Chair of City Commission for purposes of conducting the Mayor and Mayor Pro Tem election.
- 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. Presentation to outgoing Mayor Commissioner Boutros by new Mayor
- F. Comments by Commissioner Boutros

INTERMISSION

- G. Appointment of _____, Mayor, to the Retirement Board.
- H. Appointment of _____, Mayor Pro Tem, to the Retirement Board.
- I. Appointment of _____, Mayor, to the Retirees Health Care Fund Committee.
- J. 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.*

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. Approval of City Commission minutes from October 25, 2021.
- B. Approval of warrant list, including Automated Clearing House payments, of October 27, 2021 in the amount of \$958,541.82.
- C. Approval of warrant list, including Automated Clearing House payments, of November 3, 2021 in the amount of \$2,181,472.39.
- D. Resolution to set December 6, 2021 as the public hearing date for the Program Year 2022 Community Development Block Grant Program.
- E. Resolution to set a public hearing date of December 6th, 2021 to consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast – to amend their hours of operation. Set PH
- F. Resolution to set a public hearing for December 6th, 2021 to consider the following amendments:

To amend Chapter 126, Article 7, Section 7.41-7.46 – Processes, Permits, and Fees to create a review process for wall art;

AND

To amend Chapter 126, Article 9, Section 9.02 Definitions to create a definition for wall art.

- G. Resolution providing direction to approve an agreement through December 31, 2024 with Davey Resource Group, Inc. to update the City's Tree Inventory Program in an amount not to exceed a total of \$69,850, which amount includes a maximum amount of \$10,000 to add new inventory. Funding for this project has been budgeted in the Local Streets Fund-Forestry Services account #203-449.005-819.0000, the Major Streets Fund-Forestry Services Contract account #202-449.005-819.0000, and the Parks- Forestry Services account #101-751.000-819.0000. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.
- H. Resolution providing direction to approve an agreement with Anderson, Eckstein, & Westrick for professional engineering design services for barrier-free enhancements in the Birmingham Museum Pond Zone, and authorizing an expenditure in the amount of \$17,460; to be charged to the Allen House Other Contractual Services account, #101-804.002- 811.0000; and further authorizing the Mayor and City Clerk to sign the Agreement on behalf of the City.
- I. Resolution to recognize Martin Luther King Jr. Day as one of the City's observed holidays, starting in 2022.

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

- A. Initial Screening for Bistro Applicants – 2022
 - 1. To direct _____ bistro application(s) to the Planning Board for the process of Special Land Use Permit, Final Site Plan and Design Review.

OR

To take no action on any bistro applications at this time.

- B. Resolution to award the Oak Street Bridge Project #9-21(B) to Z Contractors, Inc. contingent upon execution of the agreement and meeting all insurance and bonding requirements, in the amount of \$ 155,019.00, to be charged to account 202-449.002-981.0100; to authorize the Mayor to sign the contract on behalf of the City; and to approve the appropriation and amendment to the 2021/2022 budget as follows:

Major Street Fund:

Revenues:

Draw from Fund Balance

202-000.000-400.0000 \$130,000

Expenditures:

Construction of Roads and Bridges

202-449.002-981.0100 \$130,000

OR

Make a motion providing direction to the staff to reject all bids for the project opened on October 5, 2021; and to incorporate the proposed work as part of a future project being designed for construction in 2022.

- C. Resolution to accept the Adams Park Concept Plan dated August 30, 2021, and providing direction to approve an agreement with Michael J. Dul & Associates, Inc. for professional landscape architectural services in an amount not to exceed 8% Cost of Construction for the Construction Drawing Phase, and 5% Cost of Construction for the Implementation Phase based on a minimum construction budget of \$725,000. Funding for this project has been budgeted in Land Improvements account #408-751.000-979.0000. Further to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.
- D. Resolution approving the settlement agreement dated October 6, 2021 between the City and Teamsters Local 214 for a renewal of the collective bargaining agreement through June 30, 2023, and authorizing staff to execute a collective bargaining agreement consistent with its terms and conditions. Further, to authorize the transfer of funds in the wage adjustment account 101-299.000-709.0000 to the appropriate departments.
- E. Resolution to approve a 2.5% salary range adjustment and in-range adjustments based upon performance for full-time and part-time employees in the Department Head and Administrative/Management classifications effective July 1, 2021 and approving a 2.5% performance increment through June 30, 2022 with individual eligibility to be in accordance with the attached merit increase guidelines. Further, to authorize the budget amendments from the wage adjustment account 101-299.000-709.0000 to the appropriate departments.
- 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. Communication from Charles E. Tholen in regards to the 2nd Draft of The Birmingham Plan

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

XI. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. House Bill 4722 on Short Term Rentals

INFORMATION ONLY

XII. ADJOURN

Should you wish to participate in this meeting, you are invited to attend the meeting in person or virtually through ZOOM: <https://zoom.us/j/655079760> **Meeting ID: 655 079 760**

You may also present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

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

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

MEMORANDUM

DATE: November 4, 2021

TO: Thomas M. Markus, City Manager; Jana Ecker, Assistant City Manager

FROM: Mary M. Kucharek, City Attorney

SUBJECT: Pending Certification of Election Results Affecting Outgoing and Incoming Elected Officials

INTRODUCTION:

As you are aware, the City of Birmingham held its election for three (3) commissioner seats on November 2, 2021 and the results of the commission election leads us to potential uncertainty as to when the County will certify the results.

BACKGROUND:

Three (3) commissioners did not run for re-election and, therefore, there were three (3) commission seats in contention on Election Day. There were seven (7) citizens that ran for three (3) Birmingham City Commission seats. At the conclusion of the election, the County has published the following results:

- | | |
|-------------------|-------|
| ○ David Bloom | 2,297 |
| ○ Andrew Haig | 2,340 |
| ○ Stephen Konja | 706 |
| ○ Anthony J. Long | 2,334 |
| ○ Elaine McLain | 2,370 |
| ○ Katie Schafer | 3,084 |
| ○ Lynda Schrenk | 642 |

There is reason to believe that there may be, between the date of this Memorandum, Thursday, November 4, 2021, and the date of the Birmingham Commission meeting, November 8, 2021, a petition for recount that will be submitted to the Oakland County Board of Canvassers.

LEGAL REVIEW:

While the City Charter and ordinances speak to elections, the City of Birmingham is duty bound to follow all election laws pursuant to the State of Michigan. In this particular case, we have examined the laws regarding a petition for recount.

Michigan Election Law regarding recounts can be found at Act 116 of 1954, MCL § 168.861 et seq. In this memo I will highlight the pertinent aspects of the law that guides us in understanding what will happen with a recount.

- A candidate may petition for a recount if they believe there has been fraud or mistake in the canvass or returns of votes.
- The candidate must be able to allege a good faith belief that but for fraud or mistake the candidate would have a reasonable chance of winning the election.
- The petition must be sworn and set forth what they believe the mistake or frauds were and ask for a correction.
- The recount petition shall be filed with the clerk of the County that originally conducted the canvass.
- The petition shall be filed within 6 days after the original canvass has been completed by the County.
- The petitioner has to deposit with the County Clerk a sum of \$25 for each precinct that they believe has to have a recount due to mistake or fraud.
- The Clerk of the County Canvasser shall give notice to the opposing candidates within 24 hours after the recount petition is received.
- On or before 4:00 p.m. of the seventh day after a recount petition has been filed, the opposing candidate may file an objection to the recount petition with the County Canvasser.
- The County shall allow the recount petitioner and the objecting candidate to present oral or written or both arguments on the objections raised by the petitioner for recount at a hearing.
- Not less than 5 business days following the hearing, the County shall rule on the objections.
- The County shall not begin a recount unless 2 or more business days have lapsed since the ruling.
- Upon the filing of the petition the Clerk of the County shall investigate the facts set forth in the petition.
- The Board of Canvassers then shall have the power to issue subpoenas requiring the persons in charge i.e. our Clerk to come before it to bring the ballot boxes used in the election precincts as well as poll lists, tally sheets, statements of returns and other such documents and reports as deemed necessary.
- The Board of Canvassers shall recount all ballots of a precinct using electronic voting system unless certain conditions exist.

- Upon completion of the recount, the Board of Canvassers of the County shall make a full, complete and correct return in writing showing the full number of votes given to each candidate, and the total number of votes cast for and against.
- All recounts shall be completed not later than the 13th day immediately following the last day for filing counter-petitions or the first day that recounts may lawfully begin.

As you can see, it is hard for us to determine the number of days that may lapse before we have a final answer from the County because much is dependent upon when and if any petitioner files and if there are any objections filed.

We also examine the City Charter at Chapter III, Section 4. [Elections, terms of commissioners.] states:

"At each regular election, there shall be elected commissioners equal in number to those commissioners whose terms will expire on the first Monday, following such election, each of whom shall serve for a term of four (4) years, beginning at eight o'clock p.m. on the first Monday following such regular election."

Therefore, the commissioners whose terms are ending would likewise expire at 8:00 p.m. on the first Monday following such election. However, under Chapter IV. - REGISTRATIONS, NOMINATIONS AND ELECTIONS of the Charter, under Section 15. [Recount.] it states:

"A recount of the votes cast at any city election for any office or upon any proposition, may be had in accordance with the general election laws of the state."

Therefore, if a person chooses to exercise the right to attempt a petition for recount pursuant to Michigan Election Law Act 116 of 1954, then according to state law, the County Clerk will not be able to qualify or certify the ballot and, therefore, the certification of the ballot is put on hold. In such case, the question is what happens to the three (3) retiring commissioners? The authors of the Charter must have anticipated such a potential issue because Chapter III.- Plan of Government, Section 25.- [Term of office.] states:

"All elective officers shall hold office until their successors shall have been elected and shall have qualified."

The County Board of Canvassers cannot qualify those elected until the recount procedure has been conducted pursuant to Michigan Election Law. The City Charter at Chapter III. – Plan of Government is controlling and, therefore, the 3 retiring commissioners shall hold their office until their successors have been not only elected but qualified from the County.

It is important to note that Birmingham Charter Chapter III., Section 5, [Mayor; selection, powers.] nonetheless must be satisfied as it states:

"On the second Monday in November of each year, the commission **shall** meet at the usual place for holding the meetings of the legislative body of the city for the purpose of organization. At each of said organization meetings the commission **shall** elect one of its members as mayor who shall be the presiding officer of the commission and chief executive head of the city and who shall have such other powers and perform such other duties as are or may be imposed or authorized by the laws of the state, by this Charter or by the commission. He shall be the conservator of the peace and may exercise within the city the powers conferred upon sheriffs to suppress disorder. At each of said organization meetings the commission shall also elect another member of the commission as mayor pro tem, who during the mayor's absence or disability to perform his duties, shall act in his stead and shall during the time of said absence or disability exercise all of the duties and possess all of the powers of the mayor. In the absence or disability of the mayor pro tem, the commission may temporarily appoint one of its members to that office. The mayor as a member of the commission shall have the right to vote on all matters before the commission and shall possess all of the other rights and powers of members of that body. He shall not have the right to veto." (Emphasis Added)

FISCAL IMPACT:

There is potential for fiscal impact because the cost for a recount shall be borne by the City pursuant to Michigan Election Law. We will not be aware of how much that is until the process of recount has been completed.

SUMMARY:

In conclusion, the regular Birmingham City Commission meeting of November 8, 2021, should proceed as planned, and the organizational meeting should proceed pursuant to Charter requirements. The Agenda should be completed and followed as planned. The three (3) retiring commissioners, that being: Commissioner Rackeline Hoff, Commissioner Mark Nickita and Commissioner Stuart Sherman, shall hold their office until their successors have been elected and qualified pursuant to the Charter.

Birmingham City Commission Minutes

October 25, 2021

7:30 p.m.

Municipal Building, 151 Martin

Vimeo Link: <https://vimeo.com/event/3470/videos/629619770/>

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, called the roll.

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

Absent: None

Administration: City Manager Markus, City Clerk Bingham, Assistant City Manager Ecker, Finance Director Gerber, City Attorney Kucharek, Consulting City Engineer Surhigh, Deputy Treasurer Todd

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

- COVID-19 cases remain high in Michigan, and Oakland County continues to be at a high level of community transmission. As a result, the CDC recommends vaccinated and unvaccinated individuals wear a facemask indoors while in public. The City requires masks in City Hall for all employees, board and commission members, and the public.
- The City Clerk's office encourages voters wishing to vote absentee for the November 2, 2021 election to return their absentee ballot applications and ballots as soon as possible.
- Precinct 6 Voters are reminded that their new polling location is the Baldwin Public Library, all precinct 6 voters should have received a post card reminder about their new polling location. Meter spaces on Merrill Street in front of the library's main entrance will be reserved for voters to use on Election Day.
- The City Clerk's Office will be open on Saturday, October 30, 2021 from 8am-4pm for your last minute absentee voting needs. The deadline to request and absentee ballot by mail is 5pm Friday, October 29th. The deadline to obtain an absentee ballot in person at the City Clerk's Office is no later than 4pm on November 1st.
- If you need to register to vote or update your voter registration all registration actions must take place in person at the City Clerk's office from now through Election Day.

- The Piety Hill Chapter of the National Society Daughters of the American Revolution invites the public to Birmingham's annual Veterans Day Ceremony in Shain Park on Thursday, Nov. 11 at 11 am. The program features guest speaker and veteran advocate Mike Schloff, a Vietnam veteran and Birmingham resident, and will recognize state and city officials. Participating officials should RSVP to Jean Maki at jcmaki@comcast.net or 248-496-9064 by Nov. 1.
- Mayor Boutros acknowledged State Representative Mari Manoogian's presence at the meeting.

APPOINTMENTS

10-265-21 Appointment of Erik Morganroth to the Board of Zoning Appeals

The Commission interviewed Erik Morganroth for the appointment.

MOTION: Nomination by Commissioner Sherman:

To appoint Erik Morganroth as a regular member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2024.

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

Nays, None

10-266-21 Appointment of John Miller to the Board of Zoning Appeals

The Commission interviewed John Miller for the appointment.

MOTION: Nomination by Commissioner Nickita:

To appoint John Miller as a regular member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2024.

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

Nays, None

The Clerk swore in Mr. Morganroth and Mr. Miller.

10-267-21 Appointment of Richard Astrien, William Roberts and Samy Eid to the Birmingham Shopping District Board

The Mayor suggested that all three recommendations be concurred with in one motion since the Commission was familiar with the recommended appointees.

MOTION: Nomination by Commissioner Sherman:

To concur with the City Manager's appointments of Richard Astrein, William Roberts, and Samy Eid to the Birmingham Shopping District Board, to each serve a four-year term to expire November 16, 2025.

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

Nays, None

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

David Bloom invited the public to a guided tour of the Zip US Up art installation on Sunday, October 31, 2021 at 4 p.m. outside of the Baldwin Library.

Suman Sarkar said he was concerned about the maintenance of unimproved streets. He said he also thought it was unfair that residents of unimproved streets would have to pay for the improvements when City ploughs or other vehicles contribute to the damage.

The Mayor noted Mr. Sarkar's comments and advised him there was an item relative to his concerns on the evening's 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.

10-268-21 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Hoff: Item G – Shain Park Menorah Lighting and Celebration

Commissioner Baller:

Item J – Gov Pilot Citizen Concern Module

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

To approve the Consent Agenda with the exception of Items G and J.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Commissioner Nickita

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

Nays, None

- A. Resolution to approve the City Commission Workshop meeting minutes of October 4, 2021.
- B. Resolution to approve the City Commission meeting minutes of October 4, 2021.
- C. Resolution to approve the Joint Planning Board-City Commission Workshop meeting minutes of October 11, 2021.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated October 13, 2021, in the amount of \$2,223,082.65.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated October 20, 2021, in the amount of \$291,085.45.
- F. Resolution to approve the warrant list, including Automated Clearing House payments, dated October 6, 2021, in the amount of \$289,516.47.
- H. Resolution to approve the updated Wedding Rental Agreement (Ceremony Only) including the suggested fees. Further, to update the Department of Public Services Fee Schedule to reflect these changes.
- I. Resolution providing direction to approve an agreement with Accuform Printing & Graphics, Inc. for municipal printing services in the amount not to exceed \$78,574.00 for a three (3) year term. Funding for this project has been budgeted in account #101-299.000.901.0000. Further to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.
- K. Resolution to confirm the City Manager's authorization for the emergency expenditure related to the sewer repair Linn Smith Park by WRC's contractor, D'Angelo Brothers, Inc., for a cost not to exceed \$9,860.00 to be charged to the Sewer Fund, Other Contractual Services account #590-536.001-811.0000, pursuant to Sec. 2-286 of the City Code.
- L. Resolution to direct the Historic District Study Committee to hold meetings through the remainder of 2021, and through 2022 for the purposes of (1) creating a strategy to revive the Heritage Home program and (2) update the 1992 "Wallace Frost: His Architecture in Birmingham, MI" report.

10-269-21 (Item G) Shain Park Menorah Lighting and Celebration

In reply to Commissioner Hoff, Levi Dubrov explained that the dates were a bit outside the dates of Chanukah to allow for set-up and take down of the menorah. Rabbi Dubrov said he would be interested in leaving the menorah up for longer than the requested times if the Commission was interested.

The Mayor suggested that a longer period be considered for 2022, but that the request maintain the proposed term of November 22, 2021 through December 12, 2021 for Winter 2021.

Commissioners Sherman, Hoff, and the Mayor expressed appreciation for the menorah's presence in Shain Park.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Host:
To approve a special event permit as requested by the Chabad Jewish Center of Bloomfield Hills to hold the Shain Park Menorah Lighting and Celebration December 1, 2021 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff leading up to or at the time of the event due to public health and safety measures.

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

Nays, None

10-270-21 (Item J) GovPilot Citizen Module

Commissioner Baller stated he pulled the item to highlight the topic for the public. He summarized the module and its benefits and said he looked forward to hearing more information regarding the module after its launch.

CM Markus said that all City Board members and Staff would be trained on the mobile application. He also highlighted some of the benefits.

The Mayor Pro Tem thanked the City Manager for initiating this process, noting that it would increase efficiency and transparency in the City. She stated that residents would also be able to see already-submitted complaints so that they would not have to duplicate others' efforts.

CM Markus credited Marianne Gamboa and Eric Brunk for doing most of the work on the item.

The Mayor thanked CD Gamboa and ITM Brunk for their work on the item.

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Longe:
To provide direction to approve an agreement with GovPilot for a citizen concern module in the amount not to exceed \$6,500.00 per year for three years. Funding for this project has been budgeted in account# 101-170.000-811.0000. Further to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

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

Commissioner Hoff
Commissioner Nickita
Mayor Boutros
Commissioner Host

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

**10-271-21 Public Hearing - 34977 Woodward – Hazel’s – Special Land Use Permit
Amendment, Final Site Plan & Design Review**

The Mayor opened the public hearing at 7:55 p.m.

PD Dupuis presented the item.

Beth Hussey, owner, was present on behalf of the request.

Commissioner Baller said he wanted to make a comment about Ms. Hussey separate from the request at hand. He praised Ms. Hussey for her participation in the Great Decorate, a holiday tree decorating contest to raise awareness and funds for local foster teens aging-out of the foster care system. He encouraged members of the community to look into the Great Decorate for more information.

Ms. Hussey thanked Commissioner Baller.

In reply to Commission inquiry, Ms. Hussey stated she wanted to change the name because most customers refer to restaurant as Hazel’s despite the presently longer name. She noted the concept was slightly changing, so now seemed like an appropriate time to pursue a name change.

The Mayor closed the public hearing at 7:58 p.m.

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Longe:
To approve the Special Land Use Permit Amendment at 34977 Woodward – Hazel’s – to allow a name change from “Hazel, Ravines & Downtown” to “Hazel’s”.

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

Nays, None

**10-272-21 Public Hearing - 210 S. Old Woodward – Zana – Special Land Use Permit,
Final Site Plan & Design Review**

The Mayor opened the public hearing at 7:59 p.m.

PD Dupuis reviewed the item.

Owner Mario Camaj and property owner James Esshaki spoke on behalf of the request.

Mr. Camaj confirmed for Commissioner Hoff that the Engineering Department's comments would be complied with.

Mr. Esshaki confirmed for Commissioner Hoff that the Fire Department's comments would be complied with.

PD Dupuis explained to Commissioner Host that there were no parking calculations since the lot is located in the former Parking Assessment District.

In reply to Commissioner Nickita, PD Dupuis explained that with the proposed changes the formerly open patio area would now be considered indoor dining.

Public Comment

Anthony Long spoke in favor of the application.

The Mayor closed the public hearing at 8:11 p.m.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Baller:
To approve the Special Land Use Permit, Final Site Plan and Design Review application for 210 S. Old Woodward – Zana – to allow the addition of a new food and drink establishment serving alcoholic beverages for on premise consumption and associated interior/exterior renovations.

The Mayor thanked Messrs. Camaj and Esshaki for their continued investment in Birmingham.

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

Nays, None

10-273-21 Public Hearing - Confirming Special Assessment District Roll #893S and Special Assessment District Roll #893W Lakeview Ave Project #2-20 (P), Water & Sewer Laterals

The Mayor opened the public hearing at 8:12 p.m.

DT Todd presented the item.

Seeing no question or comment from either Commission or the public, the Mayor closed the public hearing at 8:14 p.m.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To confirm special assessment rolls 893S and 893W as indicated in the staff report.

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

Nays, None

10-274-21 Woodward Avenue Pedestrian Safety Issues

CM Markus introduced the item, noting it was part of a more comprehensive conversation regarding pedestrian safety along Woodward in Birmingham.

ACM Ecker presented the item.

Commissioner Hoff and Mayor Boutros commended City Staff for their persistent advocacy regarding this issue. Commissioner Hoff noted that advocacy was likely why the City was getting a response from MDOT.

The Commission thanked Mses. Swanson and Webb, Oakland TSC Manager for MDOT and Metro Region Engineer for MDOT, respectively, for being in attendance.

The Mayor asked Mses. Swanson and Webb to speak on the item.

Ms. Swanson confirmed ACM Ecker's statement that MDOT was in the design phase to add flashing beacons on both sides of Woodward. She stated that the Road Commission had already committed to the flashing beacons' installation, and that it would be completed by the beginning of January 2022, if not earlier. She said MDOT was also in the process of studying how to use signals to improve the pedestrian safety at Woodward and Brown/Forest. She said it would take about eight months before construction could commence on that aspect of the pedestrian improvements. She confirmed MDOT would be paying for the improvements out of its budget with some Act 51 support from the City.

Ms. Swanson briefly described what Act 51 entails.

In reply to Commissioner Nickita, Ms. Swanson stated that Walk/Don't Walk signs and pedestrian countdowns would be added at the Brown/Forest intersection of the southbound side of Woodward. For the northbound side of the same intersection, traffic signals and pedestrian countdowns would be added.

The Mayor said he hoped the study process could be expedited.

Ms. Webb stated that the estimated eight months already represented an expedited design process.

Commissioner Sherman noted that MDOT had been alerted to the danger at the Woodward and Brown/Forest intersection a number of times, and then an individual died, and then the City continued its petitioning of MDOT for safety improvements, and then another individual died. He stated that this situation was similar to the Flint Water Crisis in that MDOT was only responding to the issue after deaths occurred, instead of responding to the many prior warnings. He noted the difference between the lead water crises in Benton Harbor and Flint and the current pedestrian safety issues in Birmingham was that Birmingham would be able to contribute financially to improving fixing the situation, so it would be fixed.

Ms. Swanson noted that lighting along Woodward is managed and funded by DTE and municipalities, not by MDOT.

Commissioner Sherman said Ms. Swanson's note was besides the point. He explained that Birmingham was only paying for additional lighting since MDOT did not meet its obligations, even after multiple requests, to increase pedestrian safety along Woodward.

Mayor Pro Tem Longe stated that while Ms. Swanson and Webb were present she was going to re-raise the issue of the length of time afforded for pedestrian crossings of Woodward, citing Maple as a particular issue. She stated that MDOT has been advised by the City and residents multiple times that the time afforded to pedestrians crossing Woodward was too minimal, and that it prevents many people from crossing Woodward on foot at all. She said Birmingham deserves the same considerations received by Ferndale and Royal Oak from MDOT for people crossing Woodward.

Ms. Swanson stated that she would look into increasing pedestrian crossing times along Woodward.

In reply to Commissioner Hoff, Ms. Swanson said the flashing beacons would likely be flashing all the time. She said they would likely be installed on either side of northbound lanes but not on the southbound lanes.

In reply to Commissioner Hoff, ACM Ecker said the Engineering Department could be asked to observe how the pedestrian crossing flags are being used during a.m. and p.m. peak times.

CM Markus said that once MDOT grants permits to keep the pedestrian crossing flags available, there would be some on-site education done for pedestrians to encourage the flags' use.

In reply to CM Markus, Ms. Swanson stated she saw no issue with the City using and encouraging pedestrian crossing flags.

Commissioner Host asserted that a pedestrian bridge over Woodward would be an appropriate solution. He asked Ms. Swanson whether that option had been explored.

Ms. Swanson told Commissioner Host that a pedestrian bridge over Woodward had not been discussed by City Staff or MDOT.

Commissioners Baller and Nickita both emphasized the commitment to walkability in Birmingham and said that pedestrian crossings of Woodward need to reflect that commitment. Both noted that other municipalities have made the same commitment to walkability and expressed how essential it is for MDOT to update its policies to prioritize pedestrian safety.

Commissioner Nickita asked Ms. Swanson and Webb to convey the City's very serious concerns about pedestrian safety across Woodward so as to minimize the difficulties the City faces in working with MDOT

in the future. He stated that a pedestrian bridge would not resolve the issue. He cited the benefits of road diets and traffic calming measures in other municipalities. He said he was interested in lowering the speed limit to 35 m.p.h. along Woodward in Birmingham and in allowing vehicles to park on the street to contribute to traffic calming as is done in Ferndale.

Mayor Boutros also impressed upon Mses. Swanson and Webb the importance of conveying the City's grave concerns to their colleagues at MDOT. He stated that the City had lost trust in MDOT and asked MDOT to work to regain the City's trust.

Ms. Swanson explained that there is a checklist for road diets, and that in order to conduct a road diet the City would have to prove it would not increase gridlock on Woodward. She stated that MDOT adheres to a complete streets policy that they enact wherever possible. She said safety improvements on Woodward were not out of the question.

State Rep. Manoogian emphasized how important it is for the City to be in touch with her and their State Senator at the soonest sign of issues with a Michigan department. She explained she needed to be looped in on the discussions in order to properly conduct her advocacy for the City. She stated that the City should also let her know its road safety and budget priorities in order to have the greatest chance of securing funding in the budget. She noted that she reaches out to every municipality she represents at the beginning of budget process to determine their needs.

In reply to State Rep. Manoogian, Ms. Swanson stated that the funding for the signal study was being pulled from another intersection for 2022 and would be added to the next supplement bill.

Public Comment

Joan Schloop, Anthony Long, Elaine McClain and Glee Firth all emphasized the need for pedestrian safety improvements for crossing Woodward.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:
To approve the DTE Purchase Agreement to upgrade to LED lighting on the Woodward Avenue median between Maple Road and Lincoln St.

Further to authorize and direct the City Manager to sign the DTE Lighting Agreement with funding to be provided from Account #401-901.010-981.0100, in an amount not to exceed \$23,340.00.

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

Nays, None

10-275-21 Woodward Avenue Pedestrian Safety Issues - Part II

Discussed as part of previous item.

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

To authorize the Chief of Police and the City Engineer to seek approval from the Michigan Department of Transportation for a pedestrian crosswalk flag system on Woodward Avenue at Brown/Forest;

Further to approve the Chief of Police to purchase additional pedestrian crosswalk flags as needed and to charge this expenditure to the Major Streets Fund Traffic Controls operating supplies account # 202-303.001-729.0000.

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

Nays, None

10-276-21 Phase 3 South Old Woodward Design Concept Update

The Mayor called for a brief recess of the meeting at 9:22 p.m.

The meeting reconvened at 9:30 p.m.

ACM Ecker introduced the item.

Matt Manda and Haley Wolf of MKSK presented the item.

Mr. Manda stated:

- The project team had met with a number of business owners on S. Old Woodward to solicit feedback, and had evolved the design in response to that feedback.
- The most significant reductions in noise from Woodward would stem from the addition of trees and other plant material to S. Old Woodward.
- Parking recommendations were made based off of historical parking demand in the area prior to Covid-19. Three-quarters of the parking spaces recommended for removal were being recommended for removal based on safety issues.
- The project team was working on ways of making motorbike/motorcycle parking utilizable only by those vehicles, and not by cars.

CM Markus stated:

- He would be working with RH to determine the appropriate sequencing for the commencement of their project and Phase 3 of the South Old Woodward project.
- The project team studied parking utilization in the area to ensure that even with the reduction in spaces overutilization would not result for the remaining spaces.
- Many businesses in the area already provide, or will be required to provide, on-site parking. As a result, the removal of some on-street parking in this area would not be as impactful as it might in other locations.

Commissioner Hoff expressed concern about the loss of 60 parking spaces and the timing of the project, both in terms of duration and its potential overlap with the RH project.

Commissioner Nickita spoke about the need for pedestrian safety improvements for crossing S. Old Woodward. He said the plan integrated both the benefits and the lessons learned from Phases 1 and 2 of the project. He noted that in order to improve this section of S. Old Woodward the City is required to remove all parking spaces that create safety issues. He made some minor design recommendations including the inclusion of some artwork that unites the streetscape and some re-evaluation of the terminating vistas, especially noting a preference for a focus on Frank over Daines. He stated the intersection at Bowers could benefit from an articulation to emphasize the intersection.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Sherman:
To approve the design concept plans for Phase 3 of the Old Woodward project and providing direction to City staff to move forward with the preparation of detailed construction drawings, with funding to be provided from Account #202-449.001-981.0100.

Mayor Boutros and Commissioners Sherman and Nickita commended the project team and City Staff for their work on this item.

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

Nays, Commissioner Hoff

10-277-21 Unimproved Streets Policy Modifications – Process for City-Initiated Projects

CA Kucharek reviewed the item.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To adopt the proposed Ordinance to amend the City Code, Part II, Chapter 94, Sec. 94-4. – Initiation of Improvement, Sec. 94-5. – Petitions, Sec. 94-6. City Engineer's Report, Sec. 94-7. – Notice of Public Hearing and Sec. 94.8. – Determination of Necessity by Commission.

CA Kucharek and CM Markus clarified which changes had been made to the text earlier in the day for Commissioner Hoff.

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

Commissioner Nickita
Mayor Boutros
Commissioner Hoff

Nays, None

10-278-21 Revised Credit Card Policy

FD Gerber summarized the item. He confirmed that the policy sets forth penalties for possible misuse.

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Longe:
To approve the proposed credit card policy and procedures and to increase the City's total credit card limit to \$25,000.

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

Nays, None

10-279-21 Outdoor Dining

ACM Ecker summarized the item.

MOTION: Motion by Mayor Pro Tem Longe, seconded by Commissioner Host:
To direct Staff to prepare amendments to the Zoning Ordinance to amend the November 15th end of the regular outdoor dining season.

Mayor Pro Tem Longe said this was an appropriate option for extending outdoor dining and allowing the Planning Board to continue their study of longer-term outdoor dining ordinance recommendations.

CM Markus noted that Staff would have to write the ordinance amendments, bring them to the Planning Board for a hearing, and then return them to the Commission for a hearing, meaning there would be time for the Commission to provide additional comment on the proposed amendments.

Commissioner Sherman recommended Staff consider having the amendment expire November 15, 2022 to ensure it does not last longer than the year.

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

Nays, None

Commission discussion on items from prior meeting

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

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to Appoint to the Board of Review
- B. Commissioner Comments

Commissioners Baller, Sherman, Nickita and Mayor Pro Tem Longe expressed concerns that disinformation was being spread in the local press and on social media by certain members of the public. The Commissioners addressed:

- The draft 2040 Master Plan and the master planning process;
- The importance of approaching Birmingham as a unified community instead of a collection of disparate factions; and,
- The actions taken by the Commission over the past year to substantially increase the City's transparency and responsiveness to residents.

Residents were encouraged to visit thebirminghamplan.com to review the present draft of the 2040 Master Plan.

Five Commissioners warned that divisiveness, fear-mongering and disinformation would only do harm to the community.

The Mayor said that serving on the Commission should be a humbling experience for any who serve. He entreated his fellow public servants to be honest and to be humble.

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

CM Markus thanked outgoing Commissioners Hoff, Nickita and Sherman for their service to the Birmingham community. He asked them to attend the November 8, 2021 Commission meeting where a presentation would be made in their honor.

CM Markus then provided an overview of the City Manager's report.

INFORMATION ONLY

XI. ADJOURN

Mayor Boutros adjourned the meeting at 11:38 p.m.

City of Birmingham
Warrant List Dated 10/27/2021

Meeting of 11/08/2021

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
282122		MISC	ALL BRICK DESIGN	200.00
282124		MISC	ALLSTATE CONSTR.	200.00
282125		000143	AM-DYN-IC FLUID POWER INC	1,713.85
282126	*	006759	AT&T	283.46
282127	*	003703	AT&T MOBILITY	803.25
282128		MISC	B-DRY SYSTEM OF MICHIGAN INC	100.00
282129		001122	BOB BARKER CO INC	947.16
282129	*	001122	BOB BARKER CO INC	88.16
282130		MISC	BINGHAM DEVELOPMENT LLC	500.00
282131		MISC	BLOOMFIELD CONSTRUCTION CO	100.00
282132		MISC	BLOOMINGDALE CONSTRUCTION COMPANY I	400.00
282133		003526	BOUND TREE MEDICAL, LLC	1,377.75
282134	*	MISC	BRADLEY MCNAB	49.00
282135		MISC	BRUTTELL ROOFING INC	100.00
282136		MISC	C & L WARD BROS CO	100.00
282137		003907	CADILLAC ASPHALT, LLC	460.53
282138		007732	CAPITAL TIRE, INC.	988.70
282139		000595	CARRIER & GABLE INC	4,597.00
282140	*	000444	CDW GOVERNMENT INC	994.05
282141		007710	CINTAS CORP	299.03
282142		000605	CINTAS CORPORATION	129.34
282143	*	008955	COMCAST	113.35
282144		000979	COMERICA BANK	21,232.59
282145	*	001907	COMMON GROUND	1,946.15
282146	*	000627	CONSUMERS ENERGY	71.94
282147		002668	CONTRACTORS CLOTHING CO	152.96
282148	*	007638	MARSHALL CRAWFORD	230.00
282149		MISC	DALE PHILLIPS	200.00
282150	*	MISC	DAVID KRIVAN	7,894.84
282151	*	MISC	DEVIN DEROECK	49.00
282152		005318	DEWOLF & ASSOCIATES	795.00
282153	*	000179	DTE ENERGY	23.93
282154	*	000180	DTE ENERGY	1,975.31
282155		003422	EMERGENCY MEDICAL PRODUCTS INC	227.37
282156	*	009100	ENZO WATER SERVICE	300.00
282157		001495	ETNA SUPPLY	1,580.00
282158		MISC	EXTERIOR RENOVATIONS LLC	100.00
282159	*	000936	FEDEX	52.54
282160		MISC	FOUNDATION SYSTEMS OF MICHIGAN INC.	100.00
282161		MISC	FOUR SEASONS LANDSCAPING	100.00
282162		MISC	GANGADHARAN, ADITYA ANAND	500.00
282163		006384	GEOGRAPHIC INFORMATION SERVICES, IN	202.60

City of Birmingham

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Check Number	Early Release	Vendor #	Vendor	Amount
282164	*	004604	GORDON FOOD	62.34
282165		MISC	GREATER DETROIT LANDSCAPE CO.	100.00
282166	*	001663	SCOTT GREWE	590.42
282168		001447	HALT FIRE INC	3,834.63
282169		006845	HAWTHORNE	598.03
282170		MISC	HILLMAN, MARK	500.00
282171	*	001956	HOME DEPOT CREDIT SERVICES	596.22
282173		001874	HUNT SIGN COMPANY	778.00
282174		MISC	IDEAL BUILDERS AND REMODELING INC	400.00
282175	*	009299	JACK D. PESHA	7.38
282176		009322	JACKIE'S TRANSPORT INC	992.50
282177		MISC	JOHN MCCARTER CONSTRUCTION LLC	200.00
282178	*	MISC	JUDSON CENTER	100.00
282179	*	000362	KROGER COMPANY	42.42
282180		MISC	LaFata Kitchen and Bath	200.00
282181		MISC	LAUREN TARCA	100.00
282182		MISC	LEVINE & SONS INC	533.85
282183		MISC	LMB PROPERTIES LLC	6,400.00
282184		MISC	Luca Pippobello	1,000.00
282185		005116	MADISON HEIGHTS FIRE DEPT	1,862.00
282185	*	005116	MADISON HEIGHTS FIRE DEPT	74.87
282186		008248	MALWAREBYTES	3,710.00
282187		MISC	MAMATAS, NIKOLAOS	50.00
282188		MISC	MAMATAS, NIKOLAS	900.00
282189		MISC	MASSIMO D AGOSTINO	100.00
282190	*	MISC	MICHAEL BERENT	1,000.00
282191		MISC	MICHAEL S SWINK	100.00
282192		MISC	MICHAEL W MORSS ROOFING CO	100.00
282193		MISC	MICHIGAN ASPHALT PAVING	100.00
282195		003099	MICHIGAN POLICE EQUIP.	910.00
282196		MISC	MICHIGAN SOLAR SOLUTIONS	200.00
282197		MISC	MILFORD CONTRACTING	2,000.00
282198	*	007163	MOBILE HEALTH RESOURCES	1,901.74
282199		MISC	MORRISON, BRADY A	1,000.00
282201		MISC	OAKES ROOFING SIDING & WINDOWS INC	100.00
282202	*	000477	OAKLAND COUNTY	10,843.83
282203	*	003461	OBSERVER & ECCENTRIC	499.56
282205	*	000481	OFFICE DEPOT INC	241.33
282207	*	MISC	OWEN PEARSON	360.00
282208		MISC	PCI INDUSTRIES, INC.	100.00
282209		MISC	PERFORMANCE RESIDENTIAL REMODELING	100.00
282210		MISC	PHIL PITTERS INC	100.00
282211	*	008858	PODS ENTERPRISES, LLC	348.00

City of Birmingham

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Check Number	Early Release	Vendor #	Vendor	Amount
282212		MISC	PROFESSIONAL RENOVATIONS SVS,	100.00
282213	*	006625	PTS COMMUNICATIONS	78.00
282214		004137	R & R FIRE TRUCK REPAIR INC	1,255.03
282215		MISC	RAJEEV GUPTA	2,500.00
282216	*	008875	JESSICA RAK	74.20
282217		MISC	READY DIG EXCAVATION	1,000.00
282218		MISC	REASONABLE ROOFING & REMODELING INC	100.00
282219		003447	RAFT	1,200.00
282220		MISC	RENEWAL BY ANDERSEN	500.00
282221		MISC	ROBERT G SIRNA REVOC LIVING TRUST	200.00
282222		MISC	ROOF ONE LLC	100.00
282223		000218	ROYAL OAK P.D.Q. LLC	97.66
282224		MISC	RYAN CONSTRUCTION INC	500.00
282225		MISC	SAS SERVICES INC	100.00
282226		MISC	SEEK FIRST INTERNATIONAL, LLC	200.00
282227	*	009178	SERVICE GLASS COMPANY INC	620.00
282228	*	007142	SHERWIN-WILLIAMS COMPANY	212.75
282229	*	008073	SITEONE LANDSCAPE SUPPLY, INC	823.08
282230		MISC	SOLDIER BUILDING	900.00
282231		MISC	SOULLIERE STONE DESIGN	100.00
282232		MISC	St Onge Masonry LLC	100.00
282233	*	004544	STRYKER SALES CORPORATION	4,897.50
282234		MISC	Sunglo Restoration Services, Inc	700.00
282235		MISC	TALIA RENOVATIONS LLC	1,000.00
282236		MISC	TECHHOME BUILDING CO., LLC	900.00
282237		MISC	THIERRY, PETER	1,000.00
282238	*	009254	THOMAS M MARKUS	500.00
282239		MISC	THOMAS SEBOLD & ASSOCIATES, IN	1,560.00
282240		MISC	THORNTON & GROOMS INC.	2,000.00
282241	*	004379	TURNER SANITATION, INC	250.00
282242		MISC	TWC CONTRACTORS	100.00
282243		009081	TYLER TECHNOLOGIES INC	372.00
282244	*	000158	VERIZON WIRELESS	1,251.19
282245	*	000158	VERIZON WIRELESS	49.22
282246		006491	VILLAGE AUTOMOTIVE	384.00
282247		MISC	Voden Construction	100.00
282248		000299	WEINGARTZ SUPPLY	240.23
282250	*	007978	WEST BLOOMFIELD TOWNSHIP	2,463.80
282251		MISC	WHITE WOLF LANDSCAPING	100.00
282252	*	005794	WINDSTREAM	870.01
282253		007620	WJE-WISS, JANNEY, ELSTNER ASSOC.INC	14,500.00
282254	*	008391	XEROX CORPORATION	793.47
SUBTOTAL PAPER CHECK				\$140,808.12

City of Birmingham
Warrant List Dated 10/27/2021

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Check Number	Early Release	Vendor #	Vendor	Amount
<u>ACH TRANSACTION</u>				
4395	*	008847	ABS- AUTOMATED BENEFIT SVCS, INC	51,458.63
4396	*	002284	ABEL ELECTRONICS INC	1,028.97
4397		009126	AMAZON CAPITAL SERVICES INC	1,636.58
4397	*	009126	AMAZON CAPITAL SERVICES INC	148.01
4398	*	000517	BEIER HOWLETT P.C.	37,625.50
4399		006683	BIRMINGHAM LAWN MAINTENANCE	8,246.00
4399	*	006683	BIRMINGHAM LAWN MAINTENANCE	1,348.00
4400	*	008840	BIRMINGHAM PUBLIC SCHOOLS-TAXES	154,536.63
4401		009195	CROWN CASTLE FIBER LLC	652.65
4402		006077	DI PONIO CONTRACTING INC	80,640.55
4403	*	000565	DORNBOS SIGN & SAFETY INC	206.90
4404		009210	DUCENTA SQUARED ASSET MANAGEMENT	7,647.17
4405		007684	ELITE TRAUMA CLEAN-UP INC.	70.00
4406	*	007314	FLEIS AND VANDENBRINK ENG. INC	1,533.50
4408		000331	HUBBELL ROTH & CLARK INC	152,622.97
4409	*	007870	J.C. EHRLICH CO. INC.	53.00
4410		000261	J.H. HART URBAN FORESTRY	14,131.19
4411	*	003458	JOE'S AUTO PARTS, INC.	22.08
4412	*	005876	KROPF MECHANICAL SERVICE COMPANY	212.50
4413	*	005550	LEE & ASSOCIATES CO., INC.	449.30
4414	*	007856	NEXT	696.00
4415	*	006359	NYE UNIFORM COMPANY	118.50
4416	*	008843	OAKLAND COUNTY TREASURER- TAX PYMNT	232,461.99
4417		000254	SOCRRA	69,994.00
4418		000273	TERMINAL SUPPLY CO.	193.08
SUBTOTAL ACH TRANSACTION				\$817,733.70
GRAND TOTAL				\$958,541.82

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 11/03/2021

Meeting of 11/08/2021

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
282255		007876	DTE ENERGY	23,340.00
282257		000951	ALL AMERICAN CASH REGISTER	180.00
282258	*	000161	ALPHA PSYCHOLOGICAL SERVICES PC	1,450.00
282259	*	008431	AMCOBI	16,050.00
282260		MISC	AMERICAN STANDARD ROOFING	100.00
282261		000167	ANDERSON ECKSTEIN WESTRICK INC	7,233.40
282262		000500	ARTECH PRINTING INC	328.00
282263		MISC	BADER RENOVATIONS, LLC	100.00
282265		MISC	BCM HOME IMPROVEMENT	100.00
282266		MISC	BERNARD TRUSTEE, J B	100.00
282267		000524	BIRMINGHAM LOCKSMITH	11.90
282268		MISC	BIRMINGHAM SEALCOAT INC	100.00
282269		MISC	BLOOMINGDALE CONSTRUCTION COMPANY I	400.00
282270		MISC	BLUE STAR	2,000.00
282271		MISC	BRICKWORKS PROPERTY RESTORATION	100.00
282272	*	006953	JACQUELYN BRITO	32.00
282273		MISC	C & G CEMENT CONTRACTORS INC	100.00
282274	*	009281	C.E. GLEESON CONSTRUCTORS INC	1,616,210.61
282275		003907	CADILLAC ASPHALT, LLC	718.34
282276		009078	CANON SOLUTIONS AMERICA INC	172.90
282277		MISC	CEDAR PRESERVATION SYSTEMS LLC	100.00
282281		000605	CINTAS CORPORATION	25.24
282282		MISC	Cityscape Architects	100.00
282283		002234	CMP DISTRIBUTORS INC	1,171.95
282284		004188	COFFEE BREAK SERVICE, INC.	82.75
282285	*	008955	COMCAST	523.27
282286	*	000627	CONSUMERS ENERGY	336.72
282287		002668	CONTRACTORS CLOTHING CO	728.17
282288		008512	COOL THREADS EMBROIDERY	420.93
282289	*	006115	CORRIGAN MOVING SYSTEMS	2,970.00
282290	*	007638	MARSHALL CRAWFORD	161.41
282291	*	009145	CREATIVE COLLABORATIONS	7,600.00
282294	*	000179	DTE ENERGY	65.07
282295	*	000179	DTE ENERGY	326.24
282296	*	000179	DTE ENERGY	415.65
282297	*	000179	DTE ENERGY	1,971.09
282298	*	000179	DTE ENERGY	365.99
282299	*	000179	DTE ENERGY	6,969.26
282300	*	000179	DTE ENERGY	1,375.98
282301	*	000179	DTE ENERGY	3,541.27
282302	*	000179	DTE ENERGY	2,328.31
282303	*	000179	DTE ENERGY	1,394.77

City of Birmingham
Warrant List Dated 11/03/2021

Meeting of 11/08/2021

Check Number	Early Release	Vendor #	Vendor	Amount
282304	*	000179	DTE ENERGY	48.69
282306	*	000179	DTE ENERGY	162.74
282307	*	000179	DTE ENERGY	42.98
282308	*	000179	DTE ENERGY	21.64
282309	*	000179	DTE ENERGY	552.52
282310	*	000179	DTE ENERGY	16.82
282311	*	000179	DTE ENERGY	15.55
282312	*	000179	DTE ENERGY	14.91
282313	*	000179	DTE ENERGY	36.50
282314	*	000179	DTE ENERGY	481.70
282315	*	000274	E-Z-GO DIVISION OF TEXTRON INC	16,202.94
282319		000936	FEDEX	13.62
282320		MISC	FRATARCANGELI, SANTE	100.00
282321		MISC	GILLETTE BROTHERS POOL & SPA	2,350.00
282322	*	004604	GORDON FOOD	93.42
282323	*	008007	GREAT LAKES WATER AUTHORITY	8,092.44
282324		MISC	GREAT OAKS LANDSCAPE	100.00
282325		MISC	GREATER DETROIT LANDSCAPE CO.	200.00
282326		000249	GUARDIAN ALARM	259.05
282327		001531	GUNNERS METER & PARTS INC	3,380.00
282328		005959	H2O COMPLIANCE SERVICE INC	3,463.50
282329		MISC	HANSONS GROUP LLC	500.00
282330	*	001956	HOME DEPOT CREDIT SERVICES	2,702.53
282331		MISC	HUGHES BUILDING LLC	200.00
282332		001874	HUNT SIGN COMPANY	456.30
282333		MISC	HUNTER ROBERTS HOMES	4,506.77
282334	*	001307	JOSHUA HUSTED	74.14
282335		MISC	IDEAL BUILDERS AND REMODELING INC	600.00
282337		MISC	INSTA-DRY BASEMENT SYSTEMS INC	100.00
282338	*	009299	JACK D. PESHA	25.00
282339	*	MISC	JENNIFER KAHN	77.12
282340		MISC	JOHN HENNIG CARPENTRY INC	353.75
282341		MISC	JOHN MCCARTER CONSTRUCTION LLC	100.00
282342		009133	KIMBERLY FENCE & SUPPLY	1,916.69
282343		MISC	KURTIS KITCHEN & BATH CENTERS	200.00
282345		MISC	LYNN G GROTH TRUST	100.00
282346		000972	MCKESSON MEDICAL-SURGICAL	2,901.11
282347		MISC	MENCZER, DAVID	200.00
282348		MISC	MICHIGAN ASPHALT PAVING	100.00
282349		007479	MICHIGAN BREAD BAKERY	44.00
282350		MISC	MILLS SIDING & ROOFING	100.00
282351		008319	MKSK INC	21,275.26
282352		001783	MMTA	150.00

City of Birmingham
Warrant List Dated 11/03/2021

Meeting of 11/08/2021

Check Number	Early Release	Vendor #	Vendor	Amount
282353		MISC	MONSON, MARTA L	100.00
282354		MISC	N.C. CEMENT	100.00
282356	*	000477	OAKLAND COUNTY	1,235.25
282357	*	004370	OCCUPATIONAL HEALTH CENTERS	202.00
282358	*	000481	OFFICE DEPOT INC	2,413.38
282359		MISC	PATRICK AND KIRSTEN BARNDS	100.00
282360	*	003588	PATRIOT 2000 INC.	695.76
282361		008901	PLANTE & MORAN CRESA, LLC	11,200.00
282362	*	008342	RAIN MASTER CONTROL SYSTEMS	29.85
282363		007305	REFRIGERATION SERVICE PLUS	192.00
282364		MISC	REINKENSMAYER, BRANDON B	100.00
282365		MISC	RENEWAL BY ANDERSEN	1,000.00
282366		MISC	RICHARD WEINGARTNER	200.00
282367		007817	SAND SALES COMPANY LLC	1,947.76
282369		000260	SPARTAN DISTRIBUTORS INC	94,917.56
282369	*	000260	SPARTAN DISTRIBUTORS INC	76.28
282370		001005	STATE OF MICHIGAN	284.80
282371	*	005079	STATE OF MICHIGAN	50.00
282372		008748	TECHSEVEN COMPANY	2,580.00
282373		MISC	TEMPLETON BUILDING COMPANY	200.00
282374		MISC	THE GREEN PANEL	100.00
282375		008944	THE PRINT STOP, INC.	120.00
282376		MISC	THREE C'S LANDSCAPING	200.00
282377		MISC	TITTLE BROTHERS CONSTRUCTION LLC	100.00
282378	*	000158	VERIZON WIRELESS	128.51
282379	*	000158	VERIZON WIRELESS	147.66
282381	*	004497	WATERFORD REGIONAL FIRE DEPT.	469.43
282382		MISC	WILSON DESIGN ASSOCIATES	100.00
282383	*	008391	XEROX CORPORATION	31.52

SUBTOTAL PAPER CHECK

\$1,893,154.67

ACH TRANSACTION

4419	*	008847	ABS- AUTOMATED BENEFIT SVCS, INC	13,759.46
4420	*	002284	ABEL ELECTRONICS INC	199.00
4421		009126	AMAZON CAPITAL SERVICES INC	225.08
4422	*	007345	BEVERLY HILLS ACE	2.48
4423		006683	BIRMINGHAM LAWN MAINTENANCE	12,516.00
4424	*	000542	BLUE WATER INDUSTRIAL PRODUCTS INC	133.10
4425		007875	CANFIELD EQUIPMENT SERVICE INC.	811.49
4426	*	008044	CLUB PROPHET	540.00
4427	*	000565	DORNBOS SIGN & SAFETY INC	302.94
4428		003938	HART PAVEMENT STRIPING CORP	52,300.00
4429	*	007870	J.C. EHRLICH CO. INC.	78.00
4430		000261	J.H. HART URBAN FORESTRY	23,185.63

City of Birmingham
Warrant List Dated 11/03/2021

Meeting of 11/08/2021

Check Number	Early Release	Vendor #	Vendor	Amount
4431	*	002576	JAX KAR WASH	72.00
4432	*	000891	KELLER THOMA	371.25
4433	*	005550	LEE & ASSOCIATES CO., INC.	2,260.61
4435	*	001035	MUNICIPAL EMERGENCY SERVICES	132.00
4436		001864	NOWAK & FRAUS ENGINEERS	22,097.50
4437	*	006359	NYE UNIFORM COMPANY	864.00
4438	*	002767	OSCAR W. LARSON CO.	92.05
4439		008269	PREMIER SAFETY	2,137.32
4440	*	003554	RKA PETROLEUM	1,018.67
4441	*	001097	SOCWA	152,596.35
4442	*	002037	TOTAL ARMORED CAR SERVICE, INC.	758.36
4443	*	007278	WHITLOCK BUSINESS SYSTEMS, INC.	1,864.43
SUBTOTAL ACH TRANSACTION				\$288,317.72
GRAND TOTAL				\$2,181,472.39

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

Finance Department

DATE: October 26, 2021

TO: Thomas Markus, City Manager

FROM: Mark Gerber, Finance Director/Treasurer
Kathryn Burrick, Senior Accountant

SUBJECT: Public Hearing for Program Year 2022 Community Development Block Grant Application

INTRODUCTION:

The Finance Department is requesting that the City Commission set a public hearing for December 6, 2021 in order to hear public comments on the City's 2022 Community Development Block Grant (CDBG) application.

BACKGROUND:

Every year the City receives a grant for the Community Development Block Grant program. This is a federal grant program which is administered by Oakland County. The purpose of the grant is to:

- Primarily benefit low- or moderate-income persons or households
- Aid in the elimination of slum or blight conditions
- Meet an urgent community need

Previously, the City has used these funds to assist low income seniors and to make ADA compliant renovations to City property.

Oakland County has given the City a planning allocation of \$36,912 for the 2022 program year (July 2022 – June 2023). This is the same amount which was originally allocated to the City for the 2021-2022 program year and is subject to change.

In order to be eligible to receive these funds, the City must conduct a public hearing to receive citizen input, make a determination of eligible projects to be pursued and submit a completed application to Oakland County by December 17, 2021. The public hearing must be noticed at least 10 days in advance of the meeting.

PUBLIC COMMUNICATIONS:

If the City Commission approves the public hearing, the hearing notice will be published in the Birmingham Eccentric newspaper.

LEGAL REVIEW:

None required

FISCAL IMPACT:

None

SUMMARY:

It is recommended that the City Commission set December 6, 2021 as the date to conduct the required public hearing. If the public hearing is set for December 6, 2021, a list of recommended projects and funding allocation will be presented to the public and commission for consideration at that time.

ATTACHMENTS:

None

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to set December 6, 2021 as the public hearing date for the Program Year 2022 Community Development Block Grant Program.



MEMORANDUM

Planning Department

DATE: November 2nd, 2021

TO: Thomas M. Markus, City Manager

FROM: Brooks Cowan, Senior Planner

APPROVED: Nick Dupuis, Planning Director

SUBJECT: Set Public Hearing – 203 Pierce Street - Toast – Special Land Use Permit Amendment and Final Site Plan Review

INTRODUCTION:

Toast has operated as a bistro at 203 Pierce Street since 2008. A condition of Toast's original approval is that it be open for dinner hours in order to bring activity to the area and provide dining opportunities during evening hours. Toast's menu specializes in breakfast and lunch offerings and the applicant has cited difficulties in attracting patrons for dinner hours, therefore the applicant is requesting to amend their hours of operation.

BACKGROUND:

Toast's original approval from 2008 indicated they would be open until 5 pm on Sunday, 9pm Monday-Wednesday, and 12am Thursday-Saturday. In 2018, City staff was made aware that Toast was closing prior to the hours documented in their 2008 SLUP agreement. Article 7, Section 7.34 of the Zoning Ordinance states that once a permit for a Special Land Use has been granted as to any parcel of land, no change in that use may be made nor may any addition to or change in the building or improvements on the parcel of land take place until a new request for approval has been filed with the City Commission and the City Commission has approved the request for change.

On January 9th, 2019, the applicant went before the Planning Board for a pre-application discussion regarding a proposal to change their hours of operation to eliminate dinner hours and host special events in the evenings instead, such as cooking classes and private parties. Toast wished to close at 3 p.m. Monday through Friday and 4 p.m. on Saturday and Sunday. During the meeting, Board members expressed positive responses to the proposals, as Toast is the only restaurant on Pierce open for breakfast, serves two meals (breakfast and lunch), and activates the street during the morning and afternoon hours.

On February 25th, 2019, the restaurant went before the City Commission for a hearing regarding the 2018-2019 renewal of their Liquor License. During the meeting, the change in hours was discussed as a violation of their SLUP. Toast had proposed to close between 3 pm to 4 pm every day, however the City Commission had indicated during the liquor license review that they were not in support of the proposal.

On April 24th, 2019, the applicant appeared before the Planning Board to request a Special Land Use Permit Amendment to change the hours of operation from those approved in the Special Land Use Permit obtained in 2008. As a compromise to the City Commission's comments on hours of operation during liquor license review, Toast proposed to stay open into evening hours closer to the weekend on Wednesday through Saturday with proposed hours of operation as follows:

Sunday..... 8 am – 4 pm
Monday-Tuesday..... 7 am – 3 pm
Wednesday..... 7 am – 8 pm
Thursday-Friday..... 7 am – 8 pm
Saturday..... 8 am – 9 pm

The Planning Board was amenable to the proposed changes and felt that the applicant satisfied the intent of the Bistro Ordinance. The Board then moved to recommend the proposed changes, citing that the applicant satisfied the Bistro Ordinance requirements, and that multiple restaurants had opened on or near Pierce Street and do not have as strict of hours of operation requirements as Toast.

On June 3rd, 2019, the applicant appeared before the City Commission to amend their hours of operation for an earlier closing time. The City Commission discussed how the goal of the Bistro Ordinance was to enliven the streets and encourage traffic downtown and being closed for dinner is not what they envisioned. The City Commission encouraged the applicant to stay open later for dinner, however the applicant indicated difficulties attracting such business when Toast's brand is identified as a breakfast and lunch restaurant. The City Commission approved the proposed changes in hours with the condition that the agreement include "minimum" hours of operation, meaning the applicant may stay open later than indicated, but not close earlier.

On August 4th, 2021, Toast was issued a violation notice for not being in compliance with their SLUP agreement in regards to hours of operation. The subject bistro has been closing at 3pm Monday-Friday and 4pm Saturdays and Sundays, which is 5 hours earlier than the hours indicated in the 2019 SLUP agreement.

At this time, the applicant is proposing to eliminate dinner hours and proposes the following hours of operation:

Monday-Friday.....8 AM – 3 PM
Saturday-Sunday.....8 AM – 4 PM

On October 27th, 2021, the Planning Board reviewed the SLUP Amendment and moved to recommend approval to the City Commission, stating that Toast activates the area during breakfast and lunch hours, other bistros have opened in the surrounding area since 2008 which activate the area during the dinner hours, and that the Zoning Ordinance does not specifically require that bistros remain open during dinner hours. The phrase "minimum hours of operation" was included in the motion to enable the applicant to stay open for dinner hours if they so choose.

LEGAL REVIEW:

Legal review will be provided prior to the public hearing.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

PUBLIC NOTIFICATION:

As required for Special Land Use Permit and Final Site Plan Reviews, a legal ad was placed in a newspaper of local circulation to advertise the nature of the request in advance of the October 27th, 2021 Planning Board meeting, and notices were sent out to all property owners and tenants within 300 ft. of the property. In addition, a second legal ad will be placed in a newspaper of local circulation and notices will be sent to all property owners and tenants within 300 ft. of the property to advertise the public hearing at the City Commission on December 6th, 2021.

SUMMARY:

The Planning Division recommends that the City Commission set a public hearing date of December 6th, 2021 to consider the SLUP Amendment and Final Site Plan Review for 203 Pierce Street – Toast.

ATTACHMENTS:

- Special Land Use Permit Resolution
- Application & Supporting Documents
- Site/Design Plans
- Planning Division Reports
- Meeting Minutes

SUGGESTED RESOLUTION:

Make a motion adopting a resolution to set a public hearing date of December 6th, 2021 to consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast – to amend their hours of operation.

**TOAST RESTAURANT
203 PIERCE
SPECIAL LAND USE PERMIT AMENDMENT
2021**

WHEREAS, Toast Restaurant filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to request a change in the hours of operation of the bistro;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the east side of Pierce Street between W. Maple and Merrill;

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

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

WHEREAS, The Planning Board on October 27, 2021 reviewed the application for a Special Land Use Permit Amendment to request a change in the hours of operation, and recommended approval of the amended SLUP for 203 Pierce - Toast, incorporating the hours in the letter of September 10th, 2021 (as noted below);

WHEREAS, The Final Site Plan for 203 Pierce – Toast reviewed by the Planning Board on October 27th, 2021 included the original approved seating plan with no changes to the number or placement of indoor or outdoor seats;

WHEREAS, The Birmingham City Commission has reviewed the Toast Restaurant 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 Toast Restaurant's application for a Special Land Use Permit Amendment authorizing the operation of a bistro at 203 Pierce in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit Amendment is granted to request a change in the hours of operation of the bistro subject to the following conditions:

- 1) The applicant maintain minimum hours of operation as presented this evening:
Monday through Friday 8 a.m. – 3 p.m.
Saturday and Sunday 8 a.m. – 4 p.m.

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, Toast Restaurant 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 Toast Restaurant to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Alexandria Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on December 6th, 2021.

Alexandria Bingham, City Clerk



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

KELLY A. ALLEN
JESSICA A. HALLMARK
JOHN W. KUMMER
GREGORY K. NEED
G. HANS RENTROP

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

OF COUNSEL:

PHILLIP G. ADKISON
KEVIN M. CHUDLER
KATHERINE A. TOMASIK

September 10, 2021

Via Electronic Mail

Jana Ecker, Planning Director
Nicholas Dupuis, City Planner
Brooks Cowan, City Planner
City of Birmingham
151 Martin Street
Birmingham, MI 48012

**Re: Toast Birmingham, LLC
Special Land Use Amendment**

Dear Ms. Ecker, Mr. Dupuis, and Mr. Cowan:

As you know, Toast was issued a Violation Notice for changing its hours of operation from the approved Special Land Use Permit ("SLUP"). The approved SLUP is dated June 3, 2019. The purpose of this letter is to explain the circumstances regarding the change of hours and to request that the SLUP be amended to change the hours of operation. Specifically, Toast is requesting that the SLUP be amended to NOT require Toast to be open for or serve dinner.

Attached to this letter is a SLUP application form stating the reason for the current SLUP amendment and various documents as described below. The application fee in the amount of \$2,800 is being hand delivered to the Planning Department today.

VIOLATION NOTICE

Toast was issued a violation notice for not being open during the dinner hours as set forth in the approved SLUP from June 3, 2019.

Toast operated in compliance with the approved SLUP until the Covid-19 shutdown. Upon reopening for indoor dining in the summer of 2020, Toast no longer served dinner. During this time period, restaurants were allowed to open at a reduced capacity. During this time, there was constant uncertainty as to the ability to reopen at 100% capacity, by virtue of the ever-changing orders from the Governor and MDHHS.

Most of Toast's employees were receiving unemployment benefits from the State of Michigan for an extended period during this time frame and did not come back to work because the benefits they were receiving often outweighed their ability to earn in a post-shutdown time.

The State-ordered shutdowns created a hardship on all restaurants. Toast understood that when they reopened, they were not required to operate during the hours required under the approved SLUP.

If this is incorrect, it was not an intentional violation of the approved SLUP. It was a misunderstanding. However, it was virtually impossible for Toast to operate during the dinner hours. There was then and is now a national labor shortage. The statistics in Michigan are staggering when related to the restaurant industry. Upon reopening, Toast, struggled to be open for breakfast and lunch. Their current employees, who remained faithful to the owners, were and are working many hours and overtime.

Having been issued the Violation Notice, Toast considered trying to come into compliance with the approved SLUP, but has been unable to do so. Therefore, Toast is submitting this request for a further amendment to its SLUP.

REQUEST FOR SLUP AMENDMENT

Toast requests an amendment to its approved SLUP for the sole purpose of changing the approved hours to eliminate dinner hours.

Toast first opened in Birmingham in 2008. In 2008, the City Commission approved a SLUP with specific hours which required Toast to maintain "nighttime hours", as follows:

*"The applicant must maintain nighttime hours, Monday-Wednesday 7am-9pm;
Thursday-Saturday & Sunday 7am-midnight; Sunday 7am-5pm."*

When Toast opened, the City Commission had concerns about activating Pierce Street, which is one of the purposes of granting a Bistro License. Since that time there are now four Bistros on Pierce Street, including, Elie's, Streetside, and Townhouse. All of these Bistros are open for dinner but do not open for breakfast.

Subsequently, the SLUP was amended in June of 2019, requiring the hours set forth below as "Approved Hours." The Proposed Hours are on the right, below, and are the basis for this amended SLUP request.

Approved Hours.....	Proposed Hours
Sunday: 8 a.m. – 4 p.m.	8 a.m. – 4 p.m. (No change)
Monday-Tuesday: 7 a.m. – 3p.m.	8 a.m. – 3 p.m.
Wednesday: 7 a.m. – 8 p.m.	8 a.m. – 3 p.m.

Thursday-Friday: 7 a.m. – 8p.m.....8 a.m. – 3 p.m.
Saturday: 8 a.m. –9p.m.8 a.m. – 4 p.m.

DOCUMENTS REQUIRED FOR SLUP AMENDMENT

The SLUP amendment application submitted in February of 2019 is attached with the documents which have not changed since that time, including:

I(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.

I(ii). A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair.

I(iii). A Certified Land Survey.

I(iv). Interior floor plans.

I(v). A Landscape Plan.

I(vii). Colored elevation drawings for each building elevation.

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.

NOTE: The landlord entity is Maple Pierce, LLC. The manager of the Landlord entity is Kevin Denha. Please note that the warranty deed is in the name of 50935 Van Dyke, LLC. After the closing on the building this entity' name was changed to Maple Pierce, LLC. A copy of the warranty deed and the name change are attached.

ADDITIONAL DOCUMENTS

In addition to the above, the following should be noted:

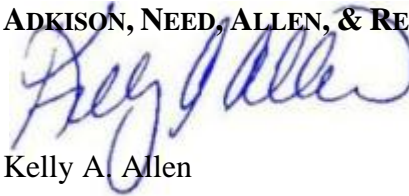
Toast added an awning to the cover the patio. The awning was approved by the Building Department.

Current photos of the patio are attached which show the umbrellas and the planters.

Please let us know if you require anything further. Thank you for your professional assistance in this matter.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC



Kelly A. Allen

KAA/kjp
Enclosures



Special Land Use Permit Application – Bistro Planning Division

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

1. Applicant

Name: Toast Birmingham, LLC
 Address: 203 Pierce

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

3. Applicant's Attorney/Contact Person

Name: Kelly A. Allen, Esq.
 Address: 39572 Woodward, Suite 222, Bloomfield Hills, MI 48304

 Phone Number: 248-540-7400
 Fax Number: 248-540-7401
 Email address: kallen@anafirm.com

2. Property Owner

Name: Maple Pierce Properties, LLC
 Address: 40700 Woodward, Suite 125, Bloomfield Hills, MI

 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: 203 Pierce

 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)

Toast requests an amended Special Land Use Permit such that specific hours are not required. There are no changes to the layout, number of seats, or ownership. Toast's SLUP was last amended in 2019. All of the documents pertaining to the property and interior of the restaurant are the same. See the attached letter for further explanation.

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.

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: 9/10/2021
DocuSigned by:
B9B4BCB9DAD24BA...

Print Name: Regan K. Bloom

Signature of Applicant:  Date: 9/10/2021
DocuSigned by:
B9B4BCB9DAD24BA...

Print Name: Regan K. Bloom

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 – Bistro Planning Division

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

1. Applicant

Name: Toast Birmingham, LLC
Address: 203 Pierce Street
Birmingham, MI 48009
Phone Number: 248-258-6278
Fax Number: 248-479-1800
Email address: finance@eatattoast.com

3. Applicant's Attorney/Contact Person

Name: Anthony Minicilli (Contact Person)
Address: 23150 Woodward Ave
Ferdale, MI 48220
Phone Number: 734-716-4405
Fax Number: 248-479-1800
Email address: finance@eatattoast.com

2. Property Owner

Name: Maple-Pierce Properties
Address: 700 N. Old Woodward Ave., Suite 300
Birmingham, MI 48009
Phone Number: 248-865-1515
Fax Number: _____
Email address: msarafa@visiongrowthpartners.com

4. Project Designer/Developer

Name: Krieger Associates
Address: 2120 E. Eleven Mile Rd.
Royal Oak, MI 48067
Phone Number: 248-414-9270
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. Any other data requested by the Planning Board, Planning Department, or other City Departments.

6. Project Information

Address/Location of the property: 203 Pierce Street
Birmingham, MI 48220
Name of development: Toast: A Neighborhood Joint
Sidwell #: _____
Current Use: Restaurant/Bar A-2
Proposed Use: Same
Area of Site in Acres: .08
Current zoning: D-4
Is the property located in the floodplain? No
Name of Historic District Site is Located in: Shane Park
Date of Historic District Commission Approval: 3/28/2008

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: _____

CITY OF BIRMINGHAM
Date 02/26/2019 12:53:39 PM
Ref 00156850
Receipt 471036
Amount \$2,700.00
And 100.00
Sisva found

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

No new development. We are changing ours to Monday through Friday: 7am - 3pm and Saturday and Sunday: 8am - 4pm

8. Buildings and Structures

Number of Buildings on Site: 1
Height of Buildings & # of Stories: 2 Stories

Use of Buildings: 1 Floor: Restaurant 2nd Floor: offices
Height of Rooftop Mechanical Equipment: _____

9. Floor Use and Area (in Square Feet)

Structures:

Restaurant Space: 3,298 sq ft
Office Space: 2nd level approximately the same
Retail Space: None

Number of Residential Units: None
Rental or Condominium? None
Total Floor Area: 3,298 sq ft

10. Proposed Bistro Operation

Number of Indoor Seats: 65
Number of Outdoor Seats: 52
Entertainment Proposed: None
Previous LCC Complaints? None
Number of Tables along Street Façade: 6 on sidewalk; 16 on platform
Type of Cuisine: America

Bar Area? Yes; 168 sq feet
Number of Seats at Bar: 9 seats
Full Service Kitchen? Yes
Percentage of Glazing Proposed: Existing
Years of Experience in Birmingham: 11
Years of Experience Outside Birmingham: 18 years

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): Both
Hours of Operation: M-F: 7am - 3pm S & S: 8am-4pm
Width of unobstructed sidewalk between door and café? (5 ft. required): 5ft
Platform Proposed: Yes
Trash Receptacles: Existing Public

Number of Tables/Chairs: 22 Tables; 52 seats
Material of Tables/Chairs: Metal
Tables Umbrellas Height & Material: 7' canvas
Number and Location of Parking Spaces Utilized: Two
Screenwall Material: N/A
Enclosure Material: N/A

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: 12' 8"
Number of benches: None
Number of planters: None
Number of existing street trees: One
Number of proposed street trees: None
Streetscape plan submitted? On File

Description of benches or planters: N/A

Species of existing trees: Unknown

Species of proposed trees: N/A

16. Loading

Required number of loading spaces: 1
Typical angle of loading spaces: Ally
Screenwall material: N/A
Location of loading spaces on site: Rear Ally

Proposed number of loading spaces: None

Typical size of loading spaces: N/A

Height of screenwall: N/A

Typical time loading spaces are used: Ally: 7am - 3pm

17. Exterior Waste Receptacles

Required number of waste receptacles: 0
Location of waste receptacles: N/A
Screenwall material: N/A

Proposed number of waste receptacles: 0

Size of waste receptacles: N/A

Height of screenwall: N/A

18. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: 0
Size of transformers (L•W•H): N/A
Number of utility easements: 0
Screenwall material: N/A

Location of all utilities & easements: N/A

Height of screenwall: N/A

Ground Mounted Mechanical Equipment:

Number of ground mounted units: None (Basement)
Size of ground mounted units (L•W•H): N/A
Screenwall material: N/A

Location of all ground mounted units: None

Height of screenwall: N/A

Rooftop Mechanical Equipment:

Number of rooftop units: Existing
Type of rooftop units: Existing

Location of all rooftop units: On roof

Size of rooftop units (L•W•H): Existing

Percentage of rooftop covered by mechanical units: Existing

Height of screenwall: N/A

Distance from rooftop units to all screenwalls: N/A

Screenwall material: N/A

Location of screenwall: Units no visible from street

19. Accessory Buildings

Number of accessory buildings: 0
Location of accessory buildings: N/A

Size of accessory buildings: N/A

Height of accessory buildings: N/A

20. Building Lighting

Number of light standards on building: 4
Size of light fixtures (L•W•H): Existing
Maximum wattage per fixture: 50w
Light level at each property line: Low

Type of light standards on building: Existing

Height from grade: 7' 0"

Proposed wattage per fixture: _____

21. Site Lighting

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

Type of light fixtures: N/A

Height from grade: N/A

Proposed wattage per fixture: N/A

Holiday tree lighting receptacles: N/A

22. Adjacent Properties

Number of properties within 200 ft.: 2

Property #1

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #2

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #3

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #4

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #5

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

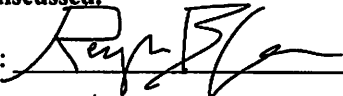
Property #6

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

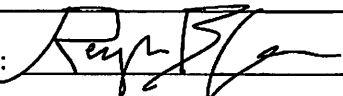
Property Description: _____

North, south, east or west of property? _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to advise the Planning Division and / or Building Division of any additional changes made to an approved site plan. The undersigned further states that they have reviewed the procedures and guidelines for Site Plan Review in Birmingham, and have complied with same. The undersigned will be in attendance at the Planning Board meeting when this application will be discussed.

Signature of Owner:  Date: 02/21/19

Print Name: Regan K Bloom

Signature of Applicant:  Date: 02/21/19

Print Name: Regan K Bloom

Signature of Architect: _____ Date: _____

Print Name: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

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

e-recorded

LIBER 51496 PAGE 602

0011796

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.

Reviewed By: RC

Jan 23, 2018

5.00 E-FILE

Sec. 135, Act 206, 1893 as amended
ANDREW E. MEISNER, County Treasurer

Not Examined

LIBER 51496 PAGE 602

\$21.00 DEED - COMBINED

\$4.00 REMONUMENTATION

\$5.00 AUTOMATION

\$30,960.00 TRANSFER TX COMBINED

01/23/2018 05:09:49 PM RECEIPT# 8712

PAID RECORDED - Oakland County, MI

Lisa Brown, Clerk/Register of Deeds



WARRANTY DEED

Corporate(Platted/Condominium)

Drafted By:

Diana Sharer, Sole Member
Cedarcliff LLC
8855 Warwick Street
Beverly Hills, MI 48025

Return To:

50935 Van Dyke, LLC
40700 Woodward Avenue, Suite 125
Bloomfield Hills, MI 48304

Send Tax Bills To:

50935 Van Dyke, LLC
40700 Woodward Avenue, Suite 125
Bloomfield Hills, MI 48304

Recording Fee: \$30.00

File Number: 774840 - BH

State Transfer Tax:

\$27,000.00

County Transfer Tax:

\$3,960.00

Tax Parcel No.: 19-36-201-020

Know All Persons by These Presents: That **Cedarcliff LLC, a Michigan Limited Liability Company** whose address is 8855 Warwick Street, Beverly Hills, MI 48025

Convey(s) and Warrant(s) to **50935 Van Dyke, LLC, a Michigan limited liability company** whose address is 40700 Woodward Avenue, Suite 125, Bloomfield Hills, MI 48304

the following described premises situated in the City of **Birmingham**, County of **Oakland**, State of Michigan, to wit:

(SEE ATTACHED EXHIBIT A)

More commonly known as: **165 through 217 Pierce Street, Birmingham, MI 48009**

For the full consideration of: **three million six hundred thousand Dollars (\$3,600,000.00)**

Subject To:

See Attached Exhibit B - Permitted Exceptions



First American Title Insurance Company

First American Title

4

(Attached to and becoming a part of Warranty Deed dated: January 09, 2018 between Cedarcliff LLC, a Michigan Limited Liability Company, as Seller(s) and 50935 Van Dyke, LLC, a Michigan limited liability company, as Purchaser(s).)

Dated this January 09, 2018.

Seller(s):

Cedarcliff LLC, a Michigan limited liability company

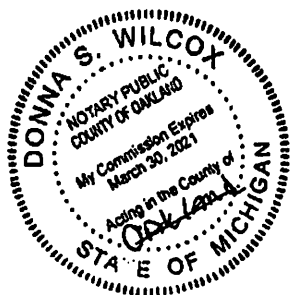
By: Diana J. Sharer
Name: Diana Sharer

Title: Sole Member AKA Diana J. Sharer (C6)

State of Michigan
County of Oakland

The foregoing instrument was acknowledged before me this January 09, 2018 by Diana Sharer, Sole Member of Cedarcliff LLC, a Michigan Limited Liability Company.

AKA Diana J. Sharer (C6)



Notary Public:
Notary County/State: /
County Acting In:
Commission Expires:

(Attached to and becoming a part of Warranty Deed dated: January 09, 2018 between Cedarcliff LLC, a Michigan Limited Liability Company, as Seller(s) and 50935 Van Dyke, LLC, a Michigan limited liability company, as Purchaser(s).)

EXHIBIT A

Land situated in the City of Birmingham, County of Oakland, State of Michigan, described as follows:

Part of Lots 15 and 16, ASSESSOR'S PLAT NO. 24, according to the recorded plat thereof, as recorded in Liber 54 of Plats, page 72, Oakland County Records, described as: Beginning at a point distant North 01 degree 52 minutes 25 seconds West 22 feet from the Southwest corner of Lot 16; thence North 87 degrees 60 minutes 00 seconds East 100.56 feet; thence North 05 degrees 21 minutes 50 seconds East 20.34 feet; thence North 35 degrees 22 minutes 05 seconds West 57.55 feet; thence North 11 degrees 52 minutes 30 seconds West 17.15 feet; thence South 54 degrees 26 minutes 10 seconds West 82.08 feet; thence South 01 degree 52 minutes 25 seconds East 41.48 feet to beginning; ALSO including the Southerly part of Lot 17, ASSESSOR'S PLAT NO. 24, according to the recorded plat thereof, as recorded in Liber 54 of Plats, page 72, Oakland County Records, measuring 3 feet on the Easterly lot line and 48.53 feet on the Westerly lot line.

Tax Parcel Number: 19-36-201-020

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

FILING ENDORSEMENT

This is to Certify that the CERTIFICATE OF AMENDMENT TO THE ARTICLES OF
ORGANIZATION

for

MAPLE PIERCE PROPERTIES, LLC

ID Number: 801712582

received by electronic transmission on January 10, 2018 ***, is hereby endorsed.***

Filed on January 10, 2018 ***, by the Administrator.***

The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.



In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 10th day of January, 2018.

Julia Dale, Director
Corporations, Securities & Commercial Licensing Bureau

LARA Corporations
Online Filing System
Department of Licensing and Regulatory Affairs

Form Revision Date 07/2016

CERTIFICATE OF AMENDMENT TO THE ARTICLES OF ORGANIZATION

For use by DOMESTIC LIMITED LIABILITY COMPANY

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned executes the following Certificate of Amendment:

The identification number assigned by the Bureau is:	801712582
The name of the limited liability company is:	50935 VAN DYKE, LLC
The date of filing the original Articles of Organization was:	12/3/2013

Complete only those articles being amended.

Article I

The name of the limited liability company as amended, is:

MAPLE PIERCE PROPERTIES, LLC

Article III

The duration of the limited liability company if other than perpetual is:

PERPETUAL

The amendment was approved by unanimous vote of all the members entitled to vote.

This document must be signed by a member, manager, or an authorized agent:

Signed this 10th Day of January, 2018 by:

Signature	Title	Title if "Other" was selected
KEVIN DENHA	Member	

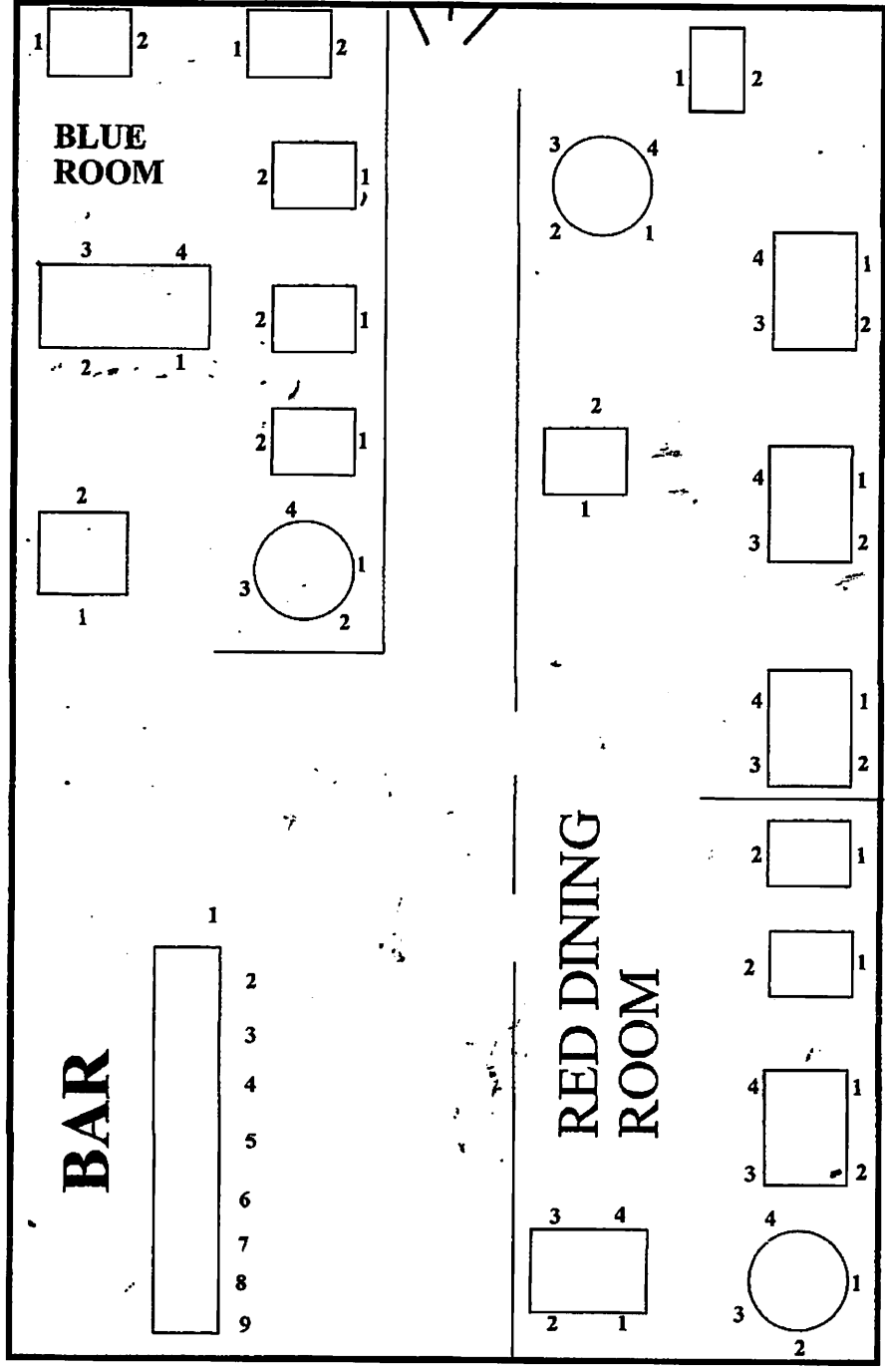
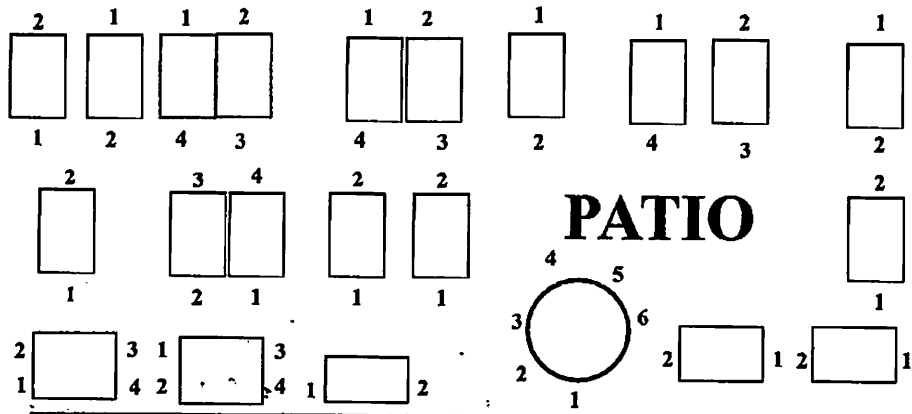
By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

☐ Decline ☒ Accept

[illegible]

Figure 1 consists of two cross-sectional diagrams of a door assembly, labeled (A) and (B). Both diagrams show a door with a wood casing (B) on the outside and a 3/4 inch solid core door with a 1/2 inch air gap. Diagram (A) shows a door with a wood casing (B) on the outside and a 3/4 inch solid core door with a 1/2 inch air gap. Diagram (B) shows a door with a wood casing (B) on the outside, a 1/2 inch air gap, a 3/4 inch solid core door, and a 1/2 inch air gap on the inside. Both diagrams show a 2x4 stud and a 2x6 stud.

















TOAST OUTLINED IN YELLOW



Google

Google

42°32'40"N 83°12'53"W 416 m

Park
IN
BIRMINGHAM
The Shopping District
2 hours
free
parking
IN
all decks





ANIMAL FRIENDLY
OUTDOOR AREA
ANIMAL ACCESS ONLY
THROUGH OUTDOOR DINING
AREA



NO PARKING
ANYTIME

Pierce & Co.

TOAS



MEMORANDUM

Planning Department

DATE: October 22th, 2021

TO: Planning Board

FROM: Brooks Cowan, Senior Planner

APPROVED: Nicholas Dupuis, Planner Director

SUBJECT: 203 Pierce St. – Toast – Special Land Use Permit Amendment and Final Site Plan Review

Toast has operated as a Bistro at 203 Pierce Street since 2008. A condition of Toast's original approval is that it be open for dinner hours in order to bring activity to the space and provide dining opportunities during evening hours. Toast's original approval from 2008 indicated they would be open until 5 pm on Sunday, 9pm Monday-Wednesday, and 12am Thursday-Saturday.

In 2018, City staff was made aware that Toast was closing prior to the hours documented in their 2008 SLUP agreement. Article 7, Section 7.34 of the Zoning Ordinance states that once a permit for a Special Land Use has been granted as to any parcel of land, no change in that use may be made nor may any addition to or change in the building or improvements on the parcel of land take place until a new request for approval has been filed with the City Commission and the City Commission has approved the request for change.

On January 9th, 2019, the applicant went before the Planning Board for a pre-application discussion regarding a proposal to change their hours of operation to eliminate dinner hours and host special events in the evenings instead, such as cooking classes and private parties. Toast wished to close at 3 p.m. Monday through Friday and 4 p.m. on Saturday and Sunday. During the meeting, Board members expressed positive responses to the proposals, as Toast Bistro is the only restaurant on Pierce open for breakfast, serves two meals (breakfast and lunch), and activates the street during the morning and afternoon hours.

On February 25th, 2019, the restaurant went before the City Commission for a hearing regarding the 2018-2019 renewal of their Liquor License. During the meeting, the change in hours was discussed as a violation of their SLUP. Toast had proposed to close between 3 pm to 4 pm every day, however City Commission had indicated during Liquor License review that they were not in support of the proposal.

On April 24th, 2019, the applicant appeared before the Planning Board to request a Special Land Use Permit Amendment to change the hours of operation from those approved in the Special Land Use Permit obtained in 2008. As a compromise to City Commission's comments on hours of operation during liquor license review, Toast proposed to stay open into evening hours closer to the weekend on Wednesday through Saturday with proposed hours of operation as follows:

Sunday.....	8 am – 4 pm
Monday-Tuesday.....	7 am – 3 pm
Wednesday.....	7 am – 8 pm
Thursday-Friday.....	7 am – 8 pm
Saturday.....	8 am – 9 pm

The Planning Board was amenable to the proposed changes and felt that the applicant satisfied the intent of the Bistro Ordinance. The Board then moved to recommend the proposed changes, citing that the applicant satisfies the Bistro Ordinance requirements, and that multiple restaurants had opened on or near Pierce Street and do not have as strict of hours of operation requirements as Toast.

On June 3rd, 2019, the applicant appeared before City Commission to amend their hours of operation for an earlier closing time. Commission discussed how the goal of the Bistro Ordinance was to enliven the streets and encourage traffic downtown. Being closed for dinner is not what was envisioned. Commission encouraged the applicant to stay open later for dinner, however the applicant indicated difficulties attracting such business when Toast's brand is identified as a breakfast and lunch restaurant. The Commission approved the proposed changes in hours with the condition that the agreement include "minimum" hours of operation, meaning the applicant may stay open later than indicated, but not close earlier.

On August 4th, 2021, The applicant "Toast" was issued a violation notice for not being in compliance with their SLUP agreement in regards to hours of operation. The subject Bistro has been closing at 3pm Monday-Friday and 4pm Saturdays and Sundays, which is 5 hours earlier than the hours indicated in the 2019 SLUP agreement.

At this time, the applicant is proposing to eliminate the dinner hours and proposes the following hours of operation:

Monday-Friday.....7 AM – 3 PM
Saturday-Sunday.....8 AM – 4 PM

1.0 Land Use and Zoning

- 1.1 Existing Land Use – The existing land use is commercial.
 - 1.2 Existing Zoning – The property is currently zoned B-4, Business-Residential, and D-4 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	Commercial / Retail	Commercial / Retail	Commercial / Retail	Commercial / Retail / Residential
Existing Zoning District	B-4, Business-Residential	B-4, Business-Residential	B-4, Business-Residential	B-4, Business-Residential
Downtown Overlay Zoning District	D-4	D-4	D-4	D-4

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 seating for outdoor dining for no more than 65 people.

Article 3, Section 3.04(C)(10) of the Zoning Ordinance permits bistros in the Downtown Overlay District as long as the following conditions are met:

- No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
 - Alcohol is served only to seated patrons, except those standing in a defined bar area;
 - No dance area is provided;
 - Only low key entertainment is permitted;
 - Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
 - 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.
 - i. Enclosures facilitating year round dining outdoors are not permitted.
 - j. Railings, planters or similar barriers defining outdoor dining platforms may not exceed 42" in height.
 - k. Outdoor rooftop dining is permitted with the conditions that surrounding properties are not impacted in a negative manner and adequate street level dining is provided as determined by the Planning Board and City Commission. Rooftop dining seats will count towards the total number of permissible outdoor dining seats.

The only proposed change to the Bistro requirements is for (g) – operations of the bistro regarding an earlier closing time. **At this time, the applicant appears to meet the Bistro requirements listed above.**

3.0 Screening and Landscaping

2.1 Screening – No changes proposed.

2.2 Landscaping – No changes proposed.

4.0 Parking, Loading, Access, and Circulation

3.1 Parking – As the subject site is located within the Parking Assessment District, the applicant is not required to provide on-site parking.

3.2 Loading – No changes are proposed.

3.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.

3.4 Pedestrian Access & Circulation – No changes proposed.

3.5 Streetscape – No changes proposed.

4.0 Lighting

The applicant is not proposing any new lighting for the property.

5.0 Departmental Reports

- 5.1 Engineering Division – Engineering has no concerns at this time.
- 5.2 Department of Public Services – DPS has no concerns at this time.
- 5.3 Fire Department – The Fire Department has no concerns at this time.
- 5.4 Police Department – The Police Department has no concerns at this time.
- 5.5 Building Department – The Building Department has no concerns at this time.

6.0 Design Review

The applicant is not proposing any exterior changes as a part of the Special Land Use Permit Amendment. The applicant has 65 indoor seats and 52 outdoor seats. The applicant is approved for 20 seats located on the sidewalk and 32 seats located on the dining deck which occupies two parking spaces. The applicant is current with all outdoor dining licenses and there are no pending violations.

7.0 Downtown Birmingham 2016 Plan

The site is located within the D-4 zone of the Downtown Birmingham Overlay District. The Downtown 2016 Plan encourages a mix of uses in the downtown to encourage visitors and social activation during the morning, afternoon, and night. Toast is within the Downtown 2016 Plan's Central Business District retail loop consisting of Pierce, Merrill, Woodward and Maple. This loop allows pedestrians to window shop without encountering gaps in store frontage or interruptions by vehicular traffic. Restaurants along this loop includes Toast, Elie's, Streetside, La Strada, Sushi Japan, Leo's Coney Island, Kaku Sushi, Churchills Cigar Bar, Eli Tea Bar, and Planthropie. When considering restaurants across the street from the subject loop, there is Townhouse, 220 Merrill, Hyde Park Steakhouse, Pernoi (alley), Starbucks, and Clean Juice (opening to be determined). A number of the surrounding restaurants are open for dinner, helping to balance out dining offerings at all times of the day.

The Planning Division finds the proposed SLUP amendment adequately enhances street life along this loop during breakfast and lunch hours within the downtown, thus helping to promoting a pedestrian friendly environment and assisting in activating the downtown during the morning and afternoon hours.

8.0 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.
-

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- (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.

In addition, Article 7, Section 7.36 requires applications for a Special Land Use Permit to meet the following criteria:

- (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.

The applicant appears to satisfy approval criteria of 7.27 and 7.36 of the Zoning Ordinance. Closing before dinner hours does not appear to be contrary to the spirit and intent of the Zoning Ordinance as the approved use activates the space and supports economic vitality of Pierce Street between W. Maple and Merrill Street during morning and afternoon hours seven days a week.

10.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend **APPROVAL** to the City Commission of the applicant's request for Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast. It is also recommended that the terminology "minimum hours of operation" be included into the SLUP agreement to permit the applicant to stay open later into the evening if economically feasible.

The Planning Division's recommendation is based on the consideration that the applicant is open and providing dining services to patrons of Birmingham at times when other restaurants and Bistros are not. Toast is open for breakfast and lunch and enhances the economic vitality of Pierce Street during those times. The Planning Division's

recommendation is also based on the precedent that other Bistros have not been required to be open during the morning and provide service during typical breakfast, lunch and dinner hours.

If the City wishes to deny the applicant's request and require Toast to maintain current dinner hours Wednesday-Saturday, the Planning Division recommends that the City consider a temporary social district trial on Pierce Street from Merrill to the alley intersection, similar to what Royal Oak, Ferndale, and Northville have in order to activate the space. Doing so could assist the surrounding businesses in activating the space and attracting more business at all times of the day.

11.0 Sample Motion Language

The Planning Board recommends **APPROVAL** to the City Commission of the Special Land Use Permit Amendment Final Site Plan Review for 203 Pierce – Toast.

OR

Motion to recommend **POSTPONEMENT** of the Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast, for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **DENIAL** of the Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast, for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **DENIAL** of the Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast, for the following reasons:

1. _____
 2. _____
 3. _____
-

AND

To consider a temporary social district trial on Pierce Street from Merrill to the alley intersection as an effort to activate the space and encourage social gathering at all times of the day for the benefit of residents, visitors, and surrounding businesses.

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, MARCH 26, 2008**

<u>Item</u>	<u>Page</u>
SPECIAL LAND USE PERMIT (“SLUP”) 203 Pierce St. Toast Birmingham bistro, request for Bistro License, New Establishment	2
FINAL SITE PLAN REVIEW 203 Pierce St. Toast Birmingham bistro, request for Bistro License, New Establishment	2
Motion by Mr. Nickita Seconded by Ms. Whipple-Boyce to approve the applicant’s request for final site plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce with the following conditions: <ul style="list-style-type: none">1) The applicant maintain nighttime hours as presented this evening, Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.;2) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;3) The applicant appear before the Historic District Commission for all building changes and signage;4) The applicant execute a contract with the City of Birmingham for use of the right-of-way;5) The applicant obtain an outdoor dining permit from the City of Birmingham for use of the right-of-way;6) The applicant comply with all requests of City departments;7) The applicant shall provide low-key entertainment as desired;8) The color of the railing is black as presented;9) The tables measure 24 in. x 28 in. as opposed to 28 in. x 28 in.;10) The entry to the east outdoor seating area is at the north side of the enclosure and the west patio access is at the north side of the enclosure, flipped from what is shown;11) The seating be 65 seats, with no more than ten at the bar in accordance to the ordinance.	4
Motion carried, 4-1.	5

**CITY OF BIRMINGHAM
JOINT MEETING OF THE PLANNING BOARD AND
HISTORIC DISTRICT COMMISSION
WEDNESDAY, MARCH 26, 2008**

Minutes of the Joint meeting of the City of Birmingham Planning Board held March 26, 2008. Chairman Robin Boyle convened the meeting at 7:32 p.m.

Present: Chairman Robin Boyle; Board Members Brian Blaesing (arrived at 7:47 p.m.), Gillian Lazar, Mark Nickita, Janelle Whipple-Boyce

Absent: Board Members Sam Haberman, Bryan Williams; Student Representative Cole Fredrick

03-58-08

Approval of the Minutes of the Planning Board Meeting held March 12, 2008

Motion by Mr. Nickita

Seconded by Ms. Whipple-Boyce to approve the Minutes of March 12 as prepared.

Motion carried, 4-0.

VOICE VOTE

Yeas: Nickita, Whipple-Boyce, Boyle, Lazar

Nays: None

Absent: Blaesing, Haberman, Williams

03-59-08

Approval of the Minutes of the Planning Board Meeting held December 12, 2007

Motion by Ms. Whipple-Boyce

Seconded by Ms. Lazar to approve the Minutes of December 12 as revised.

Motion carried, 4-0.

VOICE VOTE

Yeas: Whipple-Boyce, Lazar, Nickita, Boyle

Nays: None

Absent: Blaesing, Haberman, Williams

03-60-08

Chairperson's Comments (none)

03-61-08

Approval of the Agenda (two reviews withdrawn)

03-62-08

SPECIAL LAND USE PERMIT ("SLUP")

203 Pierce St.

Toast Birmingham bistro, request for Bistro License, New Establishment

FINAL SITE PLAN REVIEW

203 Pierce St.

Toast Birmingham bistro, request for Bistro License, New Establishment

Ms. Robinson advised that the subject site is located on the east side of Pierce St. between Maple Rd. and Martin St. The parcel is zoned B-4 Business-Residential and D-4 in the Downtown Overlay District. The applicant, a new restaurant, is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code. Chapter 10 requires that the applicant obtain a SLUP and approval from the City Commission to operate an establishment with a Bistro License within the City. Bistro requirements allow two new bistros in the calendar year 2008. Accordingly, the applicant will be required to receive 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, SLUP, and for the operation of a Bistro License.

As the applicant is also proposing signage and changes to the exterior of the building, and because the building is located within the CBD Historic District, approval from the Historic District Commission ("HDC") is also required.

In accordance with the Commission resolution passed December 10, 2007, since parking spaces are being taken out of service for this proposal, the applicant must also submit plans of the dining deck for review by the Advisory Parking Committee ("APC").

Toast Birmingham is proposing to have 9 seats in the 174 sq. ft. bar area. Toast Birmingham bistro does not propose any dancing area, but they wish to have low key musical entertainment. They also propose to have tables located in the storefront space lining Pierce St., and to provide the existing 70 percent glazing along the front façade. They propose to install a new canvas black awning over the café, directly against the building.

Toast Birmingham is also proposing 26 seats for outdoor dining, with 18 on an elevated platform along Pierce St., and 8 seats on the sidewalk directly adjacent to the south side

of the front elevation of the building. A 5 ft. clear passage will be maintained along the public sidewalk. They propose to construct a temporary 12 ft. 5 ½ in. by 20 ft. platform of composite non-slip decking fastened with clips to provide a level outdoor dining surface on the sidewalk and into the street. The platform is proposed to extend 7 ft. into one parking space along Pierce St. The applicant is also proposing a 3.5 ft. high custom-made metal fencing system to enclose the outdoor dining space.

At the recommendation of the Planning Division, the restaurant will maintain hours that extend into the evening. Mr. Thom Bloom said Birmingham Toast hours will be Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.

Mr. Drew Norton was present to represent Toast Birmingham. With him were Thom and Regan Bloom, the business owners; Mr. Jason Kregar, the architect; along with the head chef, Rubin Griffin. Mr. Norton indicated the applicant has satisfied or is prepared to satisfy all of the conditions raised by the Planning Division.

Mr. Bloom discussed some of the special events they may want to have in the evening, such as wine tastings for charitable events, guest chef cooking classes, and art gallery showing/openings with local artists. On the weekends there could be a Bloody Mary and Belini/Mimosa bar. The front section can be closed off as a private dining area for larger parties while they are operating the restaurant. Lastly, they manage quite a robust catering business out of their establishment for upscale corporate events. They request that on occasion there be some light entertainment such as a violin or a harp in the background, but nothing loud. If they are given the opportunity to have a bistro license Mr. Bloom feels it will be a benefit to the City, the patrons, and the community, as well as something they would very much enjoy.

He distributed a final draft of the dinner menu and a summary on the history of Toast. They have been in business in Ferndale for seven years. Due to the success of their Ferndale, location they are very confident that they will provide a very unique and lively establishment in Birmingham with some additional offerings.

Mr. Kregar clarified that the bistro tables measure 28 in. x 24 in. The restaurant seating will be adjusted to accommodate 65 people.

Mr. Nickita noted the board has not done this sort of dual outdoor enclosure in the past. His issue was congestion on the sidewalk. He suggested moving the entrance to the small dining area along the building to the north side, and flipping the outer platform 180 degrees in order to have the ramp access near the door.

Mr. Blaesing indicated he is extremely pleased after looking at the presentation. This is the kind of establishment that the board was hoping to get, right in the middle of town, and run by proprietors who have been successful with another establishment. The more synergy that occurs with the restaurants, the art community, shopping, and the office crowd, the better the whole downtown will work. He is concerned about having the dual

outdoor dining areas because he feels that when a pedestrian walks up and sees tables on both sides of the sidewalk the pedestrian may be intimidated and shy away. Mr. Blaesing is reluctant to approve with dining on both sides of the sidewalk, because he thinks it takes up too much of the public space and sets a precedent for other applicants to come in with seating on both sides and further constrict sidewalk width and functionality. His view is that the board should approve outside dining on one side or the other, see how it goes for a year, and if they think it is going to work, the applicant can come back next year and get seating on the other side. Once the seating is in, however, it is not easy to take it out.

Mr. Nickita noted that to the north there is an existing stone planter that protrudes from the building frontage almost the exact same distance as this dining area. So, the planter has already established the pedestrian path away from the building. Therefore, in this condition he is absolutely comfortable with the two dining areas. Walking between tables makes for a very interesting urban experience and he doesn't think people would be intimidated. Ms. Lazar noted the dining areas are enclosed by a railing.

Chairman Boyle said that if it is determined that outdoor dining on both sides of the sidewalk is not working out, it is not beyond the realm of common sense to remove the seating next to the building. There is the opportunity to be flexible.

Mr. Nickita observed the board has set a bit of a precedent as to the construction of platforms. Mr. Bloom said they have looked at designs that have been approved and designed their platform to those exact specs. The railings will be painted black.

No members of the public came forward to comment at 8:20 p.m.

Motion by Mr. Nickita

Seconded by Ms. Whipple-Boyce to approve the applicant's request for Final Site Plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce with the following conditions:

- 1) The applicant maintain nighttime hours as presented this evening, Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.;**
- 2) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;**
- 3) The applicant appear before the Historic District Commission for all building changes and signage;**
- 4) The applicant execute a contract with the City of Birmingham for use of the right-of-way;**
- 5) The applicant obtain an outdoor dining permit from the City of Birmingham for use of the right-of-way;**
- 6) The applicant comply with all requests of City departments;**
- 7) The applicant shall provide low-key entertainment as desired;**
- 8) The color of the railing is black as presented;**

- 9) The tables measure 24 in. x 28 in. as opposed to 28 in. x 28 in.;
- 10) The entry to the east outdoor seating area is at the north side of the enclosure and the west patio access is at the north side of the enclosure, flipped from what is shown;
- 11) The seating be 65 seats, with no more than ten at the bar in accordance to the Ordinance.

There was no discussion from the audience at 8:30 p.m.

Motion carried, 4-1.

VOICE VOTE

Yeas: Nickita, Whipple-Boyce, Boyle, Lazar

Nays: Blaesing

Absent: Haberman, Williams

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JANUARY 9, 2019
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on January 9, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams

Also Present: Alternate Board Member Jason Emerine

Absent: Alternate Board Member Nasseen Ramin; Student Representatives Madison Dominato, Sam Fogel, Ellie McElroy

Administration: Matt Baka, Sr. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

Fleis & Vanderbrink ("F&V")
Julie Kroll

01-07-19

H. PRE-APPLICATION DISCUSSION

1. 203 Pierce St., Toast Birmingham

Mr. Tony ~~Manicilli~~ **Minicilli**, Director of Operations for Toast, was present with Mr. Chris ~~Gadelka~~ **Gadulka**, Executive Chef, and Ms. Reagan **Regan** Bloom with Toast. Mr. Manicilli said they are looking to change the required hours of their Special Land Use Permit ("SLUP") to 7 a.m. to 3 p.m. Monday through Friday and 8 a.m. to 4 p.m. on week-ends. They want to eliminate dinner and do special events in the evenings such as cooking classes and private parties.

Ms. Ecker advised they are required under their SLUP to serve breakfast, lunch, and dinner. To change that condition they would have to amend their SLUP. They can do one of two things to correct the violation:

- Start serving dinner again; or
- Go before the Planning Board and City Commission to get approval to strike the condition that they must serve dinner.

Ms. Ecker explained if they just wanted to have a restaurant with regular dining and no alcohol they would not need a SLUP. At the time this SLUP was approved the Planning Board and City Commission didn't feel a bistro license should be issued if the street would not be activated in the evenings. Mr. ~~Manicilli~~ **Minicilli** said on week-ends their customers generally have about an hour wait. During that wait, most people are in the City and walking around. Even if it is during the day and not at night they are adding to activity on the street.

Board members requested that in Toast's application for a change in their SLUP they include details on their special events and average customer count after 3 p.m. over the last six months or so.

Mr. Williams pointed out there are three other restaurants on Pierce and that are open at night and none are open for breakfast. So he would be inclined to go forward with this request.

Mr. ~~Manicilli~~ **Minicilli** responded for Ms. Whipple-Boyce that they have had 15 special events in the evening through December. He anticipates seeing an increase in pop-ups, cooking classes, or other events. He described a pop-up as an invitation for another chef to come in and set up a temporary restaurant with a different menu other than theirs for a one night event. The purpose is to receive an indication of whether to invest in opening a new restaurant.

Ms. ~~Reagan~~ **Regan Bloom** opined that increasing competition has had something to do with their declining dinner crowd.

Mr. Jeffares said these people have tried everything to get people in for dinner and it has been a valiant effort. They do quite a few events in the evening and he didn't think the board should try to force anybody to lose money.

**BIRMINGHAM CITY COMMISSION MINUTES
FEBRUARY 25, 2019
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Patty Bordman called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present:	Mayor Bordman Mayor Pro Tem Boutros Commissioner DeWeese Commissioner Harris Commissioner Hoff Commissioner Nickita
	Absent:	Commissioner Sherman

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Police Chief Clemence, Planning Director Ecker, Finance Director Gerber, Building Official Johnson, Library Director Koschik, City Engineer O'Meara, City Clerk Mynsberge, Birmingham Shopping District Executive Director Tighe

02-047-19

LIQUOR LICENSE REVIEW AND RENEWAL

Commissioner Nickita recused himself from discussing and voting on 220 Merrill and Toast due to business relationships with the owners of both establishments.

City Clerk Mynsberge presented the item.

Commissioner Hoff thanked staff for the clarity of the submitted reports.

Comments/Clarification

Planning Director Ecker explained:

- Elie's Mediterranean filled out their liquor license application incorrectly in regards to numbers, but upon the Planning Department on-site review it was clear that Elie's was actually in compliance

City Clerk Mynsberge confirmed:

- Rojo and Sidecar share an owner and together owe the City \$16,325 in taxes and water bills. The owner entered into a payment plan with the City for the water bills on February 25, 2019 by paying a portion and agreeing to continue making regular payments on the debt. The outstanding taxes for both establishments remain unpaid.

Mayor Bordman invited Stephen Simon, owner of Rojo and Sidecar, to speak to the Commission.

Mr. Simon explained both Rojo and Sidecar were purchased in bankruptcy court in June 2018. There are current talks with the City and Oakland County as to whether the July 2018 taxes are due from the current or previous owner. In addition, the company's accountant has indicated that the assets purchased were only about \$20,000, which would free the business from owing taxes.

City Attorney Currier said with respect to the delinquent taxes he was unsure because he was not familiar with the bankruptcy filing. He could not say whether that was a matter the bankruptcy court was taking into consideration, but that it would have some priority with respect to payment in the bankruptcy court. If the priority stays as-is, eventually the property will go to tax sale.

Commissioner Harris suggested setting a March 25, 2019 public hearing date to encourage a speedy resolution of the matter on the part of the previous owner and Mr. Simon.

Mayor Bordman concurred and advised Mr. Simon that the tax liability may fall to him if he intends to keep the restaurants. She said this was not legal advice, but that it seemed to her that if the previous owner were mandated to pay by the court that Mr. Simon would be reimbursed.

Commissioner DeWeese said Toast has been slow in addressing issues with the City, including the fact that Toast is in violation of its Special Land Use Permit (SLUP) because it is not currently operating in the evenings.

Planning Director Ecker explained:

- Toast had been subject to code enforcement for not providing dinner hours as per their SLUP. The owners then came to a pre-application meeting with the Planning Department to discuss either providing dinner hours or applying for a SLUP amendment.
- Toast ultimately submitted an application and attendant fee for a SLUP amendment earlier in the day on February 25, 2019, hoping not to provide regular dinner hours but to provide evening space for cooking classes and other activities instead.
- Toast would not likely receive a public hearing regarding their application with the Planning Board before the end of April 2019.

Toast representative Tony Minicilli came forward to address the Commission. He explained:

- Toast's hours were changed in October 2018, and they were unaware their SLUP was contingent on having dinner hours. He said that he believed Toast was the only restaurant that had a SLUP requiring evening hours.
- When Toast was made aware that they were in violation of their SLUP, Toast was advised to re-apply.
- He is the Director of Operations, and neither he nor the current owner were part of the SLUP process when it was originally granted to Toast by Birmingham. Toast was originally owned by married couple Thom and Regan Bloom, and they since divorced with Regan retaining ownership of the restaurant along with investors.

Mayor Bordman stated:

- SLUPs require any change in ownership be reviewed by the City Commission.
- Since Toast did not submit their change in ownership for review to the City Commission, the restaurant has now made the City aware of an additional violation of their SLUP.
- Given the major problems with the operation of the restaurant, she recommended setting a public hearing for Toast on March 25, 2019.

Commissioner Hoff noted there were several restaurants with discrepancies between the number of seats allowed and the number of seats the Planning Department found upon inspection. She added that as of the submission of the information to the City Commission, many of those discrepancies had not been resolved. She asked Mayor Bordman if the Commission could speak with representatives from the establishments in violation present this evening to see whether the discrepancies have since been resolved.

Mayor Bordman concurred, suggested reviewing the discrepancies one establishment at a time, and asked whether a representative from Bella Piatti was present.

Nino Cutraro introduced himself as the owner of Bella Piatti.

Mayor Bordman asked Mr. Cutraro why he had not responded to contact from the City regarding the issue with the number of seats in Bella Piatti.

Mr. Cutraro said he never saw any communication from the City regarding the matter.

Mayor Bordman invited Planning Director Ecker to confirm that attempts to contact Bella Piatti had occurred.

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 24, 2019**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 24, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Jason Emerine; Student Representative Sophia Trimble

Absent: Board Member Bert Koseck; Student Representative John Utley

Administration: Jana Ecker, Planning Director
Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

Present in Audience: Alternate Board Member Nasseen Ramin

04-059-19

F. Request for Special Land Use Permit Review and Request for Final Site Plan and Design Review

1. 203 Pierce – Toast – Request for approval of a SLUP Amendment and Final Site Plan Review to permit a change of hours of operation and a change of ownership.

City Planner Dupuis presented the item.

Kelly Allen, Attorney for Toast, noted that the correct proposed hours were listed in her letter dated April 18, 2019 and included on page 83 of the agenda packet. She continued:

- Toast was one of the first two restaurants issued a bistro license in Birmingham in 2008. Ms. Allen had served as attorney for Toast at the time, and she had mostly worked with former co-owner Thomas Bloom.
- The goal of bistro licenses was to activate the street, especially with nighttime hours. Toast agreed to attempt nighttime hours, even though the focus was more of a breakfast and brunch experience. Toast tried to attract dinner patrons for ten years, and the efforts were largely unsuccessful.
- When Reagan Bloom assumed full ownership of Toast following her divorce from Mr. Bloom, she was unaware that Toast was obligated to stay open into the evening hours as part of the establishment's contract with the City.

- The City has many more bistros now, and the necessity of Toast having evening hours is no longer extant. City streets are now well-utilized in the evenings.
- Since the originally proposed change in hours was explicitly discouraged by the Commission, Toast is proposing a compromise in hours to try and meet the Commission's directive.
- Toast will attempt the proposed compromise hours in earnest, but they still may not be successful. If that is the case, Toast may be back before the Planning Board and the Commission in the future.
- During the change in ownership Toast acquired new investors and went through the required changes with the Michigan Liquor Control Commission. The attorneys handling that process did not come before the City to update the information as required by ordinance, so Ms. Allen is facilitating that process now. She expects all involved parties will be cleared by the City's Police Department.
- Toast's seating is now in compliance with the original SLUP. Toast will be open during all of the hours proposed in Ms. Allen's April 18, 2019 letter, and may host special events during some of its evening hours on occasion.

Mr. Jeffares noted other bistro license holders that seem to have less onerous hour requirements. He stated that Bella Piatti is not open for business two days out of the week, that La Strada is not open for business on Mondays, and that both Tallulah Wine Bar & Bistro and Bistro Joe's have days they are not open for business. Meanwhile, Toast is required to be open for all meals seven days a week.

Ms. Allen agreed with Mr. Jeffares, and suggested that a slight hardship is being imposed on Toast in terms of the evening hours.

Mr. Boyle noted that the City was imposing the requirement that Toast revise its schedule to stay open during evenings. He suggested that since the City is requiring this, the City could help publicize Toast's new hours and correct the perception that Toast will continue to remain closed in the evenings.

Chairman Clein said he understood the Commission's concerns, acknowledged it was a policy issue for the Commission to decide, and would not try to persuade them differently. He also opined that a reduction or elimination of evening hours would not negatively impact evening activity on Pierce Street.

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval of the amended SLUP for 203 Pierce - Toast, incorporating the hours in the letter of April 18, 2019, based on the fact that of the six items in Article 7, Section 7.2.7 Items One, Two, Three, Four, and Six remain unchanged and Item Five, which relates to compatibility and the spirit and purpose are well-satisfied by changing circumstances over time including the evening activation of Pierce Street.

Motion carried, 7-0.

VOICE VOTE

Yeas: Share, Williams, Clein, Boyle, Emerine, Jeffares, Whipple-Boyce
Nays: None

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval of the Final Site Plan for 203 Pierce - Toast, which includes the original seating plan contained in the applicant's submittal materials and the letter of April 18, 2019. With reference to Article 7, Section 7.2.7, all of the site plan issues are satisfied.

Motion carried, 7-0.

APPROVED

**BIRMINGHAM CITY COMMISSION MINUTES
JUNE 3, 2019
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Patty Bordman called the meeting to order at 7:30 PM.

II. ROLL CALL

Present: Mayor Bordman
Mayor Pro Tem Boutros
Commissioner DeWeese
Commissioner Hoff
Commissioner Nickita
Commissioner Sherman

Absent: Commissioner Harris

Administration: City Manager Valentine, City Attorney Currier, Communications Director Byrnes, Police Chief Clemence, Planning Director Ecker, DPS Manager Filipski, Finance Director Gerber, Building Official Johnson, City Clerk Mynsberge, DPS Director Wood

VI. NEW BUSINESS

06-149-19

**PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE
AMENDMENT AND LIQUOR LICENSE OWNERSHIP CHANGE FOR
TOAST – 203 PIERCE**

Mayor Bordman opened the public hearing at 7:58.

Commissioner Nickita recused himself due to a current business relationship with one of the owners of the building as well as the applicant.

Planning Director Ecker presented the item.

Commissioner Hoff pointed out that on the special land use permit application, the hours of operation under outdoor dining facility differ from what was just presented. If the restaurant remains open for dinner, wouldn't the outdoor dining area stay open when weather permits?

Planning Director Ecker expressed that it was probably a mistake on the application and advised Commissioner Hoff to refer those questions to the applicant.

Attorney Kelly Allen, representing Toast, introduced Rita Bloom and Tony Micelli of Toast. Attorney Allen stated, in regard to Commissioner Hoff's question, a letter was submitted on April 18th and it reflected the hours that you see in the packet. The outdoor dining area will be open the same hours as the operation of the restaurant.

Mayor Bordman expressed that she was very pleased to see the willingness to make changes to the hours so that evening dining is available and said she will be supportive of the application.

Commissioner Sherman expressed that he was also very pleased and has no issue with the restaurant being closed some evenings at dinner time, but, he is a little concerned with closing at 8:00 or 9:00 p.m. on Thursday, Friday, and Saturday when there are a lot of people walking around and many restaurants are having their first seating. He asked the owners to consider staying open until 10:00 p.m. Thursday through Saturday.

Attorney Allen, owner representative, responded with a respectful no. In the past, there has not been a demand for dinner at Toast and that is why the hours were cut back. Ms. Bloom, partner, explained that they have tried many combinations of lunch and dinner without success. She added that they are going to continue to try and find a sweet spot for evening hours by putting a fun twist on breakfast at night.

Commissioner Sherman went on to advise the restaurant to stay open until "at least 8:00 p.m." He encouraged late hours on the weekend because the restaurant is a big space to have closed during the dinner hour. Commissioner Sherman also reminded the commission that the goal of the Bistro Ordinance was to enliven the streets and to bring traffic downtown. To have one bistro on Pierce Street with the lights off is not what the commission envisioned.

Mayor Bordman agreed with Commissioner Sherman's suggestion on the change of wording to allow the applicant to eventually grow the business and extend hours of operation.

Commissioner DeWeese expressed that by changing the agreement to read "minimum" hours of operation, the applicant has the flexibility to best serve the customer.

Mayor Pro Tem Boutros was supportive but struggled with the applicant limiting their hours. He wondered if it is a staffing issue and said he believes that they can be successful if marketing and advertising strategies are used to increase the dinner crowd.

Ms. Bloom explained that it is not a staffing issue, it is a brand issue. She explained that the brand is a breakfast and lunch bistro. Incorporating dinner into a strong breakfast brand suggests that people will double down on a restaurant for three meals. People generally go to the applicant for breakfast and lunch; it is going to be a struggle to push the hours that the Commission is requiring.

Commissioner Hoff supported approval of the proposal with the suggestions of other Commissioners. She also expressed confidence in what the restaurant owner says is best for her establishment.

Attorney Allen called attention to an error in the letter of April 18th, listing hours of operation on Sunday from 7am – 4 pm. The hours are 8:00a.m. – 4 p.m. on Sunday. She requested that the letter be amended to reflect the correction.

Commissioner Hoff asked if the applicant would consider staying in business without the bistro license. The answer was an emphatic no.

Maureen Sarle, 1585 Henrietta and 12 year Birmingham resident, stated that she likes Toast and asked Ms. Bloom if the applicant ever marketed breakfast for dinner. Ms. Bloom's response was yes.

Aljosa Krajisnik, a millennial, asked if dinner prices are similar to Leo's Coney Island (under \$10.00) which can attract people 24 hours per day.

Ms. Bloom explained her prices are more than \$10.00 for dinner but admitted to being on the lower end of Birmingham dinner prices.

Mayor Bordman closed the public hearing at 8:16 p.m.

MOTION: Motion by Commissioner DeWeese, and seconded by Mayor Pro Tem Boutros: To approve a Special Land Use Permit Amendment for 203 Pierce, aka Toast, to reflect an ownership change and change in the hours of operation, with the correction of Sunday hours to 8:00 a.m. until 4:00 p.m. and the amendment of language to read "the applicant shall maintain minimum hours of operation."

AND

To authorize the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and to approve the liquor license request of Toast Birmingham, LLC that requests a transfer of interest in a Class C License to be issued under MCL 436.1521(A)(1)(B) and SDM License with Outdoor Service (1 Area) located at 203 Pierce, Birmingham, Oakland County, MI 48009. Furthermore, pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the Local Approval Notice at the request of Toast Birmingham, LLC approving the liquor license transfer request of Toast Birmingham, LLC that requested a Class C License be transferred under MCL 436.1521 (A)(1)(B) & SDM License with Outdoor Service (1 Area) located at 203 Pierce, Birmingham, Oakland County, MI 48009. *Formal resolution appended to these minutes as Attachment A.*

VOTE:	Yeas,	5
	Nays,	0

DATE: November 1st, 2021

TO: Thomas M. Markus, City Manager

FROM: Brooks Cowan, Senior Planner

APPROVED: Nick Dupuis, Planning Director

SUBJECT: Set Public Hearing – To Amend Article 7, Section 7.41-7.46 – Processes, Permits, and Fees & Article 9, Section 9.02 Definitions of the Zoning Ordinance to Create a Wall Art Definition and Review Process

INTRODUCTION:

Conversations regarding wall art in Birmingham have occurred with the Public Arts Board, Design Review Board, and staff over the years. A number of mural inquiries from property owners and residents have been made, though Birmingham does not currently permit murals on the exterior of buildings.

BACKGROUND:

On August 19th, 2020, the Design Review Board conducted a study session related to murals and art on the exterior of buildings. The issue was brought up by staff when Griffin Claw Brewery requested to have an artist paint a mural on the side of their building. Issues related to the Sign Ordinance preventing murals from being painted on the side of a building were discussed, as well as issues regarding the lack of clarity in the Sign Ordinance and Zoning Ordinance for the application of wall art versus signage and building design features.

The issue with signage refers to the Sign Ordinance section 1.03(D) Painted Signs which states, "*No sign may be painted directly onto any building surface.*" By creating a definition and review process for wall art, there would be a policy and procedure in place to separate wall art from signage.

In regards to supporting ordinance language, section 3.16(A)(3) of the Via Activation Overlay District lists "*art display*" as a permitted use to encourage the activation of vias. Staff recommended a review process for art display to ensure quality control and public input.

On August 24th, 2020, the Public Arts Board submitted a report on strategies to enhance Terminating Vistas to the City Commission with a number of recommendations, one being to allow murals and wall art in the City.

In November of 2020, the Design Review Board (DRB) indicated they were amenable to a process where the Public Arts Board would review wall art applications and make a recommendation to

the DRB, which would conduct the final vote for approval. The DRB was also amenable to wall art on the rear of buildings facing an alley, or on the side and rear of buildings in the Rail District.

The Planning Board then reviewed the proposed ordinance amendments in August, September, and October of 2021. The Planning Board clarified that if a new site plan application was proposed with wall art, the Planning Board would not be required to consider the wall art in the review process. The applicant would be required to go to the Public Arts Board and Design Review Board for approval of the wall art component.

Staff discussed the possibility of wall art as a way to enhance blank, windowless walls in the Downtown Overlay and Triangle District that are built with a 0 foot side setback. The Planning Board was amenable to this proposal, and moved to recommend approval of the proposed Zoning Ordinance changes during a public hearing on October 27th, 2021.

LEGAL REVIEW:

Legal review will be provided prior to the public hearing.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

PUBLIC NOTIFICATION:

The Public Arts Board and the Design Review Board have discussed this item in multiple public meetings. A legal ad was placed in a newspaper of local circulation to advertise the nature of the proposed amendment in advance of the October 27th, 2021 Planning Board meeting. Noticing will be provided in a newspaper of local circulation 15 days prior to the City Commission hearing as well.

SUMMARY:

The Planning Division recommends that the City Commission set a public hearing date of December 6th, 2021 to consider amendments to the Zoning Ordinance to permit a review process for the installation of wall art in Birmingham.

ATTACHMENTS:

- Proposed ordinance language
- Wall art memo
- Terminating Vista Report
- Relevant meeting minutes from Public Arts Board, Design Review Board, and Planning Board

SUGGESTED RESOLUTION:

Make a motion adopting a resolution to set a public hearing for December 6th, 2021 to consider the following amendments:

To amend Chapter 126, Article 7, Section 7.41-7.46 – Processes, Permits, and Fees to create a review process for wall art;

AND

To amend Chapter 126, Article 9, Section 9.02 Definitions to create a definition for wall art.

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND ARTICLE 7, SECTION 7.41-7.46 – PROCESSES, PERMITS, AND FEES
TO CREATE A REVIEW PROCESS FOR WALL ART**

~~7.41 Zoning Ordinance Compliance Permit: Purpose~~

~~It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot until the Building Official has issued for such intended use a Zoning Ordinance Compliance Permit or Certificate of Occupancy and use as provided for in Chapter 22 of the Birmingham City Code.~~

~~7.42 Zoning Ordinance Compliance Permit: Application~~

~~A. In all cases where a certificate of occupancy and use is not required, application for a Zoning Ordinance Compliance Permit shall be made, except for signs which are regulated by Chapter 86 of the Birmingham City Code. This application shall be made in writing to the Building Official on forms provided for that purpose. A record of all such applications shall be kept on file by the Building Official.~~

~~B. The Building Official shall require every application for a Zoning Ordinance Compliance Permit shall be accompanied by a written statement and plans or plats showing the following in sufficient detail to enable the Building Official to ascertain whether the proposed work or use is in conformance with the Zoning Ordinance:~~

- ~~1. The actual shape, location and dimensions of the lot.~~
- ~~2. The existing and intended use of the lot and of all buildings or structures upon the lot.~~
- ~~3. Such other information which may be essential for determining whether the provisions of the Zoning Ordinance are being observed.~~

~~C. The Building Official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work. If such preliminary application is denied in writing by the Building Official, the applicant may appeal such action to the Board of Zoning Appeals. However, the Building Official shall not refuse to issue a permit when the conditions imposed are complied to by the applicant despite violations of contracts, such as covenants or private agreements, which may be obtained upon the granting of such permit.~~

7.41 Wall Art Review: Purpose

The purpose of this section is to enable creative artistic designs on the exterior of buildings, to activate space and create an inviting experience through the use of art, to allow for public input regarding wall art design, and to ensure the location, size and design of wall art is aesthetically appropriate and compatible with the area of the proposed location.

7.42 Wall Art Review: Application Requirements

- A. An application for wall art shall include the following;**
 - a. An application form from the Planning Department, indicating property owner's name, mailing address, location of the property, name of the artist, artist contact information, and such other information as deemed necessary by the appropriate reviewing body.**
 - b. Two hard copies and one digital copy of the proposed design which includes, but is not limited to, a drawing, rendering or photo of the proposed artwork to be placed on the building, as well as the proposed dimensions of the art work.**
 - c. A photo of existing conditions of the wall where the artwork is proposed, along with the dimensions of the wall or walls.**
 - d. A timeframe for the art work to be exhibited and whether it is intended to be temporary or permanent.**
 - e. Specifications of materials that will be used for the art work.**
 - f. A resume of the artist(s) including names, location, and photos of previous work.**

7.43 Wall Art Review: Review

All applications for wall art begin with review and recommendation by the Public Arts Board. The application will then be reviewed by the Design Review Board for final consideration. Final approval of wall art is subject to the review requirements for the Design Review Board as stated in Section 7.09 *Design Review: Review*.

7.44 Wall Art Review: Application Fee

An application fee as established by the City Commission and set forth in Appendix A of the City Code shall be payable upon submitting an application for Wall Art Review pursuant to this division.

7.45 Zoning Ordinance Compliance Permit: Purpose

It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot until the Building Official has issued for such intended use a Zoning Ordinance Compliance Permit or Certificate of Occupancy and use as provided for in Chapter 22 of the Birmingham City Code.

7.46 Zoning Ordinance Compliance Permit: Application

- A. In all cases where a certificate of occupancy and use is not required, application for a Zoning Ordinance Compliance Permit shall be made, except for signs which**

are regulated by Chapter 86 of the Birmingham City Code. This application shall be made in writing to the Building Official on forms provided for that purpose. A record of all such applications shall be kept on file by the Building Official.

B. The Building Official shall require every application for a Zoning Ordinance Compliance Permit shall be accompanied by a written statement and plans or plats showing the following in sufficient detail to enable the Building Official to ascertain whether the proposed work or use is in conformance with the Zoning Ordinance:

1. The actual shape, location and dimensions of the lot.
2. The existing and intended use of the lot and of all buildings or structures upon the lot.
3. Such other information which may be essential for determining whether the provisions of the Zoning Ordinance are being observed.

C. The Building Official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work. If such preliminary application is denied in writing by the Building Official, the applicant may appeal such action to the Board of Zoning Appeals. However, the Building Official shall not refuse to issue a permit when the conditions imposed are complied to by the applicant despite violations of contracts, such as covenants or private agreements, which may be obtained upon the granting of such permit.

ORDAINED this _____ day of _____, 2021 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, SECTION 9.02 – TO PROVIDE A DEFINITION FOR WALL ART

Wall Art – An artistic design applied to the exterior surface of a structure in a permanent or temporary manner. The location of wall art is limited to elevations of structures facing the side or rear lot line within the defined Rail District boundary, side elevations with a 0 foot setback in the Triangle District and Downtown Overlay District, and elevations facing a public or private alley, passage, or via in the Downtown Overlay and the Triangle District as specified in the Via Activation Overlay District. Wall art is not permitted on a building facing an alley, passage or via that any of which abuts a single-family residential zoned property.

ORDAINED this _____ day of _____, 2021 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

DATE: October 22nd, 2021

TO: Planning Board

FROM: Brooks Cowan, City Planner

SUBJECT: Public Hearing: Wall Art

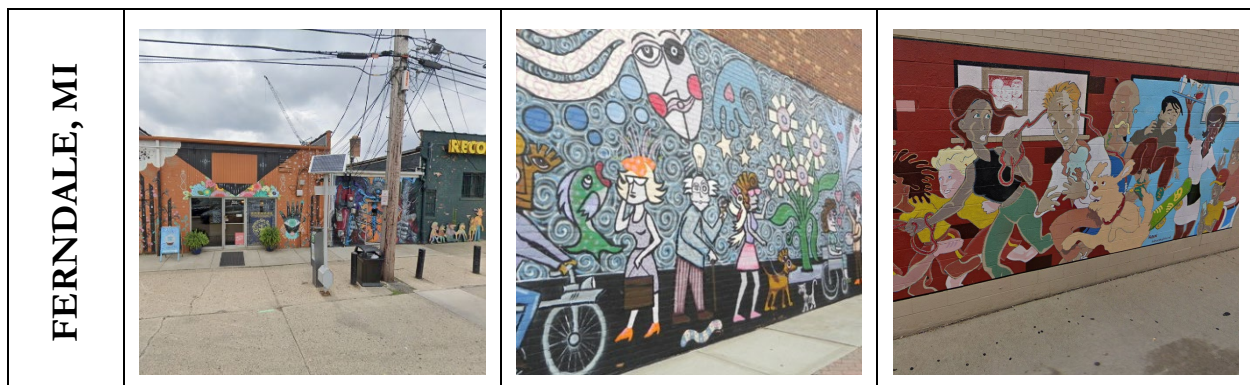
Conversations regarding wall art in Birmingham with the Public Arts Board occurred throughout 2019 and 2020. On August 24th, 2020, the Public Arts Board submitted a report on ways to enhance Terminating Vistas to the City Commission with a number of recommendations, one being to allow murals and wall art in the City.


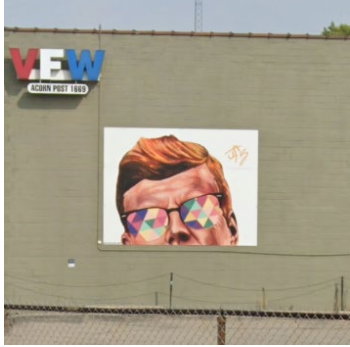
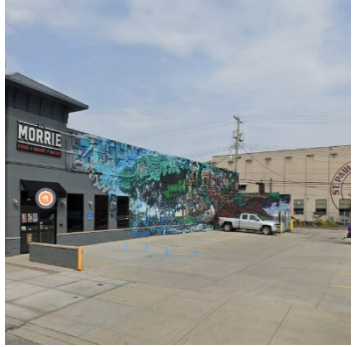

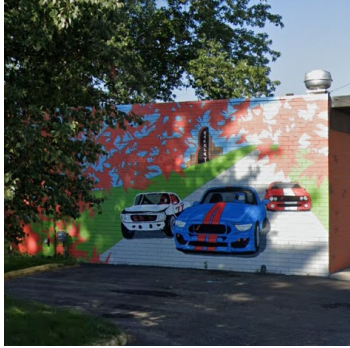
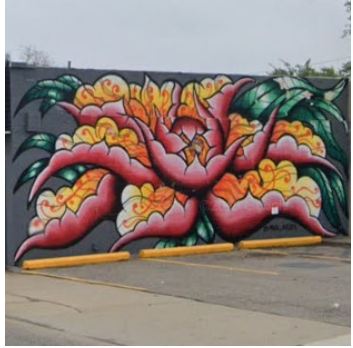
On August 19th, 2020, the Design Review Board conducted a study session related to murals and art on the exterior of buildings. The issue was brought up by staff when Griffin Claw Brewery requested to have an artist paint a mural on the side of their building. Issues related to the Sign Ordinance preventing murals from being painted on the side of a building were discussed, as well as issues regarding the lack of clarity in the Sign Ordinance and Zoning Ordinance for the application of wall art versus signage and building design features. Discussion regarding the location of wall art and how the board may consider limiting such art to certain locations occurred. There was also discussion related to defining art in the Ordinance in order to separate wall art from signage and architectural design features.

The issue with signage not allowed to be painted onto buildings refers to the Sign Ordinance Section 1.03(D) Painted Signs which states, "*No sign may be painted directly onto any building surface.*" By creating a definition and review process for wall art in the Ordinance, there would be a policy and procedure in place to separate wall art from signage.

In regards to supporting ordinance language, Section 3.16(A)(3) of the Via Activation Overlay District lists "*art display*" as a permitted use to encourage the activation of vias. Staff recommends a review process for art display to ensure quality control and public comment.

Examples of wall art from local cities have been provided as follows:



ROYAL OAK, MI			
BERKLEY, MI			

More examples of wall art may be found in in the Terminating Vista Report attached to the memo.

On November 4th, 2020, staff presented the Terminating Vista Report and wall art recommendations to the Design Review Board where staff recommended that the Design Board consider three items related to wall art for discussion:

- 1.) Permitting murals to be painted on the exterior of buildings;
- 2.) Permitting wall art to be applied to the exterior of buildings, including but not limited to:
 - Temporary Canvasses
 - Ceramic Tiling
 - Wall sculptures
- 3.) Creating a review process for wall art that incorporates a review and recommendation from the Public Arts Board first.

In regards to discussion item one, the Design Review Board was amenable to murals being painted directly onto buildings in areas such as alleys, however they expressed concern about this being applied to the front of a building. A member of the DRB was also involved in the Alleys and Passages Plan committee and noted that murals in alleys could be a positive addition to the plan.

In regards to discussion item two, the Design Review Board was also amenable to temporary art, though they had issues related to how the city regulates content. It was discussed that trying to regulate specific content could create legal issues with freedom of speech.

In regards to discussion item three, the Design Review Board was also amenable to a wall art review process that involves an application for wall art, and is reviewed with a recommendation by the Public Arts Board before going to the Design Review Board for final review.

On November 18th, 2020 the Public Arts Board discussed the following items brought up at the Design Review Board and recommended topics from staff:

1. Allowing murals directly on buildings along the alley and passages as indicated in the Alleys and Passages Plan (see map below). The 2040 Draft Master Plan recommends the Rail District as a potential location for this as well. The Board may wish to discuss limiting this to certain areas.
2. Creating a content review process for temporary wall art such as canvasses. For example, will the applicant be required to provide renderings beforehand, or can an artist be commissioned to paint what they wish after review of a portfolio?
3. Creating a review process for wall art that involves comment and recommendation from the Public Arts Board before the DRB/ HDC makes the final approval or denial.

There was general consensus from the Public Arts Board that the locations suggested by the DRB were reasonable. The Public Arts Board also felt that drawings, renderings, or photos of the proposal should be required before approval. The Arts Board was also amenable to a process involving making recommendations to the DRB/HDC prior to going through the final review process.

On January 21st, 2021, the Public Arts Board reviewed ordinance language that defined wall art and created a review process for approval. In regards to wall art being limited to the Rail District and alleys within the Downtown Overlay and Triangle District, the Public Arts Board is currently content with the recommended areas. If the City likes the program and wanted to expand the boundaries in the future, the Public Arts Board mentioned that they would be amenable to doing so.

Concerns about subject matter were discussed at both the Design Review Board and the Public Arts Board throughout the study session process. Given the broad concept of what is considered art, staff recommended to the Public Arts Board that the definition of wall art be kept broad. Attempting to regulate art with a specific list of what is and is not allowed to be considered art would be cumbersome to put into ordinance language. The Public Arts Board felt that the best way to distinguish between art and signage is to require renderings of the proposed artwork prior to approval and allow the content to be vetted by staff, the Public Arts Board, and the Design Review Board.

On March 3rd, 2021, the Design Review Board considered the proposed wall art ordinance. The DRB had concerns about wall art in alleys that faced residential zones, particularly in the alley between Ann Street and S. Old Woodward. The DRB also wanted to verify boundaries of the Via Activation Overlay.

Upon review, Section 3.14 of the Zoning Ordinance specifies the boundary for the Via Activation Overlay District and outlines the areas in pink on the map which is attached. Verbage has been added to the wall art definition that prohibits wall art in an alley facing a single-family residential zone, and the Via Activation Overlay District has been specified as the boundary.

On April 7th, 2021, The Design Review Board verified the boundaries of the Via Activation Overlay District. The Board was amenable to the suggested Ordinance language allowing wall art to abut alleys in the Via Activation Overlay District, as well as the side and rear walls in the Rail District. The Board was also amenable to a review process that begins with a recommendation from the Public Arts Board and is then finalized by the Design Review Board.

On August 11th, 2021, The Planning Board reviewed the proposed amendments and recommended minor changes such as using the word "abutting" instead of facing, to elaborate more on the purpose for wall art review, and to replace the word "content" with something else. Upon review of the word "elevation", "facing", and the definition of "abutting" in the Zoning Ordinance, the Planning Division recommends using the term "facing" to accommodate for any setback. Facing is term used throughout the Ordinance in various sections regarding the wall of a building and its orientation towards the street.

On September 23rd, 2021, staff asked the Planning Board if they are amenable to permitting wall art on side or rear walls in the triangle district and/or downtown that do not abut an alley, via, or passage. In particular, side walls with 0 foot setback that do not have windows. Permanent or temporary art installations could be a way to activate the space until another building is constructed beside it.

Commerical and residential uses in the Triangle District are not permitted to have windows on side elevations with a 0 foot setback that do not face a street, alley, or passage. Buildings in the Downtown Overlay also do not permit windows on 0 foot setback sidewalls for commercial uses, however it does permit residential uses to do so with fire rated glass. Windows on a 0 foot side setback are either banned or considered risky because of the potential for a neighboring property to construct a building with 0 foot side setback, block the window view, and create a fire hazard. This has resulted in large blank sidewalls on multi-story properties beside single-story or vacant properties. The Planning Board felt that permitting wall art on sidewalls with 0 foot setback in the Downtown Overlay and Triangle District could be a way to enhance the space on blank walls until a building is constructed alongside it.

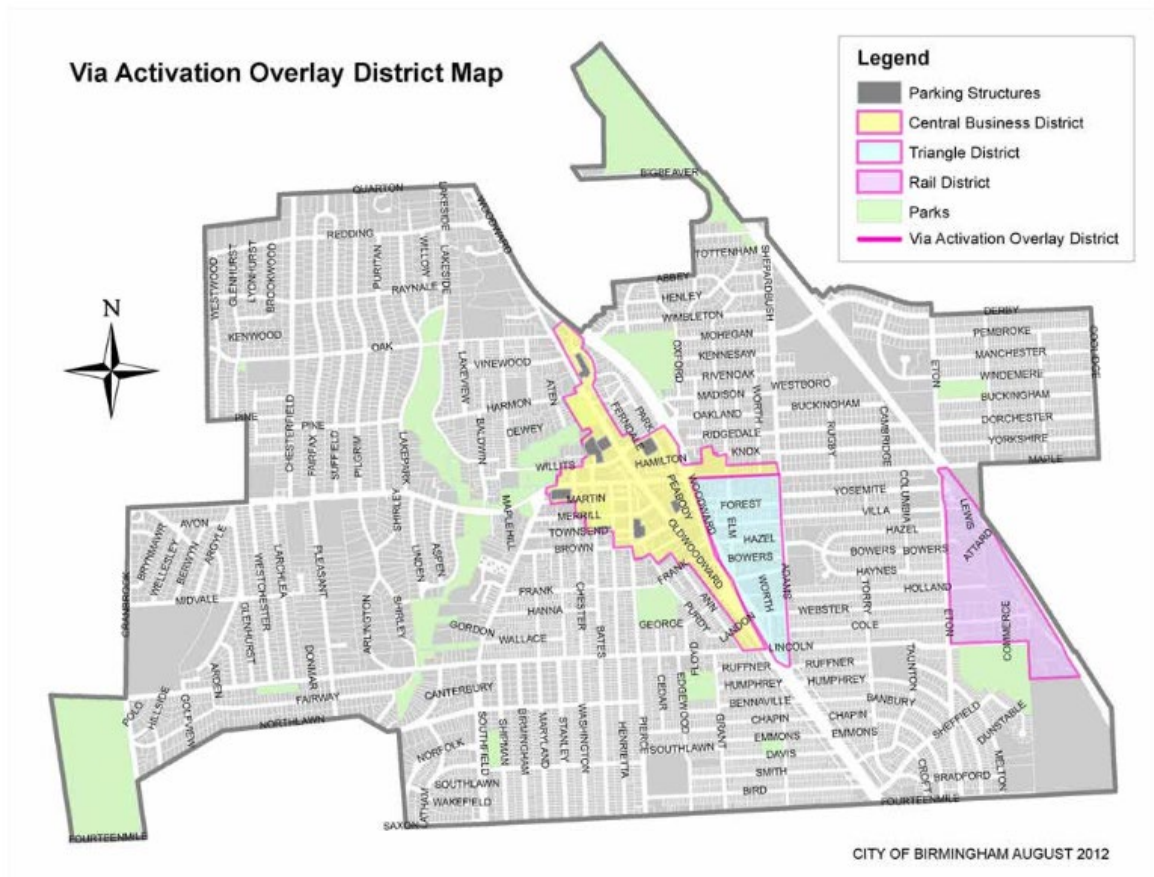
Suggested Action:

To recommend Zoning Ordinance amendments to Aticle 7, Section 7.41-7.44 and Article 9, Section 9.02 to define wall art and require a review process involving the Public Arts Board for recomendation and Design Review Board for final approval.

(Section 3.14 Via Activation Overlay Map)

3.14 Applicability

A. The Via Activation Overlay District shall be an overlay district that applies to all existing and future vias in all zoning districts within the areas identified below:



DOWNTOWN ALLEYS & PASSAGES CLASSIFICATIONS MAP

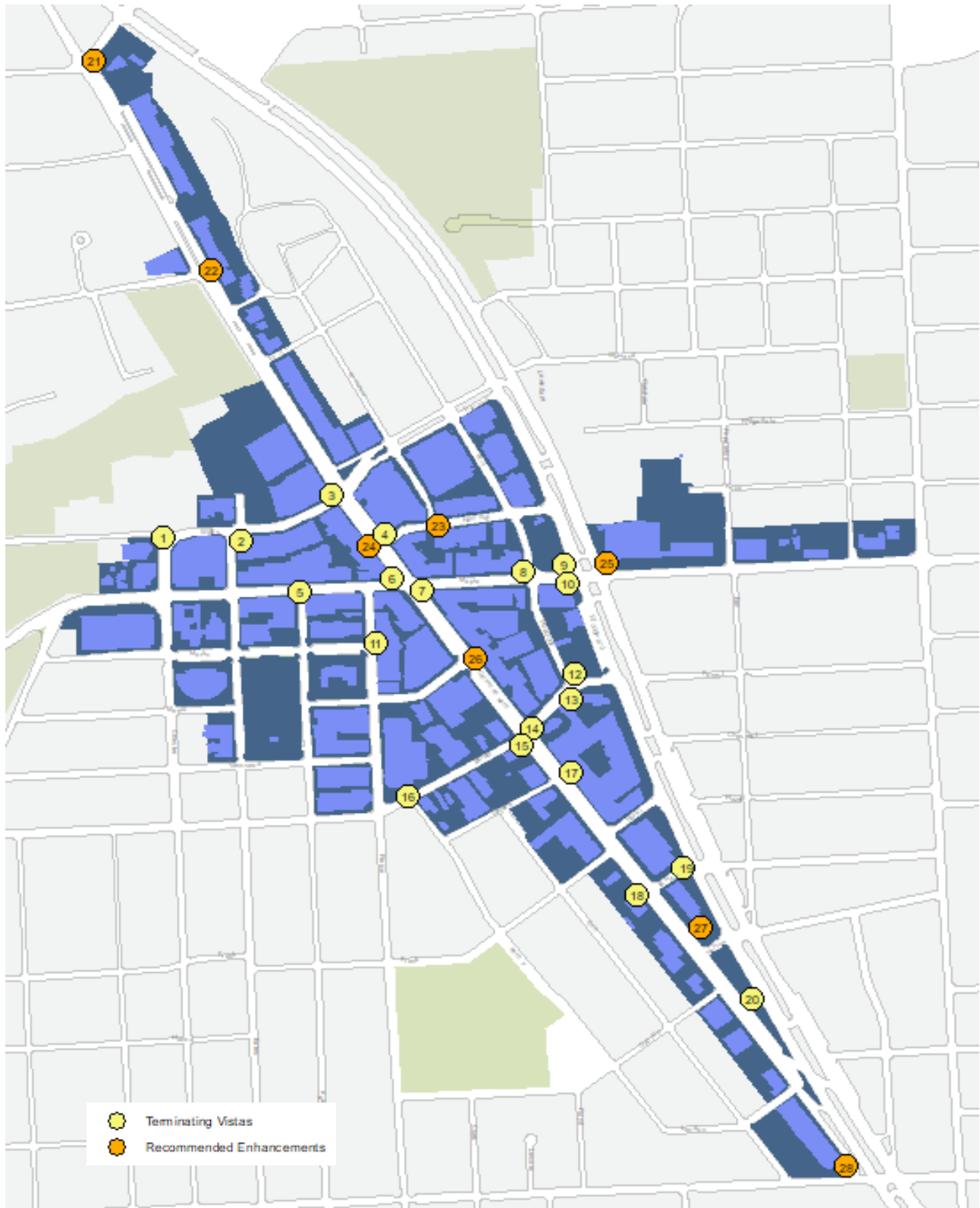


LEGEND

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| — Active | Parks |
| — Connecting | Crosswalks |
| — Destination | ⊙ Vistas |
| Parking Structures | |

Terminating Vistas in Downtown Birmingham

A Report by the Birmingham Public Arts Board



August 24th, 2020

Report Summary

On May 20th, 2019 The Birmingham Public Arts Board was asked by City Commission to evaluate ways to enhance Terminating Vistas in Birmingham's downtown through the use of Public Art.

The concept of Terminating Vistas having enhanced design features was first introduced to the City in the Downtown Birmingham 2016 Plan and the designated locations were approved as a part of the Downtown Overlay District in 1997.

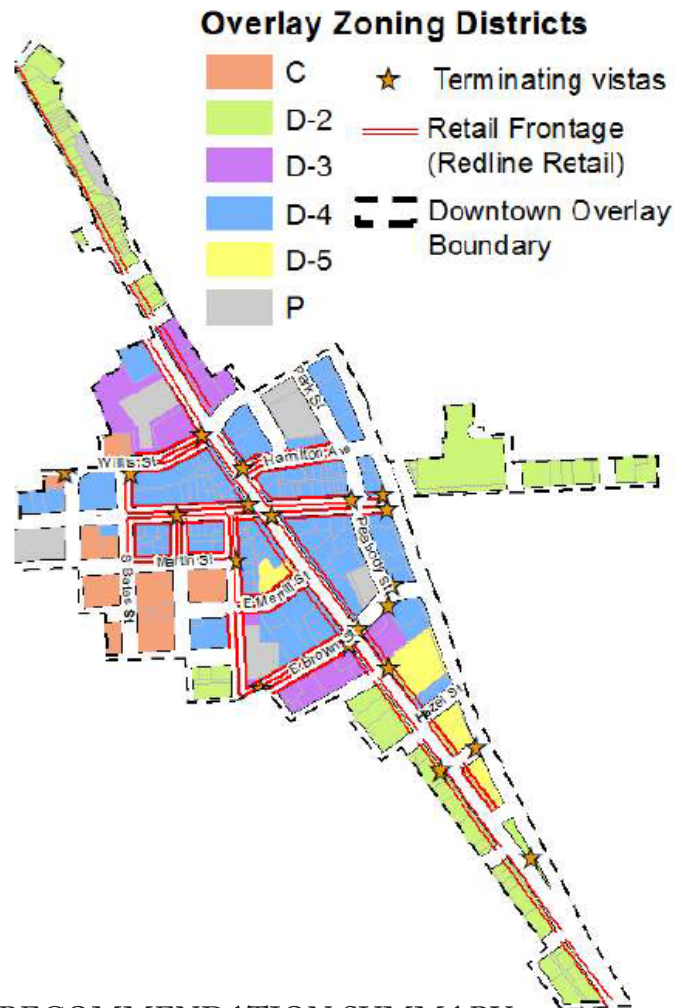
Terminated Vistas are defined in the Zoning Ordinance as *"a building or structure, or a portion thereof, as designated on the Regulating Plan, that terminates a view with architectural features of enhanced character and visibility"* (Section 9.02 Definitions).

Section 3.04(E)(15) of the Downtown Overlay Standards states that *"any building that terminates a view, as designated on the Regulating Plan, shall provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building's location and create a positive visual landmark."*

The Downtown Overlay Zoning Districts Map has designated 20 locations as Terminating Vistas. The Birmingham Public Arts Board used these locations as a guide to evaluate Terminating Vistas and make recommendations relative to ways in which public art may help enhance the City's Terminating Vistas. Recommendations for prominent intersections that could benefit from enhanced design features were also made.

The Public Arts Board evaluated various types of public art that could be placed in Terminating Vistas such as sculptures, furniture, artistic utilities, landscaping and murals. Current City policy affecting the review process and installation process was also considered and recommendations were made regarding City standard furniture, landscaping, utilities and signage policy.

Lastly, the Public Arts Board evaluated City policy impacting the installation process of public art and has provided policy recommendations to assist in the implementation of the public art recommendations.



RECOMMENDATION SUMMARY

- 1.) Use public art such as sculptures, artistic furniture, artistic utilities, landscaping and wall art to enhance the City's Terminating Vistas.
- 2.) Revise the sculpture installation process to incentivize sculptures on loan and to make the installation process more efficient for artists and City staff.
- 3.) Revise City policy towards City-standard benches, light poles, landscaping and utility boxes to permit an occasional artistic variation.
- 4.) Amend the sign ordinance and create a new design review policy to allow murals to be placed on the exterior of buildings.
- 5.) Create a public notification process for art in public spaces.

Terminating Vista Locations in Birmingham



Terminating Vista Locations in Birmingham



Terminating Vista Locations in Birmingham



Terminating Vista Locations in Birmingham

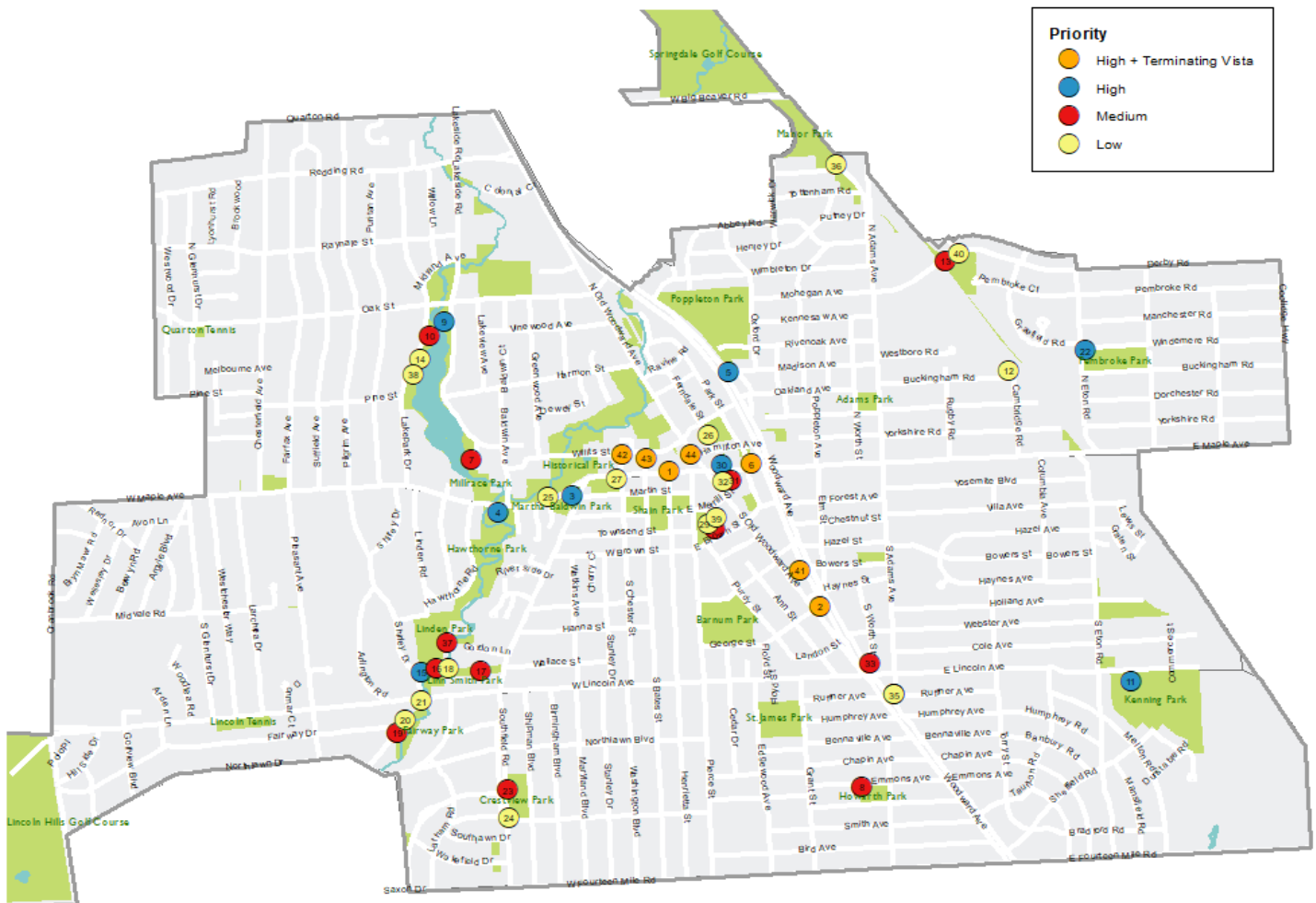


Prioritized Locations for Public Art

The Public Arts Board maintains a map of prioritized locations for public art. It is used as a reference whenever a sculpture for loan or donation is made to the City. Each point is numbered for reference, and the colors indicate areas with higher priority. The priorities are meant to serve as a guideline, though the Public Arts Board has indicated that each sculpture will be evaluated on a case-by-case basis so that it can be contextual with its surroundings.

The Public Arts Board reviewed the various Terminating Vistas and selected seven of the locations to add to their priority map for sculptures. These locations include N. Old Woodward and Hamilton Row, Chester & Willits, Bates & Willits, Maple & Henrietta, Park & Maple, S. Old Woodward & Bowers, and S. Old Woodward & Woodward. The updated Prequalified Public Art Locations Map is pictured below where downtown Terminating Vistas were placed as a high priority.

City of Birmingham Prequalified Public Art Locations

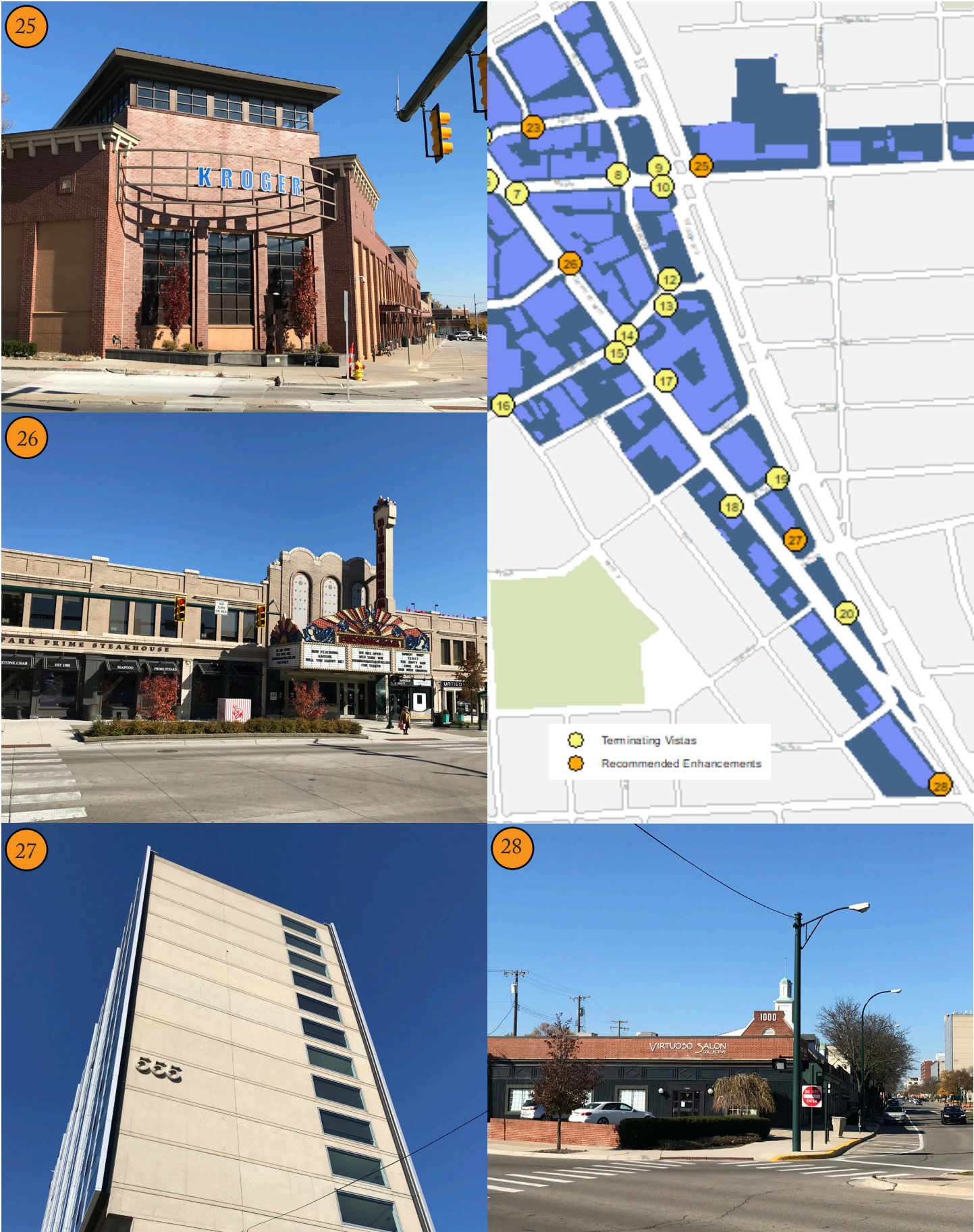


Recommended Locations for Public Space Enhancements

Terminating Vista locations are defined by the Downtown Overlay zoning map, as specified in Section 3.04(E)(15) of the Zoning Ordinance. Upon evaluation, the Public Arts Board finds that there are other intersections throughout downtown Birmingham that merit enhanced architectural and streetscape design features to create a positive visual landmark for that intersection which are included in the orange locations in the adjacent map. If the City wishes to officially deem these locations as Terminating Vistas, the Zoning Ordinance would have to be reviewed by the Planning Board and amended by the City Commission.



Recommended Locations for Public Space Enhancements



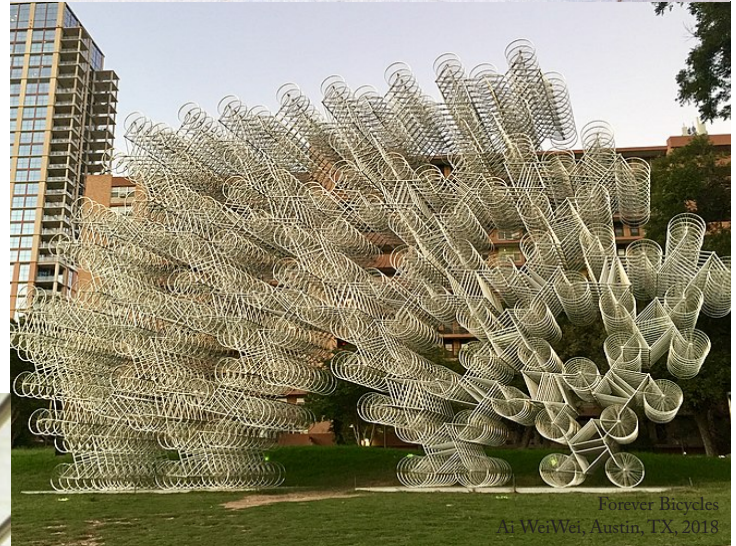
Best Practices in Public Art for Terminating Vistas: Sculptures

Sculptures are one way in which public art can be used to enhance the architectural features of a Terminating Vista. Doing so may effectively draw more attention and bring more prominence to the surrounding buildings. Birmingham currently has fifteen sculptures throughout the City that have either been purchased, donated or placed on loan, though only one is currently in a designated Terminating Vista which is located at the corner of Pierce and Brown Street.

Public sculptures have the ability to compliment the surrounding buildings and invigorate public spaces. The various colors and shapes of sculptures provide the ability for art to interact with the surrounding building and public right-of-way, potentially enhancing the connection between the two. Unique public art may create a stronger sense of place and identity for the building and intersection where it is placed in a Terminating Vista. Such sculptures may capture the eye of a passer-by, bring more attention to the civic environment and contribute to a greater sense of civic vitality.



Tembo, Mother of Elephants
Derrick Hudson, Toronto, ON, 2002



Forever Bicycles
Ai Weiwei, Austin, TX, 2018



I See What You Mean
Lawrence Argent, Denver, 2005



Flamingo
Alexander Calder, Chicago, IL, 1974

Best Practices in Public Art for Terminating Vistas: Artistic Furniture

Artistic furniture is another way public art can be used to enhance the character of a Terminating Vista. Doing so may accent the surrounding buildings while providing a unique public space for socializing or respite.

The City of Birmingham is a walkable city with pedestrian oriented design throughout its downtown and neighborhoods. Unique public furniture may invite a variety of uses that activate a Terminating Vista and promote social interaction. The shape and color of artistic furniture may also have an aesthetic contribution to the right-of-way and surrounding buildings. An artistic bench can be more inviting for a pedestrian to relax and enjoy a section of the City they may have otherwise walked past, and may provide an enhanced civic experience for leisure and appreciation of the surrounding cityscape. Artistic furniture can provide the opportunity to activate Terminating Vistas with people-oriented architectural streetscape design.



The Wave
dSPACE Studio, Chicago, IL, 2014



Circular Bench
Lucile Soufflet, Bruxelles, France 2003



Swirling Bench



Custom Curve Seats
University of Sydney, Australia



Bench of Expectations
Jeppe Hein, Springfield, MA 2018

Best Practices in Public Art for Terminating Vistas: Artistic Utilities

Artistic utilities may also enhance a space and bring more prominence to the surrounding buildings. Many cities, including Birmingham, Michigan have painted electrical boxes with an interesting design to add more character to a utility box placed in the right-of-way. Cities such as Milwaukee, Wisconsin have commissioned artists to paint numerous utility boxes throughout their downtown with a theme to be determined by the artist. There are other examples of cities having sculptors create artistic coverings for electrical boxes that are equipped with hinges and gates for access to interior controls. These coverings provide opportunities for other types of art to be placed on and around them to compliment the surrounding space and improve the aesthetics of public utilities.

Artistic lighting could also be used to enhance the pedestrian experience and illuminate architectural features in a Terminating Vista. Cities such as Portland, Oregon and Seattle, Washington have explored various solar powered lights and sculptures with an artistic design and ambient glow to create unique public spaces. A well placed artistic light can enhance the character of the area and create an interesting talking point while highlighting the surrounding buildings.



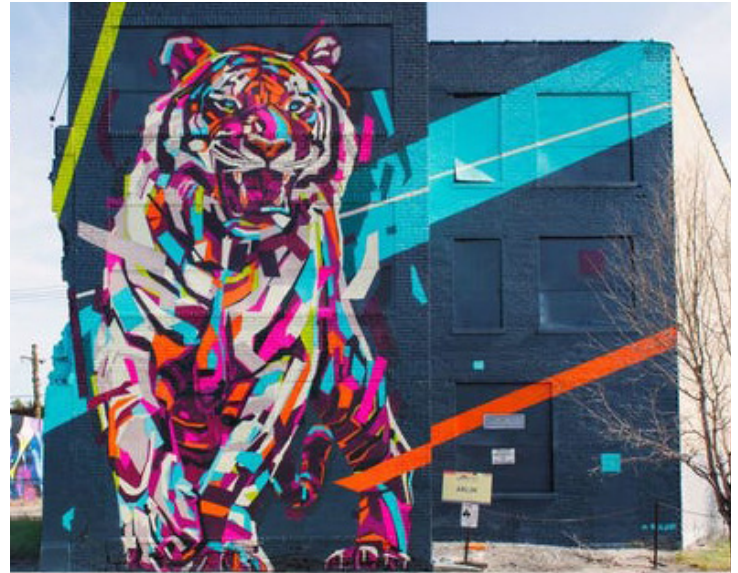
Best Practices in Public Art for Terminating Vistas: Wall Art

Outdoor wall art such as murals, mosaics, and ceramic tiling are another example of public art that can enhance a public space and the surrounding architectural features.

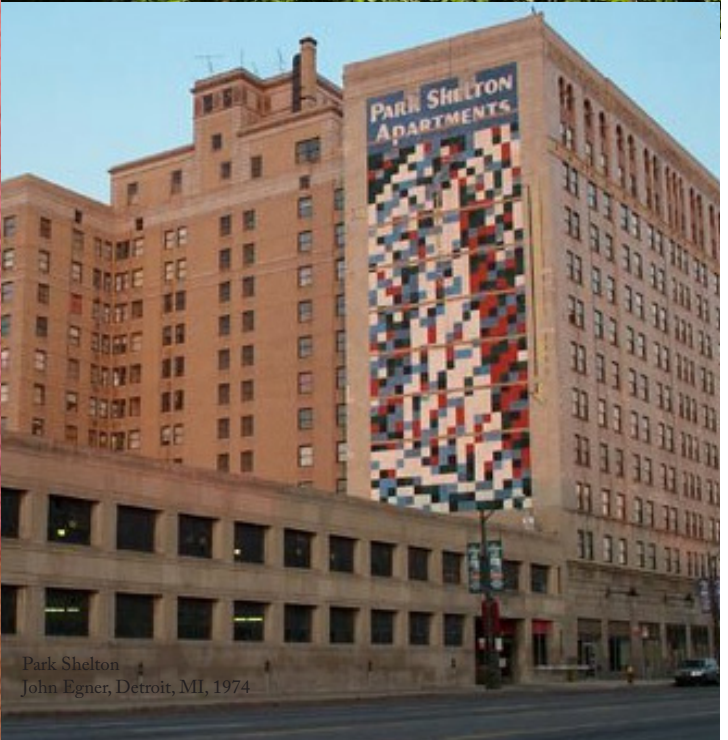
Wall art can be temporary or permanent. For local examples, The Park Shelton mural in Detroit, MI has been up since 1978, meanwhile Detroit's Eastern Market cycles through numerous murals every year.

Temporary murals can be done on materials such as plywood or canvas and be applied to the exterior of a building for a length of time and then be removed, thus maintaining the original design and color and the building. Mosaics and ceramic tiles can also be used to provide an interesting texture to the artistic experience.

The various forms of wall art can be especially effective in activating Terminating Vista spaces that have large sections of blank walls.



Tiger
Arlin Graff, Detroit, MI



Park Shelton
John Egner, Detroit, MI, 1974

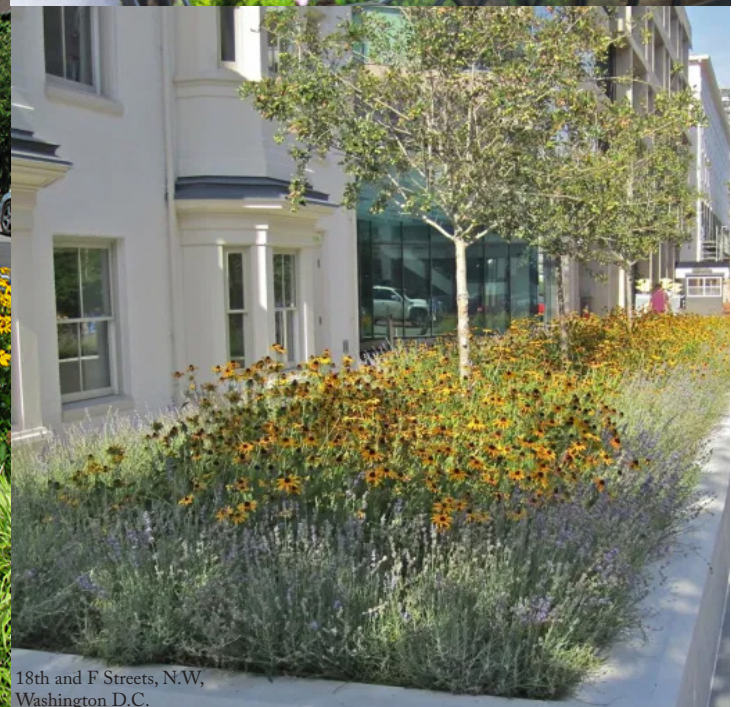


Aretha
Desiree Kelly, Detroit, MI

Best Practices in Public Art for Terminating Vistas: Landscaping

Integrating artistic landscaping with art and design can be another way to enhance Terminating Vistas. Birmingham has a number of green spaces and planters surrounding buildings at prominent intersections. An example is at Park and Maple where a community garden welcomes people into the downtown. This garden blends well with the Pazzi Building immediate behind it, and provided a natural landscaping to screen the electrical box located within it. Landscaping could be an effective medium to connect buildings, utilities, furniture and sculptures together into one cohesive artistic experience.

As another example, the City of Seattle allows property owners and tenants to garden in the planting strip in front of their property as long as a proper street use permit is obtained. Once obtained, the plantings may include low growing perennials, ornamental grasses, shrubs, herbs, or edible plants. Doing so could encourage more interesting variety in landscape design and create a unique space at prevalent intersections.



City Policy Related to Public Art in Terminating Vistas

SCULPTURES

Birmingham currently has sculptures on display that were either donated to the City, purchased by the City, or placed on loan to the City for a certain period of time. If the sculpture is donated and placed on public property, the City is responsible for installation and maintenance of the sculpture. If a sculpture is on loan, the loan agreement specifies that the artist is responsible for installation, maintenance and removal.

An issue with the current policy for sculpture installation is that each piece is unique and may require special care for installation. This includes but is not limited to how the sculpture is transported to the installation site, how to safely secure the sculpture to the location, how to create the necessary base and fabricate proper mounts. City staff may not have adequate experience to handle the installation process of various unique sculpture shapes and sizes. Requiring the artist to be responsible for all installation and removal processes may also create issues related to the artist operating machinery on City property.



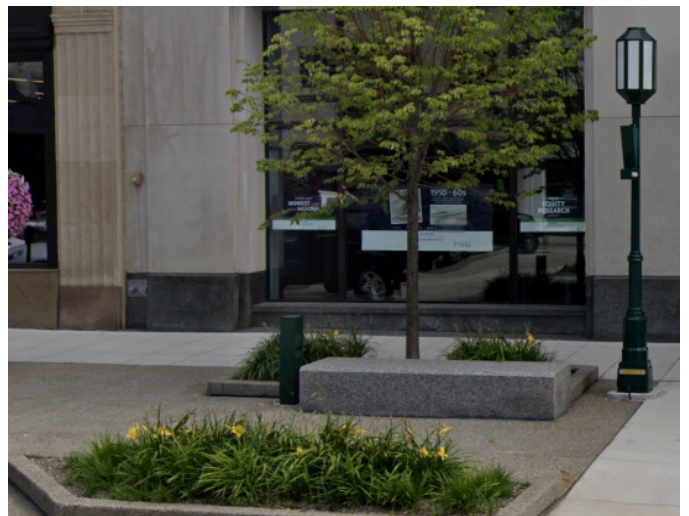
Local art museums such as the Detroit Institute of Arts and Cranbrook Museum have employees who specialize in the installation of sculptures. **The Public Arts Board recommends that the City of Birmingham consult with such specialists for installing sculptures that have been either donated or loaned to the City.** Doing so would enable a more efficient installation process in areas such as Terminating Vistas.



ARTISTIC FURNITURE

Downtown Birmingham has City-standard green metal benches installed along the sidewalks as well as granite benches that were a part of the downtown Old Woodward and Maple Reconstruction projects. This classic design for public furniture fits in with the surrounding streetscape and does not detract from the architectural style of downtown Birmingham.

The Public Arts Board recommends that Birmingham consider allowing more creative and artistic furniture that will contribute a positive design aesthetic to the character of the area. Doing so could enhance the pedestrian space in Terminating Vistas and be used to activate the public space and compliment the surrounding architecture. The City's current approach to streetscape furniture with City-standard benches should remain relatively consistent, but the Public Arts Board recommends that an occasional deviation from City-standard furniture in Terminating Vistas could create a unique pedestrian experience and enhance the character of the area.



City Policy Related to Public Art in Terminating Vistas

PUBLIC UTILITIES

Birmingham's streetscape contains electrical utility boxes and a number of light-poles in the right-of-way in Terminating Vistas. The City-standard light poles and electrical boxes are all painted Birmingham green, with the exception being the recent popcorn box art project at the intersection of Merrill and Old Woodward.

The Public Arts Board has considered a number of different ways to paint and decorate electrical boxes throughout downtown. Various themes were discussed, as well as whether or not the design should be contextual with the surrounding. It was determined that each box should be considered on a case-by-case basis and should not be directly tied to any theme or be required to be related to the surrounding use. **The Public Arts Board recommends the City be open to all types of artistic designs for electrical boxes.**

Sculptural enclosures for such utility boxes have also been considered by the Public Arts Board. **The Public Arts Board recommends that these be considered on a case-by-case situation as well, and not be tied to any theme or surrounding context.** Given the intended function of electrical boxes, any sculpture placed on or around the electrical box should provide easy access to the interior controls and should only be mounted on the ground. **The Public Arts Board does not recommend drilling holes or attaching public art directly to the electrical boxes in order to maintain the integrity of the box.**

The Public Arts Board also recommends that the City consider allowing unique designs in lighting that are in Terminating Vistas. Lighting can be used for either function or form to create a unique aesthetic from the shape of the lantern and the ambient glow of the light. An occasional artistic light pole to replace a city standard lamp in front of a Terminating Vista could enhance the interaction between the streetscape and surrounding buildings. City standard lights should remain relatively consistent, but the Public Arts Board recommends an occasional deviation in this pattern to allow for unique designs.



City Policy Related to Public Art in Terminating Vistas

WALL ART

Artistic paintings such as murals on the front, side or rear of buildings are not currently permitted in Birmingham. Such paintings are considered a sign and section 1.03(D) of the Sign Ordinance states that *“No sign may be painted directly onto any building or surface.”*

The Public Arts Board recommends that the City re-evaluate its policy towards wall art and create a design review process for such art work. There are several Terminating Vistas with large blank walls that the Public Arts Board believes would be ideal for murals, but current policy restricts the building owner from pursuing such design enhancements.

The 2020 Birmingham Plan Draft recommends implementing a mural policy in the Lower Rail District to extend and improve upon the area’s current character, though the Public Arts Board recommends that such a policy be implemented throughout the entire City. A temporary mural program is also recommended where the painting could be placed on some type of material which is then attached to the building.

Murals could be another form of public art used to enhance Terminating Vistas throughout downtown. There are some Terminating Vistas that are more suitable than others and the Public Arts Board recommends that the review process engage the public for input so there is support on a community level.

In order to permit murals and various types of wall art, the Public Arts Board recommends that the City amend the Zoning Ordinance and Sign Ordinance to allow wall art and to define a proper review process by the necessary boards. This would also include creating a public notification process for public art in the municipal code.



City Policy Related to Public Art in Terminating Vistas

LANDSCAPING

The City of Birmingham is an excellent example for maintaining high quality landscaping throughout its streetscape in downtown. Well-maintained flower pots can be found hanging from the lamp posts while an array of plants can be found within the gardens along the sidewalks. The landscaping blends well with the surroundings and provides a complimentary aesthetic to the area.

For instances when a public utility is placed within a planter box in a prominent intersection, the Public Arts Board recommends that special consideration for landscaping is made to help screen the utilities from view, especially in cases where no artistic design has been applied to the utility.

When a piece of art is placed within a planter box, the Public Arts Board recommends that special consideration also be made regarding the size and types of plantings surrounding the artwork in order to allow the aesthetics of the art, landscaping and surrounding buildings to work together in a complimentary manner.

The Public Arts Board also recommends the City consider allowing adjacent businesses in downtown design their own planter garden in front of their store. Proper permitting and design process would have to be created and implemented. Doing so could allow some unique designs regarding landscaping and how the plantings interact with the surroundings.

PUBLIC NOTIFICATION

At the moment, there are no formal requirements for public notification regarding proposals for sculptures, artistic furniture and artistic utilities. The item is posted on the Public Arts Board Agenda and City Commission Agenda, but notifications are not required to be sent to surrounding businesses and residents for public art projects. **In order to promote public input at the Public Arts Board and City Commission, the Public Arts Board recommends establishing a public notification policy for public art projects on City property.**



Recommendation and Implementation Priorities

Recommendation 1: Use public art such as sculptures, artistic furniture, artistic utilities, landscaping and wall art to enhance the City's Terminating Vistas

Implementation: Actively seek artists to provide various forms of artwork. Advertise in the art community for the type of art the City is seeking.

Recommendation 2: Revise the sculpture installation process to incentivize sculptures on loan and to make the installation process more efficient for artists and City staff.

Implementation: Establish an agreement with a professional sculpture installation specialist to consult and assist with sculpture installations in Birmingham. Amend the City's art on loan agreement to require approval of sculpture installation from installation consultant.

Recommendation 3: Revise City policy towards city-standard furniture and utilities to allow for an occasional artistic variation.

Implementation: Amend the Zoning Ordinance to allow an occasional deviation from city-standard benches and light poles where such items may be replaced by an artistically designed light or bench.

Recommendation 4: Create a new policy and review process to allow murals and other various forms of wall art to be placed on the exterior of a building.

Implementation: Amend Zoning Ordinance and Sign Ordinance to allow for placement of temporary and permanent murals and other various forms of wall art. The amendment should include review process by all relevant boards.

Recommendation 5: Establish a public notification policy for art projects on public property.

Implementation: Create a provision in the Public Art Section of the Municipal Code to require public notifications to be sent to residents for public art projects proposed within their area.



Terminating Vista Recommendation and Implementation Framework

Priority	Recommendation	Background	Implementation	Costs	Approval Process
1	Use public art such as sculptures, artistic furniture, artistic utilities, landscaping and wall art to enhance the City's Terminating Vistas.	Public Arts Board is responsible for recruiting and recommending public art in various locations throughout the City.	<ol style="list-style-type: none"> Public Arts Board creates call for entry to recruit art donations and loans. This includes a request for an artist stipend fund to assist with installation before sending out. Public Arts Board reviews art pieces submitted and selects artwork for recommendation. 	\$2,000 per piece if approved, no more than \$10,000 total per year.	<ol style="list-style-type: none"> Public Arts Board Parks and Recreation Board (if on greenspace) City Commission
2	Revise the sculpture installation process to incentivize sculptures on loan and to make the installation process more efficient for artists and City staff.	<p>Issues have arisen regarding responsibility for installation and removal.</p> <p>City Employees may not have expertise to install unique pieces of art.</p> <p>Sculpture installation requirements have varied over the years, particularly related to concrete pads.</p>	<ol style="list-style-type: none"> Public Arts Board recommends revisions to art on loan agreement to allow City to assist with installation and removal to ensure quality control and manage liability. Public Arts Board creates RFQ for sculpture installation specialist to assist with mount fabrication and consult on installation process if necessary. Public Arts Board coordinates with Engineering Department's annual sidewalk program to install concrete base pads. 	<p>Up to \$5,000 for art installation specialist per year.</p> <p>Costs associated with concrete base pad installation (Much more cost efficient to incorporate with Engineering sidewalk program).</p>	<ol style="list-style-type: none"> Public Arts Board City Commission <p>* Input from Engineering and DPS strongly recommended</p>
3	Revise City policy towards city-standard furniture and utilities to allow for an occasional artistic variation in Terminating Vistas.	City-standard benches and lightpoles are required in the downtown.	<ol style="list-style-type: none"> Planning Board reviews Terminating Vista report to consider additional Terminating Vista locations as well as possible ordinance changes to permit artistic furniture and utilities. 	No Cost (In house)	<ol style="list-style-type: none"> Planning Board City Commission
4	Create a new policy and review process to allow murals and other various forms of wall art.	The Sign Ordinance currently prevents wall art.	<ol style="list-style-type: none"> Design Review Board considers definition for wall art in Sign Ordinance and Zoning Ordinance to help clarify difference between art and commercial signage. Design Review Board considers review process for wall art that possibly includes Public Arts Board. 	No Cost (In house)	<ol style="list-style-type: none"> Design Review Board Public Arts Board City Commission
5	Establish a public notification policy for art projects on public property.	There is no formal public notification process for art proposals on public property.	<ol style="list-style-type: none"> Public Arts Board reviews public notification options for public art and makes recommendations for notifications process. 	No Cost (In house)	<ol style="list-style-type: none"> Public Arts Board City Commission

Terminating Vista Recommendation and Implementation Framework Suggested Timeline Goals

Recommendation Priorities

- 1 Recruit public art
- 2 Revise installation process
- 3 Allow artistic City furniture and utilities
- 4 Permit wall art such as murals
- 5 Establish public notification policy for artwork proposals

Priority	Implementation	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21
1	1 - Create Call for Entry to recruit new artwork	Public Arts Board		Parks and Rec	City Commission						
	2 - Application for artwork review and recommendation								Public Arts Board	Parks and Rec	City Commission
2	1 - Consider revisions to Art on Loan Agreement			Public Arts Board			City Commission				
	2 - RFQ for sculpture installation specialist			Public Arts Board		City Commission					
	3 - Coordinate basepads with Engineering's Sidewalk Program								Public Arts Board		
3	1 - Planning Board review Terminating Vista report										TBD - Joint Meeting
4	1 - Design Review Board consider permitting wall art		Design Review Board				Public Arts Board	City Commission			
	2 - Design Review Board consider wall art review process		Design Review Board				Public Arts Board	City Commission			
5	1 - Establish Public Notification Process for Public Art					Public Arts Board			City Commission		

	City Commission
	Public Arts Board
	Planning Board
	Design Review Board
	Parks and Recreation Board

DESIGN REVIEW BOARD
MINUTES OF AUGUST 19, 2020
Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, August 19, 2020. Chairman John Henke called the meeting to order at 7:39 p.m.

1) ROLL CALL

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

Absent: Board Member Patricia Lang; 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.

6) Study Session

A. Murals & Art (Private)

City Planner Dupuis reviewed the item.

Mr. Deyer said he would want to create parameters regarding permissible locations, sizes, verbiage, types of paint, primers, and ongoing maintenance responsibilities.

Chairman Henke said the Public Works Board has already defined some of those parameters. He also cautioned the DRB against trying to legislate what can be defined as 'art'. He said the DRB could subjectively determine which proposals are appropriate. Chairman Henke ventured that it would be preferred by the City Commission if the DRB incorporates fewer details into the ordinance itself.

Ms. Dukas said she would not be in favor of the proposal as it stood.

Mr. Deyer said he would not be in favor of the proposal without relatively detailed guidelines.

Mr. Willoughby said he was in favor of the proposal with some guidelines provided. He concurred with Chairman Henke that the DRB should not attempt to legislate the definition of 'art'.

**DESIGN REVIEW BOARD
MINUTES OF NOVEMBER 4, 2020**

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, November 4, 2020. Chairman John Henke called the meeting to order at 7:09 p.m.

1) ROLL CALL

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

Absent: Board Member Patricia Lang

Administration: Nicholas Dupuis, City Planner
Brooks Cowan, City Planner
Laura Eichenhorn, City Transcriptionist

11-91-20

6) Study Session

A. Wall Art

Chairman Henke resumed facilitation of the meeting.

CP Cowan reviewed the item.

Both Chairman Henke and Mr. Deyer expressed a preference for temporary installations of wall art over permanent ones.

Mr. Deyer said a review process for public art in the City should at least include criteria regarding permissible size, political messages, commercial messages, and permitted number of murals in a given location.

Chairman Henke said that murals considered in a historic area should be reviewed by the HDC.

There was consensus on the part of the DRB that they would be amenable to being part of the review process for public art installations in the City.

Mr. Willoughby said the primary function of the DRB in such a review process should be to evaluate how wall art would affect the building on which it would be installed and how it would affect the environmental context around said building. He said that while he thought the DRB could opine on the content of the wall art, he did not imagine that would be their primary charge. Mr. Willoughby added he would likely be against art on the fronts of buildings, and amenable to wall art installed in alleyways.

CP Cowan said the Public Arts Board may want to pursue installing art on the front of the bridge of the 555 Building, but agreed that the installation of wall art on the fronts of buildings would likely be limited.

Mr. Willoughby said he would like to see a map of alleyways that could offer opportunities for wall art installations.

There was DRB consensus that the rear and side walls of historic buildings in alleyways could be places to install public art. There was also consensus among the DRB, CP Dupuis, and CP Cowan that the process would need to tread very carefully in regards to proposed installations on historic buildings. It was agreed that no wall art should be proposed for historic facades.

The Board members thanked CP Cowan and said they looked forward to further discussions on the topic.

Public Arts Board Minutes

Public Meeting on Zoom – November 18th, 2020

A. Roll Call:

Members Present:	Barbara Heller, Monica Neville, Annie VanGelderren, Jason Eddleston, Linda Wells, Anne Ritchie
Members Absent:	Natalie Bishae
Administration:	Brooks Cowan, City Planner
Members of the Public:	Vahe Tazian, Charlie Neff

D. New Business

A third study session item related to wall art was discussed. Staff presented thoughts and concerns related to wall art that were discussed by the Design Review Board. The DRB had indicated an interest in murals directly on buildings along the Alleys and Passages Plan. The Draft Master Plan suggests murals in the Rail District, therefore staff suggested the first proposal contain language that limits murals to certain areas of the City which could possibly be expanded in the future. The Board was receptive to this idea.

Staff also presented an idea that the DRB discussed and was open to, which is having a wall art application and review process that is first reviewed and recommended by the Public Arts Board and then finalized by the Design Review Board. The Board was amenable to this idea and would review a suggested application process at the next meeting.

Public Arts Board Minutes

Public Meeting on Zoom – January 21st, 2021

B. Roll Call:

Members Present: Barbara Heller, Monica Neville, Annie VanGeldereren, Jason Eddleston, Linda Wells, Anne Ritchie, Natalie Bishae, Peggy Daitch

Members Absent:

Administration: Brooks Cowan, City Planner

C. Unfinished Business

The first item of unfinished business was the discussion for proposed ordinance updates to allow wall art and require a wall art review process. The Board agreed that having the application requirements include renderings and size was appropriate, and that making recommendations to the Design Review Board for them to finalize the application was an acceptable process. The Board was read approval requirements for any items that go to the DRB and the Public Arts Board felt those were acceptable standards of final approval.

Motion to approve suggested ordinance updates to allow wall art and a wall art review process was made by Monica Neville, seconded by Annie VanGeldereren.

Yeas: 7 Nays: 0

The motion carried.

Design Review Board
Minutes Of March 3, 2021
Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, March 3, 2021. Chair John Henke called the meeting to order at 7:48 p.m.

1) ROLL CALL

Present: Chair John Henke; Board Members Keith Deyer, Natalia Dukas, Gigi Debbrecht, Dustin Kolo, Patricia Lang, Michael Willoughby; Alternate Board Member Samantha Cappello; Student Representatives Charles Cusimano, Elizabeth Wiegand (all located in Birmingham, MI except Dustin Kolo, who was in Gaylord, MI.)

Absent: Alternate Board Member Kathleen Kriel

Administration: Nicholas Dupuis, City Planner
Laura Eichenhorn, City Transcriptionist
Brooks Cowan, City Planner

03-026-21

6) Study Session

A. Wall Art

CP Cowan reviewed the item.

The Board recommended the allowable locations for public art be limited to the activation areas of the overlays. They also recommended there be some consideration of limiting residential-facing public art where it directly abuts residential buildings. They were fine with allowing public art in the other non-overlay locations recommended by the Public Arts Board.

Mr. Willoughby and Chair Henke were in favor of leaving the ordinance language as unrestricted as possible since all public art projects would go through review by two Boards.

CP Cowan advised the Board that if a person or group installed or put up a public art piece contrary to the ordinance, the City could require them take it down. He advised the DRB that the Public Arts Board recommended to the City Commission a public arts notification process be created in order to encourage public review and involvement.

The DRB requested the item be brought back once more for their review once updated.

**Design Review Board
Minutes Of April 7, 2021**

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, April 7, 2021. Vice-Chair Keith Deyer called the meeting to order at 7:45 p.m.

1) ROLL CALL

Present: Vice-Chair Keith Deyer; Board Members Gigi Debbrecht, Natalia Dukas, Dustin Kolo, Michael Willoughby; Alternate Board Members Samantha Cappello, Kathleen Kriel; Student Representatives Charles Cusimano, Elizabeth Wiegand (all located in Birmingham, MI except Dustin Kolo, who was in Waterford, MI, Keith Deyer who was in Harbor Springs, MI, and Elizabeth Wiegand who was en route to Grosse Pointe, MI.)

Absent: Chair John Henke; Board Member Patricia Lang

Administration: Nicholas Dupuis, City Planner
Brooks Cowan, City Planner
Laura Eichenhorn, City Transcriptionist

04-040-21

6) Study Session

A. Wall Art

CP Cowan reviewed the item.

Mr. Willoughby commended CP Cowan for his work on the item.

Motion by Mr. Willoughby

Seconded by Ms. Debbrecht to recommend Zoning Ordinance amendments to Article 7, Section 7.41-7.44 and Article 9, Section 9.02 to define wall art and require a review process involving the Public Arts Board for recommendation and Design Review Board for final approval.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Willoughby, Debbrecht, Kolo, Kriel, Cappello, Deyer, Dukas

Nays: None

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, August 11, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on August 11, 2021. Chair Clein convened the meeting at 7:33 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Daniel Murphy

Absent: Student Representative Jane Wineman

Administration: Jana Ecker, Assistant City Manager ("ACM")
Brooks Cowan, City Planner ("CP")
Laura Eichenhorn, City Transcriptionist

2. Wall Art

CP Cowan presented the item.

It was clarified that:

- Maintenance issues with wall art would be a code issue;
- 'Content' is not something that can be regulated, but 'non-commercial', 'aesthetically appropriate' or 'compatible with the area' could work;
- It would be useful to have a brief statement in Article 7, Section 7.41 about the benefit and value of wall art;
- The intent of the word 'facing' should be made more clear in the proposed amendment to Article 9 - Definitions To Define Wall Art And Determine Permitted Locations For Wall Art;
- Wall art approval would be a standalone process and not subject to site plan approval, though site plan approval would be granted at the Planning Board contingent on the wall art's approval by the appropriate boards; and,
- This ordinance amendment does not intend to allow a new building to create a blank wall in excess of 20 feet with the intent of installing wall art; it intends to allow already-existing blank walls that qualify according to the ordinance amendments to consider installing wall art.

Mr. Share noted that often wall art in other cities is not painted directly on buildings, but on canvas-type features.

Staff said they would make the recommended revisions and return with the item.

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, September 23, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 23, 2021. Vice-Chair Williams convened the meeting at 7:30 p.m.

A. Roll Call

Present: Vice-Chair Bryan Williams; Board Members Robin Boyle Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce; Alternate Board Member Jason Emerine

Absent: Chair Scott Clein; Board Member Bert Koseck; Alternate Board Member Nasseem Ramin; Student Representatives Daniel Murphy, Jane Wineman

Administration: Jana Ecker, Assistant City Manager ("ACM")
Nick Dupuis, Planning Director ("PD")
Brooks Cowan, Senior Planner ("SP")
Laura Eichenhorn, City Transcriptionist

F&V: Julie Kroll

09-147-21

I. Study sessions

1. Wall Art

SP Cowan presented the item.

Ms. Whipple-Boyce and ACM Ecker recommended that 'of the proposed location' be struck from the last line of 7.41 Wall Art Review: Purpose.

SP Cowan and ACM Ecker confirmed for Mr. Share that wall art would not be permitted on rear walls facing single family residential areas.

SP Cowan reviewed the different proposed review processes for a development with wall art, just wall art with a proposed location, and just wall art without a proposed location.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to set a public hearing to consider amendments to Article 7, Section 7.41 to 7.46 and companion sections of Article 9 of the Zoning Ordinance on October 27, 2021.

Motion carried, 6-0.

VOICE VOTE

Yeas: Share, Whipple-Boyce, Emerine, Williams, Jeffares, Boyle

Nays: None

DATE: November 1, 2021

TO: Thomas M. Markus, City Manager

FROM: Carrie Laird, Parks and Recreation Manager

APPROVED: Lauren A. Wood, Director of Public Services

SUBJECT: Tree Inventory Update

INTRODUCTION:

The City's Department of Public Services (DPS) manages Forestry Operations and utilizes TreeKeeper, a Tree Inventory software program. TreeKeeper was implemented in 2012, containing all city trees along streets, in some parks and public property, and is in need of an update. Davey Resource Group (DRG) was awarded the original tree inventory project in 2012 and is the sole provider of the TreeKeeper inventory program; therefore, no other pricing was solicited.

BACKGROUND:

The TreeKeeper software program was initiated as part of a grant opportunity in 2012 and since its execution has proven to be a useful tool in the management of Birmingham's urban forest. This GIS-based program contains attributes of trees in Birmingham in the right-of way (ROW) and some parks and public properties such as City Hall, Greenwood Cemetery, and Shain and Barnum parks.

Approximately 19,000 city trees are currently inventoried. Most of the data was collected in 2012, and therefore this project includes a necessary visit to each tree site. A DRG certified arborist will visit each tree location, verify the GIS point, and update the data associated with the site. Data collected at the site includes: Address, Species, Diameter at Breast Height (DBH), Condition, Inventory date, Grow Space and Size, and Primary Maintenance. Up until now, whenever possible city staff updates the inventory program as trees are removed or planted. Since it's been approximately 10 years, with this project all city trees will be visited by the DRG certified arborist to update the inventory with current information as described above. DPS relies on the information that is gathered to make important decisions.

In addition to updating the current inventory, DRG will collect new data as directed by the City in parks and public property. Several parks have not yet been inventoried. DPS plans to incorporate parks and public properties over the course of this contract. The contract term is 4 years, with approximately 4,600 currently inventoried tree sites updated each year.

The Arbor Day Foundation names Birmingham a Tree City USA community annually and this year will be our 44th year! This fits as a qualifier for the community to continue this tradition.

LEGAL REVIEW:

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

FISCAL IMPACT:

A portion of the funding for this project was included in the FY 21-22 Approved Budget. Funds are available from the Local Streets Fund-Forestry Services account, the Major Streets Fund-Forestry Services account, and the Parks-Forestry Services account. Additional funding will be incorporated in the FY 22-23, FY 23-24 and FY 24-25 budgets.

PUBLIC COMMUNICATIONS:

There is no notice required for this project, however we plan on communicating this project through social media, and other city message methods.

SUMMARY:

The Department of Public Services recommends awarding the Tree Inventory Update project to Davey Resource Group (DRG). They are the sole source provider of our current tree inventory software program, TreeKeeper, performing the original inventory project in 2012. The City also worked with DRG on the creation of a Tree Manual and Standards of Practice in late 2020-early 2021.

Davey Resource Group employs qualified tree professionals that are competent to perform the update of the City's Tree Inventory using the software program, TreeKeeper. DRG's team consists of International Society of Arboriculture (ISA) Certified Arborists, urban and traditional foresters, urban planners, Geographic Information Systems (GIS) and Information Technology (IT) specialists, and ecological scientists. They partner with the United States Department of Agriculture (USDA), the Arbor Day Foundation, have helped to develop and revise the American National Standards Institute (ANSI) standards for arboriculture including tree risk assessment, and have drafted some of the ISA's best management practices. They have experience working with a wide variety of clients, including municipalities.

Keeping our Tree Inventory up-to-date helps to respond to inquiries and requests about trees, quickly find trees when scheduling work, and guides in making data-driven decisions so that the City is accountable for actions and can justify decisions. An up to date inventory also helps to showcase our urban forest.

ATTACHMENTS:

The Agreement including the required Insurance Certificates, DRG's Cost Proposal, and Iran Sanctions Act Vendor Certification Form is attached for your review.

SUGGESTED COMMISSION ACTION:

Make a motion providing direction to approve an agreement through December 31, 2024 with Davey Resource Group, Inc. to update the City's Tree Inventory Program in an amount not to exceed a total of \$69,850, which amount includes a maximum amount of \$10,000 to add new inventory. Funding for this project has been budgeted in the Local Streets Fund-Forestry Services account #203-449.005-819.0000, the Major Streets Fund-Forestry Services Contract account #202-449.005-819.0000, and the Parks- Forestry Services account #101-751.000-819.0000. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

AGREEMENT

Professional Services- Updating Tree Inventory Program

This AGREEMENT, made this _____ day of _____, 2021, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter called "City"), and Davey Resource Group, Inc., having its principal office at 295 South Water Street, Suite 300, Kent, OH 44240 (hereinafter called "DRG"), provides as follows:

WITNESSETH:

WHEREAS, the City desires professional services required to update the City's Tree Inventory Program, and in connection therewith has requested a proposal from the sole source provider of the existing program with Davey Resource Group, Inc.; and

WHEREAS, DRG has professional qualifications that meet the project requirements and has provided a cost proposal to perform an inventory update including GIS data collection to the City's program.

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 DRG's Proposal to update the City's Tree Inventory Program, dated July 2021, which includes GIS data collection for existing trees, new trees and stumps along the City's Right-of-Ways and in parks and City properties, approximately 4,600 sites per year over a 4 year term, shall be fully incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. ("DRG Proposal," attached hereto as Attachment "A")
2. The City shall pay DRG for the performance of this Agreement in an amount not to exceed \$14,300 for 2021, \$14,750 for 2022, \$15,200 for 2023, and \$15,600 for 2024, as set forth in the DRG Proposal. In addition, upon request by the City, the additional data collection over and above the 4,600 sites per year a unit price per site of \$3.11/site for 2021, \$3.21/site for 2022, \$3.30/site for 2023, and \$3.39/site for 2024.
3. This Agreement shall commence upon execution by both parties for a period of time through December 31, 2024. The parties may extend this Agreement for two (2) additional calendar years as agreed upon in writing as an Addendum to this Agreement. The City shall retain the right to unilaterally terminate this Agreement with or without cause and will pay DRG for services provided up to the date of termination.
4. DRG shall employ personnel of good moral character and fitness in performing all services under this Agreement.
5. DRG and the City agree that DRG is acting as an independent contractor with respect to DRG's role in providing services to the City pursuant to this Agreement, and

as such, shall be liable for its own actions and neither DRG 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 DRG 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. DRG 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. DRG 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. DRG recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, DRG agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. DRG 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. DRG 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. DRG 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 DRG without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

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

11. DRG 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. DRG shall maintain during the life of this Agreement the applicable types of insurance coverage and limits as set forth below:

A. Workers' Compensation Insurance:

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

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

B. Commercial General Liability Insurance: DRG shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability of **\$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 contractor's 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: DRG 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 **\$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:
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: If applicable, professional liability insurance with limits of **\$1,000,000** per claim if DRG will provide service that are customarily subject to this type of coverage.

- F. Pollution Liability Insurance: DRG shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of \$1,000,000, per occurrence preferred, but claims made accepted.
- G. Owner's Protective Liability: DRG shall procure and maintain during the life of this contract, an Owner's Protective Liability Policy with limits of liability of \$3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage.
- H. Cancellation Notice: Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
- I. Proof of Insurance Coverage: DRG shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.
- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
 - 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
 - 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
 - 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
- J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, DRG shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.
- K. Maintaining Insurance: Upon failure of DRG 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, DRG and any entity or person for whom DRG 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 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 or caused by DRG's negligent or willful acts or omissions during the performance of this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, or other third party not controlled by DRG. This Paragraph shall survive the completion of the applicable services under this Agreement for a period of two (2) years.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of DRG, the City shall have the right to terminate this Agreement without further liability to DRG if the disqualification has not been removed within thirty (30) days after the City has given DRG 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 DRG 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. The City shall be the owner of all the drawings, specifications or other documents prepared by DRG. Any modifications made to the drawings by the City shall be clearly marked as such on the modified document. The City may not use these documents for any purpose other than pursuant to the activities provided for in this Agreement.

17. Notices shall be given to:

City of Birmingham
c/o Ms. Lauren Wood
851 S. Eton Rd.
Birmingham, MI 48009

With copies to:

Mary M. Kucharek, City Attorney
Beier Howlett, P.C.
3001 W. Big Beaver Rd., Ste. #200
Troy, MI 48084

DRG:
Davey Resource Group, Inc.
Lee Muller
295 S. Water St. #300
Kent, OH 44240
Email: LeeMueller@davey.com

With copies to:

Davey Resource Group, Inc.
Attn: Legal Department
295 S. Water Street #300
Kent, OH 44240

18. DRG 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. DRG recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, DRG agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. DRG 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. DRG further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

19. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. DRG 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.

20. 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.

21. 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 a federal or state court with jurisdiction over Oakland County, Michigan.

21. 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

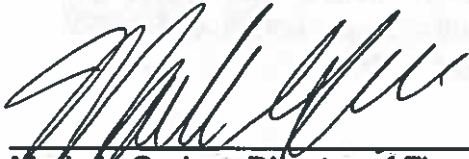
APPROVAL (Sec 2-289 City Code)



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



Mary M. Kucharek, City Attorney
(Approved as to form)



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

Thomas M. Markus, City Manager
(Approved as to substance)



Tree Inventory Update

Prepared For:

City of Birmingham

151 Martin Street
Birmingham, MI 48009

Prepared By:

Lee Mueller

Market Manager
Davey Resource Group, Inc.
3381 West Lapeer Road
Auburn Hills, MI 48326
Cell: 248-221-0439
E-mail Lee-Mueller@davey.com

July 2021

City of Birmingham - Tree Inventory Update



Introduction

Trees are part of everyday life in the city. The city's urban forest creates a sense of place and supplies real benefits to those who live in Birmingham. Trees along streets, in parks, around playgrounds, and in backyards provide shade and beauty and enhance the quality of life in Birmingham by bringing natural elements and wildlife habitats into urban settings. Trees also moderate temperatures, reduce air pollution and energy use, improve water quality, and promote human health and well-being. Davey Resource Group, Inc. "DRG" understands the benefits trees bring to your community. We also realize the challenges that come with managing public trees.

About Davey Resource Group, Inc.

For over 25 years, DRG has inventoried trees throughout the United States, including the original Birmingham Tree Inventory. We know that the data collected during a tree inventory is critical to helping you manage your urban forest proactively and better mitigate tree-related risk. Since you rely on the inventory data to make important decisions, DRG uses only qualified, experienced staff who are knowledgeable of both industry standards and the municipal work environment.

Trees bring natural elements and wildlife habitats into urban settings and they also moderate temperatures, reduce air pollution and energy use, and improve water quality.



Urban Forest Experts

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

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

We understand that the information in a tree inventory database helps you to complete your daily work more efficiently and allows you to:

- Respond to inquiries and requests about trees
- Quickly find trees when you need to schedule work
- Keep maintenance records up to date
- Make data-driven decisions; be accountable for actions and justify decisions
- Showcase the benefits of your urban forest
- Follow public record or "sunshine" statutes and laws

Natural Resource Management

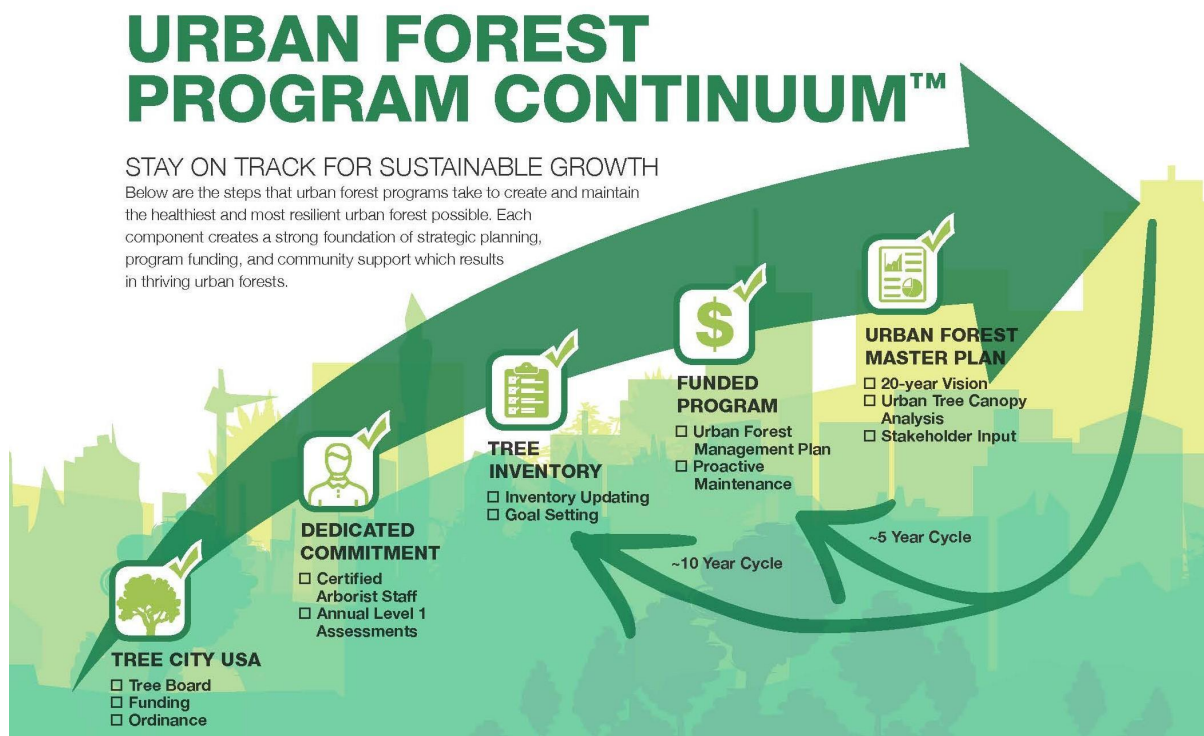
DRG's Environmental Consulting team is your committed partner for natural resource planning and management. With 24 local offices and a national footprint, we offer a wide and growing variety of consulting services (in addition to urban forestry) including wetlands and stream studies, environmental design and ecosystem restoration, stormwater management and compliance, urban and community forestry, our proprietary TreeKeeper® inventory management software, and invasive species management.

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

A Trusted Partner and Supporter of Arboriculture

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

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



Davey Resource Group has proven solutions to help the City launch its program forward along the Urban Forest Continuum.

DRG's Focused Urban Forestry Services



TREE INVENTORY

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

TREEKEEPER® SOFTWARE

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



URBAN FOREST PLANNING

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



GIS

With GIS specialists in-house, we can map the city's urban tree growth, analyze the spatial distribution of available planting space, and predict the impact of threats to the tree canopy.

STAFFING

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

TREE BENEFITS

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



Scope of Work

This project is an integral part of the city's comprehensive tree care program. The results of this project will help the city better understand the composition, structure, and maintenance needs of its urban forest, allocate resources, develop risk management strategies, and promote the ecosystem benefits the city's trees provide to the local community.

The following sections describe DRG's overall approach, or methodology, for accomplishing city's scope of work. This section includes a plan of work for the tree inventory and explains the technologies we use to complete the inventory, an overview of our TreeKeeper® software, and a description of a typical management plan or inventory summary report. To illustrate the strength and experience of the DRG team, a few representative staff resumes, project examples, and references are in Appendices A and B, respectively.

Dedicated to Safety

Safety is the number one priority of DRG. To ensure the safety of DRG's workers and those traveling nearby, DRG uses the following Personal Protective Equipment (PPE): ball caps (or hard hats if necessary), high-visibility safety vests, safety glasses, and over-the-ankle boots.

Davey has provided Proven Solutions for a Growing World since 1880 and has been employee owned for 38 years.



Tree Inventory Work Plan

To ensure that this tree inventory update meets the city's goals and deadlines, DRG uses the following work plan.

Step 1. Communication

From project beginning to end, DRG staff keep open lines of communication with the city via telephone, e-mail, and, as needed, in-person meetings. DRG answers any questions the city has as well as keeps the city apprised of the project's progress.

Step 2. Contract Phase

Once awarded the project, DRG executes a contract and supplies insurance per project specifications.

Step 3. Data Mining and Hardware Programming

The next step in the inventory process is to obtain the GIS data and imagery needed to set up the field computers used for data collection. DRG already has much of the data necessary on-hand and within the city's TreeKeeper® system. However, if any additional data are needed, DRG's urban foresters will work with the city's GIS or planning contact to complete this step. DRG uses the data fields defined in this proposal and the imagery, maps, and data files on-hand or obtained from the city to program the data collection software and field computers. At this time, we may contact you by phone to confirm the data attributes.

Step 4. Kick-Off Meeting

DRG staff will contact the city after contract execution to schedule a kick-off meeting. During the kick-off meeting, the city's staff and the DRG project team discuss inventory safety and communication procedures and confirm project expectations and milestones. If possible, DRG's urban foresters assess a few trees with the city staff to ensure consistent assessment results.

Step 5. Data Collection

DRG typically begins data collection after the kick-off meeting. Our experienced, qualified urban foresters locate existing trees, new trees, and stumps along maintained street ROWs and in public parks and properties, evaluate those trees and record or update the data specified by the city. The collected data, once finalized, are the city's tree inventory database.



Accessing Inventory Data

DRG will collect and update tree inventory data directly in TreeKeeper®. The city will be able to view and field check data and even to route and plan for tree work as DRG is collecting and updating inventory data.

Location Accuracy

DRG uses field computers and equipment that meet or exceed this project's location accuracy requirements. Having worked on thousands of tree inventory projects, DRG has found that using a combination of GIS and a customized data collection program provides the most exact data and the most efficient means for inventorying trees. DRG uses our in-house designed GIS software tool in conjunction with ruggedized computers with a GPS receiver to collect inventory data. Under favorable conditions, the equipment allows for sub-meter location accuracy of point data.

Individual Tree Inspection Process

During data collection, DRG's urban foresters walk each street or public property. Existing data points are updated and any trees not already in the city's system are captured. As our urban foresters walk by each tree, it is inspected from the ground. Based on the conditions at the time of the inspection, DRG's staff identify or confirm the tree's species and its location, measure and update tree diameter, and rate its health. DRG's urban foresters also assess tree risk and suggest the specific maintenance involved in mitigating that risk as well as collecting all other information at this time. When data collection for an individual tree is complete, DRG's urban foresters walk to the next tree and follow the same steps, in the same order, to ensure consistent data collection.

DRG formally routes the collection of inventory data to ensure that staff collect all the sites in the project area in a systematic manner. Throughout the inventory process, DRG maps the streets, parks, and properties inventoried and shares that information with the city. DRG also tells the city where staff intend to collect data next. DRG's urban foresters collect data Monday through Friday and often on weekends with our clients' permission.

Area of Interest

Over the course of four years, DRG will inventory or update an estimated 18,400 trees, planting sites, and stumps. Each year, DRG will review an estimated 4,600 sites as our team works through the city's existing inventory data by zone and park. Within parks, DRG generally collects trees within maintained and manicured areas. DRG works with our clients to establish thresholds for the collection of trees that may impact maintained and manicured areas (e.g., large dead trees). The areas DRG plans to cover, include:

- City streets (by zone)
- Shain Park
- Quarton Lake Park
- Booth Park
- Poppleton Park
- Manor Park
- Pembroke Park
- Derby Water Tank
- Kenning Park
- Howarth Park
- St. James Park
- Crestview Park
- Pumphouse Park
- W. Lincoln Well & Park
- Linden Park
- Linn Smith Park
- Martha Baldwin Park
- Greenwood Cemetery
- City Hall
- Baldwin Library
- Adams Fire Station (Station #1)
- Chesterfield Fire Station (Station #2)

Data Fields

For the city's inventory, DRG will collect or update the following data fields:

1. Address (street address and X and Y coordinates)
2. Species
3. Tree size
4. Multi-stem tree
5. Condition
6. Maintenance needs
7. Defects
8. Tree risk assessment and rating
9. Observations
10. Overhead utilities
11. Date of inventory
12. Hardscape damage
13. Clearance
14. Growing space type
15. Growing space size

The data fields listed above give the city ample information to manage their trees and stumps proactively. However, if the city has specific needs that the above data fields do not address, such as tree roots lifting sidewalks or clearance concerns, contact DRG to customize the project's scope of work.

Upgrading the Inventory

In addition to collecting trees, planting sites, and stumps, DRG can inventory other infrastructure that the city might be managing, such as shrub rows, woodlots, natural or environmentally sensitive areas, irrigation boxes, benches, signage, and turf. DRG's urban foresters can also take and link pictures to tree records. DRG can upgrade the city's inventory by changing the current scope of work or by further developing the project to have additional phases. If the city is interested in learning more about options for upgrading the inventory, contact DRG for information and fees.

Tree Risk Assessment

During the inventory, DRG's urban foresters perform an inspection of each tree that follows the ANSI tree risk assessment (ANSI 2017). The city's original inventory was performed under a previous risk assessment methodology. DRG recommends updating tree risk to comply with the most recent best practices.

For the city's inventory, DRG will complete a 360-degree ground-based visual inspection of the crown, trunk, trunk flare, above-ground roots, and site conditions around the tree in relation to targets. The assessment only includes conditions detected from the ground; internal, belowground, and upper crown factors are still mostly undetected. The specified period for the risk assessment is one year. The risk part of this inventory and evaluation is to keep in compliance with the most recent standards and practices in the arboricultural industry. It is important to note that DRG's inspections are "rapid assessments" and are meant to show a need for further study; the assessments are not legally binding in any litigation.

For the tree risk assessment, DRG's urban foresters assign each tree one qualitative risk rating using the risk categorization matrices found in the ISA's *Best Management Practices - Tree Risk Assessment, Second Edition* (E. Thomas Smiley, Nelda Matheny, and Sharon Lilly 2017). Various and multiple failure scenarios help determine a tree's risk rating. The failure mode (i.e., branch, whole tree, codominant stem) with the most significant risk serves as the overall tree risk rating. DRG's staff will not sound trees during the inventory.

Step 6. Inventory Close-Out

At the end of the inventory project, DRG supplies a one- to two-page project close-out report which spells out the number and types of sites collected, provides information about the species composition and diameter size class distribution, and shows the amount and type of maintenance recommended during the inventory. We provide the report in PDF format within four weeks of inventory completion.

Tree Inventory Data Delivery

For this project, the city will receive tree inventory data in DRG's TreeKeeper® software.

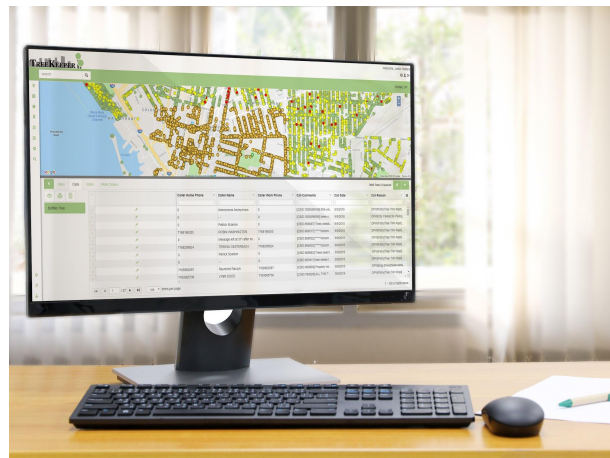
- To access TreeKeeper®, use Safari® on an iOS device or via Google Chrome™ on a Windows® or Android device; the secure login information DRG provides to the city.
- Once using TreeKeeper®, the city can view and use the inventory data and download the data in a variety of formats, including CSV/Excel™ and ESRI® shapefile formats.

DRG offers custom software training for an added fee; contact DRG to learn more about our training programs, which can earn attendees up to eight ISA continuing education units (CEUs).

Other Formats

If the city needs the inventory data in different formats, such as Google Earth's KML, AutoCAD®, or i-Tree, or for a particular asset management software program like CityWorks, Hansen, or Cartegraph, DRG can supply the inventory data in those formats for an added charge. Please contact DRG for more information about data formatting options and fees.

TreeKeeper® gives the city instant access to tree inventory data.



Davey's TreeKeeper® Software

Developed, maintained, and supported by DRG, TreeKeeper® is our flagship tree management software. Leading the industry for over 20 years, TreeKeeper® is a versatile cloud-based software service designed to manage, update, and share tree inventory data. TreeKeeper® also highlights the environmental benefits of community trees.

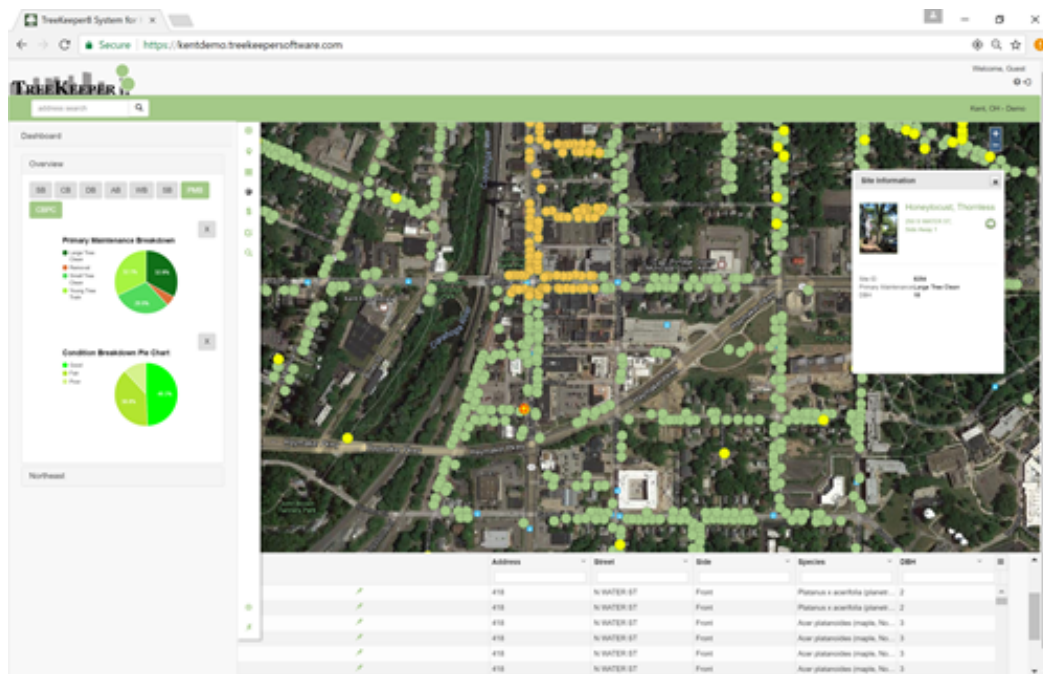
TreeKeeper® is available as a subscription service (SaaS) with three-year and five-year subscriptions available to fit the city's program's budget. TreeKeeper®'s pricing is "all in and upfront." There are no hidden fees or unexpected and expensive add-ons.

Easy to Use

TreeKeeper®'s interactive work environment makes managing inventory data easy. The city can see and work with the tree inventory data through an interactive map and table. The map and table can be used independently or at the same time, giving you a totally custom work environment.

Another reason TreeKeeper® is easy to use is that it is accessible by multiple people in separate locations at the same time. Any changes to the data, such as adding new sites, updating the information for an existing site, or running a report, are updated in real-time.

Knowing the benefits your trees provide is also easy. TreeKeeper® automatically calculates the environmental benefits provided by trees. Air quality, carbon sequestration and storage, and stormwater benefits can be estimated for one tree, groups of trees, or for the entire population.



Using inventory data has never been easier. This screenshot of DRG's TreeKeeper® shows the dashboard, query, and the call-out box.

Key Features

- *Map-Centric*: use the map to find information about individual sites or groups of sites.
- *List View*: sort and analyze data.
- *Query*: look up sites by any data field, such as address, species, or condition.
- *Search*: by one or multiple data fields; no nested searches.
- *Narrow Down*: refine the search results to find the result needed.
- *Switch Layers On-the-Fly*: change the data layer through a drop-down menu.
- *Dashboards*: gauge the inventory data via pre-set and user-designed graphs.
- *Reporting*: create reports at the touch of a button.
- *Work Orders*: assign work to crews, projects, or programs.
- *Work History*: keep track of the edits made to a site.
- *Edit*: update one site at a time or make batch edits to multiple sites.
- *Multi-User Access*: available via a secure internet connection.
- *Permissions*: assign access levels (no read or edit access) to users and viewers.
- *Tree Value*: calculated using a built-in tree value estimator based on i-Tree Tools.
- *Export Data*: to software such as Microsoft® Office and other word processing and spreadsheet programs.

In the Field

While in the field, you can find and update site information and add new trees or sites to the database using TreeKeeper®. All edits are real-time. TreeKeeper® works with most tablet computers and uses the tablet computer's location services or GPS availability to determine location.

Data Download Formats

In TreeKeeper®, you can view, edit, and update the inventory data and download the data in a variety of formats, including CSV/Excel™ and ESRI® shapefile formats.

Information Sharing

If the city wants to share the tree inventory data with other organizations or the public, TreeKeeper® provides a public interface for third-party viewing. TreeKeeper®'s public interface does not allow visitors to edit the data or “crowdsource” information, and you can determine what data are shown to visitors to the site.

We Listen to You

DRG stays on top of the latest technology trends to maintain TreeKeeper®'s place as one of the most advanced software systems for tree inventory management on the market. And, we also listen to you, our clients, to make sure TreeKeeper® responds to the needs of their respective workplaces. Over the past 20 years, many of the upgrades to TreeKeeper®, made by DRG's in-house software developers, came about by suggestion from our clients.

WANT TO LEARN MORE ABOUT TREEKEEPER®? Click [HERE](#).

Project Schedule, Tasks, and Deliverables

The following project schedule lists key tasks along with expected completion dates and deliverables. If the city's project schedule differs from what DRG projected, use the information for planning purposes.

Project Schedule (month)							
Award							Insurance, contract
Data Mining and Field Computer Set-Up							Obtain basemaps and GIS data/ program software and hardware
Kick-off Meeting							Meeting summary as needed
Inventory Data Collection and QA/QC							Inventory of 4,600 sites each year; ongoing field checks; weekly e-mail updates
Inventory Data Delivery							Inventory data in TreeKeeper®
Inventory Close-Out Meeting							If scheduled, usually takes place on the last day of data collection
Inventory Reporting							Close-out reports

Note: The proposed schedule is for 2021. Schedule is expected to be similar in subsequent years.

Quality Control and Assurance

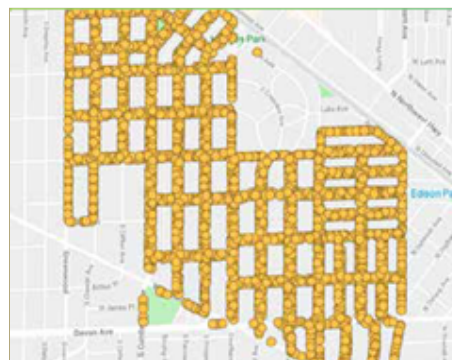
WE TAKE YOUR DATA SERIOUSLY

From the project's start to its finish, DRG focuses on the experience the city has working with DRG and the quality of the project's deliverables. To ensure a good working relationship throughout the project, DRG collaborates with the city early on to schedule fieldwork and meetings at mutually agreeable times and determine protocols for addressing questions and concerns that arise during data collection. DRG's staff also stay in contact with the city's staff during all phases of the project to keep the city informed of the project's status. The following is an example of an inventory progress update, e-mailed on a set schedule such as weekly or bi-weekly, from DRG's urban forester to the client.

INVENTORY PROGRESS UPDATE E-MAIL

Dear Valued Client:

Below is a recap of last week's inventory progress. So far, we have inventoried 3,161 sites. The map (right) shows our progress in Zone C. We also had a chance to do some in-the-field quality assurance last week (bottom). We audited 1% of the data collected last week and found no critical errors.



We expect to wrap up data collection later this week. We predict that the remaining streets will have the same tree density, although the road running along the train tracks in the northeast may have slightly more trees. In all, we think that the total site count will be close to the pre-project estimate of 3,800 sites. We will keep everyone apprised if this expectation changes.

Katie will be on the ground this week, and Pete may come out to help with collection. If needed, they can be available for an in-person closing meeting. Otherwise, we can include the final site count and notes in a close-out e-mail.

As far as data delivery, we expect it will take a few days for GIS quality control checks after data collection is complete. We will follow up with an e-mail when your final inventory dataset is available in TreeKeeper®. If you have any questions or concerns, please reach out to me.

Thanks, Your DRG Urban Forester

Inventory Statistics				
Site Count to Date		Percent Complete	Estimated Total Site Count	
3,161		83%	3,800	
Quality Assurance				
Overall Critical Error Score	Target Critical Score	Overall Non-Critical Error Score	Target Non-Critical Score	Percent Audited
100%	98%	98.7%	95%	1%

Quality control and assurance continues during data collection. DRG's project manager and urban foresters use hot and cold data checks during fieldwork and encourage the city to do so as well. DRG regularly updates the city on the project's status and makes the city aware of any situations that may need immediate attention. At the end of the project, DRG's IT specialists run computer diagnostics on the inventory data to make sure the data are clean. Finally, DRG answers any questions the city has about the data and our TreeKeeper® software and verifies the city's satisfaction with DRG's work.

Client Responsibilities

1. Provide DRG with imagery, maps, and data files. Our request may include the following: digital orthophotographs, available GIS data layers, other electronic or paper copies of maps for roads, pavement widths, right-of-way widths, boundaries and utilities, and an electronic file or printed list of street names and endpoints.
2. Provide daily contact information and directions during the inventory project.
3. Provide a copy of the 2012 existing tree inventory databases.
4. Coordinate and host a kick-off meeting before the start of fieldwork.
5. Agree to allow DRG to host the city's tree inventory data in TreeKeeper® software. Terms and conditions apply.
6. By accepting this proposal, the city accepts DRG's Terms and Conditions and Limited Warranty (listed after the Authorization to Proceed page below) and agrees that, upon award, this proposal and its attachments will be made a part of the Agreement.

Investment

Tree Inventory

❑ Computerized inventory data collection of up to 4,600 existing trees, planting sites, and stumps in 2021 for a cost of:	\$14,300
❑ Additional inventory data collection above 4,600 trees/sites at a unit rate of:	\$3.11/site
❑ Computerized inventory data collection of up to 4,600 existing trees, planting sites, and stumps in 2022 for a cost of:	\$14,750
❑ Additional inventory data collection above 4,600 trees/sites at a unit rate of:	\$3.21/site
❑ Computerized inventory data collection of up to 4,600 existing trees, planting sites, and stumps in 2023 for a cost of:	\$15,200
❑ Additional inventory data collection above 4,600 trees/sites at a unit rate of:	\$3.30/site
❑ Computerized inventory data collection of up to 4,600 existing trees, planting sites, and stumps in 2024 for a cost of:	\$15,600
❑ Additional inventory data collection above 4,600 trees/sites at a unit rate of:	\$3.39/site

This proposal is valid for 60 days.

TERMS AND CONDITIONS

- All pricing is valid for six months from the date of this proposal.
- Time and materials (T&M) estimates may fluctuate and will be billed accordingly. Fixed fee contract prices will be billed as shown.
- Invoicing will be submitted monthly for work performed, unless otherwise agreed upon.
- Payment terms are net 30 days.
- If prevailing wage requirements are discovered after the date of this proposal, we reserve the right to negotiate our fees.
- The client is responsible for any permit fees, taxes, and other related expenses, unless noted as being included in our proposal.
- The client shall provide 48 hours' notice of any meetings where the consultant's attendance is required.
- Unless otherwise stated, one round of revisions to deliverables is included in our base fee. Additional edits or revisions will be billed on a time and material (T&M) basis.
- All reports are provided only to the client unless otherwise directed.

LIMITED WARRANTY

Davey Resource Group, Inc. "DRG" provides this limited warranty ("Limited Warranty") in connection with the provision of services by DRG (collectively the "Services") under the agreement between the parties, including any bids, orders, contracts, or understandings between the parties (collectively the "Agreement").

Notwithstanding anything to the contrary in the Agreement, this Limited Warranty will apply to all Services rendered by DRG and supersedes all other warranties in the Agreement and all other terms and conditions in the Agreement that conflict with the provisions of this Limited Warranty. Any terms or conditions contained in any other agreement, instrument, or document between the parties, or any document or communication from you, that in any way modifies the provisions in this Limited Warranty, will not modify this Limited Warranty nor be binding on the parties unless such terms and conditions are approved in a writing signed by both parties that specifically references this Limited Warranty.

Subject to the terms and conditions set forth in this Limited Warranty, for a period of ninety (90) days from the date Services are performed (the "Warranty Period"), DRG warrants to Customer that the Services will be performed in a timely, professional and workmanlike manner by qualified personnel.

To the extent the Services involve the evaluation or documentation ("Observational Data") of trees, tree inventories, natural areas, wetlands and other water features, animal or plant species, or other subjects (collectively, "Subjects"), the Observational Data will pertain only to the specific point in time it is collected (the "Time of Collection"). DRG will not be responsible nor in any way liable for (a) any conditions not discoverable using the agreed upon means and methods used to perform the Services, (b) updating any Observational Data, (c) any changes in the Subjects after the Time of Collection (including, but not limited to, decay or damage by the elements, persons or implements; insect infestation; deterioration; or acts of God or nature [collectively, "Changes"]), (d) performing services that are in addition to or different from the originally agreed upon Services in response to Changes, or (e) any actions or inactions of you or any third party in connection with or in response to the Observational Data. If a visual inspection is utilized, visual inspection does not include aerial or subterranean inspection, testing, or analysis unless stated in the scope of work. DRG will not be liable for the discovery or identification of non-visually observable, latent, dormant, or hidden conditions or hazards, and does not guarantee that Subjects will be healthy or safe under all circumstances or for a specified period of time, or that remedial treatments will remedy a defect or condition.

To the extent you request DRG's guidance on your permitting and license requirements, DRG's guidance represents its recommendations based on its understanding of and experience in the industry and does not guarantee your compliance with any particular federal, state or local law, code or regulation.

DRG may review information provided by or on behalf of you, including, without limitation, paper and digital GIS databases, maps, and other information publicly available or other third-party records or conducted interviews (collectively, "Source Information"). DRG assumes the genuineness of all Source Information. DRG disclaims any liability for errors, omissions, or inaccuracies resulting from or contained in any Source Information.

If it is determined that DRG has breached this Limited Warranty, DRG will, in its reasonable discretion, either: (i) re-perform the defective part of the Services or (ii) credit or refund the fees paid for the defective part of the Services. This remedy will be your sole and exclusive remedy and DRG's entire liability for any breach of this Limited Warranty. You will be deemed to have accepted all of the Services if written notice of an alleged breach of this Limited Warranty is not delivered to DRG prior to the expiration of the Warranty Period.

To the greatest extent permitted by law, except for this Limited Warranty, DRG makes no warranty whatsoever, including, without limitation, any warranty of merchantability or fitness for a particular purpose, whether express or implied, by law, course of dealing, course of performance, usage of trade or otherwise.

Appendix A: Experienced Staff

DRG may assign the following team members to the city's project. Their experiences and credentials prove that they have the qualifications needed to work for the city.

Lee S. Mueller, M.S., C.F., is a market manager with DRG. Mr. Mueller is responsible for expanding environmental consulting services, establishing new regional offices, and strengthening key business partnerships across the Great Lakes. Throughout his career, Mr. Mueller has demonstrated deep experience in all aspects of developing and supporting complex, multi-partner projects in urban forestry and ecosystem restoration—from project visioning and budgeting to implementation strategies and long-term maintenance. Mr. Mueller has also served as a staff or board member on a variety of professional and nonprofit organizations dedicated to forestry, arboriculture, and parks and recreation. Mr. Mueller provides a holistic approach to urban forestry, forest management, ecosystem restoration, parks and recreation planning, staff and volunteer training, nonprofit programs, and community outreach and engagement. Additionally, he excels in creating strategic partnerships; building and evaluating processes and systems; engaging diverse communities; and seeking, writing, and managing private or government grants. Prior to joining DRG, he was instrumental in establishing an urban forestry outreach and volunteer program that garnered state and national recognition in Grand Rapids, Michigan, as well as managing large-scale, volunteer-led tree planting and phytoremediation projects in Detroit. Mr. Mueller is an International Society of Arboriculture (ISA) Certified Arborist, has an ISA Tree Risk Assessment Qualification (TRAQ), and is a Certified Forester through the Society of American Foresters, a Michigan Qualified Forester through the Michigan Department of Agriculture and Rural Development, a Michigan Registered Forester, and a Certified Plan Writer through the Michigan Forest Stewardship Program. Mr. Mueller has a master's degree and a bachelor's degree in forestry from Michigan State University.

Emily Hanson is the area manager for Michigan's Environmental Consulting team. In this role, Emily provides operational leadership, team oversight, and day-to-day direction for a wide range of ecosystem restoration, ecological consulting, and urban forestry services across the state, including: vegetation surveys, tree inventories, invasive plant control, wetland delineation, contract urban forestry, forest management planning, and native plant seeding and establishment. Emily has more than 10 years of experience in the field of Urban Forestry. Before moving to Michigan, she worked for New York City's Department of Parks & Recreation as a senior forester for street tree planting and manager of the city's tree procurement program. Prior to that she worked as an urban forestry volunteer coordinator for small communities in Illinois, funded by the USDA Forest Service.

Emily has Midwestern roots, growing up in Southern Minnesota and earning her bachelor of science degree in urban and community forestry from the University of Minnesota Twin Cities. She became an ISA Certified Arborist in 2011 and earned her ISA Tree Risk Assessment Qualification in 2017.

Sean Wylie is an environmental specialist with DRG. In addition to performing tree inventories, tree surveys, and tree risk assessments he supports the Michigan Team with his ecological restoration and GIS technology expertise. Before joining DRG, Sean worked at the City of Ann Arbor maintaining their tree inventory data using the city's enterprise GIS. This experience made him a valuable asset on DRG's tree inventory update project for the City of Ann Arbor in fall 2020. Sean received his bachelor of science degree in natural resources management with a GIS Technology Certificate from Grand Valley State University. He is also a Commercial Pesticide Applicator in Michigan (C003180368) with reciprocity in Ohio (ID#152096) and has the L-180, S-130, and S-190 certificates from the National Wildfire Certification Group.

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

Appendix B: Inventory Data Fields

1. **Address/Location**—DRG confirms the location of each tree, planting site, and stump by the following attributes.
 - a. *Address*. House address.
 - b. *On Street*. The street where the tree is physically found.
 - c. *Side*. The side of the house on which the tree stands in relation to the physical address.
 - d. X and Y coordinates in the desired format.
 - e. *Park Name*. The name of the park.
2. **Species**—DRG confirms trees by genus and species using both botanical and common names, and by cultivars where appropriate.
3. **Tree Size**—DRG’s urban foresters measure and update the diameter to the nearest inch in 1-inch size classes at 4½ feet above the ground, or diameter at breast height (DBH).
4. **Multi-Stem Tree**—DRG confirms if a tree has multiple stems on trunks splitting less than 1 foot above ground level.
5. **Condition**—Staff consider signs of stress, poor structure, mechanical damage, soil and root problems, disease, and pests in the assessment of tree condition.
 - a. *Excellent*. A tree of specimen quality; with no identifiable problems.
 - b. *Very Good*. A tree of above average condition.
 - c. *Good*. A good tree shows no significant problems.
 - d. *Fair*. A fair tree has minor problems that may be corrected with time or corrective action.
 - e. *Poor*. A poor tree has significant problems that are irrecoverable.
 - f. *Critical*. A tree that may be technically alive, but has major problems or is expected to die within the season.
 - g. *Dead*. A dead tree shows no sign of life.
6. **Primary Maintenance**—DRG assigns one of the following maintenance needs:
 - a. *Remove*. Trees recommended for removal have defects that cannot be practically or cost-effectively treated. Most trees in this category have a sizable percentage of dead crowns.
 - b. *Tree Clean*. Removal of one or more limbs two inches or greater in diameter to reduce risk.
 - c. *Young Tree Train*. Pruning of young or medium-aged trees to improve tree and branch architecture.
 - d. *None*. No particular maintenance recommended. However, the city may opt to prune or manage the trees for health or aesthetic appearance.
 - e. *Stump Removal*. A stump is present and recommended to be removed.
 - f. *Plant*. During the inventory, vacant planting sites are identified as Vacant Site Small, Vacant Site Medium, and Vacant Site Large (implying mature tree size), depending on the growing space available and the presence of overhead wires. Lacking local code definitions, planting sites are determined based on standard specifications included in accepted technical journals and by the arboriculture industry.
7. **Risk Rating**—DRG evaluates risk and assigns a risk rating based on an assessment of the failure mode (i.e., branch, whole tree, codominant stem) with the most significant risk. The specified period for the risk assessment is one year. The risk part of this inventory and evaluation is to maintain compliance with the most recent standards and practices in the arboricultural industry. It is important to note that our inspections are “rapid assessments” and are meant to show a need for further study, and thus are not legally binding in any litigation.

DRG used the following criteria and matrices, based on the *International Society of Arboriculture Best Management Practices—Tree Risk Assessment*, Second Edition (E. Thomas Smiley, Nelda Matheny, and Sharon Lilly 2017), to arrive at a risk rating.

- a. *Likelihood of Failure.* Identifies the most probable failure and rates the likelihood that structural defect(s) will result in failure based on observed current conditions.
- b. *Likelihood of Impacting a Target.* The rate of occupancy of targets within the target zone and any factors that could affect the failed tree as it falls towards the target.
- c. *Consequences of Failure.* The consequences of tree failure are based on the level of target and potential harm that may occur. Consequences can vary depending on the size of the defect, a distance of fall for the tree or limb, and any other factors that may protect a target from harm. Target values are subjective, but DRG staff try to assess them from our client's perspective.

As shown in the matrix below, the likelihood of failure and the likelihood of target determine the likelihood of tree failure impacting a target.

Likelihood of Failure	Likelihood of Impacting Target			
	Very Low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

DRG's urban foresters estimate the risk rating by combining the likelihood of tree failure impacting a target and the consequences of failure in the matrix below. Risk ratings are Low, Moderate, High, and Extreme. A Low Risk tree poses a low overall level of risk. A Moderate Risk tree may pose some threat, particularly during storm events or unusual weather. A High Risk tree presents a high likelihood of tree or tree part failure, even during normal weather conditions. An Extreme Risk tree always poses a significant risk and probability of failure.

Likelihood of Failure	Consequences			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low

Even though trees may pose multiple risks at once, DRG assigns one risk rating to each tree during the inventory process. The risk rating serves only as a prioritization mechanism and is not a guarantee; the city must determine the level of acceptable risk.

8. **Observations**—General observations warranting recognition include the following:

- a. Cavity Decay
- b. Grate Guard
- c. Improperly Installed
- d. Improperly Mulched
- e. Improperly Pruned
- f. Mechanical Damage
- g. Memorial Tree
- h. Nutrient Deficiency
- i. Pest Problem
- j. Poor Location
- k. Poor Root System
- l. Poor Structure
- m. Remove Hardware
- n. Serious Decline
- o. Signs of Stress

9. **Overhead Utilities**—For each tree or site, DRG will confirm if overhead utilities are:
 - a. Present and not conflicting.
 - b. Present and conflicting.
 - c. Not present.
10. **Hardscape**—Where trees are present, damage to curbs and cracking or lifting of sidewalk pavement one inch or more is noted.
11. **Clearance**—Pruning, necessary to meet clearance standards over streets and sidewalks, is noted where branches are considered to be interfering with the movement of vehicles or pedestrians or where they are obstructing signs and street or traffic lights.
12. **Growing Space Type**—Confirm the general space locations, which are categorized as:

a. Island	e. Raised Planter
b. Median	f. Tree Lawn Parkway
c. Natural Area	g. Well Pit
d. Open Unrestricted	
13. **Growing Space Size**—Confirm the minimum width of the growing space for root development is recorded.
14. **Date of Inventory**—The date the DRG urban forester collected the data.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/29/2021

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

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

PRODUCER Marsh USA Inc. 200 Public Square, Suite 3760 Cleveland, OH 44114-1824 Attn: Cleveland.CertRequest@marsh.com 104550 RESOU Fergus		CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: FAX (A/C, No):	
INSURED Davey Resource Group, Inc. 295 S. Water Street, Suite 300 Kent, OH 44240		INSURER(S) AFFORDING COVERAGE INSURER A : Old Republic Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F : NAIC # 24147	

COVERAGES **CERTIFICATE NUMBER:** CLE-006791476-01 **REVISION NUMBER:** 4

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 SUBR INSD 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 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		MWZY 314042 21	09/01/2021	09/01/2022	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 5,000,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		MWTB 314041 21	09/01/2021	09/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N N/A	MWC 314040 21 (AOS)	09/01/2021	09/01/2022	<input checked="" type="checkbox"/> PER STATUTE E.L. EACH ACCIDENT \$ 5,000,000 E.L. DISEASE - EA EMPLOYEE \$ 5,000,000 E.L. DISEASE - POLICY LIMIT \$ 5,000,000
A	Excess Workers Compensation		MWXS 314043 21 (NC, OH, PA, WA)	09/01/2021	09/01/2022	Workers Compensation Statutory
A	SIR: \$5,000,000		MWXS 316391 21 (CA)	09/01/2021	09/01/2022	Employer's Liability 1,000,000

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

CERTIFICATE HOLDER City of Birmingham 151 Martin Street Birmingham, MI 48009	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Marsh USA Inc.</i>
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IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDERS

This endorsement modifies the notice of cancellation of insurance provided hereunder by adding the following:

- A.** In the event this policy is cancelled for any permissible reason, other than for nonpayment of premium, we shall endeavor to provide advance written notice of cancellation to certificate holders set out in the schedule on file with the Company, after notifying the first Named Insured of such cancellation. Notice of cancellation to certificate holders may be made by any commercially reasonable means, including mail, electronic mail, facsimile transmission or courier service.
- B.** This advance written notification of a cancellation of coverage is intended as a courtesy only. Our failure to provide such advance written notification will not extend the policy cancellation date, nor negate cancellation of the policy.

All other terms and conditions of this policy remain unchanged.

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

NOTICE OF CANCELATION, NONRENEWAL OR MATERIAL CHANGE

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

SCHEDULE

NUMBER OF DAYS OF ADVANCE NOTICE: 30

**DESIGNATED ENTITY: ALL PERSONS OR ORGANIZATIONS WHERE REQUIRED BY
CONTRACT OR AGREEMENT**

ADDRESS:

**IN THE EVENT OF CANCELATION, NONRENEWAL OR MATERIAL COVERAGE CHANGE
THAT REDUCES OR RESTRICTS THE INSURANCE AFFORDED BY THIS POLICY, WE
AGREE TO PROVIDE ADVANCE WRITTEN NOTICE AS SHOWN IN THE SCHEDULE
ABOVE.**

MWC 314040 21

09/01/21 TO 09/01/22

FORM P



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
09/28/2021

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PRODUCER Aon Risk Services Northeast, Inc. Cleveland OH Office 950 Main Avenue Suite 1600 Cleveland OH 44113 USA	CONTACT NAME: PHONE (A/C, No. Ext): (866) 283-7122 FAX (A/C, No.): 800-363-0105 E-MAIL ADDRESS:																					
INSURED Davey Resource Group, Inc. 295 S Water Street Suite 300 Kent OH 44240 USA	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>ACE American Insurance Company</td><td>22667</td></tr><tr><td>INSURER B:</td><td></td><td></td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	ACE American Insurance Company	22667	INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:		
INSURER(S) AFFORDING COVERAGE		NAIC #																				
INSURER A:	ACE American Insurance Company	22667																				
INSURER B:																						
INSURER C:																						
INSURER D:																						
INSURER E:																						
INSURER F:																						

COVERAGES

CERTIFICATE NUMBER: 570089573987

REVISION NUMBER:

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Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRE AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION <input type="checkbox"/>						EACH OCCURRENCE AGGREGATE
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in MI) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH <input type="checkbox"/> E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT
A	E&O-PL-Primary			G21671538016 Claims Made SIR applies per policy terms & conditions	03/01/2021	09/01/2022	Each Claim Aggregate \$5,000,000 \$10,000,000

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

CERTIFICATE HOLDER**CANCELLATION**

City of Birmingham 151 Martin Street Birmingham MI 48009 USA	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 <i>Aon Risk Services Northeast Inc</i>
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/29/2021

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PRODUCER Marsh USA Inc. 200 Public Square, Suite 3760 Cleveland, OH 44114-1824 Attn: cleveland.certrequest@marsh.com	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):
104550 RESOU Fergus	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Allied World Assurance Company (U.S.) Inc.	NAIC # 19489
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** CLE-006791481-02 **REVISION NUMBER:** 1

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
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	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 checked="" type="checkbox"/> N <input type="checkbox"/> N/A						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Pollution Liability			0313-0522 Deductible: \$100,000	09/01/2021	09/01/2024	Each Incident 2,000,000 Each Aggregate 2,000,000

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

CERTIFICATE HOLDER City of Birmingham 151 Martin Street Birmingham, MI 48009	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Marsh USA Inc.</i>
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PRODUCER Aon Risk Services Northeast, Inc. Cleveland OH Office 950 Main Avenue Suite 1600 Cleveland OH 44113 USA	CONTACT NAME:	
	PHONE (A/C No. Ext): (866) 283-7122	FAX (A/C No.): 800-363-0105
INSURED Davey Resource Group, Inc. 295 S Water Street Suite 300 Kent OH 44240 USA	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A: ACE American Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

Holder Identifier :

COVERAGES**CERTIFICATE NUMBER:** 570089573987**REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY							
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						EACH OCCURRENCE	
							DAMAGE TO RENTED PREMISES (Ea occurrence)	
							MED EXP (Any one person)	
							PERSONAL & ADV INJURY	
							GENERAL AGGREGATE	
							PRODUCTS - COMP/OP AGG	
	GEN'L AGGREGATE LIMIT APPLIES PER:							
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							
	OTHER:							
	AUTOMOBILE LIABILITY							
	<input type="checkbox"/> ANY AUTO						COMBINED SINGLE LIMIT (Ea accident)	
	<input type="checkbox"/> OWNED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per person)	
	<input type="checkbox"/> HIRED AUTOS ONLY	<input type="checkbox"/> NON-OWNED AUTOS ONLY					BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB						EACH OCCURRENCE	
	EXCESS LIAB						AGGREGATE	
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY							
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH <input type="checkbox"/>	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT	
							E.L. DISEASE-EA EMPLOYEE	
							E.L. DISEASE-POLICY LIMIT	
A	E&O-PL-Primary			G21671538016 Claims Made SIR applies per policy terms & conditions	03/01/2021	09/01/2022	Each Claim Aggregate	\$5,000,000 \$10,000,000

Certificate No : 570089573987

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

CERTIFICATE HOLDER**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

City of Birmingham
151 Martin Street
Birmingham MI 48009 USA*Aon Risk Services Northeast Inc*



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09/29/2021

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COVERAGES

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	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE AGGREGATE
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Birmingham
151 Martin Street
Birmingham, MI 48009

CANCELLATION

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AUTHORIZED REPRESENTATIVE

Marsh USA Inc.

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IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
For Updating Tree Inventory Program

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.

Kenneth A. Joehlin	October 29, 2021
PREPARED BY (Print Name)	DATE
Vice President & General Manager	October 29, 2021
TITLE	DATE
	ken.joehlin@davey.com
AUTHORIZED SIGNATURE	E-MAIL ADDRESS
Davey Resource Group, Inc.	
COMPANY	
295 S. Water Street, Suite 300, Kent, OH 44240	800-828-8312
ADDRESS	PHONE
The Davey Tree Expert Company	330-673-9511
NAME OF PARENT COMPANY	PHONE
1500 N. Mantua Street, Kent, Ohio 44240	
ADDRESS	
82-1948528	
TAXPAYER I.D.#	

DATE: November 4, 2021

TO: Thomas M. Markus, City Manager

FROM: Leslie Pielack, Museum Director

SUBJECT: Professional Services Agreement-Engineering Design for Barrier-free Enhancements in Birmingham Museum Pond Zone

INTRODUCTION:

In 2018, the City Commission accepted the Birmingham Museum Landscape Master Plan ("the Plan"), which identified four zones on the museum grounds for preservation, enhancements, and improved public access. The Plan includes proposed barrier-free access to portions of the grounds with natural beauty and wildlife features that are currently inaccessible, especially in the Pond Zone. Located on the north boundary of the museum site along Willits Street, the Plan identifies opportunities to enhance the zone with an ADA/barrier-free parking spot, boardwalk, and paths to view the spring-fed pond and to reach an overlook of the Rouge River. An engineering design is needed for the barrier-free parking spot and accessible pathways to proceed with additional future detailed landscape planning and construction.

BACKGROUND:

Preliminary geotechnical investigation was conducted in May of 2021 by G2 Engineering to assess conditions for earthwork operations, foundation design, and other construction considerations in the pond area. The study provides data on subsoil conditions and construction recommendations to be incorporated in future planning for improvements. The next phase in implementing Pond Zone enhancements is to develop an engineering design for barrier-free access around the pond, including an accessible perpendicular parking spot, pathways, boardwalk, and viewing areas.

To develop the necessary engineering design for proposed barrier-free enhancements, Consulting City Engineer Jim Surhigh and Museum Director Leslie Pielack devised a scope of work for professional services and sought proposals from three engineering design firms currently under professional services contracts with the City. Three cost proposals were received, as follows:

Anderson, Eckstein & Westrick	\$17,460
Hubbell Roth & Clark	\$22,357
Nowak and Fraus	\$25,700

Proposals were reviewed by City Consulting Engineer Surhigh and Museum Director Pielack, and Anderson, Eckstein & Westrick provided the lowest cost proposal for the services needed. As the project cost exceeds \$6,000, approval by the City Commission is being requested for this expenditure and the accompanying Agreement.

LEGAL REVIEW:

City Attorney Mary Kucharek reviewed the proposal and prepared the attached Agreement for the services to be provided for this project by Anderson, Eckstein & Westrick.

FISCAL IMPACT:

Funds for this project are available in the approved 2021-2022 Museum Budget.

PUBLIC COMMUNICATIONS:

None.

SUMMARY:

To continue with planned improvements to the museum grounds as provided for in the 2018 Birmingham Museum Landscape Master Plan, an engineering study and design is needed for the Pond Zone to provide barrier-free access with one parking spot and paths to access natural features of the grounds near Willits Street.

ATTACHMENTS:

- Agreement for Professional Services
- Proposal and scope of work, Anderson, Eckstein & Westrick
- Excerpt, March 12, 2018 Minutes of City Commission meeting
- Excerpt, January 4, 2018 Minutes of Museum Board meeting
- G2 Geotechnical Report
- 2018 Birmingham Museum Landscape Master Plan

SUGGESTED COMMISSION ACTION:

Make a motion providing direction to approve an agreement with Anderson, Eckstein, & Westrick for professional engineering design services for barrier-free enhancements in the Birmingham Museum Pond Zone, and authorizing an expenditure in the amount of \$17,460; to be charged to the Allen House Other Contractual Services account, #101-804.002-811.0000; and further authorizing the Mayor and City Clerk to sign the Agreement on behalf of the City.

**AGREEMENT FOR PROFESSIONAL ENGINEERING AND SURVEYING
SERVICES BETWEEN ANDERSON, ECKSTEIN & WESTRICK, INC.
AND THE CITY OF BIRMINGHAM**

This AGREEMENT, made this _____ day of _____, 2021, by and between **CITY OF BIRMINGHAM**, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and **ANDERSON, ECKSTEIN & WESTRICK, INC.**, having its principal office at 51301 Schoenherr Road, Shelby Township, MI 48315 (hereinafter called "Consultant"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through Birmingham Museum, is desirous of professional engineering and surveying services for design and development at the John West Hunter Park in the City of Birmingham.

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

1. The City shall pay the Consultant for the performance of this Agreement in an amount not to exceed \$17,460 for services and work to be completed as set forth in the Consultant's 2021 Proposal for Professional Services (Attachment A).

2. This Agreement shall commence upon execution by both parties.

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

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

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

6. Consultant shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Consultant's staff which will be in physical contact with city staff must have current vaccinations against COVID-19. The City, at its discretion, may ask for proof of vaccination of Consultant's staff. Failure to provide proof of vaccination when requested will cause the City to request un-vaccinated personnel to leave, request alternate staff, and if the audit firm is unable to comply, this willful violation of safety protocols will constitute a breach of contract by Consultant.

7. This Agreement shall commence upon execution by both parties for a period of time through completion. The parties may extend this Agreement for a length of time as agreed upon in writing as an Addendum to this Agreement. The City shall retain the right to unilaterally terminate this Agreement with or without cause and will pay Consultant for services provided up to the date of termination.

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

9. 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.

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

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

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

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

A. Workers' Compensation Insurance:

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

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

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

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

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following **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: If applicable, professional liability insurance with limits of not less than \$2,000,000 per claim if Consultant will provide service that are customarily subject to this type of coverage.

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

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

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance, or a signed and notarized copy of the Sole Proprietor Form;
- 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, if applicable;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

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

14. To the fullest extent permitted by law, the CONSULTANT and any entity or person for whom the CONSULTANT is legally liable, agrees to indemnify the City of Birmingham, its elected and appointed officials and employees against any and all claims, demands, suits, or loss, and for any damages which may be recovered against or from the CITY, its elected and appointed officials and employees by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the CONSULTANT including its employees and agents, in the performance of this Agreement. Consultant is not obligated to indemnify the City for that portion which is attributable to the City's own negligence.

15. The CITY agrees that the contractors shall be solely responsible for job site safety and all contractors shall be required in the CITY'S contract with such contractors to indemnify the CONSULTANT for any liability incurred by the CONSULTANT as a result of the contractor's negligent acts or omissions. However, such indemnification shall not extend to liability resulting from the negligence of the CONSULTANT.

16. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Consultant, the City shall have the right to terminate this Agreement without further liability to the Consultant if the disqualification has not been removed within thirty (30) days after the City has given the Consultant 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.

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

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

City of Birmingham
Attn: Leslie Pielack, Director
556 W. Maple
Birmingham, MI 48009

Consultant:
Anderson, Eckstein & Westrick, Inc.
Attn: STEPHEN V. PANGOR
51301 Schoenherr Road
Shelby Township, MI 48315

19. 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.

20. 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.

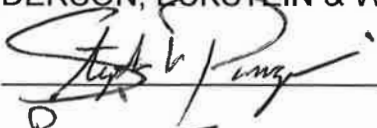
21. The CITY shall be the owner of all the drawings, specifications or other documents prepared by the CONSULTANT. Any modifications made to the drawings by the CITY shall be clearly marked as such on the modified document. The CITY may not

use these documents for any purpose other than pursuant to the activities provided for in this Agreement.

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

CONSULTANT

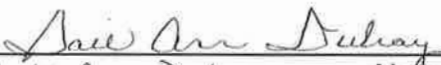
ANDERSON, ECKSTEIN & WESTRICK, INC.

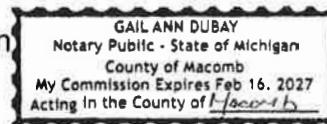
By: 

Its: PRESIDENT

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND)

On this 4th day of November, 2021, before me personally appeared Stephen V. Pangora who acknowledged he is the PRESIDENT of Anderson, Eckstein & Westrick, Inc., and that with authority to do so he signed this Agreement.


Gail Ann Dubay Notary Public
Macomb County, Michigan
Acting in Macomb County, Michigan
My commission expires: 02/16/2027



CITY OF BIRMINGHAM

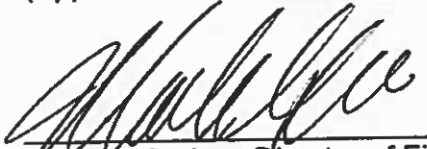
By: _____

Its: Mayor

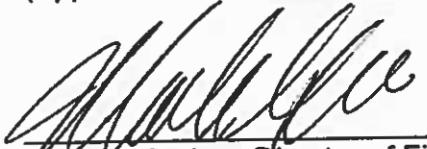
By: _____

Alexandria Bingham
Its: City Clerk


Approved:




Thomas M. Markus, City Manager
(Approved as to substance)



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



Leslie Pielack, Museum Director
(Approved as to substance)



Mary M. Kucharek, City Attorney
(Approved as to form)

ATTACHMENT A



ANDERSON, ECKSTEIN & WESTRICK, INC.
CIVIL ENGINEERS - SURVEYORS - ARCHITECTS

51301 Schoenherr Road, Shelby Township, MI 48315
586.726.1234 | www.aewinc.com

September 23, 2021

Leslie Pielack, Director
Birmingham Museum
556 W. Maple
Birmingham, MI 48009

Reference: Proposal for Professional Services
Boardwalk and Pathway from Willits St to Overlook
Birmingham Museum/John West Hunter Park
City of Birmingham

Dear Leslie:

Thank you for considering our firm for providing professional engineering and surveying services on the project referenced above.

Understanding of the Project

It is our understanding that the Birmingham Museum is looking for the design development of the following at the John West Hunter Park:

- A perpendicular barrier free parking space on the south side of Willits east of the existing pond
- A concrete sidewalk along the south side of Willits that would connect the barrier free parking space to a proposed concrete pad with benches that would overlook the pond
- A 300'± long limestone fines pathway from the barrier free parking space to a proposed concrete pad/seating area overlooking the Rouge River
- A concrete pad/seating area west of the pond off the limestone fines pathway
- A 60'± boardwalk along the east side of the existing pool
- A platform/deck south of the pond boardwalk with stair access from the lawn

Services to be Provided

Based upon your original e-mail dated August 19, 2021 and your subsequent e-mail that provided additional clarification on September 16, 2021, we propose to furnish the following services:



Leslie Pielack
September 23, 2021
Page 2

1. **Topographical Survey** – AEW will provide a topographical survey of the area where the improvements are proposed. We will locate all visual features within this area and collect spot elevations at a 50'± grid. We will contact the engineering department and acquire historic plans of utility information in the Willits right-of-way and include that information on the survey.
2. **Design Development** – Utilizing the Conceptual Landscape Master Plan prepared by Nagy Devlin Land Design along with the modifications noted in your e-mail dated 9/16/21, we will prepare a proposed grading plan including details and cross-sections as may be necessary to accurately depict the extent of the proposed work. We will include a preliminary design of the proposed pond boardwalk along with the location of retaining walls and top and bottom elevations.
3. **Wetland Impact** – We propose to secure the services of a subconsultant, Streamside Ecological Services, to flag the limits of the existing wetlands around the existing pool and pond. Based upon these limits and the proposed plan, we will identify the limits of disturbance.
4. **Owner Review** – Upon completion of the design development plans, we will meet with your office, review the plans and incorporate any comments that may come out of the review meeting.
5. **Engineers Estimate** – Upon completion of the design development plan, we will prepare an engineer's estimate of probable cost.

Additional Services Available

The following services are available but not included in this proposal:

- EGLE permitting
- Preparation of final construction plans and specifications
- Construction observation
- Construction administration and draw request approvals
- Construction staking
- Contract documents and specifications
- As-built field work and plan preparation
- Relocation or extension of electrical, telephone or gas lines or services
- Site lighting plans or details



Leslie Pielack
September 23, 2021
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Services Not Provided

Material testing, environmental testing and geotechnical investigations are outside the scope of services that AEW can provide. We will gladly coordinate these services when requested, to be performed by outside consultants as selected by the Client. All services provided by a sub-consultant of AEW will incur a seven and one half (7.5%) percent prime consultant markup.

- Environmental testing
- Materials testing
- Subsurface investigation and geotechnical report
- Landscape plan and irrigation layout

Fee for Professional Services

The following fees will be on a lump sum (fixed fee) basis as follows:

Topographical Survey	\$ 3,750
Design Development	9,360
Wetland Impact	1,500
Owner Review	1,600
Engineers Estimate	<u>1,250</u>
TOTAL	<u>\$17,460</u>

Any additional services will be provided on an hourly basis according to our rate schedule effective for the period in which the work is performed. We have attached our current rate schedule as part of this proposal; this schedule is revised effective January 1 of each year and is considered an amendment to the proposal at that time.

This proposal does not include revisions to the plans due to changes in the project presented by the Client or his representative once engineering work has begun.

Basis of Payment

Work in progress will be invoiced every four weeks (billing cycle) based upon hourly charges to date. Payment is due within twenty-eight days of invoice date, after which a time price differential charge of 1% per billing cycle (13% annually) will be added to the outstanding balance. Travel time is charged portal to portal. Failure to pay invoices promptly can result in suspension of the work and revision of the completion schedule by the Engineer.



Leslie Pielack
September 23, 2021
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Please note that the fees quoted are for services completed within one year. If time beyond one year is required, an adjustment to the fees for the remaining portion may be made to reflect changes in cost of living, based on the Consumer's Price Index.

Other Terms of Service

Services provided by AEW under this contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to AEW and by mutual agreement between the parties, AEW will correct those services not meeting such standard without additional compensation.

If the Client fails to make payment when due or is otherwise in breach of this contract, AEW may suspend performance of services upon five (5) calendar days' notice to the Client. AEW shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this contract by the Client.

No party to this agreement shall transfer, sublet or assign any rights under or interest in this agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party(s).

In recognition of the relative risks, rewards, and benefits of the project to both the Client and AEW, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, AEW's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this agreement from any cause or causes, shall not exceed the compensation received by AEW under this agreement.

The Client or his authorized agent may terminate this agreement within five days written notice. The Client must pay for any unpaid work and expenses incurred prior to termination.

Opinions of Probable Cost

Opinions of probable construction cost provided represent AEW's best judgment as a design professional familiar with the industry. However, it is recognized that AEW has no control over the cost of labor, materials, equipment or services provided by others, or over the contractor's methods of determining prices, or over competitive bidding or market conditions. Therefore, AEW does not guarantee that proposals, bids, or actual construction cost will not vary from the opinions of probable cost prepared in any manner by our firm.



Leslie Pielack
September 23, 2021
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Execution of the Agreement

We trust that this proposal meets your needs. Please advise if any modifications or clarifications are required. When you are prepared to authorize us to proceed, please sign, date, and return one copy of this agreement with original signatures for our use.

We appreciate the opportunity to work with you on this project. If you have any questions or require additional information please call me.

Sincerely,

Anderson, Eckstein and Westrick, Inc.

Accepted By

R. Ryan Kern, PE
Project Engineer

Signature

Stephen V. Pangori, PE
President

Printed Name, Title

Enclosure: 2021 Hourly Rate Schedule
Exhibit A – Topo Survey Limits

Date

M:\0999\0999-0852\2021\RRK\Birmingham\Birmingham Museum Path_Boardwalk\BoardwalkProposal.docx

EXHIBIT "A"

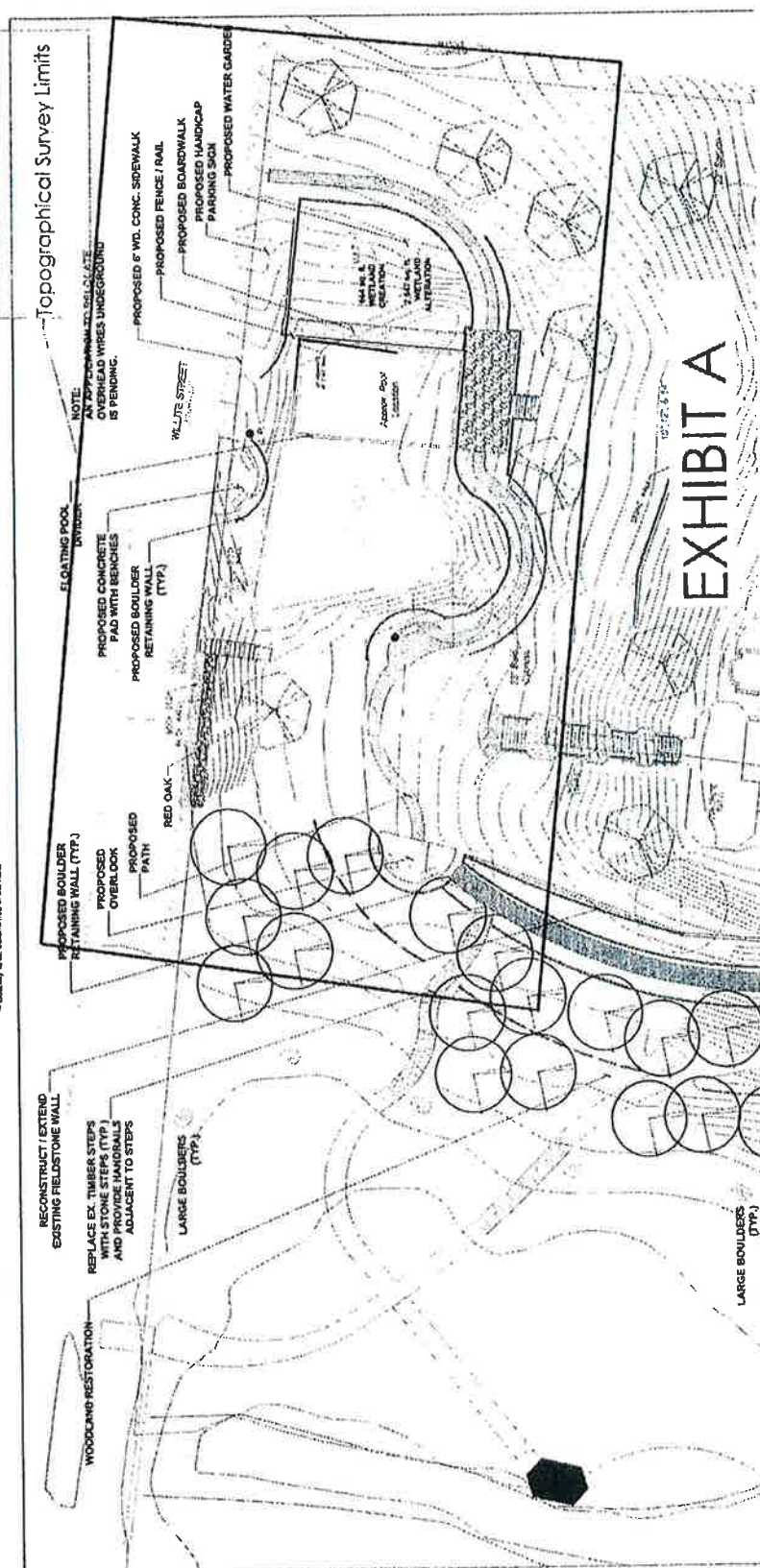
DISCOUNTED HOURLY CHARGE RATES

<u>EMPLOYEE CLASSIFICATION</u>	<u>HOURLY CHARGE RATE</u>
PRINCIPAL ENGINEER / SURVEYOR / ARCHITECT	\$ 168.00
SENIOR PROJECT ENGINEER / SURVEYOR / ARCHITECT	154.00
LICENSED ENGINEER / SURVEYOR / ARCHITECT	139.00
GRADUATE ENGINEER / SURVEYOR / ARCHITECT	113.00
TEAM LEADER	113.00
ENGINEERING AIDE III	95.00
ENGINEERING AIDE II	86.00
ENGINEERING AIDE I	76.00
ENGINEERING AIDE TRAINEE	56.00
SECRETARIAL (Special Projects)	46.00
SURVEY FIELD (3 PERSON CREW)	229.00
SURVEY FIELD (2 PERSON CREW)	192.00
SURVEY FIELD (1 PERSON CREW)	149.00
CONFINED SPACE ENTRY CREW (2 PERSON)	221.00
CONFINED SPACE ENTRY (EACH ADDITIONAL PERSON)	74.00
DATA COLLECTOR (SURVEY CREW)	32.00
GPS SURVEY EQUIPMENT	79.00

EFFECTIVE JANUARY 2021 AND
UPDATED ANNUALLY TO REFLECT CPI.

[illegible][illegible][illegible]

Woodsland / Riverine Zone	15	3	1
Tree Removal:	2,480 ft ²	1,024 ft ²	1,024 ft ²
Boulder Retaining Walls:	320 ft	768 ft	1,024 ft
Large Boulder:	320 ft	768 ft	1,024 ft
Stone Vents:	320 ft	768 ft	1,024 ft
Stone Slope:	320 ft	768 ft	1,024 ft
Crushed Limestone Path:	320 ft	768 ft	1,024 ft
Wood & Metal Memorial:	320 ft	768 ft	1,024 ft
River Overlook:	320 ft	768 ft	1,024 ft
New Plant Material:	320 ft	768 ft	1,024 ft
Benches:	320 ft	768 ft	1,024 ft
Invasive Species Eradication:	320 ft	768 ft	1,024 ft
Subtotal	320 ft	768 ft	1,024 ft
Total	320 ft	768 ft	1,024 ft
Goal Restoration:	320 ft	768 ft	1,024 ft





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/16/2020

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
Gompers, Cornish & Barr
22955 21 Mile Road
Macomb MI 48042

CONTACT
NAME: Mary Shoemaker
PHONE (A/C, No, Ext): 586-949-2300
E-MAIL: mshoemaker@gcbinsurance.com
ADDRESS:
FAX (A/C, No):

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Frankenmuth Mutual Ins. Co.

13986

INSURER B: Accident Fund National Ins Co

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED
Anderson Eckstein & Westrick Inc.
51301 Schoenherr Rd.
Shelby Township MI 48315

ANDER-3

COVERAGES

CERTIFICATE NUMBER: 1873319333

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 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y		CPP0718942	7/1/2019	7/1/2020	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 checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			BA0718942	7/1/2019	7/1/2020	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 <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CPP0718942	7/1/2019	7/1/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WCV6191419	7/1/2019	7/1/2020	<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)

The City of Birmingham including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members are Additional Insured with respect to General Liability and Automobile Liability if required in a written contract or agreement with the insured. General Liability and Automobile Liability are Primary and Noncontributory of required in a written contract or agreement with the insured. With respect to General Liability, 10 days notice of cancellation for non-payment and 30 days notice of cancellation for any other reason.

CERTIFICATE HOLDER**CANCELLATION**

City of Birmingham, Director of Finance
P.O. Box 3001
151 Martin Street
Birmingham MI 48012

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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ACORD 25 (2016/03)

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THIS CERTIFICATE SUPERSEDES PREVIOUSLY ISSUED CERTIFICATE

very different outcomes for the layout of the parcel.

Commissioner Nickita agreed with Commissioner Sherman that all of this information should have been included as part of the SLUP amendment.

Commissioner Hoff asked whether City staff would track ADA-compliance on this issue.

Mayor Harris asked whether City staff would only track ADA-compliance, or whether City staff would track some of Commissioner Nickita's concerns as well.

Senior Planner Baka told Mayor Harris that City staff would track, in addition to ADA-compliance, pedestrian flow, accessibility from all the parking spots, and car safety and maneuverability that result from the parcel changes.

Commissioner Sherman stated that this SLUP amendment should go back before the Planning Board for further review since the plans, as submitted, are incomplete.

Commissioner Nickita agreed with Commission Sherman. Commissioner Nickita continued that incomplete SLUP amendment requests should not appear before the Commission; all relevant information should be submitted and reviewed by the Planning Board first.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

City Manager Valentine stated he would get this issue back before the Planning Board as quickly as possible.

03-075-18 RESOLUTION ACCEPTING THE PROPOSED 2018 BIRMINGHAM MUSEUM MASTER LANDSCAPE PLAN

Birmingham Museum (Museum) Director Pielack reported:

The Friends of the Birmingham Museum and the Rosso Family Foundation provided funding for the Proposed Museum Master Landscape Plan, covering approximately four acres of site, and Brian Devlin, historic landscape architect of Nagy Devlin Land Designs was selected to study the landscape and make recommendations to the Museum Board.

In order to approach the museum landscape planning comprehensively, input was gathered from a wide range of sources. These included:

- Planning/Historic Preservation Departments regarding infrastructure, planning, alignment with local historic district ordinance and State Historic Preservation Office guidelines, ADA access and parking issues, and integration/coordination with policies and materials used by other city parks.
- A joint workshop between the Museum Board, the Parks and Recreation Board, and the Historic District Commission was held on January 17, 2018 to discuss the plan and gather input from board members as well as the public.

The Plan protects and preserves the natural aspects of the landscape, while restoring its unique historic character that has been lost or obscured by time and invasive plants.

Furthermore, the plan integrates a variety of public access options, enhancing the museum's community engagement and educational opportunities.

The Plan is conceptual, and it is comprehensive and consistent with the city's other planning initiatives and parks, allowing for coordination of projects. This is intended to communicate with potential sponsors and granting organizations to leverage funding commitments and assist with continued planning. As needs or conditions change, the suggested timelines can be revised.

Mr. Devlin presented maps of the Allen House, Public Plaza, and the Hunter House with discussion of trails, surrounding topography, and four landscape zones: The Heritage Zone, which includes the two houses and the plaza; The Transition Zone, with steeper slopes down to the pond area; The Pond Zone; and The Riverine Woodland Zone.

Mr. Devlin continued that the **Heritage Zone** plan includes planting:

- More elm trees in front of the Allen House due to the large number of elms already on-site;
- Birmingham heritage plants in the garden beds; and,
- A children's garden near the u-hedge and picket fence by the Heritage House. There will also be removal of undesirable species of trees.

Mr. Devlin noted that there has already been a tremendous amount of work around the Heritage House, including handicapped-accessible parking.

The **Transition Zone** is the steeply-sloped area behind the houses that extends to the pond.

Mr. Devlin continued that:

- There is an existing 2½ - 3' tall wall;
- There are elm stumps and evergreen trees;
- There is a wood stairway down to the pond that may be covering up cement steps with fieldstone edge;
- Any new wall installed will look different from the existent wall in order to belie the idea that the wall is historic;
- The green area will remain open with a few elm trees;
- The steps will be updated; and
- The goal is minimizing the change done to the area.

The **Riverine Woodland Zone** has an old fieldstone wall, a trail, the river, many dead branches, some undesirable trees, and some invasive species that are of concern.

- The trail has wood timbers for steps.
- This area is laid out in Birmingham's Rouge River Trail Corridor Master Plan, and includes:
 - An overlook near the existing trail entry;
 - Maintaining existing trails and upgrade with stone steps and handrail;
 - Extending the trail at the intersection with a boardwalk to a deck at the bank of the river according to the Rouge River Trail Corridor Master Plan;
 - Connecting the overlook with a trail along the top of the ridge to the entry of the existing trail at Maple Road;
 - Establishing a plan for eradicating the invasive species;

- Developing a planting program to restore the sloped area to a Beech- Maple ecosystem; and,
- Installing large boulders as sculptural elements.

The **Pond Zone** has more moderate slopes than the Transition Zone and:

- Pedestrian access from Willits;
- A light pole that provides internet access;
- A pool within the pond; and,
- Overhead lines.

Mr. Devlin continued that the plan for this zone also includes creating a handicap accessible path from Willits, two handicap designated spots along Willits, a boardwalk adjacent to the eastern edge of the pool, a number of elms, retaining walls, a water garden, relocation of overhead wires, and a seating area near the light pole.

Mr. Devlin showed Mayor Pro Tem Bordman that the proposed ADA-compliant crushed limestone trail, that would allow an individual in a wheelchair to navigate from Willits to Maple, would cut across the slope on the west side rather than down the slope in order to allow a wheelchair user to navigate it.

Mr. Devlin clarified for Mayor Pro Tem Bordman that he was envisioning people sitting on the steps for presentations if desired. The expanse to the east of the steps would remain as open space.

Museum Director Pielack told Commissioner DeWeese that providing accessible, barrier-free paths around the pond is a high priority.

City Manager Valentine told Commissioner Hoff while this is one of Birmingham's parks, it is largely overseen by the Museum. There has been a collaborative effort between the Museum, City staff, and other City boards to construct this Plan.

Commissioner Hoff voiced concern that:

- The proposed budget for the Museum Plan is \$500,000, and that the areas around the Museum are not often used. Commissioner Hoff conceded that these changes could promote more use of the Museum grounds, but that it is a very large budget request.
- Birmingham citizens did not have sufficient opportunity to give input on the plan.

Museum Director Pielack told:

- Commissioner Boutros that people often access the Museum grounds from Willits, and that this conceptual Plan is non-binding, but allows the Museum and Park to solicit donations, grants, and other funds.
- Commissioner Hoff that many aspects of the Museum grounds are underutilized, especially the lower portion of the Park, and this Plan is an attempt to remedy that.
- Mayor Pro Tem Bordman that creating a Birmingham Museum Master Landscape Plan was discussed at the Long-Range Planning meeting on January 27, 2018, and also in the Museum's presentation of its strategic plan in 2017.

City Manager Valentine told Mayor Pro Tem Bordman that the Commission did not need to

specifically approve the Birmingham Museum Master Landscape Plan because the Commission's approval of the Museum's strategic plan included approval of the Birmingham Museum Master Landscape Plan.

Mayor Pro Tem Bordman echoed Commissioner Hoff's concern regarding potentially insufficient solicitation of feedback from Birmingham citizens regarding the Birmingham Museum Master Landscape Plan.

Museum Director Pielack told Mayor Pro Tem Bordman that:

- There were public notices issued every time the topic was before the Museum Board over the last few years, that neighbors of the Museum were specifically notified in January 2018, that there has been phone contact with a number of citizens, and that citizens have also stopped in the Museum lobby to look at the plan.
- The lack of public engagement may be the result of the Museum grounds being underutilized, and therefore there is currently a lack of public investment in the outcome.
- About 4% of the Parks Master Plan survey respondents addressed the Birmingham Museum Master Landscape Plan.

Commissioner Hoff shared further concern about the safety of the pool. Mr. Devlin replied to Commissioner Hoff that:

- There is fencing along the east and south sides of the pond, but that the pond has been otherwise unfenced up to this point.
- The pool is in the pond.

Commissioner Sherman stated that he would move the motion with the understanding that:

- This is only a conceptual plan;
- It will allow the Museum to solicit grants for the Plan; and
- Before anything is done to the Museum grounds, further public review will occur.

Commissioner Nickita said he sees this as similar to the processes other Park plans undergo.

Mayor Pro Tem Bordman said this Plan has had insufficient public feedback, and she will therefore vote against its passage.

City Manager Valentine told Commissioner Hoff that the Commission would have an opportunity to review and approve next steps once funding sources for parts of the Plan are acquired.

Commissioner Boutros opined that Museum Director Pielack took every appropriate opportunity to solicit feedback from the public, and that the lack of response is an indication of the public's current lack of investment in the project at this juncture. Commissioner Boutros continued that the public may be more invested when aspects of the plan and potential funding come under future review.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese: To accept the proposed 2018 Birmingham Museum Master Landscape Plan.

VOTE: Yeas, 5
 Nays, 2 (Bordman, Hoff)
 Absent, 0

**03-076-18 LEADING PEDESTRIAN INTERVALS AT INTERSECTIONS WITHIN
 THE CENTRAL BUSINESS DISTRICT**

Planning Director Ecker reported:

A Leading Pedestrian Interval (LPI) within the timing plan of a traffic signal is defined as a period where vehicles in all directions are given a red (stop) phase, while the pedestrian signals change to the WALK mode for several seconds at the beginning of the phase.

The highest points of conflict in an intersection are where vehicles try and turn right or left while a pedestrian is crossing. The lead time, of at least three seconds, would have the pedestrian out of a turning vehicle's blind spot, making crossing much safer.

Staff asked traffic consultant Fleis and Vandenbrink (F&V) to study 11 signalized intersections within the Central Business District. Staff has also asked the Michigan Dept. of Transportation (MDOT) to consider the installation of LPIs on Woodward Ave. within the influence of downtown. MDOT has indicated that they would consider the feasibility of this, but have not taken a position as of yet. We are currently attempting to get an update from them on this issue.

F&V found that installing LPIs are feasible at all 11 intersections under City jurisdiction, and can be done so at nominal cost. The issue was reviewed by the Multi-Modal Transportation Board, who supported the idea.

The cost of implementation is anticipated to be about \$1,000 per signal.

Mayor Pro Tem Bordman expressed enthusiasm for this proposal, and asked how right-turns on red would be handled.

Planning Director Ecker stated that cars are required by law to come to a three-second, full-and-complete stop at a red light before turning right, and that three seconds should afford a pedestrian the necessary amount of time to be out of a turning vehicle's way.

Commissioner DeWeese voiced his approval of the proposal.

Planning Director Ecker told Commissioner Hoff that:

- The City currently has an LPI at Maple and Chester, going north-south.
- Some of the intersections are being delayed to the second phase because of the traffic diversion plan for the S. Old Woodward construction.

Commissioner Nickita said there are two intersections that need a complete overhaul: the intersection at Oakland, Willits, and Old Woodward, and the one at Chester and Maple.

B. The Museum Board's discussion of potential Birmingham Bicentennial activities and events was deferred by consensus to the February 1 Museum Board meeting in light of the benefit of more board members available for the discussion.

New Business

A. Per previous consensus of the Museum Board, a Museum Board Special Meeting and Joint Workshop has been tentatively scheduled for Tuesday, January 16, 6:00 PM at the Department of Public Services meeting room at 851 S. Eton. The goal of the meeting is to present the draft conceptual landscape master plan and invite questions and comments from the Parks and Recreation Board, the Historic District Commission and the public. Mr. Devlin is available to make the presentation on behalf of the Museum Board. As a Special Meeting of the Museum Board, a quorum of board members is required. Museum Board members indicated their availability for the Special Meeting and Joint Workshop for that day and time, which will meet the required quorum.

MOTION: by Eaton, seconded by Dixon:

To hold the Museum Board Special Meeting/Joint Workshop on Tuesday, January 16 at 6:00 PM at the Department of Public Services for the purpose of presenting the draft conceptual landscape master plan to the Parks and Recreation Board, Historic District Commission, and the public, and to request that Mr. Devlin of Devlin Nagy Land Designs present the draft plan on behalf of the Museum Board.

VOTE: Yeas, 5
Nays, 0

Communication and Reports

B. Ms. Eaton expressed concern about the importance of the outcome of the Bicentennial Book Project Committee and the need to continue to pursue the project. The question of whether the former committee should be reinstated or a new committee formed to work on execution of a book project was briefly discussed, as well as the benefit of separating the book project from the bicentennial theme. The length of time needed for production suggests any potential book project be separated from the bicentennial theme so as not to be negatively impacted by that deadline. Members agreed by consensus that the issue of a book project committee should appear on February's agenda as a separate discussion item. Ms. Eaton also expressed the value of discussing fund raising as an agenda item at the February meeting, specifically for museum park projects. Mr. Dixon agreed that a project focus for fund raising would be more effective than generalized fund raising. The board agreed that this topic should be an agenda item for February's meeting.

Unfinished Business, continued

A. Mr. Devlin shared the final draft conceptual master landscape plan reflecting the specifics on materials and design determined by the Museum Board at its December 7, 2017 meeting. He verified that the Museum Board preferred the wood post and

horizontal cable design for the areas around the pool, and shared his detail drawing of the proposed rails descending to the Rouge reflecting the preferences of the Museum Board for metal top rail, wood posts, and cabling. The Rouge rails are open at the bottom to reduce the hazard to small animals while providing a sense of continuity with the rails around the pool.

MDEQ pre-application feedback not yet being available, the design of the boardwalk support has yet to be determined because of the seeps and uncertain depth to stable soil. Helical anchors may be an option when final design is complete, as they would permit construction of the preferred boardwalk level close to the ground and water level.

Mr. Devlin summarized the plan for each of the four zones, and clarified that cost estimates at final construction can vary by availability and cost of materials and other changing conditions. Some plant material has yet to be determined. The plan as presented is conceptual only, and when final specific design for each zone is undertaken, specifications would be more exact and modifiable. He also added notes about control of *phragmites* and garlic mustard on the plan detail drawing.

Estimated landscape construction costs are as follows:

A. Heritage Zone	\$ 21,665
B. Transition Zone	\$101,550
C. Pond Zone	\$172,480
D. Woodland/Riverine Zone	\$232,350 [amended from \$ 247,330]

In addition, should there be a future interest in restoring the pool, Mr. Devlin estimated that approximately \$180,000 may be needed for that project.

Mr. Dixon commented that he was uncertain about the symmetrical nature of the stone steps descending the lawn, but that he did not have a better option to suggest at this time. He also stated that he showed a preliminary draft of the plan to landscape architect and urban planner Bob Gibbs, and relayed Mr. Gibbs' comment that as a public property, the museum should avoid plantings that are too residential in favor of those that are more appropriate for civic sites.

MOTION: by Eaton, seconded by Dixon:

To approve the proposed draft conceptual landscape master plan design prepared by Brian Devlin of Nagy Devlin Land Design, as amended to reflect corrected calculation of cost estimates of railing in Woodland/Riverine Zone to be supplied by Mr. Devlin.

VOTE: Yeas, 5
Nays, 0

Mr. Devlin clarified in response to Mr. Dixon's comment about the stone steps that, as previously agreed, he was proposing to plan for a flat gathering spot at the base on the lawn for small informal gatherings or performances. He will prepare elevation sketches that will convey the proposed design in a more effective way before the joint

workshop/public meeting. Mr. Cunningham commented that the Pond Zone is of great historical interest and is likely to have broad public appeal and attract funding.

Communication and Reports, continued

A. Museum Director Pielack provided copies of her Long Range Planning Report which will go to the city commission. The Long Range Planning Meeting will be held on January 27, with the Museum time slot being 1:45 to 2:00 PM. The conceptual master landscape plan, bicentennial planning, and museum engagement will be highlighted. Over the past three years, the number of adult programs and contacts has increased substantially. Director Pielack underscored the importance of the museum's social media activity as an important component to improvements in community engagement as well.

D. There were no public comments.

Ms. Logue adjourned the meeting at 6:51 p.m.



Report on Geotechnical Investigation

Birmingham Museum Pond Investigation 556 West Maple Road Birmingham, Michigan 48009

Prepared for:

Birmingham Museum
556 West Maple Road
Birmingham, Michigan 48009

G2 Project No. 210232
May 24, 2021



May 24, 2021

Ms. Leslie Pielack
Birmingham Museum
556 West Maple Road
Birmingham, Michigan 48303

Re: Report on Geotechnical Investigation
Birmingham Museum Pond Investigation
Birmingham, Michigan 48009
G2 Project No. 210232

Greetings Ms. Pielack:

We have completed the geotechnical investigation for the proposed Birmingham Museum site improvements in Birmingham, Michigan. This report presents the results of our observations and analyses and our recommendations for earthwork operations, foundation design, and construction considerations as they relate to the geotechnical conditions on site.

We appreciate the opportunity to be of service to the Birmingham Museum and the City of Birmingham and look forward to discussing the recommendations presented. In the meantime, if you have any questions regarding our report or any other matter pertaining to the project, please contact us.

Sincerely,

G2 Consulting Group, LLC

Grant M. Beahlen, P.E.
Project Engineer

Noel J. Hargrave-Thomas, P.E.
Principal

GMB/NJHT/ljv

Enclosures



EXECUTIVE SUMMARY

The proposed project is located at the Birmingham Museum in Birmingham, Michigan. An existing pond is located within the limits of the Birmingham Museum property. Based on the provided Landscape Master Plan, the project consists of overall site improvements including landscaping improvements, construction of a pedestrian boardwalk, pond dredging and development of a new pool, possible occasional retaining walls to provide grade separation, and construction of a walking path.

Approximately 12 to 18 inches of silty sand topsoil are present at soil borings B-2, and B-3 through B-6. Loose silty sand fill is present from the ground surface at boring B-1 and underlies the topsoil at boring B-5 and extends to depths of 10 inches and 3 feet, respectively. Soft buried silty clay topsoil underlies the fill at boring B-1 and extends to an approximate depth of 2 feet. Native very loose to medium compact silty sand, sand, and gravelly sand generally underlie the topsoil at borings B-1, B-2, and B-3, and fill at boring B-5 and extend to the explored depths ranging from 3 to 5 feet. Native medium to very stiff sandy clay and silty clay underlies the topsoil at boring B-4 and B-6 and extend to the explored depths of 6 feet.

Groundwater was encountered during and upon completion of drilling operations within borings B-1, B-2, B-3, and B-5 at depths ranging from 6 inches to 2-1/2 feet. No measurable groundwater was encountered within soil borings B-4 and B-6 during and upon completion of drilling operations. Fluctuations in perched and long term groundwater levels should be anticipated due to seasonal variations and following periods of prolonged precipitation.

Visible groundwater seepage was observed at two locations within the project site. The two groundwater seepage locations are shown in the attached Groundwater Seepage Plan, Plate No. 2 in the Appendix of this report.

The proposed pedestrian boardwalk is located within the east end of the existing pond. At the time of this report, no plans or loading conditions were available for the boardwalk structure. However, based upon loading typical for these structures we anticipate the pedestrian boardwalk can be supported on helical piles. Very loose to loose granular soils are present within borings B-1, B-2, and B-3 extending to the explored depths of 3 and 4 feet. Helical piles should be extended through the upper very loose to loose granular soils and bear in the underlying stiff to very stiff silty clay as encountered within borings B-4 and B-5. We anticipate triple helix helical piles with 10-inch, 12-inch, and 14-inch helixes can be designed to support the boardwalk bearing in stiff to very stiff silty clay. The helical piles can be extended to varying depths to attain an estimated pile capacity.

Groundwater seepage will be encountered during site preparation operations at the locations shown on the Seepage Survey Location Plan Plate No. 2 in the Appendix. We anticipate groundwater accumulation may likely be controlled in the silty sand by properly constructed sumps during site preparation. Several sumps should be constructed and pumped dry prior to earthwork operations to avoid exposing the wet silty sand and it becoming unstable. If groundwater cannot be controlled by sump pump operations, the contractor should be prepared to install French drains by trenching methods connected to sump pumps or a shallow well point dewatering system.

Do not consider this summary separate from the entire text of this report, with all the conclusions and qualifications mentioned herein. Details of our analysis and recommendations are discussed in the following sections and in the Appendix of this report.



PROJECT DESCRIPTION

The proposed project is located at the Birmingham Museum in Birmingham, Michigan. An existing pond is located within the limits of Birmingham Museum property. Based on the provided Landscape Master Plan, the project consists of overall site improvements including landscaping improvements, construction of a pedestrian boardwalk, pond dredging and development of a new pool, possible occasional retaining walls to provide grade separation, and construction of a walking path. No information or loading conditions for the boardwalk was available at the time of this report.

SCOPE OF SERVICES

The field operations, laboratory testing, and engineering report preparation were performed under the direction and supervision of a licensed professional engineer. Our services were performed according to generally accepted standards and procedures in the practice of geotechnical engineering. Our scope of services for this project is as follows:

1. We drilled a total of six (6) hand soil borings. The soil borings were terminated prior to the desired drilling depths due to wet caving granular soil and auger refusal.
2. We performed laboratory testing on representative samples obtained from the soil borings. Laboratory testing included visual engineering classification, moisture content, organic matter content, and unconfined compressive strength determinations.
3. We prepared this engineering report. Our report includes recommendations regarding site preparation, foundation types suitable for the soil conditions encountered, estimated settlement, and construction considerations related to the geotechnical conditions within the site.

FIELD OPERATIONS

G2 Consulting Group, LLC (G2) selected the number, depth, and location of the soil borings. The approximate soil boring locations are shown on the Soil Boring Location Plan, Plate No. 1. Soil boring ground surface elevations were interpolated from the aforementioned landscape master plan.

The soil borings were performed using a 3-inch diameter hand auger. Within each hand-auger boring, soil samples were obtained at transitions in soil types. The soil samples were placed in sealed containers in the field and brought to the laboratory for testing and classification. A Dynamic Cone Penetrometer (DCP) test was performed within each hand auger boring at chosen intervals to evaluate the consistency of the in-situ soil. DCP testing involves driving a 1-1/2 inch diameter cone with a 45° vertex angle into the ground using a 15-pound weight dropped 20 inches after the cone is seated into the bottom of the hand auger borehole. The Dynamic Cone Penetrometer is driven for 1-3/4 inches. The blow counts for the 1-3/4 inch drive are presented on the individual hand soil boring logs. The reported blow count is assumed to be approximately equivalent to the Standard Penetration Test (SPT) N-value.

The soil samples were placed in sealed containers in the field and brought to our laboratory for testing and classification. During field operations, G2 personnel maintained logs of the encountered subsurface conditions, including changes in stratigraphy and observed groundwater levels. The final boring logs are based on the field logs supplemented by laboratory soil classification and test results. After completion of drilling operations, the boreholes were backfilled with auger cuttings.



LABORATORY TESTING

Representative soil samples were subjected to laboratory testing to determine soil parameters pertinent to foundation design and site preparation. An experienced geotechnical engineer classified the samples in general conformance with the Unified Soil Classification System.

Laboratory testing included natural moisture content, organic matter content, and unconfined compressive strength determinations. The organic matter content (loss-on-ignition) of representative samples were determined in accordance with ASTM Test Method D 2974, "Standard Test Methods for Moisture, Ash, and Organic Matter of Peat and Other Organic Soils". Unconfined compressive strengths were determined using a spring-loaded hand penetrometer. The hand penetrometer estimates the unconfined compressive strength to a maximum of 4-1/2 tons per square foot (tsf) by measuring the resistance of the soil sample to the penetration of a calibrated spring-loaded cylinder.

The results of the moisture content, organic matter content, and unconfined compressive strength tests are presented on the logs at the depths samples were taken. We will hold the soil samples for 60 days from the date of this report. If you would like us to retain the samples beyond this period, or you would like the soil samples, please let us know.

SITE DESCRIPTION

The Birmingham Museum is located at 556 West Maple Road in Birmingham, Michigan. Willits Street bounds the property to the north. Site grades generally slope downward from West Maple Road to Willits Street. A branch of the Rouge River runs in a north/south direction on the west side of the site. Properties to the north of the site are residential and properties to the south are commercial.

SOIL CONDITIONS

Approximately 12 to 18 inches of silty sand topsoil are present at soil borings B-2 through B-6. Silty sand fill is present from the ground surface at boring B-1 and underlies the topsoil at boring B-5 and extends to depths of 10 inches and 3 feet, respectively. Buried silty clay topsoil underlies the fill at boring B-1 and extends to an approximate depth of 2 feet. Native silty sand, sand, and gravelly sand generally underlie the topsoil at borings B-1, B-2, and B-3, and fill at boring B-5 and extend to the explored depths ranging from 3 to 5 feet. Native sandy clay and silty clay underlie the topsoil at boring B-4 and B-6 and extend to the explored depths of 6 feet.

The native granular soils are very loose to medium compact with Dynamic Cone Penetrometer Test N-values ranging from 3 to 14 blows per 1-3/4 inches driven. The native sandy clay within boring B-4 extending to an approximate depth of 2-1/2 feet is medium to stiff in consistency with a moisture content of 21 percent and unconfined compressive strength of 1,500 psf. The remaining cohesive soil within borings B-4 and B-6 are stiff to very stiff in consistency with moisture contents ranging from 18 to 21 percent and unconfined compressive strengths ranging from 4,000 to 6,000 psf.

The stratification depths shown on the soil boring logs represent the soil conditions at the boring locations. Variations may occur away from the boring locations. Additionally, the stratigraphic lines represent the approximate boundaries between soil types. The transition may be more gradual than indicated. We have prepared the boring logs on the basis of the field logs of the soil conditions encountered supplemented by laboratory classification and testing.

The Soil Boring Location Plan, Plate No. 1, and Soil Boring Logs, Figure Nos. 1 through 6, are presented in the Appendix. The soil profiles described above are generalized descriptions of the conditions



encountered at the boring locations. General Notes Terminology defining the nomenclature used on the soil boring logs and elsewhere in this report are presented on Figure No. 7.

GROUNDWATER CONDITIONS

Groundwater was encountered during and upon completion of drilling operations within borings B-1, B-2, B-3, and B-5 at depths ranging from 6 inches to 2-1/2 feet. No measurable groundwater was encountered within soil borings B-4 and B-6 during and upon completion of drilling operations. Fluctuations in perched and long term groundwater levels should be anticipated due to seasonal variations and following periods of prolonged precipitation.

Visible groundwater seepage from the slope face was observed at two locations within the project site. The two groundwater seepage locations are shown in the attached Groundwater Seepage Plan, Plate No. 2 in the Appendix of this report.

SITE PREPARATION RECOMMENDATIONS

We anticipate earthwork operations will consist of removing the existing trees, vegetation, and topsoil, from within the proposed path areas and placing and compacting engineered fill to achieve proposed finished grades. We recommend all earthwork operations be performed in accordance with comprehensive specifications and be properly monitored in the field by qualified personnel under the direction of a licensed engineer.

At the start of earthwork operations, the topsoil, vegetation, and trees should be removed in their entirety from the boardwalk and dock areas. Prior to placement of any engineered fill, the exposed subgrade should be proof compacted with a static smooth drum roller and/or proof rolled with a fully loaded tandem-axle dump truck and visually evaluated for instability and/or unsuitable soil conditions. Any unstable or unsuitable areas noted should be improved by compaction or removed and replaced with engineered fill.

Any engineered fill placed within the site should consist of an approved, environmentally clean material. Engineered fill should be free of organic matter, frozen soil, clods, or other harmful substances. The fill should be placed in uniform horizontal layers, not more than 9 inches in loose thickness. The engineered fill should be compacted to achieve a density of at least 95 percent of the maximum dry density, as determined by the Modified Proctor compaction test (ASTM D 1557). Granular fill used within the site may be compacted within 2 percent above or below optimum moisture content. Frozen material should not be used as fill, nor should fill be placed on a frozen subgrade.

PEDESTRIAN BOARDWALK FOUNDATION RECOMMENDATIONS

The proposed pedestrian boardwalk is located within the east end of the existing pond. At the time of this report, no plans or loading conditions were available for the boardwalk structure. However, based upon loading typical for these structures we anticipate the pedestrian boardwalk can be supported on helical piles. Very loose to loose granular soils are present within borings B-1, B-2, and B-3 extending to the explored depths of 3 and 4 feet. Helical piles should be extended through the upper very loose to loose granular soils and bear in the underlying stiff to very stiff silty clay as encountered within borings B-4 and B-5. We anticipate triple helix helical piles with 10-inch, 12-inch, and 14-inch helixes can be designed to support the boardwalk bearing in stiff to very stiff silty clay. The helical piles can be extended to varying depths to attain an estimated pile capacity.



CONSTRUCTION CONSIDERATIONS

Groundwater seepage will be encountered during site preparation operations at the locations shown on the Seepage Survey Location Plan Plate No. 2 in the Appendix. We anticipate groundwater accumulation may likely be controlled in the silty sand by properly constructed sumps during site preparation. Several sumps should be constructed and pumped dry prior to earthwork operations to avoid exposing the wet silty sand and it becoming unstable. The contractor should also be prepared to install French drains by trenching methods connected to sump pumps or a shallow well point dewatering system within the slope face to dry the existing groundwater seepage areas.

We recommend a maximum slope of 1-1/2 horizontal unit to 1 vertical unit (1-1/2H:1V) for excavations within the existing granular soils. We recommend a maximum slope of 3/4H:1V for excavations within the native stiff to hard cohesive soils. Where groundwater seepage is encountered, the slopes must be sloped back on a 3H:1V slope. All excavations should be safely sheeted, shored, sloped, or braced in accordance with MI-OSHA requirements. If material is stored or equipment is operated near an excavation, lower angle slopes or stronger shoring must be used to resist the extra pressure due to the superimposed loads.

GENERAL COMMENTS

We have formulated the evaluations and recommendations presented in this report relative to site preparation and foundations on the basis of data provided to us relating to the location and type of structure proposed. Any significant change in the building location and loading conditions should be brought to our attention for review and evaluation with respect to the prevailing subsurface conditions.

The scope of the present investigation was limited to evaluation of subsurface conditions for the support of the boardwalk and/or dock areas and other related aspects of the development. No chemical, environmental, or hydrogeological testing or analyses were included in the scope of this investigation. If changes occur in the design, location, or concept of the project, the conclusions and recommendations contained in this report are not valid unless G2 Consulting Group, LLC reviews the changes. G2 Consulting Group, LLC will then confirm the recommendations presented herein or make changes in writing.

We have based the analyses and recommendations submitted in this report upon the data from soil borings performed at the approximate locations shown on the Soil Boring Location Plan, Plate No. 1. This report does not reflect variations that may occur between the actual boring locations and the actual structure locations. The nature and extent of any such variations may not become clear until the time of construction. If significant variations then become evident, it may be necessary for us to re-evaluate our report recommendations.

Soil conditions at the site could vary from those generalized on the basis of soil borings made at specific locations. It is, therefore, recommended that G2 Consulting Group, LLC be retained to provide soil engineering services during the site preparation, excavation, and foundation construction phases of the proposed project. This is to observe compliance with the design concepts, specifications, and recommendations. Also, this allows design changes to be made in the event that subsurface conditions differ from those anticipated prior to the start of construction.

APPENDIX

Soil Boring Location Plan	Plate No. 1
Groundwater Seepage Location Plan	Plate No. 2
Hand Auger Soil Boring Logs	Figure Nos. 1 through 6
General Notes Terminology	Figure No. 7

Project Name: Birmingham Museum Pond Investigation

Project Location: 556 West Maple Road
Birmingham, Michigan 48009

G2 Project No. 210232

Latitude: N/A Longitude: N/A



Soil Boring No. B-1

CONSULTING GROUP

SUBSURFACE PROFILE

SOIL SAMPLE DATA

ELEV. (ft)	PRO- FILE	GROUND SURFACE ELEVATION: 787.5 ft ±	DEPTH (ft)	SAMPLE TYPE/NO.	DCP BLOWS/ 1.75-INCHES	MOISTURE CONTENT (%)	DRY DENSITY (PCF)	UNCOF. COMP. ST. (PSF)
		Fill: Black Silty Sand with little gravel and trace clay	0.7					
		Buried Topsoil: Soft Black Silty Clay (organic matter content = 4.8%)	2.0	S-1				
				S-2		35.9		500*
		Very Loose Brown Silty Sand with trace gravel	4.0	S-3	2			
		End of Boring @ 4 ft, Auger Refusal						
782.5			5					
777.5			10					

Total Depth: 4 ft
Drilling Date: April 14, 2021
Inspector:
Contractor: G2 Consulting Group, LLC
Driller: G.M.B

Drilling Method:
3-inch diameter hand auger

Water Level Observation:
2-1/2 feet during and upon completion

Notes:
Auger refusal due to wet caving granular soil
Borehole collapsed at 3 ft after auger removal
* Calibrated Hand Penetrometer

Excavation Backfilling Procedure:
Auger cuttings

Figure No. 1

Project Name: Birmingham Museum Pond Investigation

Project Location: 556 West Maple Road
Birmingham, Michigan 48009

G2 Project No. 210232

Latitude: N/A Longitude: N/A



Soil Boring No. B-2

CONSULTING GROUP

SUBSURFACE PROFILE

SOIL SAMPLE DATA

ELEV. (ft)	PRO- FILE	GROUND SURFACE ELEVATION: 776.5 ft ±	DEPTH (ft)	SAMPLE TYPE/NO.	DCP BLOWS/ 1.75-INCHES	MOISTURE CONTENT (%)	DRY DENSITY (PCF)	UNCOF. COMP. ST. (PSF)
		Topsoil: Black Silty Sand Peat (organic matter content = 5.5%)						
			1.5	S-1		48.0		
		Loose Brown Silty Sand	1.8	S-2	5			
		Stiff Mottled Brown and Gray Silty Clay with trace sand and gravel	2.3	S-3		23.3		3000*
		Very Loose Brown Gravel	3.0	S-4	4			
		End of Boring @ 3 ft, Auger Refusal						
771.5			5					
766.5			10					

Total Depth: 3 ft
Drilling Date: April 14, 2021
Inspector:
Contractor: G2 Consulting Group,
Driller: G.M.B

Drilling Method:
3-inch diameter hand auger

Water Level Observation:
6 inches during and upon completion

Notes:
Auger refusal due to wet caving granular soil
Borehole collapsed at 2-1/2 ft after auger removal
* Calibrated Hand Penetrometer

Excavation Backfilling Procedure:
Auger cuttings

Figure No. 2

Project Name: Birmingham Museum Pond Investigation

Project Location: 556 West Maple Road
Birmingham, Michigan 48009

G2 Project No. 210232

Latitude: N/A Longitude: N/A



Soil Boring No. **B-4**

CONSULTING GROUP

SUBSURFACE PROFILE

SOIL SAMPLE DATA

ELEV. (ft)	PRO- FILE	GROUND SURFACE ELEVATION: 768.0 ft ±	DEPTH (ft)	SAMPLE TYPE/NO.	DCP BLOWS/ 1.75-INCHES	MOISTURE CONTENT (%)	DRY DENSITY (PCF)	UNCOF. COMP. ST. (PSF)
		Topsoil: Black Silty Sand	1.0					
		Stiff Brown Sandy Clay with roots	1.5	S-1				
		Medium Brown Sandy Clay with occasional sand layers	2.5	S-2	3	21.0		1500*
		Stiff to Very Stiff Mottled Brown and Gray Silty Clay with trace sand and gravel	5	S-3	11	20.5		4000*
763.0			6.0	S-4	14	17.9		6000*
		End of Boring @ 6 ft						
758.0			10					

Total Depth: 6 ft
Drilling Date: April 14, 2021
Inspector:
Contractor: G2 Consulting Group,
Driller: G.M.B

Drilling Method:
3-inch diameter hand auger

Water Level Observation:
Dry during and upon completion

Notes:
* Calibrated Hand Penetrometer

Excavation Backfilling Procedure:
Auger cuttings

Figure No. 4

Project Name: Birmingham Museum Pond Investigation

Project Location: 556 West Maple Road
Birmingham, Michigan 48009

G2 Project No. 210232

Latitude: N/A Longitude: N/A



Soil Boring No. B-6

CONSULTING GROUP

SUBSURFACE PROFILE

SOIL SAMPLE DATA

ELEV. (ft)	PRO- FILE	GROUND SURFACE ELEVATION: 774.0 ft ±	DEPTH (ft)	SAMPLE TYPE/NO.	DCP BLOWS/ 1.75-INCHES	MOISTURE CONTENT (%)	DRY DENSITY (PCF)	UNCOF. COMP. ST. (PSF)
		Topsoil: Dark Brown Silty Sand						
			1.5					
		Loose Brown Silty Sand	2.0					
		Stiff Mottled Brown and Gray Silty Clay with trace sand and gravel	3.0	S-1	5	21.1		4000*
769.0		Very Stiff Mottled Brown and Gray Silty Clay with trace sand and gravel	5	S-2	11	20.8		5000*
			6.0	S-3	14	17.9		6000*
		End of Boring @ 6 ft						
764.0			10					

Total Depth: 6 ft
Drilling Date: April 14, 2021
Inspector:
Contractor: G2 Consulting Group,
Driller: G.M.B

Drilling Method:
3-inch diameter hand auger

Water Level Observation:
Dry during and upon completion

Notes:
* Calibrated Hand Penetrometer

Excavation Backfilling Procedure:
Auger cuttings

GENERAL NOTES TERMINOLOGY

Unless otherwise noted, all terms herein refer to the Standard Definitions presented in ASTM 653.

PARTICLE SIZE

Boulders	- greater than 12 inches
Cobbles	- 3 inches to 12 inches
Gravel - Coarse	- 3/4 inches to 3 inches
- Fine	- No. 4 to 3/4 inches
Sand - Coarse	- No. 10 to No. 4
- Medium	- No. 40 to No. 10
- Fine	- No. 200 to No. 40
Silt	- 0.005mm to 0.074mm
Clay	- Less than 0.005mm

CLASSIFICATION

The major soil constituent is the principal noun, i.e. clay, silt, sand, gravel. The second major soil constituent and other minor constituents are reported as follows:

Second Major Constituent (percent by weight)	Minor Constituent (percent by weight)
Trace - 1 to 12%	Trace - 1 to 12%
Adjective - 12 to 35%	Little - 12 to 23%
And - over 35%	Some - 23 to 33%

COHESIVE SOILS

If clay content is sufficient so that clay dominates soil properties, clay becomes the principal noun with the other major soil constituent as modifier, i.e. sandy clay. Other minor soil constituents may be included in accordance with the classification breakdown for cohesionless soils, i.e. silty clay, trace sand, little gravel.

Consistency	Unconfined Compressive Strength (psf)	Approximate Range of (N)
Very Soft	Below 500	0 - 2
Soft	500 - 1,000	3 - 4
Medium	1,000 - 2,000	5 - 8
Stiff	2,000 - 4,000	9 - 15
Very Stiff	4,000 - 8,000	16 - 30
Hard	8,000 - 16,000	31 - 50
Very Hard	Over 16,000	Over 50

Consistency of cohesive soils is based upon an evaluation of the observed resistance to deformation under load and not upon the Standard Penetration Resistance (N).

COHESIONLESS SOILS

Density Classification	Relative Density %	Approximate Range of (N)
Very Loose	0 - 15	0 - 4
Loose	16 - 35	5 - 10
Medium Compact	36 - 65	11 - 30
Compact	66 - 85	31 - 50
Very Compact	86 - 100	Over 50

Relative Density of cohesionless soils is based upon the evaluation of the Standard Penetration Resistance (N), modified as required for depth effects, sampling effects, etc.

SAMPLE DESIGNATIONS

AS -	Auger Sample - Cuttings directly from auger flight
BS -	Bottle or Bag Samples
S -	Split Spoon Sample - ASTM D 1586
LS -	Liner Sample with liner insert 3 inches in length
ST -	Shelby Tube sample - 3 inch diameter unless otherwise noted
PS -	Piston Sample - 3 inch diameter unless otherwise noted
RC -	Rock Core - NX core unless otherwise noted

STANDARD PENETRATION TEST (ASTM D 1586) - A 2.0 inch outside-diameter, 1-3/8 inch inside-diameter split barrel sampler is driven into undisturbed soil by means of a 140-pound weight falling freely through a vertical distance of 30 inches. The sampler is normally driven three successive 6-inch increments. The total number of blows required for the final 12 inches of penetration is the Standard Penetration Resistance (N).

2018

Landscape Master Plan



BIRMINGHAM
The **MUSEUM**

Brian Devlin, Nagy Devlin Land Design
Leslie Pielack, Birmingham Museum
Approved by the Museum Board, 2/20/2018
Accepted by the City Commission, 3/12/2018

This Landscape Master Plan for the Birmingham Museum and grounds, a City of Birmingham property, is the result of contributions from a wide range of stakeholders. These include members of the public; the City Commission and other advisory boards and commissions; the Friends of the Birmingham Museum; donors; and city administration and staff. In particular, we would like to acknowledge the following:

CITY COMMISSION

Andrew Harris, Mayor
Patty Bordman, Mayor Pro Tem
Pierre Boutros, Commissioner
Carroll DeWeese, Commissioner
Rackeline Hoff, Commissioner
Mark Nickita, Commissioner
Stuart Sherman, Commissioner

CITY ADMINISTRATION

Joseph A. Valentine, City Manager
Leslie Pielack, Museum Director

MUSEUM BOARD

Tina Krizanic, Chair
James Cunningham
Russell Dixon
Lori Eaton
Judith Keefer
Marty Logue
Caitlin Rosso
Carson Claar, Student Representative
Hanna Sandler, Student Representative

FRIENDS OF THE BIRMINGHAM MUSEUM BOARD

Daniel C. Patton, President
Fred Amrose
George Getschman
Marty Logue
Leslie Mio
Jennifer O'Hare
Caitlin Rosso
Mark Thomas

THE ROSSO FAMILY FOUNDATION

Acknowledgements



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I. Introduction



The site of the Birmingham Museum is one of the most historically and topographically complex in the city. It has distinctive natural landscape features on a steeply sloping lot with a rich history from pioneer times to the 20th century. Its location makes it accessible to both people and haven for a wide range of wildlife, yet it is centrally located in downtown Birmingham. In 2009, a preliminary landscape master plan by Michael Dul & Associates proposed a highly developed site with activity areas, a playground, paved terracing, extensive pathways and gardens, lighting, structures such as an arbor, decorative stone walls, and sculptures. Cost estimates exceeded 1 million dollars; at the time, it was hoped that park bond funds would be available to pay for the plan. However, sufficient park bond funding was not available, and it was not implemented. Dul's plan did provide guidelines for the final design and construction of Americans with Disability Act (ADA)/barrier-free access to the Allen and Hunter Houses in 2010 and 2012. These were completed largely with federal Community Development Block Grant (CDBG) funds, which support ADA projects.

The Dul plan was preliminary only, and is now incompatible with the direction of recent museum strategic planning. It also does not reflect changes in technology that have occurred since it was proposed. For example, providing public WiFi was not a consideration at that time, but now our digital needs have developed in new ways, making this a key focus of public programming and providing alternative access opportunities. Also, the Rouge Trail Corridor plan was not incorporated into the 2009 plan, although the museum site shares a long boundary with the consistently used area as part of its overall landscape. But most importantly, the Dul plan did not survey the significant historic nature of the site and its existing features, so that no provision could be made for their protection or preservation.

In 2016, the Museum Board considered the most appropriate approach for the landscape in the course of reviewing its general Museum Strategic Plan for 2017-2020. The Museum Board wished to identify general concepts for the park, determine how phased approaches (such as improvements at the pond) could be utilized, and make additional recommendations. As the park is part of Birmingham's Mill Pond Historic District, the first step was to survey existing historic and natural features of the landscape, to understand and make recommendations to preserve and protect those resources and factor in public education and access in planning. The Friends of the Birmingham Museum and the Rosso Family Foundation provided funding, and Brian Devlin, historic landscape architect of Nagy Devlin Land Designs was selected to study the landscape and make recommendations to the Museum Board before further master planning was undertaken.

The Museum Board worked with Mr. Devlin to review his findings and integrate them into a final Landscape Master Plan that is closely aligned with the museum's mission and 2017-2020 Birmingham Museum Strategic Plan. It protects and preserves the natural aspects of the landscape, while restoring its unique historic character that has been lost or obscured by invasive plants. Furthermore, the plan integrates a variety of public access options, enhancing the museum's community engagement and educational opportunities. Although flexible and conceptual, it is comprehensive and consistent with the city's other planning initiatives and parks, allowing for coordination of projects. The identified zones also lend themselves very well to project-based funding support through grants or private donations.

II. Goals and Objectives



PURPOSE of PLAN

The overall purpose of developing a Landscape Master Plan for the museum site is to provide long term guidance for improvement projects and other planning that incorporates the needs of the public with the existing natural features, the site's history and location in a local historic district, and city initiatives. The Birmingham Museum Landscape Master Plan is compatible with, but separate from, the 2017-2020 Birmingham Museum Strategic Plan. It is also aligned with the museum's mission, as stated below:

Museum Mission—The Birmingham Museum will explore meaningful connections with our past, in order to enrich our community and enhance its character and sustainability. Our mission is to promote understanding of Birmingham's historical and cultural legacy through preservation and interpretation of its ongoing story.

Goals and Objectives

The specific goals and objectives of the Birmingham Museum Landscape Master Plan are as follows:

1. To Improve public access, especially barrier-free access, to the museum site
2. To preserve the natural and historic landscape features
3. To provide opportunities for education and interpretation of the site, its natural environment and its cultural history
4. To coordinate with the City of Birmingham Parks and Recreation and Rouge River Corridor plans and projects, such as pathways, access priorities, materials, and signage.
5. To utilize phased planning to optimize private donations and grant funding opportunities

Planning Process

In order to approach the museum landscape planning comprehensively, input was gathered from a wide range of sources. These included:

- The Museum Board's extensive review of existing conditions, historical materials, site review and survey data through meetings with historical landscape consultant Brian Devlin. Other consultation included Hubble, Roth, and Clark regarding a pond and wetlands survey and associated state regulations and requirements.
- Input of the city staff from Parks, Engineering, Building, and Planning/Historic Preservation Departments regarding infrastructure, planning, alignment with local historic district ordinance and State Historic Preservation Office guidelines, ADA access and parking issues, and integration/coordination with policies and materials used by other city parks.
- A joint workshop between the Museum Board, the Parks and Recreation Board, and the Historic District Commission was held on January 17, 2018 to discuss the plan and gather input from board members as well as the public.
- Ongoing updates during 2016 and 2017 and formal presentation and discussion with the Friends of the Birmingham Museum Board on January 25, 2018.
- Public input was gathered through the joint workshop on January 17, 2018. Immediate neighbors were contacted

and invited to attend the workshop. Several were present at the meeting, including a neighbor who shares the east boundary with the Hunter House. Some public data was also gathered through the Parks and Recreation Master Plan's survey process in the fall of 2017.

- Meetings were held and the review process discussed with members of the Michigan Department of Environmental Quality, and DTE Energy planners regarding requirements of the site that involve wetlands regulation and utilities issues to aid in additional planning.
- The Historic District Commission Design Review Board reviewed and unanimously approved the plan on January 17, 2018.

The resulting Birmingham Museum Landscape Master Plan is conceptual in nature. While it provides a broad approach to integrating diverse components, it is designed to give general guidance in more detailed future planning. Additional design work will be needed on a project-related or phased basis.

Its strength lies in its careful consideration of providing for public needs while maintaining a fundamental preservation focus to ensure that no irreversible changes are made that negatively impact the historic or natural character of the landscape.



III. Historic Background



EARLY SETTLEMENT PERIOD (1818-1856)

The landscape of the area that is now downtown Birmingham is characterized by its proximity to the Rouge River, which has formed valleys and has several branches and numerous tributaries as it works its way south through Oakland County to the Detroit River. The Saginaw Trail (now Woodward Avenue) followed the best route through swampy areas northwest out of Detroit. It was the only land route through the area when pioneer settlers came to Michigan in the early 19th century.

Settlers sought to purchase land at locations that had multiple resources, especially water and mill sites. Elijah Willits made claim to one of four parcels that intersected near where the Rouge River crossed the Saginaw Trail in what is now downtown Birmingham. This original purchase of 160 acres includes the site of the Birmingham Museum.

The original landscape wilderness was populated by a variety of native plants, trees and woodland wildlife, much of which is still present. Over time, non-native plants have begun to dominate. The museum site includes a portion of the floodplain of the Rouge River valley, as well as a spring-fed pond that drains to the river near Willits Street. Spring seeps also form a wetland environment on the southeast side of the pond.

RED SCHOOLHOUSE PERIOD (1856-1869)

In 1855-56, Willits sold a portion of his acreage to the local school district as a site for the first brick schoolhouse in Birmingham. Built of local brick, the 'red schoolhouse' as it is known, was in service until 1869, when the larger Hill School was built. The red

schoolhouse was converted to a residence, and by the end of the 19th century a small barn was built on the property behind the building and near the edge of the slope to the Rouge. Around this time, fieldstone walls were constructed on the property as well. The former schoolhouse continued to serve as a residence until Marion and Harry Allen purchased the property in the mid-1920s.

ALLEN HOUSE PERIOD (1928-1970)

The Allens attempted to incorporate the schoolhouse into their plans for their new home but were unable to use the entire building, as portions of it collapsed when excavating their basement. However, they re-used the brick and a portion of the school that remained, creating the current version of the Allen House in 1928. It is a Colonial Revival style house with prominent red brick and cedar shingle siding, featuring a large front porch and many dormers.

The Allens made some changes to the landscape that are documented in photos. These included enhancing the park-like appearance of much of the property with large elm trees and open areas of lawn. The area near the house was planted with perennials and shrubs characteristic of the period.

Two years before they built the house, 9 year old Jim Allen was struck with poliomyelitis—reportedly the only person in Birmingham to be afflicted. The spring fed pond was partially enclosed with concrete walls to create a swimming pool to help ease Jim's physical symptoms. Photos show the rectangular edges of the enclosure with a spillway to allow water to drain into the pond and on to the Rouge, and a platform and rail that may have led to a stair into the pool.

CITY OWNERSHIP-1969-PRESENT

In 1969 voters approved the purchase of the house and land by the city to create a historic park, and to move the Hunter House there to save it from demolition. The Clizbe-Allen family continued to occupy the Allen House until 1973 by agreement with the city. From 1973-1977, the Allen House was renovated through efforts of a bicentennial commission and members of the community, who raised funds in a combination of private donations and grants.

As part of the landscape renovation during this time, the pond and pool were a concern because of maintenance needs and crumbling concrete walls. Filling them in and plowing them over was one solution to make way for more extensive landscaping and development, which included a possible arboretum. This concept for the landscape did not materialize, however due to the high cost. Instead, volunteers planted and maintained flower gardens for a number of years at the Hunter and Allen Houses, which depended on volunteer resources and availability. Boy Scout troops helped with clearing old growth and placing wood chips in pathways. Basic maintenance only was provided for the site otherwise.

For a number of years, event rentals were used to help raise funds, but were insufficient to make the building self-sustaining. Even so, the Allen House and grounds was a popular site for parties and weddings. Toward the mid to late 1990s, a joint plan between the city and the Birmingham Historical Society emerged to establish an endowment and to turn the house into a professionally staffed museum. The program met its goals and the Allen House, Hunter House, and surrounding park grounds became a city operated public museum in 2001.

Since then, the museum has expanded its audience and embraced changes in the museum field to incorporate new technology to reach the next generation. At the same time, preserving the historical past as accurately as possible is also of utmost importance. After the recession of 2008/2009, the focus has been primarily on needed maintenance of the two buildings, on preserving and exhibiting the museum collection, and on public engagement.

The landscape has always been important, however. The Museum Board is now in a position to direct its resources and attention to responsible and comprehensive planning. This will ensure the essential history and uniqueness of the site are preserved and that future citizens of Birmingham will experience the benefits of this long term strategy.

IV. Survey and Analysis of Existing Conditions



SURVEY AND ANALYSIS OF EXISTING CONDITIONS

Natural Resources

Two (2) significant natural resources occur on the museum property that substantially contribute to the quality of the overall landscape and offer unique elements for an expanded museum experience. The first is the Riverine Woodland ecosystem which comprises the western portion of the property. This ecosystem includes the Rouge River along the western boundary with a sparse woodland on the steep slopes rising up to the Allen House which sits at the top of the ridge. Plant species comprising the woodland include black walnut, hickory, maple, elm, box elder, cottonwood, mulberry, and catalpa with honeysuckle, privet, barberry, and buckthorn in the understory and grapevine and daylily occurring in the ground layer. Dead trees and limbs occur throughout the ecosystem. Several invasive species also occur in this ecosystem and include common reed (*Phragmites australis*) near the river, garlic mustard (*Allaria petiolata*), oriental bittersweet (*Celastrus orbiculatus*), creeping Charlie (*Glechoma hederacea*), buckthorn (*Rhamnus cathartica*), barberry (*Berberis thunbergii*), and privet (*Ligustrum sp.*), all occurring on the steep slopes.

Two (2) paths meander through the woodland. The primary path enters the woodland near the westerly driveway of the Allen House and runs diagonally to the northwest to the bridge over the Rouge River at Willits Street. The second path enters the woodland at the base of the steep slope behind the Allen House and connects to the primary path at the base of the slope of the Riverine Woodland ecosystem. Both paths consist of wood chips and include timber steps at the steeper sections of the route. Many timber steps are rotting away and need replacement.

The second natural feature is the spring-fed pond on the north central property line immediately adjacent to Willits Street. The pond is fed from groundwater seeps on the east side of the pond. The pond is overgrown with common reed (*Phragmites australis*) and cattails, and has accumulated debris over the years. The outlet for the pond occurs at the northwest point with a small spillway that leads to a catch basin. A wetland ecosystem is associated with the pond as groundwater is near and at the surface creating wetland conditions that, ironically, occur significantly up the slope, particularly in the southeast corner of the pond. The museum property also includes many trees including catalpa, elm, Norway maple, callery pear, Norway spruce, mulberry, European linden, bald cypress, and arborvitae.

Historic Resources

The historic resources on the property include two (2) fieldstone walls. One wall occurs along the top of the ridge to the west of the Allen House and may have been part of a barn that was originally on the property. Unfortunately, a north section of this wall has been undermined and has fallen down the slope. The other fieldstone wall is located midway down the slope to the north of and between the Allen House and Hunter House. Both walls are made of fieldstone, both containing whole rounded stones and split face stones, characteristic of 19th c. farms in southeast Michigan.

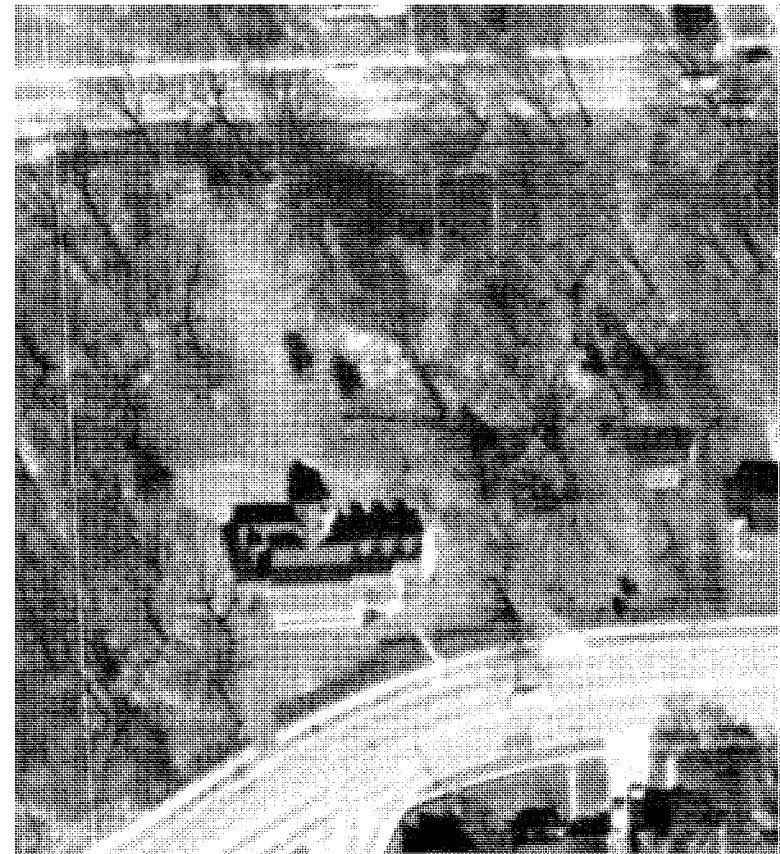
Probably the most unique historic feature on the property is the swimming or bathing pool with cement walls built into the easterly portion of the pond. The pool was used by the Allens' son Jim, who was afflicted with polio, for physical therapy. The swimming pool is evident in the 1963 aerial photograph from Oakland County and from early photographs as indicated below.



Early photograph showing the swimming pool in the pond

The pool is unique in concept and design as well as history. It originally incorporated the spring as a natural water source and utilized a flow gate at the surface of the western divider to permit natural drainage and continuous flow. A landing with rail provided access into the water, presumably for Jim Allen to use. These unique aspects of the landscape are especially important for preservation and interpretation, and are highly desirable elements that may be eligible for special funding opportunities.

The pond has been surveyed and only two (2) partial walls (the north and east corner) of the swimming pool remain. Concrete was discovered at the bottom of the pond which could be one or more collapsed sides of the pool.



*Aerial photograph showing the swimming pool in the pond
(from Oakland County, 1963)*

V. Proposed Landscape Master Plan



GENERAL INFORMATION

A conceptual Landscape Master Plan has been prepared and is the result of a collaborative effort of the museum staff, Museum Board, and landscape architectural consultant over a period of about one (1) year. Early on, the museum property was divided into several zones with distinct elements and characteristics associated with each. These distinct areas include:

1. The Heritage Zone along Maple Road with the Allen House, the Bell Plaza, and the Hunter House
2. The Transition Zone immediately north of the houses and plaza
3. The Riverine/ Woodland Zone on the west side of the Allen House to the Rouge River, the westerly boundary of the property; and
4. The Pond Zone which includes the north edge of the property along Willits Street. Each zone and the resulting master plan components are described below.

Zone 1: Heritage Zone

The Heritage Zone is along Maple Road with the Allen House on the west, the Bell Plaza in the center, and the Hunter House on the east. This section of the museum property has had recent improvements to eliminate the circle drive and provide handicap parking as well as short term parallel parking in front of the Bell Monument. Pedestrian circulation has also been added with a sidewalk along the front and rear of the Allen House, a handicap accessible ramp to the Hunter House, and a plaza and garden area

at the Hill School Bell monument. Wi-Fi provides public access opportunities for visitors to the park and the museum.

The design objective for this zone was to provide features which could unite these three (3) distinct subzones with minimal impact to historical features while providing opportunities for the community to participate in museum activities.

Plan for the Heritage Zone

The Master Plan includes restoration of early elm plantings, a children's garden in front of the Hunter House, and a garden of Birmingham heirloom plants at the Hill School Bell Plaza. The early photograph below of the Allen House shows a simple foundation planting with specimen elm trees planted in front of and behind the house.



Early photograph showing elm trees in the foreground and background of the Allen House

The Master Plan shows removal of undesirable trees and replacement with modern elm cultivars able to withstand Dutch elm disease. Original planting locations are indicated from recent surveys and a couple of elm stumps are preserved to show the impressive size of these trees. Two (2) new elm cultivars have been planted on either side of the bell monument to replace the diseased elms removed in 2016.

A children's garden is proposed for the space directly in front of the Hunter House. This location was chosen because the area provides level ground for gardening activity and the southern exposure is ideal for plants. Impacts from Maple Road are mediated with the existing picket fence and proposed yew hedge and gate for the front sidewalk. Other improvements include removal of undesirable species along the east property line and replacement of the picket fence. The Master Plan proposes a garden with heirloom plants from Birmingham with a boxwood shrub border in front of the bell monument. Residents of the city will be encouraged to bring their heirloom plants to the museum to create this specialty garden.

I'm proud to be a part of the development of this landscape master plan. Each zone preserves and enhances the Birmingham Museum's scenic natural historic site while seamlessly integrating unique interpretive/educational opportunities for community members of all ages.

—Tina Krizanic, Museum Board Chair

Signage for the museum will respect the historic setting by complementing the Heritage Zone surroundings while clearly

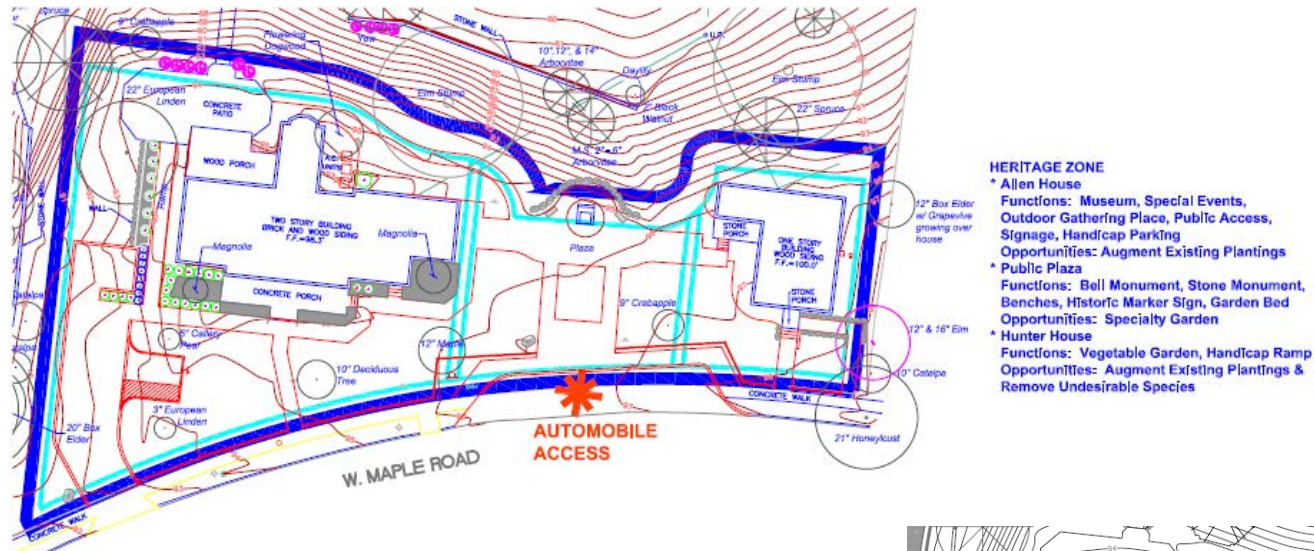
identifying the museum site in a manner that is consistent with historic district requirements. An effective approach is to utilize existing elements and compatible materials; a section of the existing fence can feature signage in a highly visible manner without overwhelming the historic character of the Allen House. Other signage on the grounds will coordinate with that used in other parks to provide a unified experience for visitors.

Heritage Zone Programming and Community Engagement

Opportunities: Public Access, Visibility, and Gathering

- Historical children's garden with heritage plants for educational/demonstration activities and tours
- Community perennial gardens showcasing Birmingham heirloom plants with interpretive information and tours
- Low maintenance organic herb garden with interpretive information and programming
- Family events and activities in the plaza area
- Musical performances and other programs on the back porch of the Allen House
- Outdoor exhibits utilizing app development and Wi-Fi to provide interpretive history of Allen House, Hunter House, Hill School Bell/school history and plantings in Heritage Zone with unobtrusive signage
- Improvements and programs at the plaza that promote public gathering, Wi-Fi connectivity and electronic access to museum collection and online exhibits

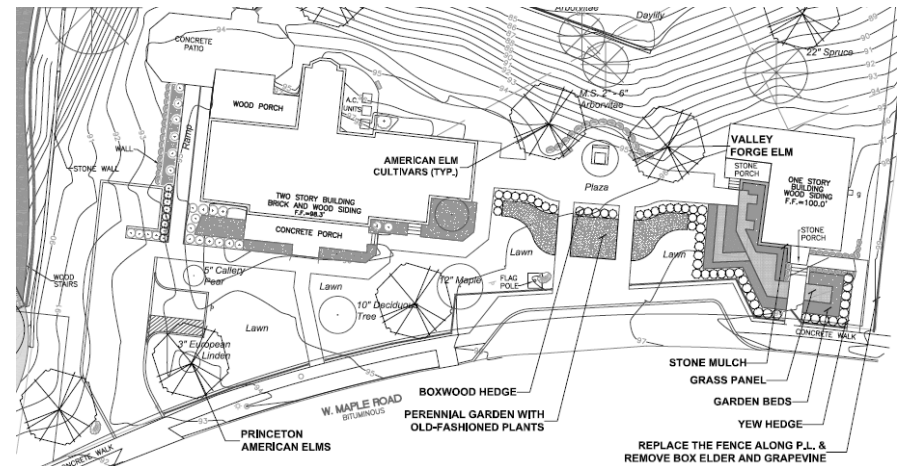
The images below show the characteristics of the Heritage Zone and the concept for the Landscape Master Plan. (See Attachments for additional views).



Existing conditions and analysis of the Heritage Zone

I am the most excited for the educational/interpretive parts of the pond area. My personal connections and understanding of our Birmingham community comes from my experiences with the museum as a child. Some of my most invaluable memories involve the "Birmingham, Long, Long, Ago" movie and school tours. They helped me become passionate about this wonderful community. This landscape design and pond interpretation will only add value to those museum programs to provide more access to our historic landscape.

—Caitlin Rosso, Museum Board member



Conceptual Master Plan for the Heritage Zone

Zone 2 : Transition Zone

The Transition Zone begins at the top of the slope immediately behind the houses and plaza and extends down to the base of the slope. This zone provides access from the house to the pool and includes the original fieldstone wall and remnants of early plantings including elm and Norway spruce. Other trees include arborvitae, Norway maple, and mulberry. A wood staircase behind the Allen House provides pedestrian access down the slope to the open space on the west side of the pond. It appears that the stairs are placed over cement steps with fieldstone edges that were built just after the city purchased the property. The slopes of the area consist of maintained lawn.

Plan for Transition Zone

The Master Plan for the Transition Zone shows removal of undesirable trees and replacement with modern elm cultivars. From early photographs of this area it appears that elm plantings formed a glade with maintained lawn and minimal plantings.

The Museum's Landscape Master Plan restores and enhances, in both a timeless and contemporary setting, the natural beauty of a historically significant part of our community.

—James Cunningham, Museum Board member

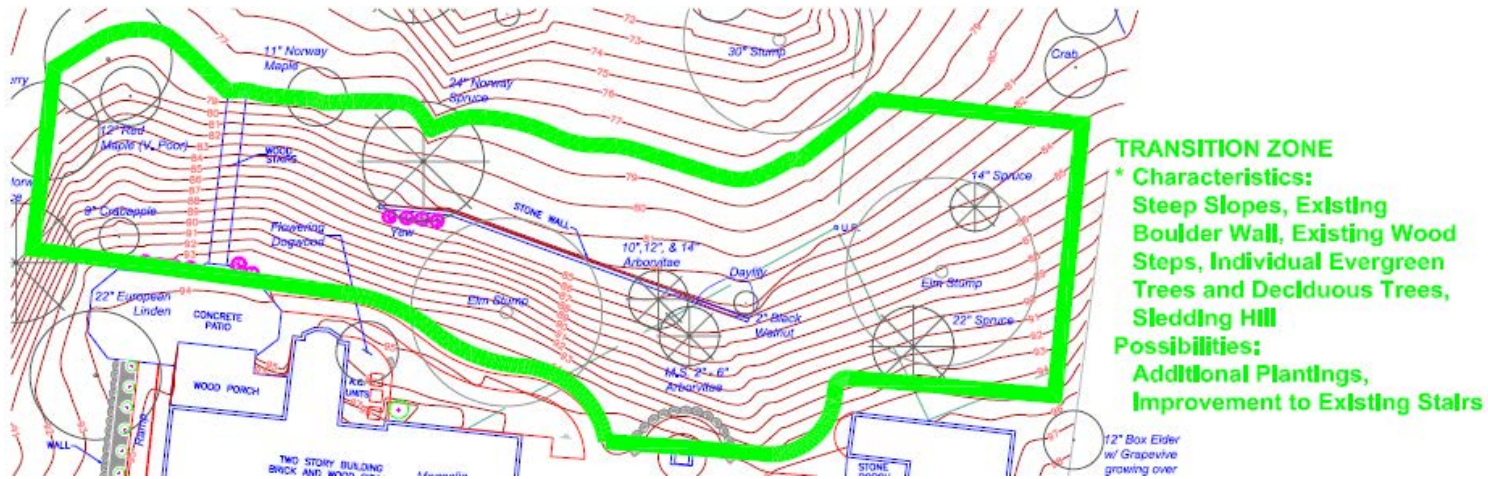
A significant new feature proposed for the Transition Zone is the concrete steps and fieldstone wall to replace the wood staircase. The proposed stairs with walls and handrails provide a safe route for pedestrians to move from the patio behind the Allen House to the woodland trail and pond at the bottom of the slope. The relatively large landing areas of the steps can allow people to congregate for small venues on an intimate scale.

Transition Zone Programming and Community Engagement

Opportunities: Education and Intimate Gatherings

- Stair design provides for multi-use as small amphitheater-like performance area on lower lawn
- Open lawn provides area for traditional lawn activities such as picnics
- Wi-Fi based interpretive education about overall site history from pioneer period to present
- Small garden area for daylilies to feature historic varieties and interpretation of Allen House landscape
- Outdoor photography and art programs and display at stone wall

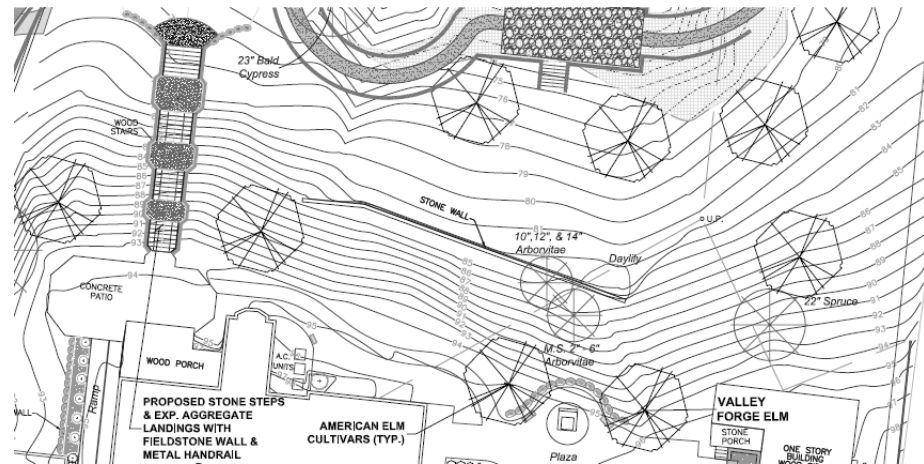
The images below show the characteristics of the Transition Zone and the concept for the Landscape Master Plan. (See Attachments for additional views).



Existing conditions and analysis of the Transition Zone

I'm very excited, as a member of the Museum Board and the Friends Board, regarding the Landscape Master Plan for the museum grounds. These plans will help the community learn more about the grounds and its history.

—Marty Logue, Museum Board member



Conceptual Master Plan for the Transition Zone

Zone 3: Riverine/Woodland Zone

The Riverine/Woodland Zone begins at the top of the slope immediately west of the Allen House and extends to the Rouge River. This space offers an opportunity for residents to enjoy a secluded natural area within the city with trails and the potential to experience the river in close proximity.

Plan for Riverine/Woodland Zone

The Master Plan for the riverine/woodland zone proposes the creation of a climax woodland with the removal of invasive species and planting of sugar maples and associated sub-canopy and ground layer plants. A decision was made to keep the existing trails with the replacement of the timber steps with stone steps and a handrail. To conform to the existing Rouge River Trails Corridor Master Plan, a new path is proposed which runs parallel to the existing stone wall from the entry of the existing trail, where an overlook is proposed, and exiting at Maple Road. The steep slopes in this area will necessitate the use of boulder retaining walls to allow the layout of the path.

What distinguishes Birmingham from our neighbors is the diversity of our topography—the same that Birmingham’s founders (Hamilton, Hunter, Pierce, and Willits) observed 200 years ago. The Museum’s grounds are part of this landscape, and making them more accessible to the public gives a starting point to tell Birmingham’s history and educate future generations about the environment.

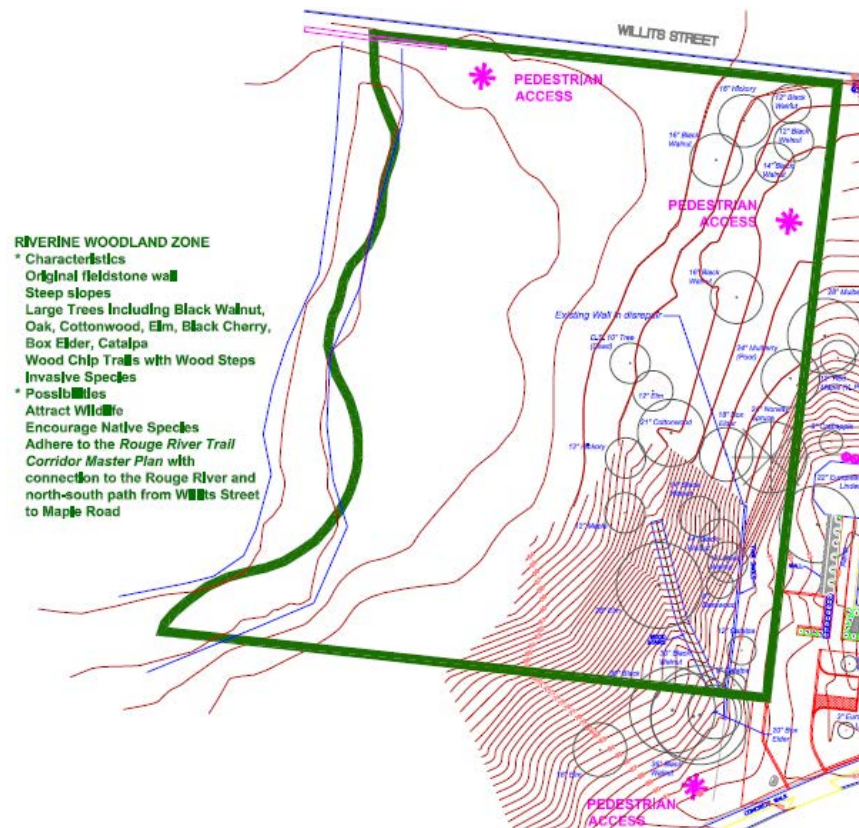
—Russ Dixon, Museum Board member

The original fieldstone wall is proposed to be stabilized and the sections that have fallen will be rebuilt following the original line of the wall. The boulder retaining walls will stabilize the slope and prevent further undermining of the original wall. Also to conform to the Rouge River Trails Corridor Master Plan, a boardwalk is proposed at the intersection of the existing trails which provides access to the Rouge River with a wood deck overlook. Large boulders as sculpture are proposed in the woodland zone.

Riverine/Woodland Zone Programming and Community Engagement Opportunities: Natural Habitat, Native American and Cultural History, and Education

- River Rouge natural history and landscape
- Native American presence in the area and land use
- Settlement and pioneer period of Birmingham and importance of Rouge River
- Wildlife and natural habitat information and interpretive materials (Wi-Fi/electronic)
- Invasive species vs. native plants-tours and interpretive materials
- Bird watching programs
- Other nature programs and tours

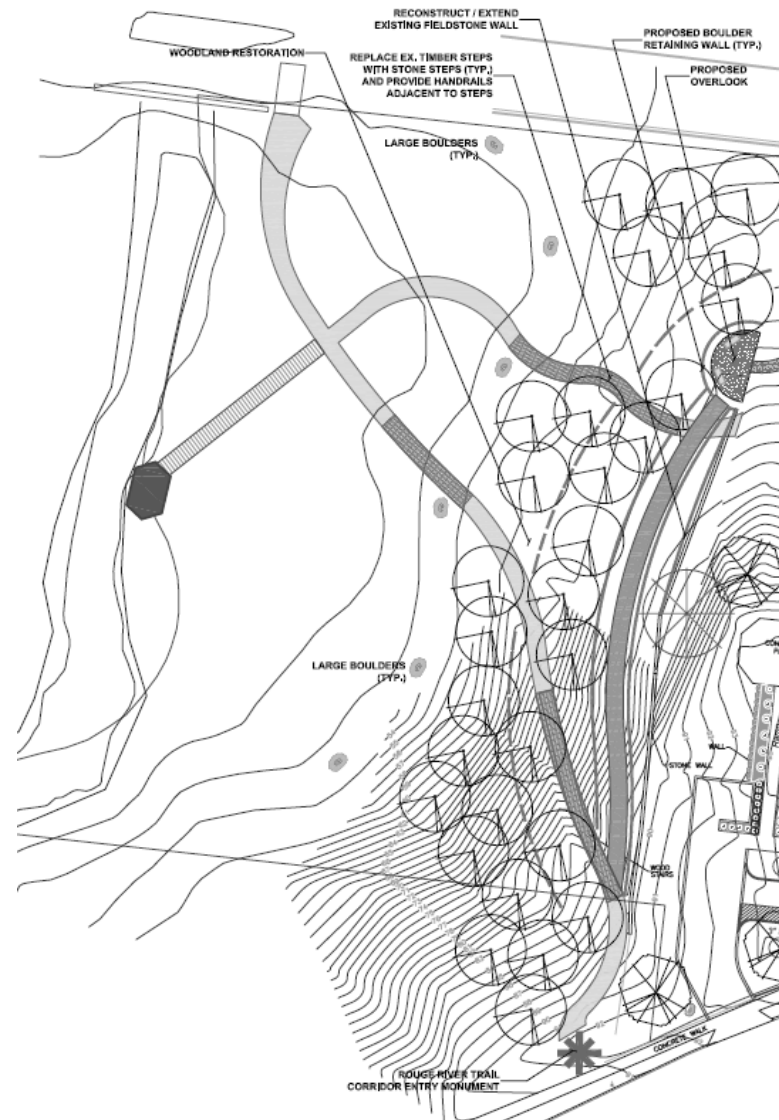
The images below show the characteristics of the Transition Zone and the concept for the Landscape Master Plan. (See Attachments for additional views).



Existing conditions and analysis of the Riverine/Woodland Zone

I'm so inspired by our board's dedication to making our museum a cultural highlight of the community. I will always take pride in this opportunity to help with planning for our exceptional landscape and give back to our very unique and special city!

—Judith Keefer, Museum Board member



Conceptual Master Plan for the Riverine/Woodland Zone

Zone 4: Pond Zone

The Pond Zone comprises the north portion of the museum property and includes the gentler slopes at the base of the transition zone and extends to Willits Street. A main goal of the Master Plan is to provide handicap parking along Willits Street with access to the museum property and especially to the pool and pond area. The preservation and interpretation of the swimming pool within the pond is an equally important goal, as this is an extremely unique use of the spring-fed pond.

Plan for Pond Zone

The Master Plan for the Pond Zone proposes a handicap accessible path from a new sidewalk along Willits Street around the pond to a staging area at the historic swimming pool location, then to a seating area on the west side of the pond, and finally to the new overlook at the woodland trail. The construction of this path will necessitate the use of boulder retaining walls to create the level surface for the path. This path is proposed to consist of crushed limestone and will include plantings along the pond side to act as a barrier to the pond below.

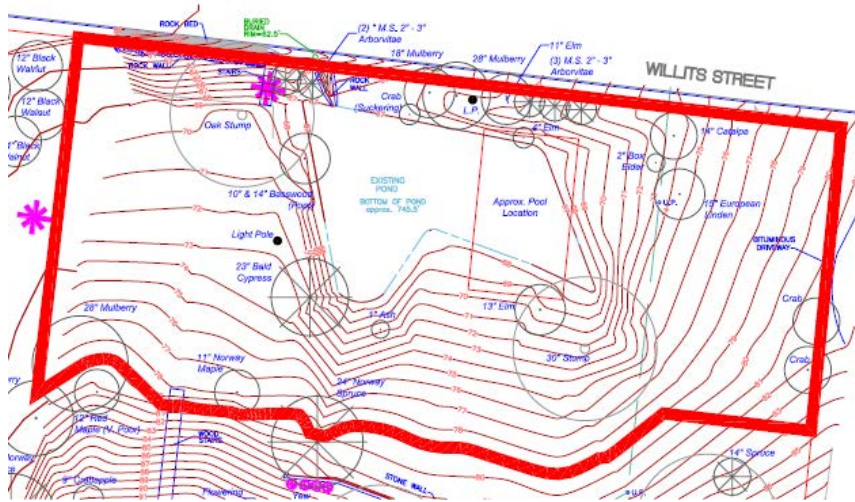
The interpretation of the swimming pool will be accomplished by the construction of a boardwalk along the east edge to complete that side. This boardwalk will also provide an opportunity to experience the pool right in the middle of the pond. A wood fence with cable railing is proposed for the west side of the boardwalk and a curb is proposed for the east side of the boardwalk. A water garden is proposed to the east of the boardwalk, giving an opportunity for visitors to learn about native water plants. A stone surface area is proposed for the south side and the existing

concrete wall defines the north edge of the pool. This stone surface and associated new stone wall allows a relatively large space where groups of people could congregate. To complete the rectangular shape of the swimming pool, a divider is proposed that runs from the south side of the pond to the north side. Care should be taken to preserve existing historical fabric so the remaining walls of the pool should be stabilized and maintained. The boulder walls and new fieldstone wall should be constructed with a different pattern to distinguish these new walls from original walls.

Pond Zone Programming and Community Engagement Opportunities: Barrier-Free Public Access and Polio History

- Wi-Fi/online interpretive materials about poliomyelitis and the unique Allen House pool for Jim Allen's physical therapy
- Acknowledgment of importance of ADA and barrier-free access in signage and surroundings
- Barrier-free outdoor programming for all ages
- Interpretive programs for natural wetlands, native water plants, and wildlife
- Educational activities and programs on environmental value of birds, bees, bats, and butterflies and associated wild plants and flowers for habitat
- Barrier-free tours throughout grounds, including Pool area, Rouge overlook and Allen and Hunter Houses

The images below show the characteristics of the Transition Zone and the concept for the Landscape Master Plan.



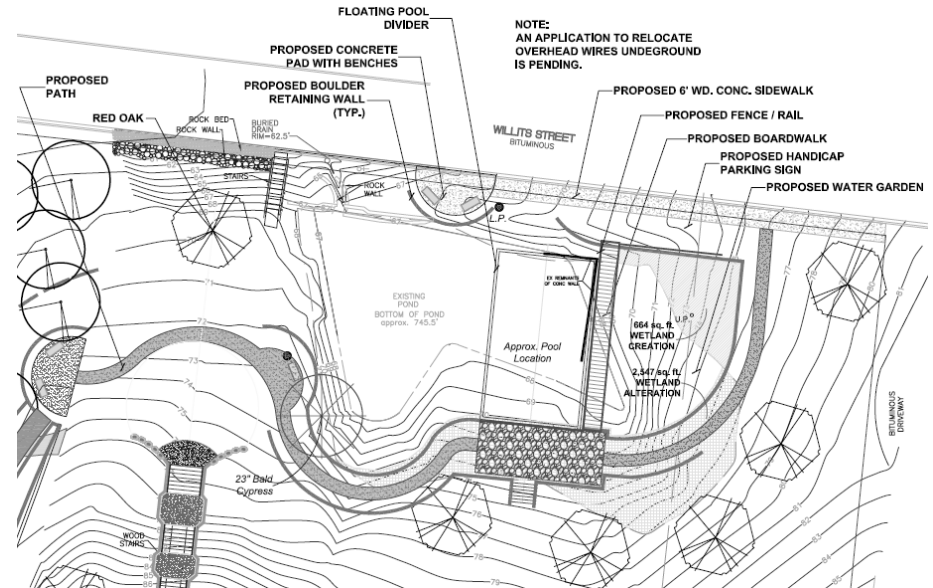
Existing conditions and analysis of the Pond Zone

POND ZONE

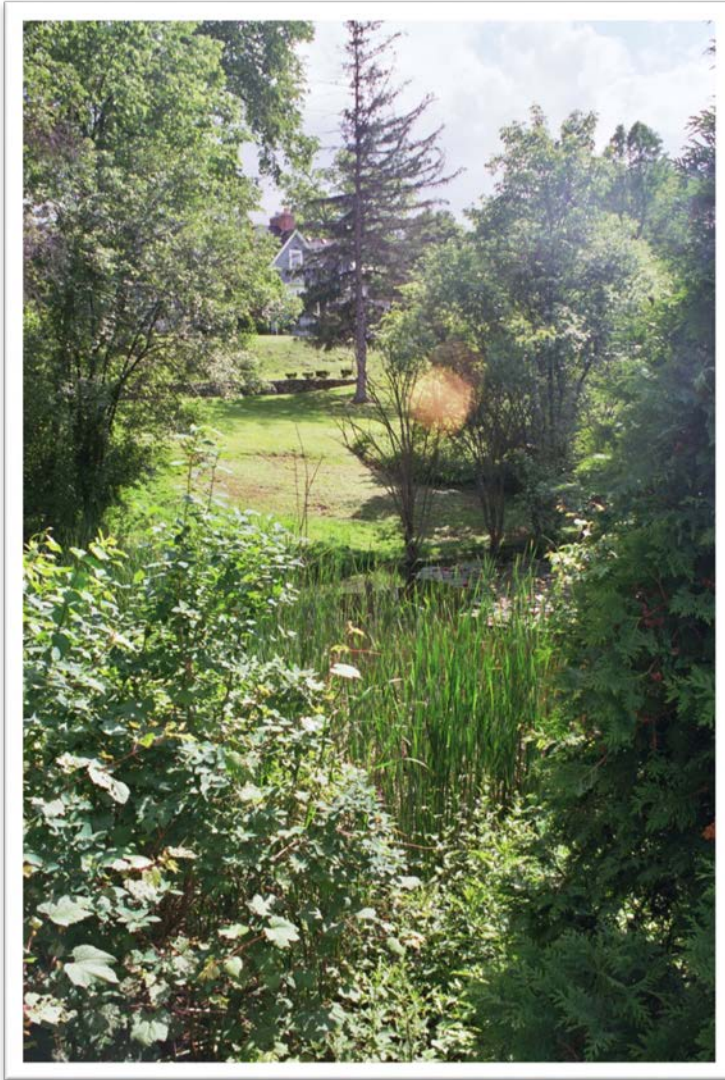
- * **Characteristics:**
Moderate Slopes, Pond with Historic Pool, Pedestrian Access from Willits Street, Light Pole with Internet Access, Overhead Lines
- * **Possibilities**
Automobile Parking
Pond Improvements
Possible Handicap Accessible Path
Seating Area near Existing Light Pole
Tree Planting
Water Garden
Relocate Overhead Wires Underground

It is especially fitting that the Landscape Master Plan pays special attention to accessibility as it echoes the physical challenges young James Allen faced as he struggled to overcome the effects of polio.

—Lori Eaton, Museum Board member



Conceptual Master Plan for the Pond Zone



VI. Capital Improvements and Funding

This conceptual Landscape Master Plan is intended to provide a guideline for long-term planning and project development. Each zone can be approached as a separate project for planning and funding purposes; however available grants, changing conditions, or other needs may make it more efficient to combine certain elements from different zones. Whenever possible, work will be coordinated with other city Parks and Recreation projects for purposes of timing, to avoid duplication, or to enhance progress.

Establishing priorities by zone or project component will assist with planning, especially as regards targeted fundraising and grants. The Landscape Master Plan assumes that funding will be project-specific, but as part of a “big picture” that can be communicated to particular granting organizations and potential sponsors. Special interest grants and private donors are expected to figure prominently in all funding, and some likely sources are noted in the table that follows. Fund-raising initiatives will be held at the museum as well, which will also help connect the community physically to the landscape, promoting the museum’s mission.

PRIORITY LEVELS

Four levels of priority with their expected timelines are used in the table on the following page:

Priority 1—2018-2019

Priority 2—2019-2021

Priority 3—2021-2022

Priority 4—2023-2025

(Components of each zone area are sequentially identified with decimals, e.g., 2.1, 2.2 as first and second steps in Priority 2)

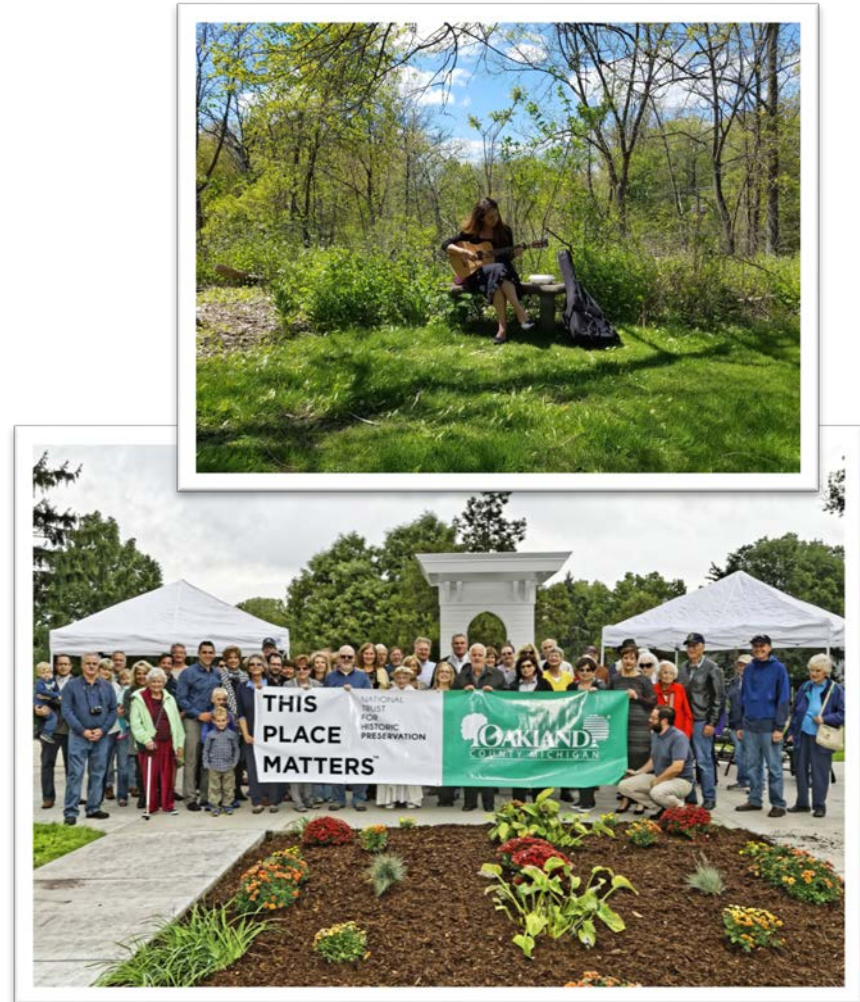


Photo by Carroll Deweese, 2016

TABLE-MASTER LANDSCAPE CAPITAL IMPROVEMENT AND FUNDING

Project Component	Priority	Cost Estimates	Comments	Potential Funding Sources
Heritage Zone	1.0		The visibility and impact of improvements in the Heritage Zone have the highest priority because they lend themselves well to enhanced programming and continued funding for other parts of the plan	
Design	1.1	\$ 3,000.00		Friends of Museum/City
Construction	1.2			Anticipated funding sources for construction includes a combination of grants, donations, funds from Friends of the Museum, and fundraising. Volunteers may assist with garden bed preparation. Plant material may be available through sponsorships or partnerships
tree removal		\$ 4,000.00	Tree removal coordinated with Parks to be re-planted elsewhere when possible	
new plant material				
deciduous trees		\$ 1,950.00		
densiformis yew		\$ 3,600.00		
winter gem boxwood		\$ 3,000.00		
garden bed preparation		\$ 6,000.00	Coordinate work with existing DPS maintenance plan	
wood fence		\$ 2,400.00		
metal edging		\$ 480.00		
stone mulch		\$ 225.00		
Subtotal		\$ 24,655.00		
Relocate utilities	1.0-2.0	\$ 3,500.00	DTE estimates represent the majority of the cost, but do not include relocation of other shared line users	Donations combined with grants

Priority 1—2018-2019
Priority 2—2019-2021

Priority 3—2021-2022
Priority 4—2023-2025

Project Component	Priority	Cost Estimates	Comments	Potential Funding Sources
Pond Zone	2.0			
Additional Survey	2.1	\$ 7,900.00	Survey will determine detail for construction at pond and will complete needed topography	Grants, fundraising + Friends
Engineering Plan	2.2	\$ 15,000.00	Grading plan for ADA paths around pond	Grants, fundraising + partnerships
Design (Pond & Transition Zones)	2.3	\$ 5,000.00	Transition Zone & Pond Zone to be designed together	Friends and donations
Construction	2.4			
tree removal		\$ 6,000.00		Anticipated funding sources for construction includes a combination of grants, donations, funds from Friends of the Museum, and fundraising. Plant material may be available through sponsorships or partnerships
shrub removal		\$ 4,000.00		
pond digging		\$ 10,200.00		
boulder retaining walls		\$ 39,200.00		
stone walls		\$ 31,200.00		
crushed limestone path		\$ 7,320.00		
boardwalk		\$ 23,400.00		
wood and cable rail fence		\$ 2,400.00		
concrete sidewalk & pad		\$ 8,320.00		
benches		\$ 700.00		
stone patio		\$ 14,740.00		
new plant material		\$ 25,000.00		
Subtotal		\$ 200,380.00		

Transition Zone	3.0			
Design (see Pond Zone)	2.3		Transition Zone & Pond Zone to be designed together	
Construction	3.1			Anticipated funding sources for construction includes a combination of grants, donations, funds from Friends of the Museum, and fundraising. Plant material may be available through sponsorships or partnerships
tree removal		\$ 15,000.00		
stone walls		\$ 62,400.00		
stone steps		\$ 27,200.00		
exposed aggregate concrete		\$ 7,200.00		
new plant material- deciduous trees		\$ 3,250.00		
Subtotal		\$ 115,050.00		

Project Component	Priority	Cost Estimates	Comments	Potential Funding Sources
Woodland/Riverine Zone	4.0			
Design	4.1	\$ 5,000.00		
Construction	4.2			
tree removal		\$ 7,500.00	Cost estimates for construction items are likely to change over the projected time period but are presented here in current dollars.	The Woodland/Riverine Zone has a higher level of cost but also may be eligible for grants because of multi-community involvement and importance in Michigan watershed management. Anticipated funding sources for construction includes a combination of grants, donations, funds from Friends of the Museum, and fundraising. Sponsorships or partnerships will be important for this zone, but the possibility of large scale corporate volunteer assistance is also greater for some components.
boulder retaining walls		\$ 86,800.00		
large boulders		\$ 9,000.00		
stone wall		\$ 38,400.00		
stone steps		\$ 26,160.00		
crushed limestone path		\$ 6,300.00		
crushed limestone pad		\$ 1,740.00		
boardwalk				
wood and metal hand rail		\$ 4,750.00		
river overlook		\$ 14,000.00		
new plant material		\$ 25,000.00		
benches		\$ 700.00		
invasive species eradication		\$ 12,000.00		
Subtotal		\$ 232,350.00		

Grand Total	\$ 572,935.00	
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PLANT LIST - WOODLAND RESTORATION

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE / HT.	FLOWER COLOR	FLOWERING TIME
Canopy Trees						
ASR	--	<i>Acer saccharum</i>	Sugar Maple	2" - 2-1/2" cal. B&B		
CO	--	<i>Celtis occidentalis</i>	Northern Hackberry	2" - 2-1/2" cal. B&B		
LT	--	<i>Liriodendron tulipifera</i>	Tuliptree	2" - 2-1/2" cal. B&B		
Subcanopy Trees						
AA	--	<i>Amelanchier arborea</i>	Downy Serviceberry	2" cal. B&B		
CA	--	<i>Cornus alternifolia</i>	Pagoda Dogwood	1" cal. B&B		
CC	--	<i>Carpinus caroliniana</i>	Muscledwood	2" cal. B&B		
OV	--	<i>Ostrya virginiana</i>	American Hopbroom	2" cal. B&B		
Shrub Layer						
HV	--	<i>Hamamelis virginiana</i>	Witch-Hazel	36" ht. B&B		
LB	--	<i>Lindera benzoin</i>	Spicebush	30" ht. 5 gal. pot		
VD	--	<i>Viburnum dentatum</i>	Arrowwood Viburnum	30" ht. 5 gal. pot		
VL	--	<i>Viburnum lentago</i>	Nannyberry Viburnum	30" ht. 5 gal. pot		
FERNS						
AP	--	<i>Adiantum pedatum</i>	Maidenhair Fern	12" - 24"		
PAC	--	<i>Polystichum acrostichoides</i>	Christmas Fern	12" - 24"		
-- Quantity to be determined in the field.						

PLANT LIST - WATER GARDEN

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE / HT.
Shrub Layer				
AG	--	<i>Andromeda glaucophylla</i>	Bog Rosemary	24" ht., 3 gal. pot
CCA	--	<i>Chamaedaphne calyculata</i>	Leatherleaf	24" ht., 3 gal. pot
GH	--	<i>Gaultheria hispida</i>	Creeping Snowberry	24" ht., 3 gal. pot
KP	--	<i>Kalmia latifolia</i>	Bog Laurel	24" ht., 3 gal. pot
LG	--	<i>Ledum groenlandicum</i>	Labrador Tea	24" ht., 3 gal. pot
LL	--	<i>Larix laricina 'Girard's Dwarf'</i>	Dwarf American Larch	24" ht., 3 gal. pot
VC	--	<i>Vaccinium macrocarpa</i>	Cranberry	24" ht., 3 gal. pot
Ground Layer				
MT	--	<i>Menyanthes trifoliata</i>	Bogbean	8" - 12"
DS	--	<i>Drosera spp.</i>	Sundews	6"
PO	--	<i>Pogonia ophioglossoides</i>	Pitcher Plants	9" - 18"
SC	--	<i>Spiranthes cernua</i>	Ladies'-tresses	8" - 20"
SS	--	<i>Sarracenia spp.</i>	Pitcher Plants	9" - 18"
-- Quantity to be determined in the field.				

COST ESTIMATE

AREA	QTY.	COST	TOTAL
HERITAGE ZONE:			
* Tree Removal:	4	\$500	\$4,000.00
* New Plant Material:			
Deciduous Trees	3	\$650	\$1,950.00
Densiformis Yew	30	\$120	\$3,600.00
Winter Gem Boxwood	25	\$120	\$3,000.00
* Garden Bed Preparation:			
Wood Fence:	80 l.f.	\$30 l.f.	\$2,400.00
* Metal Edging:	48 l.f.	\$10 l.f.	\$480.00
* Stone Mulch:	3 c.y.	\$75 c.y.	\$225.00
Subtotal			\$21,655.00

TRANSITION ZONE:			
* Tree Removal:	3	\$500 ea.	\$1,500.00
* Stone Walls:	520 f.f.	\$120 f.f.	\$62,400.00
* Stone Steps:	340 s.f.	\$80 s.f.	\$27,200.00
* Exposed Aggregate Conc.	400 s.f.	\$18 s.f.	\$7,200.00
* New Plant Material:			
Deciduous Trees	5	\$650	\$3,250.00
Subtotal			\$101,550.00

POND ZONE:			
* Tree Removal:	12	\$500	\$6,000.00
* Shrub Removal:			\$4,000.00
* Pond Dredging:	\$85,000 / ac. 0.12 ac.		\$10,200.00
* Boulder Retaining Walls:	1,120 f.f.	\$35 f.f.	\$39,200.00
* Stone Walls:	260 f.f.	\$120 f.f.	\$31,200.00
* Crushed Limestone Path:	1,220 s.f.	\$6 s.f.	\$7,320.00
* Boardwalk:	360 s.f.	\$65 l.f.	\$23,400.00
* Wood & Cable Rail Fence:	96 l.f.	\$25 l.f.	\$2,400.00
* Concrete Sidewalk & Pad:	1,040 s.f.	\$8 s.f.	\$8,320.00
* Benches:	2	\$350	\$700.00
* Stone Patio:	670 s.f.	\$22 s.f.	\$14,740.00
* New Plant Material:			\$25,000.00
Subtotal			\$172,480.00

WOODLAND / RIVERINE ZONE			
* Tree Removal:	15	\$500	\$7,500.00
* Boulder Retaining Walls:	2,480 f.f.	\$35 f.f.	\$86,800.00
* Large Boulders:	6	\$1,500	\$9,000.00
* Stone Wall:	320 f.f.	\$120 f.f.	\$38,400.00
* Stone Steps:	744 s.f.	\$60 s.f.	\$26,160.00
* Crushed Limestone Path:	1,050 s.f.	\$6 s.f.	\$6,300.00
* Crushed Limestone Pad:	290 s.f.	\$6 s.f.	\$1,740.00
* Wood & Metal Handrail:	190 l.f.	\$25 l.f.	\$4,750.00
* River Overlook:			\$14,000.00
* New Plant Material:			\$25,000.00
* Benches:	2	\$350	\$700.00
* Invasive Species Eradication:			\$12,000.00
Subtotal			\$232,350.00

Total \$528,035.00

Pool Restoration: \$180,000.00

date: October 5, 2017

revised:

11-02-2017 Adjust for pond survey.

01-04-2018 Refine plan.

01-05-2018 Minor adjustments.

LANDSCAPE PLAN FOR:

City of Birmingham
151 Martin Street
Post Office Box 3001
Birmingham, Michigan
48012-3001
(248) 530-1808

PROJECT LOCATION:

Birmingham Museum/
John West Hunter Park
556 West Maple Road
Birmingham, Michigan
48009

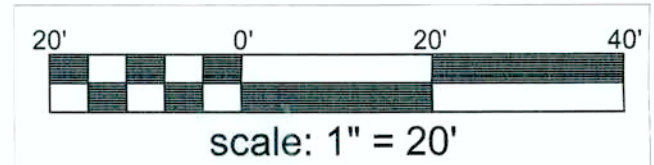
Ms. Leslie Pielack, Director
(248) 530 1928

LANDSCAPE PLAN BY:

Nagy Devlin Land Design
31736 West Chicago Ave.
Livonia, Michigan 48150
(734) 634 9208



J. Brian Devlin
AUTOCAD SIGNATURE
ORIGINAL IN BLUE



CLP - 1:
CONCEPTUAL
LANDSCAPE
MASTER PLAN

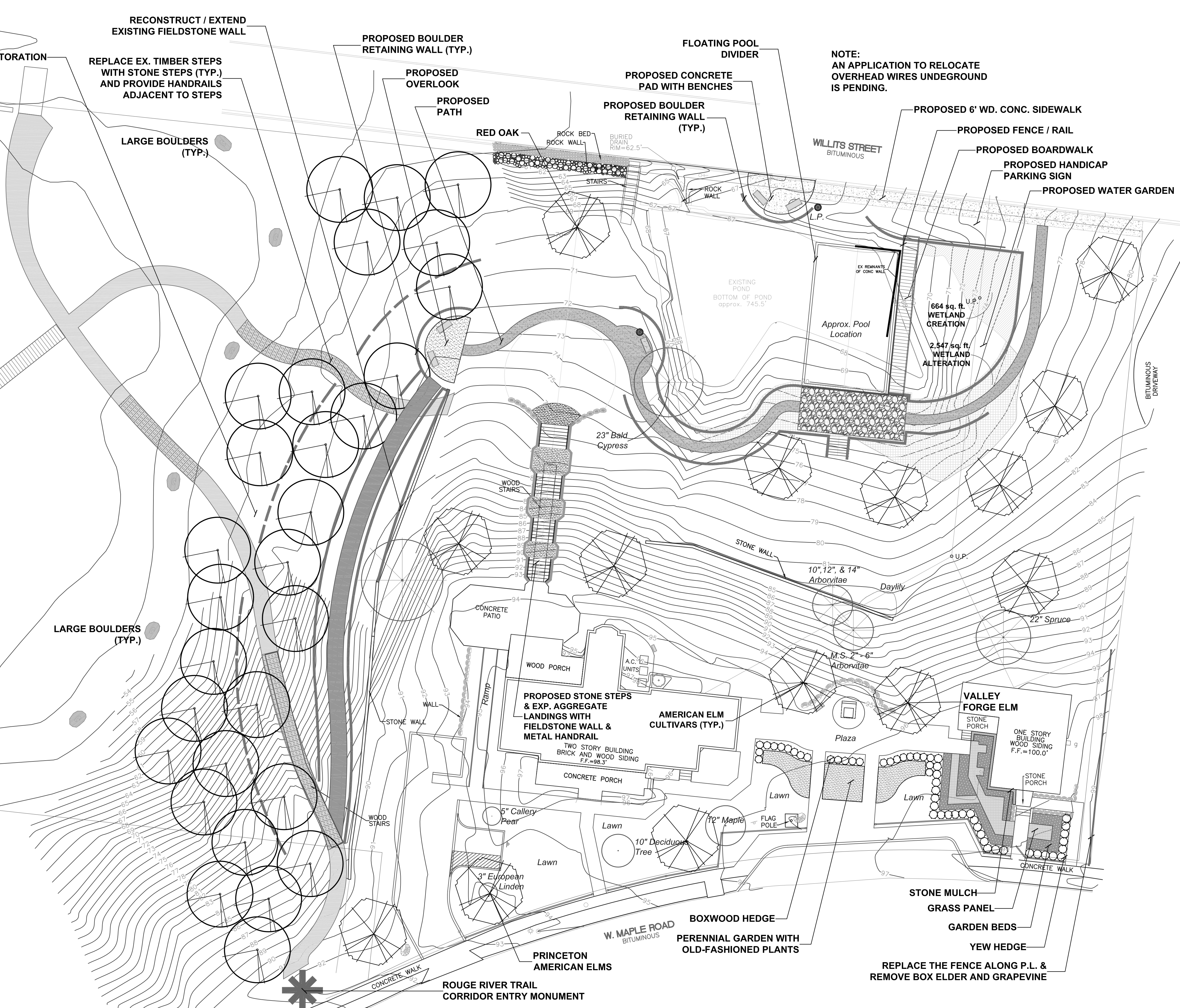
* Base data provided by
Client from Atwell Hicks & HRC.

PLANT LIST - WOODLAND RESTORATION

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE / HT.	KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE / HT.	FLOWER COLOR	FLOWERING TIME
Canopy Trees											
ASR	—	<i>Acer saccharum</i>	Sugar Maple	2" - 2-1/2" cal. B&B	VL	—	<i>Viburnum lentago</i>	Nannyberry Viburnum	30" ht., 5 gal. pot		
CO	—	<i>Celtis occidentalis</i>	Northern Hackberry	2" - 2-1/2" cal. B&B	Ground Layer						
LT	—	<i>Liriodendron tulipifera</i>	Tuliptree	2" - 2-1/2" cal. B&B	ACA	—	<i>Asarum canadense</i>	Wild Ginger	6" - 12"	Dark red to brown	Late Spring
Subcanopy Trees											
AA	—	<i>Amelanchier arborea</i>	Downy Serviceberry	2" cal. B&B	AT	—	<i>Arisaema triphyllum</i>	Jack-in-the-Pulpit	12" - 30"	Green	Spring
CA	—	<i>Cornus alternifolia</i>	Pagoda Dogwood	1" cal. B&B	CV	—	<i>Claytonia virginica</i>	Spring Beauty	6" - 12"	White	Spring
CC	—	<i>Carpinus caroliniana</i>	Musclewood	2" cal. B&B	GM	—	<i>Geranium maculatum</i>	Wild Geranium	12" - 18"	Light purple to pink	Late Spring
OV	—	<i>Ostrya virginiana</i>	American Hophornbeam	2" cal. B&B	HA	—	<i>Hepatica americana</i>	Round-Lobed Hepatica	4" - 6"	Pink, white, blue	Spring
Shrub Layer											
HV	—	<i>Hamamelis virginiana</i>	Witch-Hazel	36" ht. B&B	PP	—	<i>Podophyllum peltatum</i>	Mayapple	12" - 24"	White	Late Spring
LB	—	<i>Lindera benzoin</i>	Spicebush	30" ht., 5 gal. pot	PB	—	<i>Polygonatum biflorum</i>	Solomon's Seal	12" - 36"	Yellow	Late Spring
VD	—	<i>Viburnum dentatum</i>	Arrowwood Viburnum	30" ht., 5 gal. pot	SCA	—	<i>Sanguinaria canadensis</i>	Bloodroot	6" - 12"	White	Spring
VL	—	<i>Viburnum lentago</i>	Nannyberry Viburnum	30" ht., 5 gal. pot	SM	—	<i>Sanicula marilandica</i>	Black Snakeroot	12" - 48"	White	Spring/Summer
					SR	—	<i>Smilacena racemosa</i>	False Solomon's Seal	12" - 36"	White	Late Spring
					TG	—	<i>Trillium grandiflorum</i>	Showy Trillium	9" - 18"	White	Spring
FERNS											
AP	—	<i>Adiantum pedatum</i>	Maidenhair Fern	12" - 24"	— Quantity to be determined in the field.						
PAC	—	<i>Polystichum acrostichoides</i>	Christmas Fern	12" - 24"							

PLANT LIST - WATER GARDEN

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE / HT.
Shrub Layer				
AG	—	<i>Andromeda glaucophylla</i>	Bog Rosemary	24" ht., 3 gal. pot
CCA	—	<i>Chamaedaphne calyculata</i>	Leatherleaf	24" ht., 3 gal. pot
GH	—	<i>Gaultheria hispida</i>	Creeping Snowberry	24" ht., 3 gal. pot
KP	—	<i>Kalmia polifolia</i>	Bog Laurel	24" ht., 3 gal. pot
LG	—	<i>Ledum groenlandicum</i>	Labrador Tea	24" ht., 3 gal. pot
LL	—	<i>Larix laricina</i> 'Girard's Dwarf'	Dwarf American Larch	24" ht., 3 gal. pot
VC	—	<i>Vaccinium macrocarpa</i>	Cranberry	24" ht., 3 gal. pot
Ground Layer				
MT	—	<i>Menyanthes trifoliata</i>	Bogbean	8" - 12"
DS	—	<i>Drosera</i> spp.	Sundews	6"
PO	—	<i>Pogonia sphingolossoides</i>	Pitcher Plants	9" - 18"
SC	—	<i>Spiranthes cernua</i>	Ladies'-tresses	8" - 20"
SS	—	<i>Sarracenia</i> spp.	Pitcher Plants	9" - 18"
— Quantity to be determined in the field.				



LANDSCAPE DEVELOPMENT PLAN

scale: 1" = 20'

COST ESTIMATE

AREA	QTY.	COST	TOTAL
HERITAGE ZONE:			
* Tree Removal:	4	\$500	\$4,000.00
* New Plant Material:			
Deciduous Trees	3	\$650	\$1,950.00
Densiformis Yew	30	\$120	\$3,600.00
Winter Gem Boxwood	25	\$120	\$3,000.00
* Garden Bed Preparation:			
Wood Fence:	80 l.f.	\$30 l.f.	\$2,400.00
Metal Edging:	48 l.f.	\$10 l.f.	\$480.00
Stone Mulch:	3 c.y.	\$75 c.y.	\$225.00
Subtotal			\$21,655.00
TRANSITION ZONE:			
* Tree Removal:	3	\$500 ea.	\$1,500.00
* Stone Walls:	520 f.f.	\$120 f.f.	\$62,400.00
* Stone Steps:	340 s.f.	\$80 s.f.	\$27,200.00
* Exposed Aggregate Conc.	400 s.f.	\$18 s.f.	\$7,200.00
* New Plant Material:			
Deciduous Trees	5	\$650	\$3,250.00
Subtotal			\$101,550.00
POND ZONE:			
* Tree Removal:	12	\$500	\$6,000.00
* Shrub Removal:			\$4,000.00
* Pond Dredging:	\$85,000 / ac. 0.12 ac.		\$10,200.00
* Boulder Retaining Walls:	1,120 f.f.	\$35 f.f.	\$39,200.00
* Stone Walls:	260 f.f.	\$120 f.f.	\$31,200.00
* Crushed Limestone Path:	1,220 s.f.	\$6 s.f.	\$7,320.00
* Boardwalk:	360 s.f.	\$65 l.f.	\$23,400.00
* Wood & Cable Rail Fence:	96 l.f.	\$25 l.f.	\$2,400.00
* Concrete Sidewalk & Pad:	1,040 s.f.	\$8 s.f.	\$8,320.00
* Benches:	2	\$350	\$700.00
* Stone Patio:	670 s.f.	\$22 s.f.	\$14,740.00
* New Plant Material:			\$25,000.00
Subtotal			\$172,480.00
WOODLAND / RIVERINE ZONE			
* Tree Removal:	15	\$500	\$7,500.00
* Boulder Retaining Walls:	2,480 f.f.	\$35 f.f.	\$86,800.00
* Large Boulders:	6	\$1,500	\$9,000.00
* Stone Wall:	320 f.f.	\$120 f.f.	\$38,400.00
* Stone Steps:	744 s.f.	\$60 s.f.	\$26,160.00
* Crushed Limestone Path:	1,050 s.f.	\$6 s.f.	\$6,300.00
* Crushed Limestone Pad:	290 s.f.	\$6 s.f.	\$1,740.00
* Wood & Metal Handrail:	190 l.f.	\$25 l.f.	\$4,750.00
* River Overlook:			\$14,000.00
* New Plant Material:			\$25,000.00
* Benches:	2	\$350	\$700.00
* Invasive Species Eradication:			\$12,000.00
Subtotal			\$232,350.00
Total			\$528,035.00
Pool Restoration:			\$180,000.00

LANDSCAPE PLAN FOR:
City of Birmingham
151 Martin Street
Post Office Box 3001
Birmingham, Michigan
48012-3001
(248) 530-1808

PROJECT LOCATION:
Birmingham Museum/
John West Hunter Park
556 West Maple Road
Birmingham, Michigan
48009
Ms. Leslie Pielack, Director
(248) 530 1928

LANDSCAPE PLAN BY:
Nagy Devlin Land Design
31736 West Chicago Ave.
Livonia, Michigan 48150
(734) 634 9208

J. Brian Devlin
AUTOCAD SIGNATURE
ORIGINAL IN BLUE

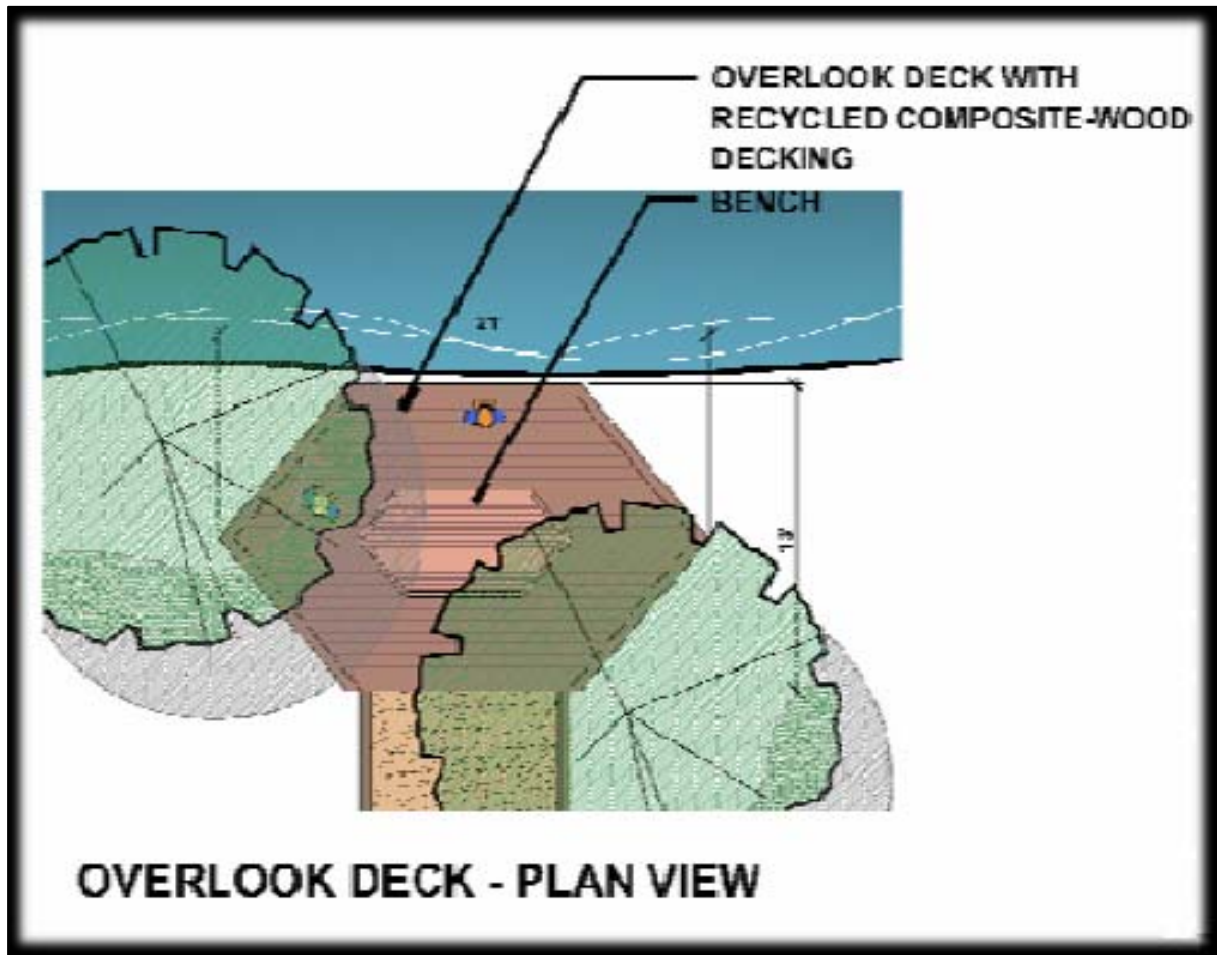
811 Know what's below. Call before you dig.

north

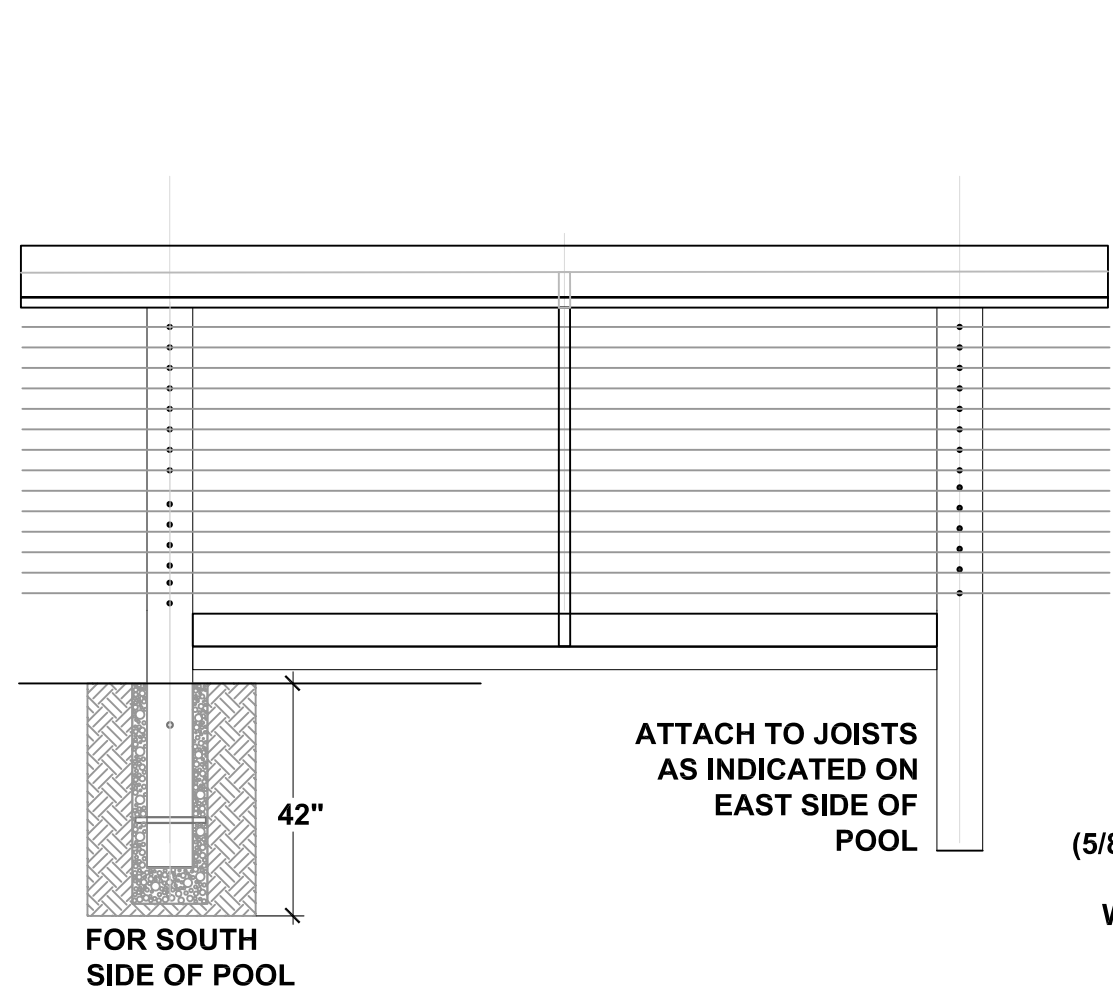
CLP - 1:
CONCEPTUAL
LANDSCAPE
MASTER PLAN

* Base data provided by
Client from Atwell Hicks & HRC.

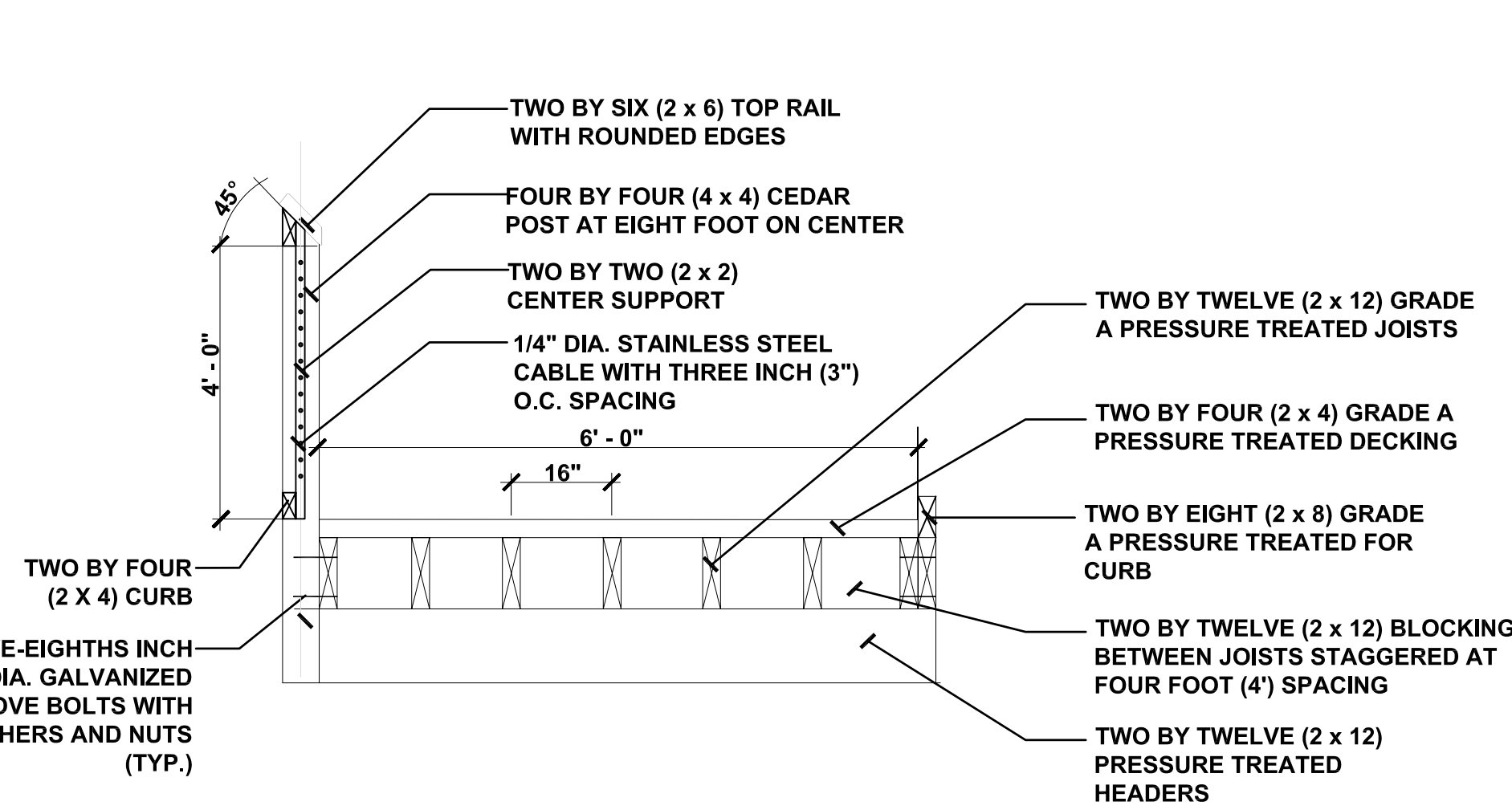
date: October 5, 2017
revised:
11-02-2017 Adjust for pond survey.
01-04-2018 Refine plan.
01-05-2018 Minor adjustments.



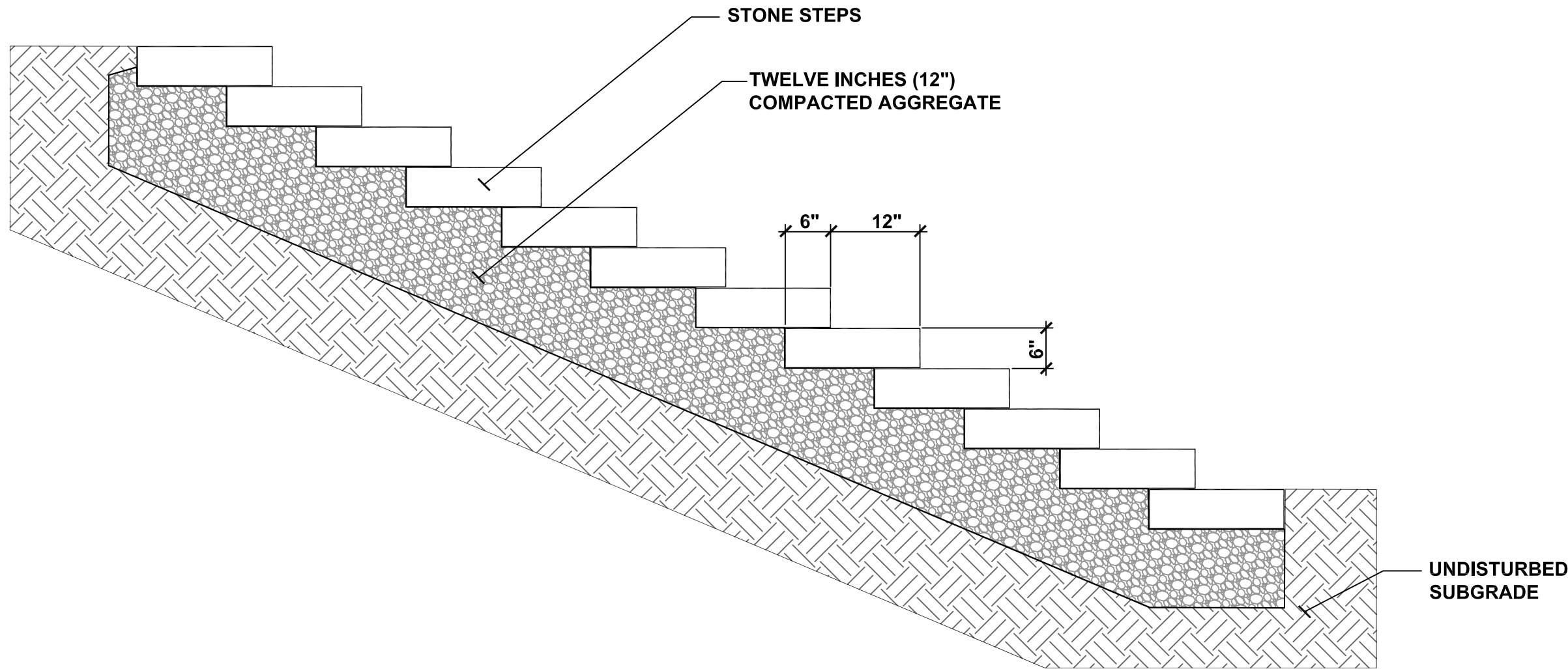
From the *Rouge River Trail Corridor Master Plan* for the City of Birmingham.



BOARDWALK DETAIL & CABLE RAIL FENCE DETAIL

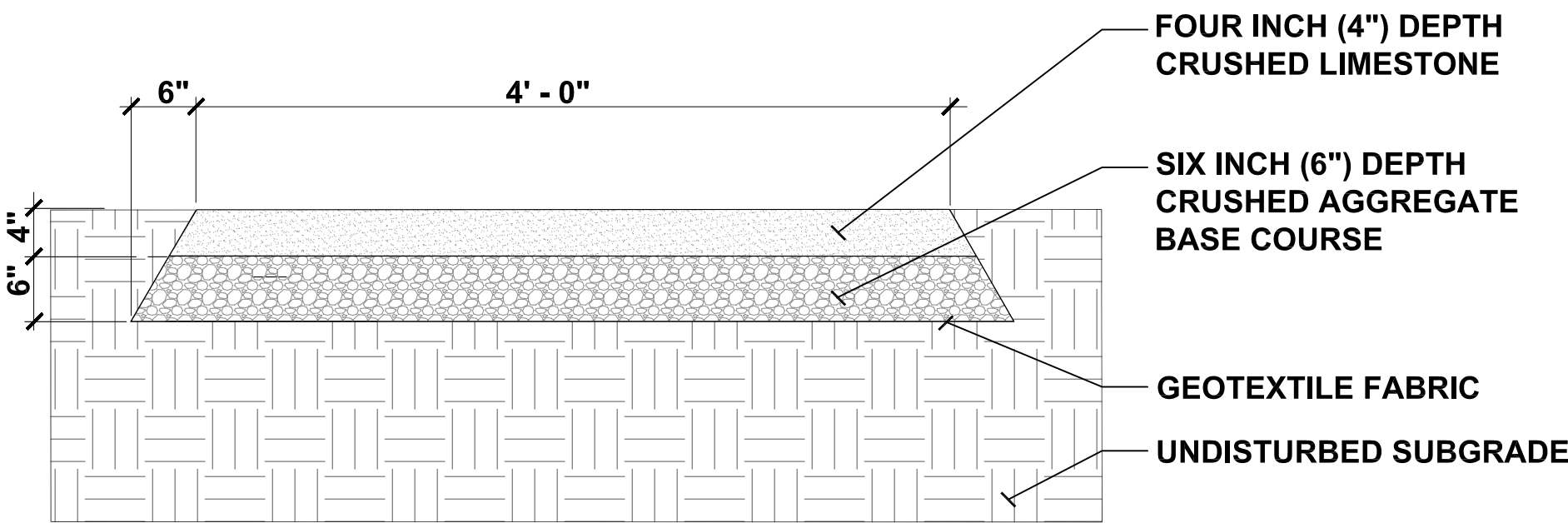


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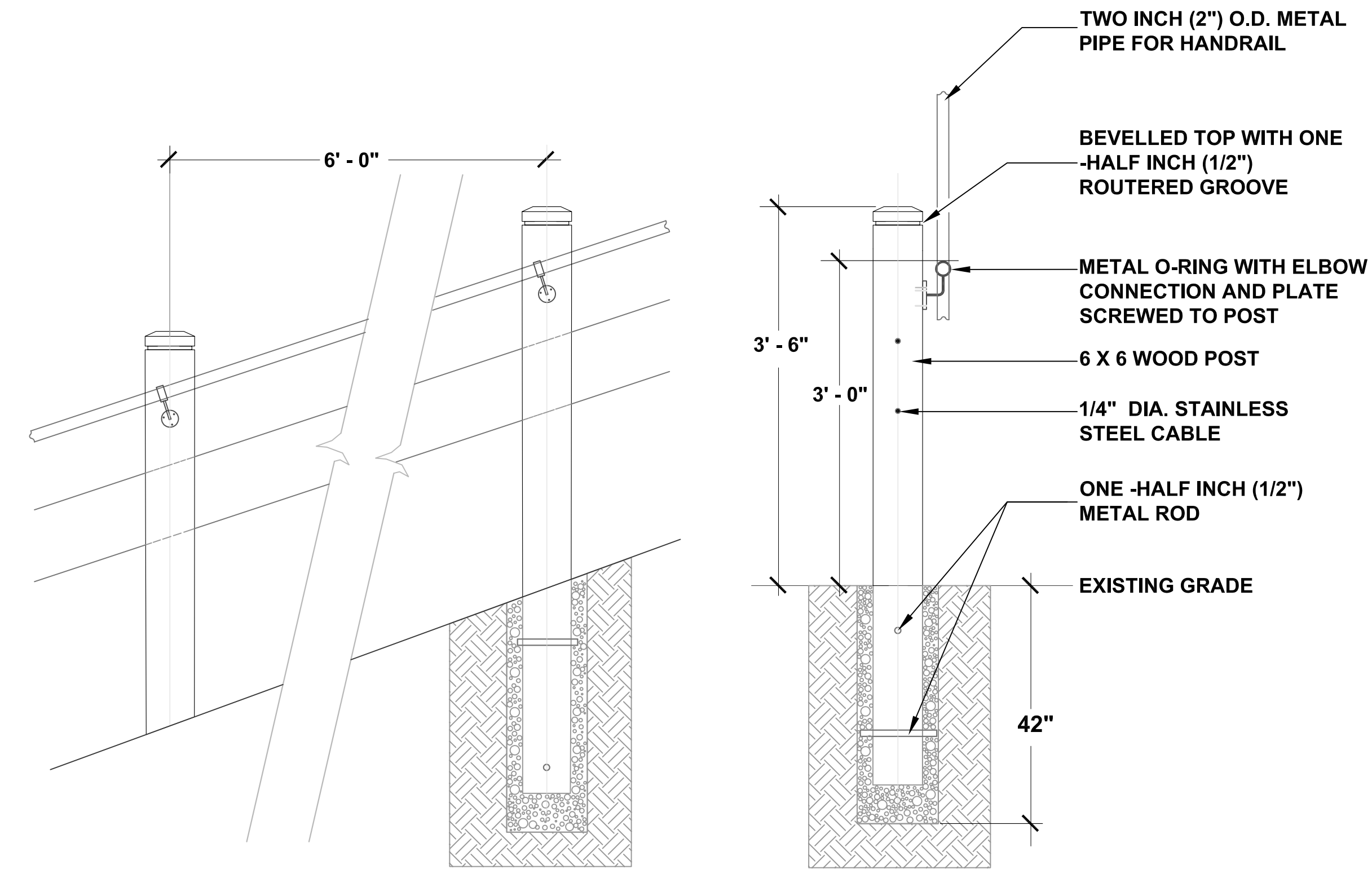
STONE STEPS DETAIL

not to scale



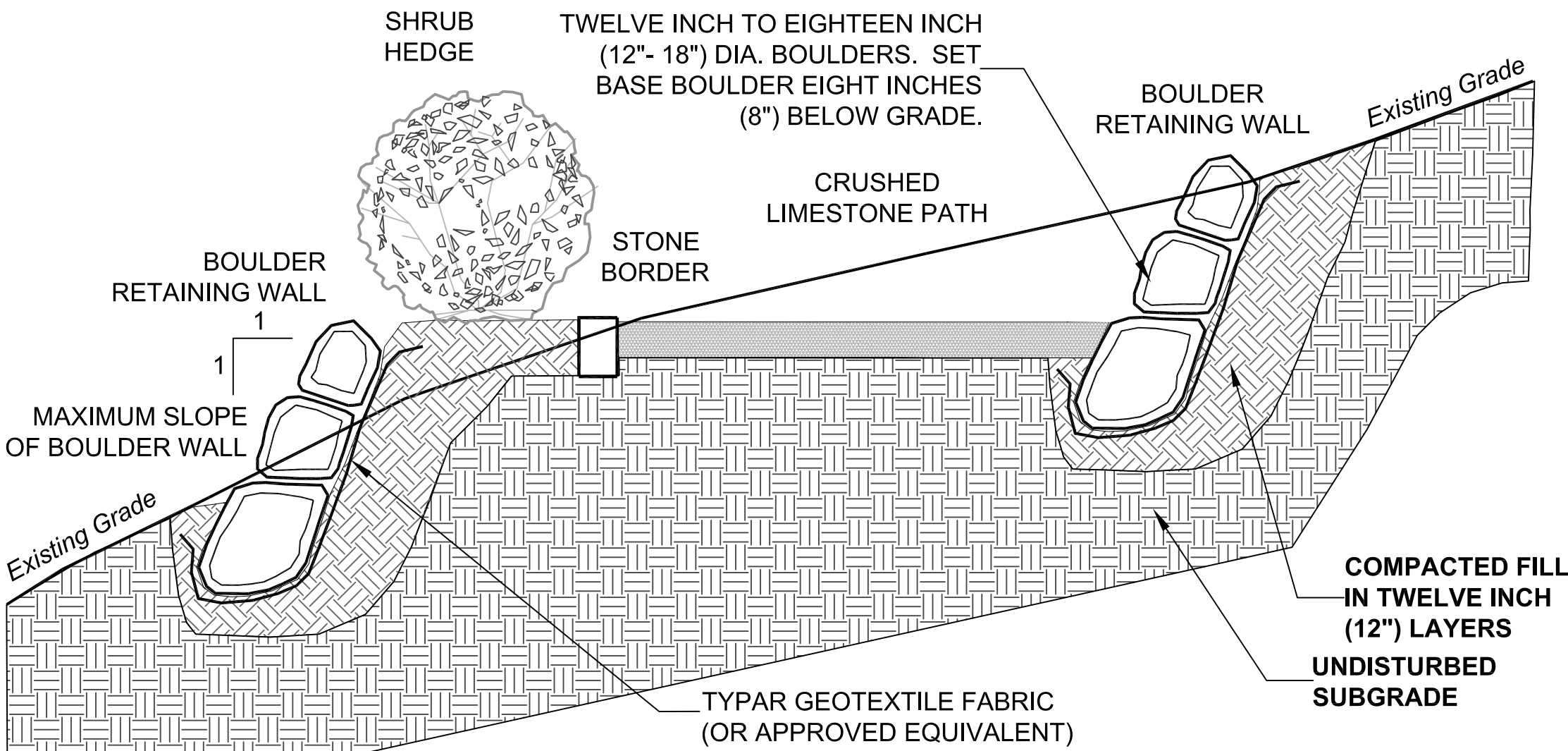
CRUSHED LIMESTONE PATH DETAIL

not to scale



WOOD POST W/ METAL HAND RAIL DETAIL

not to scale



BOULDER RETAINING WALL DETAIL

not to scale

NOTES FOR CONTROL OF *Phragmites* WITH HERBICIDES:

PLANT DESCRIPTION
Common Reed, *Phragmites australis* subsp. *australis*, is a warm-season perennial grass with a rigid, hollow stem that grows between six feet and thirteen feet (6' - 13') in height. The leaves are flat, smooth, and green to grayish-green and the flowers grow as dense branched clusters on the end of each stem that are open and feathery at maturity. It is often found in ditches, swales, wetlands, and on stream banks and pond banks. Common Reed has become an invasive species as it outcompetes native vegetation lowering local plant diversity.
Common Reed can be eradicated with a long-term management strategy that may include burning, mechanical methods (mowing or hand pulling), and / or herbicides. The following guidelines utilize a management program to control *Phragmites* with the application of herbicides.
(Information from the State of Michigan and Wikipedia.)

- The first step in the control of *Phragmites* is the application of herbicides. Glyphosate and imazapyr are two (2) herbicides effective in controlling *Phragmites*. Imazapyr can be used in combination with glyphosate to provide control over *Phragmites* for a longer period of time but can also be used alone for effective control. *Phragmites* should be treated in early to late summer (June through September) when using imazapyr or late summer (August through September) when using glyphosate or a imazapyr/glyphosate mixture to achieve the best results. These herbicides are non-selective and will affect any plant which is contacted by the solution. The applicator should strictly adhere to the chemical manufacturer's specifications for the correct method of application and rate of application.
Methods of application depend on the size of the *Phragmites* stand and existing site conditions. Scattered plants or isolated plant stands may be treated by injecting stems, hand swiping, or selective hand spraying. Large stands may require the use of commercial equipment. The application of herbicides should be conducted by a licensed or certified applicator to provide the best method for eradication of the *Phragmites* while minimizing damage to native plants and following best management practices for required safety procedures.
Either herbicide should be used in a formulation that is specifically approved for use in wet areas.
- The next step in the eradication of *Phragmites* is to mow or cut the dead plant material after the herbicide treatment. This process should not occur until at least two (2) weeks after the herbicide treatment to allow maximum exposure to the herbicide. Mowing or cutting of the treated plants is recommended during late summer to fall (August to first hard frost) or in the winter when the ground is frozen. Hand cutting is effective for removing individual plant stems or very small stands but a brush cutter is more effective for large dense stands. The cutting blade should be set to a mowing height of greater than four inches (4") to help minimize any impact to small mammals and native plants. Any equipment used to manage *Phragmites* should be cleaned of all debris before removing it from the treatment site to prevent the spread of seeds or rhizomes to other sites. If the plants are mowed or cut, the plant material should be immediately collected and bagged to prevent the spread of seeds and disposed of properly.
- Reseeding of the treated area:
Since Glyphosate does not persist in the soil for an extended period of time, reseeding of the desired seed mix can occur after the mowing or cutting process has been completed.
Imazapyr remains in the soil for a much longer period of time, therefore, reseeding of the desired seed mix should not occur for a year after the application treatment.
- Annual monitoring shall be conducted in mid to late summer. Any individual plants should be treated and removed by hand techniques as described above to insure that *Phragmites* does not become reestablished.

NOTES FOR CONTROL OF GARLIC MUSTARD:

PLANT DESCRIPTION
Garlic Mustard, *Alliaria petiolata*, is an herbaceous biennial flowering plant that smells like garlic when crushed. The plant produces heart-shaped basal rosettes (leaves) that appear in year one at ground level. In the second year, stems shootup to one foot to four feet (1' - 4') in height and develop flowers and seeds while the leaves become more toothed and triangular in shape. In early Spring, clusters of tiny, white, four-petaled flowers bloom before the overstory trees leaf out. The seed pods aree green, long, and narrow and look like stems, turning brown in the Fall. Garlic Mustard thrives in woodlands because it can tolerate deep shade.
Garlic Mustard has become an invasive that spreads quickly through woods outcompeting understory plants including tree saplings.
(Information from the State of Michigan.)
Garlic Mustard can be eradicated with a long-term management strategy that may include prescribed burning, manual and mechanical methods (mowing or hand pulling), and / or herbicides. The following guidelines utilize a management program to control *Phragmites* with the application of manual and mechanical methods.

- The manual method includes the removal of the plants by pulling the entire root mass with the leaves. Care should be taken to disturb the soil as little as possible since the disturbance can encourage seeds sprouting from the existing seed bank. Hand pulling of Garlic Mustad plants may be limited to year one plants. In conjunction with hand pulling, the management program can include the removal of just the flowers and seedheads. With this method it is important repeat the procedure multiple times during the growing season. The goal is to eliminate the individual plants while reducing the potential seed bank and minimizing soil disturbance and desirable plant damage or elimination.
- Another manual technique is cutting the stem at ground level with a weed whip or other cutting device. This method is best employed in the second year of plant growth especially during a period of drought when the plant is already stressed. The resulting vegetative debris should be entirely removed from the site and discarded in a manner that does not allow seeds to escape and colonize other areas. Care should be taken to clean all tools used thoroughly including clothing and footwear to minimize any accidental seed dispersion.
The successful elimination of Garlic Mustard is a process that will take several years and must be attempted with a sustained, long-term management approach.
(Information from the Natural Resources Conservation Service.)

LANDSCAPE PLAN FOR:
City of Birmingham
151 Martin Street
Post Office Box 3001
Birmingham, Michigan
48012-3001
(248) 530-1808

LANDSCAPE PLAN BY:
Nagy Devlin Land Design
31736 West Chicago Ave.
Livonia, Michigan 48150
(734) 634 9208

date: January 4, 2018
revised:
01-05-2018 Minor adjustments.



PROJECT LOCATION:
Birmingham Museum/
John West Hunter Park
556 West Maple Road
Birmingham, Michigan
48009
Ms. Leslie Pielack, Director
(248) 530 1928



J. Brian Devlin
AUTOCAD SIGNATURE
ORIGINAL IN BLUE

CLP - 2:
CONCEPTUAL
LANDSCAPE
MASTER PLAN
DETAILS

Appendix B

Comments from January 16, 2018 Museum Board Special Meeting/Joint Workshop with Parks and Recreation Board, Historic District Commission, and Public

(Heritage Zone): Parks and Recreation Board questions related to

1. Tree restoration and replacement; distinction of volunteer trees vs. intentional/original landscape design, transplanting procedure and costs, use of proposed elm cultivars

Historic District Commission questions related to

2. The impact of volunteer tree removal and replacement with smaller, younger trees
3. Handicap/barrier free access; current accessibility near museum for parking and access and proposed additional access at Willits Street

Public questions related to

4. Planned designated handicapped parking on Willits Street as part of existing street parking

(Transition Zone): Parks and Recreation Board questions related to

1. Construction details of proposed stairs and adjacent fieldstone walls

Historic District Commission questions related to

2. Lighting design opportunities
3. Benefits of using concrete for safety, cost, and historical accuracy

There were no public questions

(Riverine/Woodland Zone): Parks and Recreation Board questions related to

1. Locating a children's play area along the Rouge River

2. Clarification that the Rouge River Master Plan is conceptual only
3. Use of crushed limestone in the zone for barrier free access; barrier free paths from Willits to Maple
4. Proposed replacement of rotting timber steps with stone
5. Prevalence of invasive species and maintenance costs

There were no questions from the Historic District Commission or the public

(Pond Zone): Parks and Recreation Board questions related to

1. Historic use of pool for polio physical therapy by Jim Allen; no public use of pool will be permitted
2. Provisions for water flow in proposed pond and pool design
3. Possibility of future water garden in pond
4. Use of vegetative barriers to maintain safety at edge of pond and depth estimates
5. Proposed relocation of utilities underground
6. Uncertain nature of original pool divider; goal is to educate about the history and its association with disabilities and to emulate the original pool barrier edge, as complete restoration would be costly

Historic District Commission questions related to

1. Ability to lower water to expose concrete structures for study
2. Cost of reconstruction of pool's divider wall; possibilities of partial reconstruction as an educational approach
3. Cost and difficulty of dredging; permitting issues with Michigan Department of Environmental Quality (MDEQ)
1. Reconstruction of MDEQ-required wetlands is a small amount of square footage as an offset of spring seeps

There were no questions from the public

Appendix C

Comments from Parks and Recreation Board Master Plan Process, September and October, 2017

- A. October 3, 2017 Open House Recommendations (Parks-Rec Master Plan draft p. 134)
 - 1. *historical games/playground at museum (1 comment)*
 - 2. *outdoor museum area at museum (1 comment)*
- B. Public Engagement Resource Mapping (Parks-Rec Master Plan draft p. 137)
 - 3. no recommendations
- C. Survey Responses-Park Use (Parks-Rec Master Plan draft p. 155)
 - 4. 18 respondents of 441, or 4.4% (includes Allen/Hunter House facilities)
- D. Survey Comments-(Parks –Rec Master Plan draft p. 197)
 - 5. *#70- Partnering with the schools, library, BBAC, museum, NEXT, Community House, etc is vital.*
 - 6. *#74-The Museum Park has been forgotten. It should be developed as an outdoor historic museum including walking exhibits and a game/play area.*



MEMORANDUM

Human Resources Department

DATE: November 8, 2021

TO: Thomas M. Markus, City Manager

FROM: Joseph Lambert, HR Manager

SUBJECT: City Recognition of Martin Luther King Jr. Day

INTRODUCTION:

The City wishes to recognize Martin Luther King Jr. Day as a city-wide holiday, and close City offices in observance of Dr. King's achievements and sacrifices.

BACKGROUND:

A review of City recognized holidays by the City Manager's Office revealed that Martin Luther King Jr. Day has not been formally observed as a city-wide holiday. Based on the importance of Dr. King's work with regard to civil rights for all, the City wishes to recognize MLK Jr. day as a city-wide holiday.

LEGAL REVIEW:

None required.

FISCAL IMPACT:

No additional costs.

PUBLIC COMMUNICATIONS:

The MLK Jr. Day holiday will be posted on the 2022 City Calendar, both on the website and in print.

SUMMARY:

Staff recommends that MLK Jr. Day be added to the list of officially recognized City holidays.

ATTACHMENTS:

- Resolution to Add Martin Luther King Jr. Day as a City Holiday

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to recognize Martin Luther King Jr. Day as one of the City's observed holidays, starting in 2022.

RESOLUTION TO ADD MARTIN LUTHER KING JR. DAY AS A CITY HOLIDAY

WHEREAS, The United States Congress passed legislation in 1983 establishing the federal holiday of Martin Luther King, Jr. Day;

WHEREAS, Rev. Dr. Martin Luther King, Jr.'s birthday, January 15th, is a federal holiday ("MLK Jr Day") that is celebrated annually on the third Monday of every January;

WHEREAS, MLK Day celebrates Rev. Dr. Martin Luther King Jr.'s life, achievements, and his leadership which was fundamental in the success of America's civil rights movement;

WHEREAS, It is the desire and intent of the Mayor and Commission of the City of Birmingham to formally recognize Martin Luther King, Jr. Day as a legal holiday in the City of Birmingham and to memorialize that fact through appropriate resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Commission of the City of Birmingham Michigan, that the following holidays are officially recognized and observed as legal holidays in the City:

- **New Year's Day**
- **Martin Luther King Jr. Day**
- **Good Friday**
- **Memorial Day**
- **Independence Day**
- **Labor Day**
- **Thanksgiving Day**
- **Friday after Thanksgiving**
- **Christmas Eve**
- **Christmas Day**
- **New Year's Eve**

BE IT FURTHER RESOLVED that all City offices will be closed in observance of the holidays listed above;

BE IT FURTHER RESOLVED that this resolution shall supersede all previous resolutions designating the observance of city-wide holidays.

I, Alexandria Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on November 8, 2021.

Alexandria Bingham, City Clerk



MEMORANDUM

Planning Division

DATE: November 8th, 2021

TO: Thomas Markus, City Manager

FROM: Nicholas Dupuis, Planning Director

SUBJECT: Initial Screening for Bistro Applicants – 2022

INTRODUCTION:

In October of each year, the City Commission begins the bistro application review process to consider new bistro applications pursuant to Chapter 10, Division 4 of the Birmingham Code of Ordinances.

BACKGROUND:

The City Commission accepts new bistro applications, which are due on October 1st for the next calendar year. All bistro applications submitted for review must contain only the following information in 5 pages or less:

- A brief description of the bistro concept proposed, including type of food to be served, price point, ambience of bistro, unique characteristics of the operation, if any, and an explanation of how this concept will enhance the current mix of commercial uses in Birmingham;
- Proposed location, hours of operation and date of opening;
- Name of owner/operator and outline of previous restaurant experience; and
- Evidence of financial ability to construct and operate the proposed bistro.

At a single City Commission meeting in the fall of each year, the City Commission considers all applications for bistros, and selects which applications, if any, shall move forward to the Planning Board for a full Special Land Use Permit review. All applications forwarded to the Planning Board are required to provide additional information for review of the bistro as a SLUP including site plans, floor plans, sample menus, interior design details, evidence of financial capability, as well as any other information requested by the Planning Board.

The Planning Board will then conduct a Special Land Use Permit, Final Site Plan and Design Review. During this review, bistro applications will be evaluated by the Planning Board based on the criteria set forth in the Zoning Ordinance and Chapter 10, Alcoholic Liquors, Division 4, Selection Criteria, of the City Code, and forwarded back to the City Commission with a recommendation from the Planning Board.

Finally, the City Commission will conduct public hearings to review the selected bistro applications and determine which, if any, bistros to approve for 2022, up to a maximum of two approvals for new establishments, and up to a maximum of two approvals for existing establishments that have been in operation for more than 5 years in the City.

The bistro application review process also provides that in the event that two bistro approvals are not granted as a result of the fall review period, the City will accept additional bistro applications for the current calendar year on or before April 1st.

In accordance with the process outlined above, the following applicants submitted a summary for the initial review process prior to the October 1, 2021 deadline established by the City Commission:

- The French Lady (new restaurant opened in 2020, not licensed for the service of alcohol)
- Wilders Supper Club (new restaurant proposed in a redevelopment project).

Each of the proposed bistros are located in the Downtown Birmingham Overlay District.

Should the City Commission wish to consider either of the two applications received as of October 1st, 2021, each applicant will be given a time limit to verbally present their concepts to the City Commission, without the use of PowerPoint presentations, display boards or other visual aids. A suggested time frame would be a five minute presentation of the concept by the applicant, with a five minute period for questions from the City Commission. The City Commission will then discuss the application, and consider directing the application to the Planning Board for full Special Land Use Permit, Final Site Plan and Design Review.

LEGAL REVIEW:

The City Attorney has reviewed the submissions and has no concerns as to form and content.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

PUBLIC COMMUNICATIONS:

If selected, each Special Land Use Permit, Final Site Plan and Design Review will be noticed in compliance with Article 7, Sections 7.01 and 7.35 of the Zoning Ordinance.

SUMMARY:

In accordance with the City's review process for bistros, the City Commission should review the attached submissions packets and first consider whether the Commission would like the applicant to conduct a brief presentation and respond to any questions in order to determine whether to take further action regarding the applications.

ATTACHMENTS:

- The French Lady
- Wilders Supper Club

SUGGESTED ACTION:


To direct _____ bistro application(s) to the Planning Board for the process of Special Land Use Permit, Final Site Plan and Design Review.

OR

To take no action on any bistro applications at this time.

The French Lady

Proposal for Bistro License



The French Lady
768 N Old Woodward Ave.
Birmingham, MI 48009
248.480.0571

Applicant:
Claude Bouly-Pellerin
248.309.0030

Applicant's Attorney:
John Henke
251 E Merrill St # 212,
Birmingham, MI 48009
248.647.8590

About/Concept:

The French Lady offers its guests an experience like no other. When visiting The French Lady, guests will find themselves in a truly traditional French Bistro; a small restaurant serving authentic, French home-style meals, while providing a comfortable and relaxing atmosphere. Whether you are here for lunch or dinner, you will feel like you've truly stepped into a small part of France when walking through the French Lady's doors. Tables covered with beautiful, colorful table cloths, shelves with meringues, madeleines, financiers, and house-made jams. Black boards with the menus, reflecting the daily specials. Coffee brewing, buttery quiches cooling down, and the smell of dinner, slow-cooking in the oven gently wafting through from the kitchen. A harp stands off to the side, out of the way of tables, but in view. Often played by her owner, Claude, so guests can enjoy her beautiful sound while savoring their meals. During the spring, summer, and early fall, you will also have the option of enjoying your meal outdoors on the back patio, which overlooks the Rouge River.

The French Lady has adequate health and sanitary facilities that are cleaned throughout the day. All work surfaces are wiped and disinfected in between tasks, and each table cleaned and disinfected between guests.

Owner:

The French Lady herself, born in Nord-Pas-de-Calais, has been cooking all her life. In addition to living in the north of France, she has also lived in Strasburg on the French-German border, and Paris. Well-versed in the diverse cuisines of her home country, she can provide a truly authentic taste of France. Cooking, baking, and entertaining are her passions. She prepares each meal from scratch with not just love and care, but with technique and expertise. Pairing the perfect wine with a corresponding dish is an art. Adherence to tradition, quality, and authenticity is key.

Claude is also a classically trained harpist who has performed internationally, and whose musical career has spanned decades. In addition to being talented and hardworking, she is one of the most selfless people you could ever meet, and always goes out of her way to make people feel welcome, at home, and appreciated. These qualities will undoubtedly create and foster a customer experience that is like no other. After spending some years of her twenties in Boston, she moved back to France, always knowing deep down that she wanted to be here in the States. Now she has been living in Michigan since December of 2014, and is sharing her passion for homemade food.

Impact:

Located in the North end of the Downtown District, just a short walk from the heart of Downtown, The French Lady will offer Birmingham something completely different from any of the other local bistros; a truly authentic French experience that you won't find anywhere else. With fresh, quality ingredients from local farmers and butchers. Being a small bistro, The French Lady also provides a warm at-home atmosphere, creating a stronger sense of community for guests.

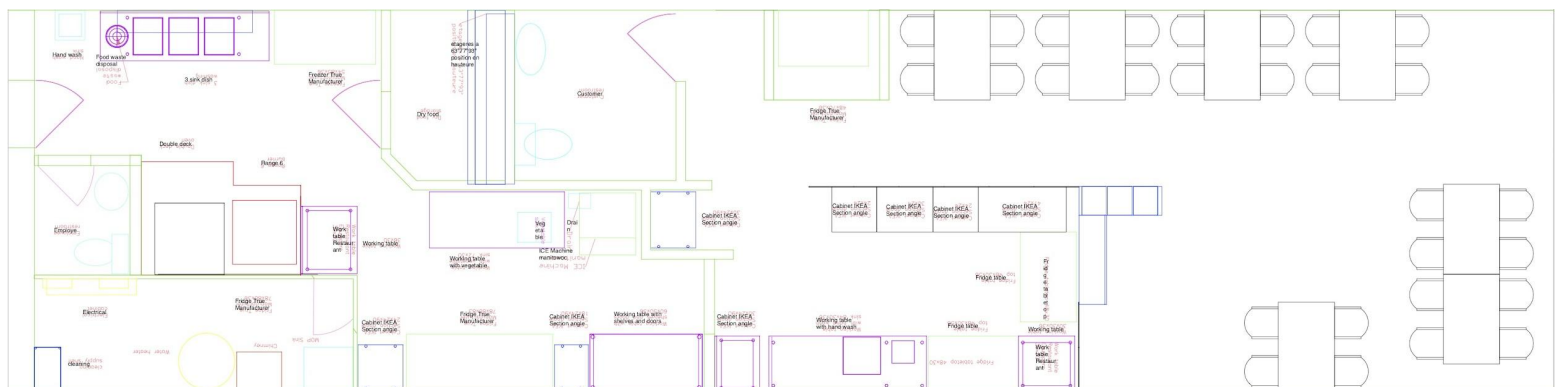
Finances:

Having already applied and received our certificate of occupancy, The French Lady has already been able to open her doors, and welcome guests for the past year. When setting up the Bistro, everything was constructed with a Bistro license in mind, so there are no additional expenses expected, other than the cost of the bistro license itself, and any associated fees. The French Lady does not have any outstanding obligations to the city, and is always current on rent and bills. The French Lady has the finances necessary to purchase the bistro license, once approved. If necessary bank statements will be provided upon request.

Menu:

The French Lady works with fresh ingredients, following the market and season. The menu changes weekly, offering different specials each day. The French Lady serves only authentic French cuisine, made with locally-sourced ingredients, always providing guests with the highest quality possible. Once The French Lady is able to add wine to her menu, it will truly feel like you're eating in a Parisian bistro. All employees involved in the sale and service of alcoholic beverages will be required to pass a server training course approved by the Michigan Liquor Control Commission.

Lunch		Dinner		Soups/Starters	
(includes a side of salad)		Beef Bourguignon	\$ 27	Cheese Board	\$ 20
Quiche	\$ 16	Cassoulet	\$ 27	Salade du Jour	\$ 8
Ham & Cheese Crêpe	\$ 16	Coq Au Vin	\$ 25	Soup du Jour	\$ 9
Ratatouille Crêpe	\$ 16	Chicken Blanquette	\$ 25		
Custom Savory Crêpe	\$ 16	Saumon à l'unilatérale	\$ 26	Desserts	
Croque-Monsieur	\$ 16	Chicken Basquaise	\$ 25	Chocolate Mousse	\$ 6
Risotto	\$ 18	Onglet à l'échalote	\$ 28	Clafoutis	\$ 10
Ratatouille	\$ 18	Lotte Alexandre	\$ 30	Crème Caramel	\$ 9
		Beef Ch'ti	\$ 27	Slice of Tart	\$ 10
Drinks		Stuffed Tomato	\$ 25	Crème Brûlée	\$ 9
Coffee	\$ 2.5			Sweet Crêpes	\$ 10
Espresso or Tea	\$ 3				
Latte	\$ 4.5				
Juice	\$ 4				
Sparkling Water	\$ 3				







WILDER'S *Supper Club*

City of Birmingham 2021 **Initial Screening Bistro Application**

Applicant: SSE Restaurant Group, LLC d/b/a Wilder's Supper Club

Proposed Location: 460 N. Old Woodward Ave., Birmingham, MI 48009

Applicant's Representative: Samy Eid
588 S. Old Woodward Ave., Birmingham, MI 48009
ph. (248) 644-3122

Applicant's Attorney: JPHOWE, PLLC / J. Patrick Howe
280 N. Old Woodward Ave., Suite 12, Birmingham, MI 48009
ph. (248) 385-3112

Applicant's Architect: Saroki Architecture
430 N. Old Woodward Ave., Birmingham, MI 48009
ph. (248) 258-5707

History of SSE Restaurant Group

Two Generations of Award-Winning Hospitality

The SSE Restaurant Group is owned and operated by the Eid family, who have had a strong restaurant presence in Birmingham since 1982, when Sameer Eid moved his hit Middle Eastern hole-in-the-wall Phoenicia from Highland Park to 588 S. Old Woodward to be closer to his regular clientele. Operated with his son, Samy, since 2003, Phoenicia is a welcoming and stylish dining anchor at the southern gateway to downtown Birmingham, known by both locals and out-of-towners for its award-winning Lebanese food, refined hospitality, and cosmopolitan clientele.

In 2015, with the help of Executive Chef Nick Janutol, SSE Restaurant Group revived the old Forest Grill, one of Birmingham's first Bistros, turning it into a beloved contemporary

Mediterranean Bistro. In 2019 SSE Restaurant Group expanded outside of Birmingham, opening Leila in downtown Detroit with General Manager Matthew Hollander leading the team. Having survived the darkest days of the COVID-19 pandemic, SSE Restaurant Group hopes to grow the family business for the next generation with Wilder's Supper Club, named after Samy's own son. Wilder's Supper Club is timeless bistro proposed for the ground floor of the mixed use building that will be developed on the site of the former Junior League building at 460 N. Old Woodward Ave.

Restaurant Experience

Along with the principals of SSE Restaurant Group, the operating partners of Wilder's Supper Club have been in the restaurant business since the day they could wash dishes as children. Samy Eid grew up in his father's restaurant, Phoenicia, before officially joining as operator in 2003, where he remains a constant hands-on presence. In 2015, it was Samy who led the family business to acquire Forest Grill, a Bistro with a kitchen led by chef de cuisine Nick Janutol, a graduate of the Culinary Institute of America in Hyde Park who had worked in some of the world's best restaurants before coming home to Michigan. In 2019, just months before the pandemic shut down the restaurant industry, with the addition of seasoned general manager Matthew Hollander leading the day-to-day, the team opened Leila in Detroit's Capitol Park to instant acclaim. With the planned addition of Wilder's Supper Club, Janutol and Hollander come aboard as operating partners to strengthen Samy and Sameer Eid's long and excellent history of operating both Bistros and larger restaurants.

Concept for Bistro

If approved to operate as a Bistro, Wilder's Supper Club will set itself apart as an intimate and elevated Birmingham supper club — a prime example of what the Bistro license was designed for in the hands of seasoned restaurant operators.

The restaurant draws its inspiration from the bustling French bistros that define the urban streetscape and energy of modern Paris, through a distinctly American lens of a bygone and hushed dining era. Wilder's Supper Club might be too tame for Hemingway or Fitzgerald themselves, but they may have set a romantic dinner scene there in one of their stories.

With indoor seating on the first floor for 53 diners (including 7 bar seats), a 12 seat private dining room on the lower level (for a total of 65 indoor seats), and 20 seats on an seasonal outdoor patio, the traditional American supper club will be open for dinner 6 nights a week, and brunch on Saturdays and Sundays, offering a focused menu of fresh seafood options and prime chops, executed at the highest level. Wilder's Supper Club will pride itself on the quality of its food offerings, its sleek and refined atmosphere, and its thoughtfully curated wine program. The intimate 7-seat bar will be designed for guests to dine at and will not have a TV, encouraging guests to eat and socialize.

Wilder's Supper Club will occupy the entire 1,900-square-foot retail space on the ground floor of the mixed use building that will be developed on the site of the former Junior League building at

460 N. Old Woodward Ave. A conceptual façade drawing and floor plan for Wilder's Supper Club is attached on p. 5.

Impact Bistro Will Have on Mix of Commercial Uses in Birmingham

Wilder's Supper Club will be a true family-run, multi-generational operation that takes a different approach to dining than many other Birmingham restaurants. Our focus will be a simple and straightforward American bistro menu that's perfectly executed, in an environment designed for friends and families to gather, romances to blossom, and memories to be made. The style of dining we aim to offer at Wilder's Supper Club is perhaps best remembered by the Silent Generation.

Sample Menu

Below is a sample menu for Wilder's Supper Club which will be further developed and finalized if Wilder's Supper Club is approved to move forward with a formal Bistro License Application.

STARTERS

CAESAR SALAD	<i>romaine, garlic crouton, anchovy</i>
CRAB SALAD	<i>tomato, mayonnaise</i>
MATZO BALL SOUP	<i>chicken broth with large dumpling</i>
BEEF TARTARE	<i>traditional with crostini</i>
SHRIMP COCKTAIL	<i>spicy cocktail sauce</i>
MUSSELS	<i>steamed, french fries, aioli</i>
PIGS IN A BLANKET	<i>all beef sausage, puff pastry</i>
KING CRAB LEGS	

MAINS

IRUS BURGER	<i>tomato, lettuce, cheese, french fries</i>
TRUFFLE PASTA	<i>spaghetti, egg yolk, lemon, parmesan</i>
DOVER SOLE	<i>a la meunière, cauliflower</i>
CHICKEN	<i>cajun spiced, beurre blanc, mesclun salad</i>
VEAL MILANESSE	<i>tomato sauce, arugula salad</i>

STEAK

TOMAHAWK 36oz	
NEW YORK STRIP 16oz	
BONE IN TENDERLOIN 8oz	
<i>Served with choice of zip sauce, hollandaise or peppercorn</i>	

SIDES

FRENCH FRIES
HASH BROWNS
DAUPHINOISE
GREEN BEAN ALMANDINE

DESSERT

HOT FUDGE SUNDAE
KEY LIME PIE
CHEESECAKE

CREAMED SPINACH WITH TRUFFLES

Hours of Operation

The proposed hours of operation for Wilder's Supper Club are:

Tuesday – Sunday Dinner Service: 5:00 PM – 11: 00 PM

Saturday & Sunday Brunch Service: 11:00 AM – 2:00 PM

Outdoor Patio will be open as weather permits from May 1st – October 31st each year

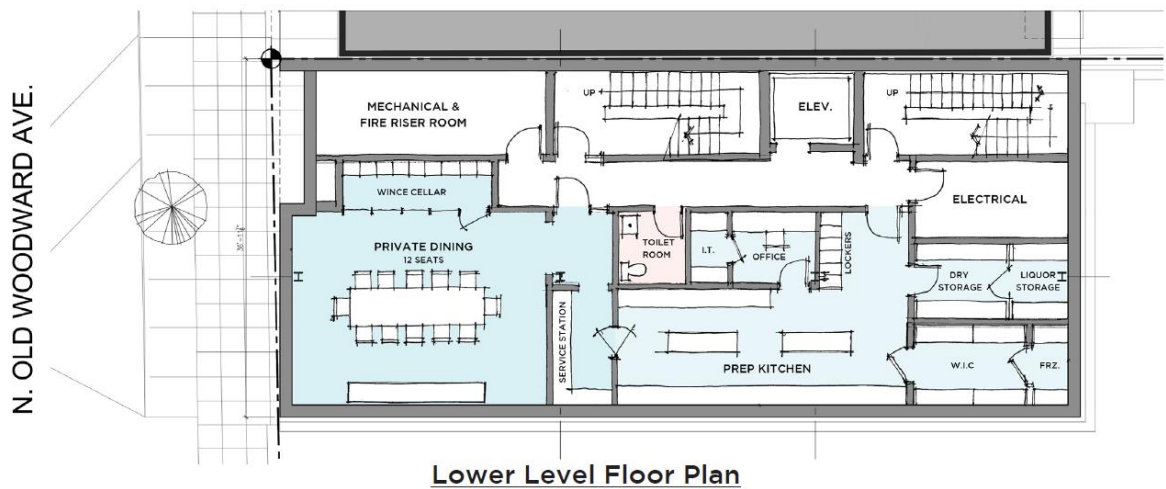
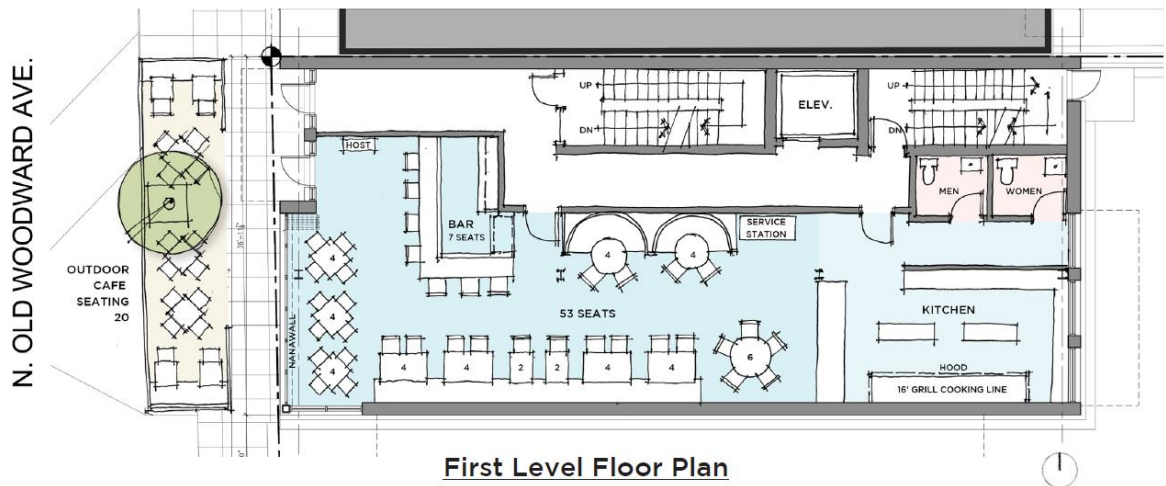
Renovation Schedule

The build out of Wilder's Supper Club would be coordinated with development of the mixed use building proposed for the former Junior League site at 460 N. Old Woodward Ave. The current development plans call for construction to be completed in fall 2022, with the opening of Wilder's Supper Club to follow soon thereafter in late 2022.

Statement Regarding Ability to Finance, Construct & Operate Bistro

The development and opening of Wilder's Supper Club would be funded by SSE Restaurant Group and its principals, and is not subject to any financing contingencies. Wilder's Supper Club would be constructed by a professional third party contractor, and SSE Restaurant Group has significant experience managing the build out and opening of new restaurants. Wilder's Supper Club would be owned by SSE Restaurant Group, and operated by the principals of SSE Restaurant Group together with operating partners Nick Janutol and Matthew Hollander.

460 N Old Woodward Ave



First Level	53 Seats
Lower Level	12 Seats
Total	65 Seats
Outdoor Cafe	20 Seats



MEMORANDUM

Engineering Department

DATE: November 4, 2021

TO: Thomas M. Markus, City Manager

FROM: Scott D. Zielinski, Assistant City Engineer

SUBJECT: Oak St. Bridge Repair Project #9-21(B)

INTRODUCTION:

Necessary repairs for the Oak St. bridge over the Rouge River were identified in the recent bridge inspection completed in October of 2020, and a project was developed to solicit bids to complete the work. Bids for the Oak St. Bridge Project #9-21 (B) were opened on October 5th, 2021. The City received two (2) bids. The lowest complete and qualified bid was submitted by Z Contractors, Inc.

BACKGROUND:

The City is responsible for operation and maintenance of twelve vehicular bridges and two pedestrian bridges throughout the City. The State of Michigan requires vehicular bridges to be inspected every two years at a minimum. The latest round of bridge inspections were completed in 2020 by the City's engineering consultant, Anderson, Eckstein & Westrick, Inc. (AEW). In the 2020 inspection for the Oak St. bridge, certain defects were identified and recommended for repair. Observed defects included spalling concrete in the sidewalk, curb, deck edges and abutments. The severity of these defects have grown since first being observed in 2014. Most recently, the south sidewalk and curb along the east bound lane of the deck has begun to deteriorate at an accelerated rate, exposing reinforcing steel for the sidewalk and bridge deck. While the observed defects have been recommended to be repaired, the structural integrity of the bridge has not been compromised, and there are no load restrictions recommended at this time.

The deteriorating walkway in some spaces is now less than five feet wide, and becoming a potential hazard for pedestrians. Deterioration is expected to continue across the sidewalk portion due to the usual freeze thaw cycles over the winter months. The Engineering Department is monitoring the sidewalk conditions, and will close the sidewalk on the south side of the bridge when the open, level sidewalk surface becomes less than 4 feet across. Currently the area remains open to pedestrian traffic with cones, directing pedestrian traffic around the deteriorated areas. There is an inherent safety concern with the continuing deterioration of sidewalk surface.

The proposed repairs to the bridge require a contractor that specializes in this type of work. The existing sidewalk on the bridge is a structural element of the bridge itself, and is not a typical concrete sidewalk that can be repaired by a sidewalk contractor. The sidewalk contains steel reinforcement that is integrally connected to the other structural elements of the bridge, such as the railing beam and bridge deck. The contractor completing the repairs must carefully remove the existing, deteriorating concrete, examine

the reinforcement steel, repair reinforcing steel if needed, prepare the concrete surfaces at the limits of the repair, and then place specified concrete materials to complete the repair.

AEW prepared plans and specifications for the needed repairs and bids from qualified contractors were solicited. Bids for the Oak St. Bridge Project #9-21 (B) were opened on October 5th, 2021. The City received two (2) bids. The lowest complete and qualified bid was submitted by Z Contractors, Inc. in the amount of \$155,019. The amount of the bid was significantly higher than anticipated, and the Engineering Department held a pre-award meeting with the contractor to discuss the submitted bid. Z Contractors, Inc. demonstrated their understanding of the project, and confirmed their ability to complete the project as required. They explained some of the factors that influenced their proposed pricing, which included the relatively small scope of the project, access limitation due to overhead wires, short timeframe to complete, likely need for cold-weather protection of concrete to ensure proper curing, rising material costs, and rising labor costs due to pressures on workforce in the construction industry. Z Contracting has not worked directly for the City in the past, but they have substantial experience with bridge repair projects. AEW's letter recommending award of the project and the bid tabulation is attached for reference.

Should the bids for this project be rejected, there will be an opportunity to include the work in an upcoming project that is planned for construction next summer. Engineering design for reconstruction of Redding Road, between Lakepark and Woodward has just started, and will include repairs to the bridge over the Rouge River that are similar in scope to those proposed for the Oak St. bridge. Re-bidding the work for the Oak St. bridge repairs with the future Redding project does not guarantee that the pricing will be significantly lower than the current bid amount. We have seen construction prices increasing sharply over the past year, and do not expect the trend to change in the near future. Contractors in all fields of work have been expressing that labor shortages, material backlogs, and increasing fuel costs is leading to higher construction costs.

LEGAL REVIEW:

The City's standard contract language was used for this bidding document. No legal review is required at this time.

FISCAL IMPACT:

The cost for this project as bid is in excess of the amount included in the 2021/2022 budget for bridge maintenance, and will require a budget amendment for fiscal year 2021/2022. The breakdown of costs for this project by fund are as follows:

		<u>Budget</u>	<u>Bid Amount</u>
Major Streets Fund	202-449.002-981.0100	\$75,000	\$155,019.00

The anticipated cost for repairs to the Redding Rd. bridge that would be part of the 2022 construction project is approximately \$50,000. Therefore, the requested budget amendment would be the sum of the bid amount for the Oak St. bridge (\$155,019) plus the estimated amount for the Redding Rd. bridge (approximately \$50,000), minus the current budget amount (\$75,000).

SUMMARY:

Bids were opened for the Oak St. Bridge Repair Project #9-21(B), with the lowest, qualified bidder, Z Contracting, Inc., submitting a bid in the amount of \$155,019. The bid amount exceeds the fiscal year 2021/2022 budget line item intended for this type of project. Some of the repairs include replacing the deteriorating sidewalk surface along the south side of the bridge, which in its current state, is a safety concern for pedestrians. The Engineering Department recommends that the necessary budget amendment be authorized, and the contract be awarded to Z Contracting, Inc. for the amount of \$155,019.

However, should the Commission elect to reject the bids, there will be an opportunity to include this work in an upcoming project being designed for next year. There is no guarantee that inclusion of this work in a future project will result in significantly lower pricing. If the bids are rejected, the Engineering Department will continue to monitor the condition of the sidewalk, and close the sidewalk to pedestrian traffic if the deterioration continues to the point where it is unsafe for pedestrians.

ATTACHMENTS:

- Letter of Recommendation for Award from AEW, dated October 29, 2021
- Bid Tabulation for City Contract #9-21(B)
- Project Plans for Oak St. Bridge Repairs
- 2020 Bridge Inspection Report for the Oak St. Bridge

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to award the Oak Street Bridge Project #9-21(B) to Z Contractors, Inc. contingent upon execution of the agreement and meeting all insurance and bonding requirements, in the amount of \$ 155,019.00, to be charged to account 202-449.002-981.0100; to authorize the Mayor to sign the contract on behalf of the City; and to approve the appropriation and amendment to the 2021/2022 budget as follows:

Major Street Fund:

Revenues:

Draw from Fund Balance	202-000.000-400.0000	\$130,000
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Expenditures:

Construction of Roads and Bridges	202-449.002-981.0100	\$130,000
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Or;

Make a motion providing direction to the staff to reject all bids for the project opened on October 5, 2021; and to incorporate the proposed work as part of a future project being designed for construction in 2022.



ANDERSON, ECKSTEIN & WESTRICK, INC.
CIVIL ENGINEERS SURVEYORS ARCHITECTS

51301 Schoenherr Road
Shelby Township, MI 48315

586.726.1234
www.aewinc.com

October 29, 2021

James Surhigh, PE, Consulting City Engineer
City of Birmingham
151 Martin Street
Birmingham, Michigan 48009

Reference: Oak Street Bridge Sidewalk Repairs
City of Birmingham
Contract No. 9-21(B)
AEW Project No. 0221-0048

Dear Mr. Surhigh:

Enclosed please find the tabulation of the bids received on October 5, 2021 for the above referenced project. Our office has reviewed the tabulation of the two (2) bids received and have attached to this correspondence for reference. In summary, bids received were as follows:

- | | |
|------------------------|---------------|
| 1. Z Contractors, Inc. | \$ 155,019.00 |
| 2. CA Hull Company | \$ 279,980.00 |

This project involves the completion of structural repairs along the sidewalk on the south side of the Oak Street Bridge. The structural condition of the sidewalk along the south side of the bridge has deteriorated rapidly creating a hazardous condition for pedestrians crossing the bridge. Bids received for this project were higher than expected; however, due to the very poor condition of the sidewalk, it is critical that these repairs take place immediately prior to the end of this construction season.

A pre-award meeting was held with the low bidder; Z Contractors, on October 19, 2021 to discuss the scope of the project and obtain a better understanding of how the project would be completed within the contract schedule. Z Contractors has a good understanding of the project scope and has the capacity to complete this project within this construction season. Z Contractors has successfully completed numerous bridge rehabilitation and reconstruction projects throughout Southeast Michigan and is also prequalified by the Michigan Department of Transportation for bridge and specialty structure construction.

Therefore, based upon the bids submitted, references and past experience, we recommend that the Oak Street Bridge Sidewalk Repairs be awarded to Z Contractors,



James Surhigh, P.E.
October 29, 2021
Page 2

Inc. 50500 Design Lane, Shelby Township, Michigan 48315 at their bid amount of \$155,019.00.

If you have any questions or require any additional information, please feel free to contact me at any time.

Sincerely,

A handwritten signature in blue ink, reading "R. Ryan Kern", is positioned above the printed name.

R. Ryan Kern, P.E.
Senior Project Engineer

Enclosures: Bid Tabulation

cc: Scott Zielinski, P.E., Assistant City Engineer, City of Birmingham
Chris Morton, Senior Engineering Technician, City of Birmingham
Kevin E. Zauel, P.E., AEW

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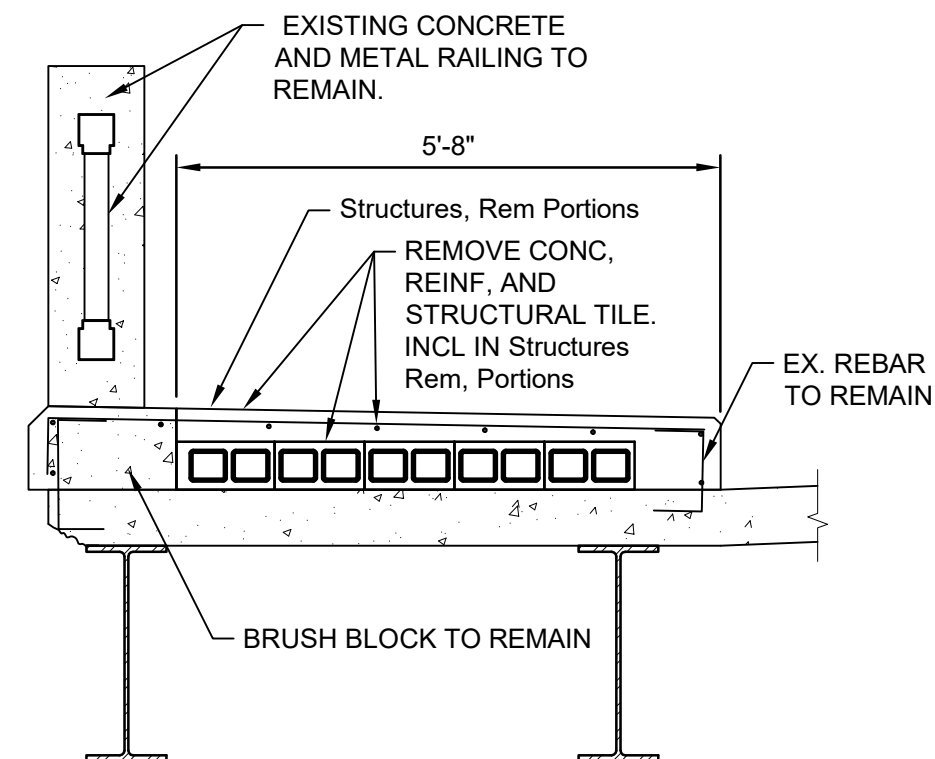
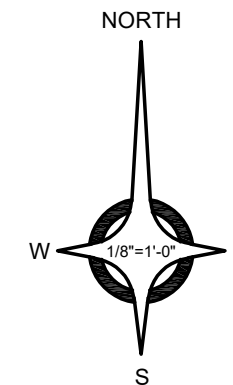
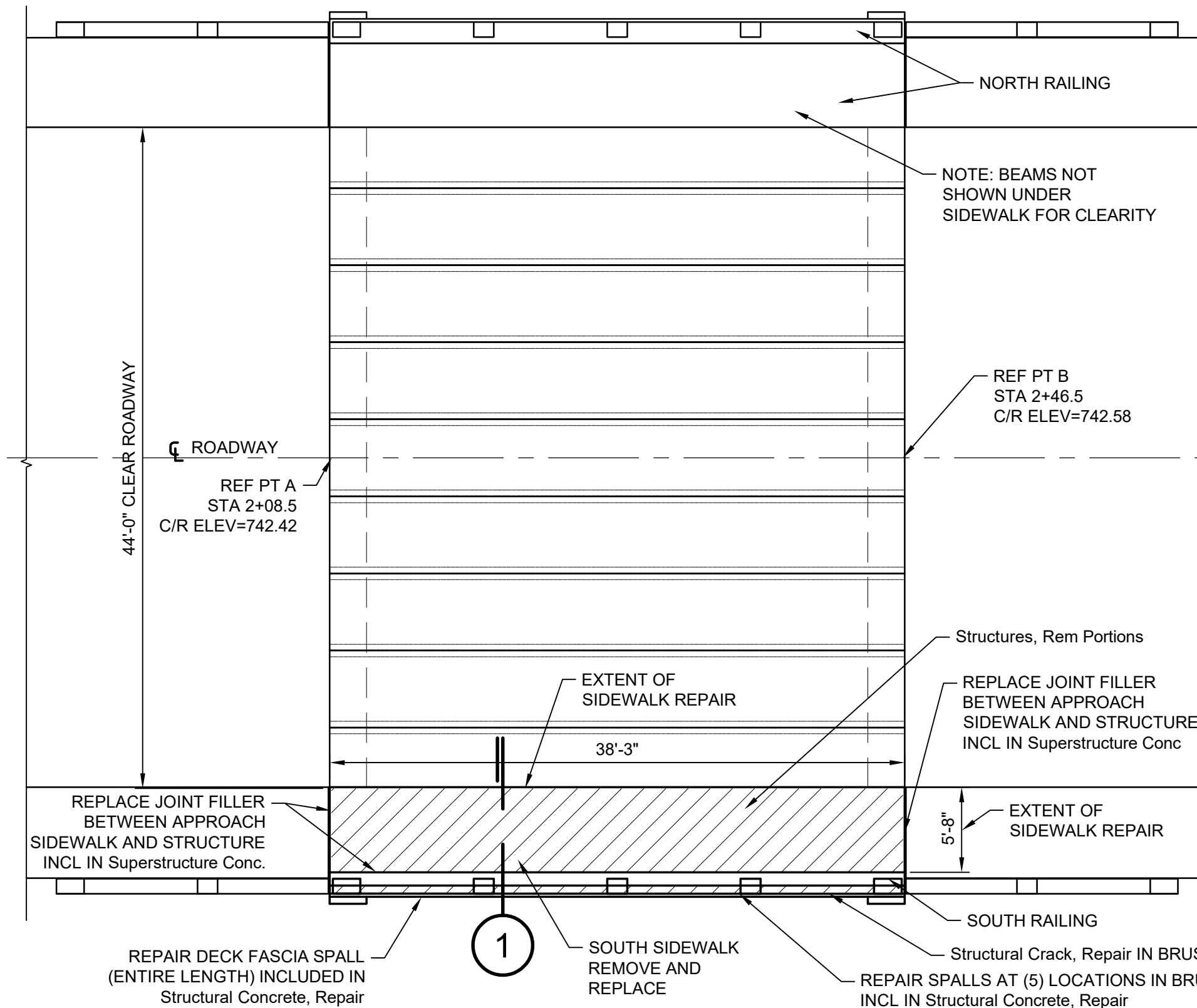


TABULATION OF BIDS
CITY OF BIRMINGHAM
OAK STREET BRIDGE SIDEWALK REPAIR
CONTRACT #9-21(B)
AEW PROJECT NO. 0221-0048

Z Contractors
50500 Design Lane
Shelby Township, MI 48315

CA Hull Company
8177 Goldie Road
Walled Lake, MI 48390

Item No.	Description	Estimated Quantity	Units	Unit Price	Amount	Unit Price	Amount
1.	Structures, Rem Portions	1	LSUM	87,000.00	87,000.00	113,000.00	113,000.00
2.	Adhesive Anchoring of Horizontal Bar, 1/2 Inch	26	EA	65.00	1,690.00	35.00	910.00
3.	Superstructure, Conc	6.5	CYD	210.00	1,365.00	1,200.00	7,800.00
4.	Superstructure, Conc, Form, Finish and Cure	1	LSUM	10,000.00	10,000.00	100,000.00	100,000.00
5.	Structural Crack, Repair	8	FT	175.00	1,400.00	250.00	2,000.00
6.	Structural Concrete, Repair	10	CFT	4,000.00	40,000.00	4,000.00	40,000.00
7.	Reinforcement, Steel, Epoxy Coated	294	LBS	6.00	1,764.00	5.00	1,470.00
8.	Traffic Maintenance and Control	1	LSUM	7,000.00	7,000.00	10,000.00	10,000.00
9.	Inspector Crew Days	600	DAY	8.00	4,800.00	8.00	4,800.00
TOTAL				155,019.00		279,980.00	



1 EXISTING SIDEWALK
SCALE: 1/2"=1'-0"

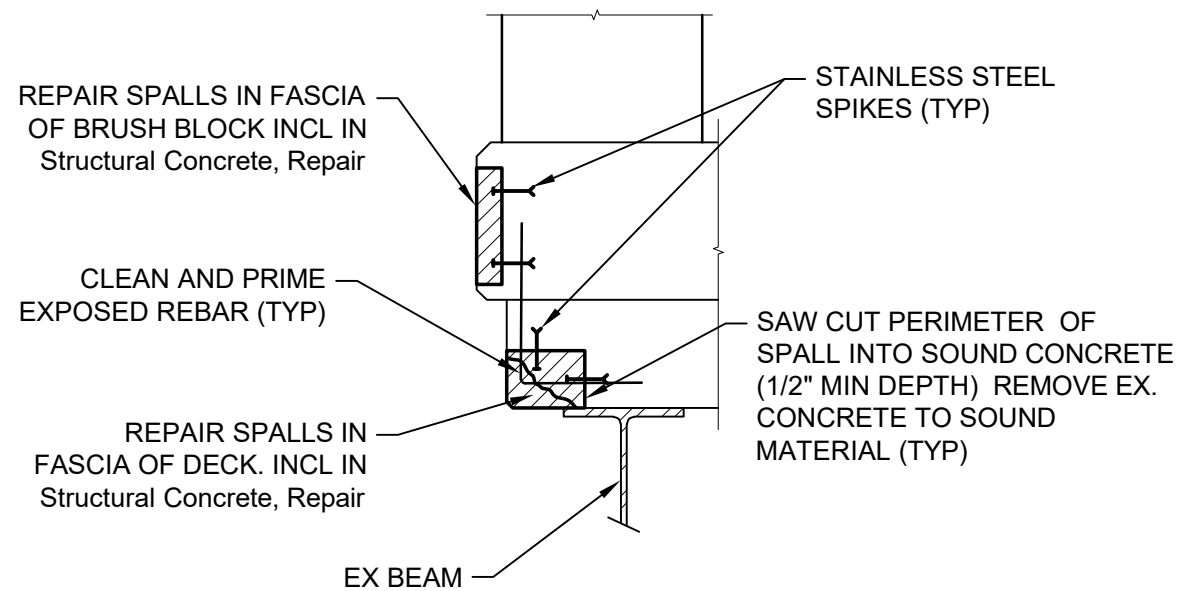
**3 WORKING DAYS
BEFORE YOU DIG
CALL MISS DIG
811
(TOLL FREE)**



ANDERSON, ECKSTEIN AND WESTRICK, INC.
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51301 Schoenherr Road Phone 586 726 1234
Shelby Township Fax 586 726 8780
Michigan 48315 www.aewinc.com
ENGINEERING STRONG COMMUNITIES

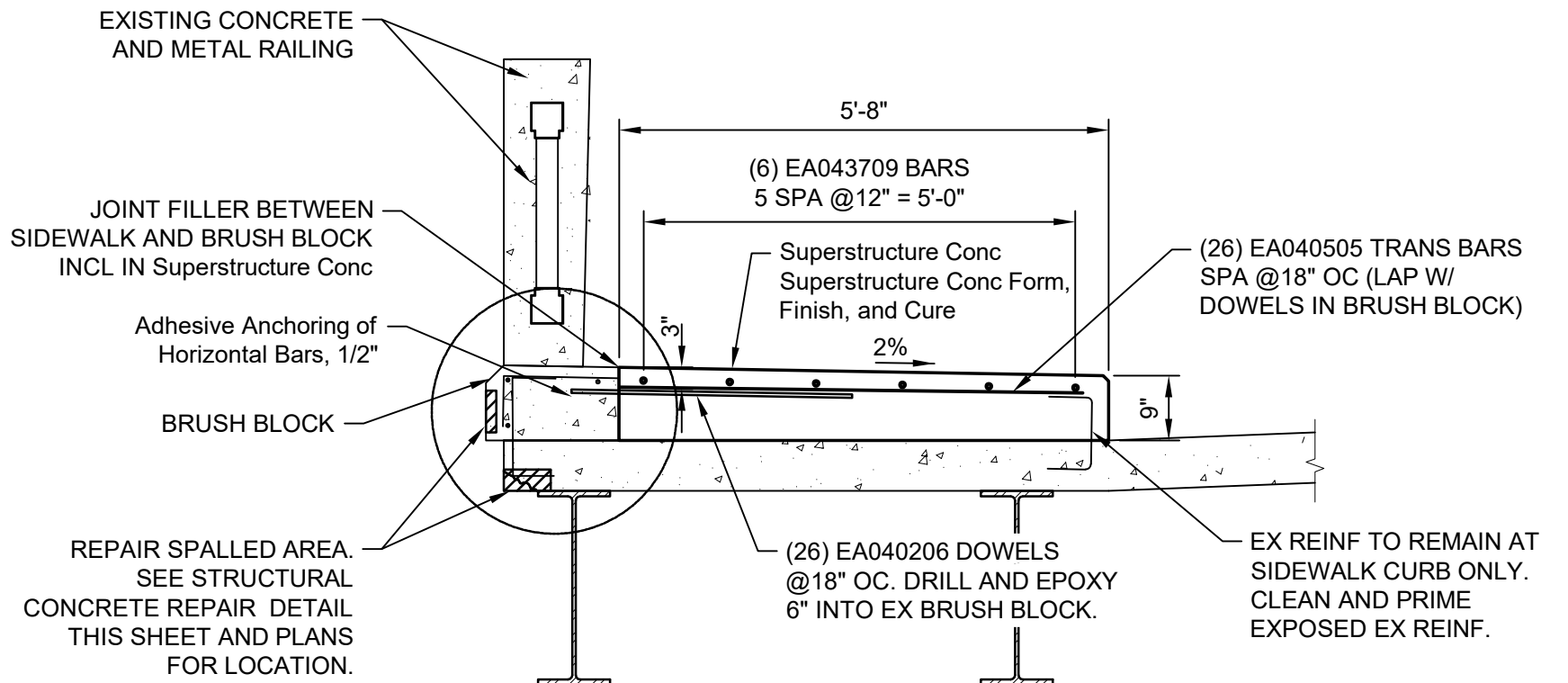
**PLAN OF STRUCTURE
OAK STREET BRIDGE SIDEWALK REPAIR
BIRMINGHAM, MICHIGAN**

DATE 06-01-2021	PROJECT No. 0221-0048
DRAWN BY VLH	SCALE AS NOTED
CHECKED BY NG	SHEET No. 1 OF 2



STRUCTURAL CONCRETE REPAIR DETAIL

SCALE: NTS



SIDEWALK REPAIR DETAIL

SCALE: 1/2"=1'-0"

STRUCTURAL CONCRETE REPAIR NOTES:

1. ALL AREAS SHOWN FOR CONCRETE REPAIRS ARE ESTIMATED. CONTRACTOR SHALL SOUND CONCRETE ADJACENT TO IDENTIFIED REPAIR AREAS TO DETERMINE IF ADDITIONAL CONCRETE REMOVAL WILL BE REQUIRED.
2. SAW CUT 1/2" MINIMUM DEPTH INTO SOUND CONCRETE AT PERIMETER OF SPALL / REPAIR AREA AND REMOVE EXISTING CONCRETE TO SOUND MATERIAL.
3. INTENTIONALLY ROUGHEN AND CLEAN SURFACE OF SOUND CONCRETE AND EXPOSED STEEL REINFORCEMENT (SANDBLAST OR OTHER MECHANICAL METHODS).
4. IF LESS THAN 75% OF THE DIAMETER OF STEEL REINFORCEMENT IS LEFT AFTER CLEANING, REPLACE WITH NEW REINFORCEMENT OF SAME ORIGINAL DIAMETER OR #4 BAR MINIMUM. DRILL INTO SOUND CONCRETE AND PROVIDE MINIMUM 4" EMBEDMENT AND EPOXY GROUT REPLACEMENT STEEL REINFORCEMENT AS REQUIRED.
5. INSTALL 1/4" X 3" MUSHROOM HEADED STAINLESS STEEL SPIKES WITH 1 1/2" EMBEDMENT AT 10" ON CENTER (MAXIMUM) EACH WAY - MINIMUM 4 PER REPAIR.
6. APPLY EPOXY BONDING AGENT AND REINFORCEMENT PRIMER WITH NON-CORROSION INHIBITOR ("SIKA ARMOTEC 110 EPOCEM" OR APPROVED EQUAL).
7. FORM AND POUR POLYMER-MODIFIED CEMENTITIOUS SCREED MORTAR WITH CORROSION INHIBITOR ("SIKA TOP 122 PLUS" OR APPROVED EQUAL) AND EXTEND WITH AGGREGATE FOR LIFTS OVER 1".
8. BONDING AGENT AND MORTAR SHALL BE COMPATIBLE AND FROM SAME MANUFACTURER. SURFACE PREPARATION, PLACEMENT, FINISHING AND CURING SHALL BE IN STRICT ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS.

STRUCTURAL CRACK REPAIR NOTES:

1. PROVIDE PORTHOLES IN CRACKS AT APPROXIMATELY 8" OC.
2. APPLY EPOXY GEL TO SEAL CRACK.
3. PRESSURE INJECT (UP TO 100 PSI MAXIMUM) TWO-COMPONENT MOISTURE INSENSITIVE EPOXY SEALER ("SIKADUR CRACK REPAIR KIT" OR APPROVED EQUAL).
4. CLOSE PORTHOLES AFTER GROUTING IS COMPLETE.
5. REMOVE EXCESS EPOXY GEL BY MEANS OF SANDING.

QUANTITIES

Structures, Rem Portions	1	LSUM
Adhesive Anchoring of Horizontal Bar, 1/2 in	26	EA
Superstructure Conc	6.5	CYD
Superstructure Conc Form, Finish, and Cure	1	LSUM
Structural Crack, Repair	8	FT
Structural Concrete, Repair	10	CFT
Reinforcement, Steel, Epoxy Coated	294	LBS

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BEFORE YOU DIG
CALL MISS DIG
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51301 Schoenherr Road Phone 586 726 1234
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ENGINEERING STRONG COMMUNITIES

REPAIR DETAILS & NOTES

OAK STREET BRIDGE SIDEWALK REPAIR

BIRMINGHAM, MICHIGAN

DATE 06-01-2021	PROJECT No. 0221-0048
DRAWN BY VLH	SCALE AS NOTED
CHECKED BY NG	SHEET No. 2 OF 2

2020 BRIDGE INSPECTION REPORT

City of Birmingham

Birmingham, Michigan

Oak Street over Rouge River

AEW Project No. 0221-0050

October 2020

Prepared by:



ANDERSON, ECKSTEIN & WESTRICK, INC.
CIVIL ENGINEERS SURVEYORS ARCHITECTS

51301 SCHOENHERR RD. SHELBY TOWNSHIP, MI 48315
www.aewinc.com p(586)726-1234



Structure Identification

Oak Street over Rouge River
Structure No. 8229

Observations

A few hairline cracks exist in the bridge deck surface. Large spalls and bituminous patching was noted at the west abutment joint. A large spall with failed sealant occurs at the south end of the east abutment joint.

Several end caps at the rail posts are loose, and the end cap near the spall in the southeast quadrant is missing. There is damage to the concrete at the southeast end post and the southern railing due to an apparent collision. There is apparent damage to the upper corner of the south railing middle post. A damaged steel railing section exists in the southwest quadrant. Delamination on the south face of the north railing post bases was observed. A minor spall on the north railing curb at the west approach was noted.

Repeating longitudinal and transverse cracks occur on the south sidewalk. Large spalls were observed in the north face of the south sidewalk curb line and at the top surface. Minor spalling was observed at the transition between the north sidewalk and the railing curb / brush block and at the east and west approach curbs. The top surface of the north sidewalk is scaling.

Bituminous patching and spalling in the approach pavement was noted at the east and west abutment and longitudinal joints. A transverse crack in the approach pavement exists in the southwest quadrant.

Minor settlement was observed in the south approach sidewalk at the west abutment joint and at various places. A large spall occurs at the curb and sidewalk joint in the northwest quadrant. The southeast approach curb and sidewalk were recently replaced. Failure of the bituminous patching was noted in the concrete spalls at the curb and sidewalk joints in the northwest quadrant.

Rusting was observed at the underside of the top flange on the north fascia beam in several locations. Water staining is present on the abutment in the northwest and northeast quadrants. Minor rusting also exists at the beam bearing seats.

The underside of the deck exhibits minor transverse cracks with efflorescence.

Extensive longitudinal cracking with efflorescence and spalling with exposed reinforcement exists on the outer face of the deck slab above the south fascia beam. Delamination, spalling and exposed reinforcing of the railing curb above also exists. Rust staining was observed on the steel beam.

Spalls at the base of the abutment caps in the southwest and southeast quadrants were noted. There is a minor spall at the top of the east abutment at the center construction joint.



Sediment has been deposited in the southeast quadrant under the structure. Non-flowing storm outlets are present in each quadrant.

A separated storm outlet was observed in the southeast quadrant, along with localized erosion in the embankment.

Recommendations

Repair spalls in sidewalk, curb, deck edge and abutments.

Repair pavement spalls at joints.

Clean and seal abutment joint.

Repair embankment erosion.

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 8229

BRIDGE SAFETY INSPECTION REPORT

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
OAK ST	42.5531 / -83.2268	634074600038B01	Good Condition(7)
Feature	Length / Width / Spans	Owner	
ROUGE RIVER	37.7 / 58.4 / 1	City: BIRMINGHAM(0746)	
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status
0.5 MI W OF WOODWARD AVE	1961 / / 1996 /	Oakland(23)	A Open, no restriction(A)
Region / County	Material / Design	Last NBI Inspection	Scour Evaluation
Metro(7) / Oakland(63)	3 Steel / 02 Multi Str Non Comp	10/28/2020 / 7UZS	8 Stable Above Footing



NBI INSPECTION

7UZS

Inspector Name	Agency / Company Name	Insp. Freq.	Insp. Date
Kevin Zauel	Anderson, Eckstein & Westrick, Inc.	24	10/28/2020

GENERAL NOTES

Bridge spans East-West for purposes of Inspection.

DECK

	10/16	10/18	10/20	
1. Surface (SIA-58A)	7	7	7	Diagonal and transverse hairline cracks in SE and SW quadrants. (10/20) Minor hairline cracks (10/18) Minor hairline cracks (10/16)
2. Expansion Joints	7	7	7	(10/20) (10/18) (10/16)
3. Other Joints	N	N	N	Large spalls and patching at west abutment joint. Large spall with failed sealant at east abutment joint south end. Ponding water at curb in NW abutment. (10/20) Large spalls and patching at west abutment joint. Large spall with failed sealant at east abutment joint south end. (10/18) (10/16)
4. Railings	7	7	7	Several end caps at rail posts loose and one end cap at the southeast quadrant near spall missing. Damage to concrete at southwest end post and southern railing due to apparent collision. Damaged upper corner of middle post in south railing. Delamination at south face of north railing post bases. Minor spall on north railing curb at west approach. Damaged upper corner on 2nd post SW quad. (10/20) Several end caps at rail posts loose and one end cap at the southeast quadrant near spall missing. Damage to concrete at southeast end post and southern railing due to apparent collision. Damaged upper corner of middle post in south railing. Delamination at south face of north railing post bases. Minor spall on north railing curb at west approach. (10/18) Several end caps near spall at rail posts loose and one end cap at the southeast quadrant missing. Damage to concrete at southeast end post and southern railing due to apparent collision. Damaged upper corner of middle post in south railing. Delamination at south face of north railing post bases. Minor spall on north railing curb at west approach. (10/16)
5. Sidewalks or Curbs	7	6	6	Repeating longitudinal & transverse cracks occur on south sidewalk (no joints). Minor spalling at transition between north sidewalk and existing railing curb and at east and west approach curbs. Delamination and spalling of brush block and sidewalk joint on north side. Scaling at top surface of north sidewalk. Large spalls in north face of south curb line and at top surface w/ patching and completely missing sections. Debris build up in south curb. (10/20) Repeating longitudinal & transverse cracks occur on south sidewalk (no joints). Minor spalling at transition between north sidewalk and existing railing curb and at east and west approach curbs. Delamination and spalling of brush block and sidewalk joint on north side. Scaling at top surface of north sidewalk. Large spalls in north face of south curb line and at top surface. (10/18) Repeating longitudinal & transverse cracks occur on south sidewalk (no joints). Minor spalling at transition between north sidewalk and existing railing curb and at east and west approach curbs. Delamination and spalling of brush block and sidewalk joint on north side. Scaling at top surface of north sidewalk. Large spalls in north face of south curb line. (10/16)
6. Deck Bottom Surface (SIA-58B)	7	7	7	Minor transverse cracking with efflorescence. Spall with exposed bar in 2nd beam space near east abutment. Center Deck joint, near east abutment appears to have delamination and depression. (10/20) Minor transverse cracking with efflorescence. (10/18) Minor transverse cracking with efflorescence. (10/16)

MICHIGAN DEPARTMENT OF TRANSPORTATION

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BRIDGE SAFETY INSPECTION REPORT

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
OAK ST	42.5531 / -83.2268	634074600038B01	Good Condition(7)
Feature	Length / Width / Spans	Owner	
ROUGE RIVER	37.7 / 58.4 / 1	City: BIRMINGHAM(0746)	
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status
0.5 MI W OF WOODWARD AVE	1961 / / 1996 /	Oakland(23)	A Open, no restriction(A)
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7. Deck (SIA-58) 7 7 7 Delamination and spalling of deck slab and sidewalk with exposed reinforcement above south fascia beam. Delamination, spalling and exposed reinforcing of railing curb above. Rust staining on steel beam. Minor cracking and efflorescence in north face of deck in NW quad. (10/20)
 Delamination and spalling of deck slab and sidewalk with exposed reinforcement above south fascia beam. Delamination, spalling and exposed reinforcing of railing curb above. Rust staining on steel beam. (10/18)
 Delamination and spalling of deck slab and sidewalk with exposed reinforcement above south fascia beam. Delamination of railing curb above. (10/16)

8. Drainage (10/20)
 (10/18)
 (10/16)

SUPERSTRUCTURE

10/16 10/18 10/20

9. Stringer (SIA-59) 7 7 7 Rust at underside of top flange on north fascia beam in several locations with staining of abutment in northwest and northeast quadrants (10/20)
 Rust at underside of top flange on north fascia beam in several locations with staining of abutment in northwest and northeast quadrants (10/18)
 Rust at underside of top flange on north fascia beam with staining of abutment in northwest quadrant (10/16)

10. Paint (SIA-59A) 9 8 8 Rust at underside of top flange on north fascia beam (10/20)
 Rust at underside of top flange on north fascia beam (10/18)
 Rust at underside of top flange on north fascia beam (10/16)

11. Section Loss 3 3 3 (10/20)
 (10/18)
 (10/16)

12. Bearings 7 7 7 Minor rusting at beam bearing seats (10/20)
 Minor rusting at beam bearing seats (10/18)
 Minor rusting at beam bearing seats (10/16)

SUBSTRUCTURE

10/16 10/18 10/20

13. Abutments (SIA-60) 8 7 7 Spalling at base of abutment caps at southwest and southeast quadrants. Minor spall at top of east abutment at center construction joint. Clogged drain in west abutment in northwest quad. (10/20)
 Spalling at base of abutment caps at southwest and southeast quadrants. Minor spall at top of east abutment at center construction joint. (10/18)
 Spalling at base of abutment caps at southwest and southeast quadrants. Minor spall at top of east abutment at center construction joint. (10/16)

14. Piers (SIA-60) N N N (10/20)
 (10/18)
 (10/16)

15. Slope Protection 6 6 8 (10/20)
 (10/18)
 (10/16)

16. Channel (SIA-61) 7 7 7 Sediment deposited at southeast under structure. Non-flowing storm outlet each quad. Sand bar near east abutment. (10/20)
 Sediment deposited at southeast under structure. Non-flowing storm outlet each quad. (10/18)
 Sediment deposited in southeast quadrant under structure. Sediment along east abutment. Non-flowing storm outlet each quad. (10/16)

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BRIDGE SAFETY INSPECTION REPORT

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17. Scour Inspection	8	8	8	(10/20) (10/18) (10/16)
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APPROACH

10/16 10/18 10/20

18. Approach Pavement	6	6	6	Spalling and patching at east and west abutment and longitudinal joints. Transverse crack in southwest quadrant. (10/20)
				Spalling and patching at east and west abutment and longitudinal joints. Transverse crack in southwest quadrant. (10/18)
				Spalling and patching at east and west abutment and longitudinal joints. Transverse crack in south lane of west approach. (10/16)

19. Approach Shoulders Sidewalks	7	7	7	Replaced southeast and northeast approach curb and sidewalk. Minor settlement in southwest quadrants at abutment joints and at various places. Large spall at curb/sidewalk joint in NW quad. Damage steel railing section SW quad. Failing of bituminous patching in conc spall at curb and sidewalk joint in NW quad, near catch basin. (10/20)
				Replaced southeast approach curb and sidewalk. Minor settlement in southwest quadrants at abutment joints and at various places. Large spall at curb/sidewalk joint in NW quad. Damage steel railing section SW quad. Failing of bituminous patching in conc spall at curb and sidewalk joint in NW quad. (10/18) Bituminous patch failed at southeast approach curb. Minor settlement in southwest and northeast quadrants at abutment joints. Settlement of approach sidewalk at various places and large spall at curb/sidewalk joint in NE & NW quad. Damage steel railing section SW quad. Recent bituminous patching in conc spall at curb and sidewalk joint in NW quad. (10/16)

20. Approach (10/20)
Slopes (10/18)
 (10/16)

21. Utilities (10/20)
(10/18)
(10/16)

22. Drainage Culverts	Separated storm outlet in SE quadrant along with erosion holes halfway up embankment. (10/20)
	Separated storm outlet in SE quadrant along with erosion holes halfway up embankment. (10/18) (10/16)

MISCELLANEOUS

Guard Rail

Item	Rating
36A. Bridge Railings	0
36B. Transitions	0
36C. Approach Guardrail	0
36D. Approach Guardrail Ends	0

Other Items

<u>Item</u>	<u>Rating</u>
71. Water Adequacy	7
72. Approach Alignment	8
Temporary Support	0 No Temporary Supports
High Load Hit (M)	No
Special Insp. Equipment	2
Underwater Insp. Method	1

False Decking (Timber) Removed to Complete Inspection

N/A - No False Decking

Critical Feature Inspections (SIA-92)

	<u>Freq</u>	<u>Date</u>
92A. Fracture Critical		
92B. Underwater		

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BRIDGE SAFETY INSPECTION REPORT

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92C. Other Special

92D. Fatigue Sensitive

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SUPPORTING IMAGES

7UZZ 10/28/2020



Document Name: IMG_2107.JPG
Category: Elevation
Span Number:
Comments: North Elevation



Document Name: IMG_2112.JPG
Category: Elevation
Span Number:
Comments: South Elevation



Document Name: IMG_2085.JPG
Category: Approach
Span Number:
Comments: East Approach, Looking West




Document Name: IMG_2094.JPG
Category: Approach
Span Number:
Comments: Cracks and Spalls, East Approach Pavement

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BRIDGE SAFETY INSPECTION REPORT

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Document Name: IMG_2099.JPG

Category: Approach

Span Number:

Comments: Curb Spall w/ Patch at NW Storm Outlet



Document Name: IMG_2102.JPG

Category: Approach

Span Number:

Comments: West Approach, Looking East



Document Name: IMG_2103.JPG

Category: Approach

Span Number:

Comments: Transverse Crack West Approach



Document Name: IMG_2088.JPG

Category: Railing


Span Number:

Comments: Spall in Rail Post, SE Quadrant

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BRIDGE SAFETY INSPECTION REPORT

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Document Name: IMG_2101.JPG
Category: Railing
Span Number:
Comments: Damaged railing, SW Quadrant



Document Name: IMG_2106.JPG
Category: Railing
Span Number:
Comments: Spall at 2nd Railing Post, SW Quadrant



Document Name: IMG_2086.JPG
Category: Deck
Span Number:
Comments: South Sidewalk, Looking West



Document Name: IMG_2092.JPG
Category: Deck
Span Number:
Comments: South Sidewalk and Curb

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BRIDGE SAFETY INSPECTION REPORT

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Document Name: IMG_2093.JPG
Category: Deck
Span Number:
Comments: Crack at back on curb, South Sidewalk



Document Name: IMG_2096.JPG
Category: Deck
Span Number:
Comments: North Sidewalk Surface Pitting



Document Name: IMG_2100.JPG
Category: Deck
Span Number:
Comments: Ponding Water at Curb NW Quadrant Near Abutment



Document Name: IMG_2113.JPG
Category: Deck
Span Number:
Comments: Spalling and Efflorescence, North Deck Fascia

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Document Name: IMG_2118.JPG

Category: Deck

Span Number:

Comments: Slight Depression in Deck at Bridge Center Line, East Abutment



Document Name: IMG_2119.JPG

Category: Deck

Span Number:

Comments: Spall w/ Exposed Bar, 2nd Beam Space, East Abutment



Document Name: IMG_2087.JPG

Category: Joints

Span Number:

Comments: East Abutment Joint



Document Name: IMG_2104.JPG

Category: Joints

Span Number:

Comments: West Abutment Joint

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BRIDGE SAFETY INSPECTION REPORT

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Document Name: IMG_2108.JPG
 Category: Superstructure
 Span Number:
 Comments: Rust Staining at Stringer Ends



Document Name: IMG_2114.JPG
 Category: Superstructure
 Span Number:
 Comments: Spall in SE Corner of Headwall



Document Name: IMG_2117.JPG
 Category: Substructure
 Span Number:
 Comments: Spall Near Construction Joint, East Abutment

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STRUCTURE INVENTORY AND APPRAISAL

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
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Bridge History, Type, Materials

27 - Year Built	1961
106 - Year Reconstructed	
202 - Year Painted	1996
203 - Year Overlay	
43 - Main Span Bridge Type	3 02
44 - Appr Span Bridge Type	
77 - Steel Type	1
78 - Paint Type	1
79 - Rail Type	4
80 - Post Type	0
107 - Deck Type	1
108A - Wearing Surface	1
108B - Membrane	0
108C - Deck Protection	0

Structure Dimensions

34 - Skew	0
35 - Struct Flared	N
45 - Num Main Spans	1
46 - Num Apprs Spans	0
48 - Max Span Length	35.8
49 - Structure Length	37.7
50A - Width Left Curb/SW	5.9
50B - Width Right Curb/SW	5.9
33 - Median	0
51 - Width Curb to Curb	44
52 - Width Out to Out	58.4
112 - NBIS Length	Y

Inspection Data

90 - Inspection Date	10/28/2020
91 - Inspection Freq	24
92A - Frac Crit Req/Freq	N
93A - Frac Crit Insp Date	
92B - Und Water Req/Freq	N
93B - Und Water Insp Date	
92C - Oth Spec Insp Req/Freq	N
93C - Oth Spec Insp Date	
92D - Fatigue Req/Freq	N
93D - Fatigue Insp Date	
176A - Und Water Insp Method	1
58 - Deck Rating	7
58A/B - Deck Surface/Bottom	7 7
59 - Superstructure Rating	7
59A - Paint Rating	8
60 - Substructure Rating	7
61 - Channel Rating	7
62 - Culvert Rating	N

Navigation Data

38 - Navigation Control	0
39 - Vertical Clearance	0
40 - Horizontal Clearance	0
111 - Pier Protection	
116 - Lift Brgd Vert Clear	

Route Carried By Structure(ON Record)

5A - Record Type	1
5B - Route Signing	5
5C - Level of Service	0
5D - Route Number	00000
5E - Direction Suffix	0
10L - Best 3m Unclr-Lt	0 0
10R - Best 3m Unclr-Rt	99 99
PR Number	
Control Section	
11 - Mile Point	0
12 - Base Highway Network	0
13 - LRS Route-Subroute	0000006199 05
19 - Detour Length	2
20 - Toll Facility	3
26 - Functional Class	19
28A - Lanes On	4
29 - ADT	3773
30 - Year of ADT	1988
32 - Appr Roadway Width	44
32A/B - Ap Pvt Type/Width	6 44
42A - Service Type On	5
47L - Left Horizontal Clear	0.0
47R - Right Horizontal Clear	55.8
53 - Min Vert Clr Ov Deck	99 99
100 - STRAHNET	0
102 - Traffic Direct	2
109 - Truck %	10
110 - Truck Network	0
114 - Future ADT	5000
115 - Year Future ADT	2000
Freeway	0

Structure Appraisal

36A - Bridge Railing	0
36B - Rail Transition	0
36C - Approach Rail	0
36D - Rail Termination	0
67 - Structure Evaluation	7
68 - Deck Geometry	2
69 - Underclearance	N
71 - Waterway Adequacy	7
72 - Approach Alignment	8
103 - Temporary Structure	
113 - Scour Criticality	8

Miscellaneous

37 - Historical Significance	5
98A - Border Bridge State	
98B - Border Bridge %	
101 - Parallel Structure	N
EPA ID	
Stay in Place Forms	
143 - Pin & Hanger Code	
148 - No. of Pin & Hangers	

Route Under Structure (UNDER Record)

5A - Record Type	
5B - Route Signing	
5C - Level of Service	
5D - Route Number	
5E - Direction Suffix	
10L - Best 3m Unclr-Lt	
10R - Best 3m Unclr-Rt	
PR Number	
Control Section	
11 - Mile Point	
12 - Base Highway Network	
13 - LRS Route-Subroute	
19 - Detour Length	
20 - Toll Facility	
26 - Functional Class	
28B - Lanes Under	
29 - ADT	
30 - Year of ADT	
42B - Service Type Under	5
47L - Left Horizontal Clear	
47R - Right Horizontal Clear	
54A - Left Feature	
54B - Left Underclearance	99 99
54C - Right Feature	
54D - Right Clearance	99 99
Under Clearance Year	
55A - Reference Feature	N
55B - Right Horiz Clearance	99.9
56 - Left Horiz Clearance	0
100 - STRAHNET	
102 - Traffic Direct	
109 - Truck %	
110 - Truck Network	
114 - Future ADT	
115 - Year Future ADT	
Freeway	

Proposed Improvements

75 - Type of Work	
76 - Length of Improvement	
94 - Bridge Cost	
95 - Roadway Cost	
96 - Total Cost	
97 - Year of Cost Estimate	

Load Rating and Posting

31 - Design Load	5
41 - Open, Posted, Closed	A
63 - Fed Oper Rtg Method	8
64F - Fed Oper Rtg Load	1.91
64MA - Mich Oper Rtg Method	8
64MB - Mich Oper Rtg	1.24
64MC - Mich Oper Truck	18
65 - Inv Rtg Method	8
66 - Inventory Load	1.15
70 - Posting	5
141 - Posted Loading	
193 - Overload Class	

ANDERSON, ECKSTEIN & WESTRICK, INC.
AEW Project No. 0221-0050

PREPARED BY:
Nate Gazaway
DATE:
April, 2021

[illegible]



City of Birmingham

2020 Bridge Inspections

Load Rating Documents

MICHIGAN DEPARTMENT OF TRANSPORTATION

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LOAD RATING SUMMARY

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
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Compliance Issue:	None	
Compliance Verified:	No	
Analysis Program:	AASHTOWare Bridge Rating (BrR)	
Analysis Program Version:	6.8.4.3001	
Rating Considers Field Condition of Members:	Yes	Inspection Date: 10/28/2020
Controlling component and failure mode:		

Design Flexure - Steel

NEW INVENTORY CODING

NBI Item 63 - Operating Rating Method	8 LRFR in Rating Factor
NBI Item 64F - Federal Operating Ratings	1.91
MDOT Item 64MA - Michigan Operating Method	8 LRFR in Rating Factor
MDOT Item 64MB - Michigan Operating Rating	1.24
MDOT Item 64MC - Michigan Operating Truck	18
NBI Item 65 - Inventory Rating Method	8 LRFR in Rating Factor
NBI Item 66 - Federal Inventory Rating	1.15
NBI Item 41 - Structure Open Posted Closed	A A Open, no restriction
NBI Item 70 - Bridge Posting	5 5 - 100% or more
Posted By	No Posting
MDOT Item 141 - Posted Loading	
MDOT Item 193A - Michigan Overload Class	
MDOT Item 193C - Overload Status	
Analyzed By: Nathaniel Gazaway	Date: 03/29/2021
Checked By: Kevin Zauel	Date: 03/29/2021

Bridge Name: Oak St
NBI Structure ID: 000000009
Bridge ID: 634074600038B01

Analyzed By: BrR
Analyze Date: Friday, April 09, 2021 10:45:57
Analysis Engine: AASHTO LFR Engine Version 6.8.4.3001
Analysis Preference Setting: None

Report By: brr
Report Date: Friday, April 09, 2021 10:49:02

Structure Definition Name: Bridge
Member Name: G1
Member Alternative Name: BM 1

Load Factor Rating Summary

				Girder Summary						
		Rating		Capacity	Location					
Live Load		Factor	Controls	(Ton)	Span	(ft)	Percent	Impact	Lane	
HS 20-44 Inventory		1.210	Service - Steel	43.55	1	21.30	60.0	As Requested	As Requested	
HS 20-44 Operating		2.020	Service - Steel	72.72	1	21.30	60.0	As Requested	As Requested	
Michigan 1 Unit Truck 05 -DL	Operating	1.996	Service - Steel	83.84	1	17.75	50.0	As Requested	As Requested	
Michigan 2 Unit Truck 18 -DL	Operating	1.316	Service - Steel	101.33	1	17.75	50.0	As Requested	As Requested	
Michigan 3 Unit Truck 23 -DL	Operating	1.529	Service - Steel	117.76	1	17.75	50.0	As Requested	As Requested	

Note:

"N/A" indicates not applicable

*** indicates not available

Bridge Name: Oak St
NBI Structure ID: 000000009
Bridge ID: 634074600038B01

Analyzed By: BrR

Analyze Date: Friday, April 09, 2021 10:45:57
Analysis Engine: AASHTO LFR Engine Version 6.8.4.3001
Analysis Preference Setting: None

Report By: brr
Report Date: Friday, April 09, 2021 10:49:02

Structure Definition Name: Bridge
Member Name: G2
Member Alternative Name: BM 2

Load Factor Rating Summary

Live Load		Rating Factor	Controls	Girder Summary Capacity		Location		Percent	Impact	Lane
				(Ton)	Span	(ft)				
HS 20-44 Inventory		1.145	Service - Steel	41.20	1	21.30		60.0	As Requested	As Requested
HS 20-44 Operating		1.911	Service - Steel	68.81	1	21.30		60.0	As Requested	As Requested
Michigan 1 Unit Truck 05 -DL	Operating	1.884	Service - Steel	79.12	1	17.75		50.0	As Requested	As Requested
Michigan 2 Unit Truck 18 -DL	Operating	1.242	Service - Steel	95.62	1	17.75		50.0	As Requested	As Requested
Michigan 3 Unit Truck 23 -DL	Operating	1.443	Service - Steel	111.12	1	17.75		50.0	As Requested	As Requested

Note:

"N/A" indicates not applicable

*** indicates not available

Bridge Name: Oak St
NBI Structure ID: 000000009
Bridge ID: 634074600038B01

Analyzed By: BrR
Analyze Date: Friday, April 09, 2021 10:45:57
Analysis Engine: AASHTO LFR Engine Version 6.8.4.3001
Analysis Preference Setting: None

Report By: brr

Report Date: Friday, April 09, 2021 10:49:02

Structure Definition Name: Bridge

Member Name: G3

Member Alternative Name: BM 3

Load Factor Rating Summary

Live Load		Rating Factor	Controls	Girder Summary		Span (ft)	Percent	Impact	Lane
				Capacity (Ton)	Location				
HS 20-44	Inventory	1.145	Service - Steel	41.20	1	21.30	60.0	As Requested	As Requested
HS 20-44	Operating	1.911	Service - Steel	68.81	1	21.30	60.0	As Requested	As Requested
Michigan 1 Unit Truck 05	Operating	1.884	Service - Steel	79.12	1	17.75	50.0	As Requested	As Requested
-DL									
Michigan 2 Unit Truck 18	Operating	1.242	Service - Steel	95.62	1	17.75	50.0	As Requested	As Requested
-DL									
Michigan 3 Unit Truck 23	Operating	1.443	Service - Steel	111.12	1	17.75	50.0	As Requested	As Requested
-DL									

Note:

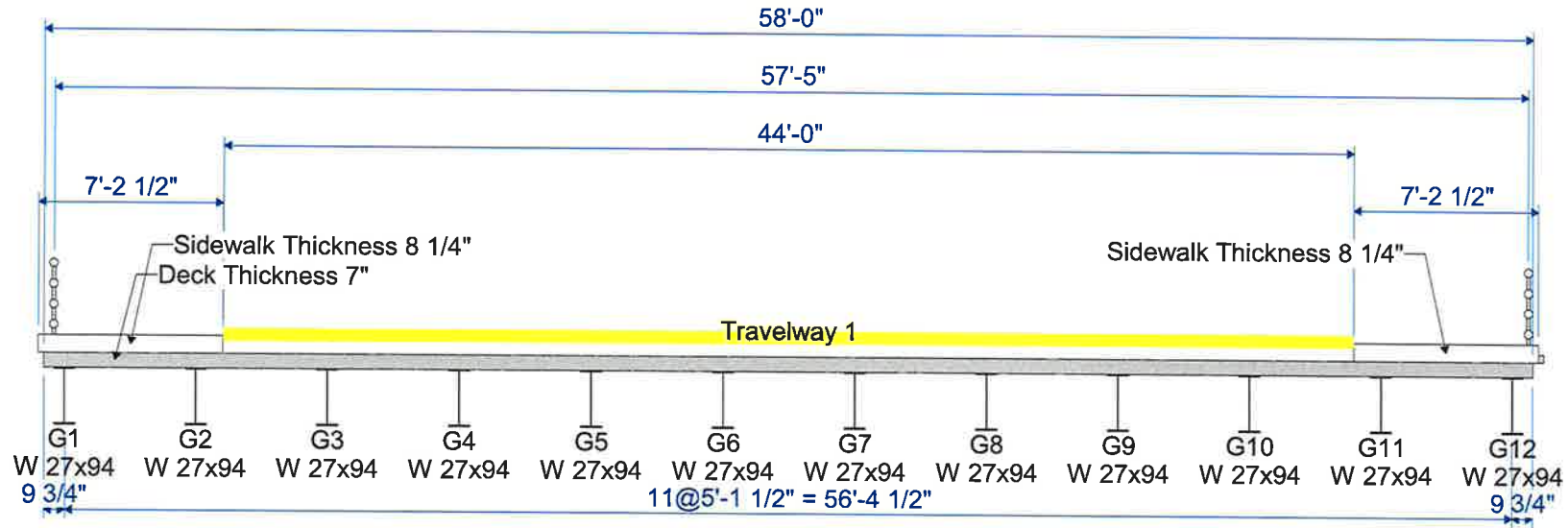
"N/A" indicates not applicable

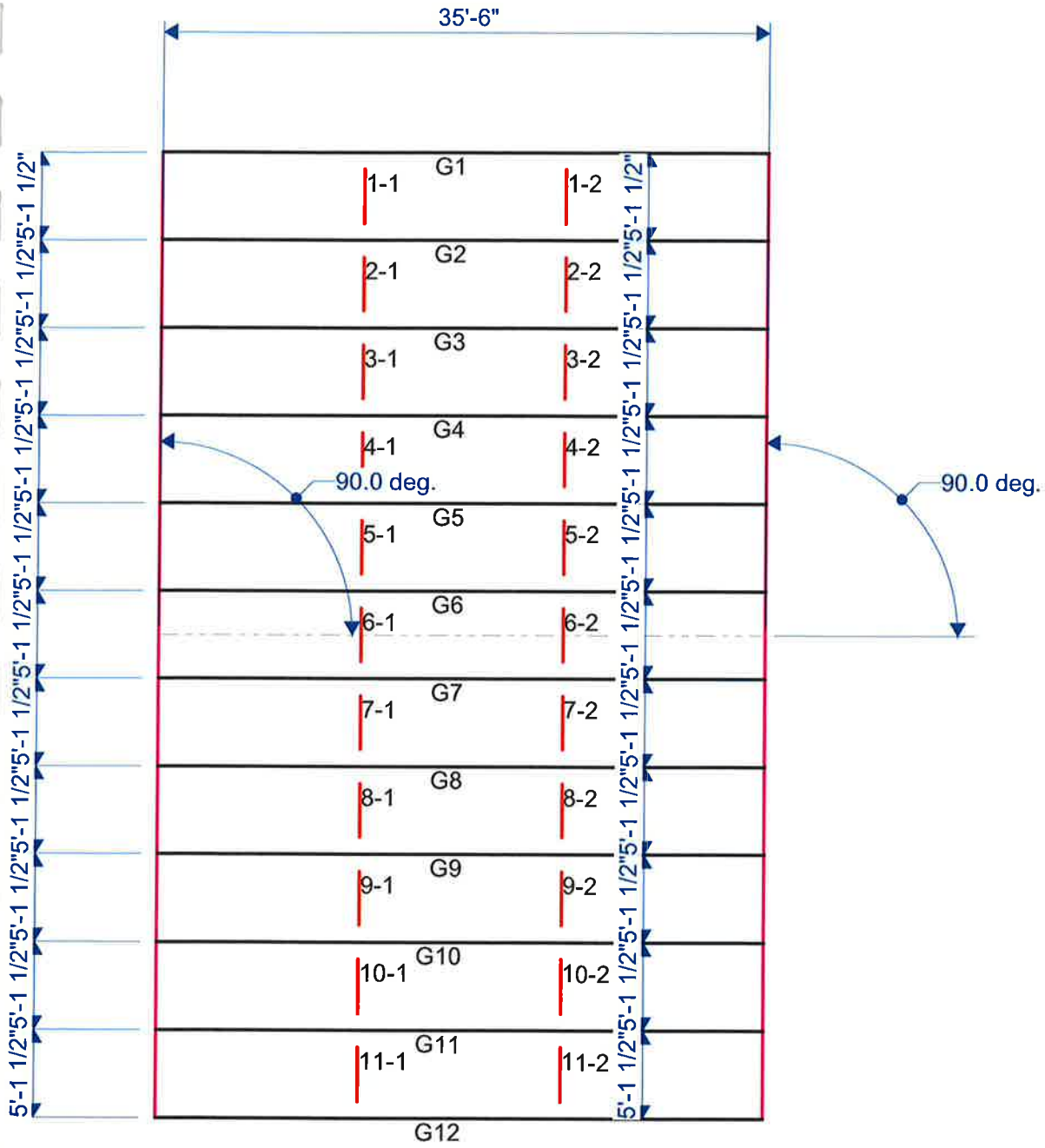
*** indicates not available

634074600038B01

Oak St - Bridge

04/07/21







City of Birmingham

2020 Bridge Inspections

Waterway Documents

BRIDGE CROSS-SECTIONS

DATE: 8/28/2019
STRUCTURE NO.: 8229
CONTROL SECTION:
ROUTE: OAK ST
WATERCOURSE: ROUGE RIVER

PREVIOUS CROSS SECTION

UPSTREAM FACE

BENCHMARK ELEVATION:
DESCRIPTION OF BENCHMARK:

UNDERCLEARANCE ELEVATION:
TOP OF ROAD ELEVATION:
WATER SURFACE ELEVATION:

DATE: N/A
REFERENCE ELEV:
STATION READING ELEVATION DESCRIPTION

0	0
8.11	0
14.7	0
20.71	0
27.06	0
30.7	0
35.27	0
38.36	0
42.15	0
47.61	0
51.01	0
55.48	0
61.05	0
69.02	0
87.11	0
94.67	0

CURRENT CROSS SECTION

UPSTREAM FACE

BENCHMARK ELEVATION: 743.18 (NAVO' 89)
DESCRIPTION OF BENCHMARK: FND BENCHTIE IN UP

UNDERCLEARANCE ELEVATION: 738.61
TOP OF ROAD ELEVATION: 741.86
WATER SURFACE ELEVATION: 733.71

DATE: 8/28/2019
REFERENCE ELEV: 730
READING ELEVATION DESCRIPTION

742.02	12.02
741.9	11.9
740.8	10.8
738.2	8.2
735.9	5.9
733.8	3.8
732	2
732.1	2.1
731.9	1.9
731.8	1.8
731.5	1.5
732.3	2.3
732.1	2.1
734.93	4.93
738.79	8.79
741.4	11.4

DOWNSTREAM FACE

BENCHMARK ELEVATION:
DESCRIPTION OF BENCHMARK:

UNDERCLEARANCE ELEVATION:
TOP OF ROAD ELEVATION:
WATER SURFACE ELEVATION:

DATE:
REFERENCE ELEV:
STATION READING ELEVATION DESCRIPTION

0	0
26.76	0
29.87	0
37.92	0
45.76	0
48.3	0
53.88	0
59.68	0
64.58	0
67.33	0
68.03	0
72.43	0
77.66	0
81.7	0
84.42	0
88.11	0
92.92	0
93.56	0
100.11	0
107.28	0
114.67	0
118.63	0

DOWNSTREAM FACE

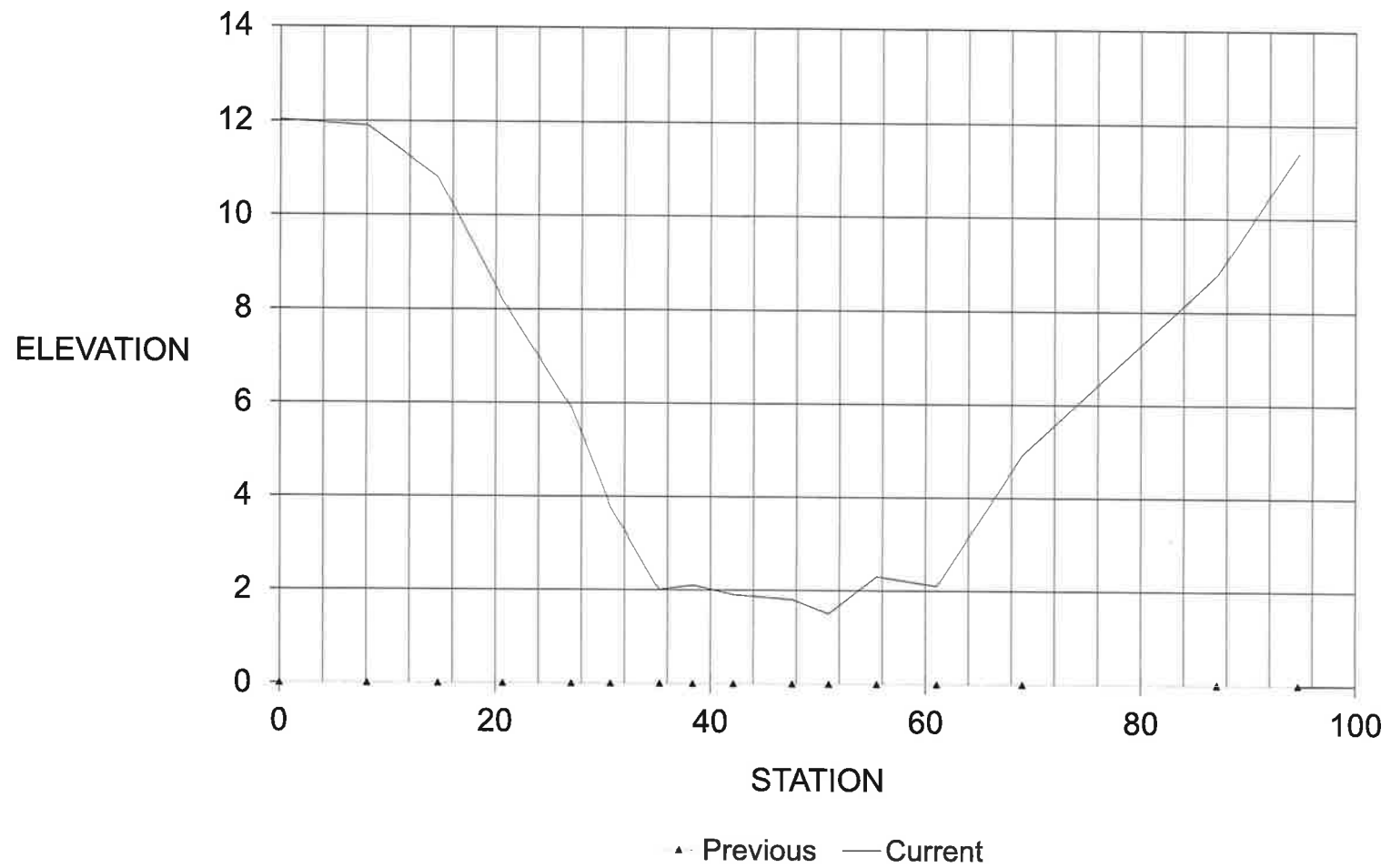
BENCHMARK ELEVATION: 743.18 (NAVO' 89)
DESCRIPTION OF BENCHMARK: FND BENCHTIE IN UP

UNDERCLEARANCE ELEVATION: 738.59
TOP OF ROAD ELEVATION: 741.86
WATER SURFACE ELEVATION: 733.69

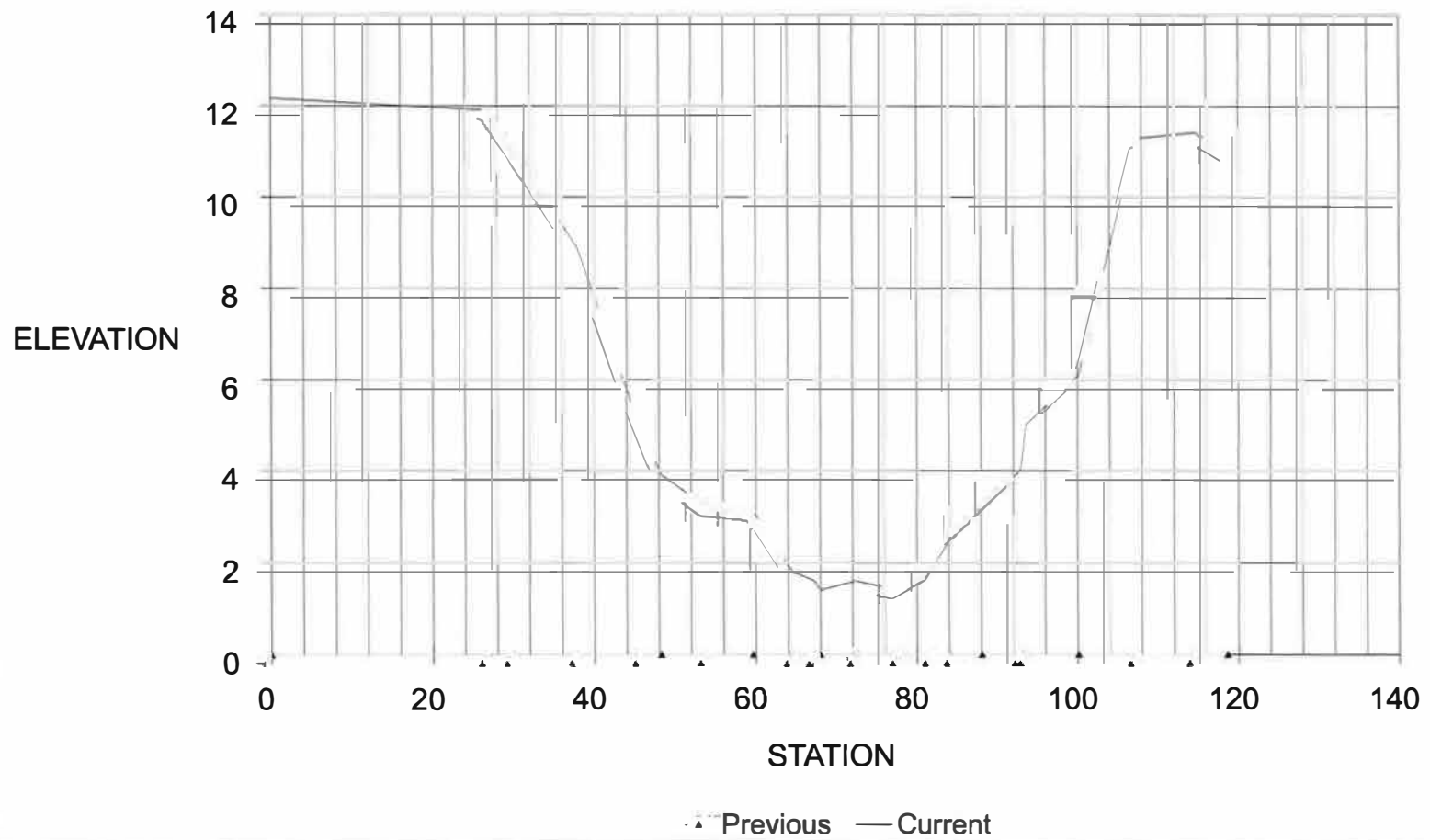
DATE: 8/28/2019
REFERENCE ELEV: 730
READING ELEVATION DESCRIPTION

742.16	12.16
741.9	11.9
741.1	11.1
738.9	8.9
734.9	4.9
733.9	3.9
733.2	3.2
733.1	3.1
731.8	1.8
731.6	1.6
731.4	1.4
731.6	1.6
731.4	1.4
731.8	1.8
732.6	2.6
733.2	3.2
734	4
735	5
736.09	6.09
741.29	11.29
741.42	11.42
740.99	10.99

UPSTREAM FACE



DOWNSTREAM FACE





MEMORANDUM

Department of Public Services

DATE: October 27, 2021

TO: Thomas M. Markus, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: 2021 Adams Park Concept Plan & Landscape Architectural Services

INTRODUCTION:

Adams Park has been in the queue for improvements, and listed as a priority project by the Parks and Recreation Board should funding become available. The approval of the Parks and Recreation Bond in November of 2020 allows the City to move forward with the development of Adams Park.

The City of Birmingham engaged the services of Michael J. Dul & Associates to prepare the 2021 Adams Park Concept Plan. It has been vetted and under public review by surrounding neighborhood associations, Roeper School, advertised for citywide comment on Engage Birmingham, and presented at the Parks and Recreation Board meeting of September 14, 2021. The 2021 Adams Park Concept Plan is now ready for City Commission review and authorization to proceed with landscape architectural services consisting of construction drawings and bid documents and project development oversight.

BACKGROUND:

The City of Birmingham acquired Adams Park in 2006 with funding from the 2001 Parks and Recreation Bond. The purchase agreement between the City of Birmingham and Roeper School states that Roeper School shall be permitted to use the park during the school year for activities currently undertaken by the school on the grounds such as recess and after school activities. Further, the city is obligated to share any park improvement planning with Roeper School for input. The City of Birmingham is obligated to provide elements of the park currently (at the time the Purchase Agreement was executed) undertaken by Roeper School. There are no restrictions to the residents in using Adams Park and the City of Birmingham has not experienced any usage conflicts or issues since the purchase of the property.

This city park has been at the top of the park improvement priority list for many years, since the original concept plan design was prepared in 2016 by Michael J. Dul & Associates. On October 27, 2016, the City Commission voted to accept the Adams Park concept site plan dated October 27, 2016, as submitted.

City Administration revisited the 2016 Adams Park Concept plan together with Michael J. Dul & Associates and the surrounding neighborhood associations (South Poppleton and Birmingham Estates) in May and July of 2021. After meeting with the neighborhood groups, the plan was modified and updated to include a larger play area, a garden seating plaza, beautiful landscaping improvements with lots of new trees and a large grassy open space area.

Roeper School administration has been kept current and involved on the updates to the concept plan, as required by the purchase agreement. Shot put, discus, and long-jump are the items requested by Roeper to remain, relocated, as they have been at the park since the purchase and are still currently used for practices. Roeper School has committed since the original plan in 2016 to provide funding for these needed track and field items, listed above.

As part of the 2021 concept plan development, Michael J. Dul & Associates provided a current cost estimate for Adams Park development, totaling approximately \$1,000,000, not including professional fees. The latest budget figure for the 2016 Concept Plan totaled approximately \$722,000, not including professional fees. Park features and elements have been selected to provide good estimates; however, these can be modified based on feedback and available funding. Staff is also pursuing a donation program for interested parties to contribute to Adams Park Development. Ultimately, construction costs will be unknown we will not know pricing until the project is bid out for construction.

The next step after Concept Plan acceptance is to move into the Construction Drawing and Implementation Phases. Upon request from City staff, Michael J. Dul & Associates provided a proposal to provide landscape architectural services for the Construction Drawing Phase and the Implementation Phase once the concept plan is accepted by the City Commission in order to keep this project moving forward on the proposed schedule.

The Construction Drawing Phase includes the preparation of bid documents including the demolition plan, construction layout plan, grading and drainage plan, construction details, planting plan and planting details, and the irrigation plan. Michael J. Dul's fee for this first phase is 8% of the construction cost. The second phase, or Implementation Phase, includes the bid proposals evaluation and selection, construction services such as site visits, progress monitoring, and project administration. The fee for the second phase is 5% of the construction cost.

LEGAL REVIEW:

The City Attorney has completed a review of this agreement and approved with signature.

FISCAL IMPACT:

Professional fees and services were anticipated and budgeted for as part of park improvement planning for Parks and Recreation Bond projects. Funding is available from the Land Improvements account #408-751.000-979.0000.

Adams Park project will be bid with alternates to allow for flexibility in the materials used based on pricing.

PUBLIC COMMUNICATIONS:

As mentioned under Background, meetings were held with the surrounding neighborhood groups-Birmingham Estates, and South Poppleton, with great participation contributing input in 2021 as the 2016 concept plan was being revised. The 2021 Adams Park Concept Plan presentation by Michael J. Dul & Associates at the September 14, 2021 Parks and Recreation Board meeting, offered another opportunity for public comment.

Additionally the plan was available for review, public comment and feedback on Engage Birmingham. The guestbook feature on Engage was utilized to allow for open-ended comment from the public reviewing the concept plan. For the duration of the comment session, staff updated the FAQ page to answer the frequently asked questions.

At closing of the comment period on Engage Birmingham, 78 contributions were received from 72 contributors. Overall, the feedback was very positive. A text analysis report through Engage's reporting system captured the most common question/feedback was about Roeper School athletics and the items to remain for Roeper use-about 30% of the contributors. The playground was the second highest area of attention among the feedback received, about 20%. There was interest in a splash pad, about 16%, of the 16 %, 40% were for a splash pad at Adams Park, and 60% against a splash pad at this location due to the size and neighborhood classification of the park. Additional feedback included the importance of selecting the appropriate park amenities such as seating areas, benches, fencing, drinking fountains, and shade areas with trees or shade structures.

Updates will be provided to the Adams Park project page on Engage Birmingham throughout this project.

SUMMARY:

The Department of Public Services is recommending the acceptance of the 2021 Adams Park Concept plan and the approval to proceed with the Construction Drawings and Implementation Phases with Michael J. Dul & Associates.

The 2021 Adams Park Concept Plan was vetted through Neighborhood Association meetings with the City and Michael J. Dul & Associates, the Parks and Recreation Board, and Engage Birmingham.

The Parks and Recreation Board, at the September 14, 2021 approved the Adams Park Concept Plan dated August 30, 2021 and recommended proceeding with the design development services.

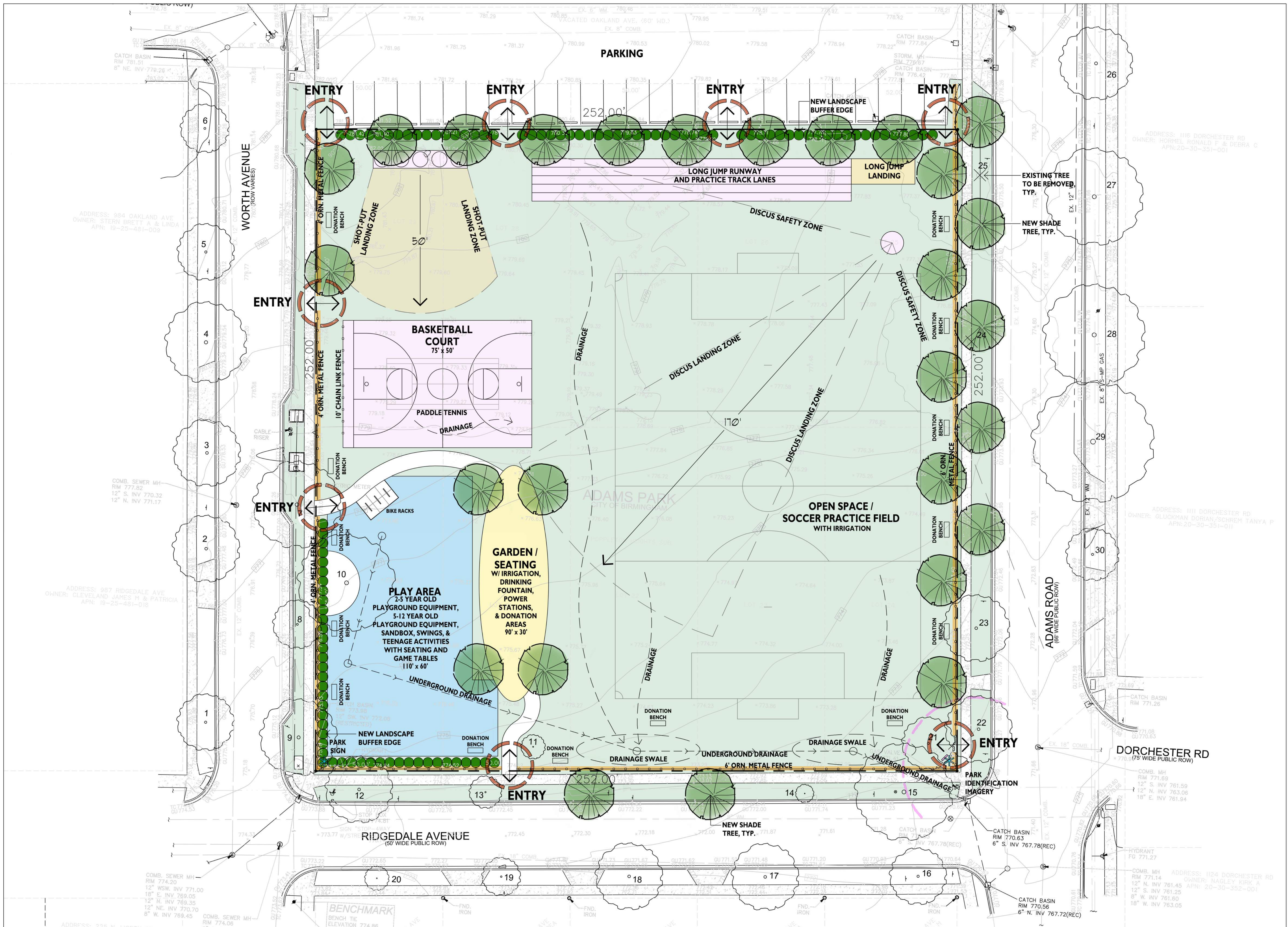
Construction drawings and bid document preparation will take place in the next couple of months incorporating feedback received where applicable. The anticipated project construction period will be late May 2022 through August or September 2022. As mentioned under the Fiscal Impact section of this memo, the Adams Park project will purposely have bid alternates to allow for flexibility in pricing.

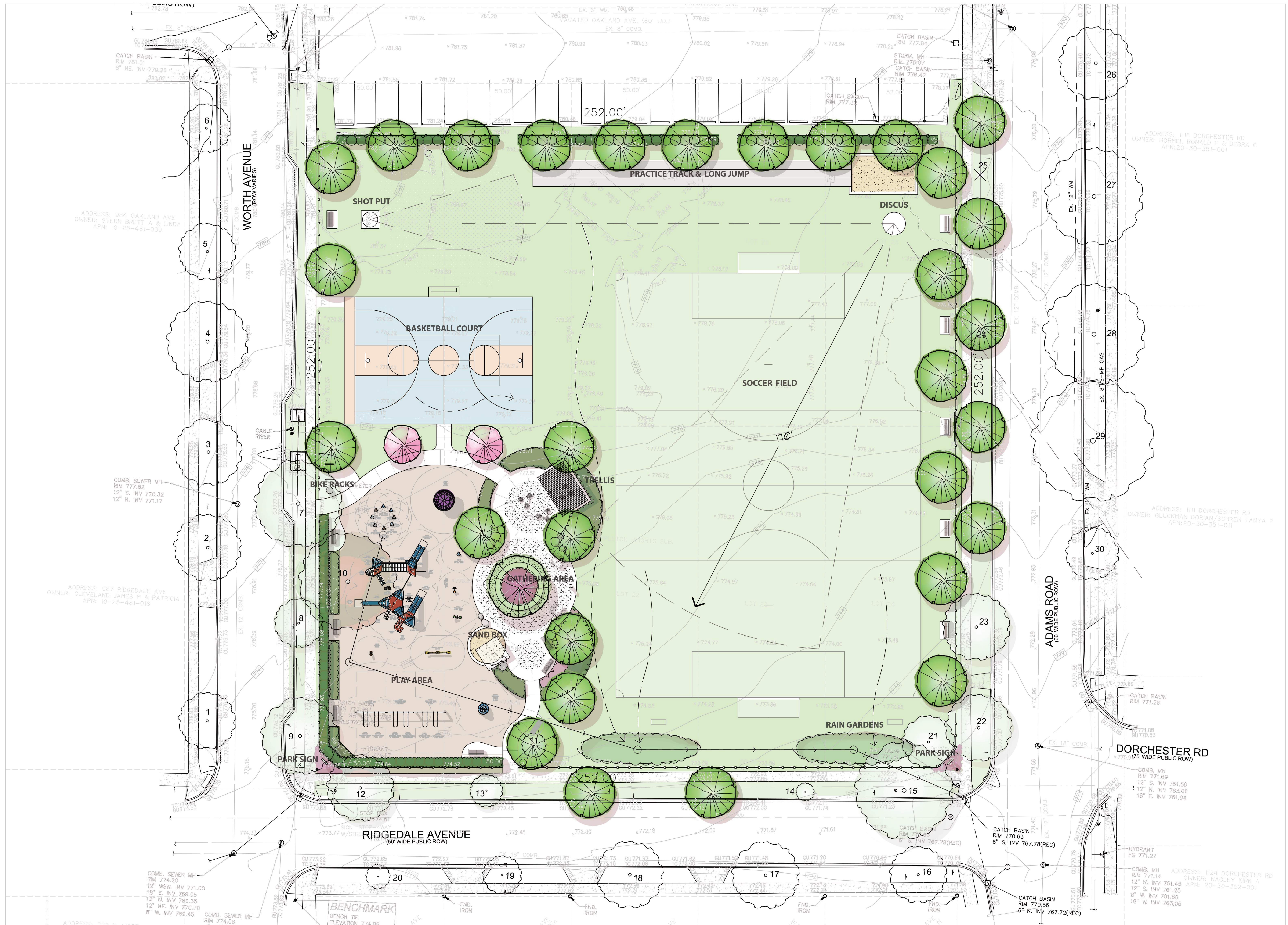
ATTACHMENTS:

- 2016 Adams Park Concept Plan
- 2021 Adams Park Concept Plan
- 2021 Cost Estimate and Schedule
- Agreement including required Insurances and Iran Sanctions Act

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to accept the Adams Park Concept Plan dated August 30, 2021, and providing direction to approve an agreement with Michael J. Dul & Associates, Inc. for professional landscape architectural services in an amount not to exceed 8% Cost of Construction for the Construction Drawing Phase, and 5% Cost of Construction for the Implementation Phase based on a minimum construction budget of \$725,000. Funding for this project has been budgeted in Land Improvements account #408-751.000-979.0000. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.





Landscape & Site Improvement Cost Proposal Breakdown - 2022 Cost Projections				Unit Cost	Totals
Qty.	Unit	Item/Description			
		<i>General Conditions</i>			
1	ls.	Permits, street closure, other fees		\$6,500.00	\$6,500.00
750	lf.	Soil erosion control		\$3.24	\$2,430.00
		<i>General Conditions Subtotal:</i>			<i>\$8,930.00</i>
		<i>Demolition</i>			
1	ls.	Remove & dispose (offsite) existing retaining wall, 135' long, 2' above grade, assuming 42" depth		\$5,850.00	\$5,850.00
1	ls.	Remove & dispose (offsite) existing concrete strip, 150' long, 6" wide, assuming 42" depth		\$1,620.00	\$1,620.00
1	ls.	Remove & dispose (offsite) existing play equipment		\$10,800.00	\$10,800.00
770	lf.	Remove & dispose (offsite) existing chainlink fence and footings		\$8.60	\$6,622.00
7000	sf.	Remove & dispose (offsite) existing asphalt surfacing		\$1.35	\$9,450.00
		<i>Demolition Subtotal:</i>			<i>\$34,342.00</i>
		<i>Earthwork</i>			
63000	sf.	Grade site, one full week with bulldozer		\$0.81	\$51,030.00
1	ls.	Grade drainage swales and collection basins		\$2,700.00	\$2,700.00
500	cy.	Remove extra soil from site		\$11.18	\$5,590.00
175	lf.	Supply and install underground drainage pipe, 6" HDPE dual wall plastic pipe		\$21.60	\$3,780.00
2	ea.	Supply and install catch basins, 24" plastic catch basins with bottom, steel ring, and cover		\$650.00	\$1,300.00
1	ls.	Connect new drainage to existing city catch basin		\$1,600.00	\$1,600.00
1	ls.	Connect irrigation main line to city water line, by owner		\$0.00	\$0.00
1	ls.	Connect drinking fountain water line to city water line, by owner		\$0.00	\$0.00
1	lf.	Install electrical line to the "garden" for electrical power stations, connect to city utilities		\$5,000.00	\$5,000.00
		<i>Earthwork Subtotal:</i>			<i>\$71,000.00</i>
		<i>Right of Way Improvements</i>			
1	ls.	Supply and install irrigation system, connect to city utilities and city water line		\$5,000.00	\$5,000.00
200	sf.	Fix grass as needed with soil and sod		\$1.86	\$372.00
7	ea.	Supply and install shade trees - 4" cal., B&B		\$2,173.00	\$15,211.00
		<i>Right of Way Improvements Subtotal:</i>			<i>\$20,583.00</i>
		<i>Landscape</i>			
20	ea.	Supply and install shade trees - 4" cal., B&B		\$2,173.00	\$43,460.00
6	ea.	Supply and install shade trees - 6-7" cal., spaded		\$4,658.00	\$27,948.00
59	ea.	Supply and install deciduous shrubs for buffer hedge along north end of site		\$130.00	\$7,670.00
25	cy.	Supply and install soil through planting areas		\$75.00	\$1,875.00
10	cy.	Supply and install mulch, 3" depth		\$93.00	\$930.00
15	ea.	Supply and install boulders, 3-4'		\$302.00	\$4,530.00
		<i>Landscape Subtotal:</i>			<i>\$86,413.00</i>

Qty.	Unit	Item/Description	Unit Cost	Totals
		<i>Turf</i>		
4500	sy.	Supply and install seeded lawn with 3" topsoil and fine graded	\$7.14	\$32,130.00
			<i>Turf Subtotal:</i>	<i>\$32,130.00</i>
		<i>Irrigation</i>		
1	ls.	Supply and install new irrigation system and main line for turf and north buffer planting (water tap, meter pit, underground vault, backflow preventor and meter to be provided by owner)	\$37,300.00	\$37,300.00
			<i>Irrigation Subtotal:</i>	<i>\$37,300.00</i>
		<i>Furnishings</i>		
480	lf.	Supply and install ornamental metal fence, 4' high, including (1) gate, Ameristar Montage, commercial grade	\$112.00	\$53,760.00
230	lf.	Supply and install ornamental metal fence, 4' high, Ameristar Montage, commercial grade (at Roeper parking lot)	\$112.00	\$25,760.00
250	lf.	Supply and install ornamental metal fence, 6' high, Ameristar Montage, commercial grade	\$124.00	\$31,000.00
11	ea.	Supply and install donation bench with concrete pad, Landscape Forms 'Scarborough'	\$3,757.00	\$41,327.00
6	ea.	Supply and install trash receptacles with concrete pad, Landscape Forms 'Plainwell'	\$2,224.00	\$13,344.00
1	ea.	Supply and install group of three bike racks with concrete pad (200 sf), Landscape Forms 'Bola'	\$5,065.00	\$5,065.00
2	ea.	Park sign at Adams and Ridgedale	\$4,750.00	\$9,500.00
			<i>Furnishings Subtotal:</i>	<i>\$179,756.00</i>
		<i>Garden Area</i>		
1110	sf.	Supply and install planting (ornamental grasses) with soil, mulch, and edging	\$24.20	\$26,862.00
3	ea.	Supply and install picnic tables, Landscape Forms 'Charlie'	\$7,062.00	\$21,186.00
2	ea.	Supply and install benches, Landscape Forms 'Scarborough'	\$3,308.00	\$6,616.00
1	ea.	Supply and install drinking fountain (MDF - 101045 SMSS, w/ misting head) and water line connected to owner provided water supply pipe. Water tap, meter pit, underground vault, backflow preventor and meter to be provided by owner	\$9,200.00	\$9,200.00
1	ea.	Supply and install irrigation system	\$4,665.00	\$4,665.00
1	ea.	Supply and install electrical power stations by LeGrand	\$3,300.00	\$3,300.00
1	ea.	Supply and install wooden trellis structure, 12' x 18' and 10'-high	\$42,108.00	\$42,108.00
1	ea.	Supply and install umbrella, Tuuci 'ocean master' 10'x10'	\$15,636.00	\$15,636.00
160	sf.	Supply and install sandbox with concrete curb, 40 lf	\$31.00	\$4,960.00
54	lf.	Supply and install circular concrete bench, 18" high and wide with footings	\$200.00	\$10,800.00
1700	sf.	Supply and install concrete surfacing (broom finish) to include thickened edge where concrete meets play surfacing	\$11.08	\$18,836.00
1300	sf.	Supply and install concrete surfacing (exposed aggregate)	\$15.93	\$20,709.00
			<i>Garden Subtotal:</i>	<i>\$184,878.00</i>

Qty.	Unit	Item/Description	Unit Cost	Totals
		<i>Playground Area</i>		
410	cy.	Remove soil and haul off site to allow playground to be flush with surround ground	\$27.40	\$11,234.00
315	cy.	Supply and install engineered wood fiber play surface (12" depth)	\$35.00	\$11,025.00
6400	sf.	ALTERNATE (not included in total price): Supply and install poured-in-place rubber play surface	\$22.85	\$146,240.00
6400	sf.	Supply and install geotextile fabric under play surface, (2 layers)	\$0.59	\$3,776.00
80	cy.	Supply and install pea gravel under play surface (4" depth)	\$79.65	\$6,372.00
1	ea.	Supply and install underdrainage under play surface, 6" perforated pipe in peastone trench at playground perimeter to connect to main drainage line	\$5,300.00	\$5,300.00
1	ea.	Supply play equipment (Landscape Structures, Inc.): (\$124,830.00 + \$4000.00 freight x 6% sales tax x 12% mark up x 8% misc costs = \$165,183.00)	\$165,183.00	\$165,183.00
1	ea.	Install play equipment	\$25,812.00	\$25,812.00
900	sf.	Supply and install buffer planting (deciduous shrubs) with soil, mulch, and edging	\$14.00	\$12,600.00
1	ls.	Supply and install irrigation system for buffer plantings	\$3,888.00	\$3,888.00
		<i>Playground Subtotal:</i>		<i>\$245,190.00</i>
		<i>Basketball Court</i>		
3710	sf.	Supply and install asphalt court and base with acrylic coating and court striping	\$9.50	\$35,245.00
2	ea.	Supply and install basketball hoops, bison (basic model)	\$2,527.00	\$5,054.00
		<i>Basketball Court Subtotal:</i>		<i>\$40,299.00</i>
		<i>Track & Field</i>		
1260	sf.	Supply and install asphalt long jump runway and practice track with base and black rubber coating	\$20.00	\$25,200.00
1	ls.	Supply and install long jump landing pit	\$3,675.00	\$3,675.00
259	sf.	Supply and install shot-put throwing pad, concrete and base	\$12.00	\$3,108.00
1575	sf.	Supply and install crushed aggregate (12" deep) shot-put landing area	\$4.32	\$6,804.00
65	sf.	Supply and install discus throwing circle, concrete and base	\$10.80	\$702.00
		<i>Track & Field Subtotal:</i>		<i>\$39,489.00</i>
		Total:		\$980,310.00
		Contingency (10%)		\$98,031.00
		TOTAL PROJECT COST:		\$1,078,341.00
		NOTE: THERE IS AN 8% COST ADDED TO EACH LINE ITEM THAT ENCOMPASSES THE FOLLOWING: MOBILIZATION, BONDS, INSURANCE, GENERAL CONDITIONS & MISC & CLOSE-OUT		
		NOTE: The above and attached costs are considered <i>opinions of probable costs</i> and do not represent actual contractor bids.		
		NOTE: The above and attached costs do not include professional fees.		

AGREEMENT

Professional Services- Adams Park Landscape Architectural Services

This AGREEMENT, made this _____ day of _____, 2021, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter called "City"), and Michael J. Dul & Associates, Inc., having its principal office at 212 Daines, Birmingham, MI (hereinafter called "Consultant"), provides as follows:

WITNESSETH:

WHEREAS, the City desires professional services required to prepare landscape architectural services including development of construction drawings and documents and construction phase services including project administration and oversight including and in connection therewith has requested a proposal from the Michael J. Dul, & Associates, Inc.; and

WHEREAS, Michael J. Dul & Associates, Inc. has professional qualifications that meet the project requirements and has provided a cost proposal to perform landscape architectural services including preparing bid documents and construction drawings and oversight of project implementation for Adams Park in the City of Birmingham.

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

1. It is mutually agreed by and between the parties that the Proposal for landscape architectural services relating to final construction drawings and implementation for the redevelopment of Adams Park will include shot put, discus, long jump, open space field, basketball court, play structures, walks, sitting areas, pergola, fencing, drainage, grading, rain gardens, planters, drinking fountain, site furniture, landscape beds, planting, irrigation and tree protection.
2. The proposal will include the entire construction phase and implementation phase, and it is further mutually agreed by and between the parties that the proposal provided by Consultant on October 15, 2021 detailing the construction and implementation phase shall be incorporated herein by reference, shall become a part of this Agreement, and shall be binding upon both parties hereto (Attachment "A").
3. The City shall pay Michael J. Dul & Associates, Inc. for the performance of this Agreement in an amount not to exceed 8% Cost of Construction for the Construction Drawing Phase, and 5% Cost of Construction for the Implementation Phase based on a minimum construction budget of \$725,000, as set forth in Michael J. Dul's October 15, 2021 cost proposal.

4. This Agreement shall commence upon execution by both parties for a period of time through Adams Park project completion. The parties may extend this Agreement for a length of time as agreed upon in writing as an Addendum to this Agreement. The City shall retain the right to unilaterally terminate this Agreement with or without cause and will pay Consultant for services provided up to the date of termination.
5. Consultant shall employ personnel of good moral character and fitness in performing all services under this Agreement.
6. Consultant and the City agree that Consultant is acting as an independent contractor with respect to Consultant's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither Consultant nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor Consultant shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. Consultant shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.
7. Consultant acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. Consultant recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, Consultant agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. Consultant shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. Consultant further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.
8. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. Consultant agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.
9. 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.

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

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

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

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

A. Workers' Compensation Insurance:

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

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

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

C. Motor Vehicle Liability: Consultant shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence

combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

- D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: ***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: If applicable, professional liability insurance with limits of not less than \$1,000,000 per claim if Consultant will provide service that are customarily subject to this type of coverage.
- F. Owner's Protective Liability: Consultant shall procure and maintain during the life of this contract, an Owner's Protective Liability Policy with limits of liability not less than \$3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage.
- G. Cancellation Notice: Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
- H. Proof of Insurance Coverage: Consultant shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.
- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
 - 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
 - 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
 - 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
 - 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

- I. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Consultant shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.
- J. Maintaining Insurance: Upon failure of Consultant to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

14. To the fullest extent permitted by law, Consultant and any entity or person for whom Consultant 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.

15. 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 Consultant, the City shall have the right to terminate this Agreement without further liability to Consultant if the disqualification has not been removed within thirty (30) days after the City has given Consultant 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.

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

17. The City shall be the owner of all the drawings, specifications or other documents prepared by Consultant. Any modifications made to the drawings by the City shall be clearly marked as such on the modified document. The City may not use these documents for any purpose other than pursuant to the activities provided for in this Agreement.

18. Notices shall be given to:

City of Birmingham
c/o Ms. Lauren Wood
851 S. Eton Rd.
Birmingham, MI 48009

With copies to:

Mary M. Kucharek, City Attorney
Beier Howlett, P.C.
3001 W. Big Beaver Rd., Ste. #200
Troy, MI 48084

Consultant
Michael J. Dul & Associates, Inc.
Michael Dul
212 Daines
Birmingham, MI 48009

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

20. COVID-19 PROTOCOLS: Consultant shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Consultant staff which will be in physical contact with city staff must have current vaccinations against COVID-19. The City, at its discretion, may ask for proof of vaccination of Consultant's staff. Failure to provide proof of vaccination when requested will cause the City to request un-vaccinated personnel to leave, request alternate staff, and if the audit firm is unable to comply, this willful violation of safety protocols will constitute a breach of contract by Consultant.

21. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. Consultant agrees to perform all

services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

22. 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.

23. 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.

24. 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.

WITNESS:

Michael J. Dul & Associates, Inc.



By: Michael J. Dul

Its: _____

STATE OF MICHIGAN)
) ss:

COUNTY OF OAKLAND)

On this 20th day of October, 2021, before me personally appeared Michael J. Dul, who acknowledged that with authority on behalf of **Michael J. Dul & Associates, Inc.** to do so he/she signed this Agreement.

PATRICIA M. KURTZ
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Nov 16, 2024
ACTING IN COUNTY OF Oakland

Patricia M. Kurtz
Notary Public

Oakland County, Michigan

Acting in Oakland County, Michigan

My commission expires: Nov 16, 2024


CITY OF BIRMINGHAM


By: _____
Pierre Boutros
Its: Mayor


By: _____
Alexandria D. Bingham
Its: City Clerk

APPROVAL (Sec 2-289 City Code)

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


Mary M. Kucharek, City Attorney
(Approved as to form)


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


Thomas M. Markus, City Manager
(Approved as to substance)

LANDSCAPE
ARCHITECTURE

MICHAEL J. DUL
& ASSOCIATES, INC

212 DAINES
BIRMINGHAM, MI 48009
(248) 644-3410

October 15, 2021

Ms. Lauren Wood (248) 515-3795
Director of Public Services
City of Birmingham
852 S Eton Rd
Birmingham, MI 48009
lwood@bhamgov.org

RE: ADAMS PARK

Dear Ms. Wood,

This is our proposal for landscape architectural services relating to final construction drawings and Implementation for the redevelopment of Adam's Park. Elements include: shot put, discus, long jump, open space field, basketball court, play structures, walks, sitting areas, pergola, fencing, drainage, grading, rain gardens, planters, drinking fountain, site furniture, landscape beds, planting, irrigation and tree protection.

Client Investment

CONSTRUCTION DRAWING PHASE

DEMOLITION PLAN

CONSTRUCTION LAYOUT PLAN: All site elements mentioned above will be laid out.

GRADING & DRAINAGE PLAN: Grading will be provided. MJD&A will provide recommended drain tile for planting areas.

CONSTRUCTION DETAILS: Details and/or product cuts will be provided for site elements mentioned above.

PLANTING PLAN & PLANTING DETAILS: All planting will be specified.

IRRIGATION PLAN: An irrigation plan will be prepared for all planting areas and will include details for pipe/head layout, valve boxes and controller.

MICHAEL J. DUL
& ASSOCIATES, INC

212 DAINES
BIRMINGHAM, MI 48009
(248) 644-3410

October 15, 2021
Ms. Lauren Wood
Proposal/Adam's Park
Page 2

IMPLEMENTATION PHASE

Implementation services include site work or construction resulting from documents prepared by MJD&A:

PRICE SOLICITATION: Proposal forms will be prepared for soliciting contractors' pricing for all trades. MJD&AI will assist the Owner with award of the subcontract/owner contract.

CONSTRUCTION PHASE SERVICES: Periodic trips to the site to review progress of the landscape development/site development. MJD&AI will review proposed plant material via photos or field trips to the nurseries. The site visits by the Landscape Architect are not intended to provide supervision of the Contractors' work. Supervision, coordination, construction means, methods, techniques and safety are solely the responsibility of the contractor and not MJD&AI. MJD&AI will become generally familiar with the progress and quality of the portion of the work completed, and to determine in general, if the work observed is being completed in a manner indicating that the work, when fully complete, will be in accordance to the plans.

PROJECT ADMINISTRATION: Responsibilities will include field and change orders, approval of contractors' invoices, punch list, and financial monitoring during the course of construction.

Client Investment

CONSTRUCTION DRAWING PHASE	8% Cost of Construction
IMPLEMENTATION PHASE	5% Cost of Construction

The above fee is based on a minimum construction budget of \$725,000. Direct costs such as printing will be reimbursed at cost; travel at 60 cents per mile. Invoices shall be submitted monthly for that portion of the work performed and shall be payable upon receipt. MJD&AI shall be paid for services actually performed.

LANDSCAPE
ARCHITECTURE

MICHAEL J. DUL
& ASSOCIATES, INC

212 DAINES
BIRMINGHAM, MI 48009
(248) 644-3410

October 15, 2021
Ms. Lauren Wood
Proposal/Adam's Park
Page 3

Additional services, if requested and approved by the client, will be performed at our current hourly rate schedule: Principal (MJD) \$250, Project Manager (PMF) \$175; Landscape Architects (TS, MJ) \$150. Surveyor and Engineers such as civil, structural and electrical are not included in this proposal. To the maximum extent permitted by law, the Client agrees to limit the Landscape Architect's liability for the damages to the sum equal to the Landscape Architect's professional fee. This limitation shall apply regardless of cause of action or legal theory pled or asserted.

Feel free to contact me via email or cell (248) 703-9999 should you have any questions or concerns. We appreciate this opportunity and look forward to working with you on this exciting project.

Sincerely yours,

Michael J Dul

Michael J. Dul, RLA, ASLA, President

Approved By

NAME

DATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/28/2021

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 Kapnick Insurance Group 333 Industrial Dr Adrian MI 49221	CONTACT NAME: Phileshia Harry PHONE (A/C, No, Ext): 12482061371 FAX (A/C, No): 517-263-6658 E-MAIL ADDRESS: phileshia.harry@kapnick.com
INSURER(S) AFFORDING COVERAGE	
INSURER A: Citizens Insurance of America	NAIC # 31534
INSURED Michael J Dul & Associates, Inc 212 Daines St Birmingham MI 48009	INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:** 1374971050**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	ADD'L SUBR INSD 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 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y Y	07HH502548	5/1/2021	5/1/2022	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	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		07HH502548	5/1/2021	5/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	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				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E L EACH ACCIDENT \$ E L DISEASE - EA EMPLOYEE \$ E L DISEASE - POLICY LIMIT \$

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

AUTOMATIC STATUS POLICY FORMS (WHEN REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT WITH NAMED INSURED, PER POLICY TERMS & CONDITIONS)

GENERAL LIABILITY

--Additional Insureds

for Adams Park Job

Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or See Attached...

CERTIFICATE HOLDER**CANCELLATION**City of Birmingham
851 S. Eton St.
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

James S. Kapnick

**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1AGENCY
Kapnick Insurance Group

POLICY NUMBER

CARRIER

NAIC CODE

NAMED INSURED
Michael J Dul & Associates, Inc
212 Daines St
Birmingham MI 48009

EFFECTIVE DATE: _____

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

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.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/15/2021

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 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 Professional Concepts Insurance Agency, Inc. 1127 South Old US Highway 23 Brighton MI 48114-9861		CONTACT NAME: Maegan Jones PHONE (A/C, No, Ext): (800) 969-4041 E-MAIL ADDRESS: mjones@pciaonline.com FAX (A/C, No): (800) 969-4081	
INSURED Michael J. Dul & Assoc., Inc. 212 Daines Street Birmingham MI 48009		INSURER(S) AFFORDING COVERAGE INSURER A: Travelers INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 21-22 PL

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
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	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						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			106509872	5/1/2021	5/1/2022	Per Claim \$ 1,000,000 Aggregate \$ 1,000,000

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

Re: Adams Park

CERTIFICATE HOLDER

City of Birmingham

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Mike Cosgrove/SUNNY

Michael Cosgrove

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/15/2021

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 PAYCHEX INSURANCE AGENCY INC 150 SAWGRASS DR ROCHESTER, NY 14620 (877) 362-6785		CONTACT NAME: PHONE (A/C, No, Ext): (877) 362-6785 FAX (A/C, No): (877) 677-0447 E-MAIL ADDRESS: psychex@travelers.com	
INSURED MICHAEL J DUL & ASSOCIATES INC 212 DAINES ST BIRMINGHAM, MI 48009		INSURER(S) AFFORDING COVERAGE INSURER A: THE TRAVELERS INDEMNITY COMPANY INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 522681143431882

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	
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
							GENERAL AGGREGATE	\$
							PRODUCTS - COMP/OP AGG	\$
								\$
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		UB-2N001239-21	07/16/2021	07/16/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 500,000
							E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000

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

CERTIFICATE HOLDER

CITY OF BIRMINGHAM
851 S ETON ST
BIRMINGHAM, MI 48009

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Michael J. Mulligan

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IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
Professional Services- Adams Park Landscape Architectural Services

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.

<u>MICHAEL J. DUL</u>	<u>10.29.21</u>
PREPARED BY (Print Name)	DATE
<u>PRESIDENT</u>	<u>10.29.21</u>
TITLE	DATE
<u>MICHAEL J. DUL</u>	<u>mdul@mjdul.com</u>
AUTHORIZED SIGNATURE	E-MAIL ADDRESS
<u>MICHAEL J. DUL & ASSOCIATES INC.</u>	
COMPANY	
<u>212 DAINES</u>	<u>248 644-3410</u>
ADDRESS	PHONE
<u>NA</u>	
NAME OF PARENT COMPANY	PHONE
ADDRESS	
<u>38 -2614504</u>	
TAXPAYER I.D.#	



MEMORANDUM

Human Resources Department

DATE: November 8, 2021

TO: Thomas M. Markus, City Manager

FROM: Joseph Lambert, Human Resources Manager

SUBJECT: Settlement Agreement and Contract Renewal with Teamsters Local 214

INTRODUCTION:

Teamsters Local 214, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, represents a total of 27 full-time laborers working primarily within the Department of Public Services.

BACKGROUND:

The current collective bargaining agreement with Teamsters Local 214 expired on June 30, 2021. On October 6, 2021, an agreement was reached between the parties. Union membership ratified the attached settlement agreement, and the agreement is now presented for consideration by the City Commission.

The primary features of the settlement agreement are:

- 3-year contract through June 30, 2023.
- 2% wage adjustment in each year of the contract.
- Addition of Martin Luther King Jr. Day to the list of holidays.
- Increases in employee cost sharing for prescription coverage.
- Flexibility improvements to recruitment and emergency overtime.
- Modest improvements in other minor economic provisions.

LEGAL REVIEW:

n/a

FISCAL IMPACT:

- The proposed settlement includes a 2% wage adjustment each year for 3 years as well as other minor economic provisions. The settlement agreement also includes a rise in cost sharing for employee prescription coverage. An estimated amount for this contract has been budgeted in the wage adjustment account in the General Fund.

PUBLIC COMMUNICATIONS:

After approval of the settlement agreement, a copy of the finalized contract will be uploaded to the City's website.

SUMMARY:

The terms in the proposed settlement agreement dated October 6, 2021 are consistent with other settled contracts, and continue the trend of increased employee cost sharing for health care. HR recommends approval of the settlement agreement.

ATTACHMENTS:

- Executed Teamsters Local 214 Settlement Agreement with the City of Birmingham

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution approving the settlement agreement dated October 6, 2021 between the City and Teamsters Local 214 for a renewal of the collective bargaining agreement through June 30, 2023, and authorizing staff to execute a collective bargaining agreement consistent with its terms and conditions. Further, to authorize the transfer of funds in the wage adjustment account 101-299.000-709.0000 to the appropriate departments.

CITY OF BIRMINGHAM

-and-

Teamsters LOCAL 214

SETTLEMENT AGREEMENT

1. **Emergency Overtime**
 - a. Add an item (J) to the Overtime Rules, stating:
 - b. If all employees in a classification decline the overtime assignment, the Employer shall not be restricted in using employees in a lower classification to voluntarily fill overtime assignments. If there are no volunteers for such work, employees within the affected classifications will be required to work overtime, least senior qualified employees first.
2. **Increase wages by 2.0% on 7/1/21, 2.0% on 7/1/22, and 2.0% on 7/1/23**
3. **Sick Time Buy-Back**
 - a. Regular full time employees who begin a calendar year with more than 480 hours of accrued sick leave, and maintain a balance above that level throughout the calendar year, may elect to be paid in cash for hours in excess of 480 - up to no more than 40 hours - at the end of the calendar year. Following the cash payment, the employee must have a minimum of 480 remaining hours in accrued sick leave.
4. **Article XV -- Holidays**
 - a. Add MLK Day to list of holidays
5. **Salary Schedules - Revise Salary Schedules on Page A-4 to state:**
 - a. The City shall continue to have the right to place new employees at a salary step other than the minimum. Provided that in the event that the City exercises such right, placement will be at no higher than the **two (2)** year rate.
6. **Article XXXIII -- Uniforms**
 - a. Increase uniform allowance from \$300 to \$400
7. **Revise Rx co-pays from:**
 - \$20 (Generic), \$50 (Name Brand), and \$75 (Specialty) TO
 - \$20 (Generic), \$60 (Name Brand), and 2% Copay (Specialty) unless employee participates in manufacturer's coupon program or international drug program, in which that copay shall be \$0.
 - Commitment to participate in manufacturer's coupon program, when available.
 - Commitment to participate in the City's international drug program, when available.
 - Eliminate Rx coverage for PPI medications available over-the-counter, unless otherwise ordered by a doctor.
8. **For those retiring after the ratification of the new agreement by both parties, and who are eligible for retiree health insurance, that insurance will change as it changes for actively employed members of the bargaining unit.**

9. Life Insurance Clarification:

A. Life Insurance:

(1.) Life Insurance shall be provided in the amount of \$30,000

(2.) Additional Coverage Life Insurance shall be provided in the following amounts:

<u>All Teamster employees whose age is:</u>	<u>Amount of Life Insurance:</u>
Less than age 35	\$25,000
Age 35 but less than age 40	\$20,000
Age 40 but less than age 45	\$16,500
Age 45 but less than age 50	\$10,000
Age 50 but less than age 55	\$8,000
Age 55 but less than age 60	\$4,000
Age 60 or more	\$3,500

10. One time, off-schedule Hero Bonus not subject to FAC = \$1,250


11. The Union withdraws all other proposals.

12. The Employer withdraws all other proposals.

13. The Union will ratify the contract first, and will notify the Employer, in writing, when the contract has been ratified.

Date: October 6, 2021

THE UNION


Timothy Paul Davis
David Bianchette

THE EMPLOYER

Joseph Lambert
Lauren Wood



MEMORANDUM

Human Resources Department

DATE: November 8, 2021

TO: Thomas M. Markus, City Manager

FROM: Joseph Lambert, Human Resources Manager

SUBJECT: 2021-22 Compensation Recommendations for Department Heads and Administrative / Management Employees

INTRODUCTION:

Current Administrative/Management employees consist of 10 City department heads, and approximately 25 other full-time professional employees who are not represented by any labor organization. Settled collective bargaining agreements include wage rate changes to AFSCME Clerical and Technical employees, Firefighters Association, Police Command Association, and Police Patrol Association as follows:

AFSCME	2021 – 1.5%, 2022 – 1.5%, 2023 – 1.5%
BCOA	2021 – 2.5%
BPOA	2021 - 1.5%
BFFA	2021 – 1.5%, 2022 – 1.5%, 2023 – 1.5%
Teamsters*	2021 – 2.0%, 2022 – 2.0%, 2023 – 2.0%

*Teamsters contract also on this agenda for approval by the City Commission.

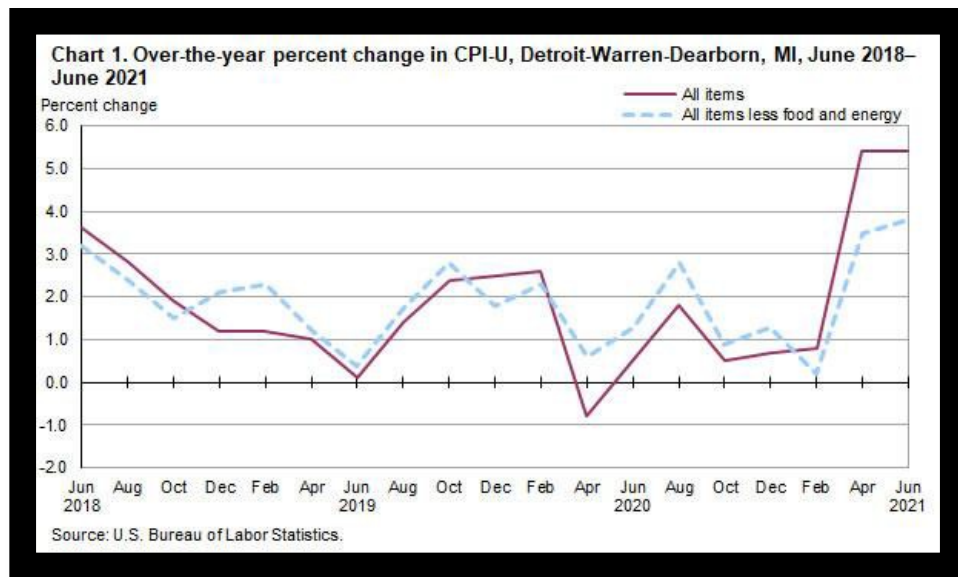
Administrative/Management employees have not yet received any wage adjustments for the 2021-22 fiscal year.

BACKGROUND:

Individual administrative and management staff do not receive automatic adjustments in conjunction with salary table changes as employees do in bargaining units. Actual increases for this group are determined through annual performance evaluations. The guidelines that connect performance review scores to salary adjustments continue to reward high-quality performance within the confines of the salary range while withholding such rewards when performance is less than high quality.

Salary Ranges

According to the Bureau of Labor Statistics, CPI data has indicated a rise in consumer prices of 4.7% since February 2020. To answer to these rising costs, as well as talent acquisition and retention goals, a more aggressive salary range adjustment is needed. For Fiscal Year 2021-22, HR recommends a salary range adjustment of 2.5%, which represents an estimated cost of \$70,160. This adjustment keeps our compensation program in line with the market of comparable communities and is consistent with other settled City labor agreements.



Merit Based Performance Increase Program

In addition to the salary range adjustment, the Commission in the past has approved a merit based increase based on a review of an employee's performance. This program is divided into two groups: 1) employees below the 75th percentile of their salary range; and 2) employees at or above 75% of their salary range.

For individuals below the 75th percentile of their salary range, an employee can earn up to an additional 6.5% increase in their base salary, up to the maximum of their salary range, based on their performance evaluation. If an employee is already at the top of their salary range, the merit pay is paid as a 2.5% performance increment one-time payment and does not increase their base salary.

The Human Resources Department ("HR") recommends increasing the salary ranges and continuing the merit based performance increase program based upon department head recommendations, and HR and City Manager approval, for the Department Heads and Administrative/Management group (including part-time staff not represented by a labor organization).

LEGAL REVIEW:
None required.

FISCAL IMPACT:
For FY 2021-22, the recommended increase to the salary ranges of 2.5% for the Department Heads and Administrative/Management group represents an estimated cost of \$70,160. The merit based performance increase program is estimated to cost an additional \$155,200.

To offset such increases, the City has established a pattern of increasing employee cost sharing for health care, which allows the City to leverage savings to partially offset other

improvements in compensation. Most recently, the City has initiated a request for proposals for Healthcare Consultant services, in an effort to leverage even greater savings.

PUBLIC COMMUNICATIONS:

N/A

ATTACHMENTS:

- Proposed Merit Increase Guidelines

SUMMARY:

The Human Resources Department recommends approval of the Department Head and Administrative/Management compensation program as presented and included in the attachments to this report.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve a 2.5% salary range adjustment and in-range adjustments based upon performance for full-time and part-time employees in the Department Head and Administrative/Management classifications effective July 1, 2021 and approving a 2.5% performance increment through June 30, 2022 with individual eligibility to be in accordance with the attached merit increase guidelines. Further, to authorize the budget amendments from the wage adjustment account 101-299.000-709.0000 to the appropriate departments.

For employees currently occupying a position **at or above the 75th Percentile** of their salary range on the July 1, 2021 salary table:

<u>Merit Increase</u>	<u>Market Adjustment</u>	<u>Performance Review Score *</u>
+ 3.0%	2.5%	4.50 to 5.00
+ 2.0%	2.5%	4.00 to 4.49
+ 1.0%	2.5%	3.50 to 3.99
0.0%	2.5%	3.00 to 3.49
-1.5%	2.5%	2.50 to 2.99
-2.5%	2.5%	2.00 to 2.49

Total adjustment may not exceed salary range maximum.

* Performance Review Rating Scale:

- 5 Outstanding
- 4 Exceeds Expectations
- 3 Meets Expectations
- 2 Below Expectations
- 1 Unsatisfactory

For employees currently occupying a position **below the 75th Percentile** of their salary range on the July 1, 2021 salary table:

<u>Merit Increase</u>	<u>Market Adjustment</u>	<u>Performance Review Score *</u>	
+6.5%	2.5%	4.50 to 5.00	to
+4.5%	2.5%	4.00 to 4.49	
+2.5%	2.5%	3.50 to 3.99	
+1.5%	2.5%	3.25 to 3.49	
0.0%	2.5%	3.00 to 3.24	
-1.5%	2.5%	2.75 to 2.99	
-2.5%	2.5%	2.50 to 2.74	
-3.5%	2.5%	2.00 to 2.49	

Total adjustment may not exceed salary range maximum.

* Performance Review Rating Scale:

- 5 Outstanding
- 4 Exceeds Expectations
- 3 Meets Expectations
- 2 Below Expectations
- 1 Unsatisfactory



Nov. 3, 2021

C. E. Tholen

City Clerk:

Attached are 8 copies of a letter to the City Commission. Would you kindly include it in the next meeting agenda. Thank you.

A handwritten signature in black ink that reads "Chuck Tholen". The signature is written in a cursive style with a long, sweeping underline.

Clerk's Office
City of Birmingham, MI

NOV - 3 2021

895 Lake Park Drive
Birmingham, MI 48009
November 3, 2021

City Commission

RECEIVED

City of Birmingham

151 Martin Street

P. O. Box 3001

Birmingham, MI 48012-3001

Dear Commissioners:

The city has requested comments from its citizens on The Birmingham Plan, Draft 2, 10/08/2021. For your information, I have lived in Birmingham for 58 years and served on the City Planning Board for 20 years. During that period, the Birmingham Plan of 1980 was developed and approved. After reviewing the proposed Master Plan, issues have come to my attention which I wanted to share with you.

1) What is a master plan and what should we be looking for in Draft 2?

Most planners would agree that it should be a plan for the physical development of a municipality that includes land use, circulation, and a report presenting objectives, standards, and principles. Over the years, the scope has been expanded to include future land use, traffic circulation, sanitary, storm water and drainage, conservation, historic preservation, recreation and open space, adequacy of utilities, present and future parking needs, as well as a number of issues of concern to the community. A key element is participation by citizens who should help in developing the goals and objectives with the Planning Board. They should reach a consensus on what our community is today and what we want it to be in the future. A goal statement should be developed to communicate the purpose of the master plan.

2) For background, it is suggested that we review the goal statements of the two previous master plans.

The Village Plan of 1928 included in the forward "During the past 10 years, Birmingham has grown from a quiet village community of 2,500 to a metropolitan suburb of 12,000. Realizing that this growth would continue at the same rapid rate, a Planning Commission was appointed and they, after careful investigation, employed Mr. Arthur C. Comey, a national authority on city planning, to study the situation and needs of Birmingham with the idea of preserving and protecting the natural beauty of this village and making it a highly desirable residential community".

The Birmingham Plan of 1980 stated that "The Future Land Use Plan recommends that the basically single-family character of Birmingham be retained. Commercial land uses should not infiltrate or pressure established single-family residential neighborhoods. Birmingham is a city of fine single-family homes and this character should be carefully preserved in future years. During preparation of this Land Use Plan, the Birmingham City Commission set forth a strong goal statement which has guided the work of the Planning Board and the city's planning consultant as follows: To preserve and enhance Birmingham's principally single-family, low density residential nature and small-town character. To sustain a viable commercial district and to restrict commercial building density and height. To prohibit commercial intrusion into surrounding residential areas."

- 3) The Birmingham Plan of 2021 does not set forth a goal statement as such but includes the following comments in the introduction (See Pages 2 and 6):

"All too often the act of planning is encumbered by an obsession with the present and the past. It (Birmingham) has been a place built heavily upon community, weaving together neighborhoods, schools, churches, civic clubs and institutions and businesses...Birmingham is desirable. That desire results in growth pressure which continually increases property values...Through conversations with residents and leaders we've been exposed to...divergent desires. But overall, when we have surveyed residents, responses as a whole have been optimistic for the City's future. Birmingham is doing well today and will continue to be a wonderful place to live...Those who support change don't get involved while those who oppose it show up in force and ferocity." The survey on Page 4 provides percentages of those responding, their answers, but does not include the number of participants as compared with the population of 19,291. How representative is this sample?

- 4) The issue raised is if Birmingham is doing so well based on preserving its single-family character as recommended in the previous two master plans, why do we need change?

To answer that question, we need to look at the planner, Andres Dunay. He and Elizabeth Plater – Zyberk are the founders of New Urbanism and will include its principles in any plan they develop. New Urbanism is a movement that promotes walkable and diverse neighborhoods that are environmentally friendly, which sounds great. The next question is how is this implemented? The answer is in livable streets arranged in compact, walkable blocks. Further, that schools, stores, churches, and parks should be reached within a 10-minute walk in each neighborhood. This can only be achieved by a significant increase in density and developing commercial and multifamily residential along "seams" in single-family zoned areas. "Seams" are significant routes of vehicular, bicycle and pedestrian movement at the edges of planning districts (neighborhoods) and are one to two lots deep. (Examples in the Quarton Lake neighborhood would be Quarton Road, West Maple Avenue, Chesterfield Avenue and Lake Park Drive-Oak Street-Lakeside Road. See Page 14) This approach was raised in the initial draft which resulted in about 100 letters of objection received by the Commission. Most citizens that live in single family residents do not want intrusions of commercial and multi-family residential in their neighborhoods. Talk with your neighbors on this issue and get their feedback. A question frequently asked is why did you choose to move to Birmingham? Frequently, the responses will

mention great neighborhoods, good schools, and a viable downtown. That appears consistent with the goal statements in the two previous master plans.

- 5) The first draft plan called for an increase of 2,000 residential units to meet future demand. Is this supported by demographics? (See Page 50-52)

The Birmingham Plan of 1980 reports a population of 26,161 in 1970 and a projection by SEMCOG in 1980 of 26,667. The proposed plan reports a present population of 19,291 or a decrease of 7,376 or 28%. To provide additional housing, the second draft plan recommends increasing the height of lower buildings in the downtown area to 5 stories, add infill development to the proposed Haynes Square and Rail areas, and extend multi-family along seams around single-family neighborhoods. Based on the population decline that has occurred, what is the basis to say Birmingham needs 2,000 more residential units.

- 6) Parking is another issue.

Draft 2 acknowledges the need for additional parking and recommends that the City build additional parking structures as initially proposed in the 2007 Triangle District Plan as well as one in the vicinity of the proposed Haynes Square. Further, that developers of property in these areas would be relieved of providing any on-site parking and that the commercial and residential occupants would have access to permit parking in City structures.

- 7) New Urbanism: Has it worked?

Birmingham was introduced to New Urbanism in the 2016 Downtown Plan. It proposed increasing the density of Downtown by revising the Zoning Code to permit buildings of 5 stories (1st Floor Retail, 2nd and 3rd Floors Office and 4th and 5th Floors Residential). On-site parking would only be required for the Residential. The justification was to create a "live-work" environment where residents would be able to walk to work and eliminate the need for office parking. How has this worked out? Developers built only luxury condominiums which were out of the price range of most office workers. Before Covid-19, 95% to 98% of the Downtown office workers commuted by car from communities outside Birmingham filling the City's parking structures during the day and creating the need for more municipal parking capacity. To meet this need, the city has considered adding two decks to the Pierce Street Structure and building a replacement for the North Woodward Structure. It appears that the concept of "live-work" may be successful in large cities like New York, Chicago and San Francisco where public transportation is readily available, but it has not met the needs of suburbs like Birmingham.

- 8) Parking Alternatives

In the Birmingham Plan of 1980, downtown parking for new buildings was to be provided by developers on-site at a ratio of one space per 300 sf of office and one space per bedroom of residential. At the time, this was considered a better alternative than the city building more municipal parking structures. The cost and space limitations of providing on-site parking restricted new downtown buildings according to developers.

When the office building at the southeast corner of Old Woodward and Willits was constructed, the parking requirements were determined, and the developer paid their cost to the city which partially financed the Park Street Structure. Past Commissions thought that developments that generated parking demand should provide it on-site, where possible, or pay for the city to provide it. More recent Commissions have concluded that parking was a responsibility of the city and should be provided at no cost to developers. While it is recognized that more parking capacity is needed Downtown, the issue is who should pay for it, the developers and users or the citizens of Birmingham?

9) Process

Master Plans are usually developed by one of two processes, top-down or bottom-up. The Birmingham Plan 2021 Draft 2 prepared by Andres Dunay is a top-down approach in which the master plan is based on New Urbanism. This is to be expected because he and Elizabeth Plater-Zyberk are the founders of the movement. In essence, the proposed master plan becomes an education in New Urbanism as an approach to city planning. This movement promotes walkable and diverse neighborhoods that are environmentally friendly. The main principles are livable streets arranged in compact blocks, housing choices to serve a range of ages and income levels, schools, stores, and parks reachable by walking no more than 10 minutes and encouraging human-scaled buildings that define and enliven streets in (downtown) areas. Much of this approach is desirable, suggests minor improvements, but it is focused on change.

The Birmingham Plan of 1980 was a bottom-up process. Meetings were held in all neighborhoods of the city, the present zoning code explained, and residents were asked what they wanted their neighborhoods to be like in the future. In addition, the Central Business District was analyzed for potential development and the resulting needs for parking in accordance with direction of the City Commission. Numerous public meetings were held as the plan developed and public comment encouraged. In general, the most successful master plans are those that were developed through the bottom-up process and are evolutionary rather than revolutionary. This plan was focused on retaining the single-family character of Birmingham.

10) Conclusion

Birmingham is about 10% urban (office, retail, and service) and 90% residential after excluding streets, open space, public, parking, transportation, utility, and industrial uses. While the concept of New Urbanism may be applicable to the Downtown Central Business District and some adjoining properties, the proposed intrusion of commercial and multi-family uses along seams into single-family residential areas would be detrimental to neighborhoods. As single-family properties were rezoned to commercial or multifamily residential along seams, their value would increase and benefit developers while the value of the remaining single-family residential in the area would decrease due to the additional activity, traffic, and noise. The goals of New Urbanism are achieved at a price. That price is an increase in density and loss of the present residential character and quality of life.

The second issue is parking and who should pay for it. The proposed plan calls for the city to expand and construct parking decks in the Downtown Central Business District, the Triangle

District/Haynes Square and possibly the Rail District and Lot 6 (North Old Woodward). Additionally, the proposed plan suggests that present requirements for commercial and multi-family parking in these areas be eliminated and that the city provide it. We live adjacent to Motor City and private vehicles are the means of transportation for most of us. As a result, providing for parking is mandatory.

In most communities, the cost of parking is borne by developers and users. In some communities, this cost is shared through the creation of parking assessment districts as has been done in the CBD of Birmingham. However, the 2016 Plan and Zoning Overlay eliminated parking for offices which provided an incentive to developers but has resulted in the present parking shortage. The proposed plan doubles down on this problem by expanding the areas in which parking spaces are no longer required.

Given the size and configuration of many parcels that could be redeveloped, providing all on-site parking may not be possible in all situations. Although developers should be encouraged to provide as much on-site parking as possible, any remaining required spaces could be made up for by payment to the city to off-set the cost of building additional structures.

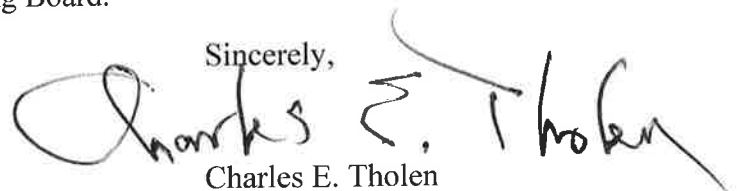
If the city finds it necessary to build another parking facility, the cost of the structure is currently estimated at \$50,000 per space plus the land. A site near downtown could cost as much as \$250 per SF or \$11 million an acre. A less costly approach would be to use city owned land, such as the surface lot on Willits behind the North Old Woodward parking deck, surface lot No. 6 or some of the DPW site on Eton.

Given our experience with Covid-19 and sheltering in place, people have become used to working from home and many prefer it. Therefore, the demand for the present offices may be different in the future and alternate uses sought for some of the existing space. It may be wise to delay any zoning or master plan actions, as well as parking deck construction, until the impact of Covid-19 and working from home are known.

There are many good recommendations in Draft 2 of the master plan which should be implemented. However, increasing density, intruding into single-family residential neighborhoods, and eliminating parking requirements are not compatible with previous master plans and should be excluded.

Thank you for undertaking an update of Birmingham's master plan. This is something that I lobbied for during my last few years on the Planning Board.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Tholen". The signature is fluid and cursive, with a large loop at the end.

Charles E. Tholen

cc: Planning Board

BirminghamPlan2021Draft2

MEMORANDUM

DATE: November 1, 2021

TO: Thomas M. Markus, Jana Ecker, Nicholas Dupuis and Bruce Johnson

FROM: Mary M. Kucharek

SUBJECT: Summarize House Bill No. 4722 as Part of the Michigan Zoning Enabling Act

House Bill 4722 has passed and is on its way to the Senate. This Bill has changed since a previous Bill relating to short term rentals. The previous Bill granted very limited ability for local government to regulate the use of short term rentals. While this Bill gives local authority some limited regulatory abilities, it still restricts the local unit of government's abilities to prohibit short term rentals and certain regulations.

I will summarize the most salient aspects of this House Bill.

- Short term rentals are not commercial uses of property.
- Short term rentals are residential and are permitted in all residential zones.
- Short term rentals cannot have special use or conditional use permits different than any other residential dwelling.
- The local unit of government cannot prohibit short term rentals in any way.
- Local governments may have zoning ordinances that regulate the following, as long as they also regulate owner occupied residences:
 - Noise
 - Advertising
 - Traffic
 - Nuisances
- Local government may inspect a short term rental, but only if it:
 - 1) is a protection of public health or safety;
 - 2) is not a zoning ordinance; and
 - 3) does not have the effect of prohibiting short term rentals.
- Local authority may collect taxes on short term rentals.

- Local government may limit the number of units owned by one (1) common ownership, but cannot be less than two (2).
- Local government may limit the total number of short term rental units used in the local unit, but cannot be less than thirty percent (30%) of all residential. (I have no idea how in the world we would potentially regulate this, what happens if it is in excess, can we shut them down? This particular House Bill is silent as to that remedy.)
- There is a grandfathering provision for local government that regulated overlay districts for short term rentals as of July 11, 2019 (that does not include the City).

This is on its way to the House. MML is very much against this ordinance, and MML is encouraging all local governments to speak to their senators to defeat the Senate Bill.

SUBSTITUTE FOR
HOUSE BILL NO. 4722

A bill to amend 2006 PA 110, entitled
"Michigan zoning enabling act,"
(MCL 125.3101 to 125.3702) by adding section 206b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 206b. (1) For the purposes of zoning, all of the
2 following apply to the rental of a dwelling, including, but not
3 limited to, short-term rental:

4 (a) It is a residential use of property and a permitted use in
5 all residential zones.

6 (b) It is not subject to a special use or conditional use
7 permit or procedure different from those required for other
8 dwellings in the same zone.

9 (c) It is not a commercial use of property.

(2) A local unit of government shall not adopt or enforce zoning ordinance provisions that have the effect of prohibiting short-term rentals.

(3) This section does not prohibit a zoning ordinance provision that is applied on a consistent basis to rental and owner-occupied residences and that regulates any of the following:

(a) Noise.

(b) Advertising.

(c) Traffic.

(d) Any other condition that may create a nuisance.

(4) This section does not prohibit a local unit of government from doing either of the following:

(a) Inspecting a residence for compliance with or enforcement of an ordinance of the local unit of government that meets all of the following requirements:

(i) Is for the protection of public health and safety.

(ii) Is not a zoning ordinance.

(iii) Does not have the effect of prohibiting short-term rentals.

(b) Collecting taxes otherwise authorized by law.

(5) Notwithstanding any other provision of this section, a local unit of government may limit the number of units under common ownership used for short-term rental in the local unit. The limit set by the local unit of government shall not be fewer than 2 units.

(6) Notwithstanding any other provision of this section, a local unit of government may limit the total number of units used for short-term rental in the local unit. The limit shall not be less than 30% of the number of existing residential units in the

Shaw?

1 local unit of government and shall apply without regard to the
2 location of dwelling units.

3 (7) Notwithstanding any other provision of this section, a
4 local unit of government that, as of July 11, 2019, had zoning
5 ordinance provisions that regulate the rental of dwellings by
6 overlay district without distinction between short-term rental and
7 rental for longer terms, and that, as of July 11, 2019, had a
8 rental overlay district or districts that were initiated by
9 petition, may continue to enforce those zoning ordinance provisions
10 as they existed on that date. Such a local unit of government may
11 revise existing overlay district boundaries or create new overlay
12 districts, but only under the terms of the zoning ordinance
13 provisions as they existed on July 11, 2019.

14 (8) As used in this section:

15 (a) "Common ownership" means ownership in whole or in part by
16 the same individual, individuals, or legal entity.

17 (b) "Short-term rental" means the rental of a single-family
18 residence, a dwelling unit in a 1-to-4-family house, or any unit or
19 group of units in a condominium, for terms of not more than 30
20 consecutive days.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.



City of Birmingham

A Walkable Community

October 27, 2021

Senator Mallory McMorrow
P.O. Box 30036
Lansing, MI 48909

Dear Senator McMorrow,

I am writing to you to request your opposition to HB 4722 which strips local governments of their ability to regulate short term rentals according to the priorities of the community. Our locally elected government officials live in the neighborhoods and interact with the people whom they serve. As such, these officials are best suited to make decisions based on what is best for our community and the health, safety and welfare of our residents. If HB 4722 passes, our locally elected officials will be greatly limited in their ability to regulate the number and location of short term rental units in their community and to respond to the needs of their constituents.

By stripping local governments of their ability to regulate short term rentals in their communities, these bills represent an encroachment upon Home Rule. Therefore, I urge you to oppose HB 4722.

Respectfully,

Thomas M. Markus
City Manager Birmingham

cc: Birmingham City Commission

CHARTER TOWNSHIP OF BLOOMFIELD
NOTICE OF PUBLIC HEARING
ZONING BOARD OF APPEALS

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing at the Bloomfield Township Hall, 4200 Telegraph Road, on **TUESDAY, November 9, 2021 at 7:00 P.M.** to consider the following appeal:

Seeking approval for a proposed covered porch addition over an existing porch, encroaching 8 ft. into the required 40 ft. front yard setback and expanding an existing non-conforming structure, Section 26 & 27 Judson Bradway's Bloomfield Village Lot 166. The Code of the Charter Township of Bloomfield, Section 42-3.1, requires a minimum forty (40) ft. front yard setback in a single-family residential zone district. The Code of the Charter Township of Bloomfield, Section 42-7.12, states that a non-conforming structure may not be enlarged or altered in a way which increases its nonconformity.
(G. Moor, 366 Waddington Rd., 19-26-356-005)

Described as: Section 26 & 27 Judson Bradway's Bloomfield Village Lot 166

Sidwell No: 19-26-356-005

Patricia Voelker, Director
Planning, Building and Ordinance

Complete copies of the appeals can be viewed at the Township Hall during regular business hours in the Planning, Building, and Ordinance Department, from 7:00 a.m. to 5:30 p.m., Monday through Thursday. Comments may be provided at the public hearing or by writing to: Bloomfield Township Planning, Building, and Ordinance Department, P.O. Box 489, Bloomfield Hills, MI 48303-0489 - Telephone: (248) 433-7795 - Fax: (248) 433-7729 or via email to zba-publiccomment@bloomfieldtwp.org

To view the meeting live, go to Comcast Channel 15 or AT&T Channel 99 or via the internet: [Bloomfield Twp., MI – Public Meetings](#)



To view the Zoning Board of Appeals packet posted on Documents on Demand by the end of business **Thursday, November 4th** you can use the QR code to the right.



NOTE: The Charter Township of Bloomfield will provide necessary, reasonable auxiliary aids and services at all meetings to individuals with disabilities. All such requests must be made at least five days prior to said meeting. Individuals with disabilities requiring auxiliary aids or services should contact the Bloomfield Township Planning Division by writing or calling the following: Planning Division, P.O. Box 489, Bloomfield Hills, MI 48303-0489 - Telephone: (248) 433-7795 - Fax: (248) 433-7729.

Dated: October 25, 2021

INFORMATION ONLY

CHARTER TOWNSHIP OF BLOOMFIELD
NOTICE OF PUBLIC HEARING
ZONING BOARD OF APPEALS

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing at the Bloomfield Township Hall, 4200 Telegraph Road, on **TUESDAY, November 9, 2021 at 7:00 P.M.** to consider the following appeal:

Seeking approval for a 14 ft. by 15 ft. by 11 ft. high shed located in the Oxford Road secondary frontage, Section 25 Bloomfield Manor Sub Lot 20. The Code of the Charter Township of Bloomfield, Section 42-5.1 states that accessory uses / structures shall not be erected in any yard, except a rear yard, shall be set back at least 16 ft. from the side and rear lot lines, shall not exceed fourteen (14) feet in height, shall be screened from adjacent residences with evergreen and deciduous material, which will obscure view twelve (12) months of the year, that such vegetation shall be maintained in a healthy condition, and shall require the review and approval of the Zoning Board of Appeals. The Code of the Charter Township of Bloomfield, Section 42-3.1, requires a minimum sixteen (16) ft. side yard setback in a single-family residential zone district.

(J. Stratton, 295 Harrow Circle, 19-25-203-004)

Described as: Section 25 Bloomfield Manor Sub Lot 20

Sidwell No: 19-25-203-004

Patricia Voelker, Director
Planning, Building and Ordinance

Complete copies of the appeals can be viewed at the Township Hall during regular business hours in the Planning, Building, and Ordinance Department, from 7:00 a.m. to 5:30 p.m., Monday through Thursday. Comments may be provided at the public hearing or by writing to: Bloomfield Township Planning, Building, and Ordinance Department, P.O. Box 489, Bloomfield Hills, MI 48303-0489 - Telephone: (248) 433-7795 - Fax: (248) 433-7729 or via email to zba-publiccomment@bloomfieldtwp.org

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Dated: October 25, 2021

INFORMATION ONLY

CHARTER TOWNSHIP OF BLOOMFIELD
NOTICE OF PUBLIC HEARING
ZONING BOARD OF APPEALS

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing at the Bloomfield Township Hall, 4200 Telegraph Road, on **TUESDAY, November 9, 2021 at 7:00 P.M.** to consider the following appeal:

Seeking approval for an existing ground mounted mechanical unit, a chiller, located in the parking lot behind the office building at 36700 Woodward Avenue and in the Manor Road secondary frontage, and for expanding an existing non-conforming use by reducing 2 parking spaces to allow space for the chiller, Section 25 Supervisors Plat No 5 Lots 15 To 18 Incl. The Code of the Charter Township of Bloomfield, Section 42-7.12, states that a non-conforming structure and uses may not be enlarged or altered in a way which increases its nonconformity. The Code of the Charter Township of Bloomfield, Section 42-5.2 Parking Standards states that Business Offices or professional offices require one (1) parking space for each two hundred and seventy five (275) square feet. The Code of the Charter Township of Bloomfield, Section 42-5.1, states that ground mounted mechanical units in no residential districts shall in all instances be placed in a rear yard when side yards are less than twenty (20) feet in width. When placed in side yards of greater than twenty (20) feet in width they shall be placed immediately adjacent to the unit intended to be served. They shall be screened from view through the use of materials identical to those used in the main building at the point of placement of the air conditioner. When placed on the roof of a structure they shall be fully obscured from view meeting all the requirements of height, bulk, setback and material as set forth in Section 42-3.10.10.

(Dietz Property Group, 36700 Woodward Ave., 19-25-126-025)

Described as: Section 25 Supervisors Plat No 5 Lots 15 To 18 Incl

Sidwell No: 19-25-126-025

Patricia Voelker, Director
Planning, Building and Ordinance

Complete copies of the appeals can be viewed at the Township Hall during regular business hours in the Planning, Building, and Ordinance Department, from 7:00 a.m. to 5:30 p.m., Monday through Thursday. Comments may be provided at the public hearing or by writing to: Bloomfield Township Planning, Building, and Ordinance Department, P.O. Box 489, Bloomfield Hills, MI 48303-0489 - Telephone: (248) 433-7795 - Fax: (248) 433-7729 or via email to zba-publiccomment@bloomfieldtwp.org

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Dated: October 25, 2021

INFORMATION ONLY

**CITY CLERK
CITY OF BIRMINGHAM
P.O. BOX 3001, 151 MARTIN STREET
BIRMINGHAM, MI 48012**

**STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION
NOTICE OF HEARING
FOR THE ELECTRIC CUSTOMERS OF
DTE ELECTRIC COMPANY
CASE NO. U-21087**

- DTE Electric Company requests Michigan Public Service Commission's approval of a partial waiver of the Consumer Standards and Billing Practices for Electric Residential Service and approval of a Voluntary Prepay Billing Program.
- The information below describes how a person may participate in this case.
- You may call or write DTE Electric Company, One Energy Plaza, 570 SB, Detroit, MI 48226, (800) 477-4747 for a free copy of its application. Any person may review the documents at the offices of DTE Electric Company.
- A pre-hearing will be held:

DATE/TIME: Wednesday, November 17, 2021 at 9:00 AM

BEFORE: Administrative Law Judge Katherine Talbot

LOCATION: Video/Teleconferencing

PARTICIPATION: Any interested person may participate. Persons needing any assistance to participate should contact the Commission's Executive Secretary at (517) 284-8090, or by email at mpscedockets@michigan.gov in advance of the hearing.

The Michigan Public Service Commission (Commission) will hold a pre-hearing to consider DTE Electric Company's (DTE Electric) September 30, 2021 application requesting the Commission to authorize: 1) DTE Electric's request for approval of its Prepay Program; 2) waiving the Rules 460.120 (3), 460.129(4), 460.139(1), 460.139(6), 460.140(1), 460.140(2) and 460.143(1) of the Michigan Administrative Code in order to allow DTE Electric to implement the Prepay Program; and 3) granting DTE Electric further additional relief.

INFORMATION ONLY

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets website at: michigan.gov/mpscdockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to: mpscdockets@michigan.gov. If you require assistance prior to e-filing, contact Commission staff at (517) 284-8090 or by email at: mpscdockets@michigan.gov.

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by November 10, 2021. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon DTE Electric Company's attorney, Carlton D. Watson, One Energy Plaza, Detroit, MI 48226.

The prehearing is scheduled to be held remotely by video conference or teleconference. Persons filing a petition to intervene will be advised of the process to participate in the hearing.

Any person wishing to participate without intervention under Mich Admin Code, R 792.10413 (Rule 413), or file a public comment, may do so by filing a written statement in this docket. The written statement may be mailed or emailed and should reference Case No. **U-21087**. Statements may be emailed to: mpscdockets@michigan.gov. Statements may be mailed to: Executive Secretary, Michigan Public Service Commission, 7109 West Saginaw Hwy., Lansing, MI 48917. All information submitted to the Commission in this matter becomes public information, thus available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

Requests for adjournment must be made pursuant to Michigan Office of Administrative Hearings and Rules R 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 284-8130.

A copy of DTE Electric Company's application may be reviewed on the Commission's website at: michigan.gov/mpscdockets, and at the office of DTE Electric Company. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and Parts 1 & 4 of the Michigan Office of Administrative Hearings and Rules, Mich. Admin Code, R 792.10106 and R 792.10401 through R 792.10448.

U-21087

INFORMATION ONLY



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

PAUL C. AJEGBA
DIRECTOR

October 26, 2021

Jana L. Ecker, Assistant City Manager
City of Birmingham
P.O. Box 3001
Birmingham, Michigan 48012

Dear Jana L. Ecker:

Governor Whitmer asked me to respond to your recent letter regarding pedestrian safety concerns on Woodward Avenue (M-1). The Michigan Department of Transportation's (MDOT's) number one priority is the safety of pedestrians and the motoring public.

On October 4, 2021, Senator McMorro and Representative Manoogian sent a joint letter to Tom Markus, Birmingham City Manager, detailing how MDOT has been working expeditiously to identify ways to improve pedestrian safety at the crosswalk on M-1 at Forest Street. Following a meeting on September 22, 2021, where MDOT engineers met with the City of Birmingham officials, we began expediting the design and implementation of a flashing pedestrian crossing sign installation on northbound Woodward at the crosswalk. This interim safety measure brings attention to the crossing and provides better motorist awareness. MDOT is finalizing the location for the flashing pedestrian warning sign and working on the design. The design is being conducted in house as a top priority and should be completed in approximately six weeks. Once the design is complete, the Road Commission for Oakland County (RCOC) has committed to the installation. RCOC has indicated they anticipate having the flashing pedestrian crossing sign installed by the end of this year or in early January 2022.

Additionally, MDOT recently completed pedestrian counts at this location. We are required to meet a minimum threshold as to the number of pedestrians crossing per hour to permit installation of a pedestrian traffic signal. The existing pedestrian counts met the minimum pedestrian crossing volumes; therefore, MDOT has moved to the design phase for installation of a pedestrian signal on northbound Woodward. The work will also include adding countdown pedestrian signals to the existing southbound traffic signal. MDOT is committed to expediting the design of these safety features. Realistically, even with an expedited design schedule, we anticipate the pedestrian traffic signal will be installed sometime in the second half of 2022.

Jana L. Ecker
Page 2
October 26, 2021

The cost estimates for the flashing beacon sign and the pedestrian traffic signal are currently being estimated. The safety improvements will be funded by MDOT, with the City of Birmingham participating with their local cost sharing agreement (1951 PA 51).

Also discussed at the September field meeting with MDOT and City of Birmingham staff was the need for improved streetlighting. The streetlights that are currently on M-1 within the MDOT right-of-way are there by permit with DTE at the request of the City of Birmingham. MDOT appreciates the City of Birmingham reaching out to DTE to work out a plan to improve visibility at the crosswalk, and will be ready to process any permit application that is received to upgrade the DTE facilities within the MDOT right-of-way.

We appreciate the City of Birmingham's commitment to assisting MDOT in maintaining a high-quality transportation system for our residents. Together we have developed a strong partnership over the years, and we are dedicated to continuing this positive relationship in the future.

Thank you for sharing your concerns with us. If you have any questions regarding this or any other transportation-related issues, please feel free to contact either me or Lori Swanson, Oakland Transportation Service Center Manager, at SwansonL@Michigan.gov or 248-361-0234.

Sincerely,

Paul C. Ajegba, P.E. Paul C. Ajegba, P.E.
Oct 26 2021 11:03 AM

Paul C. Ajegba, P.E.
Director

cc: Executive Office of the Governor
 M. Manoogian, State Representative, 40th House District
 M. McMorrow, State Senator, District 13
 C. Moss, Oakland County Commissioner
 T. Markus, Birmingham City Manager
 Birmingham City Commission
 City of Birmingham Department Heads
 L. Swanson, MDOT/Metro Region

INFORMATION ONLY