I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Andrew M. Harris, Mayor

II. ROLL CALL

J. Cherilynn Mynsberge, City Clerk

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

Announcements:

- The Baldwin Public Library is excited to introduce Kanopy, an on-demand movie streaming service featuring over 30,000 titles. Kanopy specializes in award-winning, foreign language, documentary, and hard-to-find films. Patrons can watch Kanopy on all of their devices. Visit baldwinlib.kanopy.com to get started.

- The Birmingham Museum will hold a family-friendly open house entitled "A Walk in the Park," on the museum grounds on Sunday, September 9, from 1:30 to 3:30 pm to share plans for the historic landscape and receive public feedback.

Appointments:

A. Interviews for the Advisory Parking Committee
   1. Algirdas “Al” Vaitas
   2. Jennifer S. Yert
   3. Anne Honhart

B. Appointments to the Advisory Parking Committee
   1. To appoint _____ to the Advisory Parking Committee as a regular member who is a building owner within the parking assessment district to serve a three-year term to expire September 4, 2021.
   2. To appoint _____ to the Advisory Parking Committee as a representative of a small retail operation within the parking assessment district to serve a three-year term to expire September 4, 2021.
   3. To appoint _____ to the Advisory Parking Committee as a regular member who is a resident who does not qualify under the following categories: downtown commercial representative of large retail, small retail, a professional firm, a building owner, a restaurant owner, or a downtown employee to serve a three-year term to expire September 4, 2021.

C. Interviews for the Joint Senior Services Committee
   1. Gordon Rinschler
   2. Jack Burns

D. Appointment to the Joint Senior Services Committee
1. To appoint _____ to the Joint Senior Services Committee as the Birmingham representative.

I. Administration of Oath of Office to Appointees

IV. CONSENT AGENDA

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

A. Resolution approving the City Commission meeting minutes of July 23, 2018.

B. Resolution approving the warrant list, including Automated Clearing House payments, dated July 25, 2018 in the amount of $1,513,374.31.

C. Resolution approving the warrant list, including Automated Clearing House payments, dated August 1, 2018 in the amount of $400,750.84.

D. Resolution accepting the resignation of Jason Canvasser from the Board of Zoning Appeals as an Alternate Member and directing the City Clerk to begin the process of filling the vacancy.

E. Resolution accepting the resignation of Ryan Ross from the Parks and Recreation Board as a Regular Member and directing the City Clerk to begin the process of filling the vacancy.

F. Resolution approving a request submitted by the Birmingham Bloomfield Chamber and Junior League of Birmingham requesting permission to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 28, 2018 in downtown Birmingham, 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.

G. Resolution approving the tree removal agreement with adjacent property owner Linda Bloch for shared cost of $800.00 for removal of three invasive fence line trees, to be expended from Hunter House Account 101-804.001-811.0000, Other Contractual Services; $400.00 of which will be reimbursed by Ms. Bloch.

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

I. Resolution awarding the S. Eton Rd. Signing and Pavement Marking Improvements, Contract #11-18(P) to PK Contracting, Inc., in the amount of $123,525.00, to be charged to the Major Street Fund, account number 202-449.001-981.0100, contingent upon execution of the agreement and meeting all insurance requirements. Further, approving an amendment to the 2018-19 fiscal year budget as follows:

<table>
<thead>
<tr>
<th>Major Street Fund</th>
<th>Revenues:</th>
<th>Expenditures:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Draw from Fund Balance 202-000.000-400.0000</td>
<td>$123,525</td>
</tr>
<tr>
<td></td>
<td>Total Revenue Adjustments</td>
<td>$123,525</td>
</tr>
<tr>
<td></td>
<td>Other Contractual Service 202-449.001-981.0100</td>
<td>$123,525</td>
</tr>
</tbody>
</table>
Total Expenditure Adjustments $123,525

J. Resolution awarding the New Lockers for Birmingham Police Department contract to Steel Equipment Company, in an amount not to exceed $ 55,100.00 to be charged to account 401-265.003-977.0000 and authorizing the Mayor and City Clerk to sign the agreement for these services, further, approving the appropriation and amendment to the 2018-2019 Capital Project Fund budget as follows:

Capital Projects Fund
Revenues:
   Draw from Fund Balance 401-000.000-400.0000 $55,100
Expenditures:
   Buildings – City Hall and Grounds 401-265.001-977.0000 $55,100

K. Resolution approving the contract with McKenna Associates in the amount of $5000.00 payable from account # 101-721-000-811.000, to provide professional services to prepare a concept plan for the linear park recommended in the Eton Road Corridor Plan, and directing the Mayor to execute same.

L. Resolution setting Monday, September 17, 2018 at 7:30 PM for a public hearing to consider the request by the property owner to eliminate the historic designation on 361 E. Maple.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. Resolution cancelling the public hearing to consider approval of the Final Site Plan and Special Land Use Permit for 223 - 225 E. Maple, Social Kitchen and Bar, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code.

B. Resolution cancelling the public hearing to consider approval of the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5 and referring the matter back to the Planning Board.

C. Resolution approving the Birmingham Museum Grounds Group Use Rules and associated application and fees.

D. Resolution approving the Planning, Zoning & Parking Consulting Services RFP, and directing staff to issue the RFP by August 17, 2018; OR

Resolution approving the scope of work for Planning, Zoning & Parking Services and seeking to amend the existing service agreement with the City’s existing parking consultant team (Nelson Nygaard/MKSK) given their familiarity with Downtown parking and land use regulations and returning to the City Commission for approval.

E. Resolution approving the Downtown Retail Review RFP, and directing staff to issue the RFP by August 17, 2018.

F. Ordinance amending Part II of the City Code, Chapter 74, Offenses, Article IV, Offenses Against Property to include the following two new ordinances: Section 74-81: Theft; Prosecution; Jurisdiction

AND
Section 74-109: Intent to Defraud for Services and Section 74-109 (A) – Penalty for Violation of Section 74-109. Furthermore, authorizing the Mayor and the City Clerk to sign the ordinance amendments on behalf of the City.

G. Resolution appointing one Commissioner as the Birmingham City Commission’s official voting delegate, and one Commissioner as the alternate voting delegate, at the Michigan Municipal League Annual Meeting to be held in Grand Rapids, Michigan on September 21, 2018.

H. Resolution to meet in closed session pursuant to Section 8(h) of the Open Meetings Act, MCL 15.261 – 15.275.

(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

A. Commissioner Reports
   1. Notice of Intention to appoint three regular members to the Design Review Board on September 6, 2018.
   2. Notice of Intention to appoint three regular members to the Historic District Commission on September 6, 2018.
   3. Notice of Intention to appoint one alternate member to the Board of Zoning Appeals on September 6, 2018.
   4. Notice of Intention to appoint one regular member to the Parks and Recreation Board on September 6, 2018.

B. Commissioner Comments
C. Advisory Boards, Committees, Commissions’ Reports and Agendas
D. Legislation
E. City Staff
   1. Parking Utilization Report

XI. ADJOURN

INFORMATION ONLY

NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk’s Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance. Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).
NOTICE OF INTENTION TO APPOINT TO THE  
ADVISORY PARKING COMMITTEE

At the regular meeting of Monday, August 13, 2018, the Birmingham City Commission intends to appoint three regular members to the Advisory Parking Committee to serve three-year terms expiring September 4, 2021. (There are also four vacancies which have been posted for some time.)

Interested citizens may submit an application available at the City Clerk’s Office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s Office on or before noon on Wednesday, August 8, 2018. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

Committee Duties
The Advisory Parking Committee shall provide guidance to the City Commission in the management of Birmingham’s Auto Parking System. The Committee shall recognize parking requirements of the CBD and fairly assess the costs to users. It will provide for attractive, maintained and safe facilities.

Applicant(s) Presented For City Commission Consideration:

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Criteria/ Qualifications</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Downtown commercial large retail business.</td>
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<tr>
<td></td>
<td>Building owner within the parking assessment district</td>
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<tr>
<td>Algirdas “Al” Vaitas</td>
<td>Representative of a small retail operation within the parking assessment district</td>
</tr>
<tr>
<td>Anne Honhart 197 E. Frank</td>
<td>Resident who does not qualify under the following categories: downtown commercial representative of large retail, small retail, a professional firm, a building owner, a restaurant owner, or a downtown employee.</td>
</tr>
</tbody>
</table>
### Applicant Name | Criteria/ Qualifications
--- | ---
Jennifer S. Yert 490 Park St. | Alternate. Alternates under consideration for selection and addition to a committee or board must meet one of the already established criteria for one of the regular members. Ms. Yert is both a resident and a downtown employee.

*NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.*
SUGGESTED ACTION:

To appoint _____ to the Advisory Parking Committee as a regular member who is a building owner within the parking assessment district to serve a three-year term to expire September 4, 2021.

To appoint _____ to the Advisory Parking Committee as a regular member who is a representative of a small retail operation within the parking assessment district to serve a three-year term to expire September 4, 2021.

To appoint _____ to the Advisory Parking Committee as a regular member who is a resident who does not qualify under the following categories: downtown commercial representative of large retail, small retail, a professional firm, a building owner, a restaurant owner, or a downtown employee to serve a three-year term to expire September 4, 2021.

To appoint _____ to the Advisory Parking Committee as an alternate member who is a downtown employee representative to serve the remainder of a three-year term to expire September 4, 2020.
ADVISORY PARKING COMMITTEE


Terms: Three years
Appointment requirements for regular members: The majority of the members shall be residents and membership shall be as follows:
  Downtown commercial representatives - large retail - 1 member; small retail - 1 member; professional firm - 1 member; building owner - 1 member; restaurant owner - 1 member; downtown employee representative - 1 member; residential - two members who do not qualify under any of the previous categories, and one resident shopper.
  2 alternate members may be appointed who own property, own a business or work in the parking assessment district.

The Advisory Parking Committee shall provide guidance to the City Commission in the management of Birmingham's Auto Parking System. The committee shall recognize parking requirements of the CBD and fairly assess the costs to users. It will provide for attractive, maintained and safe facilities.

<table>
<thead>
<tr>
<th>Last Name</th>
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<th>Home Address</th>
<th>Business E-Mail</th>
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<tr>
<td>Champagne</td>
<td>Gayle</td>
<td>833 Hazel Birmingham 48009</td>
<td>(248) 978-5581 <a href="mailto:gchampagne1@aol.com">gchampagne1@aol.com</a></td>
<td>6/6/2016</td>
<td>9/4/2019</td>
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<tr>
<td>Honhart</td>
<td>Anne</td>
<td>197 E. Frank Birmingham 48009</td>
<td>(248) 644-3678 <a href="mailto:ahonhart@atlaswelding.com">ahonhart@atlaswelding.com</a></td>
<td>9/4/1984</td>
<td>9/4/2018</td>
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<tr>
<td>Kalczynski</td>
<td>Steven</td>
<td>100 Townsend Birmingham 48009</td>
<td>(248) 642-7900 <a href="mailto:skalczynski@yahoo.com">skalczynski@yahoo.com</a></td>
<td>11/26/2012</td>
<td>9/4/2020</td>
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<tr>
<td>Krueger</td>
<td>Lisa</td>
<td>348 Ferndale Ave Birmingham 48009</td>
<td>(248) 921-0099 <a href="mailto:lisakrug21@gmail.com">lisakrug21@gmail.com</a></td>
<td>3/30/2015</td>
<td>9/4/2020</td>
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<tr>
<td>Last Name</td>
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<tr>
<td></td>
<td></td>
<td>Birmingham 48009</td>
<td><a href="mailto:judithpaskiewicz@hotmail.com">judithpaskiewicz@hotmail.com</a></td>
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<td>Vaitas</td>
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<td>2633 Endsleigh Drive</td>
<td>(248) 593-3177</td>
<td>11/13/2006</td>
<td>9/4/2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bloomfield Village 48301</td>
<td><a href="mailto:alvortho@aol.com">alvortho@aol.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yaple</td>
<td>Anjay</td>
<td>622 Vinewood Ave.</td>
<td>(248) 550-8801</td>
<td>2/26/2018</td>
<td>12/31/2018</td>
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<tr>
<td></td>
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<td><a href="mailto:yaple.anjay93@bloomfield.org">yaple.anjay93@bloomfield.org</a></td>
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### CITY BOARD/COMMITTEE ATTENDANCE RECORD

**Board/Committee:** Advisory Parking Committee  
**Year:** 2015

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<th>MEMBER NAME</th>
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<th>Aug</th>
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<th>Nov</th>
<th>Dec</th>
<th>Total Mtgs.</th>
<th>Total Absent</th>
<th>Percent Attend</th>
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<tbody>
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| ALTERNATES |     |     |     |     |     |      |      |     |      |     |     |     |             |              |                |
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| Member 2    |     |     |     |     |     |      |      |     |      |     |     |     | 0            | 0            | #DIV/0!         |
| Reserved    |     |     |     |     |     |      |      |     |      |     |     |     | 0            | 0            | #DIV/0!         |
| Reserved    |     |     |     |     |     |      |      |     |      |     |     |     | 0            | 0            | #DIV/0!         |

**Members in attendance:** 7 5 5 7 6 0 0 0 0 6 0 0 0

**KEY:**  
A = Absent  
P = Present  
NM = No Meeting  
na = not appointed at that time  
* = MEMBER RESIGNED

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**Department Head Signature**
# City Board/Committee Attendance Record

**Board/Committee:** Advisory Parking Committee  
**Year:** 2016

<table>
<thead>
<tr>
<th>MEMBER NAME</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
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<th>Nov</th>
<th>Dec</th>
<th>Total Mtgs.</th>
<th>Total Absent</th>
<th>Percent Attend</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REGULAR MEMBERS</strong></td>
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<td>Kalcynski, Steven</td>
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| **ALTERNATES**    |     |     |     |     |     |      |      |     |      |     |     |     |             |              |                |
| Member 1          |     |     |     |     |     |      |      |     |      |     |     |     |             |              | #DIV/0!         |
| Member 2          |     |     |     |     |     |      |      |     |      |     |     |     |             |              | #DIV/0!         |
| Reserved          |     |     |     |     |     |      |      |     |      |     |     |     |             |              | #DIV/0!         |
| Reserved          |     |     |     |     |     |      |      |     |      |     |     |     |             |              | #DIV/0!         |

| Members in attendance | 7 | 0 | 7 | 6 | 6 | 0 | 8 | 7 | 5 | 6 | 0 | 6 |

**Key:**  
- A = Absent  
- P = Present  
- NM = No Meeting  
- na = not appointed at that time  
- * = MEMBER RESIGNED

---

Department Head Signature
### CITY BOARD/COMMITTEE ATTENDANCE RECORD

**Name of Board:** Advisory Parking Committee  
**Members Required for Quorum:** 4  
**Year:** 2017

**Members Attendance:**

<table>
<thead>
<tr>
<th>REGULAR MEMBERS</th>
<th>JAN</th>
<th>FEB</th>
<th>MAR</th>
<th>APR</th>
<th>MAY</th>
<th>JUNE</th>
<th>JULY</th>
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<th>DEC</th>
<th>Mtgs.</th>
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<th>Attended</th>
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**KEY:**
- **A** = Member absent
- **P** = Member present or available
- **CP** = Member available, but meeting canceled for lack of quorum
- **CA** = Member not available and meeting was canceled for lack of quorum
- **NA** = Member not appointed at that time
- **NM** = No meeting scheduled that month
- **CM** = Meeting canceled for lack of business items

**Department Head Signature**
## CITY BOARD/ COMMITTEE ATTENDANCE RECORD

Name of Board: Advisory Parking Committee  
Year: 2018  
Members Required for Quorum: 4

<table>
<thead>
<tr>
<th>MEMBER NAME</th>
<th>JAN</th>
<th>FEB</th>
<th>MAR</th>
<th>APR</th>
<th>MAY</th>
<th>JUNE</th>
<th>JULY</th>
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<th>DEC</th>
<th>MTG</th>
<th>MTG</th>
<th>Mtgs.</th>
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<th>Attended</th>
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</table>

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Department Head Signature
Expectations of Alternates on City Boards or Committees

The following guidelines have been adopted from the May 22, 2017 Birmingham City Commission meeting. The Commission gave direction regarding alternates being required to attend all meetings, explaining that by being present in the room, it will elevate the status of alternates, promote comradery between the alternates and the regular board members, establish continuity in discussions, and allow alternates to be fully prepared. Further, it was proposed that every member of a board or committee who misses a meeting be required to either read the minutes or watch the video of the meeting in order to keep up. The expectation of the alternate is the same level of that of a regular member. The expectations are as follows:

1. Alternates are expected to attend all meetings of their appointed board just as regular members are expected to attend all meetings. Alternates are to be utilized on a rotating basis to sit as a regular member in the absence of a regular member, except the Board of Zoning Appeals (BZA) may continue the existing practice of utilizing alternates by seniority.

2. Alternates are provided the same access (printed or electronic) to the agenda packet as regular members.

3. A record of attendance for all members, regular and alternates, is maintained by the staff person assigned to each board. If a member or an alternate cannot make a meeting, he or she should contact the staff person and advise them of their intended absence.

4. In meetings where an issue discussed will be continued at a future meeting, and an alternate was utilized for that specific meeting, it is appropriate that the same alternate be utilized for that issue, and the regular member to recuse his or herself for that issue based on their earlier absence.

5. Alternates under consideration for selection and addition to a committee or board as a regular member, must meet one of the already established criteria for one of the regular members.
City Boards and Committees with Alternate Members

Advisory Parking Committee
Board of Review
Board of Zoning Appeals (not subject to #1)
Cablecasting Board
Design Review Board
Hearing Officer
Historic District Commission
Multi-Modal Transportation Board
Parks and Recreation Board
Planning Board
Public Arts Board

Adopted by City Commission 5/22/2017. Final version inserting introductory explanation for the change in policy approved by City Manager 6/19/2017.
APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: ADVISORY PARKING COMMITTEE
Specific Category/Vacancy on Board: SMALL RETAIL

Name: ALGIRDAS VAITAS
Phone: 248-593-3177

Residential Address: 2633 ENDSLEIGH TRL
Email: ALVORTH0@AOL.COM
Residential City, Zip: BLOOMFIELD HILLS, 48301
Length of Residence: 22 YRS

Business Address: 620 N. OLD WOODWARD AVE
Occupation: ORTHODONTIST
Business City, Zip: BIRMINGHAM, 48009

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied

MY FIRST DEGREE IS BACHELOR OF SCIENCE IN ENGINEERING FROM THE U. OF M.

List your related employment experience

MY OFFICE HAS BEEN LOCATED IN THE LOT #6 AREA SINCE 1996

List your related community activities

I AM CURRENTLY CHAIRMAN OF THE APC

List your related educational experience

B.S. IN ENGINEERING- UNIVERSITY OF MICH. DOCTOR OF DENTAL MEDICINE- BOSTON UNIVERSITY, ORTHODONTIC SPECIALTY CERTIFICATE- BOSTON UNIV.

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: NO

Do you currently have a relative serving on the board/committee to which you have applied? NO

Are you an elector (registered voter) in the City of Birmingham? NO

Signature of Applicant: 
Date: 7-20-18

Return the completed and signed application form to: City of Birmingham, City Clerk’s Office, 151 Martin, Birmingham, MI 48009 or by email to cmynsberge@bhamgov.org or by fax to 248.530.1080.

Updated 8/16/17

3A1
APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: Advisory Parking Committee
Specific Category/Vacancy on Board: Alternate / Resident / Downtown Employee

Name: Jennifer S. Yelt
Residential Address: 490 Park St.
Residential City, Zip: Birmingham MI 48009

Phone: 617.308.0080
Email: suesq@yahoo.com

Length of Residence: 14.5 years

Business Address: 550 W. Merrill St. Suite 200
Business City, Zip: Birmingham MI 48009

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied. As a resident and employee in the City, I am familiar with the parking challenges the City faces.

List your related employment experience: I am an attorney and am familiar with law and regulations and how to apply them.

List your related community activities: Parent - Volunteer - Academy of the Sacred Heart - Parish Member - Holy Name, Baseball - Hockey mom in Birmingham

List your related educational experience: Northeastern University - B.A., Boston, MA
Suffolk University Law School - Boston, MA

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: NO

Do you currently have a relative serving on the board/committee to which you have applied? NO

Are you an elector (registered voter) in the City of Birmingham? YES

Signature of Applicant: Jennifer S. Yelt
Date: 8.6.18

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to cmynsberge@bhamgov.org or by fax to 248.530.1080.

Updated 8/16/17
Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: Advisory Parking Committee

Specific Category/Vacancy on Board:

Name: Anne Horbach
Residential Address: 197 E Frank St.
Residential City, Zip: Birmingham, MI 48009
Business Address: 501 Stephenson Hwy
Business City, Zip: Troy, MI 48083

Phone: 248.644.3678
Email:
Length of Residence: 38 years
Occupation: Project Coordinator

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied.

I have served on the APC for over 30 years and if I don't lose my long term memory entirely it may be of some use to this committee.

List your related employment experience:

List your related community activities: None of my community activities relate to downtown parking.

List your related educational experience: None of my educational experiences other than having a building license, relates to parking in downtown Birmingham.

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No.

Do you currently have a relative serving on the board/committee to which you have applied? No.

Are you an elector (registered voter) in the City of Birmingham? Yes.

Signature of Applicant: Anne Horbach
Date: 8/8/18

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to cmynsberge@bhamgov.org or by fax to 248.530.1080.

Updated 8/16/17
August 8, 2018

Dear Birmingham City Commission and City Clerk,

I am sorry to have missed this opportunity to appear before you regarding my application to serve (once again) on the Birmingham Advisory Parking Committee.

I shall be out of town on August 13.

Please let me know of any further questions you may have.

Thank you,

Anna Korbent
197 E. Frank St.
Birmingham, MI 48009
NOTICE OF INTENTION TO APPOINT TO THE
AD HOC JOINT SENIOR SERVICES COMMITTEE

At the regular meeting of Monday, August 13, 2018, the Birmingham City Commission
intends to appoint one resident member to the Ad Hoc Joint Senior Services Committee.

Interested citizens may submit an application available at the City Clerk’s Office or online at
www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s
Office on or before noon on Wednesday, August 8, 2018. These documents will appear in
the public agenda for the regular meeting at which time the City Commission will discuss
recommendations, and may make nominations and voter on appointments.

Committee Duties
The Ad Hoc Joint Senior Services Committee will be comprised of representatives from the
member communities of Beverly Hills, Bingham Farms, Birmingham, Franklin and Southfield
Township. The Birmingham Public Schools (BPS) will also be represented. The Committee
will conduct a long term study and evaluation of the necessary funding and governance
model to effectively provide adequate senior services to participating residents.

Applicant(s) Presented For City Commission Consideration:

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Criteria/ Qualifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gordon Rinschler</td>
<td>Downtown commercial large retail business.</td>
</tr>
<tr>
<td>959 Oakland Ave.</td>
<td>Birmingham resident</td>
</tr>
<tr>
<td>Jack Burns</td>
<td>Birmingham resident</td>
</tr>
<tr>
<td>898 Putney St.</td>
<td></td>
</tr>
</tbody>
</table>

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2,
Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.

SUGGESTED ACTION:

To appoint _____ to the Joint Senior Services Committee as the Birmingham representative.
APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: Ad Hoc Joint Services Senior Committee

Specific Category/Vacancy on Board: Resident Member

Name: Gordon Rinschler

Phone: 248-225-5890

Residential Address: 950 Oakland Ave

Email: GordonYBham@aol.com

Residential City, Zip: Birmingham, 48007

Length of Residence: 47 years

Business Address: ____________________________________________

Business City, Zip: ____________________________________________

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied. Previous service as City Commissioner and other boards. Current next board member, finance committee member, and fund raising committee chair. Strong interest and involvement in this issue.

List your related employment experience: 33 years with Chrysler

List your related community activities: Former mayor, commissioner, president, and member of Oakland County Detroit Steering Committee, current ad hoc parking next board

List your related educational experience: B.S., M.S., M.G.

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes

Signature of Applicant: ________________________________

Date: 7/18/2018

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to omynsberge@bhamgov.org or by fax to 248.530.1080.

3C1
APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: AD HOC JUNIOR SERVICES COMMITTEE
Specific Category/Vacancy on Board: RESIDENT MEMBER

Name: JACK BURNS
Residential Address: 898 PUTNEY ST
Residential City, Zip: BIRMINGHAM, 35209

Business Address: ____________________________________
Business City, Zip: ____________________________________

Phone: 248-644-7619
Email: JackBurns10Comcast

Length of Residence: 34 YEARS
Occupation: RETIRED

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied

SEE ATTACHED

List your related employment experience

SEE ATTACHED

List your related community activities

SEE ATTACHED

List your related educational experience

SEE ATTACHED

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:

Yes

Do you currently have a relative serving on the board/committee to which you have applied? Yes

Are you an elector (registered voter) in the City of Birmingham? Yes 8/6/18

Signature of Applicant

3C2
August 6, 2018

City Clerk
City of Birmingham, Michigan

The purpose of this document is to state my interest in investigating being appointed to the Ad Hoc Joint Senior Services Committee.

I have attached the completed form “Application for City Board or Committee.” In the areas on the form with insufficient space I responded “see attached” and I have completed the sections below.

If additional information is required please contact me at your convenience.

Thank you for your time and consideration on this application.

Jack (J. W.) Burns
898 Putney St.
Birmingham, Mi. 48009
248-644-7619
Jackburns1@comcast.net

Reason for Interest
I am a "senior" citizen and an active Birmingham homeowner. I see the average age demographic changing (increasing?) in our community and I believe we can plan better to provide a better quality of life for our "seniors."

Related Employment
- Retired after 36 years at Ford Motor Company
- Member of Ford Retired Executive Engineers
- Member of the Ford Lincoln Retirees

Related Community Activities
- Graduate of the Birmingham Citizens Academy
- Active participant in the city elections process
- Active participant (committee chair) in the Birmingham Senior Men's Club
- 15 year member of the Birmingham Jets senior men's softball team
- Active member in the Holy Name Knights of Columbus Council
- Officer in the Holy Name Ushers organization

Educational Experience
- AD Marketing
- BS Accounting
- MBA
- Masters of Arts in Liberal Studies
- Certificate Financial Planner
- Certificate Paralegal
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
   Andrew M. Harris, Mayor

II. ROLL CALL
   ROLL CALL: Present, Mayor Harris
               Mayor Pro Tem Bordman
               Commissioner Boutros
               Commissioner DeWeese
               Commissioner Hoff
               Commissioner Nickita
               Commissioner Sherman

   Absent, none

   Administration: City Manager Valentine, City Attorney Currier, IT Manager Brunk, Chief of
   Police Clemence, Planning Director Ecker, Deputy Treasurer Klobucar, City Engineer O'Meara,
   Executive BSD Director Tighe

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

   07-204-18 ANNOUNCEMENTS
   • The In The Park Concerts series continues on Wednesday, July 25th at 7:00 p.m. with
     The Invasion, playing Beatles hits.
   • The Baldwin Public Library welcomes Brian Peterson of “Bees in the D” to discuss the
     practice and benefits of honey beekeeping. The event is on Tuesday, July 24 at 7:00
     p.m.

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

   07-205-18 APPROVAL OF CONSENT AGENDA
   No items were removed from the Consent Agenda.

   MOTION: Motion by Commissioner Hoff, seconded by Commissioner Boutros:
   To approve the Consent Agenda as submitted.

   ROLL CALL VOTE: Yeas, Mayor Pro Tem Bordman
A. Resolution approving the City Commission meeting minutes of July 9, 2018.

B. Resolution approving the warrant list, including Automated Clearing House payments, dated July 11, 2018 in the amount of $235,324.60.

C. Resolution approving the warrant list, including Automated Clearing House payments, dated July 18, 2018 in the amount of $3,365,412.05.

D. Resolution authorizing the City Manager to cast a vote, on the City’s behalf, for the three incumbent members of the Michigan Municipal League Workers’ Compensation Fund Board of Trustees for four year terms, beginning October 1, 2018.

E. Resolution approving a request from the Piety Hill Chapter, National Society Daughters of the American Revolution to hold the Veteran’s Day Wreath Laying Ceremony on November 11, 2018 at 11:00 a.m. pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

F. Resolution approving a request from the Birmingham Shopping District to revise the Day on the Town event in downtown Birmingham, to be held August 11, 2018, and to expand the footprint of the event to the total area depicted on Revised Diagram A. Approval is 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.

G. Resolution awarding the Warwick Rd. Storm Sewer Tap, Contract #10-18(S) to Main Street Construction, Inc., in the amount of $26,250.00, to be charged to the Sewer Fund, account number 591-536.001-981.0100, contingent upon execution of the agreement and meeting all insurance requirements. Further, approving an amendment to the 2018-19 fiscal year budget.

H. Resolution authorizing the IT department to purchase the G-Suite licenses from Newmind Group Inc. the cost not to exceed $11,500.00 using available funds from the Computer Maintenance fund 636-228.000-993.0600.

V. UNFINISHED BUSINESS

None.

VI. NEW BUSINESS

07-206-18 PUBLIC HEARING TO CONSIDER THE SPECIAL LAND USE PERMIT AMENDMENT AND FINAL SITE PLAN REVIEW – 260 N. OLD WOODWARD - THE MORRIE

Mayor Harris opened the public hearing at 7:33 p.m.
Planning Director Ecker presented her memo written to City Manager Valentine dated July 11, 2018 regarding The Morrie.

Planning Director Ecker confirmed:
- The Morrie reduced the size of their sign to adhere to the sign ordinance.
- Any residence within 300 feet of The Morrie was noticed as to this public hearing, as required by State Law.

Keith Scofield, representative for The Morrie, stated the music and dancing would end at 1:30 a.m. on Friday and Saturday.

Mayor Harris closed the public hearing at 7:38 p.m.

**MOTION:** Motion by Commissioner Boutros, seconded by Mayor Pro Tem Bordman:
To approve the Special Land Use Permit Amendment & Final Site Plan Review for 260 N. Old Woodward – The Morrie, to allow the operation of a restaurant, serving alcoholic liquors, and providing live entertainment with a dancing area. *(Formal resolution appended to these minutes as Attachment A)*

**VOTE:**
- Yeas, 7
- Nays, 0
- Absent, 0

**07-207-18 PUBLIC HEARING TO CONSIDER THE SPECIAL LAND USE PERMIT AMENDMENT AND FINAL SITE PLAN REVIEW – 33588 WOODWARD - SHELL**

Mayor Harris reported the applicant wished to withdraw from consideration. No further action was taken.

**07-208-18 PUBLIC HEARING TO CONSIDER THE 2018 LOCAL STREETS PAVING SPECIAL ASSESSMENT DISTRICT CONFIRMATION**

Mayor Harris opened the public hearing at 7:39 p.m.

Deputy Treasurer Klobucar presented the memo dated July 13, 2018 addressed to City Manager Valentine regarding special assessment district (S.A.D.) # 883.

Deputy Treasurer Klobucar noted that the first line of the suggested resolution should be updated to read “To confirm Special Assessment Roll # 883 to defray the cost of installing of sewer and water laterals within the 2018 Local Streets Paving Project.”

There being no further comments, Mayor Harris closed the public hearing at 7:40 p.m.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To confirm Special Assessment Roll # 883 to defray the cost of installing of sewer and water laterals within the 2018 Local Streets Paving Project. *(Formal resolution appended to these minutes as Attachment B)*

**VOTE:**
- Yeas, 7
07-209-18 AUTHORIZING THE CONTINUATION OF THE ROOF-TOP VALET ASSIST AND RETAIN THE 3-HOUR MAXIMUM PARKING SIGNAGE

City Manager Valentine reviewed the reasons for recommending a six-month continuation of the roof-top valet assist and the 3-hour maximum parking signage.

City Manager Valentine confirmed that:
- The reallocation of monies to this project will not impede the maintenance schedule for the parking structure.
- The amount of money needed in the enterprise fund is determined by the plans for the parking system. If Birmingham builds another parking structure, the fund would be short, requiring a special assessment and potentially a bond. If Birmingham were not to build another parking structure, then the fund would have more money than necessary to operate the current system. Birmingham has been operating with an eye towards establishing additional reserves in order to expand the capacity of the parking system.
- Monthly parking permit holders are usually parked by the time the roof-top valet assist begins, since that runs from 10 a.m. to 2 p.m.

Commissioner Hoff:
- Expressed approval of the program;
- Recommended that the program be observed carefully as more drivers return to Birmingham once the construction is concluded because the results may change; and,
- Requested that attention be paid as to whether monthly parking permit holders are using the roof-top valet assist.

Commissioner DeWeese noted that once S. Old Woodward re-opens, there will also be more street parking available which is why this six-month evaluation period will be useful.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To authorize the continuation of the program requiring that monthly permit holders utilize the roof-top valet assist option and retain the 3 Hour Maximum parking signage in all garages as an on-going program at a cost of $3,112 per month.

VOTE:  Yeas,  7
Nays,  0
Absent,  0

07-210-18 AUTHORIZING THE CONTINUATION OF THE ON-STREET VALET PROGRAM FOR A TRIAL PERIOD

City Manager Valentine:
- Reviewed the proposed changes to the on-street valet program, which would continue for a six-month period in order to allow for further evaluation.
- Stated that, to his knowledge, there have been no damage claims, theft reports or other complaints regarding the valet program.
- Confirmed that the valet company receives the payment from the individuals using the system, and Birmingham subsidizes the rest of the cost as set forth in the agreement.

VOTE:  Yeas,  7
Nays,  0
Absent,  0
• Confirmed that two on-street parking spaces are used for the valet service on Hamilton, and two or three on-street parking spaces are used south of Merrill. The program focuses on the downtown areas in Birmingham with the highest projected utilization of valet services.

Commissioner DeWeese suggested that one of the benefits may be decongestion of the streets since fewer cars will be looking for parking. He continued that this is an experiment, that the valet service is taking a financial risk, and with these considerations, the program can always be revised in the future.

Assistant City Manager Gunter noted that post-construction the valet service will be better able to utilize the other garages.

City Manager Valentine reiterated that the proposed on-street valet stand locations were recommended by the valet service, which is very familiar with the utilization and traffic patterns in Birmingham. Since this is a trial, the locations can be shifted if necessary at a later date, but these are projected to be the most viable options at this time.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner DeWeese:
To approve the recommendation of the Advisory Parking Committee to accept the service proposal received from In-House Valet to continue the on-street valet program for a six month trial period post construction for a total cost of $36,000 with a $10,000 contribution from the Birmingham Shopping District and the remaining $26,000 to be drawn from the Parking Fund 585-538.001-811.0000 to support two (2) valet stands in downtown Birmingham and evaluate the success of the program at the end of the six month period to consider establishing on street valet as a permanent program.

VOTE: Yeas, 7
Nays, 0
Absent, 0

07-211-18 APPROVING THE RESIDENTIAL STREET WIDTH STANDARDS AS RECOMMENDED BY MULTI-MODAL TRANSPORTATION BOARD

Planning Director Ecker reviewed the July 13, 2018 memo outlining the topic.

Commissioner Nickita recommended:
• That the graphic in the Residential Street Width Standards (Standards) be updated to indicate a range of 24’ - 28’.
• That the criteria considered under ‘Intent’ should be presented as measurable, objective directives in #4. Commissioner Nickita proposed #4 could include “consider neighborhood context and character in identifying adjacent street and infrastructure conditions as it affects the proposed dimension,” or something to that effect.
• Addressing public noticing as done in #3, and eliminating the restatement in #4.

Planning Director Ecker suggested enforcement will be more challenging without explicit parameters.
Commissioner Nickita replied that the decision is one that weighs all the relevant factors, and that the other factors would help determine the correct decision.

Commissioner Sherman said that:
- While he understood Commissioner Nickita’s points, this plan addresses the Commission’s previous directives.
- Measurable criteria will be the best way to determine how the City should proceed when considering a street width change because ‘context and character’ is amorphous.

Commissioner Hoff noted that the first line of #4 is that “any modification must be consistent with the Intent of these standards”, which ties the Intent into the consideration. She continued that to state it again in #4 would be redundant.

Commissioner DeWeese said:
- The lead chart font should be made at least 50% bigger.
- The document is good enough to adopt, and can be adjusted at a later time should the Commission find it necessary to do so.

Planning Director Ecker explained all the numbers in the Standards were derived through extensive discussion and research with the City’s traffic consultants, MKSK and Fleis & Vandenbrink (F&V), which included research on other communities’ standards, consultation with the Birmingham Fire and Police Departments, and other factors.

Mayor Pro Tem Bordman said the evidentiary data used to determine the numbers in the Standards should be provided.

City Engineer O’Meara said that these recommendations are in-line with the work MKSK and F&V have done in previous communities.

Mayor Pro Tem Bordman said this policy should be acknowledged as advice and opinion, and not as based on evidence.

Planning Director Ecker said that MKSK and F&V’s national research revealed no norms for residential street-width standards, meaning it is difficult to provide evidence beyond what has worked for other communities.

City Engineer O’Meara said that #4 could have an additional bullet-point noting that if a street is potentially marked for Birmingham’s bike route in the Master Plan, it should be considered as a factor potentially affecting street-width.

Mayor Pro Tem Bordman suggested that heavy bike traffic should be a factor whether or not the street is marked out for Birmingham’s bike route.

Planning Director Ecker said ‘heavy bike traffic’ may be difficult to quantify. She suggested the issue may be sufficiently addressed in the ‘Intent’, but could be added if desired.

Mayor Pro Tem Bordman suggested that ‘heavy bike traffic’ could be determined by the frequency of cyclists travelling a road over a chosen rate of time.
City Engineer O’Meara said the City could do a count on a Birmingham street with high cyclist volume to determine a standard number.

Mayor Harris concurred with Commissioner Nickita that the ‘Intent’ should be incorporated into #4. The Mayor continued that:

- The difference between #1B and #4G could be clarified.
- The Multi-Modal Transportation Board (MMTB) should consider whether resident preference could occasionally override other aspects of the policy, because the Mayor wants there to be the possibility to allow that in certain circumstances.

Commissioner DeWeese pointed out that cyclists can occupy the main part of the road when travelling down streets, just like a vehicle, so factoring in bike lanes would be superfluous.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner DeWeese:
To approve the Residential Street Width Standards as recommended by the Multi-Modal Transportation Board on May 3, 2018, and as further refined and recommended on July 12, 2018.

Commissioner Nickita said the Standards are much improved but still lack some key information, without which he will not be voting in support at this time.

Mayor Harris concurred with Commissioner Nickita, adding that he failed to see why the Standards needed to be adopted now as opposed to after a few more changes.

Commissioner Sherman stated that this is policy and not ordinance, meaning it does not have the effect of law.

**VOTE:**
- Yeas, 4
- Nays, 3 (Bordman, Harris, Nickita)
- Absent, 0

07-212-18 APPROVING THE BIRMINGHAM CITY COMMISSION 2019 MEETING SCHEDULE

City Manager Valentine presented the proposed schedule, noting that Commissioner DeWeese had a conflict with the budget meeting being on May 4, 2019. As a result, City Manager Valentine suggested shifting the budget meeting to May 11, 2019. The Commission concurred.

**MOTION:** Motion by Commissioner Hoff, seconded by Mayor Pro Tem Bordman:
To approve the Birmingham City Commission 2019 Meeting Schedule as amended to schedule the budget hearing on May 11.

**VOTE:**
- Yeas, 7
- Nays, 0
- Absent, 0

07-213-18 CLOSED SESSION
MOTION: Motion by Commissioner Nickita, seconded by Commissioner DeWeese:
To meet in closed session pursuant to Section 8(h) of the Open Meetings Act, MCL 15.261 - 15.275.
(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)

ROLL CALL: Yeas, Mayor Harris
Mayor Pro Tem Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Hoff
Commissioner Nickita
Commissioner Sherman

Nays, none
Absent, none

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

A. Communication from Ara Darakjian – TIR Equities

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

Mr. Darakjian read a statement strongly reiterating TIR Equities’ bid to build the N. Old Woodward/Bates Street parking structure for the City.

X. REPORTS

07-214-18 COMMISSIONER COMMENTS
Commissioner Hoff reported a glowing citizen commendation of the Fire Department.

Commissioner Nickita brought up a concern previously shared by Mayor Pro Tem Bordman regarding a garage-fronted house being built on Vinewood. Garage-fronted houses are against City ordinance, but this one had been grandfathered in as a garage-fronted house predating the passing of the ordinance. Commissioner Nickita reported that upon walking by the house, it became clear that almost all of the construction was brand-new. He suggested the City consider requiring a portion of grandfathered buildings be maintained in order to prevent largely new buildings, which would otherwise violate ordinances, from being built in Birmingham via a technicality.

City Manager Valentine replied that, while Commissioner Nickita’s proposal is possible, this particular construction project appeared before the Board of Zoning Appeals and was granted a variance for the construction.

Commissioner Nickita suggested the Planning Board or city staff could look further into the issue.
Mayor Harris said he would like to see the City look at residential non-conforming uses.

The Commission concurred, and City Manager Valentine said he would return to the Commission with recommendations.

Mayor Harris adjourned the meeting to closed session at 8:54 p.m., noting that no action would be taken at the conclusion of the closed session.

**XI. ADJOURN**

Mayor Harris reconvened the regular meeting at 9:30 p.m.

The regular meeting was adjourned at 9:38 p.m.

_____________________________
J. Cherilynn Mynsberge, City Clerk
RESOLUTION 07-206-18

THE MORRIE
260 N. OLD WOODWARD
SPECIAL LAND USE PERMIT AMENDMENT 2018

WHEREAS, The Morrie was approved by the City Commission on May 14, 2018 to operate a food and drink establishment in the B4 zone district in accordance Article 2, Section 2.37 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the east side of N. Old Woodward, north of Hamilton Row;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages with a Special Land Use Permit;

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

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Final Site Plan to add a dancing area to the previously approved new restaurant, The Morrie;

WHEREAS, The Planning Board on June 27, 2018 reviewed the application for a Special Land Use Permit Amendment and Final Site Plan Review and recommended approval of The Morrie with a dancing area with the condition that the applicant comply with Chapter 50, Noise, Division 4;

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

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that The Morrie’s application for a Special Land Use Permit Amendment and Final Site Plan at 260 N. Old Woodward is hereby approved;

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

1. The Morrie shall comply with Chapter 50, Noise, Division 4;
2. The Morrie shall be permitted to provide entertainment in accordance with their entertainment permit issued by the MLCC;
3. The Morrie shall abide by all provisions of the Birmingham City Code; and
4. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest including, but not limited to, violations of the state law or Birmingham City Code.

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

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

MAY IT BE FURTHER RESOLVED that The Morrie is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises with a Class C Liquor License, at 260 N. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

I, J. Cherilynn Mynsberge, 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 July 23, 2018.

______________________________
J. Cherilynn Mynsberge, City Clerk
RESOLUTION 07-208-18

SPECIAL ASSESSMENT ROLL NO. 883
2018 WATER AND SEWER LATERALS

To confirm Special Assessment Roll # 883 to defray the cost of installing of sewer and water laterals within the 2018 Local Streets Paving Project;

WHEREAS, Special Assessment Roll, designated Roll No. 883, has been heretofore prepared for collection, and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property to be assessed, and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction and Commission Resolution 07-196-18 provided it would meet this 23rd day of July 2018 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this July 23, 2018, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham,

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 883 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of six percent (6.00%) on all unpaid installments.

I, J. Cherilynn Mynsberge, 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 July 23, 2018.

________________________
J. Cherilynn Mynsberge, City Clerk
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Sub Total Checks: $1,068,610.00  
Sub Total ACH: $444,764.31  
Grand Total: $1,513,374.31

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.
<table>
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<th>Vendor Name</th>
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City of Birmingham
Warrant List Dated 08/01/2018

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<td>Sub Total ACH: $115,017.15</td>
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<td>Grand Total: $400,750.84</td>
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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  
ACH Warrant List Dated 8/1/2018

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<th>Vendor Name</th>
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</tbody>
</table>
Canvasser, Jason R. <jcanvasser@clarkhill.com>  
To: Cherilynn Mynsberge <cmynsberge@bhamgov.org>  

As a result of my appointment as a full-time member of the Board of Zoning Appeals, please let this email serve as my formal resignation from my position as an alternate member.

Best,

Jason

Jason R. Canvasser  
CLARK HILL PLC  
313.965.8257 (Direct) | 313.309.6857 (Fax) | 248.231.9972 (Cell)

SUGGESTED RESOLUTION  
To accept the resignation of Jason Canvasser from the Board of Zoning Appeals as an Alternate Member, and to direct the City Clerk to begin the process of filling the vacancy.
Ryan R Ross
1872 Derby
Birmingham Mi

Lauren Wood
Director Of Public Services
Birmingham Mi

Lauren,

Do to our families relocation to Royal Oak please accept my Resignation from the Parks and Recreation Board effective August 1, 2017.

I would like to thank you, staff and the rest of the board for allowing me the opportunity to be a part of such a great team.

Best Wishes
Ryan Ross

SUGGESTED RESOLUTION
To accept the resignation of Ryan Ross from the Parks and Recreation Board as a Regular Member, and to direct the City Clerk to begin the process of filling the vacancy.

July 25, 2018
DATE:  July 30, 2018

TO:  Joseph A. Valentine, City Manager

FROM:  J. Cherilynn Mynsberge, City Clerk

SUBJECT:  Special Event Request
           Halloween Parade & Pumpkin Patch

Attached is a special event application submitted by the Birmingham Bloomfield Chamber and the Junior League of Birmingham requesting permission to hold the annual Pumpkin Patch from 1:00 PM to 4:00 PM, followed by the Halloween Parade from 4:00 PM – 4:20 PM on Sunday, October 28, 2018.

The parade route begins at the corner of Martin and Bates, travels north on Bates to Maple, east on Maple to S. Old Woodward, right on Merrillwood to Merrill, right on Pierce, left on Martin and ends at the corner of Bates and Martin. The Pumpkin Patch takes place in Shain Park.

The application has been circulated to the affected departments and approvals and comments have been noted.

The following event has been approved by the Commission to be held in October.

<table>
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<tr>
<th>Event Name</th>
<th>Date</th>
<th>Location</th>
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<tbody>
<tr>
<td>Farmers Market</td>
<td>Sundays</td>
<td>Municipal Lot #6</td>
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</table>

SUGGESTED RESOLUTION:
To approve a request submitted by the Birmingham Bloomfield Chamber and Junior League of Birmingham requesting permission to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 28, 2018 in downtown Birmingham, 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.
CITY OF BIRMINGHAM
APPLICATION FOR SPECIAL EVENT PERMIT
PARKS AND PUBLIC SPACES

IMPORTANT: EVENTS UTILIZING CITY SIDEWALKS AND/OR STREETS MUST MEET
WITH POLICE DEPARTMENT SPECIAL EVENT OFFICER TO REVIEW PROPOSED
EVENT DETAILS PRIOR TO SUBMITTING APPLICATION.

Police Department acknowledgement: ____________________________

I. EVENT DETAILS

- Incomplete applications will not be accepted.
- Changes in this information must be submitted to the City Clerk, in writing, at
  least three weeks prior to the event

FEES:
- FIRST TIME EVENT: $200.00
- ANNUAL APPLICATION FEE: $165.00

(Please print clearly or type)

Date of Application _________ July 2, 2018 _________

Name of Event 82nd Annual Halloween Parade + 25th Pumpkin Patch

Detailed Description of Event (attach additional sheet if necessary)

The pumpkin patch is an afternoon for families to partake in
Halloween activities and games. Following the patch
families march in a parade

Location Pumpkin patch inside Shaen Park from 1-4pm. Parade in Streets

Date(s) of Event Sunday Oct 28, 2018
Hours of Event Pumpkins 1-4pm Parade 4-4:20 pm

Date(s) of Set-up Sun. Oct 28, 2018
Hours of Set-up 9 am

Date(s) of Tear-down Sun. Oct 28, 2018
Hours of Tear-down 4:30 - 5:30 pm

NOTE: No set-up to begin before 7:00 AM, per City ordinance.

Organization Sponsoring Event Birmingham Bloomfield Chamber Jr. League of

Organization Address Birmingham Bloomfield Chamber 725 S. Old Woodward, Gt 130 / League 460 N. ad

Organization Phone Chamber: 248-420-7688 League 248-664-3163

Contact Person Kelly Bennett - Chamber 248-505-4149

Contact Phone ____________________________

Contact Email kellyb@bbcc.com

2
# APPLICATION FOR SPECIAL EVENT PERMIT
## PARKS AND PUBLIC SPACES

### I. EVENT DETAILS

### II. EVENT INFORMATION

### III. EVENT LAYOUT

### IV. SAMPLE LETTER TO NOTIFY AFFECTED PROPERTY OWNERS/BUSINESSES WITHIN 300 FEET OF EVENT LOCATION

### V. INSURANCE INFORMATION
- INSURANCE REQUIREMENTS
- HOLD HARMLESS AGREEMENT

### VI. POLICIES AND PROCEDURES

### VII. CHECKLIST

### VIII. SAMPLE MAPS

### IX. DEPARTMENTAL APPROVAL PAGE

## TIME LINE AS REQUIRED BY COMMISSION ADOPTED POLICY

<table>
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| At least 90 days prior to event           | - Events utilizing City sidewalks and/or streets must meet with the Police Department Special Events officer prior to submitting this application.  
- Application and attachments must be submitted |
| At least two (2) weeks prior to Commission hearing | - Letters mailed to affected property owners/businesses within 300 feet of event area  
- Copy of letter and distribution list provided to Clerk |
| Three (3) weeks prior to the event        | - Final additions/changes must be submitted for approval. |
| Two (2) weeks prior to event              | - All building, electrical, sign, and hydrant permits must be obtained  
- All permit fees must be paid and insurance certificates must be submitted and approved  
- All peddler/vendors applications must be submitted for approval |

Special Event Application Revised – 021918
II. **EVENT INFORMATION**

1. Organization Type: Chamber of Commerce + Nonprofit Partnering event (city, non-profit, community group, etc.)

2. Additional Sponsors or Participants (Provide name, address, contact person, status, etc. for all additional organizations sponsoring your event.)
   - Sponsors TBD - Past sponsors include Beaumont, Birmingham Bloomfield Credit Union, Whole Foods, Next Stop Broadway, Wolverine Human Services, Brightside Dental

3. Is the event a fundraiser? **YES [x]  NO [ ]**
   - List beneficiary: Birmingham Bloomfield Chamber, Junior League of Birmingham
   - List expected income: **less than $1,000**
   - Attach information about the beneficiary.

4. First time event in Birmingham? **YES [ ]  NO [x]**
   - If no, describe: **Annual Community event, 82nd year**

5. Total number of people expected to attend per day: **200-500**

6. The event will be held on the following City property: (Please list)
   - [x] Street(s): Parade - see map
   - [ ] Sidewalk(s)
   - [x] Park(s): Shain Park - see map

7. Will street closures be required? **YES [x]  NO [ ]**
   - (Police Department acknowledgement prior to submission of application is required) (initial here)

8. What parking arrangements will be necessary to accommodate attendance? **Chester Street structure and on-street parking**
9. Will staff be provided to assist with safety, security and maintenance? YES □ NO □
   If yes, please provide number of staff to be provided and any specialized training received.
   Describe: Birmingham Fire Truck will lead the parade and volunteers will assist with safety at the patch and parade.

10. Will the event require safety personnel (police, fire, paramedics)? YES □ NO □
    (Police Department acknowledgement prior to submission of application is required.) (initial here)
    Describe:__________________________________________________________

11. Will alcoholic beverages be served? YES □ NO □
    If yes, additional approval by the City Commission is required, as well as the Michigan Liquor Control Commission.

12. Will music be provided? YES □ NO □
    Live ______ Amplitication TBD Recorded ______Loudspeakers
    Time music will begin ______ 4pm
    Time music will end ______ 4pm

    Location of live band, DJ, loudspeakers, equipment must be shown on the layout map.

13. Will there be signage in the area of the event? YES □ NO □
    Number of signs/banners ______ info ______ Thank you signs
    Size of signs/banners ______ A frame signs

    Submit a photo/drawing of the sign(s). A sign permit is required.

14. Will food/beverages/merchandise be sold? YES □ NO □
    • Peddler/vendor permits must be submitted to the Clerk’s Office, at least two weeks prior to the event.
    • All food/beverage vendors must have Oakland County Health Department approval.
    • Attach copy of Health Dept approval.
    • There is a $50.00 application fee for all vendors and peddlers, in addition to the $10.00 daily fee, per location.
## LIST OF VENDORS/PEDDLERS
(attach additional sheet if necessary)

<table>
<thead>
<tr>
<th>VENDOR NAME</th>
<th>GOODS TO BE SOLD</th>
<th>WATER HOOK-UP REQUIRED?</th>
<th>ELECTRIC REQUIRED?</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>


III. EVENT LAYOUT

- Include a map showing the park set up, street closures, and location of each item listed in this section.
- Include a map and written description of run/walk route and the start/finish area

1. Will the event require the use of any of the following municipal equipment? *(show location of each on map)*

<table>
<thead>
<tr>
<th>EQUIPMENT</th>
<th>QUANTITY</th>
<th>COST</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Picnic Tables</td>
<td>6</td>
<td>6 for $200.00</td>
<td>A request for more than six tables will be evaluated based on availability.</td>
</tr>
<tr>
<td>Trash Receptacles</td>
<td>8</td>
<td>$4.00 each</td>
<td>Trash box placement and removal of trash is the responsibility of the event. Additional cost could occur if DPS is to perform this work.</td>
</tr>
<tr>
<td>Dumpsters</td>
<td>4</td>
<td>$200.00 per day</td>
<td>Includes emptying the dumpster one time per day. The City may determine the need for additional dumpsters based on event requirements.</td>
</tr>
<tr>
<td>Utilities (electric)</td>
<td>___ # of vendors requiring utilities</td>
<td>Varies</td>
<td>Charges according to final requirements of event.</td>
</tr>
<tr>
<td>Water/Fire Hydrant</td>
<td></td>
<td></td>
<td>Contact the Fire Department. Applicant must supply their own means of disposal for all sanitary waste water. Waste water is NOT allowed to be poured into the street or on the grass.</td>
</tr>
<tr>
<td>Audio System</td>
<td></td>
<td>$200.00 per day</td>
<td>Must meet with City representative.</td>
</tr>
<tr>
<td>Meter Bags / Traffic Cones / Barricades</td>
<td># to be determined by the Police Department.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Will the following be constructed or located in the area of the event? YES NO *(show location of each on map) NOTE: Stakes are not allowed.*

<table>
<thead>
<tr>
<th>TYPE</th>
<th>QUANTITY</th>
<th>SIZE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tents/Canopies/Awnings (A permit is required for tents over 120 sq ft)</td>
<td>2</td>
<td>TBD</td>
</tr>
<tr>
<td>Portable Toilets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rides</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Displays</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vendors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Structure (must attach a photo)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (describe)</td>
<td></td>
<td>Pumpkin Display and tables for sponsors</td>
</tr>
</tbody>
</table>
SIGNATURE OF APPLICANT REQUIRED

EVENT NAME  82nd Annual Halloween Parade & 25th Annual Pumpkin Patch
EVENT DATE  Sunday, October 28, 2018

The Birmingham City Commission shall have sole and complete discretion in deciding whether to issue a permit. Nothing contained in the City Code shall be construed to require the City Commission to issue a permit to an applicant and no applicant shall have any interest or right to receive a permit merely because the applicant has received a permit in the past.

As the authorized agent of the sponsoring organization, I hereby agree that this organization shall abide by all conditions and restrictions specific to this special event as determined by the City administration and will comply with all local, state and federal rules, regulations and laws.

________________________________________
Signature

________________________________________
Date

IV. SAMPLE LETTER TO NOTIFY ANY AFFECTED PROPERTY/BUSINESS OWNERS

- Organizer must notify all potentially affected residential property and business owners of the date and time this application will be considered by the City Commission.  (Sample letter attached to this application.)

- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk’s Office. The letter must be distributed at least two weeks prior to the Commission meeting.

- A copy of the letter and the distribution list must be submitted to the Clerk’s Office at least two weeks prior to the Commission meeting.

- If street closures are necessary, a map must be included with the letter to the affected property/business owners.
Halloween Parade and Pumpkin Patch

Sunday, October 28, 2018

- Picnic Table
- Inflatables
- G Games
- FP Face Painting (will be inside tent)
- Pumpkin Display
- D Dumpster
- "6' or 8' table for sponsors"
Halloween Parade and Pumpkin Patch

Sunday, October 28, 2018
SPECIAL EVENT REQUEST NOTIFICATION

July 2, 2018

To: Property/Business Owner

The Birmingham City Code requires that we receive approval from the Birmingham City Commission to hold the following special event. The code further requires that we notify any property owners or business owners that may be affected by the special event of the date and time that the city commission will consider our request so that the opportunity exists for comments prior to this approval.

NAME OF EVENT: 82nd Annual Parade and 25th Annual Patch
LOCATION: Streets surrounding Shain Park
DESCRIPTION OF EVENT: Family Halloween activities, games and parade.

DATES/TIMES: Set-up Sunday, October 28, 2018 at 9 a.m.
Pumpkin Patch Hours: 1 – 4 p.m. Parade Hours: 4 – 4:15 p.m.
Tear down: Sunday, October 28, 2018  5 p.m.

DATE/TIME OF CITY COMMISSION MEETING: Monday, August 13, 2018
The City commission meets in room 205 of the Municipal Building at 151 Martin at 7:30 p.m. **A complete copy of the application to hold this special event is available for your review at the City Clerk’s Office (248/530-1880).** Log on to www.bhamgov.org/events for a complete list of special events.

EVENT ORGANIZER: Birmingham Bloomfield Chamber 725 S. Adams, Suite 130
Birmingham MI 48009 (248) 430-7688

FOR QUESTIONS ON DAY OF EVENT, CONTACT: Kelly Bennett
CELL PHONE: (248) 505-4149
2018 Halloween Parade Route
Sunday, October 28, 2018

Begin at corner of Martin and Bates and travel North on Bates to Maple. East on Maple to S. Old Woodward, right on Merrillwood to Merrill, right on Pierce, left on Martin and will end at the corner of Bates and Martin.
HOLD-HARMLESS AGREEMENT

"To the fullest extent permitted by law, the Birmingham Bloomfield Chamber and any entity or person for whom the Birmingham Bloomfield Chamber 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 this activity/event. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham."

[Signature]
Applicant's signature
# Certificate of Liability Insurance

**Name:** Shari Hornyk  
**Address:** 30600 Telegraph Road, Suite 3110, Bingham Farms, MI 48025

**Insured:** Birmingham Bloomfield Chamber of Commerce  
725 S. Adams, Suite 130, Birmingham, MI 48009

**Coverages:**

<table>
<thead>
<tr>
<th>Type of Insurance</th>
<th>Admitted</th>
<th>Policy Number</th>
<th>Policy Effective Date</th>
<th>Policy Expiration Date</th>
<th>Limits</th>
</tr>
</thead>
</table>
| COMMERCIAL GENERAL LIABILITY | | A04349103 | 06/29/2018 | 06/29/2019 | EACH OCCURRENCE: $1,000,000  
MED EXP (Any one person): $200,000  
PERSONAL ADV INJURY: $10,000  
GENERAL AGRGGR: $1,000,000  
PRODUCTS COMD/OP AGG: $2,000,000  
OTHER: |

| AUTO LIABILITY | | A04349103 | 06/29/2018 | 06/29/2019 | COMBINED SINGLE LIMIT (EA accident): $1,000,000  
BODILY INJURY (Per person): $ |

| UMBRELLA LIABILITY | | A04349103 | 06/29/2018 | 06/29/2019 | EACH OCCURRENCE: $1,000,000  
AGGREGATE: $1,000,000  
OTHER: |

**Description of Operations / Locations / Vehicles:**

The City of Birmingham including all elected appointed officials, all employees & volunteers, Board Members, employees & volunteers are named as additional insured. This coverage shall be primary and non-contributory.

Event: Annual Halloween Parade - Shain Park & Adjoining Streets, City of Birmingham, MI Sunday, October 28, 2018

**Certificate Holder:** City of Birmingham  
151 Martin St.  
P.O. Box 3001  
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.
**DEPARTMENT APPROVALS**

**EVENT NAME**: HALLOWEEN PARADE & PUMPKIN PATCH

**LICENSE NUMBER**: #18-00011295

**COMMISSION HEARING DATE**: AUGUST 13, 2018

**DATE OF EVENT**: OCTOBER 28, 2018

**NOTE TO STAFF**: Please submit approval by JULY 16, 2018

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>APPROVED</th>
<th>COMMENTS</th>
<th>PERMITS REQUIRED</th>
<th>ESTIMATED COSTS</th>
<th>ACTUAL COSTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PLANNING</strong>&lt;br&gt;101-000.000-634.0005&lt;br&gt;248.530.1855</td>
<td></td>
<td>No costs, no comments</td>
<td>None</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>BUILDING</strong>&lt;br&gt;101-000.000-634.0005&lt;br&gt;248.530.1850</td>
<td>MJ M</td>
<td>The event coordinator must contact inspection staff the Friday before the event to schedule an inspection time.</td>
<td>Permit for tent over 120 sqft.</td>
<td>$128.19</td>
<td></td>
</tr>
<tr>
<td><strong>FIRE</strong>&lt;br&gt;101-000.000-634.0004&lt;br&gt;248.530.1900</td>
<td>JMC</td>
<td>1. No Smoking in any tents or canopy. Signs to be posted.&lt;br&gt;2. All tents and Canopies must be flame resistant with certificate on site.&lt;br&gt;3. No open flame or devices emitting flame, fire or heat in any tents. Cooking devices shall not be permitted within 20 feet of the tents.&lt;br&gt;4. Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed.&lt;br&gt;5. Clear Fire Department access of 12 foot aisles must be maintained, no tents, canopies or other obstructions in the access aisle unless approved by the Fire</td>
<td></td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
6. Pre-event site inspection required.
7. A prescheduled inspection is required for food vendors through the Bldg. dept. prior to opening.
8. All food vendors are required to have an approved 5lbs. multi-purpose (ABC) fire extinguisher on site and accessible.
9. Cords, hoses, etc. shall be matted to prevent trip hazards.
10. Exits must be clearly marked in tents/structures with an occupant load over 50 people.
11. Paramedics will respond from the fire station as needed. Dial 911 for fire/rescue/medical emergencies.
13. Do Not obstruct fire hydrants or fire sprinkler connections on buildings.
14. Provide protective barriers between hot surfaces and the public.
15. All cooking hood systems that capture grease laden vapors must have an approved suppression system and a K fire extinguisher in addition to the ABC Extinguisher.

Suppression systems shall be inspected, tested, and properly tagged prior to the event. All Sprinkler heads shall be of the 155 degree Quick Response type unless serving an area of high heat and approved by the Fire Marshal. The suppression system shall have a continuous water supply as well as a
| **POLICE** 101-000.000.634.0003 248.530.1870 | SG | Personnel and Barricades to block streets and direct traffic. | $0 | $0 |
| **PUBLIC SERVICES** 101-000.000-634.0002 248.530.1642 | CL | Additional costs could occur for trash pick-up. | $1,900 | |
| **ENGINEERING** 101-000.000.634.0002 248.530.1839 | A.F. | No damage to any pavement allowed for tents, inflatables, stages, etc… Maintain 5’ clear pedestrian access route on all sidewalks | None | $0 | $0 |
| **SP+ PARKING** | A.F. | Emailed to SP+ 07/10/18 | | |
| **INSURANCE** 248.530.1807 | CA | Applicant must provide updated certificate of insurance two weeks prior to event | None | $0 | $0 |
| **CLERK** 101-000.000-614.0000 248.530.1803 | | Notification letters mailed by applicant on 7/14/18. Notification addresses on file in the Clerk’s Office. Evidence of required insurance must be on file with the Clerk’s Office no later than 10/12/18. | Applications for vendors license must be submitted no later than 10/12/18. | $165 pd | |

**TOTAL DEPOSIT REQUIRED** | $2,028.19

**ACTUAL COST** |
DATE: August 1, 2018

TO: Joseph A. Valentine, City Manager

FROM: Leslie Pielack, Museum Director
Lauren Wood, Director of Public Services

SUBJECT: Invasive Tree Removal Agreement-Hunter House Boundary Line

During the last several years, invasive plants and trees have grown into a picket fence that runs along the east boundary of the Hunter House property line. Three unhealthy volunteer trees have grown through the existing fence line between the Hunter House and the neighbor to the east and need removal. One is a dying box elder tree that leans over the Hunter House and presents a threat of damage to the building, should it fall or break. Two others are weak and brittle young catalpa trees that are a potential threat and impediment to a healthy mature elm tree that shades the sidewalk along Maple Road.

A review by parks, museum, and building facilities staff with an assessment by the city’s forester determined that the best course of action is to remove the invasive volunteer trees. Linda Bloch, the adjacent property owner, was also involved in reviewing the existing conditions. As the trees and fence line are along the shared boundary, Ms. Bloch agreed to share the city’s cost of removing the three trees in question. The total cost for removal of the trees is $800.00, to be completed by J.H. Hart Urban Forestry, the city’s contracted forester. Ms. Bloch would reimburse the city $400.00 for her shared portion. The Museum Board is supportive of the plan.

SUGGESTED RESOLUTION:

To approve the tree removal agreement with adjacent property owner Linda Bloch for shared cost of $800.00 for removal of three invasive fence line trees, to be expended from

**Hunter House Account 101-804.001-811.0000, Other Contractual Services;** $400.00 of which will be reimbursed by Ms. Bloch.
**Proposed Tree Removal-Hunter House Boundary**

1  Box Elder  2  Young Catalpa  3  Young Catalpa

(A mature honey locust and mature elm tree near the sidewalk on the fence line would not be removed.)
CITY OF BIRMINGHAM

LANDSCAPE CLEANUP CONTRACT

WITH CITY AND BLOCH

This AGREEMENT, made and entered into this ____ day of ________, 2018, by and between the CITY OF BIRMINGHAM, a Municipal Corporation located at 151 Martin Street, Birmingham, Michigan 48009, hereinafter referred to as CITY, and Linda Bloch, whose address is 484 W. Maple Road, Birmingham, Michigan 48009, hereinafter referred to as BLOCH, provides as follows:

WITNESSETH:

WHEREAS, the CITY is the owner of the “Hunter House” Museum located at 500 W. Maple Road, Birmingham, Michigan 48009 which is adjacent to the property owned by BLOCH; and

WHEREAS, a picket fence exists between the BLOCH property and the “Hunter House” Museum; and

WHEREAS, the CITY and BLOCH desire to remove two Catalpa trees and one Box Elder tree along located on property line between the “Hunter House” Museum and the BLOCH property. The location of these trees is set forth in Attachment A; and

WHEREAS, the CITY and BLOCH desire to equally split the costs of the removal of the three trees set forth in Attachment A; and

WHEREAS, the CITY desires to replace and/or repair its existing picket fence, putting it in the same location, without doing a formal survey. The fence is not intended to demarcate the actual property line; and

WHEREAS, the CITY desires to remove the invasive plants on the “Hunter House” Museum side of the picket fence. The CITY will contract with a professional for that work at the CITY’s cost.

NOW, THEREFORE, for and in consideration of the mutual undertakings of the parties hereto, and as hereinafter set forth, it is agreed by and between the parties as follows:

1. BLOCH shall pay a total of $400.00 to the CITY for the removal of trees set forth in Attachment A. This amount reflects 50% of the total amount contained in Attachment A.

2. The CITY shall pay the costs to replace and/or repair the existing picket fence.

3. The CITY shall pay for the removal of the invasive plants on the “Hunter House” Museum side of the picket fence.
4. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan.

5. 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.

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

7. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

WITNESSES:

__________________________

__________________________

LINDA BLOCH

By: ________________________

Its: ________________________

CITY OF BIRMINGHAM

By: ________________________

Andrew M. Harris

Its: Mayor
Approved:

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

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

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

By: ________________________________

Cherilynn Mynsberge
Its: City Clerk

Mark Gerber, Director of Finance
(Approved as to financial obligation)
Remove 2 catalpa trees near SE corner of property.
Grind stumps below grade & haul stump chips.

- Remove Tim on Adjoining Elm Tree near corner double limb & give 15' elevation.
- Remove Beech & oak near NE corner of building.
- Allow approx. 6 hours, City of Birmingham Rates.

Additional Charge For Trucking And Disposal Of Debris: $ __________
Additional Charge For Stump Chip Removal, If Desired: $ __________
Would you like us to remove the stump chips for the additional charge? Yes ________ No ________

Please note that we will not be able to grind stumps surrounded or embedded with stone, steel, or cement. Customer is responsible for removing all surface materials which might interfere with the grinding process.

Date Submitted: 7/25/18  
$LY VOC LT TRL CREW TOTAL PRICE: $ 800

J.H. Hart Urban Forestry

If you would like us to perform the work set forth above for the prices quoted, please sign and date this white copy, enclose a non-refundable deposit of $100.00, and return both to our office at the address above. Prices subject to change after 30 days.

At the time that we complete the tree trimming and or removals, please submit the balance due for the completed work to the crew foreman. If you have elected to have stump grinding services performed, that work will be scheduled after the removals have been completed and will be billed separately.

It is expressly understood and agreed that J.H. Hart Urban Forestry shall not be liable for any damage caused to landscaping, sprinkler systems, cable lines, landscape lighting, or the like.

By your signature below, you thereby agree to the above terms and conditions.

Customer Signature: ______________________ Date: 7/25/18
DATE: July 30, 2018

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services
       Bryan Grill, Golf Course Superintendent

SUBJECT: Golf Course Fertilizer/ Turf Chemicals

On Tuesday, July 24, 2018 the Department of Public Services publicly opened bids entitled “Turf Chemicals”. This bid includes fertilizers and turf chemicals used at the municipal golf courses to maintain and beautify the turf. The request for proposal (RFP) was entered into the Michigan Inter-governmental Trade Network (MITN) purchasing system. After review of the four bid tabulations from the companies meeting specifications, the Department of Public Services recommends purchases from these three companies.

<table>
<thead>
<tr>
<th>Company</th>
<th>City</th>
<th>7/1/2018-6/30/2019</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harrell’s</td>
<td>New Hudson, MI</td>
<td>$22,000</td>
<td>$22,000</td>
</tr>
<tr>
<td>Target Specialty Products</td>
<td>Novi, MI</td>
<td>$22,000</td>
<td>$22,000</td>
</tr>
<tr>
<td>Great Lakes Turf</td>
<td>Grand Rapids, MI</td>
<td>$8,000</td>
<td>$8,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$52,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

The pricing for these products are the same from the various vendors. This is based on agency pricing which is determined by the product manufacturer. Therefore, the price is identical from the bidders. Some of the bidders did not make all of the products available to the City as part of their bid. The City selects the vendors for which to purchase its products based on experience with the vendor, customer service, availability of the product, including the quality of the performance of the vendor. What products are needed for what treatments and the quantities of product are determined by the Grounds Superintendent during the golf season. Our needs are based on the weather, turf condition and the potential treatment of pests. Last year these same three companies were used for the product purchases for a total amount not to exceed of $52,000. Target Specialty Products was formerly Residex Turfgrass, which we purchase from annually.

You will notice on the attached list of Golf Course Chemicals and Fertilizers that Roundup Pro or Glyphosate has been removed from the bid list and usage list by Bryan Grill our Golf Course Superintendent. The Chemical/Fertilizers listing are for the 2018 season and funds are available in the operating supplies account for each golf course, account #s 584/597-753.001-729.0000. See the attached supplemental information from Bryan Grill, Golf Course Superintendent about the application and uses of the chemicals during the golf season.
Based on the actual need and requested orders for the golf courses during the season, the total purchases may fluctuate but will not exceed a total of $52,000.

SUGGESTED RESOLUTION:
To approve the chemical/fertilizer purchases for Lincoln Hills and Springdale golf courses from Harrell’s for $22,000, Target Specialty Products for $22,000 and Great Lakes Turf for $8,000. The total purchase from all vendors will not exceed a total of $52,000. Funds will be charged to account #s 584/597-753.001-729.000.
<table>
<thead>
<tr>
<th>Product (Common)</th>
<th>Chem. Name</th>
<th>Signal Word</th>
<th>Classification</th>
<th>Use (Area)</th>
<th>Frequency</th>
<th>Target Pest</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merit</td>
<td>Imidacloprid</td>
<td>Warning</td>
<td>Insecticide</td>
<td>All turf</td>
<td>As needed</td>
<td>Grubs, Insects</td>
<td>Grubs, Insects</td>
</tr>
<tr>
<td>Acelepryn</td>
<td>Chlorantraniliprole</td>
<td>Warning</td>
<td>Insecticide</td>
<td>All turf</td>
<td>As needed</td>
<td>Grubs, Insects</td>
<td>Grubs, Insects</td>
</tr>
<tr>
<td>Dylox</td>
<td>Trichlorfon</td>
<td>Warning</td>
<td>Insecticide</td>
<td>Tees, Rough</td>
<td>As needed</td>
<td>Grubs, Insects</td>
<td>Grubs, Insects</td>
</tr>
<tr>
<td>Briskway</td>
<td>Aazoxystrobin</td>
<td>Warning</td>
<td>Fungicide</td>
<td>Greens</td>
<td>2-3X/year</td>
<td>Various Fungi</td>
<td></td>
</tr>
<tr>
<td>Headway</td>
<td>Propiconazole</td>
<td>Warning</td>
<td>Fungicide</td>
<td>Greens</td>
<td>1X/year</td>
<td>Various Fungi</td>
<td></td>
</tr>
<tr>
<td>Affirm</td>
<td>PolyoxinD zinc salt</td>
<td>Warning</td>
<td>Fungicide</td>
<td>Greens</td>
<td>2-3X/year</td>
<td>Various Fungi</td>
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<td>Emerald</td>
<td>Boscalid</td>
<td>Warning</td>
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<td>Tees, Fairways</td>
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<td>Dollar Spot</td>
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<td>Concert</td>
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<td>Xzemplar</td>
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<td>Proxy</td>
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<td>Surfactant</td>
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<td>Bentgrass seed</td>
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<td>Annual Ryegrass seed</td>
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</tbody>
</table>

Agency pricing
DATE:  July, 30 2018

TO:  Joseph A. Valentine, City Manager

FROM:  Bryan Grill

SUBJECT:  Golf Course Fertilizer/ Turf Chemicals

This serves to provide more detail with regard to the Bid Tab for chemical purchases for the golf courses for the 2018/2019 season. The list of chemicals and fertilizer to be purchased is more of a prediction than a “set in stone” list. We may not need some of them; we may need something that is not on the list. Environmental situations and new chemicals introduced to the market may dictate what we purchase. The golf courses adhere to Integrated Pest Management (IPM) practices. IPM is the use of all appropriate and economical strategies to manage pests and their damage to acceptable levels with the least disruption to the environment. Using many different tactics to manage a pest problem tends to cause the least disruption to non-target organisms and the surroundings at the application site. We don't apply chemicals based on the calendar; we scout the property and determine acceptable threshold levels. In other words, we generally won't spray for a pest if we don't see it. This limits the number of applications we make throughout the year, saving money and limiting the inputs to the environment. For example, we will often pull weeds instead of applying herbicide to kill them. We use organic fertilizers whenever possible. We place signs in visible locations stating what was applied, where it was applied and my contact information if anyone has a question about what was applied.
MEMORANDUM

DATE: August 3, 2018

TO: Joseph A. Valentine, City Manager

FROM: Paul T. O’Meara, City Engineer

SUBJECT: S. Eton Rd. Signing & Pavement Marking Improvements
Contract 11-18(P)

At the meeting of June 4, 2018, the City Commission approved the following motion:

To accept the recommendation of the Multi-Modal Transportation Board, and to direct staff to proceed with the installation of test features that will provide the majority of the transportation improvements being considered in a temporary mode, at a reduced cost, as outlined below:

1. Installation of painted bumpouts with lane markers at each intersection, as well as pavement markings to improve each crosswalk in accordance with the recommended plan.
2. Installation of sharrows between Maple Rd. and Yosemite Blvd.
3. Removal of parking, and installation of buffered, marked bike lanes for northbound and southbound traffic between Yosemite Blvd. and Villa Rd.
4. Removal of parking on the west side of the street, to provide room for a marked, buffered, and separated two-way bike lane, as well as white lines demarcating the northbound parking lane between Villa Rd. and Lincoln Ave.
5. Installation of double yellow lines and white line to demarcate travel lanes from the southbound parking lane between Lincoln Ave. & 14 Mile Rd.

Since that time, the Engineering Dept. has worked with the City’s multi-modal transportation consultant, F&V, to prepare bidding documents encompassing this work. Since the work is considered temporary, waterborne paint will be applied for the large majority of the work. In order to test alternate pavement markings as a part of the trial, two alternate materials that were recently approved in the City’s crosswalk pavement markings policy will also be used in selected areas:

a. At the intersection of S. Eton Rd. and Bradford Rd., the pavement marking material known as HPS-8 will be used for the crosswalk and stop bar areas. (HPS-8 is the material introduced to the market relatively recently. It will be installed on the existing asphalt surface, as is recommended by the manufacturer.)
b. At the intersection of S. Eton Rd. and 14 Mile Rd., the pavement marking material known as Polyurea will be used for the crosswalk and stop bar area. (Polyurea is a relatively newer pavement marking material that will be installed on an existing concrete surface, as is recommended by the manufacturer.)

The final engineering drawings are attached for your reference.
As was noted at the June 4 meeting, traffic bike and pedestrian count data was to be collected for the Maple Rd. and S. Eton Rd. intersection for further study of that area. F&V has now collected this data. Recommendations will be presented at a future Multi-Modal Transportation Board meeting and forwarded to the Commission.

On August 3, 2018, the Engineering Department opened bids on the above-referenced project. Only one contractor submitted a bid for this project. A bid summary is attached for your reference.

The low bidder was PK Contracting of Troy, MI with their base bid of $123,525. The staff estimate for this work when presented to the City Commission was $75,000. The additional cost reflects the ongoing high demand for these services, as well as uncertainty as to the value of some of the unique items of work included in this contract.

While the Engineering Dept. has never hired PK Contracting as the prime contractor for a contract, we have worked with them many times over the years as a subcontractor. PK Contracting is by far the leader in southeast Michigan relative to the installation of pavement marking for public streets. We are confident that they are qualified to perform satisfactorily on this contract.

It is our intent to work with the contractor to complete this work with minimal disruption to traffic. As is often done with pavement markings, work that is in the direct line of the travel lanes will be completed during low traffic periods to keep disruption to a minimum.

As is required for all of the City’s construction projects, PK Contracting has submitted a 5% bid security with their bid which will be forfeited if they do not provide the signed contracts, bonds and insurance required by the contract following the award by the City Commission.

It is anticipated that the work will take about three weeks to complete. Completion of the work is required prior to November 14, 2018.

It is recommended that the S. Eton Rd. Signing and Pavement Marking Improvements be awarded to PK Contracting of Troy, MI in the amount of $123,525.00. All costs will be charged to the Major Street Fund, account number 202-449.001-981.0100. A budget amendment will also be required given that this project was not included in the approved current fiscal year budget.

SUGGESTED RESOLUTION:

To award the S. Eton Rd. Signing and Pavement Marking Improvements, Contract #11-18(P) to PK Contracting, Inc., in the amount of $123,525.00, to be charged to the Major Street Fund, account number 202-449.001-981.0100, contingent upon execution of the agreement and meeting all insurance requirements. Further, to approve an amendment to the 2018-19 fiscal year budget as follows:
Major Street Fund

Revenues:
Draw from Fund Balance 202-000.000-400.0000  $123,525
Total Revenue Adjustments  $123,525

Expenditures:
Other Contractual Service 202-449.001-981.0100  $123,525
Total Expenditure Adjustments  $123,525
# CITY OF BIRMINGHAM

## S. ETON SIGNING AND PAVEMENT MARKING IMPROVEMENTS

### CONTRACT # 11-18 (P)

### BID SUMMARY

**AUGUST 3, 2018 - 2:00 PM**

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Addendums</th>
<th>5% Bid Security</th>
<th>Base Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>PK Contracting</td>
<td>Yes</td>
<td>$123,525.00*</td>
<td></td>
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</table>

* = Adjusted by Engineering Dept.
CITY OF BIRMINGHAM
OAKLAND COUNTY, MICHIGAN
S. ETON RD. SIGNING & PAVEMENT MARKING IMPROVEMENTS
CONTRACT #11-18 (P)
JULY 2018

INDEX OF DRAWINGS

DESCRIPTION        SHEET NO.
COVER SHEET         CS
SIGNING AND STRIPING PLAN CS-2
NOTES AND DETAILS   2

JUSTIN P. ROSE
ENGINEER
No. 67903
LICENSED PROFESSIONAL ENGINEER

LOCATION MAP
NOTES
1. CONTRACTOR TO FIELD VERIFY AND CONFIRM ALL DIMENSIONS AND LOCATION WITH THE ENGINEER.
2. ALL SHARED LANE (SHARROW) MARKINGS SHALL BE WATERBORNE AND CONFORM TO MDOT STANDARD DETAIL PAVE-861-B.
3. LOCATIONS OF SHARRROWS SHALL BE INSTALLED AS SHOWN ON PLANS UNLESS OTHERWISE DIRECTED BY THE ENGINEER.
4. INSTALLATION SHALL BE 48 FT FROM THE RADIUS SPRING POINT UNLESS OTHERWISE NOTED. CONTRACTOR SHALL AVOID PLACEMENT IN WORSE APPROACH, OVER UTILITY STRUCTURE COVERS OR OTHER OBSTRUCTIONS, NO LESS THAN 20 FEET OR NO MORE THAN 100 FEET AS SHOWN ON THE STANDARD DETAIL PAVE-861-B.
5. ALL SIGN LOCATIONS SHALL BE 25-50' IN ADVANCE OF DRIVE LANE AND AVOID CONFLICT OR OBSTRUCTION OF EXISTING REGULATORY SIGNAGE AND MEET ALL MDOT AND MMUTCD SIGNAGE REQUIREMENTS AND STANDARDS. CITY TO PROVIDE GUIDANCE AS NEEDED.

QUANTITIES

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<td>REM PAVT MRKG</td>
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</table>
DATE: July 23, 2018
TO: Joseph A. Valentine, City Manager
FROM: Carlos Jorge, Building Maintenance Superintendent
SUBJECT: RFP- New Lockers for the Birmingham Police Department

The Building Facilities Department has been repairing and monitoring the woman’s and the men’s lockers at the Locker Rooms located at the lower level of the Municipal Building over the past several years. However, the lockers have been deteriorating over time with exposure to moisture, different ambient temperature, and general aging to the point that repairs is no longer an option. These Lockers system was installed in 1995 when the addition was constructed and is now at the end of its useful life and must be replaced.

On June 12, 2018, the City issued a Request for Proposals (RFP) seeking a firm specializing on lockers and bathrooms partitions as optional to furnish all materials, necessary equipment and labor to perform all required work necessary to remove and replace the existing woman’s and men’s lockers and bathrooms partitions at the Birmingham Police Department.

Invitations to bid were submitted to MITN (Michigan Inter-Governmental Trade Network) and CAM (Contractor Association of Michigan). Fifty six companies received notification. Interested firms were required to register and attend a mandatory pre-bid meeting. The pre-bid meeting was held on June 26, 2018 to review, tour the facility, and ask any questions regarding the request for proposal. Five firms attended the per-bid meeting.

The Building Facilities Department received an email from Shelving, Inc. stating that they will not be submitting a bid for the lockers and additional work to be done.

The City received a total of two bids that were publicly opened on May 2, 2018. The names of each company along with their bid amounts are shown below.

<table>
<thead>
<tr>
<th>COMPANY NAME</th>
<th>BID AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. R. E. Leggette Company</td>
<td>$ 62,757.00</td>
</tr>
<tr>
<td>2. Steel Equipment Company</td>
<td>$ 55,100.00</td>
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All bids were reviewed for compliance with the City’s Request for Proposals (RFP) and it was determined that each met the requirements outlined in the RFP. Accordingly, it is recommended that the City Commission award the contract for the new lockers for the Birmingham Police department to the lowest bidder Steel Equipment Company, in an amount not to exceed $55,100.00.
There are sufficient funds in the Capital Projects Fund for this project, however, this project was budgeted in 2017-2018; therefore, a budget amendment will be required for this project for 2018-2019.

**Suggested Action:**
To adopt a resolution awarding the New Lockers for Birmingham Police Department contract to Steel Equipment Company, in an amount not to exceed $55,100.00 to be charged to account 401-265.003-977.0000 and to authorize the Mayor and City Clerk to sign the agreement for these services, further, to approve the appropriation and amendment to the 2018-2019 Capital Project Fund budget as follows:

**Capital Projects Fund**

<table>
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<tr>
<td>Draw from Fund Balance 401-000.000-400.000</td>
<td>$55,100</td>
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<table>
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<th>Expenditures:</th>
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<tbody>
<tr>
<td>Buildings - City Hall and Grounds 401-265.001-977.000</td>
<td>$55,100</td>
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</table>
REQUEST FOR PROPOSALS
For New Lockers for Birmingham Police Department

Sealed proposals endorsed “New Lockers for Birmingham P. D.”, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until 2:00 p.m., Thursday, July 12, 2018 after which time bids will be publicly opened and read.

Bidders will be required to attend a mandatory pre-bid meeting Tuesday, June 26, 2018 at 9:00 a.m. in the Commission Room # 205 at the City Hall, located at 151 Martin Street, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Monday June 25, 2018 by contacting Carlos Jorge at 248.530.1882 or cjorge@bhamgov.org.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to furnish all materials and all necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department. This work must be performed as specified accordance with the specifications contained in the Request for Proposals (RFP).

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

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

Submitted to MITN: June 12, 2018
Mandatory Pre-Bid Meeting: Tuesday, June 26, 2018 at 9:00 a.m.
Birmingham Municipal Building,
Commission Room # 205
151 Martin St., Birmingham, MI 48009

Deadline for Submissions: 2:00 p.m. on Thursday, July 12, 2018

Contact Person: Carlos Jorge
P.O. Box 3001, 151 Martin Street
Birmingham, MI 48012-3001
Phone: 248.530.1882
Email: Cjorge@bhamgov.org
# REQUEST FOR PROPOSALS
For New Locker for Birmingham Police Department

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<td>ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM</td>
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INTRODUCTION
For purposes of this request for proposals the City of Birmingham will hereby be referred to as “City” and the private firm will hereby be referred to as “Contractor.”

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to furnish all materials and necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department. This work must be performed as specified accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP).

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

It is anticipated the selection of a firm will be completed by date after July 12, 2018. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

REQUEST FOR PROPOSALS (RFP)
The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide all materials and necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department.

MANDATORY PRE-BID MEETING
Prior to submitting a bid, interested firms are required to attend a pre-bid meeting to conduct an on-site visit of the location and assess to the project location to make inquiries about the RFP. The mandatory pre-bid meeting is scheduled for Tuesday, June 26, 2018 at 9:00 a.m. at the Commission Room # 205 (2nd Floor) of the Municipal Building located at 151 Martin Street, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Monday June 23, 2018 by contacting Carlos Jorge at (248) 530-1882.

INVITATION TO SUBMIT A PROPOSAL
Proposals shall be submitted no later than 2:00 p.m., on Thursday July 12, 2018 to:
City of Birmingham
Attn: City Clerk
151 Martin Street
Birmingham, Michigan  48009
One (1) original and one (1) copy of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, “New lockers for Birmingham P. D.”. Any proposal received after the dead line cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

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

2. Any request for clarification of this RFP shall be made in writing and delivered to: Carlos Jorge, Maintenance Supervisor, City of Birmingham, 151 Martin Street, Birmingham, MI 48009 or cjorge@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 7 days prior to the deadline for submissions.

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

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

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

6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and fax number. The company shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.
EVALUATION PROCEDURE AND CRITERIA
The evaluation panel will consist of City staff and any other person(s) designated by the City who will evaluate the proposals based on, but not limited to, the following criteria:

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

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

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

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

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

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

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

7. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.
8. The Contractor will not exceed the timelines established for the completion of this project.

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

CONTRACTOR’S RESPONSIBILITIES
Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
   a. Bidder’s Agreement (Attachment B - p. 25)
   b. Cost Proposal (Attachment C - p. 26)
   c. Iran Sanctions Act Vendor Certification Form (Attachment D - p. 27)
   d. Agreement (p. 19 – **only if selected by the City**).

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

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

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

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

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

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

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

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

10. The successful bidder shall provide a Performance Bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified.
11. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

CITY RESPONSIBILITY

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

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

SETTLEMENT OF DISPUTES

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

INSURANCE

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

CONTINUATION OF COVERAGE

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

EXECUTION OF CONTRACT

The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.
INDEMNIFICATION
The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 13 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

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

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

PROJECT TIMELINE
It is expected work will begin on in late August 2018 and be completed within four (4) weeks.

The Contractor will not exceed the timelines established for the completion of this project.
SCOPE OF WORK
The Contractor shall perform the following services in accordance with the requirements as defined in the Request for Proposal and it includes the replacement of the existing Men’s and Women’s Lockers Rooms located on the lower level of the Birmingham Municipal Building and no elevator access will be available. This project will include the following tasks:

The Contractor shall be responsible and carefully remove existing electrical and save it for re-use in new lockers.

All electrical work must be performed by a licensed and insured electrician.

The Contractor shall remove existing lockers, furring and blocking necessary for anchoring and fastening if it is necessary for installing new lockers into existing space and replace electrical supply as well as outlets and lights as it was removed.

The Contractor shall be responsible for any patching or painting of surfaces due to damage occurred during demolition and/or installation of the new lockers must be repaired at the expense of the general contractor.

Men’s Locker Room

31ea. 24” wide x 24” deep x 72” single tier
4ea. 18” wide x 24” deep x 72” single tier
1ea. 32” wide x 24” deep x 72” single tier

Women’s Locker Room

6ea. 24” wide x 24” deep x 72” single tier
5ea. 18” wide x 24” deep x 72” double tier

1.0 GENERAL

1.1 SECTION INCLUDES

A. Custom wood lockers and accessories.

1.2 RELATED SECTIONS

A. Section 10500
   - Wood blocking and curbing: Wood grounds and attachment strips.
B. Section 10500
- -- Finish carpentry: Related trim not specified in this section.

1.3 REFERENCES

A. Minimum standard for wood lockers shall conform to AWI (Architectural Woodwork Institute) Architectural Woodwork Quality Standards Illustrated.

1.4 QUALITY ASSURANCE

A. All parts and hardware shall be AWI compliant, structurally sound and free from defects, in material and workmanship under normal use and service for the full warranty period.

1.5 SUBMITTALS

A. Product Data: Available upon request, including:
   1. Preparation instructions and recommendations.
   2. Storage and handling requirements and recommendations.
   3. Installation methods.
   4. Product data specific to materials used in construction of locker.

B. Shop Drawings: Indicate locker plan layout for Hollman contracted installations,
   Component profiles and elevations, schedule of finishes, and accessories.

1.6 PRODUCT DELIVERY, STORAGE, AND HANDLING

A. Store products in a dry, ventilated area until ready for installation.

B. Protect finishes from moisture, soiling and damage during handling.

1.7 PROJECT CONDITIONS

A. Maintain environmental conditions (temperature, humidity, and ventilation) within limits recommended by manufacturer for optimum results. Do not install products under environmental conditions outside manufacturer’s absolute limits.

B. During and after installation, maintain same temperature and humidity conditions in building spaces as will occur after occupancy.
C. Protect locker finish and adjacent surfaces from damage.

2.0 PRODUCTS

2.1 MANUFACTURERS

A. Acceptable Manufacturer:

Hollman Inc.; 1825 Walnut Hill Lane, Irving, TX 75038, Toll Free (800) 433-3630, Fax (972) 815-2921, Email: lockers@hollman.com.

B. Substitutions:

1. Or equal to Hollman as specified will be permitted upon approval by owner after review of substitution request.

2.2 MATERIALS

A. Locker Frame: Tops, sides, and back shall be constructed of 5/8” high density thermo-fused melamine.

1. Expansion / contraction within +/- 1/16” per locker.

B. Available Locker Models:

1. Single tier, Custom Interior

C. Visible Edges: Sealed with a 1.5 millimeter PVC edge banding to closely match locker doors

D. Locker Doors:

1. Solid Raised Panel Door
   a. Component (5-piece) doors include stiles, rails, and center panel. All stile and rail joints are doweled and glued.

E. Locker Door Finish:

1. Clear wood surfaces are sealed with 100% solid UV cure sealer (less than 1% VOC).
2. Wood stains use solvent or water-borne stain. 100% solid UV cure sealer with less than 1% VOC is applied over stain.
3. Water based anti-microbial topcoat (11g/L VOC) applied over cure sealer.
4. Color: Hazelnut

F. Standard hardware:
   1. Number disk, 1-1/2” Dia. Flush mounted disc with 3/8” high contrast digits. US Block 1L font.
   2. Coat Rod, 1” Dia. recessed rod.
   3. Coat Hook(s), 2-prong metal hooks.
   4. Hinges are nickel finished, concealed, heavy duty European steel allowing 110 degree door opening with a limited lifetime warranty.
      a. 4 hinges per door 60”H & over.
      b. 3 hinges per door 36”- -- 59” H.
      c. 2 hinges per door 35”H & under.

G. Locks: Centered vertically in door & spaced horizontally per lock type.
   a. Lock to be Digilock electronic lock

H. Venting: 12 millimeter openings between door and top and bottom of locker and dividers on multiple opening frames provide continuous natural air flow.

I. Power Strip: Location as chosen by owner
   a. Trip Lite power strip

2.3 FABRICATION

A. Locker shall be fabricated using doweled and glued & nailed assembly process.

B. Fabricate lockers square, rigid and without warp, with the finished faces flat and free of scratches and chips.
C. Machine all parts and attachment holes accurately and without chips.

3.0 EXECUTION

3.1 EXAMINATION

A. Do not begin installation until adjacent substrates and finishes have been properly prepared.

B. Verify prepared bases are in correct position and configuration.

C. If preparation is the responsibility of another installer, notify Architect of unsatisfactory preparation before proceeding.

3.2 PREPARATION

A. Clean surfaces thoroughly prior to installation.

B. Prepare surfaces using the methods recommended by the manufacturer for achieving the best result for the substrate under the project conditions.

C. Verify adequacy of backing and support framing.

3.3 INSTALLATION

A. Install in accordance with manufacturer’s instructions.

B. If Hollman is not contracted for installation, client must unload lockers from the delivery truck.

C. Set and secure lockers in place; rigid, plumb, and level.

D. Use concealed joint fasteners to align and secure adjoining cabinet units.

E. Conceal screw heads with plastic caps to match locker interior.


F. Install end panels, filler panels, tops and bases as indicated on the approved shop drawings.
G. Install accessories.

3.4 ADJUSTING
   A. Adjust moving or operating parts to function smoothly and correctly.

3.5 CLEANING
   A. Clean locker interiors and exterior surfaces.

3.6 PROTECTION
   A. Protect installed products until completion of project.
   B. Touch-up, repair or replace damaged products before Substantial Completion.

Optional Equipment

Black Core Phenolic Bathroom Partitions

Carefully remove existing toilet partitions. Remove and save all washroom accessories for re-use on new toilet partitions. Install new toilet partitions in to existing space. Any patching or painting of surfaces due to damage occurred during demolition must be repaired at the expense of the general contractor. Removal and lawful disposal of old toilet partitions from the site will be the responsibility of the general contractor. A dumpster will not be provided for construction use on site. All permits for the work if applicable must be obtained and paid for by the general contractor.

Part 1 GENERAL

1.01 DESCRIPTION
   A. Phenolic compartment work includes the following:
      1. Floor Anchored/Overhead braced
   B. Furnish all labor and materials necessary for the completion of work in this section as specified herein.
   C. Work in this section shall include but is not limited to:
1. Toilet compartments
2. Hardware for toilet compartments
3. Shop drawings and working drawings
4. Manufacturer’s guarantee

D. Related work specified elsewhere shall include accessories and anchorage/blocking for attachment of compartments

1.02 PRODUCTS

A. Submittal of shop drawings and details, for owner’s approval
B. Colors shall match solid wood locker door
C. Color and hardware samples shall be submitted for approval to the owner upon request.

Part 2 PRODUCTS

2.01 MANUFACTURER

A. Toilet compartments to be supplied by Global Partitions Corp.

2.02 SUBSTITUTIONS

A. None accepted.

2.03 MATERIALS

A. Doors shall be constructed of ¾” solid phenolic core decorative plastic laminate with multiple resin-impregnated kraft and surface sheets fused at high temperature and pressure.
B. Panels shall be constructed of ½” solid phenolic core decorative plastic laminate with multiple resin-impregnated kraft and surface sheets fused at high temperature and pressure.
C. Pilasters shall be constructed of ¾” solid phenolic core decorative plastic laminate with multiple resin-impregnated kraft and surface sheets fused at high temperature and pressure.

2.04 CONSTRUCTION

A. Doors shall be constructed of ¾” solid phenolic core decorative plastic laminate with multiple resin-impregnated kraft and surface sheets fused at high temperature and pressure; the edges being finished and polished
B. Panels shall be constructed of ½” solid phenolic core decorative plastic laminate with multiple resin-impregnated kraft and surface sheets fused at high temperature and pressure; the edges being finished and polished.

C. Pilasters shall be constructed of ¾” solid phenolic core decorative plastic laminate with multiple resin-impregnated kraft and surface sheets fused at high temperature and pressure; the edges being finished and polished. Pilasters shall include a mounting system comprising of a ¼” x ¾” stainless steel bar attached to the pilaster having 3/8” zinc plated steel bolts secured to nuts imbedded within a contoured aperture transversely piercing the core at least 1” above the mounting end. Each mounting bar shall be secured to the building structure with 3/8” zinc plated steel studs.

D. Headrail shall be provided to bridge all compartments and brace the end free standing pilasters to the wall; the headrail to comprise anodized aluminum with satin finish, contoured to provide anti-grip features.

2.05 HARDWARE

A. All exposed hardware shall be as noted:

1. Heavy-duty diecast (vault) zamac hinge shall have gravity-acting cams and are fabricated from a die cast aluminum alloy with a brushed finish and wrap around flanges. The cam is constructed from a ¾” diameter nylon rod and a 3/8” stainless steel pin. Slide latch, strike/keeper and hinges are through-bolted onto doors and pilasters using stainless steel vandal resistant through bolts. Hinges are easily adjusted at the jobsite to a full close or partially open position as required. Keeper provides for emergency access into the stall by lifting up on the bottom of the door.

2. Optional: Continuous stainless steel hinge. Slide latch, strike/keeper and hinges are through-bolted onto doors and pilasters using stainless steel vandal resistant through bolts.

B. Panel and pilaster brackets shall be as noted:

1. Stainless steel stirrup brackets shall be 2” long. Stirrup brackets shall be 1/8” thick and mounted with stainless steel, vandal resistant screws. Panels shall be attached with stainless steel, vandal resistant through bolts. The attachment of brackets to the adjacent wall construction shall be accomplished with 2-1/2” stainless steel vandal resistant screws and plastic anchors.

2. Optional: Continuous heavy duty anodized extruded aluminum (6063-T5 alloy) wall brackets are pre-drilled. Wall brackets are mounted with stainless steel, vandal resistant screws. The attachment of brackets to
the adjacent wall construction shall be accomplished with 2-1/2” stainless steel vandal resistant screws and plastic anchors.

3. Optional: Continuous heavy duty stainless steel wall brackets are pre-drilled. Wall brackets are mounted with stainless steel, vandal resistant screws. The attachment of brackets to the adjacent wall construction shall be accomplished with 2-1/2” stainless steel vandal resistant screws and plastic anchors.

C. Pilaster Shoes shall be of type 304 steel #4 finish

D. Headrail shall be made of heavy duty anodized extruded aluminum (6063-T5 alloy). Headrail is anti-grip and attaches to the top of the pilaster with stainless steel tamper resistant screws. Headrail is attached to the adjacent wall construction with a headrail bracket.

E. Headrail brackets are shall be made from a die cast aluminum alloy and shall be attached to the adjacent wall construction with 2-1/2” stainless steel, tamper resistant screws and plastic anchors.

Part 3 - EXECUTION

3.01 PREPARATION

A. Examine areas to receive toilet compartments for correct height and spacing of anchorage/blocking and plumbing fixtures that may affect installation of compartments. Report any discrepancies to owner.

B. Take complete and accurate measurements of toilet compartment locations

C. Start of work constitutes acceptance of job.

3.02 INSTALLATION

A. Install compartments in a rigid straight, plumb and level manner as shown on the shop drawings and manufacturer’s installation instructions.

B. All doors and panels to be mounted at 12” above the finished floor.

C. Clearance at vertical edges of door shall be visible on the finished work.

D. No evidence of cutting, drilling and/or patching shall be visible on the finished work

E. Finished surfaces shall be cleaned after installation and be left free from all imperfections.

3.03 WARRANTY

E. Global Steel Products Corp. guarantees its black core phenolic units, properly maintained, against delamination, breakage or corrosion for 10 years from the date of receipt by the customer. If materials are found defectiveduring that period
for the reasons listed above, the material will be replaced free of charge. No credits or allowances will be issued for any labor or expenses relating to the replacement of components covered under the warranty plan. All such expenses are to be borne by the buyer.

3.04 ADDITIONAL INFORMATION

1. The Contractor will be required to hold a pre-construction meeting with the City.
2. Additional meetings may be requested by either the City or the Contractor in order to discuss the progress of the project.
3. The contractor will be responsible for acquiring a Building and Electric Permit and call for the inspection from the City of Birmingham at no cost to the contractor.
4. The Contractor will be responsible, at no additional cost to the City, for completing any changes necessary for the plans to be approved and permits to be issued by the City of Birmingham Building Department.
5. The work must be performed during regular business hours or on a Saturday with prior notification and approval by the City.
6. The City will not be provided a dumpster for construction use on site.
7. The Contractor shall be responsible for the disposal of all materials and old lockers in a safe and legal manner.
8. The Contractor shall operate in a safe manner and will observe all MIOSHA guidelines.
9. The Contractor shall perform construction work in a manner which minimizes the potential for damage to existing surfaces due to damage occurred during demolition. The Contractor shall be solely responsible for the costs of any surface repairs resulting from damages occurring to existing surface as a result of the work performed by the contractor and/or any subcontractor(s).
10. The Contractor shall Include 6 additional doors and locks for the anticipation of future use, and provides any and all manuals and/or warranty information related to this project to the City upon completion of the project.
11. This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.
ATTACHMENT A - AGREEMENT
For New Lockers for Birmingham Police Department

This AGREEMENT, made this _______day of ____________, 2018, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called “City”), and ______________, Inc., having its principal office at _____________________ (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Maintenance Department, is desirous of having work completed to remove and replace an existing locker at the Men and Women’s Police Department Locker Rooms in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish all materials and all necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department, and in connection therewith has prepared a request for sealed proposals (“RFP”), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish all materials and all necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department.

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to furnish all materials and all necessary equipment and perform all required works necessary to remove and install new lockers at the Birmingham Police Department, and the Contractor’s cost proposal dated ______________, 2018 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed ________________, as set forth in the Contractor’s ________________, 2018 cost proposal.

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

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

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

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

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

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

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

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

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

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

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

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

   D. **Additional Insured:** Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

   E. **Professional Liability:** Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. If applicable.
F. **Pollution Liability Insurance**: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. If applicable

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

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

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

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

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

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

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

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

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

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

   City of Birmingham                        CONTRACTOR
   Attn: Carlos Jorge                        (Insert Contractor Information)
   151 Martin Street                         248.530.1882
   Birmingham, MI 48009                      

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

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

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

WITNESSES:

Steel Equipment Company

By: Michael Mullins
   Its: Associate

CITY OF BIRMINGHAM

By: Andrew M. Harris
   Its: Mayor

By: Cherilynn Mynsberge
   Its: City Clerk

Approved:

Carlos Jorge, Maintenance Supervisor
(Approved as to substance)

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

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

Joseph A. Valentine, City Manager
(Approved as to substance)
In submitting this proposal, as herein described, the Contractor agrees that:

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

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

PREPARED BY
(Print Name)  DATE

TITLE  DATE

AUTHORIZED SIGNATURE  E-MAIL ADDRESS

COMPANY

ADDRESS  PHONE

NAME OF PARENT COMPANY  PHONE

ADDRESS
ATTACHMENT C - COST PROPOSAL
For New Locker for Birmingham Police Department

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

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

<table>
<thead>
<tr>
<th>COST PROPOSAL</th>
<th>BID AMOUNT</th>
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<tbody>
<tr>
<td>Materials &amp; Equipment</td>
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<tr>
<td>Labor</td>
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<td>Miscellaneous (Attach Detailed Description)</td>
<td>$</td>
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<tr>
<td>TOTAL BID AMOUNT</td>
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<tr>
<th>ADDITIONAL BID ITEMS</th>
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<td>$</td>
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<tr>
<td>$</td>
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<tr>
<td>GRAND TOTAL AMOUNT</td>
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</table>

Firm Name__________________________________________________________

Authorized signature___________________________________________ Date______________
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.

<table>
<thead>
<tr>
<th>PREPARED BY</th>
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<table>
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<tr>
<th>NAME OF PARENT COMPANY</th>
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<th>ADDRESS</th>
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<thead>
<tr>
<th>TAXPAYER I.D.#</th>
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</table>
June 28, 2018

RE: ADDENDUM #1 – RFP – New Lockers for Birmingham Police Department.

I would like to thank everyone for taking the time to participate in the pre-bid meeting of June 26, 2018.

I would also like to clarify a couple of items which were discussed at the meeting.

How will the lockers be configured for the interior custom designed?

With regard to this question for the above items the City enclosed an attachment called Addendum # 1 - RFP – New Lockers for Birmingham Police Department.

In the Men’s Locker Room instead of reading: 1ea. 32” wide x 24” deep x 72” high single tier, It should read 1ea. 32” wide x 24” deep x 72” high storage cabinet.

Sincerely,

Carlos Jorge
ADDENDUM #1 – RFP – New Lockers for Birmingham Police Department. Custom Locker Interior

Power Strip will be Located on Left side Panel of Locker

Shelf

Coat Rod

Wall Hooks

Lock Box 6" x 6" x Full Depth w/5 Pin Lock

12" High Pull Out Drawer

Date: 6/26/2018
Page: 1 of 1

Project: Birmingham Police Department Locker Replacement 151 Martin Street, Birmingham MI 48009
Location:
ATTACHMENT B - BIDDER'S AGREEMENT
For New Locker for Birmingham Police Department

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

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

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

MICHAEL MULLINS

PREPARED BY
(Print Name)

ASSOCIATE
TITLE

DATE

7-12-2018

AUTHORIZED SIGNATURE

STEEL EQUIPMENT COMPANY

E-MAIL ADDRESS

837 AUBURN AVE PONTIAC MI 48342 248-334-1900

ADDRESS

PHONE

N/A

NAME OF PARENT COMPANY

PHONE

ADDRESS
ATTACHMENT C - COST PROPOSAL
For New Locker for Birmingham Police Department

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

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

<table>
<thead>
<tr>
<th>COST PROPOSAL</th>
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<td>Labor</td>
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<tr>
<td>TOTAL BID AMOUNT</td>
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</tr>
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<td>GRAND TOTAL AMOUNT</td>
<td>$55,100.00</td>
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</table>

Firm Name  STEEL EQUIPMENT COMPANY

Authorized signature  Date  7-12-2018
ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
For New Locker for Birmingham Police Department

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.

<table>
<thead>
<tr>
<th>Michael Mullins</th>
<th>7-12-2018</th>
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<tr>
<td>(Print Name)</td>
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</tr>
<tr>
<td>ASSOCIATE</td>
<td>7-12-2018</td>
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<tr>
<td>TITLE</td>
<td>DATE</td>
</tr>
<tr>
<td>PARTNER</td>
<td></td>
</tr>
<tr>
<td>AUTHORIZED SIGNATURE</td>
<td>E-MAIL ADDRESS</td>
</tr>
<tr>
<td>Mike</td>
<td><a href="mailto:mikes@steelequipmentcompany.com">mikes@steelequipmentcompany.com</a></td>
</tr>
<tr>
<td>COMPANY</td>
<td></td>
</tr>
<tr>
<td>837 AUBURN AVE</td>
<td>PHONE</td>
</tr>
<tr>
<td>PONTIAC MI</td>
<td></td>
</tr>
<tr>
<td>ADDRESS</td>
<td>PHONE</td>
</tr>
<tr>
<td>N/A</td>
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<tr>
<td>NAME OF PARENT COMPANY</td>
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<td>20-3501504</td>
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<td>TAXPAYER I.D.#</td>
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</table>
ATTACHMENT A - AGREEMENT  
For New Lockers for Birmingham Police Department

This AGREEMENT, made this ______ day of __________, 2018, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Steel Equipment Company, having its principal office at 837 Auburn Ave, Pontiac, MI 48342 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Maintenance Department, is desirous of having work completed to remove and replace an existing lockers at the Men and Women’s Police Department Locker Rooms in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish all materials and all necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish all materials and all necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department.

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to furnish all materials and all necessary equipment and perform all required work necessary to remove and install new lockers at the Birmingham Police Department, and the Contractor’s cost proposal dated July 12, 2018 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed $55,100.00, as set forth in the Contractor’s July 12, 2018 cost proposal.

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

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

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

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

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

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

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

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

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

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

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

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

D. **Additional Insured**: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be **Additional Insureds**: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. **Professional Liability**: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. If applicable.
F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. If applicable

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

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

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

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

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

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

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

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

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

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

    City of Birmingham  Steel Equipment Company
    Attn: Carlos Jorge    Attn: Michael Mullins
    151 Martin Street    837 Auburn Ave.
    Birmingham, MI 48009  Pontiac, MI 48342
    248.530.1882         248.334.1900

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

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

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

**WITNESSES:**

Steel Equipment Company

By: ____________

Michael Mullins

Its: Associate

CITY OF BIRMINGHAM

By: ____________

Andrew M. Harris

Its: Mayor

By: ____________

Cherilynn Mynsberge

Its: City Clerk

Approved:

Carlos Jorge, Maintenance Supervisor
(Approved as to substance)

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

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

Joseph A. Valentine, City Manager
(Approved as to substance)
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER 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
VTC Insurance Group
Troy Office
1175 W. Long Lake Ste. 200
Troy MI 48098-4960

INSURED
Storage & Seating Solutions, LLC
DBA: Steel Equipment Company
837 Auburn Road
Pontiac MI 48342-1070

COVERAGE

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

WHERE REQUIRED BY WRITTEN CONTRACT, CITY OF BIRMINGHAM INCLUDING ALL ELECTED AND APPOINTED OFFICIALS, ALL EMPLOYEES AND VOLUNTEERS, ALL BOARDS, COMMISSIONS AND/OR AUTHORITIES AND BOARD MEMBERS, INCLUDING EMPLOYEES AND VOLUNTEERS THEREOF ARE ADDITIONAL INSURED'S ON THE GENERAL LIABILITY POLICY AND AUTOMOBILE LIABILITY WITH RESPECT TO ONGOING AND COMPLETED OPERATIONS PERFORMED BY THE NAMED INSURED PER WRITTEN CONTRACT. WHERE REQUIRED BY WRITTEN CONTRACT, ADDITIONAL INSURED COVERAGE PROVIDED UNDER THE GENERAL LIABILITY AND AUTOMOBILE LIABILITY APPLIES ON A PRIMARY AND NONCONTRIBUTORY BASIS.

CERTIFICATE HOLDER
City of Birmingham
Attn: Carlos Jorge
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
Alan Chandler/ALB

© 1988-2014 ACORD CORPORATION. All rights reserved.
DATE: August 3, 2018

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Rail District Linear Park – Professional Services Agreement

The Eton Road Corridor Plan studied what is now referred to as the Rail District, and among numerous recommendations, suggested the addition of a linear park adjacent to the railroad tracks on the east side of the district. Since that time, the City has been working towards making this park a reality. Several years ago, the City purchased an abandoned railroad spur that runs roughly parallel to the railroad tracks south of Cole Street. In addition, the City has preserved open space in the developments at 2425 E. Lincoln (dentist’s office building) and 2400 E. Lincoln (senior living community) to provide future park space and connections to the land previously purchased by the City.

Accordingly, the City Commission approved the amount of $5000.00 in the FY 17-18 Budget for professional services to hire a consultant to prepare a concept plan for the future development of the linear park in the Rail District. The Planning Division sent out requests in May 2018 to eight local planning firms soliciting quotes for such services. Five formal quotes were received and evaluated by the Planning Division, all ranging from $4500.00 to $5,060.00 for professional services.

After a thorough review of all proposals, the Planning Division recommends hiring McKenna Associates to prepare the requested concept plan. In addition to providing the strongest proposal for this project, McKenna also has extensive experience working the Department of Public Services to prepare a Parks and Recreation Master Plan for the City during the past year, and McKenna Associates also authored the Eton Road Corridor Plan.

While the amount for professional services quoted is below the $6000.00 threshold that requires City Commission approval, the City Attorney has recommended that the bid be formalized into a contract. As a result, City Commission approval is required to approve the contract and direct the Mayor to sign the document.

Thus, please find attached a contract to provide professional services to prepare a concept plan for the linear park as recommended in the Eton Road Corridor Plan for your review. A copy of
the City's request for quotes and McKenna Associates' proposal are both attached as appendices to the contract.

SUGGESTED ACTION:

To APPROVE the contract with McKenna Associates in the amount of $5000.00 payable from account # 101-721-000-811.000, to provide professional services to prepare a concept plan for the linear park recommended in the Eton Road Corridor Plan, and to direct the Mayor to execute same.
CONSULTING AGREEMENT BETWEEN THE CITY OF BIRMINGHAM
AND McKENNA ASSOCIATES

THIS AGREEMENT made this ___ day of __________, 2018, by and between the CITY OF BIRMINGHAM, whose address is 151 Martin Street, Birmingham, Michigan (hereinafter referred to as the “City”) and McKENNA ASSOCIATES whose address is 235 E. Main Street, Suite #105, Northville, MI 48167 (hereinafter referred to as the “Contractor”), to-wit:

1. Contractor shall provide planning and landscape architectural consultant services under this Agreement as requested from time to time by the City of Birmingham through its City Manager and/or his designee as described in Exhibit A.

2. Payment for professional services rendered under this Agreement shall be made in accordance with the fee schedule mutually agreed upon prior to the time the work is performed as set forth in Exhibit A. The City promises and agrees to pay said Contractor for all labor supplied and work performed under this Agreement. Invoices shall be submitted to the City on a monthly basis and shall be paid upon acceptance by the City of the work produced by the Contractor.

3. Written notices regarding this Agreement shall be addressed to the following:

   City: City of Birmingham
         P.O. Box 3001
         Birmingham, Michigan 48012
         Attn: City Manager and City Clerk
         (one written copy to each)

   Contractor: McKenna Associates
              235 E. Main Street, Suite #105
              Northville, MI 48167
              Attn: Sarah Traxler, Vice President

4. This Agreement shall have a term of one (1) years from the date stated above. The City and the Contractor shall each have the right to unilaterally terminate this Agreement on thirty (30) days written notice. In the event of termination, the Contractor shall receive compensation for services to the date the termination takes effect and the City shall be entitled to retain and use the results to the date the termination takes effect and the City shall be entitled to retain and use the results of all information, maps, and recommendations prepared by the Contractor through such date.

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

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

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

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

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

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

11. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on their behalf 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, its elected and appointed officials, employees, volunteers or others working on their behalf, 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 any act or omission of the Contractor to the extent permitted by law. 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. In addition, consultant’s indemnity shall be comparatively reduced to the extent that the claim, suit or loss is caused in part (or shall be eliminated in whole if the claim, suit or loss is caused in whole) by the negligent or intentional acts of the City, its elected and appointed officials, employees, volunteers or others working on behalf of the City.

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

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

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.
C. **Motor Vehicle Liability Insurance:** Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

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

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

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

1) Two (2) copies of Certificate of Insurance for Workers' Compensation 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;
H. **Coverage Expiration:** If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

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

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

15. 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.

16. The City shall be the owner of all drawings, reports, specifications and other documents prepared by the Contractor. Any modifications made to these documents by the City shall be clearly marked as such on the modified document. Any modifications made by the City without the prior written consent of the Contractor shall be at the City’s sole risk and responsibility.

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

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

By: ________________________________
    Andrew Harris, Mayor

By: ________________________________
    J. Cherilynn Mynsberge, City Clerk

McKENNA ASSOCIATES

By: ____________________________________________

Its: ________________________________
    John R. Jackson, AICP, President

Approved:

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

Jana Ecker, Planning Director
(Approved as to substance)

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

Mark Gerber, Director of Finance
(Approved as to financial obligation)
EXHIBIT A - ATTACHED
TO: McKenna Associates  
235 E. Main Street, Suite 105  
Northville, MI 48167

From: City of Birmingham  
151 Martin Street  
P.O. Box 3001  
Birmingham, MI 48012

RE: Linear Park Design Quote  
Birmingham, MI

Date Quote Requested: Wednesday May 23rd, 2018

Firm Response Requested By: Wednesday June 13th, 2018

Contact: Nicholas Dupuis  
Planning Department  
Office: (248)-530-1856  
Cell: (248)-320-1287  
Email: ndupuis@bhamgov.org
City of Birmingham  
151 Martin Street  
P.O. Box 3001  
Birmingham, MI 48012  

May 23rd, 2018  

McKenna Associates  
235 E. Main Street, Suite 105  
Northville, MI 48167  

K. Smith,  

Since Birmingham’s first master plan in 1929, the Eton Road Corridor, or Rail District, has been bounded by Maple Road to the north, Canadian National Railroad to the east, Lincoln Street to the south, and Eton Road to the west. Having propinquity to the railroad, all of Birmingham’s industrial land uses were naturally attracted to the area. Development pressure and the emigration of major industry has recently converted the former industrial area into a trendy, dense, mixed use zone that offers dining, shopping, recreation and now even a full service grocer.  

The City of Birmingham has envisioned more park space in the Eton Road Corridor through the formal Eton Road Corridor Plan written in 1999. In the Eton Road Corridor Plan, a linear park was recommended to run parallel to the Canadian National Railway running from Lincoln Street to the south to about two thirds of the way north towards Maple Road. The proposed linear park’s feasibility lies with the ability of the City to obtain the parcels it would span. There are seven parcels of interest for this project, one of which the City currently owns. The City of Birmingham is now looking for conceptual designs for this linear park that fit the area’s light industrial heritage and the mixed use, upscale and walkable qualities present today.  

Birmingham envisions this modest conceptual plan to include main access points at Holland Street, Cole Street and East Lincoln Street with future considerations for an access point at the corner of Attard Street and Lewis Street. Birmingham would like the park to serve pedestrians and recreational cyclists alike. A focal point element at one of the access points could draw attention to the park entry. Landscaping is desired throughout, especially along the length of the rail line to act as a sight and noise buffer from the rail and industrial uses on the other side. Seating is expected to be plentiful, with certain areas weather protected as well. Public art installations will certainly be encouraged throughout the park.  

The City of Birmingham, Michigan would like to request a quote from your firm to prepare a simple conceptual design proposal for a park space along the Canadian National Railway as described above. The enclosed documents provide parcel information as well as the proposed park location and rail-inspired design elements. Should you need any more information, please contact me anytime!  

Regards,  

[Signature]  

Nicholas Dupuis, Planning Department  
Office: (248)-530-1856  
Cell: (248)-320-1287  
Email: ndupuis@bhamgov.org
This example of a pedestrian walkway resembles a train yard, which would support the theme and light industrial style of the Rail District.

Attractive, high quality & non-traditional park seating

The High Line in New York, an urban rail-themed park with pedestrian amenities

Birmingham's Eton Road Corridor Plan outlines the personality and land use within the area. The plan outlines a mix of light industrial/office/research, service, neighborhood commercial, public facilities, recreation, and parking.
Linear Park Design Concept

CITY OF BIRMINGHAM, MICHIGAN

MCKENNA

JUNE 13, 2018

Communities for real life.
June 13, 2018

Mr. Nicholas Dupuis
Planning Department
City of Birmingham
151 S. Martin Street
Birmingham, MI 48012

Subject: Proposed Partnership for Rail District Linear Park Conceptual Planning Success

Dear Mr. Dupuis,

We are thrilled to submit a quote to partner with the City’s Planning Department to prepare an initial conceptual design for the Rail District Linear Park! Birmingham has a strong tradition of excellent public space and parks design and programming, along with regionally significant location features – including its award-winning downtown. McKenna is highly familiar with Birmingham’s local assets and marketable life quality features, having prepared the Eton Road Corridor Plan (in which the idea of this linear park germinated) and the 2017 Parks and Recreation Master Plan. The provision of this recreational asset in this area of Birmingham will increase equity in terms of the provision of parks and recreation facilities; the Rail District and surrounding neighborhoods are perhaps the most underserved (per our analysis during preparation of the Parks and Recreation Master Plan). McKenna will immediately hit the ground running having done fieldwork in this area in 2018 and having engaged Department Heads, neighbors, and elected and appointed officials within the last few months.

INSPIRATION
Our team understands the inspiration behind the linear park and appreciate the City’s reference to an excellent public space, NYC’s High Line. Another inspirational point of reference is the Indianapolis Cultural Trail, which provides both practical and experiential amenities for pedestrians and cyclists along its path and focuses on providing sensory stimulation through excellent landscape design and public art. Similarly, we believe Birmingham leaders wish to provide yet another world-class public space for pedestrians and bicyclists alike while driving value and place improvement to adjacent properties (as well as the Rail District more generally).

Following are our initial inspirational / vision-driven concepts for the Rail District Linear Park:
<table>
<thead>
<tr>
<th>INSPIRATION</th>
<th>DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connectivity / Access</td>
<td>• Birmingham’s planners have identified access points at Holland, Cole, and East Lincoln Streets;</td>
</tr>
<tr>
<td>Points</td>
<td>• Future potential access points at Attard and Lewis Streets;</td>
</tr>
<tr>
<td></td>
<td>• Connection to neighborhoods and City assets such as downtown and parks is imperative to creating and adding value to this roughly .4-mile long park, especially for active recreation users;</td>
</tr>
<tr>
<td></td>
<td>• Wayfinding and promoting access must be character- and scale-appropriate to the Rail District.</td>
</tr>
<tr>
<td>Accessibility</td>
<td>• Accessibility was top of mind for City Commission during the Parks and Recreation Master Plan effort and should be discussed and planned for during this important conceptual design phase;</td>
</tr>
<tr>
<td></td>
<td>• Determining the level of accessibility and role this park will play in the City’s park system will help determine the role that universal design principles play during conceptual planning and design.</td>
</tr>
<tr>
<td>Sensory Experiences</td>
<td>• Creating “great places” requires stimulating visitors’ senses – touch, smell, sight, sound, and even sometimes taste!</td>
</tr>
<tr>
<td></td>
<td>• For this design effort, we envision sight, touch, and sound to be the most important senses to plan for and engage;</td>
</tr>
<tr>
<td></td>
<td>• Sight - need for beauty, art, and patterns of predictability AND surprise in both hardscaped and landscaped elements;</td>
</tr>
<tr>
<td></td>
<td>• Touch - comfortable furniture and pleasant walking and riding surfaces, at minimum;</td>
</tr>
<tr>
<td></td>
<td>• Sound – the quality, tone, and level of environmental sounds is important for positive park and recreation experiences. The location of this park will bring with it more urban, “authentic” sounds (trains, minor shop-like noises, buses), which will need to be accounted for; will mitigation be necessary?  If so, in what form?</td>
</tr>
<tr>
<td></td>
<td>• Comfort – above all, the comfort of the user is paramount, including shade, regular points to rest and interact, etc.</td>
</tr>
<tr>
<td>Quality of Place</td>
<td>• Continuing Birmingham’s excellence of public space / park design is paramount to project success;</td>
</tr>
<tr>
<td></td>
<td>• Incorporating the principles of high-quality and meaningful “placemaking” or place creation will be key to the viability of this park.</td>
</tr>
<tr>
<td>Sustainability</td>
<td>• Providing the appropriate level of site sustainability for ease of maintenance, lessened impacts, and future viability of the park will need to be planned and designed for at this conceptual level;</td>
</tr>
<tr>
<td></td>
<td>• Green stormwater infrastructure may be incorporated, if deemed appropriate.</td>
</tr>
</tbody>
</table>
QUOTE
We understand that the City’s budget threshold is $5,000 and will perform the following services for that amount:

- Attendance at up to four meetings with City planners, administration, and/or elected and appointed officials;
- Perform field work / investigation, plus analysis of parcel data as provided by the City and other public sources, as necessary to deliver a highly-satisfactory conceptual plan;
- Preparation of two conceptual alternatives for City consideration;
- Preparation of one consensus plan;
- Graphic, narrative, strategic communication, and other project support to deliver the highest level of satisfaction to Birmingham leaders.

REQUIREMENTS
McKenna is well-suited to partner with your team for conceptual planning and design success as follows:
1. Our familiarity with the City will help us quickly drill-down to the most important issues with your team’s guidance.
2. Our understanding of current and past key imperatives by City Commission and other boards and commission with allow us to support your team’s strategy for planning, design, and development success with the Rail District Linear Park.
3. Our award-winning experience in landscape and urban design (supported by city planners with excellent process and strategy insight) qualifies us to prepare the concept
4. Our creative yet grounded approach will ensure the viability of this 1st round of design and help gain support from various stakeholders and potential funders.
Examples of McKenna's extensive experience preparing park and public space concepts, plans, and construction documents for similar cities, townships, villages, and multijurisdictional organizations are attached to this quote. If you have any questions please do not hesitate to contact me at (248) 596-0920 or straxler@mcka.com. Thank you.

Respectfully submitted,

McKENNA

[Signature]

Sarah Traxler, AICP, NCI
Vice President
Eton Road Corridor Plan
BIRMINGHAM, MICHIGAN

The City of Birmingham was confronted by redevelopment proposals for an area of the City located along Eton Road between Maple and Lincoln which was perceived by the private market to be underdeveloped. The area contained a variety of uses, most commonly older industrial. The City judged redevelopment proposals to be premature without a land use and transportation plan first in place and retained McKenna to create a master plan to guide the transformation.

As part of the process, McKenna developed a master plan amendment to set the vision for the area and a zoning ordinance amendment to implement the recommendations of the plan. The plan resulted in a vision for a mixed use corridor with a range of commercial, service, light industrial and residential uses. The plan called for high quality, cohesive development, compatible with existing uses in the corridor and adjacent single-family neighborhoods.

The area has since redeveloped according to the Eton Road Corridor Plan, which included detailed implementation, marketing, and design guidelines. Major features of the process included community input, a visioning workshop which employed a development potential map, and a land use and transportation evaluation matrix.

As a result of the plan, more than 300 residential dwelling units were built and five industrial buildings revitalized for a variety of uses in the Eton Road corridor. The area transformed from a first-generation industrial area to a vibrant, mixed use area in the decade following the adoption of the plan.
Parks & Recreation Master Plan
CITY OF BIRMINGHAM, MICHIGAN

The City of Birmingham is one of Michigan’s premier communities, and part of its reputation and tradition of excellence is its longstanding commitment to world-class parks design and recreation provision. The City engaged McKenna to prepare a rewrite of its Parks and Recreation Master Plan, which—in Michigan—is the basis for access to State and other grants and loans for acquisition, design, and development of parks. Additionally, the Parks and Recreation Board wished to reexamine its overall planning priorities, as well as specific plans for each of its 26 parks, which cover more than 230 acres or 10% of the City’s total acreage.

McKenna designed a robust public engagement program; City leaders had desired to extensively engage residents, who are extremely passionate about Birmingham parks. Throughout the multi-pronged engagement process, which included a “Field Day” at the Fall Harvest Farmer’s Market, a comprehensive online and paper survey, key stakeholder roundtable discussions, and public presentations, a significant number of residents indicated that the parks and recreation programs were key to their choosing to invest and stay in Birmingham.

McKenna’s beautifully-designed, easy to interpret Parks and Recreation Master Plan document included all information required by the State, as well as best practice and strategic recommendations on features that the City wished to investigate for future development, including restrooms in public parks, green stormwater handling, and other special planning topics.

City leaders are highly satisfied with the process and resulting document, and are incorporating the plan features into their other robust planning and design priorities city-wide for a comprehensive, coordinated program of community planning and design excellence.
Riverwalk Linear Park
CITY OF BAY CITY, MICHIGAN

A land reclamation project, this park was designed on land stabilized from the Saginaw River. The one million dollar project involved the design of a multi-use park with special focus on a barrier free exercise trail on the Saginaw River. The Plan included areas for passive and active play serving as a link in the Bay City/Saginaw River Linear Parkway System. The linear park is funded in part by a State of Michigan grant. The construction drawings include a layout plan, grading plan, planting plan, detail sheets, and electrical plan.

Challenges included creating an interesting and dramatic pedestrian environment that was accessible to all and providing a challenging exercise course for people of all abilities. This project has been highly successful and has been a catalyst to future growth along the river. We also had to devise a cost effective way to retain the shoreline of the Saginaw River and accommodate the annual ebb and flow of the river.

The Riverwalk is now a vital recreation resource at a local and regional level.
Main Street Enhancement Project
CITY OF THE VILLAGE OF CLARKSTON, MICHIGAN

McKenna was successful in obtaining a $562,650 TEA-21 grant for streetscape improvements along a half mile stretch of M-15 in historic downtown Clarkston.

This project included special pavement materials, historic lighting, street furnishings, and landscaping.

McKenna designed these improvements to enhance the pedestrian realm in downtown Clarkston and to assist in traffic calming. McKenna provided construction design and documentation for this project.
Banner Design and Implementation Strategy

DOWNTOWN DEVELOPMENT AUTHORITY, CITY OF FLAT ROCK, MICHIGAN

In the midst of a number of projects to revitalize its downtown, the Flat Rock Downtown Development Authority (DDA) recognized a need for banners to provide a fresh splash of color and identify key downtown destinations and the community as a whole. To assist, McKenna's design team developed four simple crisp designs highlighting the downtown's amenities and the community. McKenna then conducted an inventory of existing banners and locations and identified potential new locations for banners. A final recommendation provided the DDA a multi-phased implementation strategy, identifying funding options for future growth of the banner program within the downtown.
Community/Recreation Center Design

CITY OF FLAT ROCK, MICHIGAN

McKenna proposed a rustic theme for the building and several concept plans incorporating Adirondack architecture and design elements from the National Parks system. Key to the success of this project was the careful integration of the site plan elements: building, parking, and trailways within the existing woodlands and topography. The McKenna led site plan embraced the site with dynamic views and rustic features. The natural building materials provided a sense of timelessness. The project team also coordinated the design of a previously approved and funded non-motorized trail and took advantage of the views of the creek, wooded wetland, and access to the community center and parking. The site plan incorporated a trailhead with kiosk, bench, bicycle rack, and trash receptacle.
The Fisher Road business district in Grosse Pointe is a neighborhood business district with a mix of retail, office, service, and residential uses. Buildings are located about 25 feet from the road and the area between the buildings and the road contained a wide range of paving, parking and landscaping.

Recognizing the unique characteristics of this neighborhood business district, the City updated its master plan and zoning ordinance to create a mixed-use neighborhood business district with specific design and form-based standards.

The City of Grosse Pointe had scheduled the replacement of a watermain that ran the entire length of the Fisher Road business district, presenting the opportunity to unify and enhance the image of the district, and better experience for pedestrians in the district. In addition, a significant private redevelopment project that represented approximately 33% of the frontage in the district was being contemplated.

McKenna facilitated a number of interactive design workshops with property owners to identify desirable features such as landscaping, decorative pavement treatments, bike racks, street trees, and street lights.

These workshops were also used to bring property owners together to form a special assessment district to pay for a portion of the preferred streetscape improvements.

Based on the results of the design workshops, McKenna developed a streetscape plan (currently under construction) for the Fisher Road business district that unified the image of this “front door” to the community and provided for improved pedestrian and bicyclist amenities.
Orion Oaks Master Site Plan

OAKLAND COUNTY, MICHIGAN

Featuring 927 acres of undeveloped natural park space, Orion Oaks was a treasure within the Oakland County park system but difficult for residents to use and therefore underutilized. Oakland County recreation leaders wanted to open the park to broader use and enjoyment through renovation, without disturbing its distinctive natural features.

McKenna planners led two community visioning and planning workshops to seek community input on the park’s future, building consensus and strong support for the renovations. The resulting Orion Oaks Master Plan provides for necessary accessibility, restroom, and trail head improvements, but protects the sensitive environmental features, passive qualities and Southern Michigan countryside that define the beauty of the terrain.
Greenways and Pathways Plan
CITY OF RIVER ROUGE, MICHIGAN

Looking at a diamond in the rough, the City wanted to come up with a creative way of connecting one of its largest parks to the Detroit River ("blueway"). linking many of the adjacent neighborhoods, via its historic industrial corridor. The City's pathway will demonstrate how recreational trails can be compatible with the manufacturing industry and how the City's industrial heritage can generate a real source of community pride. Ultimately, the trail will promote River Rouge's unique role in steel production, power generation, shipbuilding and maritime history through interpretive signage and displays.
McKenna prepared the plans for Riggs Heritage Park (30 acres), located at a historic homestead and farm (Est. 1836) to be enhanced and used as a passive park, cultural center, agricultural preserve, historical village, trailhead with train depot replica respite station, amphitheater, pathways, pond, picnic and community events area. The park land was donated and the initial development was made possible through the use of a portion of a $2,000,000 Wayne County Parks Grant.

“The Depot”: The universal access picnic shelter/room was being modeled after the original train depot in Belleville. It is located adjacent to the same rail line approximately one mile from its original location that helped to settle the area. Some green friendly elements incorporated into the design include the use of natural lighting in the restrooms and LED site lighting.

Short Grass Prairie: A short grass prairie was planted to return the land to its environmentally sustainable, pre-settlement conditions. This area contains a network of walking-biking trails to allow movement through this rich ecosystem.

Additional benefits of including the natural planting include better drainage due to the deeper roots that native prairie grass provides over turf grass. The prairie provides a natural ecosystem for many birds and small animals. This natural area provides for many interpretive opportunities for both environmental and historical education and is graphically highlighted with interpretive kiosks.

Sustainable Storm Water Management: The storm water management system utilizes several Best Management Practices (BMPs) to minimize the impact of the site development and use patterns. This project has modern conveniences like rest rooms, permeable and conventional paving and low impact parking, but the design strives to minimize the impact on the site and environment. The BMPs include permeable pavement, surface runoff, bio-swales and wet meadow plantings. Interpretive kiosks highlight the environmental processes taking place and the rationale behind constructing these elements in this manner.

Bike Path Trail Head: The planned trail head will connect to Lower Huron Metro Park to the east and become part of the regional bike path network. The trail system ties into the Township’s Greenway Corridor Master Plan.
In order to preserve and enhance the abundant natural areas, offer a greater range of recreational opportunities, and link destination within and outside the Village, Vicksburg set out to completely re-write the previously outdated Parks and Recreation Master Plan. Focusing on a regional non-motorized network, the Plan is a collaborative effort involving various municipalities in Kalamazoo County and the Vicksburg Community School District.

One component of the Park Plan was the redesign of one of the Village’s underutilized public spaces, Clark Park, located right in downtown Vicksburg. The major design challenge for this project was to design and locate a Department of Transportation pedestrian/bike trail through the park, to delineate use areas within, extend the activity of the downtown to the Clark Park, and realize the vision of the donors that the purpose of the land be a garden that accommodated an active and festive feeling.

McKenna developed a generously wide promenade to accommodate the bike path and create areas for vendors, seating, an amphitheater and other activities overlooking the park. McKenna used existing and new deciduous canopy trees, with an understory of ornamentals, to create two, connected outdoor rooms. At the base of the understory, McKenna detailed flowering shrubs and groundcover. A crushed limestone path was added along the edges of these plantings in order to provide for circulation. McKenna also located drain tiles throughout the low areas within the park in order to provide site drainage toward an existing creek.

As a result of the new Parks and Recreation Plan, the Village is able to better understand the current needs and trends and tie into a larger non-motorized system. The Plan has also enabled the Village to develop concept plans and prioritize parks and recreation projects for grant funding opportunities.
CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
Professional Concepts Insurance Agency, Inc.
1127 South Old US Highway 23
Brighton, MI 48114-9861

INSURED
McKenna Associates, Inc
235 East Main Street
Suite 105
Northville, MI 48176

COVERAGES
CERTIFICATE NUMBER: 17-18

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.

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

CANCELLATION

City of Birmingham
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

Mike Cosgrove/SHANNO

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# Certificate of Liability Insurance

**Certificate Number:** 1570136721  
**Revision Number:**

**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).

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| McNish Group, Inc.  
26622 Woodward Ave. Ste. 200  
Royal Oak MI 48067 | McKenna Associates, Inc.  
235 E Main St. Ste. 105  
Northville MI 48176-2499 | Kerri Marsalese | 248-544-4800 | kmarsalese@mcnish.com | The Hartford | 29424 | | | | | | |

**Coverages**

**Certificate Number:** 1570136721  
**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.

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**Description of Operations / Locations / Vehicles**

Additional Insured as required by written contract on a primary and non contributory basis: City of Birmingham including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members. Thirty (30) days prior written notice except ten (10) days for non payment shall be given to Certificate Holder in the event of cancellation or non-renewal of the insurance.

**Certificate Holder**

City of Birmingham  
151 Martin Street  
Birmingham MI 48012

**Cancellation**

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

Authorized Representative

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MEMORANDUM

Planning Division

DATE: August 1, 2018

TO: Joseph A. Valentine, City Manager

FROM: Matthew Baka, Senior Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: 361 E. Maple, The Hawthorne Building – Historic Designation Elimination Request – Set Public Hearing

On July 24, 2017 the City Commission passed a resolution directing the Historic District Study Committee (HDSC) to consider a request by the owner of the property at 361 E. Maple to remove the historic designation from the building in order to allow the demolition and redevelopment of the site. As required by Section 127-5, Establishing additional, modifying, or eliminating historic districts, the HDSC prepared a study committee report for consideration by the City Commission. The City Code requires that one of three criteria be met in order to justify de-designation of a historic property. Those criteria are as follows:

1. The historic district has lost those physical characteristics that enabled the establishment of the district;
2. The historic district was not significant in the way previously defined; or
3. The historic district was established pursuant to defective procedures.

The HDSC’s finding, based on the criteria established in the City Code, was to forward a recommendation to deny the request to eliminate the historic designation of 361 E. Maple (see attached report). The requirements of Section 127-5 state that the report must be sent to the State Historic Preservation Office, the Planning Board and the Historic District Commission for comment before being considered by the City Commission. After a lengthy delay due to staffing and scheduling issues at the State office, SHPO sent the City their comments regarding the report (attached). The comments focus on the format and content of the report. In addition to the comments on the report the SHPO also sent a letter in which they concur with the findings of the HDSC at the time of designation (1983) and in the current report, which is that they found the building to be a good representative example of a small commercial building from the period.

The HDSC report was also forwarded to both the Planning Board and Historic District Commission for comment. While neither Board directly commented on the report, nor whether or not the application for de-designation met the required criteria as listed above, they both made comments that the new development would contribute to the continued redevelopment of the City with newer buildings replacing the ones that historically have comprised the heart of the downtown area. The minutes from those meetings are attached.
In addition to the report produced by the HDSC, the applicant also commissioned a report by private architect William Finnicum to support their request (attached). This report contends that the adoption of the Overlay District, and subsequently the redevelopment of two parcels on the block of the subject parcel, has fundamentally altered the characteristics of the downtown by allowing taller buildings and therefore justify the elimination of the historic designation of this building. However, it should be noted that the zoning classification of B-4 was in effect in 1983 when the building was designated. The Overlay District allows for one additional floor. In addition, section 3.01 Purpose, subsection (D) states that one purpose of the Overlay District is to do the following:

“Ensure that new buildings are compatible with and enhance the historic districts which reflect the city’s cultural, social, economic, political, and architectural heritage.”

Based on the recommendations of the 2016 Plan, the City also adopted architectural design standards that control the void to solid ratio and permissible building materials which were inserted into the Zoning Ordinance as a method of controlling the character of the downtown.

In addition to the report submitted by the applicant to support their position, the neighbor directly to the east also submitted a report by architect John Dziurman arguing that the building should be preserved (attached). This report mirrors many of the findings of the HDSC.

The last step required before sending the request to the City Commission was to hold a public hearing after the comments from the State Historic Preservation Office were received regarding the report to allow public comment and make a final determination as to what the recommendation to the City Commission should be made regarding the requested elimination of the historic designation of 361 E. Maple, the Hawthorne Building. The public hearing was held on July 26, 2018 at an HDSC meeting. During the hearing extensive comments were made by the applicant in support of the request and the by public against the request. The draft minutes from this meeting are attached. At the conclusion of the public hearing, the HDSC voted to maintain their recommendation to deny the request for de-designation. The report and supporting documentation is now being sent to the City Commission for consideration.

**SUGGESTED ACTION**
To set a public hearing date of September 17, 2018 to consider the request by the property owner to eliminate the historic designation on 361 E. Maple.
Minutes of the regular meeting of the Historic District Study Committee (“HDSC”) held Thursday, December 7, 2017. Chairperson Gigi Debbrecht called the meeting to order at 1:05 p.m.

3. ROLL CALL

Present: Chairperson Gigi Debbrecht; Board Members Paul Beshouri (arrived at 1:06 p.m.), Jonathan DeWindt, Patricia Lang, Michael Xenos

Absent: None

Administration: Matthew Baka, Senior Planner
Carole Salutes, Recording Secretary

4. APPROVAL OF THE NOVEMBER 16, 2017 HDSC MINUTES

Motion by Ms. Lang
Seconded by Mr. Xenos to approve the Minutes of November 16, 2017 as presented.

Motion carried, 4-0.

VOICE VOTE
Yea: Lang, Xenos, Debbrecht, DeWindt
Nay: None
Absent: Beshouri

3. 361 E. MAPLE RD.
   De-Designation Request

Mr. Baka recalled that the owner of the property located at 361 E. Maple Rd. has requested that the City Commission consider removing the historic designation of their building as a contributing historic resource within the City of Birmingham. The property owner has submitted an application to the Planning Board requesting to demolish the building as part of a redevelopment proposal.

As required by Section 127-5 of the City Code, Establishing additional, modifying, or eliminating historic districts, the HDSC has been directed by the City Commission to
consider modifying an existing Historic District by evaluating the Hawthorne Building, which is a contributing resource within the Central Business District Historic District, for consideration for removal from the list of historically designated properties in the City of Birmingham.

The HDSC is required to follow the procedures as set forth in Section 127-4 of the City of Birmingham Historic Districts Ordinance, as amended. The procedure requires the issuance of a preliminary report, holding a public hearing, and issuing a final report with the intent of showing one or more of the following in order to justify the de-listing of a designated property:

1. The historic district has lost those physical characteristics that enabled the establishment of the district.
2. The historic district was not significant in the way previously defined.
3. The historic district was established pursuant to defective procedures.

Based on the failure to meet these three criteria, the HDSC has been recommending not de-designating the Hawthorne Building.

The Hawthorne Building has elements that made it worthy of designation. It is a valuable example of a 1920's era commercial storefront that has seen little to no alteration within its lifetime. De-designating the building, as indicated by the developer's plans, would put it at risk for demolition. This has the potential to encourage additional property owners to pursue de-designation and deterioration of the historic character that has defined Birmingham throughout the years. The de-designation of this structure has the potential to set a precedent that would have long-lasting effects on the City that cannot be reversed.

On August 10, August 24, and November 16, 2017, the HDSC held study sessions regarding the request of the property owner.

The next step will be for the HDSC to hold a public hearing, but prior to doing that the preliminary report requires that it be sent to the State Historic Preservation Office ("SHPO") as well as the Planning Board and Historic District Commission for their comments. Then within 60 days of submitting to those bodies the HDSC needs to have a public hearing and make their formal recommendation to the City Commission. The City Commission has one year to act on that recommendation.

Mr. John Gaber, Attorney with Williams, Williams, Rattner & Plunkett, spoke to represent the owners of 361 E. Maple Rd. Mr. Gaber talked about why they think the Hawthorne Building should be de-designated. He stated that there is not much that is significant about the building.

An Inventory form that was prepared by Mr. Max B. Horton of the Historic District Commission ("HDC") on May 3, 1983 indicates the building has no historical
significance. Mr. Gaber noted the only reason the building was designated is because it is an example of an older storefront within the City of Birmingham.

They believe this area of the contiguous Historic District has lost its significance over time, which is one of the criteria for de-listing. Mr. Max Horton has noted relative to the establishment of a contiguous historic district:

\[
\text{To select individual landmark buildings for designation without regard to the other structures in the downtown is contrary to the purpose of creating an historic district. Careful attention must be paid to the structures which abut the landmark properties and other buildings in the downtown which have an effect on these landmarks. Therefore the recommendation is for a contiguous historic district with well defined standards for both landmark and non-landmark properties.}
\]

Therefore, as a contiguous historic district you don't just look at the historic resource itself, you must consider the surrounding properties. Looking at this district, the streetscape was not the same in 1983 as it is now. What has happened is that taller, newer buildings have gone up that have seriously diminished the integrity of the historic district, and that impacts this particular building. So, the significance of designating 361 Maple Rd. as a landmark building and including it as a contributing resource doesn't remain because the character of the adjacent neighborhood has changed. Therefore they believe this building has become insignificant over time when one looks at the context of the area and what has happened over the past 30+ years.

They will be coming forward with a more detailed report before the public hearing. Mr. Gaber asked that his handouts be transmitted to SHPO.

Mr. Bedros Avedian indicated he owns several properties near the subject building, from 261 E. Maple Rd. to 323 E. Maple Rd. He spoke in favor of removing the historical designation of 361 E. Maple Rd. He thinks the building is ugly. In response to the Chairperson, Mr. Avedian said four little stores that he owns next to the Jos. A. Bank Building are designated historic.

Mr. Timothy Stoker, Attorney, represented Mr. Mel Kaftan and his wife who live right next door to the subject property. When Mr. and Mrs. Kaftan bought their property they designed their building based on 361 Maple Rd. being designated as historic. Now the proposal is to de-list the building and demolish it which will impact the Kaftan’s development. The historic character of the Hawthorne Building when it was designated has not changed from the time the Kaftans bought until today.

In 1984 the HDC concluded the following in making its recommendation to the City Commission that this property and the other 28 landmark properties be designated historic:
While there may not be a clear answer to what constitutes good relationship between old and new buildings, which should not stop us from trying to find a solution, it is only in a quality built environment that we can achieve a quality life. The 29 landmark structures represent what is left of quality development from a previous era... It is our sincerest hope that they will go forward in enacting the proposed Ordinance to create two new historic districts which will protect the valuable historic resources in central Birmingham.

In the paragraph preceding that, the HDC recognizes that there will be changes in architecture. It was noted that should not impact or result in the loss of the historic resource that they recommended to be included. The modern movement should not result in the loss of the historic structure and its value to the community. The City Commission followed the strong and well thought out recommendations of the HDC and included this building and other buildings within the district.

Mr. Stoker noted that if the rationale for this building is that it should be de-listed, then the City will be approached with that same rationale as to every other building in Downtown Birmingham, saying that things have changed and therefore they should be de-listed.

Mr. John Dziurman, Certified Historic Architect, addressed the Ordinance criteria and the requirements of the Secretary of the Interior. He has made sure that the process of establishing the historic district in 1984 was appropriate and done well. All of the reasons for designating the building historic were met. The Hawthorne Building is built in the Art Deco style of the 1920's and it virtually has not changed since that time. This committee is charged with the responsibility of protecting the heritage of the City.

Mr. Beshouri inquired what Mr. Max Horton meant when he said the building has no historical significance. Mr. Dziurman replied that he went through the ten Secretary of the Interior Standards for Rehabilitation and all ten were met with regard to giving this building landmark and historic status within the City. He further stated he thinks this is a beautiful building that has remained the same since it was built in 1927.

Mr. Mel Kaftan, the owner of 369 E. Maple Rd. with his wife, said when he bought the property the City told him the property to the west side is historic. So he built his building with windows on the west side based on that. He hoped the committee will stick with saving the building. Some people think it is ugly but he does not and is prepared to buy it and keep it the way it is.

Mr. Emile Terkishof, Commercial Broker, spoke to represent Mr. Victor Simon, the developer. He noted:

- The opponents of de-designation have put up a good fight, but not because the building is zoned historic, but because the new building will block their views.
- Every report they have shown there is no significance for this building being designated historic.
• The building has sat vacant for four years and stands out as a sore thumb.

Mr. Victor Simon stated that Mr. Kaftan offered him $150 thousand not to go up and block his windows. The subject building has no redeeming architectural features. He takes care to preserve his historic building at 159 Pierce and it will be beautiful when it is completed.

Mr. John Gaber pointed out:
• The historic district has lost those physical characteristics that enabled its establishment in this particular area.
  o They are talking about a single building that is not contiguous to any of the other 28 resources.
  o He does not think there was contemplation in 1984 that the Ordinance would be changed to allow five-story buildings along E. Maple Rd. What has happened is the character of this E. Maple Rd. corridor has changed and that has affected the value and the character of the historic resources and the reason for which they were designated in the first place.
• He asked the committee to focus on their responsibilities under the Ordinance and look at the physical characteristics of the area and the significance of this building in that area of E. Maple Rd. and determine whether or not those physical characteristics have been preserved since 1984.

Mr. Beshouri indicated that he feels the HDSC's research and the way they looked at the criteria have been largely reinforced by the information they have gotten today. Therefore his opinion has not changed since the last meeting, which was to recommend keeping the historic designation.

Mr. Xenos agreed with Mr. Beshouri, and his decision from last month has not changed.

Committee members agreed that the report should be submitted as-is to the State.

**Motion by Ms. Lang**
**Seconded by Mr. Beshouri to accept the report as-is and to forward it to the appropriate bodies.**

**Motion carried, 5-0.**

**VOICE VOTE**
Yeas: Lang, Beshouri, Debbrecht, DeWindt, Xenos
Nays: None
Absent: None
Minutes of the regular meeting of the City of Birmingham Planning Board held on January 10, 2018. Chairman Scott Clein convened the meeting at 7:30 p.m.

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

Absent: Board Member Vice-Chairperson Gillian Lazar; Student Representatives Ariana Afrakhteh, Isabella Niskar

Administration: Matthew Baka, Sr. Planner

Jana Ecker, Planning Director

Carole Salutes, Recording Secretary

01-04-18

STUDY SESSION


Mr. Williams announced he would need to recuse himself from consideration of this item. His law firm represents an adjacent property owner. Ms. Ramin came forward to join the board for this matter.

Mr. Baka reported the owner of the property located at 361 E. Maple Rd. has requested that the City Commission consider removing the historic designation of their building as a Contributing Historic Resource within the City of Birmingham. The property owner has submitted an application to the City requesting to demolish the building as part of a redevelopment proposal.

The City Commission issued a resolution on July 24, 2017 directing the Historic District Study Committee ("HDSC") to prepare a preliminary study committee report on the subject property in accordance with the City Code and execute the additional steps required by the Code in order to make a recommendation to the City Commission.

The HDSC is required to follow the procedures as set forth in Section 127-4, Birmingham Historic Districts, of the City Code as amended. The procedure requires the issuance of a
preliminary report, holding a public hearing, and issuing a final report with the intent of showing one or more of the following in order to justify the de-listing of a designated property:

1. The historic district has lost those physical characteristics that enabled the establishment of the district.
2. The historic district was not significant in the way previously defined.
3. The historic district was established pursuant to defective procedures.

The preliminary study committee report has now been completed by the HDSC and has been forwarded to the State Historic Preservation Office (“SHPO”) for comment. The HDSC feels that the request does not meet any of the three established criteria in the City Code and they are recommending that the building not be de-designated. The City Code also requires the report be presented to the Planning Board for comment.

At 7:45 p.m. the Chairman asked for comments from members of the public.

Mr. John Gaber, Attorney with Williams, Williams, Rattner & Plunkett, spoke to represent Mr. Victor Simon who is the property owner of 361 E. Maple Rd. He passed out a report they prepared with the assistance of Mr. William Finnicum who is a historic architect. Mr. Gaber highlighted several conclusions from the report:

- They believe that 361 E. Maple Rd. really is insignificant.
- The inventory form that was done in 1983 by Max Horton of the Historic District Commission indicates the architectural significance is that the building was constructed in 1927.
- The form also lists the historical significance as none.
- Notable features of the building state that it is an example of a 1920's small commercial building.
- In 1983 the Historic District Commission thought that 361 E. Maple Rd. was a good example of the streetscape at that time and it was in good condition. Therefore they designated it as one of the 29 landmarks within the Central Business Historic District.

Mr. Gaber noted that only one of the criteria for de-listing that Mr. Baka mentioned needs to be satisfied. He went on to focus on the significance of the building's physical characteristics. They believe this property has lost the physical characteristics that enable its establishment as a landmark building. It is important to maintain the characteristics of not only the landmark building but the surrounding buildings as well.

Mr. Horton in his 1983 letter to the City Commission says to select the individual structures for designation without regard to the other structures is contrary to the purpose of creating an historic district.

What has happened since 1983 is that the City adopted the Birmingham 2016 Plan and subsequently adopted the Downtown Overlay District. That allowed for change in the character of a lot of the Central Business Historic District, particularly the E. Maple Rd. corridor. Most of the other 28 landmarks have something that sets them apart, such as their mass and scale. So, there is not going to be anything adjacent to them that will really detract from their significance. Then there are other buildings that are maybe smaller but have strong architectural features. What happened on E. Maple Rd. is that 361 is really overwhelmed by the adjacent development. So you can't look at the building in isolation, you have to look at the character of the district as well. Their building doesn't have the mass of some of the other
buildings; it doesn't have architectural prominence of any significance; and it is not a stand-
one structure. So it doesn't have the ability to protect itself from the influence of surrounding
buildings. Therefore, they believe the physical characteristics that led to the designation of this
building as a landmark are no longer present. That is why they are requesting the de-listing of
the building. They don't believe it sets a precedent because of the building's uniqueness.

Mr. Justin Zakoff, Attorney at Dickinson Wright, came forward to represent Mr. Mel Kaftan, an
adjacent property owner at 369 E. Maple Rd. They concur with the HDSC recommendation not
to de-designate 361 E. Maple Rd. as historic. The building has not changed since it was
designated historic. This is a stand-alone historically designated structure and its Art Deco style
is significant. If it is de-designated it will certainly change the character of the neighborhood
and open the door to further de-designation requests.

Although not necessarily a consideration of the HDSC, Mr. Zakoff pointed out that Mr. Kaftan
relied on the historic designation when he constructed his building.

Mr. Zakoff said his understanding of the Inventory Form is that where it says the building has
no historical significance, it doesn't refer to the architecture or the neighborhood; but rather it
refers to whether a historical event occurred there.

Mr. Koseck pointed out there are examples all over the country where historic buildings have
been added on to. There are other things that could be explored that would add more density.

Mr. Jeffares observed if you look at how structures could get built up around this building, it will
look pretty weird.

Motion by Mr. Share
Seconded by Mr. Jeffares to accept the report that was submitted on January 8,
2018 by Mr. William Finnicum.

Motion carried, 7-0.

VOICE VOTE
Yeas: Share, Jeffares, Boyle, Clein, Koseck, Ramin, Whipple-Boyce
Nays: None
Recused: Williams
Absent: Lazar

Mr. Boyle commented that he thinks historic designation is a valuable and important tool that
cities can bring to bear on their properties. However, it needs to be aware of change that
occurs. Perhaps the current designation may be standing in the way of progress. So in terms
of keeping this designation living and relevant, he personally would go against the
recommendation of the HDSC and suggest that this building be de-designated without
fundamentally affecting the overall concept of the historic district.

Mr. Share said from a planning perspective it strikes him that the building is not imposing
enough to hold interest on its own if it is surrounded by three to five story buildings. He likes
Mr. Koseck's idea where the historic building is preserved but the building is expanded around the existing front historic elevation.
Minutes of the regular meeting of the Historic District Commission ("HDC") held Wednesday, January 17, 2018. Vice-Chairman Keith Deyer took over as chairman and called the meeting to order at 7 p.m.

Present: Vice-Chairman Keith Deyer; Board Members Doug Burley, Adam Charles, Thomas Trapnell; Michael Willoughby

Absent: Chairman John Henke; Board Member Natalia Dukas; Alternate Board Member Dulce Fuller; Student Representatives Josh Chapnick, Griffin Pfaff

Administration: Matthew Baka, Sr. Planner
Leslie Pielack, Museum Director
Carole Salutes, Recording Secretary

01-02-18

HISTORIC DESIGNATION ELIMINATION REVIEW
361 E. Maple Rd.
Hawthorne Building
CBD Historic District

Proposal: Mr. Baka explained the owner of the property located at 361 E. Maple Rd. has requested that the City Commission consider removing the historic designation of their building as a Contributing Historic Resource within the City of Birmingham. The property owner has submitted an application to the Planning Board requesting to demolish the building as part of a redevelopment proposal.

As required by Section 127-5, Establishing additional, modifying, or eliminating historic districts, the City Commission issued a resolution on July 24, 2017 directing the Historic District Study Committee ("HDSC") to prepare a preliminary study committee report on the subject property in accordance with the Code and execute the additional steps outlined in that section in order to make a recommendation to the City Commission.

The preliminary study committee report has now been completed by the HDSC and has been forwarded to the State Historic Preservation Office ("SHPO") for comment. The City Code also requires the report be presented to the Planning Board and Historic District Commission ("HDC") for comment.
Accordingly, Planning staff requests that the HDC take this opportunity to provide their comments on the requested elimination of the historic designation of the Contributing Historic Resource at 361 E. Maple Rd.

**Findings of the HDSC**
The HDSC is required to follow the procedures as set forth in Section 127-4 of the City of Birmingham Historic Districts Ordinance, as amended. The procedure requires the issuance of a preliminary report, holding a public hearing, and issuing a final report with the intent of showing one or more of the following in order to justify the de-listing of a designated property:

1. The Historic District has lost those physical characteristics that enabled the establishment of the district.
2. The Historic District was not significant in the way previously defined.
3. The Historic District was established pursuant to defective procedures.

HDSC members do not feel the district has lost its physical characteristics. This building which is part of the district is virtually unchanged from its appearance in the '80s when it was initially designated. Additionally, the characteristics that established the district in the first place still remain. The HDSC feels the district is significant in the way it was defined as an important commercial area and key to the history of Birmingham. Lastly, Public Act 169 of 1970 which is codified in the City Code was followed in establishing the historic district. Therefore the HDSC is recommending that the request for de-listing be denied.

Mr. Willoughby asked about the qualifications of members of the HDSC. Mr. Deyer said the members have been willing to do research work. It is not how they feel, but what kind of research can they do. Mr. Baka added they all have background in real estate or historic preservation.

The Chairman called for public comments at 7:10 p.m.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., represented the owner of 361 E. Maple Rd. Mr. Rattner presented a PowerPoint advocating this is the type of de-listing that should go on to make the Historic District area of Birmingham cohesive and meaningful. They believe that 361 is not a significant building. It is 20 ft. wide and 15 ft. high and has minimal architectural features. He noted that Mr. William Finnicum, historical architect who authored their report, was present in the audience as well as the building owner, Mr. Victor Simon.

The 1983 Inventory card completed by Mr. Max Horton, Chairman of the HDC at that time, shows the building's architectural significance is that it was constructed in 1927. Also, the historical significance is listed as none. So they believe that 361 has lost its physical character that enabled its establishment as a landmark building. Further, it is important for the district to maintain the scale and scope of the adjacent buildings, and that has changed dramatically. Also that whole side of the street is likely to change even further.
Gradually over 20 years the principles of the 2016 Plan and the Overlay District have changed the Downtown Birmingham character from a small town to a more urban small city. All of the areas with stand alone landmark buildings have been kept intact. However they believe this outlying building has lost its significance and is not fulfilling its purpose as a landmark building in the Historic District as it was originally intended.

Mr. William Finnicum, Finnicum Brownlee Architects, pointed out that his report was written with the utmost respect for historic preservation and for the Historic District in the City of Birmingham. Also, with a great deal of respect for the 2016 Plan which he thinks has accomplished a great deal for the City.

361 E. Maple Rd. was protected by being listed as historical because it was considered a visual anchor for the east end of E. Maple Rd. However, now it is not a strong visual anchor because of how that street is developing. Therefore they feel the best route would be to de-list this building and replace it using the same criteria that is being applied to the infill structures. That would make the Overlay District stronger and would have no effect on the Historic District.

This building does not have the benefit of historic buildings that have critical mass. They can stand on their own. Anything can be built adjacent to them and they will remain unharmed and likely stand out from the new construction. The Briggs Building was expanded vertically, but design wise that is not an option in this case.

If the building is removed, a record of what happened there should be made of it with drawings and photographs.

In response to Chairman Deyer, Mr. Victor Simon, 335 E. Maple Rd. and 159 Pierce, said he purchased this building in 2016. At that time he never heard it was historic.

Mr. Baka stated that there have been extensive steps though the Overlay Ordinance and through the responsibility of this board to make sure that these buildings are compatible with the historic buildings in regards to the materials that are allowed to be used and the composition of the facade. The 2016 plan specifically states that these steps have been taken to maintain the character of the City.

Chairman Deyer added that as he listens to Mr. Finnicum's and Mr. Rattner's rationale he could start arguing that at least three other buildings in town could be destroyed and torn down because someone wants to put in a five story and the rest of that block is going to be five stories; so tear it all down and move on. To him that flies in the face of the intent of historical preservation and the image of the City they are trying to maintain.

Mr. Finnicum said they do not feel the Historic District should be eliminated, but they feel this is a special case.
Mr. Willoughby said from an architectural perspective of what would be best for the City, he would say let's de-list this building. He thought it could be an interesting challenge to design the new building leaving the front facade. That might keep the historic significance as well as allow the building to expand. He feels they should have the flexibility to allow their town to grow and allow the beauty to come forward. But his personal opinion is that it would be helpful to have some reference to the building facade the way it is now.

Mr. Trapnell agreed with preserving buildings that can stand on their own. However, buildings that are just old can be redeveloped into structures that are more in keeping with what the character of the district has become without diminishing the overall historic nature of the Historic District. He feels the existing historic building is no longer a contributing element to its environment.

Mr. Burley commented that he does not think there is anything remarkable about the front of this building and he did not have an issue with de-listing it. There is no historical significance as far as the architecture is concerned.

Mr. Charles did not find there is anything exclusively significant about this building. As far as increasing the height of so many buildings for mixed use, parking space is not being accommodated. Also he is nervous that de-listing a property from historical classification will become routine. As far as this building, he feels it is one that can be let go. The driving point for him is that the report from 1984 says there is no significant historical significance. Also, he too would be in favor of keeping the first level facade in homage to what the building once was.

Chairman Deyer added to the discussion. The City has only listed one building in the last 20 years at the owner's request. So to start de-listing buildings is a concern for him.

Mr. Baka indicated he has spoken to several Downtown historic property owners who have told him if this is successful they would also like to de-list.
Minutes of the regular meeting of the Historic District Study Committee (“HDSC”) held Thursday, July 26, 2018. Chairperson Gigi Debbrecht called the meeting to order at 6:05 p.m.

1. ROLL CALL

Present:    Chairperson Gigi Debbrecht; Board Members Paul Beshouri, Patricia Lang, Michael Xenos
Absent:    Board Member Jonathan DeWindt

Administration:    Matthew Baka, Senior Planner
                    Carole Salutes, Recording Secretary

2. APPROVAL OF THE DECEMBER 7, 2017 HDSC MINUTES

Motion by Mr. Xenos
Seconded by Ms. Lang to approve the Minutes of December 7, 2017 as presented.

Motion carried, 4-0.

VOICE VOTE
Yeas:  Xenos, Lang, Beshouri, Debbrecht
Nays:  None
Absent:  DeWindt

3. PUBLIC HEARING
361 E. Maple Rd.
De-Designation Request

Mr. Baka recalled that the last time the HDSC met, they finalized the report to be sent to the State Historic Preservation Office (“SHPO”) for their comments. SHPO came back with three things that they thought should be added to the report:
• The charge of the committee should include the date the City Commission adopted the resolution to initiate a study to modify the District, which was July 24, 2017.
• The report should include the historic photographs cited on page 3. Any changes to the building over time should be delineated, along with the approximate time period of their occurrence. It appears that a historic photograph was included on the title page but there is no date assigned to it.

• The report should include the pages from the 1983 study report that give the reader a sense of the history and significance of the District as well as the appropriate pages from that report that address this resource.

Accordingly, the report has been revised to reflect these comments.

There are three criteria that are to be used when considering a property for de-designation:

1. The Historic District has lost those physical characteristics that enabled the establishment of the district.
2. The Historic District was not significant in the way previously defined.
3. The Historic District was established pursuant to defective procedures.

The HDSC did not feel the Historic District met any of the three criteria and their recommendation was to deny the request for de-designation. The Planning Board and the HDC felt that the building was not significant enough to stop progress; however they both made comments that it would be appropriate if the facade of the building was incorporated into the new structure and it could be built up from there.

Mr. John Gaber, Attorney with Williams, Williams, Rattner & Plunkett, spoke to represent Mr. Victor Simon, the applicant and owner of the property. Mr. Gaber was present with Mr. William Finnicum, Architect, who is responsible for their report that comes to a different conclusion than the HDSC’s preliminary report.

Mr. Gaber presented a PowerPoint that was based a lot on Mr. Finnicum’s report. He noted they believe that 361 E. Maple Rd. is not significant in this context. If someone would try to designate it today it would not meet the National Register criteria. It is a small, 20 ft. wide building with minimal architectural features. In 1984 it was selected as a landmark because it was an example of a cohesive one and two-story downtown shopping corridor.

It is their belief that the three de-listing criteria are met in this case. What has happened since 1984 when the Historic District was created is that in 1996 the 2016 Plan and the Downtown Overlay District were adopted. As a result the Downtown character was changed from a small town to a more urban small city that permitted large two to five-story buildings.

There are 29 landmark buildings within the area. They can co-exist with the Downtown Overlay because of several different reasons that insulate them from the influence of larger surrounding buildings:
• Mass and scale such as the Wabeek and Briggs Buildings;
• Strong architectural features as exemplified by the theater and Peabody Mansion;
• Grouping together.

361 E. Maple Rd. is overwhelmed by the adjacent development and is rendered irrelevant in the grand scheme of the Historic District. It no longer exemplifies that one and two-story downtown shopping corridor that existed in 1983. Therefore the historical significance has been lost.

One concern about de-listing 361 E. Maple Rd. is that it would set a precedent and everyone would be in front of this board asking to have their landmark de-designated. Mr. Gaber does not think that is the case because the other landmarks remain significant due to mass, grouping, architectural characteristics, or their isolated locations.

Therefore, Mr. Gaber requested the HDSC to revise their report before it is issued to the City Commission in order to be consistent with the findings and rationale set forth in Mr. Finnicum's report.

Mr. Beshouri noted that the presentation has alleged that because the corridor is no longer intact, the building doesn't have any architectural elegance or significance. He thought that is a distortion of what the designation is because 361 E. Maple Rd. was designated as a good example and one of the few remaining examples of a 1920's storefront and a particular type of architecture that has survived unchanged.

Mr. Gaber pointed out that the inventory card that was prepared by Mr. Max B. Horton of the Historic District Commission on May 3, 1983 indicated the building has no historical significance. The building could not be designated under the rules today because it doesn't meet any of the National Register criteria of importance.

Mr. Beshouri explained that one of the eligible criteria for being designated historic is that the building exemplifies a particular period in time and is a prime example of that style of architecture. Mr. Baka added it might be worth noting that the SHPO found the building to be a good representative example of a small commercial building from the period.

Mr. Beshouri went on to say that all the buildings that are around 361 E. Maple Rd., and as the applicant says rendering it irrelevant, have gone through the process of meeting the criteria of the Overlay District, one of which is ensuring that this building is still relevant. So it is strange for him to hear that because of all these things that were approved by the City and that have gone through the various processes that are supposed to guarantee that the historic integrity is intact are, as per this presentation, rendering it irrelevant

Mr. Gaber noted that the impact of those buildings has significantly changed the character of the corridor so that it doesn't exemplify what existed in 1984. This building
doesn't have any of the characteristics of mass, scale, isolation, architectural prominence that would protect it from being affected by the Overlay District.

Mr. Timothy Stoker, Attorney, represented Mr. Mel Kaftan and his wife who live right next door to the subject property. When Mr. and Mrs. Kaftan bought their property they designed their building based on 361 Maple Rd. being designated as historic. Now the proposal is to de-list the building and demolish it which will impact the Kaftan's development. The historic character of the Hawthorne Building when it was designated has not changed from the time the Kaftans bought until today.

They previously submitted a report from Mr. John Dziurman, Certified Historic Architect, who went through all of the criteria with regard to the designation and the continued value of this building. Further, SHPO in its report back confirms the HDSC findings and doesn't recommend de-listing. It agrees this is a great representation of the architecture from that time era. The building remains in the same condition as when it was built in the 1920's.

Now the argument being made is that because it is a small building and it doesn't have the mass of the theater or the size of the other buildings, we should just disregard it and get rid of it. Only those buildings that are large and take up a half a block or a quarter of a block should be maintained. That clearly is not the reason this building was saved. The building was saved because it is a small storefront Art Deco building that existed in the 1920's that was part of the Birmingham heritage which now this applicant is asking to be destroyed.

In summary, what the petitioner is now saying is that because 1) something else could happen to the adjacent properties; and 2) because the building is small, we should get rid of it. If this building is de-listed, the other historic building on the block will go the same way. There is no proof that 361 E. Maple Rd. has destabilized property values along the corridor which is evidenced by the fact the applicant has purchased the building two doors down.

They think that the original findings of this body were the correct findings and the confirmation made by SHPO as to this body's findings supports that and allows for this area of the City of Birmingham to continue in a manner that is both stabilizing, beneficial to economic values, and provides educational opportunities for the people of the City of Birmingham to see its history in real life as opposed to having a picture. For those reasons Mr. Stoker asked members of the HDDSC to stick with their original recommendation that the building not be de-listed.

Mr. Mel Kaftan, 369 E. Maple Rd. said when they were designing their building he relied on the fact that the building next door was historic and would not be torn down. So he put windows on that side. He went on to speculate if anyone thinks the applicant plans to build a 20 ft. wide office building. His theory was that they must have some way to purchase the Christian Science Reading Room next door and combine the properties. In that case, parking will be a problem.
Mr. Gaber indicated that it is wrong for Mr. Kaftan to speculate with respect to his client's future intentions. It has no bearing in terms of what is in front of the Committee today.

Ms. Gerry Kaftan, resident at 369 E. Maple Rd., said they picked that spot to build their home because of the street being so charming. Working with the City, they wanted to keep the look of limestone and brick and continue on with the charm of that block. The street would start to lose its charm if that building were to go. The wonderful little boutiques are what bring people into their city. That would be gone with all high rises going in. She would hate to see the charm being lost.

Mr. Beshouri said he is comfortable with the Committee's report. The Committee has listened to both sides and done their job. They have heard this information before and he doesn't see anything that he would want to change about the report. There hasn't been anything new tonight that would make him want to change the report. Other members agreed.

Chairperson Debbrecht commented that she has a hard time accepting that the owner didn't know the building was historic when it was purchased. So she has a little problem with people buying something and then trying to get the rules changed.

Motion by Ms. Lang
Seconded by Chairperson Debbrecht to forward the study committee report for 361 E. Maple Rd. to the City Commission as presented, recommending denial of the request to eliminate the historic designation of 361 E. Maple Rd.

Motion carried, 4-0.

VOICE VOTE
Yeas: Lang, Debbrecht, Beshouri, Xenos
Nays: None
Absent: DeWindt
361 E. Maple
Birmingham Historic Resource
Report from the Historic District Study Committee
November 28th, 2017

Committee Members
Gigi Debbrecht, Chair
Patricia Lang
Michael Xenos
Paul Beshouri
Jonathan Dewindt

Staff Liaison
Matthew Baka, Senior Planner
Charge of the Committee
In accordance with Chapter 127 of the Birmingham City Code, the Historic District Study Committee (HDSC) has been directed by the City Commission, per the resolution adopted at the meeting of July 24, 2017, to consider modifying an existing Historic District by evaluating the Hawthorne Building, which is a contributing resource within the Central Business District Historic District, located at 361 E. Maple for consideration for removal from the list of historically designated properties in the City of Birmingham.

The request for removal of the designation came from the owner of the property in question. They are requesting that the City Commission remove the designation of the property in order to allow the demolition of the building and construction of a new five story building.

Description of the District
The legal description of the property at 361 E. Maple is T2N, R10E, SEC 25 ASSESSOR'S PLAT NO 21 W PART OF LOT 11 MEAS 20 FT ON S LOT LINE & 20.62 FT ON N LOT LINE. The Central Business District boundaries are indicated on the map below.

Count of Historic and Non-Historic Resources in the CBD Historic District
The Central Business District Historic District has 29 historic (contributing) and 44 non-historic resources.
De-designation evaluation criteria

The HDSC is required to follow the procedures as set forth in Section 127-4, of the City of Birmingham Historic Districts Ordinance, as amended. The procedure requires the issuance of a preliminary report, holding a public hearing, and issuing a final report with the intent of showing one or more of the following in order to justify the de-listing of a designated property:

1. The historic district has lost those physical characteristics that enabled the establishment of the district.
2. The historic district was not significant in the way previously defined.
3. The historic district was established pursuant to defective procedures.

1. The historic district has lost those physical characteristics that enabled the establishment of the district.

The property at 361 E. Maple remains virtually unchanged from the condition it was in when designated in 1983. This is demonstrated by historic and contemporary photographs. It is decorated with a sign band that is defined by patterned brick and limestone. The parapet has a small pediment and limestone urns at the party walls. It is believed that the pressed metal store front is original.

In addition, since the creation of the CBD Historic District, all exterior changes to the contributing and non-contributing resources have been reviewed by the Historic District Commission. Any proposed change to a resource in the district has been measured against the Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings (attached). The Standards for Rehabilitation address the most prevalent treatment. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property
which are significant to its historic, architectural, and cultural values." Accordingly, the historic character of the district at large has not been altered in such a way that would eliminate the physical characteristics that enable the establishment of the district.

2. The historic district was not significant in the way previously defined.
Several factors were used in determining whether a building has sufficient historic value to merit classification as a "landmark." First, the history of the building, its past occupants and its significance to the development of Birmingham were evaluated. The age, condition and potential for restoration were also considered. Finally, the architecture and uniqueness of each structure was evaluated. At the time, the Historic District Study Committee determined that 29 structures in central Birmingham were worthy of special treatment. Although not every structure met all of the above criteria, each structure given "landmark" designation was determined by the Commission to have one or more of the elements that made it worthy of designation. The property at 361 E. Maple was selected as a contributing resource as it was a good example of a small store design from the 1920’s with patterned brick and limestone. The parapet has a slight pediment and limestone urns at the party walls. Although the structure is simple and conservative, it is in excellent condition. The fact that it also maintained it original condition made it a valuable visual anchor in the preservation of the north side of E. Maple. The architectural significance cited in 1983 is as evident today as it was at the time.

3. The historic district was established pursuant to defective procedures.
The procedures followed in the designation of the Central Business District Historic District were established in chapter 127 of the City Code pursuant to Public Act 169 of 1970. In 1980 the City Commission appointed the Historic District Commission to serve as a Historic District Study Committee to research and make a recommendation regarding the historic value of buildings in central Birmingham as required by chapter 127 of the City Code. As documented by the committee members at the time, the research was conducted by interviewing Birmingham "oldtimers" who had first-hand knowledge of the history of many buildings, reviewing materials at the Baldwin Library including reading issues of the Birmingham Eccentric, researching City assessing and building records, examining recorded data from Oakland County and reviewing published material from various other resources. The selection of 361 E. Maple for historical designation in 1983 as a part of the Central Business District Historic District was done after careful review and evaluation in compliance with the required procedures.

On October 22, 1983, the Birmingham City Commission adopted Ordinance No. 1276 amending the City Code adding Chapter 43 of the Birmingham City Code to establish the Central Business District Historic District and the Shain Park Historic District.

Recommendation
In 1970, the Michigan State Legislature declared historic preservation to be a public purpose. By enacting Public Act 169, the legislature officially recognized that historic preservation does all of the following:
A. Safeguards the heritage of the community by preserving a district which reflects elements of its cultural, social, economic, political or architectural history;
B. Stabilizes and improves property values in such districts;
C. Fosters civic beauty;
D. Strengthens local economy; and
E. Promotes the use of historic districts for the education, pleasure and welfare of the citizens of the community and of the State.

The Hawthorne building is a valuable example of a 1920’s era commercial storefront that has seen little to no alteration within its lifetime. It provides historic context of the traditional downtown that has personified Birmingham over its history. De-designating this building, as indicated by the developer’s plans, would put it at risk for demolition. This has the potential to encourage additional property owners to pursue de-designation and deterioration of the historic character that has defined Birmingham throughout the years. These historic structures have distinguished Birmingham from its surrounding neighbors as a traditional downtown which has undoubtledly contributed to its sustained success over the years. In addition, the methods and procedures followed during the designation process in the 1980’s strictly adhered to the guidelines established at the local, state and federal levels. It was the intention of the City Commission of that time to take these steps to ensure that Birmingham would retain its character and history for future generations to appreciate and enjoy. The de-designation of this structure has the potential to set a precedent that would have long lasting effects on the City that cannot be reversed.

- De-listing the building puts it at risk i.e. changes to historic features, demolition, etc;
- The building was originally designated following all Federal, State and Local guidelines;
- There have been no changes to the building since its designation in 1984 and maintains its character as a pristine example of 1920’s commercial architecture in downtown Birmingham;
- The building is located on a street with other historic properties and is within the Historic Central Business District and contributes to the history and character of the City;
- The Birmingham community needs to maintain its historic structures for future generations;
- De-listing an asset based on the potential for demolition and redevelopment, does not serve the greater good of the community.

The Historic District Study Committee recommends maintaining the historic designation of this property as it does not meet any of the following criteria for de-designation listed in Chapter 127 of the City Code:

1. The historic district has not lost those physical characteristics that enabled the establishment of the district.
2. The historic district is significant in the way previously defined.
3. The historic district was not established pursuant to defective procedures.
This neat, and tidy, one story, one bay, reddish face brick store, with attractive limestone trim was built in 1927. In 1929, the shed at the rear of the property was removed. It was the home of the Bell Telephone Company offices for several years during the 1940's. The building has been well kept and is an example of good, small store design from the 1920's. The fascia has a typical signage band defined with patterned brick and limestone. (The existing signage does not conform to the signage band). The parapet has a slight pediment and limestone urns at the party walls. Part or all of the pressed metal storefront may be original. Although the structure is simple and conservative, its good condition and original condition make it a candidate for a valuable visual anchor in the preservation of the north side of East Maple.

6-1-83
June 4,

Mr. Matthew Baka
Senior Planner
The City of Birmingham
151 Martin Street
Birmingham, MI 48009

Dear Mr. Baka:

Staff members of the State Historic Preservation Office (SHPO) have reviewed the preliminary historic district study committee report to de-list the resource at 361 E. Maple from Birmingham’s Central Business Historic District. Our comments on the report are enclosed. We offer these comments in order to assist communities to prepare final study committee reports that meet the requirements of Michigan’s Local Historic Districts Act and provide a strong legal basis for protecting historically significant resources. These comments and recommendations are based on our experiences working with local historic districts. The SHPO lacks authority to give legal advice to any person or agency, public or private.

The report was presented to the State Historic Preservation Review Board on May 11, 2018 and they concurred with the SHPO comments. They found the building to be a good representative example of a small commercial building from the period. The report was sent to the Michigan Historical Commission for their review and they provided us with no further comments.

We appreciate the city of Birmingham’s efforts to protect its historic resources. If we can assist you further, please contact Amy Arnold at 517-335-2729 or ArnoldA@michigan.gov.

Sincerely,

Brian D. Conway
State Historic Preservation Officer

BDC: ALA
The charge of the committee should include the date the city commission adopted the resolution to initiate a study to modify the district.

The report should include the historic photographs cited on page 3. Any changes to the building over time should be delineated, along with the approximate time period of their occurrence. It appears that a historic photograph was included on the title page but there is no date assigned to it.

The report should include the pages from the 1983 study report that give the reader a sense of the history and significance of the district, as well as the appropriate pages from that report that address this resource.
City Commission  
Birmingham, Michigan

From: Max B. Horton, Chairman Historic District Study Committee  
(Historic District Commission)

Subject: Central Business Historic District and Shaip Park Historic District

Dear Commissioners:

Approximately three years ago, the City Commission appointed the Historic District Commission to serve as an Historic District Study Committee to research and make a recommendation regarding the historic value of buildings in central Birmingham. The Study Committee spent many hours examining each building in the study area. The research was conducted by interviewing Birmingham "oldtimers" who have first-hand knowledge of the history of many buildings, reviewing material at the Baldwin Library including reading issues of the Birmingham Eccentric from the late 1800's and early 1900's, researching City assessing and building records, examining recorded data from Oakland County and reviewing published material from various other sources.

Several factors were used in determining whether a building has sufficient historic value to merit classification as a "landmark." First, the history of the building, its past occupants and its significance to the development of Birmingham were evaluated. The age, condition and potential for restoration were also considered. Finally, the architecture and uniqueness of each structure was evaluated. As you know, the Historic District Commission has decided that 29 structures in central Birmingham are worthy of special treatment. Although not every structure meets all of the above criteria, each structure suggested for "landmark" designation has been determined by the Commission to have one or more of the elements that make it worthy of designation.

In 1970, the Michigan State Legislature declared historic preservation to be a public purpose. By enacting Public Act 189, the legislature officially recognized that historic preservation does all of the following:

A. Safeguards the heritage of the community by preserving a district which reflects elements of its cultural, social, economic, political or architectural history;

October 18, 1984
B. Stabilizes and improves property values in such districts;
C. Fosters civic beauty;
D. Strengthens local economy; and
E. Promotes the use of historic districts for the education, pleasure and welfare of the citizens of the community and of the State.

As a Commission, it is our hope that the Birmingham City Commission will recognize, as the legislature did back in 1970, that historic preservation can accomplish all of the above goals. Several other communities throughout the state have designated historic districts in their downtowns. They include small villages such as Linden, Chelsea and Milford; medium sized cities such as Ann Arbor, Traverse City and Ypsilanti, and large cities such as Jackson, Saginaw and Grand Rapids. Some historic districts have almost every single building designated as a "landmark" structure while other historic districts, such as Birmingham, have undergone many changes resulting in the "landmark" structures being in the minority. This is not unusual or undesirable. To the contrary, it is towns such as Birmingham that can most benefit from historic preservation legislation. The legislation provides protection of the character and design qualities that make Birmingham a viable downtown. The Historic District Commission is certain that the City Commission believes that Birmingham has commercial structures worth protecting. We all also know that no ordinance exists to prevent demolition of those structures in central Birmingham which have value to the whole community. It seems, therefore, that the question is not "should we?" but "how should we?"

Currently, we have 47 historic district properties in the City of Birmingham. They are primarily non-contiguous, residential structures on individual lots. Two commercial structures, the Peabody Mansion and the Grand Trunk Western Railroad Depot are exceptions.

Although individual, non-contiguous districts have worked well for the residential properties, we do not believe this is the proper approach for the commercial area. Commercial structures are erected side-by-side and bear a more direct relationship to one another than single family residential structures. To select the individual "landmark" buildings for designation without regard for the other structures in the downtown is contrary to the purposes in creating an historic district. Careful attention must be paid to the
structures which abut "landmark" properties and other buildings in the downtown which have an affect on the "landmarks." The suggestion that only "landmark" properties compose the historic district would be similar to saying that the Planning Board should have Design Review over just a portion of a particular block. This selectiveness in the review process will not work. Therefore, our recommendation is for contiguous historic districts with well defined standards for both "landmark" and "district resource" properties.

The Historic District Commission has already begun working on a set of standards which will establish a clear cut understanding of the goals of the City with respect to design. It is the intent of the Historic District Commission to set standards that are flexible enough to provide for individual creativity yet complete enough to ensure that the historic fabric of Birmingham is not destroyed.

Under the current regulations, any property owner in central Birmingham (public ownership excepted) must obtain Design Approval or Exterior Approval and possibly Site Plan Approval before any change to the exterior of a building can be made. Since central Birmingham is currently subject to a Design Review process, the question that we all face is: "What should the thrust of this Design Review be?" Architecture, no matter what the age or style, should have as a goal to reflect its time and its place. The question of how to achieve that goal, especially when adding a new wing to an old building or filling a gap in an urban streetscape, is a vexing one to architects and preservationists alike. There is no formula answer; each building or addition should be considered individually and in the context of its surroundings. Design relationships in architecture appear to have become a problem since the coming of age of the "modern movement" in the last 35 years or so. When "modern" architecture arrived, thumbing its nose at the past and the surroundings, its problems began. The public has become disaffected with modern design. Existing scale is not respected and there is little ornamentation; the result is monotony. With this sharp change in designs so profoundly affecting the existing streetscape, preservationists and others reacted and the concept of historic districts was born.

While there may not be a clear answer to what constitutes a good relationship between old and new buildings, that should not stop us from trying to find a solution. It is only in a quality built
environment that we can achieve a quality life. The 29 "landmark" structures represent what is left of quality development from a previous era. The City Commission is now confronted with a decision; to find that these buildings are worthy of preservation for present and future generations to enjoy or determine that these buildings do not have any public value and may be destroyed, altered or redesigned at the will of the owners. It is our sincerest hope that you will go forward in enacting the proposed ordinance to create two new historic districts which will protect the valuable historic resources in central Birmingham.

Very truly yours,

Max B. Horton

Max B. Horton, Chairman
William R. McGregor, Vice-Chairman
Carolyn Johnson
Kay Johnson
Michael Tomasik
Geoffrey Upward
Willem Tazelaar

WBH/jb
10/18/84
Minutes of a Regular meeting of the Birmingham City Commission held Monday, October 22, 1984, at 8:05 P.M., in the Commission Room in the Municipal Building.

Present: Mayor Appleford, Commissioners Rockman, Jensen, Jeske, Kain, Miller and Sights

Absent: None

Administration:
City Manager - Robert S. Kenning
City Clerk - Phyllis Armour
City Attorney - Jon Klagsepp
City Planner - Bonnie Cook
City Engineer - William Killeen
Director of Public Services - Darrel Middlewood
Chief of Fire - Gary Whitener

8:05
10-1115-84: INTRODUCTION - BASCC COORDINATOR - LOIS RYAN

Richard Sneed, President of the Birmingham Area Senior Coordinating Council (BASCC), introduced the new BASCC coordinator, Lois Ryan.

Ms. Ryan thanked the City for its support of the BASCC organization.

8:06
10-1116-84: APPROVAL OF MINUTES - CITY COMMISSION MEETING - OCTOBER 15, 1984 - AS SUBMITTED

MOTION: Motion by Sights, supported by Kain:
To approve the Minutes of the City Commission meeting held October 15, 1984, as submitted.

VOTE: Yeas, 7 Nays, None

9:08
10-1117-84: PUBLIC HEARING RE: CREATION OF CENTRAL BUSINESS HISTORIC DISTRICT - SHAIN PARK HISTORIC DISTRICT - ADOPT ORDINANCE NO. 1276

Mayor Appleford announced that this was the date and time, as advertised, for a public hearing to consider the adoption of a new Chapter 43, which new chapter will create a Central Business Historic District and a Shain Park Historic District.

Max Horton, Chairman, reviewed the report of the Historic District Commission recommending creation of the historic districts.

Larry Sherman, Chairman of the Planning Board, reviewed the Board's report recommending against the creation of the historic districts.

The City Attorney reviewed his report regarding authority for design controls.
Commissioner Hockman commented that he is employed by a Birmingham developer and questions have been raised regarding the impropriety of his conduct as a commissioner and an individual pertaining to matters before this Commission regarding property in the community; that he believes there will be no impropriety on his part in discussing and making a judgment decision which he feels is in the best interest of the City on the matters under discussion in this hearing. He added that an impropriety does not exist and that he would like to introduce a Motion so that discussion can begin; that he does not want to give the appearance of encumbering the process or tainting the discussion since properties owned by his employer will be part of that discussion, therefore, questioning his propriety in the discussion.

MOTION: Motion by Hockman, supported by Jeske:
To adopt Ordinance No. 1276 to create a Central Business Historic District and Shain Park Historic District, not including the Wabek Building, 256 West Maple; Detroit Edison Company Building, 220 East Merrill, and the Brown Street Centre Building.

Commissioner Jeske stated that she supported the Motion since her son is also employed by the same developer and that she also did not want to give the appearance of encumbering the hearing or tainting the discussion.

MOTION: Motion by Kain, supported by Sights:
To amend the previous Motion by including all properties recommended by the Historic District Commission for discussion purposes only.

Discussion was held on whether or not discussion by Commissioners Hockman and Jeske on the properties excluded in Commissioner Hockman's Motion would constitute a conflict of interest.

The City Attorney stated that there is no conflict of interest since there is no pecuniary interest.

VOTE ON AMENDMENT: Yeas, 3 Nays, 2 (Appleford, Jensen) Abstain, Hockman, Jeske

Commissioners Hockman and Jeske abstained from voting due to a conflict of interest.

AMENDING MOTION FAILED

Discussion was held on the historical value of the buildings proposed for the district.

The following persons spoke in opposition to the creation of the Central Business Historic District: William Wetsman, owner of the Parks Building, 100-116 North Woodward; Bernard Levinson, owner of the Quarton Building, 142 West Maple; Edward Pugh, an attorney acting on behalf of a trust which owns the National Bank Building, 152-176 North Woodward; George Nahas, owner of the O'Neal Building, 106-110 South Woodward; Robert Gwynn, owner of the Johnston-Shaw Building, 112-114 South Woodward; Gay Yankee, owner of the St. Calir Edison Building, 135-159 Pierce; Paul Kurth, owner of Huston Hardware; Lloyd Smith, owner of the Blakeslee Building, 138 West Maple, and Irving Kay, owner of one of the Huston Buildings.
The following persons spoke in support of the creation of the Central Business Historic District: Karen Robinson, 679 Harmon; Christine Barnes, 216 Hawthorne, and Linda Teegarden, President of the Birmingham Historical Society.

Commissioner Kain asked if owners of designated buildings were contacted to assess their feelings regarding the designations.

The City Planner explained that the initial contact was through a report given to the Chamber of Commerce, and that notices of the Historic District Commission and City Commission hearings were sent to owners of buildings and to property owners within 300 feet of the properties.

Commissioner Miller stated that there has been an understanding in the community that this process was taking place, and that property owners should have asked questions when they learned of the proposed historic district.

VOTE: Yeas, 5 Nays, 2 (Kain, Sights)

11:10 P.M. - Meeting recessed

11:20 P.M. - Meeting reconvened

MOTION: Motion by Appleford, supported by Sights:
To add the Wabeck Building, the Detroit Edison Company and the Brown Street Centre Building properties to Ordinance No. 1276, said ordinance to read as follows:
CITY OF BIRMINGHAM

ORDINANCE NO. 1276

AN ORDINANCE TO AMEND TITLE V, CHAPTER 43, OF THE CODE OF THE CITY OF BIRMINGHAM.

THE CITY OF BIRMINGHAM ORDAINS:

Section 1. Title V, Chapter 43, Section 5.701, is hereby amended to read as follows:

5.701 Purposes and Definitions.

(1) Purposes. The purposes of this Chapter are:

(a) to provide for the establishment of historic districts within the City of Birmingham,

(b) to safeguard the heritage of the City of Birmingham by preserving districts in the City which reflect elements of its cultural, social, economic, political and architectural history,

(c) to stabilize or improve property values in and adjacent to such districts,

(d) to promote civic beautification of historic districts.

(e) to promote the use of local history for the education, pleasure and welfare of the citizens of the City of Birmingham, State of Michigan, and the Nation.

(2) Definitions.

As used in this Chapter, the phrases set forth below shall have the meanings indicated:

(a) "Historic District" - An area of land or group of areas of land not necessarily having contiguous boundaries designated as a "historic district" by means of an ordinance adopted by the City Commission and which contains one or more landmarks and which may have within its boundaries district resources that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.
(b) "Landmark" - A site, structure or natural feature designated as a "landmark" by means of an ordinance adopted by the City Commission that is worthy of historic preservation because of its historic and/or architectural significance to the City of Birmingham.

(c) "District Resource" - Any site, structure or natural feature located within an historic district that is not designated as a "landmark".

(d) "Structure" - Anything constructed or erected which requires location on or in the ground or attachment to something having location on or in the ground including but not limited to buildings, walls, fences, signs and lighting.

(e) "Historic Preservation" - The protection, rehabilitation, restoration or reconstruction of landmarks.

Section 2. Title V, Chapter 43, Section 5.702, is hereby amended to read as follows:

5.702 Historic Districts

(1) Mill Pond District - The Mill Pond District shall consist of the following described lands and landmarks in the City of Birmingham.

(a) Historical Park Landmark

"Willit's Northern", Lot 57

(b) Baldwin Park Landmark

Part of N.W. 1/4 of Section 36, described as follows:
Bounded on north by Maple Avenue; on east by Southfield Avenue; on the south and west by "Bird's Addition" and "A. P. No. 12."

A parcel of land in the N.W. 1/4 Section 36, described as: Beginning at a point on the east line of Baldwin Avenue located N 87° 51' 25" E, 279.10 ft. along the north line of said Section 36, and S 3° 31' 35" W, 179.00 ft. along the east line of Baldwin Avenue from the northwest corner of said Section 36; thence southeasterly and upstream 50 ft. more or less along the centerline of a branch of the River Rouge to a point which is located south 3° 31' 35" W, 28.00 ft. along the east line of Baldwin Avenue, and S 61° 54' 35" E, 28.00 ft. from the point of beginning; thence S 61°
54° 35′ E, 72.00 ft.; thence N 82° 44′ 00″ E, 120.00 ft.;
thence N 3° 54′ 15″ E, 127.00 ft.; thence N 87° 50′ 50″
E, 5.33 ft.; thence N 01° 20′ 40″ E, 120 ft. more or
less to a point on said north line of Section 35; thence
N 87° 51′ 25″ E, 651.20 ft. along said north line of
Section 36 to a point; thence S 2° 15′ 41″ E, 45.73 ft.
to a point on the north line of West Maple Avenue;
thence westerly along said northerly line of West Maple
Avenue to the easterly line of Baldwin Avenue. Thence
northerly along the easterly line of Baldwin Avenue
to the point of beginning.

(c) John W. Hunter House Landmark - 500 West Maple
Allen House Landmark - 556 West Maple

Beginning at a point on the south line of Section 25
which is bearing N 87° 51′ 25″ E, along said south
line a distance of 1116.90 ft. from the southwest
corner of Section 25; from said point of beginning
thence N 1° 54′ 25″ W, 267.22 ft.; thence N 87° 51′
25″ E, 301.44 ft. plus; thence S 1° 35′ 30″ E,
25.23 ft. plus or minus to the northerly line of
Maple Avenue; thence S 87° 51′ 25″ W, 24.90
ft. plus or minus to the point of beginning.

(d) Mill Pond Landmark

Land in N.W. 1/4 of Section 36, being covered by
the following description except the N 160 ft.
thereof as measured on E and W lines bounded on the
E by Baldwin Avenue; on the S by Maple Avenue on the
W by Replat of Lots 175 to 178 of Q. L. E.; on the N
by Whitehead and Mitchell Add.

Lots 1, 2, 3, 4 and Overbrook Drive of Replat of
Lots 175 to 178 inclusive and part of lots 179 to
186 inclusive of Quarton Lake Estates Replat of
East Park; except lands now platted in "Millrace
Park" subdivision. "Waterfall Lane" subdivision,
and that portion of lot 4 lying westerly of the east-
erly line, as extended of said "Waterfall Lane" sub-
division, and lying southerly of lot 5 of said "Water-
fall Lane" subdivision; also excepting lands being
used for Maple Avenue right-of-way.
"Quarton Lake Estates" Replat of East Part of "Q.I.E. subdivision". Outlot A, except that part in Millrace Park Subdivision; also "Quarton Lakeside Subdivision" Lots 1 to 6 incl., also lots 4, 5 and 6 of "Millrace Park."

(e) Village Water Works Landmark

"Assessor's Plat No. 12", Lot 7. Also "Birmingham Park Allotment Sub., "Lots 109 and 111."

(f) Chatfield-Hiram Campbell House Landmark - 460 W. Maple

"Willets Addition", all of Lot 11, also the S 20 ft. of Lot 14, except part taken for street right-of-way.

(g) Edward Baldwin House Landmark - 484 W. Maple

Lot 12 and S 16.5 ft. Lot 13 "Willets Addition" and part SW 1/4 Section 25 described as beginning at SW corner Lot 12 "Willets Addition" W 20 ft., N 133 ft., E 20 ft., S 133 ft., on W line Lot 12 and 13 to P.O.B.

(h) Edgar Lamb House Landmark - 487 Willits

N 100 ft. Lot 13, "Willets Addition" and pt. SW 1/4 Section 25 described as beginning at NW corner Lot 13 "Willets Addition", W 20 ft. on straight line. S 100 ft., E 20 ft., N 100 ft. on W line Lot 13 to P.O.B.

(i) Stickney House Landmark - 412 Willits

"Willits Northern", Lot 48

(j) Ebenezer Raynale House Landmark - 300 Warren Court

"Warrens Replat of Lot 45 and part of Lots 46 and 54 Willits Northern Add.," Lot 5.

(k) Benjamin Daniels House Landmark - 372 Harmon

"Assessor's Plat No. 17, a Replat of part of Lot 61 of Willits Northern", Lot 10.

(l) Greenwood Cemetery Landmark

All that parcel of land in the N.W. 1/4 Section 25, described as follows: Beginning at W 1/4 corner Section 25; thence S 8° 14' E, 694.57 ft.; thence N 0° 31' 1.498.45 ft.; thence N 83° 15' 10" W, 203.28 ft.; thence N 78° 34' W 487.74 ft.; thence S 1° 46' 30" W, 580.16 ft. to P.O.B.
(2) Shain Park District - The Shain Park District shall consist of all of the land within the boundaries of said Shain Park District as hereby established on the Historic District Maps which are attached hereto. The Shain Park District shall consist of the following described landmarks in the City of Birmingham.

Municipal Building Landmark - 151 Martin Street

Shain Park Landmark

Baldwin Library Landmark - 300 Merrill Street

Birmingham Community House Landmark - 380 S. Bates

United States Post Office Landmark - 322 Martin

(3) Merrill, Townsend, Brown District - The Merrill, Townsend, Brown District shall consist of the following described lands and landmarks in the City of Birmingham.

Abigail Carter House Landmark - 415 Merrill Street

"Castle Addition", Lot No.18, except that part taken for road right-of-way.

Irving House Landmark - 439 Merrill

"Castle Addition", Lot 19

Daisy Benedict House Landmark - 535 Merrill

"Castle Addition", Lots 24 and 25

Hewitt House Landmark - 211 Townsend

"Merrill's Plat", all of Lot 115 and the easterly 35 ft. of Lot 116.

Langley House Landmark - 404 S. Bates (At Townsend)

"Merrill's Plat", Lots 121 and 122

Townsend House Landmark - 339 Townsend

"Merrill's Plat", Lot 123

Toas-Dickinson House Landmark - 464 Townsend

"Castle Addition", Lot 36
Houston-Logan House Landmark - 501-506 Townsend
"Castle Addition", Lot 34
Stewart House Landmark - 505 Townsend
"Castle Addition", Lot 43
Fall House Landmark - 523 Townsend
"Castle Addition", Lot 44 also E 1/2 vacated alley
Schuyler House Landmark - 544 Townsend
"Castle Addition", Lot 32 and W 1/2 vacated alley, also E 10 ft. of Lot 31
Cinderella Patch House Landmark - 347 W. Brown
"Assessor's Replat Torrey's, Hood's and Smith Addn.", W 60 ft. Lot 19 and 20 as measured on side lot lines.
William Bell House Landmark - 384 W. Brown
"Torrey's Addition", Lots 2, 3 and 4 exc. part taken for street widening.

(1) Bates Street District - The Bates Street District shall consist of the following described lands and landmarks in the City of Birmingham.

United Presbyterian Parsonage Landmark - 539 S. Bates
"Assessor's Replat Torrey's, Hood's and Smith Addn.", Lot 49.
Koontz House Landmark - 544 S. Bates
"Assessor's Replat Torrey's, Hood's and Smith Addn." E 120 ft. of the N 66 ft. of Lot 21.
Peck House Landmark - 571 S. Bates
"Assessor's Replat Torrey's, Hood's and Smith Addn." N 1/2 of W 1/2 of Lot 52
John Hall House Landmark - 584-588 S. Bates
"Assessor's Replat Torrey's, Hood's and Smith Addn." E 120 ft. of Lot 23
Major Jones House Landmark - 607 S. Bates

Part of Lot 53 of "Assessor's Replat of part of Torrey's Addition, Hood's Addition and Smith's Addition", commencing at the Southwest corner of said Lot 53, for a point of beginning; thence N 01°09' 00" E, 86.68 ft. (previously recorded as 86.72 ft.), along the Westerly line of said Lot 53, to the Northwest corner of said Lot 53; thence S 88° 52' 03" E, 121.76 ft., along the Northerly line of said Lot 53; thence S 00° 59' 29" W, 86.70 ft. to the Southerly line of said Lot 53; thence N 88° 51' 30" W, 122.00 ft., along the Southerly line of said Lot 53, to the point of beginning.

John W. Perry House Landmark - 651 S. Bates

"Assessor's Replat Torrey's, Hood's and Smith Add.", Lot 54.

McBride House Landmark - 668 S. Bates

"McBride Subdivision of the N 231.3 ft. of Lot 29 Ws. Torrey Addn.", Lot 8

(5) Other Non-Contiguous Districts - These districts shall consist of the following described lands and landmarks in the City of Birmingham.

Hood House Landmark - 555 Stanley

"Assessor's Replat Torrey's, Hood's and Smith Add.", Lot 9

Grooms House Landmark - 587 Stanley

"Assessor's Replat Torrey's, Hood's and Smith Add.", Lot 10

Trollop House Landmark - 536 Southfield

"Stanley and Cizbe Sub.", The N'ly 13 ft. of Lot 25, said N'ly 13 ft. being 13 ft. as measured on E'ly and W'ly lot lines, also all of Lot 25.

Randall-Latham House Landmark - 1128 Southfield Road

"McCormick Subdivision", Lot 4

Daniels House Landmark - 1128 Pierce

"Place De La Miche'le Subdivision", Lot 1
Eli Wooster House Landmark - 1876 Northlawn

"Assessor's Plat No. 9", S 1/2 of the W 20 ft. of Lot 26, also S 1/2 of Lot 27

Schlaak House Landmark - 839 Knox

"H. A. Poppleton's Addition", Lot 5, Block 4

King-Argus House Landmark - 743 West Frank


Stewart-Watkins House Landmark - 146 Puritan

"Quarton Lake Estates Sub." Lot 277 exc. S 40 ft. thereof, all of Lot 278 also pt. of Lot 279 described as beginning at SE corner, thence N'ly along E line 8.0 ft.; thence W'ly parallel to S line of said Lot 52., thence SW'ly 8.50 ft. to a pt. on S line of said lot 55 ft. W of SE corner said lot, thence E'ly along S line 55.0 ft. to P.O.B.

Quarton Homestead Landmark - 1155 Quarton

A parcel of land in Section 26 described as follows: beginning at pt. at N line Section 26, said pt. being 88° 43' W, 405.87 ft. from NE corner of said Section 26, thence S 1° 30' 45" W, 229.67 ft., thence S 89° 46' 30" W, 511.36 ft., thence N 1° 51' 30" E, 242.90 ft. to N line Section 26, thence S 88° 43' E, along N line Section 26, 509.67 ft. to P.O.B.

Birmingham Grand Trunk Western Railroad Depot Landmark - 245 S. Eton

"A parcel of land located in the N 1/2 Section 31, Township of Troy (now City of Birmingham) more particularly described as: Beginning at the point on the east line of Eton Road (as relocated), said point being N 88° 16' 37" W 117.95 ft. along the E-W Section line in Maple Road (66 ft. wide) and S 34° 11' 27" E, 87.17 ft. along the easterly right-of-way line of Eton Road (50 ft. wide) extended from the N 1/4 corner of said Section 31: thence continuing S 34° 11' 27" E, 112.57 ft. along said right-of-way line; thence S 1° 59' 10" W 236.98 ft. along the east line of Eton Road; thence S 88° 20' 47" E, 245.76 ft.; thence N 33° 44' 54" W., 390.56 ft. parallel and 0.5 ft. westerly of an existing concrete retaining wall,
thence S 56° 34' 45" W., 16.90 ft., thence N 33° 36', 11" W., 57.77 ft. to the south line of Maple Road as widened for R.R.bridge (43 ft. - 1/2 R.O.W.): thence N 88° 16' 37" W., 22.56 ft. along said right-of-way; thence S 29° 04' W., 31.10 ft. along the easterly right-of-way of Eton Road as relocated to the point of beginning and containing 1.056 AC. or 45,977 sq.ft. of land, together with the Grand Trunk Western Railroad's right-of-way located immediately adjacent to and north-east of said parcel.

(5) Central Business District - The Central Business District shall consist of all of the lands within the boundaries of said Central Business District as hereby established on the Historic District maps which are attached hereto.

The Central Business District shall consist of landmarks in the City of Birmingham.

Wabek Building Landmark - 256 W. Maple
Leonard Building Landmark - 166 W. Maple
Quarton Building Landmark - 142 W. Maple
Blakeslee Building Landmark - 138 W. Maple
Billy McBride Building Landmark - 122 W. Maple
Ford Building Landmark - 101 N. Woodward and 120 W. Maple
Fifty and Nixon Building Landmark - 163-167 N. Woodward
Bell Building Landmark - 191 N. Woodward
Schlaack Building and Huston Building: 1916 Landmark - 205 - 219 N. Woodward
Huston Building 1923 Landmark - 237-243 N. Woodward
National Bank Building Landmark - 152-176 N. Woodward
Wooster Building Landmark - 132-136 N. Woodward
Parks Building Landmark - 100-116 N. Woodward
Madison Building Landmark - 297-323 N. Maple
Hawthorne Building Landmark - 361 E. Maple
Shain Townhouses Landmark - 378, 386, 390 E. Maple & 112, 120, 124 Brownell

Briggs Building Landmark - 111 S. Woodward

Birmingham Theater Building Landmark - 211 S. Woodward

Ford-Peabody Mansion Landmark - 325 S. Woodward

Detroit Edison Building Landmark - 220 E. Merrill

D.U.R. Waiting Room Landmark - 138 S. Woodward

McBride Building Landmark - 124 - 128 S. Woodward

Johnston-Shaw Building Landmark - 112-114 S. Woodward

O'Neal Building Landmark - 106-110 S. Woodward

St. Clair Edison Building Landmark - 135 - 159 Pierce

Telephone Exchange Building Landmark - 148 Pierce

Bigelow-Shain Building Landmark - 115 W. Maple

Field Building Landmark - 135-141 W. Maple

Section 3. Title V, Chapter 43, Section 5.703 is hereby amended to read as follows:

5.703 Boundaries

(1) The boundaries of the Shain Park Historic District and the Central Business Historic District are hereby established as shown on the maps which are attached hereto. Said maps with all notations, references, and other information shown thereon shall hereby be incorporated herein and shall be a part of this Chapter. Unless otherwise shown, the boundaries of these Districts shall be lot lines, and centerlines of streets or alleys or such lines extended. The boundaries of all other Historic Districts shall be as legally described in Section 5.702.

(2) The boundaries of the Historic District may be changed from time to time so as to add lands to the District or delete lands therefrom, such changes to be made by means of an Ordinance adopted by the City Commission after giving consideration to a report and recommendation of the Planning and Historic District Commission.
Section 4. Title V, Chapter 43, Section 5.704 is hereby amended to read as follows:

5.704 Landmarks

The City Commission shall from time to time designate by Ordinance landmarks which are within an Historic District and are determined to be landmarks within the definition thereof as set forth in this Chapter, such designation to be made by the City Commission after giving consideration to a report and recommendation of the Planning and Historic District Commission.

Section 5. Title V, Chapter 43, Section 5.705 is hereby amended to read as follows:

5.705 Public Hearings and Notice

(1) No Ordinance shall be adopted establishing or altering the boundaries of an Historic District until the City Commission has held a public hearing at which the proposed Ordinance is considered, notice of which hearing shall be given to all persons owning land within the proposed District or proposed to be added to or deleted from the District in the manner hereinafter provided as the owners of such land appear upon the tax assessment rolls of the City.

(2) No Ordinance shall be adopted designating a landmark until the City Commission has held a public hearing at which the proposed Ordinance is considered, notice of which hearing shall be given to the owner(s) of the landmark as the owner(s) of such landmark appear upon the tax assessment rolls of the City.

(3) The notices required by Subsections (1) and (2) above shall be given by publication at least once in a newspaper having general circulation within the City at least 15 days prior to the date of the hearing and by regular mail addressed to each owner as such address appears on the City tax assessment rolls at least seven (7) days prior to the date of the hearing.
Section 6. Title V, Chapter 43, Section 5.705 is hereby amended to read as follows:

Historic District Review

(1) Before any construction, alteration, repair, moving or demolition affecting the exterior appearance of a landmark or district resource is made within an Historic District, other than those changes authorized in Section 5.707 below, the person proposing to construct or make such changes shall secure a Certificate of Approval from the Planning and Historic District Commission. Application for such approval may be filed with the Birmingham Planning Department. The application, together with plans pertaining thereto, shall be referred to the Planning and Historic District Commission.

It shall be the duty of the Planning and Historic District Commission to review such plans and applications and no permit shall be granted until the Planning and Historic District Commission has acted thereon as hereinafter provided.

(2) In reviewing plans for changes to a landmark, the Planning and Historic District Commission shall give consideration to:

(a) the historical or architectural value and significance of the landmark and its relationship to the historical value of the surrounding area,

(b) the relationship of the exterior architectural or historical features of such landmark to the rest of the subject site and to the surrounding area,

(c) the general compatibility of the exterior design, arrangement, texture and materials proposed to be used, and
(d) any other factor, including aesthetic, which it deems to be pertinent including:

(i) the preservation standards which the Planning and Historic District Commission shall adopt and maintain for landmarks in each historic district in the City.

(3) In reviewing plans for changes to a district resource, the Planning and Historic District Commission shall determine the following:

(a) The site layout, orientation and location of all buildings, their relationship to one another and adjacent buildings and to open space is such as to not adversely affect the use, appearance or value of adjacent properties.

(b) The location and definition of pedestrian and vehicular areas are such as to not interfere with or be hazardous to pedestrian and vehicular traffic.

(c) The total design, including but not limited to colors and materials of all walls, screens, towers, openings, windows, signs, as well as treatment to be utilized in concealing any exposed mechanical or electrical equipment, is compatible with the intent of the Urban Design Plan or such future modifications of that Plan as may be approved by the Commission of the City, and

(d) The standards which the Planning and Historic District Commission shall adopt and maintain for district resources in each historic district in the City.

(4) The review of plans for changes affecting the exterior appearance of a landmark shall be based upon the Secretary of the Interior's "Standards for Rehabilitation" as follows:
(a) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(b) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(c) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(d) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
(h) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.

(i) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(j) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(5) The Planning and Historic District Commission shall pass only on exterior features of a landmark or district resource and shall not consider interior arrangements, except for public resources specifically authorized to do so by the City Commission. The Planning and Historic District Commission shall disapprove applications only on the basis of the considerations set forth in subsections 5.708(2), (3) and (4) above.

(6) In case of an application for repair or alteration affecting the exterior appearance of a landmark or district resource or for its moving or demolition which the Planning and Historic District Commission deems so valuable to the City, State or Nation that the loss thereof will adversely affect the public purpose of the City, State or Nation, the Planning and Historic District Commission shall endeavor to work out with the owner an economically feasible plan for preservation of the landmark or district resource.

(7) An application for repair or alteration affecting the exterior appearance of a landmark or for its moving or demolition shall be approved by the Planning and Historic District Commission if any of the following conditions prevail and if the Planning and Historic District Commission determines that the proposed changes will materially improve or correct these conditions:

(a) the landmark constitutes a hazard to the safety of the public or the occupants

(b) the landmark is a deterrent to a major improvement program which will be of substantial benefit to the community
(c) retention of the landmark would cause undue financial hardship to the owner

(d) retention of the landmark would not be in the interest of the majority of the community.

(8) The Planning and Historic District Commission shall file with the Building Department its Certificate of Approval or rejection of the application submitted to it for review. The Planning and Historic District Commission shall transmit a record of its action to the applicant and in the event of rejection, the Planning and Historic District Commission shall set forth the reasons for rejection. No work shall begin until the Certificate granting approval is filed with the Building Department. In the event the application is rejected, the Building Official shall not issue any required permits. The failure of the Planning and Historic District Commission to act within sixty (60) days after the date on which the application was filed with the Planning Department shall be deemed to constitute approval unless the applicant and the Planning and Historic District Commission mutually agree to an extension of such period.

(9) In instances where a landmark or district resource is located in a zone district requiring site plan review, design review or exterior appearance review under Chapter 39 of the City Code, such review shall not be required or undertaken.

Section 7. Title V, Chapter 43, Section 5.707 is hereby amended to read as follows:

5.707 Planning Department Approval

Departmental approval of changes within a district is authorized in those instances where the proposed work will have a minimal impact on the historical significance of the landmarks and district resources therein. The Planning and Historic District Commission shall adopt and maintain a list of those changes which require only Planning Department approval and adopt standards for those changes. Examples of changes requiring only Department approval include painting a previously painted surface to a similar color, changing or adding mechanical equipment that is not readily visible to the public, changes in the public right-of-way, and maintenance or repair of buildings or structures.

Section 8. Title V, Chapter 43, Section 5.708 is hereby amended to read as follows:
5.708 **Maintenance of Historic Landmarks and District Resources**

(1) Nothing in this Chapter shall be construed to prevent ordinary maintenance or repair of any landmark or district resource.

(2) The exterior of every landmark or district resource shall be so maintained by the owner or person in control thereof so as to preserve the character of its District, promote the purposes of this Chapter and so as not to have a detrimental effect upon the District.

(3) Neglect of a landmark resulting in serious health or safety hazards shall constitute demolition by neglect and shall be a violation of the Birmingham City Code.

Section 9. Title V, Chapter 43. Section 5.709 is hereby amended to read as follows:

5.709 **Grants and Gifts.**

The City Commission may accept grants from the State of Michigan or from the Federal Government for historical restoration purposes. It may accept public or private gifts for historical purposes. It may make the Planning and Historic District Commission its duly appointed agent to accept and administer grants and gifts for historical preservation purposes.

Section 10. Title V, Chapter 43. Section 5.710 is hereby added to read as follows:

5.710 **Acquisition of Property.**

If all efforts by the Planning and Historic District Commission to preserve an Historic landmark fail, or if it is determined by the Historic District Commission and the Historical Board that public ownership is most suitable, the City Commission, if deemed to be in the public interest, may acquire such property using public funds, gifts for historical purposes, grants from the State or Federal governments for acquisitions of historic properties or proceeds from revenue bonds issued for historical preservation purposes. Such acquisitions may be made after receiving and considering the recommendations of the Planning and Historic District Commission and the Historical Board. Commencing January 1, 1977, the Planning and Historic District Commission shall have responsibility for the maintenance of publicly owned historic structures using its own funds, if not specifically earmarked for other purposes, or those public funds committed...
for this use by the City Commission, unless specifically directed to delegate maintenance of any such structure to the Historical Board by the City Commission. An account of all receipts and expenditures shall be maintained which shall be a public record and property of the City.

Section 11. Title V, Chapter 43, Section 5.711 is hereby added to read as follows:

5.711 Recording Notice of District Designations.

within thirty (30) days after any land has been designated under this Chapter as part of an Historic District or has been removed from such a designation by the City Commission, the City Manager shall cause a document to be recorded with the Oakland County Register of Deeds describing such land and indicating that it has been included within or deleted from an Historic District pursuant to the provisions of the Birmingham City Code.

Section 12. Title V, Chapter 43, Section 5.712 is hereby added to read as follows:

5.712 Appeals

Any persons jointly or severally aggrieved by a decision of the Planning and Historic District Commission shall have the right of appeal to the Board of Zoning Appeals or to Circuit Court.

OBTAINED this 22nd day of October, 1984, by the Commission of the City of Birmingham.

Mayor

Clerk

VOTE: Yeas, 4 Nays, 1 (Kain) Abstain, Hockman, Jeske

Commissioner Hockman and Jeske abstained from voting because of a conflict of interest.
1. Municipal Building - 151 Martin
2. Baldwin Public Library - 300 Merrill
3. United States Post Office - 322 Martin
4. Birmingham Community House - 380 South Bates
5. Shain Park - Bounded by Martin, Merrill, Bates and Henrietta
Mayor appleford announced that this was the date and time, as advertised, for a public hearing to consider amendments to the Code of the City of Birmingham to combine the existing Planning Board and Historic District Commission into one combination Planning and Historic District Commission which would have all of the duties and responsibilities of the existing two groups.

The City Planner reviewed her report re: Creation of a New Planning and Historic District Commission.

Larry Sherman, Chairman of the Planning Board, reviewed his report recommending that the Planning Board and Historic District Commission not be combined into one board.

Commissioner Jensen stated that he questioned the advisability of combining the two boards.

Referring to Item No. 3 in Mr. Sherman's report, Commissioner Jeske stated that she felt that the Special Land Use process should be retained by the City Commission. She added that she supported a two-step process for the Certificate of Approval, but that the first step should be informal.

Mr. Tomasik commented that flexibility should be granted to the board as to whether one or two reviews are required.

Commissioner Jeske suggested that the Historical Board might assume the research of historical residences.

Christine Bernhard, 1253 Yosemite, and Mildred Wesch, 1550 Lakeside, spoke in opposition to combining the two boards.

George Nahas, owner of the O'Neal Building and a Birmingham resident, spoke in support of combining the two boards.

MOTION: Motion by Hockman, supported by Jeske:
To adopt Ordinance No. 1277 as follows:

ORDINANCE NO. 1277
AN ORDINANCE TO AMEND TITLE I, CHAPTER 3, OF THE CODE OF THE CITY OF BIRMINGHAM

THE CITY OF BIRMINGHAM ORDAINS:

Title I, Chapter 3, Section 1.114 is hereby amended to read as follows:

1.114. Planning Department. The Planning Department shall be headed by the Planning Director who shall make the necessary studies and surveys of matters relating to City growth and development, advise the Manager as to the implementation of the City plan, furnish technical advice and assistance in planning and
zoning matters and furnish such information and data to the City Planning Board AND HISTORIC DISTRICT COMMISSION as it may require in the performance of its duties and functions.

ORDAINED this 22nd day of October, 1984, by the Commission of the City of Birmingham.

ROBERT W. APPLEFORD
MAYOR

PHYLLIS ARMOUR
CITY CLERK

VOTE: Yeas, 4  Nays, 3 (Jensen, Kain, Sights)

MOTION: Motion by Hockman, supported by Jeske:
To adopt Ordinance No. 1278 as follows:

ORDINANCE NO. 1278

AN ORDINANCE TO AMEND SECTIONS 5.32; 5.40; 5.48; 5.57; 5.66; 5.76; 5.81; 5.86; 5.96; 5.103; 5.114; 5.123; 5.132; 5.250 AND SUB-SECTIONS 5.16(1); 5.24(1),(2),(3),(5),(9), (11); 5.58(3),(8); 5.67(1); 5.102(6); 5.124 (2); 5.188(1); 5.190(6); 5.191(2),(3),(3a), (3b), (3c), (3d), (4b),(5),(6a),(6b); 5.192 (2),(3a),(3aiv),(3b),(3c),(3d),(4),(5); 5.193(2a),(4); 5.194(8b); 5.205(2c1); 5.215 (2),(3f), OF TITLE V, CHAPTER 39, OF THE CODE OF THE CITY OF BIRMINGHAM.

THE CITY OF BIRMINGHAM ORDAINS:

Section 1. The names "City Planning Board" "Planning Board" or "the Board" are hereby amended to read "Planning and Historic District Commission" in the following:

Subsections 5.16(1); 5.24(1),(2),(3),(5),(9),(11)
Sections 5.32; 5.40; 5.48; 5.57
Subsections 5.58(3),(8)
Section 5.66
Subsection 5.67(1)
Sections 5.76; 5.81; 5.86; 5.96
Subsection 5.102(6)
Sections 5.105; 5.114; 5.123
Subsection 5.124(2)
Section 5.132
Subsections 5.188(1); 5.190(6); 5.191(3),(3a) (3b),(3c), (3d),(4b),(5),(6a),(6b); 5.192(2),(3a),(3aiv),(3b),(3c), (3d),(4),(5); 5.193(4); 5.194(8b); 5.205(2c1); 5.215 (2),(3f)
Section 5.250

Section 2. Subsection 5.191(2) is hereby amended to read as follows:

(2) Developments requiring site plan review. EXCEPT FOR PROPERTIES LOCATED WITHIN HISTORIC DISTRICTS DESIGNATED UNDER CHAPTER 43 OF THE CITY CODE, the following PROPERTIES AND types of developments require site plan review:

-25-

10-22-84
(a) Single family cluster developments
(b) Accessory buildings in all zone districts except single family
(c) Attached single family residential (R-8)
(d) Two family residential (R-4)
(e) Multiple family residential (R-5, R-6, R-7)
(f) Neighborhood business (B-1)
(g) General business (B-2)
(h) Office-residential (B-3)
(i) Business-residential (B-4)
(j) Office (O-1)
k) Office commercial (O-2)
l) Parking (P) and all off-street parking facilities in any zone district except in a district zoned single family residential when the area thereof accommodates three (3) or less vehicles.

Section 3 Subsection 5.193(2)(a) is hereby amended to read as follows:

(a) In instances where Design Review is required by the provisions of Section 5.192 OR A CERTIFICATE OF APPROVAL IS REQUIRED BY CHAPTER 43, a permit shall not be required, but the Planning Board AND HISTORIC DISTRICT COMMISSION, prior to authorizing the issuance of the building permit pursuant to Section 5.192(5), shall first determine that the information required to be submitted by this section has been received and that provisions of this section have been fulfilled.

ORDAINED this 22nd day of October, 1984, by the Commission of the City of Birmingham.

ROBERT W. APPLEFORD
MAYOR

PHYLIS ARMOUR
CITY CLERK

VOTE:  Yeas, 4  Nays, 3 (Jensen, Kaia, Sights)

MOTION: Motion by Hockman, supported by Jeske:
To adopt Ordinance Number 1279 with revisions suggested by the Planning Board to Section 5.405 and Section 5.406.

MOTION AND SUPPORT WITHDRAWN

MOTION: Motion by Hockman, supported by Jeske:
To adopt Ordinance Number 1279 with revision suggested by the Planning Board to Section 5.406 as follows:

ORDINANCE NO. 1279

AN ORDINANCE TO AMEND TITLE V, CHAPTER 40, OF THE CODE OF THE CITY OF BIRMINGHAM.

THE CITY OF BIRMINGHAM ORDAINS:

Section 1. The title of Chapter 40, is hereby amended to read as follows:
CHAPTER 40 PLANNING AND HISTORIC DISTRICT COMMISSION

Section 2. Section 5.401 is hereby amended to read as follows:

5.401. Planning and Historic District Commission

There is hereby created the Birmingham Planning and Historic District Commission which shall consist of seven (7) members whose residences are located in the City of Birmingham. Members shall be appointed by the City Commission for terms of office of three (3) years except that two (2) members of the first Commission shall be appointed to serve for the term of one (1) year, two (2) for the term of two (2) years and three (3) for a term of three (3) years. All members shall hold office until their successors are appointed. Members of the Planning and Historic District Commission shall be eligible for reappointment. A vacancy occurring in the membership of the Planning and Historic District Commission for any cause shall be filled by a person appointed by the City Commission for the duration of the unexpired term.

At least two (2) members of the Planning and Historic District Commission shall be appointed from a list of citizens submitted by a duly organized and existing preservation society or societies, at least one (1) member shall be an architect duly registered in this state, if such person is available for appointment (at least one (1) member shall be an owner of property in one of the Historic Districts, if such person is available for appointment) and the other members shall represent insofar as possible, (the legal profession, the financial or real estate professions, and planning or design professions).

All members of the Planning and Historic District Commission shall serve without compensation. The City Manager, City Engineer and City Planner or the authorized representatives of any of them, shall be members ex-officio of the Planning and Historic District Commission, and shall have all rights of membership thereon except the right to vote.

Section 3. Section 5.402 is hereby amended to read as follows:

5.402. Removal.

Members of the Planning and Historic District Commission may, after a public hearing, be removed for cause.

Section 4. Section 5.403 is hereby amended to read as follows:

5.403. Organization and Meetings.

The Planning and Historic District Commission shall, from its appointed members, elect a chairman and a vice-chairman whose terms of office shall be fixed by the Planning and Historic District Commission. The chairman shall preside over the Planning and Historic District Commission and shall have the right to vote. The vice-chairman shall, in the case of the absence or disability of the chairman, perform the duties of the chairman. The City Planner, or his or
her authorized representative shall act as secretary of the Planning and Historic District Commission and shall keep a record of all of its proceedings.

At least four (4) members of the Planning and Historic District Commission shall constitute a quorum for the transaction of its business. The Planning and Historic District Commission shall adopt rules for the transaction of its business, which shall provide for the time and place of holding regular meetings. The Planning and Historic District Commission shall provide for the calling of special meetings by the chairman or by at least two (2) members of the Planning and Historic District Commission. The Planning and Historic District Commission shall adopt rules for the transaction of its business, and shall keep a full and complete record of its resolutions, transactions, findings and determinations, which record shall be available to the City Commission and to the public upon request.

All meetings of the Planning and Historic District Commission shall be open to the public and any person or his duly constituted representative shall be entitled to appear and be heard on any matter applicable to the business at hand before the Planning and Historic District Commission makes its decision.

The concurring affirmative vote of four (4) members of the Planning and Historic District Commission shall be required for approval of plans before it for review or for the adoption of any resolution, motion or other action by the Planning and Historic District Commission.

Section 5. Section 5.404 is hereby amended to read as follows:

5.404. Assistance.

The Planning and Historic District Commission may call upon the City Manager for such services and data by the various departments as it may require. The Planning and Historic District Commission may recommend to the City Commission the securing of such professional and consulting services as it may require, provided, however, that no expenditures of funds shall be made, or contracts entered into for providing such professional or consulting services, unless the same shall first be approved and authorized by the City Commission.

Section 6. Section 5.405 is hereby amended to read as follows:

5.405. Duties.

It shall be the function and duty of the Planning and Historic District Commission to advise the City Commission in regard to the proper development of the City of Birmingham. The Planning and Historic District Commission is authorized to advise with and cooperate with the planning, historic district and legislative bodies of other governmental units in any area outside the boundaries of the City of Birmingham. The Planning and Historic District Commission is authorized to prepare a recommendation for the physical development of the municipality, either in its entirety, or in part. Such recommendation, together with accompanying maps, plats,
charts and descriptive matter, shall show the Planning and Historic District Commission suggestions for the development of such territory. Said Planning and Historic District Commission is also authorized to recommend for the guidance of the City Commission, amendments to the City Code relating to the control of the height, area, bulk, location and use of buildings and premises. Said commission is also authorized to recommend for the guidance of the City Commission, amendments to the City Code relating to the control and development of lands within Birmingham's historic districts. The Planning and Historic District Commission may from time to time, amend, extend or add to such recommendations, and the same shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality and its environs. The Planning and Historic District Commission may hold such public meetings and/or hearings from time to time, as it may deem advisable or necessary in connection with the proper performance of its functions hereunder.

Not later than the first day of April in each year, the Planning and Historic District Commission shall prepare and submit to the City Manager, a tentative outline of its program for the ensuing year. Joint meetings of the City Commission and of the Planning and Historic District Commission, shall be held at least quarterly at a time to be designated by the Mayor, and it shall be the duty of the Mayor to call such meeting in accordance with the provisions hereof.

Section 7. Section 5.406 is hereby amended to read as follows:


The Planning and Historic District Commission shall have the responsibility for Site Plan Review, Design Review and Exterior Appearance Review as outlined in Chapter 39 of the City Code. The Planning and Historic District Commission shall have the responsibility to review and issue Certificates of Approval or rejection for changes within Birmingham's historic districts. It shall be the function of the Planning and Historic District Commission to pass upon all matters referred to it by the City Commission and to give to the City Commission the benefit of its judgment with relation to such matters so referred. Matters so referred may include, but not be restricted to, requests for change of zoning, request for closing, opening or altering a street, or an alley, requests for issuing building permits, and any other matters which bear relation to the physical development or growth of the municipality. When any recommendation has been made by the Planning and Historic District Commission, the same shall be referred to the City Commission or other appropriate City boards.

Section 8. Section 5.407 is hereby deleted.

ORDAINED this 22nd day of October, 1984, by the Commission of the City of Birmingham.

VOTE: Yeas, 4 Nays, 3 (Jensen, Kain, Sights)
MOTION: Motion by Hockman, supported by Jeske:
To adopt Ordinance Number 1280 as follows:

ORDINANCE NO. 1280

AN ORDINANCE TO AMEND TITLE VIII, CHAPTER 79,
SECTION 8.4(113.10) OF THE CODE OF THE CITY
OF BIRMINGHAM.

THE CITY OF BIRMINGHAM ORDAINS:

Title VIII, Chapter 79, Section 8.4(113.10) is hereby
amended to read as follows:

113.10. Planning Board AND HISTORIC DISTRICT
COMMISSION APPROVAL.

Each application for a permit to erect or remodel
a building within the City of Birmingham may,
at the discretion of the Building Official,
be referred to the Planning AND
HISTORIC DISTRICT COMMISSION for review. All
plans for buildings, other than single family
residences shall be submitted to the
Planning AND HISTORIC DISTRICT COMMISSION
by the Building Official prior to issuance of
a permit.

ORDAINED this 22nd day of October, 1984, by the Commission
of the City of Birmingham.

ROBERT W. APPLEFORD
MAYOR

PHYLLIS ARMOUR
CITY CLERK

VOTE: Yeas, 4 Nays, 3 (Jensen, Kain, Sights)

MOTION: Motion by Hockman, supported by Jeske:
To designate December 1, 1984, as the effective date for the
foregoing ordinances.

VOTE: Yeas, 7 Nays, None

MOTION: Motion by Hockman, supported by Jeske:
To request the Birmingham Historical Society to provide a
list of nominees for the newly created Planning and Historic
District Commission, with resumes for each nominee, said
list to be submitted within two weeks, and to urge that the
list contain more than two names.

VOTE: Yeas, 7 Nays, None

10-11-84:

11:35

COMMUNICATIONS RE: PROPOSED
HISTORIC DISTRICTS

Communications regarding the proposed historic districts
were received from the following: Michigan History Division
of the Department of State in support of the historic
districts; Robert Gwynn, in opposition to the Central Business
Historic District; Charles Clippert, on behalf of Maplewood
Associates, in opposition to the Central Business Historic
District.
Communication dated October 18, 1984, received from Leonard Mazor, Attorney, advising that Joseph Sedano and Tracy Mayes withdrew their grievance on sergeant promotions scheduled for hearing on October 22, 1984.

William Brownfield, Managing Director of the Chamber of Commerce, invited City Commissioners and City Department Administrators to a dedication of the Chamber Flag Pole on October 29, 1984, at 10:00 A.M.

Report received from the Director of the Department of Public Services and the City Manager re: Residential Leaf Collection.

MOTION: Motion by Kain, supported by Sights:
To receive the report of the Director of the Department of Public Services and the City Manager recommending that the bid for purchase of fertilizer for application in City parks and Greenwood Cemetery be awarded to the low bidder, L and E Distributors, in the amount of $2,461.20; to concur in the recommendation as submitted.

VOTE: Yeas, 7 Nays, None

MOTION: Motion by Jeske, supported by Hoeckman:
To receive the report of the Director of the Department of Public Services and the City Manager recommending that large street trees requested by residents for fall or spring planting be purchased from low bidders as follows:

Wade & Gatton Nurseries, Belleville, Ohio:
2 Tulipoplar 2 1/2-3" B & B @ $100. $ 200.  
2 Tulipoplar 4" B & B @ $250. 500.  
6 Emerald Queen Norway Maple 4 1/2-5" B&B @ $250. 1500.  
3 Emerald Queen Norway Maple 3 1/2-4" B&B @ $150. 450.  
1 Marshall's Seedless Green Ash 5" B&B @ $300. 300.  
4 Bowhall Red Maple 5" B&B @ $250. 1000.  
1 Shademaster Honeylocust 4 1/2-5" B&B @ $250. 250.  
Total $4200.  

George Yount Nursery, Oak Park, Michigan
1 Gerling Red Maple 3-3 1/2" B & B @ $150. $ 150.  

VOTE: Yeas, 7 Nays, None

MOTION: Motion by Kain, supported by Jeske:
To receive the report of the City Attorney re: ACLU vs City of Birmingham; to grant permission to the American Jewish Congress to file an amicus curiae in support of the appellees in the aforementioned matter.

VOTE: Yeas, 7 Nays, None
MOTION: Motion by Hockman, supported by Miller:
To receive the report of the Advisory Parking Committee recommending that a deposit of $20.00 be required from persons wishing to be on a waiting list for City parking facilities, said deposit to be refunded upon cancellation of the permit or withdrawal from the waiting list, or to be forfeited upon non-payment of the monthly fee, and that the deposit be effective immediately for new permit holders and new waiting list applicants, and effective January 1, 1985, for all current permit holders and those now on waiting lists; that a $5.00 replacement fee be charged for a lost or damaged magnetic parking card; to concur in the recommendation as submitted.

VOTE: Yeas, 6  Nays, None  Abstain, Kain

Commissioner Kain abstained from voting because of a conflict of interest.

MOTION: Motion by Kain, supported by Sights:
To concur in the recommendation of the Advisory Parking Committee that the policy of issuing permits to individuals only be reaffirmed, and that existing permits be converted to an individual basis.

MOTION: Motion by Appleford, supported by Sights:
To table the previous Motion for one week.

VOTE: Yeas, 6  Nays, 1 (Jensen)

MOTION: Motion by Miller, supported by Sights:
That the Warrant List dated October 18, 1984, less payment of $329.90 to Muellers, and less payment of $625.00 to Thornton and Grooms, for an amended amount of $358,413.31, having been audited and approved by the Director of Finance, be approved for payment.

VOTE: Yeas, 7  Nays, None

MOTION: Motion by Jeske, supported by Miller:
To schedule a Closed Meeting for November 12, 1984, at 7:00 P.M., in the Conference Room, to discuss labor negotiations.

VOTE: Yeas, 7  Nays, None

MOTION: Motion by Commissioner Jeske to adjourn

Matthew Bako, Senior Planner  
\textit{c/o City of Birmingham}  
151 Martin Street  
Birmingham, Michigan 48009  

July 5, 2017  

Re: 361 East Maple Road  
Historic designation  

Matthew:  

As you know we have submitted design drawings for Final Site Plan and Design Review.  

At this time we are (will be) respectfully requesting that the Hawthorne Building @ 361 East Maple Road be "un-designated" as Locally Designated Historic Building since the building itself is not significant in the way previously defined (see the attached documents) and should alternatively be considered a "non-contributing resource".  

We are therefore requesting that the Planning board application be processed. We will make the proper application to the HDC at the appropriate time.  

Should there be any questions regarding this request – please give me a call.  

Sincerely,  

Christopher J. Longe, AIA  

T248 238 5940  
F248 238 5568
The owner of the property located at 361 E. Maple has requested that the City Commission consider removing the historic designation their building as a contributing historic resource within the City of Birmingham. The property owner has submitted an application to the Planning Board requesting to demolish the building as part of a redevelopment proposal.

The process for removing designation from a property or structure as a contributing historic resource is outlined in section 127 of the City Code. Section 127-5, Establishing additional, modifying, or eliminating historic districts, states the following:

(a) The city commission may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, the standing historic district study committee, as established in section 127-4, shall follow the procedures as stated in section 127-4. The committee shall consider any previously written committee reports pertinent to the proposed action.

(b) In considering elimination of a historic district, a committee shall follow the procedures set forth in section 127-4, as amended for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:

(1) The historic district has lost those physical characteristics that enabled the establishment of the district.

(2) The historic district was not significant in the way previously defined.

(3) The historic district was established pursuant to defective procedures.

(Ord. No. 1880, 7-24-06)
The first step in the process towards considering eliminating the historic designation of this property is for the City Commission to pass a resolution directing the Historic District Study Committee to commence with the creation of a study committee report as outlined in section 127-4 of the City Code.

In accordance with sec. 127-04 of the City Code, when directed by a resolution passed by the city commission, the standing historic district study committee shall meet and do all of the following:

1. Conduct a photographic inventory of resources within each proposed historic district following procedures established by the state historic preservation office of the state historical center.

2. Conduct basic research of each proposed historic district and historic resources located within that district.

3. Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the criteria for evaluation issued by the United States secretary of the interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR Part 60, and criteria established or approved by the state historic preservation office of the state historical center.

4. (4)

5. Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:
   a. The charge of the committee.
   b. The composition of committee membership.
   c. The historic district(s) studied.
   d. The boundaries of each proposed historic district in writing and on maps.
   e. The history of each proposed historic district.
   f. The significance of each district as a whole, as well as the significance of sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

6. Transmit copies of the preliminary report for review and recommendations to the city planning board, the state historic preservation office of the Michigan Historical Center, the Michigan Historical Commission, and the state historic preservation review board.

7. Make copies of the preliminary report available to the public pursuant to Section 399.203(4) of Public Act 169 of 1970, as amended.

8. Not less than 60 calendar days after the transmittal of the preliminary report, the historic district study committee shall hold a public hearing in compliance with Public Act 267 of 1976, as amended. Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act 267. Written notice shall be mailed by first class mail not less than 14 calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls.
The report shall be made available to the public in compliance with Public Act 442 of 1976, as amended.

(8) After the date of the public hearing, the committee and the city commission have not more than one year, unless otherwise authorized by the city commission, to take the following actions:

a. The committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the city planning board and the historic district commission, to the city commission as to the establishment of a historic district(s). If the recommendation is to establish a historic district(s), the final report shall include a draft of the proposed ordinance(s).

b. After receiving a final report that recommends the establishment of a historic district(s), the city commission, at its discretion, may introduce and pass or reject an ordinance(s). If the city commission passes an ordinance(s) establishing one or more historic districts, the city shall file a copy of the ordinance(s), including a legal description of the property or properties located within the historic district(s) with the register of deeds. The city commission shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

(9) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function of the historic district commission should be made available to the public in compliance with Public Act 442 of 1976, as amended.

Thus, to consider the applicant’s request for the removal of the historic designation on 361 E. Maple the City Commission may wish to direct the Historic District Study Committee to prepare a report as outlined in Sec. 127-4 of the City Code.

SUGGESTED ACTION:

The City Commission approves the attached resolution directing the Historic District Study Committee to prepare a study committee report for 361 E. Maple as outlined in section 127-4 of the City Code.
WHEREAS, the owner of the Property located at 361 E. Maple have requested that their property be removed as a contributing resource in the Central Business District Historic District within the City of Birmingham,

WHEREAS, The land for which the Historic designation is sought is located on the north side of Maple between Park and N. Old Woodward Ave.,

WHEREAS, Section 127-5 of the City Code, Historic Districts, requires that the City Commission pass a resolution directing the Historic District Study Committee to prepare a Study Committee Report;

WHEREAS, The Birmingham City Commission has reviewed the request of the property owner and has found that a Study Committee Report to determine the historic merit of the structure at 361 E. Maple is warranted;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission directs the Historic District Study Committee to prepare a Study Committee Report as outlined in section 127-4 of the City Code for the property located at 361 E. Maple:

I, Cherilynn Brown, 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 July 24, 2017.

__________________________
Cherilynn Brown, City Clerk
INTRODUCTION
Dickinson Wright PLLC engaged John Dziurman Architects Ltd., to undertake a Review and Historic Evaluation Report relating to the Opposition to Application to De-Designate/Remove 361 E. Maple, Birmingham, Michigan, (“Hawthorne Building”) as a historic contributing Landmark building in the Central Business Historic District in downtown Birmingham.

Our Review and Historic Valuation Report was for the purpose evaluating the City’s initial inclusion of the Hawthorne Building under the City’s historic district ordinance and to evaluate the criteria governing the review of the pending application to eliminate the Hawthorne Building as a historic district under Section 127-5 of the City’s Code.

In conducting our review we examined records of the Birmingham Historic District Study Committee in 1981 and the records of the Birmingham City Commission between 1981-84 & 2017, conducted a site visit to ascertain the current condition of the Hawthorne Building and reviewed the records, documents and minutes with regard to current Birmingham Historic District Study Committee review of the pending application to eliminate the Hawthorne Building as designated historic district.

BACKGROUND
Mr. Mrs. Melvin Kaftan, are owners and residents of the property directly east of the Hawthorne Building and oppose the de-designation of this historic property and have requested that the Birmingham Historic District Study Committee ("BHDSC") recommend to the City Commission that the de-designation application be denied.

Mr. and Mrs. Kaftan have asserted and I have confirmed in my review the following:
- The Hawthorne Building had historic value as required by City Code when it was originally designated as a historic district;
- That the historic value of the Hawthorne Building has not diminished since its historic designation and that such historic value and purpose merits retention as a historic district under the City Code.

When the Kaftans’ purchased the adjoining property they did so knowing that the Hawthorne Building was in a historic district and designed and constructed their building which includes their personal residence based upon such designation. Accordingly, elimination of the Hawthorne Building has a historic district will not only result in the loss of valuable historic resource, but will result in development of 361 E. Maple in a manner
inconsistent with the design and use of the Kaftan building which is their home.

At all times the Kaftans have been willing and able to purchase the Hawthorne Building for same price as the current owner and attempted to do so before it was purchased by the current owner.

As residents in this area of the City, the Kaftans have been advised that other owners of similarly historically designated buildings will seek elimination of their buildings from the historic district if the pending de-designation application is granted.

Along with the pending de-designation application, it is Kaftan’s understanding that the current owner of the Hawthorne Building has submitted an application to the Planning Board requesting to demolish the Hawthorne Building as part of a redevelopment proposal.

REVIEW OF DE-DESIGNATION APPLICATION BY THE CITY OF BIRMINGHAM

The process for removing designation of a property and/or structure as a contributing historic resource and from the historic district is outlined in section 127-5 of the City Code. The first step in the process which has occurred is for the City Commission to pass a resolution directing the BHDSC to commence with the creation of a study committee report as outlined in section 127-4 of the City Code. That process has occurred and the BHDSC has been meeting for a number of months reviewing the application and was considering a recommendation to deny the application.

Specifically, at the BHDSC November 16, 2017 meeting, the BHDSC presented their report – “361 E. Maple Birmingham Historic Resource Report from the Historic District Study Committee”, and recommended not to support the de-listing of the Hawthorne Building for the following reasons:

- De-listing the building puts it at risk i.e. changes to historic features, demolition, etc.;
- The building was originally designated following all Federal, State and Local guidelines;
- There have been no changes to the building since its designation in 1984 and maintains its character as a pristine example of 1920’s commercial architecture in downtown Birmingham;
- The building is located on a street with other historic properties and is within the Historic Central Business District and contributes to the history and character of the City;
- The Birmingham community needs to maintain its historic structures for future generations; and
- De-listing an asset based on the potential for demolition and redevelopment, does not serve the greater good of the community.

Simply stated, it appears that to date, the BHDSC was of the opinion that the criteria for de-designation listed in Chapter 127 of the City Code was not satisfied since:
1. The Hawthorne Building as a historic district has not lost those physical characteristics that caused the establishment/creation of the district in 1984.
2. The Hawthorne Building as a historic district remains significant in the manner previously defined.
3. The designation of the Hawthorne Building as a historic district complied with proper procedure.

REVIEW OF CRITERIA

1. The historic district has not lost those physical characteristics that enabled the establishment of the district.

The property at 361 E. Maple remains virtually unchanged from the condition it was in when designated in 1983. This is demonstrated by historic and contemporary photographs. It is decorated with a sign band that is defined by patterned brick and limestone. The parapet has a small pediment and limestone urns at the party walls. It is believed that the pressed metal store front is original.

In addition, since the creation of the CBD Historic District, all exterior changes to the contributing and non-contributing resources have been reviewed by the Historic District Commission. Any proposed change to a resource in the district has been measured against the Secretary of the Interior’s standards for rehabilitation and guidelines for rehabilitating historic buildings (attached). The Standards for Rehabilitation address the most prevalent treatment. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values". Accordingly, the historic character of the district at large has not been altered in such a way that would eliminate the physical characteristics that enable the establishment of the district.

2. The historic district remains significant in the manner as previously defined.

Several factors were used in determining whether a building has sufficient historic value to merit classification as a "landmark.” First, the history of the building, its past occupants and its significance to the development of Birmingham were evaluated. The age, condition and potential for restoration were architecture and uniqueness of each structure was evaluated. At the time, the Historic District Study Committee determined that 29 structures in central Birmingham were worthy of special treatment. Although not every structure met all of the above criteria, each structure given "landmark" designation was determined by the Commission to have one or more of the elements that made it worthy of designation. The property at 361 E. Maple was selected as a contributing resource as it was a good example of a small store design from the 1920’s with patterned brick and limestone. The parapet has a slight pediment and limestone urns at the party walls. Although the structure is simple and conservative, it is in excellent condition. The fact that it also maintained its original condition made it a valuable visual anchor in the preservation of the north side of E. Maple. The architectural significance cited in 1983 is as evident today as it was at the time.
3. The historic district was properly established.
The procedures followed in the designation of the Central Business District Historic District were established in chapter 127 of the City Code pursuant to Public Act 169 of 1970. In 1980 the City Commission appointed the Historic District Commission to serve as a Historic District Study Committee to research and make a recommendation regarding the historic value of buildings in central Birmingham as required by chapter 127 of the City Code. As documented by the committee members at the time, the research was conducted by interviewing Birmingham "old-timers" who had first-hand knowledge of the history of many buildings, reviewing materials at the Baldwin Library including reading issues of the Birmingham Eccentric, researching City assessing and building records, examining recorded data from Oakland County and reviewing published material from various other resources. The selection of 361 E. Maple for historical designation in 1983 as a part of the Central Business District Historic District was done after careful review and evaluation in compliance with the required procedures.

On October 22, 1983, the Birmingham City Commission adopted Ordinance No. 1276 amending the City Code adding Chapter 43 of the Birmingham City Code to establish the Central Business District Historic District and the Shain Park Historic District.

Recommendation Against De-Designation

In 1970, the Michigan State Legislature declared historic preservation to be a public purpose. By enacting Public Act 169, the legislature officially recognized that historic preservation does all of the following:

A. Safeguards the heritage of the community by preserving a district which reflects elements of its cultural, social, economic, political or architectural history;
B. Stabilizes and improves property values in such districts;
C. Fosters civic beauty;
D. Strengthens local economy; and
E. Promotes the use of historic districts for the education, pleasure and welfare of the citizens of the community and of the State.

The Hawthorne Building is a valuable example of a 1920’s era commercial storefront that has seen little to no alteration within its lifetime. It provides historic context of the traditional downtown that has personified Birmingham over its history. De-designating this building, as indicated by the developer’s plans, would put it at risk for demolition. This has the potential to encourage additional property owners to pursue de-designation and deterioration of the historic character that has defined Birmingham throughout the years. These historic structures have distinguished Birmingham from its surrounding neighbors as a traditional downtown which has undoubtedly contributed to its sustained success over the years. In addition, the methods and procedures followed during the designation process in the 1980’s strictly adhered to the guidelines established at the local, state and federal levels. It was the intention of the City Commission of that time to take these steps to ensure that Birmingham would retain its character and history for future generations to appreciate and enjoy. The de-designation of this structure has the potential to set a precedent that would
have long lasting effects on the City that cannot be reversed.

- De-listing the building puts it at risk i.e. changes to historic features, demolition, etc.
- The building was originally designated following all Federal, State and Local guidelines;
- There have been no changes to the building since its designation in 1984 and maintains its character as a pristine example of 1920’s commercial architecture in downtown Birmingham;
- The building is located on a street with other historic properties and is within the Historic Central Business District and contributes to the history and character of the City;
- The Birmingham community needs to maintain its historic structures for future generations;
- De-listing an asset based on the potential for demolition and redevelopment, does not serve the greater good of the community.

Based upon the foregoing, it is clear that there is no basis for de-designation of this historic building and the same and historic district must be preserved.

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

In my review of the Hawthorne Building, I also examined the Secretary of the Interior Standards for Rehabilitation and reached the following findings and conclusions.

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
   *This property has been used for its historic purpose (commercial) since it was built in the 1920s, and has had little to no alteration within its lifetime.*

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
   *The historic character of this property has been retained and preserved as original, and due to no removal of materials or alterations of features, it has retained the original character of the property.*

(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
   *In the 1920s, the City of Detroit and Michigan area were designing and building Art Deco skyscrapers, factories, schools, post offices, city halls and commercial buildings. Some other design category names used were Art Moderne, ZigZag Moderne and Streamline. This small commercial building in downtown Birmingham is a jewel for the historic
district, the city and the Detroit area.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved. The historic significance of this building has never changed and has retained and preserved all of its original Art Deco features on the façade.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved. This one story, one bay, reddish face brick store, with attractive trim was built in 1927. The building has been well kept and is an example of good, small store design and craftsmanship from the 1920s.

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence. Although the structure is simple and conservative, it is in good condition and original condition makes it a candidate for a valuable visual preservation anchor in the Birmingham Central Business District Historic District.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible. The façade of this Art Deco style building never experienced any chemical or physical treatment, only the gentlest means of clean water.

(8) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken. In 1929, the shed at the rear of the property was removed. Since the building was built in 1927, there was no information if there were any significant resource found.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment. An exterior wood addition was built in the rear for storage and other rooms related to the businesses that were using the building. This addition is differentiated from the brick façade and is compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. The only addition to this brick building was the wood addition described with Standard
"#9. If the rear addition was removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Based upon the foregoing, it is clear that the de-designation application should not be granted.

THE OCTOBER 18, 1984 MINUTES FROM THE FIRST HISTORIC DISTRICT STUDY COMMITTEE

The following is recitation of the above referenced minutes. We have included the same as the discussion contained in the minutes focuses on the importance of historic resources and districts and the relationship of the historic district to the character of central Birmingham and adjoining properties. It is believed that the conclusions reached by the first Historic District Study Committee confirm why the historic district designation of the Hawthorne Building should not be removed.

The Birmingham City Commission established the Central Business Historic District and Shain Park Historic District in 1981. At that time, the City Commission appointed the Historic District Commission to research and make a recommendation regarding the historic value of buildings in central Birmingham. The Study Committee examined each building in the study area. The research was conducted by interviewing Birmingham “old-timers” who have first-hand knowledge of the history of many buildings, reviewing material at the Baldwin Library including reading issues of the Birmingham Eccentric from the late 1800’s and early 1900’s, researching City assessment and building records, examining recorded data from Oakland County and reviewing published material from the various other sources.

Several factors were used in determining whether a building has sufficient historic value to merit classification as a landmark. First, the history of the building, its past occupants and its significance to the development of Birmingham were evaluated. The age, condition and potential for restoration were also considered. Finally, the architecture and uniqueness of each structure was evaluated. Based on this background, the Historic District Commission decided that 29 structures in central Birmingham were worthy of special treatment. In addition, the Commission determined to have one or more of the elements that make it worthy of designation.

LOCAL HISTORIC DISTRICTS ACT
Act 169 of 1970

The Commission also reviewed that in 1970, the Michigan State Legislature declared historic preservation to be a public purpose and the legislative body of a local unit may by ordinance regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the limits of the local unit. The purpose of the ordinance is to do one or more of the following:

(a) Safeguard the heritage of the local unit by preserving 1 or more historic districts in the local unit that reflect elements of the unit's history, architecture, archaeology, engineering, or culture.

(b) Stabilize and improve property values in each district and the surrounding areas.
(c) Foster civic beauty.
(d) Strengthen the local economy.
(e) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the local unit and of the state.

The Birmingham Historic District Commission noted at that time the Birmingham City Commission will always recognize, as the legislature did back in 1970, that historic preservation can accomplish all of the above goals. Also, some communities throughout the state have almost every single building designated as a “landmark” structure, while other historic districts in their downtowns, such as Birmingham, have undergone many changes resulting in the “landmark” structures being in the minority. This is not unusual or desirable. To the contrary, it is towns such as Birmingham that can most benefit from historic preservation legislation. The legislation provides protection of the character and design qualities that make Birmingham a viable downtown.

The Historic District Commission is certain that the City Commission believes that Birmingham has commercial structures worth protecting. Both know that no ordinance exists to prevent demolition of those structures in central Birmingham, which have value to the whole community. It seems, therefore, that the question is not "should we?" but "how should we?"

At that time, there were 47 historic district properties in the City of Birmingham. They were primarily non-contiguous, residential structures on individual lots. Two commercial structures, the Peabody Mansion and the Grand Trunk Western Railroad Depot are exceptions.

Although individual, non-contiguous districts have worked well for the residential properties, they did not think that the proper approach for the commercial area was working as well. Since commercial structures are erected side-by-side and bear a more direct relationship to one another than single family residential structures. To select the individual one "landmark" buildings for designate without regard for the other structures in the downtown is contrary to the purposes for creating an historic district. Careful attention must be paid to the structure which abut “landmark” properties and other buildings in the downtown which have an effect on the “landmarks” The suggestion that only “landmark” properties compose the historic district would be similar to saying that Planning Board should have Design Review over just a portion of a particular block. This recommendation is for contiguous historic districts with well-defined standards for both “landmark” and “district resource properties.

The Historic District Commission already begun working on a set of standards which will establish a clear cut understanding of the goals of the City with respect to design. It is the intent of the Historic District Commission to set standards that are flexible enough to provide for individual creativity yet complete enough to ensure that the historic fabric of Birmingham is not destroyed.

Under the current regulations, any property owner in central Birmingham (public ownership excepted) must obtain Design approval or Exterior Approval and possibly Site Plan
Approval before any change to the exterior of a building can be made. Since central Birmingham is currently subject to a Design Review process, the question that we all face is: What should the thrust of this Design Review be?" Architecture, no matter what the age or style, should have as a goal to reflect its time and its place. The question of how to achieve that goal, especially when adding a new wing to an old building or filling a gap in an urban streetscape, is a vexing one to architects and preservationists alike. There is no formula answer; each building or addition should be considered individually and in the context of its surroundings. Design relationships in architecture appear to have become a problem since the coming of age of the "modern movement" in the last 35 years or so. When "modern" architecture arrived, thumbing its nose at the past and the surroundings, its problems began. The public has become disaffected with modern design. Existing is not respected and there is little ornamentation; the result is monotony. With this sharp change in designs so profoundly affecting the existing streetscape, preservationists and others reacted and the concept of historic districts was born.

While there may not be a clear answer to what constitutes a good relationship between old and new buildings, which should not stop us from trying to find a solution, it is only in a quality built environment that we can achieve a quality life. The 29 "landmark" structures represent what is left of quality development from a previous era. The City Commission is now confronted with decision; to find that these buildings are worthy of preservation for present and future generations to enjoy or determine that these buildings do not have any public value and may be destroyed, altered or redesigned at the will of the owners. It is our sincerest hope that you will go forward in enacting the proposed ordinance to create two new historic districts which will protect the valuable historic resources in central Birmingham.

CONSULTING HISTORIC ARCHITECT OPINION
Application to De-Designation/Remove
Hawthorne Building (Historic Name)
361 E. Maple Birmingham, Michigan

1. The Application for the De-Designation of the Hawthorne Building;
   a. Is contrary to the 10 Standards of the Secretary of the Interior Standards for Rehabilitation,
   b. Would result in the demolition of one of the 29 Landmarks in the Central Business Historic District
   c. Would significantly compromises the use of an existing 3 stories residential property at 363 E. Maple
   d. Does not meet the criteria for de-designation listed in Chapter 127 of the City Code.
Sec. 127-25. Central Business District.
The central business district shall consist of all of the lands and resources within the boundaries of the central business district as hereby established on the district maps. The central business historic district shall consist of the following historic resources in the city.

1. Wabeek Building, 256 W. Maple.
2. Leonard Building, 166 W. Maple.
3. Quarton Building, 142 W. Maple.
15. Hawthorne Building, 361 E. Maple
20. Detroit Edison Building, 220 E. Merrill.
27. Bigelow-Shain Building, 115 W. Maple.
28. Field Building, 135-141 W. Maple.
New Construction
Mixed – Used / Retail, Office and Luxury Condo
361 E Maple Rd #TBD
Birmingham, MI 48009
2 Bd   2.1 Ba   4,120 SF

NEW- Luxury Penthouse offering dramatic skyline views in downtown Birmingham! Rise to the top in this 2-story home occupying the 4th & 5th floors of this new construction 5-story building. Park in your private 2 car garage & take your private elevator OR private stairs up to this amazing 4,120 SF home! The library greets you at the heart of the 4th floor. Large master bedroom on this level offers southern views, his & her closets, separate ensuite bathroom w/window. Large second bedroom on north end offers plentiful windows, large closet, ensuite bathroom w/window. Whether taking the elevator or main staircase, the 5th floor living area is an entertainer’s delight! Living room w/fireplace opens to south terrace w/outdoor fireplace. Separate dining room, wet bar, kitchen w/eat-in & north terrace, separate pantry, powder room, and spiral staircase to fabulous rooftop terrace! On rooftop enjoy sun & stars or bask in glow of another outdoor fireplace!
Architects: Christopher Longe & Associates

Estimated Home Value
$3,028,200
Downtown Birmingham
Built in 2018
Mortgage
$11,855/month
Condominium
$801/SF
361 EAST MAPLE   THE HAWTHORNE BUILDING
CITY OF BIRMINGHAM   ●   OAKLAND COUNTY   ●   MICHIGAN

REPORT IN CONSIDERATION OF DE-DESIGNATION AS LANDMARK
FINNICUM BROWNIE ARCHITECTS
JANUARY 8, 2017
January 8, 2018

Ms. Amy Arnold  
Preservation Planner  
Local Districts  
Michigan State Historic Preservation Office  
735 East Michigan Avenue  
Lansing, MI 48912

Historic District Study Committee  
c/o Matthew Baka,  
Senior Planner  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48012

Re: Proposed de-designation of Hawthorne Building  
361 East Maple Road, Birmingham MI 48009

Dear Ms. Arnold and Committee Members,

The City of Birmingham Historic District Study Committee issued a report in response to a request to de-designate The Hawthorne Building, 361 East Maple, a locally designated landmark structure in the Central Business Historic District. Given my over 40-year career as an historic architect (please see attached Curriculum Vitae) the owner of the property has requested I provide additional information that bears on the matter.

A recommendation to de-designate a landmark structure can be made by the Historic District Study Committee if one or more of the following conditions can be demonstrated:

1. The historic district has lost those physical characteristics that enabled the establishment of the district.

2. The historic district was not significant in the way previously defined.

3. The historic district was established pursuant to defective procedures.  

_Michigan PA 169 of 1970 as amended and Birmingham City Code Chapter 127-5 (b)_

To analyze the building’s background and context, my staff and I studied the State enabling legislation; the Downtown Birmingham 2016 Plan; the zoning ordinance current at the time of designation; the current overlay district ordinance; the historic district ordinance; minutes and correspondence of the 1983 historic district study committee; and the recent 361 E. Maple Report by the HDSC. We also toured the Central Business Historic District; reviewed maps on the City web site and researched photos in the Birmingham Historical Museum archives.

After careful consideration of these resources, it is my professional opinion that 361 East Maple, the Hawthorne Building, does in fact meet the conditions for de-designation.
1. **THE HISTORIC DISTRICT HAS LOST THOSE PHYSICAL CHARACTERISTICS THAT ENABLED THE ESTABLISHMENT OF THE DISTRICT.**

The creation of a contiguous historic district comprised by the central business district was a sound idea and an important action taken by preservationists in 1983. Max Horton, as the Chairman of the Historic District Study Committee / Historic District Commission, led the way. In his October 18, 1984 letter (attached at Appendix A) to the Birmingham City Commission recommending the creation of the proposed Central Business Historic District with its 29 Landmark structures, Mr. Horton, quoted the state enabling act PA 169 of 1970, stating historic preservation accomplishes the following:

“A. Safeguards the heritage of the community by preserving a district which reflects elements of its culture, social, economic, political or architectural history;

B. Stabilizes and improves property values in such districts;

C. Fosters civic beauty;

D. Strengthens local economy; and

E. Promotes the use of historic districts for the education, pleasure and welfare of the citizens of the community and of the State.”

Mr. Horton goes on to explain the reasoning behind declaring the entire Central Business District an historic district containing many landmark buildings.

“Commercial structures are erected side-by-side and bear a more direct relationship to one another than single family residential structures. To select the individual structures for designation without regard for the other structures is contrary to the purpose of creating an historic district. Careful attention must be paid to the structures which abut ‘landmark’ properties and other buildings in the downtown which have an effect on the ‘landmarks’.”

The message was clear and strong: The strength of historic downtown Birmingham is the entire cluster of Midwestern, low-rise Victorian and Art Deco storefronts. Each supportive of the next; the whole district is dependent upon each piece. The effect of changes made to a non-contributing district resource on an adjacent landmark structure is as important as changes made to the landmark structure itself. Neither exists in a vacuum, thus all are subject to review. Please see Appendix B for historical photographs of East Maple and Appendix C for a pictorial inventory of landmark buildings.

What has transpired in the interim between the designation of the CBHD and now, is that another sound and important action was taken by the citizens of Birmingham: In 1996 The Downtown Birmingham 2016 Plan was adopted, resulting in the creation of the Overlay District Ordinance. The intensive community discourse that preceded the development of the plan revealed that the citizens of Birmingham overwhelmingly favored Birmingham forsaking its status as a town for that of a small city. This change in self-image is why the historic district has lost those physical characteristics that enabled the establishment of the district. The predominately one and two-story CBHD, the modest,
recently protected, Mid-western town quickly began its urban metamorphosis as the community embraced the plan and pushed it forward.

The Overlay Ordinance was conceived to incentivize development of a larger, more urban environment. The Overlay District blankets the entire Central Business Historic District. Although a stated goal of the Downtown Birmingham 2016 Plan Vision Statement is to “Strengthen the spatial and architectural character of the downtown area and ensure the buildings are compatible, in mass and scale, with their immediate surroundings and the downtown’s traditional two and four-story buildings,” the Overlay Ordinance has had a contrary effect. By eliminating the Floor Area Ratio of 100% (now unlimited), increasing the height from 48 FT to 70 FT and a maximum five stories; and establishing two-stories as a minimum height, it is driving the city’s vigorous new large urban scale.

The extent and success of the Plan’s implementation is “remarkable, even stunning”, commented its author, Andres Duany at the twenty-year review. The change has been fluid and unimpactful for most of the Historic District (See CBHD Map at Appendix D). In the blocks containing densely situated, contiguous two-story landmark structures infill is not possible, for example Landmarks 6-10; 11-13; 2-5; 21-24; and 26-28 (See Appendix C).

The landmark structures that have scale and architectural prominence are significant enough to coexist with new structures designed under the Overlay Ordinance, noteworthy in this regard are: Landmark 1 The Wabeek Building and Landmark 17 The Briggs Building (See Appendix C). which, in fact, has been expanded by one story, for example.

Others, although smaller in stature, like Landmark 18 The Birmingham Theatre, Landmark 19 The Peabody Mansion and Landmark 20 The Edison Building have such strong architectural integrity they can stand alone (See Appendix C).
As illustrated in Appendix E, the Central Business Historic District Density Map is useful for visualizing the patterns of landmark structures with district resources and one, two, three and greater story structures within the new urban fabric. Visible are groupings of two story landmarks with little exposure to potential edge development; isolated landmarks freestanding beyond the direct influence of neighboring change; and 361 East Maple, the Hawthorne building exposed to monumental change on each side. The densely-situated, two-story landmark structures; those landmarks with substantial scale and architectural prominence; and the stand-alone architecturally significant landmarks have all survived the transition from town to city. They will continue to thrive due to surrounding circumstances.

**The Hawthorne Building, Landmark 15, is unique from virtually all the other landmark structures listed.**

When designated, it was part of a one-story block of non-contributing district resources, as there is just one other landmark in the block (See Appendix B for historical photos). The Hawthorne Building does not have the protection by way of density of two-story structures or the advantage of scale, of architectural prominence or isolation that the other landmarks possess. It is in direct conflict with the Overlay Zoning Ordinance. The building is 20 feet wide and 15 feet high; it cannot be changed. Already, a 4-story, 50-foot building towers above it immediately to the East. Another building of 5 stories towers 70 feet high two doors to the West (See Appendix F for current photos). The adjoining single-story property to the west can potentially be developed as a 70-foot-high building with another 10-foot story for mechanical equipment. The Historic District was formed to preserve elements of the city’s heritage – its small-scaled, Mid-western, historic downtown. Changes to Landmarks within the CBHD must conform to the Department of Interior Standards for Rehabilitation. Non-contributing District Resources are charged with matching the “character” of downtown. The “character” applied as the measure is the new larger-scaled urban image to which the 2016 Plan aspires.
The Hawthorne Building, 361 East Maple, is overwhelmed, rendered nearly invisible within the new urban fabric. It was not designated a landmark because it was a robust architectural specimen. Any notable architectural features are minimal at best.

The strength of the Hawthorne Building when designated was as an element of a cohesive one and two-story downtown district. The cohesion was lost when 369 East Maple was constructed. Recall Max Horton’s caution to the City Commission in his letter (Appendix A) that,

“Careful attention must be paid to the structures which abut ‘landmark’ properties and other buildings in the downtown which have an effect on the landmarks.”
Adequate consideration was not given to the Hawthorne Building when the adjoining structure gave way to a 50-foot-high replacement. The vast discrepancy in size, scale, material, color and texture between the two buildings renders the protection of 361 East Maple no longer justified. The physical characteristics of the low-rise cluster of storefronts on the north side of East Maple has been compromised by the subsequent redevelopment of this area pursuant to the Overlay District (Compare photos in Appendix B to Appendix F). The streetscape drawings below illustrate this dramatic change in character:

**Appendix G: East Maple Streetscapes**

Note: The Present 2017 streetscape accurately represents the elevation of the East end of the North side of East Maple Street. The Past 1983 streetscape is a volumetric representation of what existed when the CBHD was formed. The Future streetscape depicts what can potentially be constructed under the Overlay Ordinance. They are representational only.
In the case of 361 East Maple the context has drastically changed due to the discrepancy between the goals of the Downtown Birmingham 2016 Plan and the goals of historic preservation. If it were to have been protected, standards that are being applied to the Hawthorne Building should also have been applied to its surroundings, including the adjacent district resource removed at the adjacent 369 East Maple and the new 4 story replacement building at 369 East Maple as well. Those physical characteristics that enabled the establishment of the district have been lost in the shadow of the new large urban scale.

2. THE HISTORIC DISTRICT WAS NOT SIGNIFICANT IN THE WAY PREVIOUSLY DEFINED.

In 1983, the HDSC declared the Hawthorne Building a landmark structure because

“its good condition and original condition make it a candidate for a valuable visual anchor in the preservation of the north side of East Maple.”

It is questionable if this modest, 20-foot wide building ever had the architectural substance to anchor an entire block. Clearly, it is now so dominated by a four-story, 50-foot 369 East Maple next door and a 5-story, 70-foot 335 East Maple two doors to the west that, if it ever existed, the potential value as a visual anchor has been lost.

The Hawthorne Building was originally designated as part of the entire contiguous Central Business Historic District. The 2017 HDSC report states,

“It provides historic context of the traditional downtown that has personified Birmingham over its history”.

At the time of designation, the building did not “provide” the context but contributed to the downtown context as part of its 1-story and 2-story small town image. The image no longer exists on the north side of East Maple – it was eliminated by the first projects under the Overlay Ordinance. If the Hawthorne Building was currently a district resource and it designation as a landmark was to be sought the request would be rejected. The building cannot meet the criteria for designation.
3. THE HISTORIC DISTRICT WAS ESTABLISHED PURSUANT TO DEFECTIVE PROCEDURES.

Selection of a property for designation as a landmark structure finds its basis in the National Register Criteria used by the Department of Interior, National Trust for Historic Preservation:

“The quality of significance in American History, architecture, archeology, and culture is present in districts, site, buildings, structures, and objects that possess the integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. that are associated with the lives of persons significant in our past; or

C. that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. that have yielded or may be likely to yield, information important in prehistory or history.”

The National Register Criteria are used as a guide throughout the hierarchy of preservation organizations: from the Keeper of the National Register to local districts for making decisions concerning the significance and historic integrity of properties. To be reliable, the criteria must be applied within related historic contexts: a body of information about historic properties organized by theme, place and time.

What was the historic context that led to the determination that 361 East Maple deserved designation as an historic landmark? The HDSC report cites a list of activities undertaken by the original study committee. However, it offers no evidence of what was found by interviewing “old-timers”, reviewing library materials, reading old newspapers, examining building and county records, etc. In the 1966 and 1975 historic photographs, charm is the only factor that remotely distinguishes 361 East Maple from the other one-story buildings. At best, The Hawthorne Building’s designation as a landmark building was an emotional choice due to its modest charm within the whole of the low-keyed downtown. At worst, choosing it as a landmark over other one-story buildings of similar size and configuration was arbitrary. The building was designated not because it was associated with events that have made a significant contribution to our history; or was associated with the lives an important historical figure; or embodied significant architectural significance, nor was designed by a notable architect or built by a prominent builder; and not because it held important historical information. Charm is not a
strong enough criterion to justify designation. The context by which the Hawthorne Building was designated has been obliterated by the conscious, willful imposition of a new urban context in its place.

Protecting 361 East Maple as a landmark building does not contribute to any of the five reasons for designation under the State Act:

A. It does not safeguard the heritage of the community by preserving a district which reflects elements of its culture, social, economic, political or architectural history.

B. It does not stabilize and improve property values in such districts.

C. It does not foster civic beauty.

D. It does not strengthen local economy nor

E. It does not promote the use of historic districts for the education, pleasure and welfare of the citizens of the community and of the State.

Virtually all the other landmark buildings within the Birmingham CBHD do so because they have the advantage of protection provided by the compatible scale of two-story structures or the advantage of size or of architectural prominence. Unlike the Hawthorne Building, these landmarks are not vulnerable to being dominated by adjacent large-scale development.

The Hawthorne Building should not have been designated a landmark structure. The reconnaissance Building-Site Inventory Form (see Appendix H) created by Max Horton for the HDSC in 1983 lists only the date of construction “1927” under “Architectural significance” and “None” under Historic significance”. 361 East Maple is an example of a 1920’s storefront with minimal Art Deco trim.  It is by no means a robust example. Its distinguishing features are two limestone urns and a limestone coping. A façade is character-defining in a multi-building district, but it is important as just one criterion. Streetscape and context also must be considered in determining if a property is historic. 361 East Maple is now overwhelmed by the larger, urban context that has evolved under the Overlay District.
For just the second time in my 40+ year career, I am supporting de-designating an historic resource. I have spent my career protecting, defending and enhancing our architectural heritage. Over time, I’ve come to realize not all buildings are created equal. A city is a living organism, its components ever-changing. The Hawthorne building lost its historic value when the City of Birmingham self-image changed; the Overlay Ordinance manifested new opportunities in contrast with former values, and the context changed forever. **The best action is de-designation of the Hawthorne Building to enable the transformation of Birmingham to continue as laid forth in the Downtown Birmingham 2016 Plan.** Birmingham’s urban fabric will continue to evolve, and its remaining landmarks’ significance enhanced by the resulting consistent balance with the new architecture.

Respectfully submitted,
Finnicum Brownlie Architects, Inc.

William L. Finnicum AIA NCARB  
President
Appendices:

Appendix A October 18, 1984 Max Horton Letter
Appendix B 361 East Maple Historical Photographs
Appendix C Pictorial Inventory of Landmark Buildings
Appendix D Central Business Historic District Map
Appendix E CBHD Density Map
Appendix F 361 East Maple Current Photographs
Appendix G East Maple Streetscapes
Appendix H Building-Site Inventory Form
Appendix I Overlay District Map

References:

State of Michigan enabling legislation PA 169 of 1970 as amended
National Register Bulletin 16, Guidelines for completing NRHP forms, US DOI
Downtown Birmingham 2016 Plan
City of Birmingham Zoning Ordinance 1983
City of Birmingham Overlay District Ordinance
Birmingham City Code Chapter 127: Historic Districts
Minutes and Correspondence of Birmingham Historic District Study Committee 1983
Birmingham Historic District Study Committee 361 E. Male Report, Nov. 16, 2017
Mapping: City of Birmingham GPS web site and field observation
Photographs: City of Birmingham Historical Museum photo archive; Google Street view;
Finnicum Brownlie Architects
Appendix A: October 18, 1984 Max Horton Letter:

October 18, 1984

City Commission
Birmingham, Michigan

From: Max B. Horton, Chairman Historic District Study Committee
(Historic District Commission)

Subject: Central Business Historic District and Shin Park Historic
District

Dear Commissioners:

Approximately three years ago, the City Commission appointed the
Historic District Commission to serve as a Historic District Study
Committee to research and make a recommendation regarding the
historic value of buildings in central Birmingham. The Study
Committee spent many hours examining each building in the study area.
The research was conducted by interviewing Birmingham “oldtimers”
who have first-hand knowledge of the history of many buildings, re-
viewing material at the Baldwin Library including reading issues of
the Birmingham Eccentric from the late 1800’s and early 1900’s,
researching City assessing and building records, examining recorded
data from Oakland County and reviewing published material from
various other sources.

Several factors were used in determining whether a building has
sufficient historic value to merit classification as a “landmark.”
First, the history of the building, its past occupants and its
significance to the development of Birmingham were evaluated. The
age, condition and potential for restoration were also considered.
Finally, the architecture and uniqueness of each structure was
evaluated. As you know, the Historic District Commission has
decided that 29 structures in central Birmingham are worthy of special
treatment. Although not every structure meets all of the above
criteria, each structure suggested for “landmark” designation has
been determined by the Commission to have one or more of the elements
that make it worthy of designation.

In 1970, the Michigan State Legislature declared historic preser-
vation to be a public purpose. By enacting Public Act 169, the
legislature officially recognized that historic preservation does
all of the following:

A. Safeguards the heritage of the community by preserving
   a district which reflects elements of its cultural, social,
   economic, political or architectural history;
3. Stabilizes and improves property values in such districts;
4. Fosters civic beauty;
5. Strengthens local economy; and
6. Promotes the use of historic districts for the education, pleasure and welfare of the citizens of the community and of the State.

As a Commission, it is our hope that the Birmingham City Commission will recognize, as the legislature did back in 1970, that historic preservation can accomplish all of the above goals. Several other communities throughout the state have designated historic districts in their downtowns. They include small villages such as Linden, Chelsea and Wilford; medium sized cities such as Ann Arbor, Traverse City and Ypsilanti; and large cities such as Jackson, Saginaw and Grand Rapids. Some historic districts have almost every single building designated as a "landmark" structure while other historic districts, such as Birmingham, have undergone many changes resulting in the "landmark" structures being in the minority. This is not unusual or undesirable. To the contrary, it is towns such as Birmingham that can most benefit from historic preservation legislation. The legislation provides protection of the character and design qualities that make Birmingham a viable downtown. The Historic District Commission is certain that the City Commission believes that Birmingham has commercial structures worth protecting. We all also know that no ordinance exists to prevent demolition of those structures in central Birmingham which have value to the whole community. It seems, therefore, that the question is not "should we?" but "how should we?"

Currently, we have 47 historic district properties in the City of Birmingham. They are primarily non-contiguous, residential structures on individual lots. Two commercial structures, the Peabody Mansion and the Grand Trunk Western Railroad Depot are exceptions.

Although individual, non-contiguous districts have worked well for the residential properties, we do not believe this is the proper approach for the commercial area. Commercial structures are erected side-by-side and bear a more direct relationship to one another than single family residential structures. To select the individual "landmark" buildings for designation without regard for the other structures in the downtown is contrary to the purposes in creating an historic district. Careful attention must be paid to the
structures which abut "landmark" properties and other buildings in the downtown, which have an affect on the "landmarks." The suggestion that only "landmark" properties compose the historic district would be similar to saying that the Planning Board should have Design Review over just a portion of a particular block. This selectiveness in the review process will not work. Therefore, our recommendation is for contiguous historic districts with well-defined standards for both "landmark" and "district resource" properties.

The Historic District Commission has already begun working on a set of standards which will establish a clear understanding of the goals of the City with respect to design. It is the intent of the Historic District Commission to set standards that are flexible enough to provide for individual creativity yet complete enough to ensure that the historic fabric of Birmingham is not destroyed.

Under the current regulations, any property owner in central Birmingham (public ownership excepted) must obtain Design Approval or Exterior Approval and possibly Site Plan Approval before any change to the exterior of a building can be made. Since central Birmingham is currently subject to a Design Review process, the question that we all face is: "What should the thrust of this Design Review be?" Architecture, no matter what the age or style, should have as a goal to reflect its time and its place. The question of how to achieve that goal, especially when adding a new wing to an old building or filling a gap in an urban streetscape, is a vexing one to architects and preservationists alike. There is no formula answer; each building or addition should be considered individually and in the context of its surroundings. Design relationships in architecture appear to have become a problem since the coming of age of the "modern movement" in the last 30 years or so. When "modern" architecture arrived, thumbing its nose at the past and the surroundings, its problems began. The public has become disaffected with modern design. Existing scale is not respected and there is little ornamentation; the result is monotony. With this sharp change in designs so profoundly affecting the existing streetscape, preservationists and others reacted and the concept of historic districts was born.

While there may not be a clear answer to what constitutes a good relationship between old and new buildings, that should not stop us from trying to find a solution. It is only in a quality built
environment that we can achieve a quality life. The 29 "landmark" structures represent what is left of quality development from a previous era. The City Commission is now confronted with a decision; to find that these buildings are worthy of preservation for present and future generations to enjoy or determine that these buildings do not have any public value and may be destroyed, altered or redesigned at the will of the owners. It is our sincerest hope that you will go forward in enacting the proposed ordinance to create two new historic districts which will protect the valuable historic resources in central Birmingham.

Very truly yours,

Max B. Horton

Max B. Horton, Chairman
William R. McGregor, Vice-Chairman
Carolyn Johnson
Ray Johnson
Michael Tomasik
Goeffrey Upward
Willem Tazelaar
Appendix B: 361 East Maple Historical Photographs:

1975, Looking North West

1975, Looking North East
Appendix C: Pictorial Inventory of Landmark Buildings:

1. 256 W. Maple - Wabeek Building:

2. 166 W. Maple - Leonard Building:

3. 142 W. Maple - Quarton Building

4. 138 W. Maple - Blakeslee Building

5. 122 W. Maple - Billy McBride Building

6. 101 N. Woodward and 120 W. Maple - Ford Building
7. 163-167 N. Woodward - Erity and Nixon Building

8. 191 N. Woodward - Bell Building

9. 205 - N. Woodward - Schlaack Building


11. 152 - 176 N. Woodward - National Bank Building
12. 132 - 136 N. Woodward - Wooster Building

13. 100 - 116 N. Woodward - Parks Building

14. 297 – 323 E. Maple - Madison Building

15. 361 E. Maple - Hawthorne Building

16. 378, 386, 390 E. Maple & 112, 120, 124 Brownell - Shain Townhouses

17. 111 S. Woodward - Briggs Building
18. 211 S. Woodward - Birmingham Theater Building

19. 325 S. Woodward - Ford-Peabody Mansion

20. 220 E. Merrill - Detroit Edison Building

21. 138 S. Woodward - D.U.R. Waiting Room

22. 124 - 128 S. Woodward - McBride Building

23. 112-114 S. Woodward - Johnston-Shaw Building
24. 106-110 S. Woodward – O-Neal Building

25. 135 - 159 Pierce - St. Clair Edison Building

26. 148 Pierce - Telephone Exchange Building

27. 115 W. Maple - Bigelow-Shain Building

28. 135 - 141 W. Maple - Field Building
Appendix D: Central Business Historic District Map:

Key:
1. 286 W. Maple - Wabek Building
2. 196 W. Maple - Leonard Building
3. 142 W. Maple - Quarton Building
4. 138 W. Maple - Blakeslee Building
5. 122 W. Maple - Billy McBride Building
6. 101 N. Woodward and 120 W. Maple - Ford Building
7. 163 - 167 N. Woodward - Erity and Nixon Building
8. 191 N. Woodward - Bell Building
11. 162 - 176 N. Woodward - National Bank Building
12. 132 - 138 N. Woodward - Wooster Building
13. 100 - 118 N. Woodward - Parks Building
14. 297 - 323 E. Maple - Madison Building
15. 381 E. Maple - Hawthorne Building
16. 370, 380, 390 E. Maple & 112, 120, 124 Brownell - Shain Townhouses
17. 111 S. Woodward - Briggs Building
18. 211 S. Woodward - Birmingham Theater Building
19. 326 S. Woodward - Ford - Peabody Mansion
20. 220 E. Merrill - Detroit Edison Building
21. 138 S. Woodward - D.U.R. Waiting Room
22. 124 - 128 S. Woodward - McBride Building
23. 112 - 114 S. Woodward - Johnston - Shaw Building
24. 106 - 110 S. Woodward - O-Neal Building
25. 135 - 159 Pierce - St. Clair Edison Building
26. 145 Pierce - Telephone Exchange Building
27. 116 W. Maple - Bigelow - Shain Building
28. 135 - 141 W. Maple - Field Building
Appendix E: CBHD Density Map:

ONE STORY
TWO STORIES
=> THREE STORIES
CONSTRUCTED AFTER 1983
HISTORIC LANDMARK
East Maple looking North East

East Maple looking North West
361 East Maple and surrounding buildings

361 East Maple rear door
Appendix G: East Maple Streetscapes:

Note: The Present 2017 streetscape accurately represents the elevation of the East end of the North side of East Maple Street. The Past 1983 and Future streetscapes are volumetric representations of what existed when the CBHD was formed and what can potentially be constructed under the Overlay Ordinance. They are representational, only.
Appendix H: Building-Site Inventory Form:

CITY OF BIRMINGHAM
BUILDING-SITE INVENTORY FORM

Fill in as applicable - Attach 5" x 7" or 8" x 10" black and white photo with negative.

Identification
1. Building or Site Name: Birmingham Preservation Blg.
2. Street address: 361 East Maple
   City: Birmingham
3. Legal description: 08-17-25-456-027

4. Ownership: Public __________ Private __________
5. Present Owner: C. E. Barnes
   Address: 835 Purdy
6. Zoning: __________
7. Use: Original __________ Present __________

Description
8. Site: Open land __________ woodland __________ landscaped __________
   Buildings: __________ if so, what? __________
9. Building material: Clapboard __________ stone __________ brick __________ shingles __________
   board & batten __________ stucco __________ other __________ from? __________
10. Structural material: Wood frame __________ masonry load bearing wall __________
    other __________

11. Condition: Excellent __________ good __________ fair __________ deteriorated __________
12. Integrity: Original site: __________ moved __________, if so, when? __________
    from where? __________
13. Alteration: Unaltered __________ altered __________, if so when? __________
    How? __________
    Architect __________
14. Related outbuildings and property: barn __________ garage __________ shed __________
    shop __________ greenhouse __________ landscape features __________ other __________
15. Surroundings of the building or site:  Open land ______ woodland ______
   densely built up ______ Commercial ______ Residential ______ other ______

16. Notable features of building or site ______
   (Example: small commercial building)

17. Threats to building or site:  None known ______ zoning ______ roads ______
   developers ______ deterioration ______ other ______

Significance

18. Architectural significance ______
   Date of construction:  Actual ______ estimated ______
   Architect: ______
   Builder: ______

Are original plans on file? ______ Notations on original plan and specifications ______

19. Historical significance: ______

20. Sources (for primary and secondary sources, give complete facts of
   publication:  author, title, place of publication, date):

Prepared by  May E. Horton  Date  May 2, 1983
Address  1841 Greenwood  Telephone No.  644-5389
Organization  Historic District Commission
Appendix I: Overlay District Map:
William L. Finnicum III  AIA NCARB
Curriculum Vitae

Education:  Bachelor of Architecture
            Ohio University, 1969, Cum Laude

Honors:    Architects Society of Ohio Award of Merit
            For Outstanding Architectural Graduate, 1969
            American Institute of Architects, School Medal and
            Certificate of Merit for Excellence in the Study of
            Architecture 1969

Certification: National Council of Architectural Registration Boards, 1973


Practice:  Partner with Anthony J. Stillson and Associates, Pittsburgh, PA, 1972-1974
            Opened private architectural practice in Michigan, 1974
            Formed Finnicum Brownlie Architects, Inc. with Ian A. Brownlie, 1984 to present

Service:   Chairman Franklin Village Historic District Commission, 1979 - 2007
            Chairman Franklin Village Historic District Study Committee, 1990 through 1996
            Building Official Village of Franklin, 1980 through 1996
            Main Street Oakland County Community Selection Committee 2001, 2002, 2005
            Main Street Oakland County Advisory Board 2002 to 2016
            Main Street Franklin Design Committee 2009 to 2015
            Horizons Upward Bound Advisory Board, Cranbrook Schools, 2001 to present
            Shain Park Ad Hoc Steering Committee, City of Birmingham, 2008 to 2012
            Detroit Economic Club Reception Committee, 1995 to present

Published: Builder Magazine, B & P Magazine, Residential Architect, Detroit Free Press,
            Remodeler Magazine, Detroit News, Detroit Home; Birmingham Observer &
            Eccentric and Birmingham Patriot and Jewish News, CAM Magazine, Hour
            Detroit, Oakland Press

Awards:    1st annual Farmington Hills Historic Preservation Award for relocating and
            restoring Botsford Inn barn to the Stewart farmstead, 2008
            City of Birmingham Historic Preservation Award for restoration of the
            Historic Peck House, 2003
Builder’s Choice Special Focus Award from Builder Magazine for the Cinderilla Patch Historic Landmark Townhouse Project, Birmingham, MI, 1997

Best Historic Rehabilitation, Hour Detroit, for the Hinnant Residence, 2004

Best Children’s Room Design, Hour Detroit, for the Hinnant Residence, 2004

Salon of the Year Award, Salon Magazine, for the Ginger Group Salon, 1988

Dearborn Beautification Award, historic adaptive reuse, Hair Designs Unltd, 1986

Project of the Month, Builder Magazine, for the Brown Street Condominiums, 1985

**Representative Projects:**

Botsford Inn: Restored to the Henry Ford Era, 2007 to 2009

Historic McBride House: Rehabilitated, Birmingham, MI 1999

Historic United Presbyterian Parsonage: Rehabilitated, Birmingham, MI 2016

Historic Major Jones House: Rehabilitated, Birmingham, MI 2017

Strand Theatre: HSR / adaptive reuse plan, Pontiac MI 2010

Old Central School: HSR / adaptive reuse plan as proposed Pontiac Public Library, Pontiac MI 2012

Fochtman’s Department Store: HSR / development plan for theatre conversion, Petoskey, MI 2013
## NOTICE OF PUBLIC HEARING

**BIRMINGHAM CITY COMMISSION**

**SPECIAL LAND USE PERMIT AMENDMENT & FINAL SITE PLAN & DESIGN REVIEW**

<table>
<thead>
<tr>
<th>Meeting Date, Time, Location:</th>
<th>Monday, August 13, 2018 at 7:30 PM Municipal Building, 151 Martin Birmingham, MI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location of Request:</td>
<td>225 E. Maple – Social Kitchen</td>
</tr>
<tr>
<td>Nature of Hearing:</td>
<td>To consider approval of the Special Land Use Permit Amendment &amp; Final Site Plan &amp; Design Review pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code.</td>
</tr>
<tr>
<td>City Staff Contact:</td>
<td>Jana Ecker 248.530.1841 <a href="mailto:jecker@bhamgov.org">jecker@bhamgov.org</a></td>
</tr>
<tr>
<td>Notice Requirements:</td>
<td>Mailed to all property owners and occupants within 300 feet of subject address. Publish July 15, 2018</td>
</tr>
<tr>
<td>Approved minutes may be reviewed at:</td>
<td>City Clerk's Office</td>
</tr>
</tbody>
</table>

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at 248.530.1880 (voice) or 248.644.5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.
DATE:      July 31, 2018
TO:        Joseph A. Valentine, City manager
FROM:      Jana Ecker, Planning Director
SUBJECT:   Cancel Public Hearing - 225 E. Maple, Social Kitchen - Special Land Use Permit Amendment and Final Site Plan & Design Review

The City Commission set a public hearing date for August 13, 2018 to consider approval of a Special Land Use Permit Amendment and Final Site Plan to make changes to the existing bistro, Social Kitchen and Bar, at 223 - 225 E. Maple. This request is made pursuant to Article 7, section 7.34, of the Zoning Code, as recommended by the Planning Board on May 23, 2018.

The applicant is proposing to replace the existing retractable awnings covering the rooftop dining area with a new unenclosed rooftop canopy with wood pergola, retractable canvas panels (overhead only), new lighting, fans, and a fire suppression system. Other work proposed is the recladding of the existing canopy over the exit stairs leading to the Via, relocation of service doors, new wall finishes on the rooftop, and new planters. Finally, the applicant is proposing to paint the existing building a new color.

On May 23, 2018, the Planning Board voted to recommend approval of the applicant’s request for Final Site Plan and a Special Land Use Permit Amendment to the City Commission for Social Kitchen and Bar at 223 - 225 E. Maple with the following conditions:

1) Historic District Commission approval to be required as the proposed bistro is located within the Central Business District Historic District;
2) The applicant complies with the requirements of City departments and ensures that the canopy projection is within the regulations of the City.

On June 20, 2018, the Historic District Commission voted to approve the applicant’s proposal as presented.

On July 28, 2018, the applicant submitted a letter requesting that the City cancel the public hearing that was previously set for August 13, 2018 to allow the applicant to finalize their proposed design changes.

Suggested Action:
To cancel the public hearing to consider approval of the Final Site Plan and Special Land Use Permit for 223 - 225 E. Maple, Social Kitchen and Bar, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code.
July 28, 2018

Joe Valentine
City Manager, City of Birmingham, MI
151 Martin St.
Birmingham, MI 48009

Hello Mr. Valentine,

Please remove Social Kitchen & Bar from the docket for the August 13th, 2018 City Commission meeting. We will reschedule accordingly when we have the details of our proposed changes organized.

If you have any questions, please feel free to contact me.

Sincerely,

Joshua J Humphrey
Chief Operating Officer
Peas & Carrots Hospitality
C 201.912.0404
SOCIAL KITCHEN AND BAR
225 E. MAPLE
SPECIAL LAND USE PERMIT AMENDMENT
2018

WHEREAS, Social Kitchen and Bar filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to request an Amendment to the existing Special Land Use Permit for the bistro currently in operation at 225 E. Maple;

WHEREAS, The City Commission granted approval of a Special Land Use Permit for the Social Kitchen Bistro on January 9, 2011;

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

WHEREAS, The land is zoned B-4, 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 Amendment to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The Planning Board on May 23, 2018 reviewed the application for a Special Land Use Permit Amendment and recommended approval with the following conditions:

1) Historic District Commission approval to be required as the proposed bistro is located within the Central Business District Historic District;
2) The applicant complies with the requirements of City departments and ensures that the canopy projection is within the regulations of the City.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on May 23, 2018;

WHEREAS, The applicant was grant approval of the proposal by the Historic District Commission on June 20, 2018;

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

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that the Social Kitchen and Bar application for a Special Land Use Permit authorizing the operation of a bistro at 223 - 225 E. Maple in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;
BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

1. Social Kitchen and Bar shall abide by all provisions of the Birmingham City Code;

2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;

3. The hours of operation for outdoor dining shall cease at 12:00 a.m.;

4. Social Kitchen and Bar shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;

5. Social Kitchen and Bar shall enter into a contract with the City outlining the details of the proposed bistro option.

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, Social Kitchen and Bar 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 Social Kitchen and Bar to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that Social Kitchen and Bar, which will do business at 225 E. Maple, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that Social Kitchen and Bar is recommended for the operation of a bistro, with a Class C Liquor License, at 225 E. Maple, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

I, Cherilynn Mysenburg, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on August 13, 2018.

________________________
Cherilynn Mysenburg, City Clerk
Special Land Use Permit Application - Bistro

Planning Division

1. Applicant
   Name: Josh Humphrey
   Address: 225 E. Maple Rd.
   Phone Number: 
   Fax Number: 
   Email Address: josh@peasandcarrots.com

2. Applicant's Attorney/Contact Person
   Name: Same as designer
   Address: 
   Phone Number: 
   Fax Number: 
   Email Address: 

3. Required Attachments
   • Warranty Deed with legal description of property
   • Certified Land Survey
   • Two (2) folded copies of plans including site plan, color elevations, landscape plan, photo-metric plan, interior floor plan
   • Catalog sheets for all proposed lighting & outdoor furniture
   • Summary of Bistro concept and sample menu

4. Project Information
   Address/Location of Property: 225 E. Maple Rd.
   Name of Bistro: Social Kitchen & Bar
   Sidewalk #: 08-19-25 - 456 - 019
   Current Use: A-2
   Proposed Use: A-2
   Area in Acres: 
   Current Zoning: 
   Zoning of Adjacent Properties: CSO
   Is there a current SLUP in effect for this site?: Yes
   Name of Historic District site is in, if any: 
   Date of HDC Approval, if any: 
   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 Revised Final Site Plan Approval: 
   Date of Final Site Plan Approval: 
   Date of DRB approval, if any: 
   Date of Last SLUP Amendment: 

5. Details of the Nature of Work Proposed (Site plan & design elements)
   New rooftop canopy (unenclosed) with wood pergola, canvas panels, lighting.
   Fans & fire suppression to replace existing retractable awnings.
   Relocated service doors on rooftop for improved function, new wall finishes on rooftop, new bamboo planter on roof.
   Also, painting existing building in a new color.
6. Buildings and Structures existing on site

Number of Buildings on site: 1
Height of Building & # of stories: 1 story, 2 floors
Use of Buildings: A-Z
Height of rooftop mechanical equipment: existing

7. Floor Use and Area (in square feet)

Structures:
Restaurant Space: 2720
Office space: 
Total floor area: 3013.1
Retail space: 
Number of Residential Units: 
Rental or Condominium: 

8. Bistro Operation

Number of Indoor Seats: 64 (existing)
Number of Outdoor Seats: 86 (existing)
Entertainment Proposed: 
Years of Experience in Birmingham: 
Previous LCC Complaints? 
Tables provided along street façade: yes
Required front setback: 
Required rear setback: 
Required total side setback: 
Type of Cuisine: 
Bar Area? yes
Number of Seats at bar: 10 (existing)
Years of Experience outside of Birmingham: 
Full Service Kitchen? yes
Percentage of glazing proposed: existing
Proposed front setback: 
Proposed rear setback: 
Proposed total side setback: 

9. Outdoor Dining Facility

Location (sidewalk right-of-way or on-street parking space): existing, in via
Hours of operation: 
Width of unobstructed sidewalk between door and café (5’ required):
Platform proposed: no
Trash receptacles: yes
Number of tables/chairs: 
Material of tables/chairs: concrete/recycled plastic
Table umbrellas height and material: 
Number and location of parking spaces: 
Screenwall material: planter, railing, existing
Enclosure material: 

10. Required and Proposed Parking N.A.

Number of parking spaces: 
Location of off site parking: 
Screenwall material: 
Location of parking spaces: 
Shared Parking Agreement?: 
Height of screenwall: 

11. Landscaping N.A.

Location of landscape areas: 
Proposed landscape material: 

12. Streetscape N.A.

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 street trees: 
Species of proposed street trees: 
13. Loading  **N.A.**

Required number of loading spaces: 
Location of loading spaces on the site: 

Proposed number of loading spaces: 

14. Mechanical Equipment  **N.A.**

**Ground Mounted Mechanical Equipment:**
Number of ground mounted units: 
Size of ground mounted units (LxWxH): 
Screenwall material: 
Location of all ground mounted units: 
Height of screenwall: 

**Rooftop Mechanical Equipment:**  **existing**
Number of rooftop units: 
Type of rooftop units: 
Screenwall material: 
Location of screenwalls: 
Location of all ground mounted units: 
Size of rooftop units (LxWxH): 
Height of screenwall: 
Percentage of rooftop covered by mechanical units: 
Distance from units to rooftop units to screenwall: 

15. Lighting

Number of light standards on building: 
Size of light fixtures (LxWxH): 
Maximum wattage per fixture: 
Parking lot lighting: 
Type of light standards on building: 
Height from grade: 
Proposed wattage per fixture: 

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 or Special Land Use Permit. The undersigned further states that they have reviewed the procedures and guidelines for site plan review and Special Land Use Permits 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: 

Print Name: 

Signature of Applicant:  
Date: 

Print Name:  

Signature of Architect:  
Date: 4-12-18 

Print Name: 

Office Use Only

Application #:  
Date Received:  
Fee: 

Date of Approval:  
Date of Denial:  
Accepted by:
Notice Signs - Rental Application
Community Development

1. Applicant
Name: Roman Borislawski
Address: 215 E. Frake St.
Birmingham, MI 48009
Phone Number: 248-723-5790
Fax Number:

Property Owner
Name: Rabbit Holdings, LLC
Address: 6805 Telegraph Rd. Ste 125
Bloomfield Hills, MI 48302
Phone Number:
Fax Number:

2. Project Information
Address/Location of Property: 225 E. Maple Rd.
Name of Development: Social
Area in Acres:

Name of Historic District site is in, if any: Central Business District
Current Use: A-2
Current Zoning: C-80

3. Date of Board Review
Board of Building Trades Appeals:
City Commission:
Historic District Commission:
Planning Board:

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

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

Signature of Applicant: ________________________________ Date: 4.12.18

<table>
<thead>
<tr>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application #:</td>
</tr>
<tr>
<td>Date of Approval:</td>
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</table>
CLEAR POLYCARBONATE PANELS ON ROOFTOP CANOPY FRAME

OPEN WOOD PERGOLA IN A WALNUT FINISH

RETRACTABLE IVORY FABRIC PANELS
NEW MAIN BUILDING COLOR & METAL CANOPY FRAME COLOR
BENJAMIN MOORE HISTORICAL COLLECTION
“CHROME GREEN”

NEW ROOFTOP WALL & APPLIED TRIM COLOR
BENJAMIN MOORE HISTORICAL COLLECTION
“FAIRVIEW TAUPE”

EXISTING ALUMINUM STOREFRONT,
LIGHT BRONZE

CLIMBING HYDRANGEA IN PLANTERS ON ROOF

EXISTING
IVORY CANVAS COLOR

BAMBOO IN STEPPED PLANTER ON ROOF

LED LIGHTING UNDER STEPPED PLANTER
METAL & GLASS PENDANT LIGHTS
UNDER CANOPY

OSCILLATING WALL MOUNTED FANS

METAL SETTEES WITH FABRIC CUSHIONS

WICKER SETTEES WITH FABRIC CUSHIONS

DINING HEIGHT CHAIRS
BAR HEIGHT CHAIRS
MIX OF WOOD & MARBLE TABLE TOPS
VOLT® Low Voltage Landscape Lighting
Integrated LED Gentle Splash, VFL-4601 Series

Product Description
The Integrated LED Gentle Splash is third in the line of Splash model VOLT® Flood Lighting products and the first integrated version. This fixture packs a punch at over 250 lumens with its clear lens; while allowing you to adjust the performance, by swapping out the clear lens with a spread diffusion or a frosted version. With an extremely durable construction; the Integrated LED Gentle Splash is made to last. These flood lights are ideal for illuminating signs, walls and plant material. There are no bulbs to change, and no need to stress. These fixtures make it extremely easy to install it and forget it. You can rest easy knowing full well that these fixtures will stand the test of time and keep providing a beautifully diffused light for many

Product Dimensions

Features & Benefits
- Solid Brass Construction.
- Pre-aged finish- a natural patina that does not corrode.
- Silicone plug at lead wire exit prevents ground moisture and insects from entering luminaire through the stem.
- Three Lenses for optimal performance adjustability.
- Pressure fit gasket for tight seal to protect against water and dust entry.

Specifications
- Construction: Cast Brass
- Finish: Bronze
- Lead Wire: 48” (standard) or 25’ (optional) 16AWG, SPT-2
- Mounting: 10” Hammer® Stake with cutout for wire exit
- Glass or Lens: Clear, Frosted, and Spread Diffusion Lenses Included.
- Light Source: Integrated LED
- Operating Voltage: 9-16 VAC
- Shipping Weight: 3 lbs
- Powered by: VOLT’s Low Voltage Transformer

Warranty
Lifetime Warranty

Certifications
UL LISTED File #E466348
C-UL LISTED File #E466348

Power

<table>
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<tr>
<th>Lens Type</th>
<th>Lumen Output</th>
<th>Watts</th>
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<td>5</td>
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<tr>
<td>Diffusion</td>
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<td>5</td>
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<tr>
<td>Frosted</td>
<td>180</td>
<td>3</td>
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</table>
Q-Tran’s iQ67 flexible LED tape light is wet listed and available in multiple color temperatures ranging from 2500K – 4000K. The 4.4W/ft utilizes the 2835 chip, can come in a 21’ reel, has cut points of 1.97”, can be cut to length in the field or cut to length at the Q-Tran factory. The lumen output of this LED makes it perfect for most exterior or interior application where a coated LED is required.

### FEATURES
- LED life time - 40,000 hours
- Operating temperature: -4ºF ~ +140ºF
- Multiple color temperatures available
- Suitable for dry, damp or wet locations
- Non-Ferrous Material
- 1.97” cut points
- Field cuttable
- 3 year warranty

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<th>Color Temp</th>
<th>Chip</th>
<th>CRI</th>
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<td>iQ67-30-28-90-4.4</td>
<td>3000K</td>
<td>2835</td>
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<td>iQ67-40-28-90-4.4</td>
<td>4000K</td>
<td>2835</td>
<td>90+</td>
<td>4.4</td>
<td>21ft</td>
</tr>
</tbody>
</table>

### COMPATIBLE EXTRUSIONS
- iQA-WIDE
- iQA-450W-90

### COMPATIBLE POWER SUPPLIES
**Interior Applications**
- QJB & QJBL
- Q6M-DC & DC+CAP
- QTM-eLED, QTM-DC & DC+CAP
- iQ-PH

**Exterior Applications**
- QOM-eLED, QOM-DC & DC+CAP
- Q-SET-eLED & Q-SET-mLED
- Q-HEX-Mini-DC
- iQ-PH

### DIMENSIONS
- **LEAD WIRE**
- **NOTE:** Cut marks of LED tape allows for changes in the field.

4.4 watts per foot= cut every 1.97”

Lead wire comes standard on all LEDs in 18” (20/2 AWG)

---

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iQA-WIDE: Wide profile Aluminum Extrusions
Max Length: 98.43 in
Color:
- Satin (ST)
- Bronze (BZ)
- Black (BK)
Material: Anodized Aluminum
Cover Options:
- Clear (CL)
- Diffused (DF)
- Opal (OP)
- Textured (TX)
- Silk (SK)
- Polar (PR)
Fits: iQ20, iQ54, iQ65, iQ67, iQ68

ORDERING GUIDE

Project Name | Date | Company | Type
---|---|---|---

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Executive Summary

The subject site is located at 225 E. Maple, between N. Old Woodward and Park Street. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant, Social Kitchen, is seeking an amendment to their Special Land Use Permit.

The applicant is proposing to replace the existing retractable awnings covering the rooftop dining area with a new unenclosed rooftop canopy with wood pergola, retractable canvas panels (overhead only), new lighting, fans, and a fire suppression system. Other work proposed is the recladding of the existing canopy over the exit stairs leading to the Via, relocation of service doors, new wall finishes on the rooftop, and new planters. Finally, the applicant is proposing to paint the existing building a new color.

Chapter 10 of the Zoning Ordinance requires that the applicant obtain a Special Land Use Permit and approval from the City Commission to operate an establishment with a Bistro License within the City of Birmingham. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit amendment and subsequently obtain approval from the City Commission for the Final Site Plan and Special Land Use Permit amendment. **Historic District Commission approval will also be required as the proposed bistro is located within the Central Business District Historic District.**

1.0 Land Use and Zoning

1.1 **Existing Land Use** - The commercial space is currently occupied by Social Kitchen. Land uses surrounding the site are retail and 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.
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. Social Kitchen has 54 interior seats, with an additional 10 seats at the bar, for a total of 64 interior seats. Fifty-six outdoor dining seats are located in the pedestrian passage immediately adjacent to the east elevation of the building in a covered dining area enclosed with Eisenglass, and there are 30 additional outdoor dining seats on the rooftop terrace. All indoor and outdoor dining combine for a total of 150 seats. The applicant is not proposing any changes to the number of seats, inside or outside. Social Kitchen is an existing restaurant that was granted a bistro license on January 9, 2012.

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

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

<table>
<thead>
<tr>
<th>Existing Land Use</th>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Zoning District</td>
<td>Retail, Commercial &amp; Parking</td>
<td>Retail &amp; Commercial</td>
<td>Retail &amp; Commercial</td>
<td>Retail &amp; Commercial</td>
</tr>
<tr>
<td>Downtown Overlay Zoning District</td>
<td>B-4, Business-Residential</td>
<td>B-4, Business-Residential</td>
<td>B-4, Business-Residential</td>
<td>B-4, Business-Residential</td>
</tr>
<tr>
<td></td>
<td>D-4</td>
<td>D-4</td>
<td>D-4</td>
<td>D-4</td>
</tr>
</tbody>
</table>
(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.

The proposed improvements to the rooftop, as well as the repainting of the building do not violate the conditions of Article 3, Section 3.04(C)(10).

3.0 Screening and Landscaping

3.1 Screening - All existing screening elements will remain.

3.2 Landscaping - All existing landscaping will remain. The applicant is proposing to install a bamboo planter on the roof at the southwest corner of the rooftop. Five additional planters are proposed along the eastern edge of the rooftop canopy structure to support climbing Hydrangea that is proposed to grow up the canopy columns and into the roof structure.

4.0 Parking, Loading, Access, and Circulation

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

4.2 Loading - Loading spaces are not required, nor proposed.

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

4.4 Pedestrian Access & Circulation - Pedestrian access and circulation will not be changed from the existing conditions.

4.5 Streetscape - The proposed improvements are primarily located on the roof, and the exterior roof access stair. No changes are proposed to the existing streetscape. However, the plans do note the possible addition of a large painting to be mounted on the building wall on the east side of the pedestrian via. The plans state that this piece will be submitted for approval as public art through the Public Arts Board in a separate application. This art would be visible both from E. Maple and in the pedestrian via.

5.0 Lighting

The applicant is proposing to add 5 new floor lamps in the rooftop dining area as well as 5 new pendant lights to be mounted on the underside of the canopy/pergola. In addition, the applicant is proposing approximately 98 linear feet of continuous LED strip lighting along both the east and west edges of the canopy structure, tucked up within the roof structure. The applicant has submitted specification sheets for the LED strip lighting, and for
landscape lighting, which is not indicated for use on the plans. The photos submitted also show step lighting, but no such lighting is indicated for use on the plans. **The applicant must note all proposed lighting on the plans.** Floor lamps and pendant lamps are noted on the rooftop plans, but no specification sheets have been provided for either of these fixtures. **The applicant must submit specification sheets for all proposed lighting fixtures, as well as a photometric plan detailing all proposed lighting and illustrating foot candles lower than 0.6 at all property lines, or obtain a variance from the Board of Zoning Appeals.**

6.0 Departmental Reports

6.1 Engineering Division - The Engineering Division has no concerns at this time.

6.2 Department of Public Services - No comments have been received at this time.

6.3 Fire Department - The Fire Department has submitted the following comments:

- In this type of occupancy, adding this overhead enclosure, on a story above ground level, will require this space to be covered with fire suppression. Additionally, these movable canvas panels will potentially create an obstruction to the sprinkler heads, so suppression coverage will probably be needed above, and below the canvas panel areas. Fire suppression plans will need to be submitted for review.
- The fire alarm system will need to provide occupant notification for this rooftop dining area.
- This area will require emergency lighting, and exit signs.
- The canvas ceiling panels, the canvas covering for the exterior stairs, all decorative trim, and all decorative vegetation, will need to comply with the fire resistance requirements of the IFC, 2015 edition. Documentation will be required.

6.4 Police Department - The Police Department has no concerns at this time.

6.5 Building Department - The Building Department has examined the plans for the proposed project referenced above. The plans were provided to the Planning Department for site plan review purposes only and present conceptual elevations and floor plans. Although the plans lack sufficient detail to perform a code review, the following comments are offered for Planning Design Review purposes and applicant consideration:

1. The proposed roof structure will need to meet the building code requirements as required for buildings. Engineering design and calculations will be required to demonstrate the roof structure and supporting posts will meet all required design loads.
2. Fire suppression sprinklers will be required above and below the retractable fabric.
3. Occupant load calculations for required toilet room facilities will be required.
7.0 Design Review

The applicant is proposing to paint the entire exterior of the existing building in Benjamin Moore Historical Collection “Chrome Green”, and is proposing to replace the existing awning on the exterior stair in the via with a new fabric awning in ivory to match the existing canopy. In addition, the applicant is also proposing numerous improvements to the rooftop dining area. The applicant is proposing to relocate the existing service access door leading to the roof, and is proposing to install a new unenclosed canopy with a walnut finish pergola structure and rigid clear polycarbonate panels fastened over the wood structure, and a retractable fabric “ceiling” beneath the canopy. The canvas panels proposed are ivory, and are proposed to hang from the canopy on a cable system. Although there is no fabric enclosure system noted on the plans, the Planning Board may wish to clarify that no fabric panels are proposed around the perimeter of the canopy to enclose the covered area.

As noted above, new pendant lighting is proposed to hang from the canopy, and LED strip lighting is proposed along both the east and west edges of the canopy structure. New fans are also proposed to be mounted to the existing building along the western edge of the canopy. In accordance with the request of the Fire Department, the applicant will also be installing a fire suppression system under the rooftop canopy structure. New lattice trim is proposed to be affixed to the exterior walls of the building on the rooftop, and to the north and south ends of the canopy structure, to be painted in Benjamin Moor Historical Collection “Fairview Taupe”. New furniture is also proposed for the rooftop dining area, as well as floor lighting and planters adjacent to each of the columns located along the eastern edge of the canopy, and a new stepped planter is proposed on the southwest corner of the roof to house bamboo plantings in lieu of the existing Bradford Pear trees. The new dining tables are proposed to be mix of wood and marble, and several types of seating are proposed. Both wicker and metal settees are proposed for the rooftop, as well as leather club chairs and metal bar stools with fabric cushions. The applicant has submitted material samples for the proposed design changes for review. However, it is not clear from the plans which tables are proposed to be bar height with bar stools and which are regular height dining tables and chairs.

8.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-4 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. Specifically, the 2016 Plan recommends the addition of outdoor dining areas in the public right-of-way as it is in the public’s best interest as it enhances street life, thus promoting a pedestrian friendly environment.

9.0 Approval Criteria for Final Site Plan

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:
(1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.

(2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

(3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.

(4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.

(5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.

(6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

10.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed for the site described in the application of amendment.

The City Commission’s approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

11.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board POSTPONE the Special Land Use Permit Amendment, Final Site Plan and Design Review for 225 E. Maple – Social Kitchen, pending receipt of the following:

1. Historic District Commission approval will also be required as the proposed bistro is located within the Central Business District Historic District;
2. The applicant note all proposed lighting on the plans;
3. Submit specification sheets for all proposed lighting fixtures, as well as a photometric plan detailing all proposed lighting and illustrating foot candles lower than 0.6 at all property lines, or obtain a variance from the Board of Zoning Appeals; and
4. Applicant comply with the requirements of City Departments.

13.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend POSTPONEMENT of the Special Land Use Permit Amendment, Final Site Plan and Design Review to the City Commission for 225 E. Maple – Social Kitchen, pending receipt of the following:

1. Historic District Commission approval will also be required as the proposed bistro is located within the Central Business District Historic District;
2. The applicant note all proposed lighting on the plans;
3. Submit specification sheets for all proposed lighting fixtures, as well as a photometric plan detailing all proposed lighting and illustrating foot candles lower than 0.6 at all property lines, or obtain a variance from the Board of Zoning Appeals; and
4. Applicant comply with the requirements of City Departments.

OR

Motion to recommend DENIAL of the Special Land Use Permit Amendment, Final Site Plan and Design Review to the City Commission for 225 E. Maple – Social Kitchen – for the following reasons:

1. ________________________________________________________________
2. ________________________________________________________________
3. ________________________________________________________________

OR

Motion to recommend APPROVAL of the Special Land Use Permit Amendment, Final Site Plan and Design Review to the City Commission for 225 E. Maple – Social Kitchen, provided that the following conditions are met prior to appearing before the City Commission:

1. Historic District Commission approval will also be required as the proposed bistro is located within the Central Business District Historic District;
2. The applicant note all proposed lighting on the plans;
3. Submit specification sheets for all proposed lighting fixtures, as well as a photometric plan detailing all proposed lighting and illustrating foot candles lower than 0.6 at all property lines, or obtain a variance from the Board of Zoning Appeals; and
4. Comply with the requirements of City Departments.
Zoning Compliance Summary Sheet
Special Land Use Permit Amendment and Final Site Plan Review
225 E. Maple – Social Kitchen

Existing Site: Commercial Restaurant - Social Kitchen

Zoning: B-4 (Business-Residential), D-4 (Downtown Overlay)

Land Use: Commercial, Bistro

Existing Land Use and Zoning of Adjacent Properties:

<table>
<thead>
<tr>
<th>Existing Land Use</th>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Zoning District</td>
<td>Commercial/ Retail</td>
<td>Commercial/ Retail</td>
<td>Commercial/ Retail</td>
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<td>B-4, Business-Residential</td>
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<td>Overlay Zoning District</td>
<td>D-4</td>
<td>D-4</td>
<td>D-4</td>
<td>D-4</td>
</tr>
</tbody>
</table>

Land Area:
Existing: 2,720 sq. ft.
Proposed: 2,720 sq. ft. (no changes)

Dwelling Units:
Existing: 0
Proposed: 0 (no changes)

Minimum Lot Area/ Unit:
Required: N/A
Proposed: N/A

Min. Floor Area / Unit:
Required: N/A
Proposed: N/A

Max. Total Floor Area:
Required: 100%
Proposed: 100% (no changes)
<table>
<thead>
<tr>
<th>Parameter</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Min. Open Space:</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Max. Lot Coverage:</strong></td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td><strong>Front Setback:</strong></td>
<td>0 ft.</td>
<td>0 ft. <strong>(no changes)</strong></td>
</tr>
<tr>
<td><strong>Side Setbacks</strong></td>
<td>0 ft. for commercial</td>
<td>0 ft. <strong>(no changes)</strong></td>
</tr>
<tr>
<td><strong>Rear Setback:</strong></td>
<td>10 ft. from midpoint of alley</td>
<td>10 ft. <strong>(no changes)</strong></td>
</tr>
<tr>
<td><strong>Min. Front+Rear Setback</strong></td>
<td>N/A</td>
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<tr>
<td><strong>Max. Bldg. Height:</strong></td>
<td>80 ft., 5 stories</td>
<td>28 ft., 1 story <strong>(no changes)</strong></td>
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<tr>
<td><strong>Min. Eave Height:</strong></td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td><strong>Parking:</strong></td>
<td>0 spaces (Parking Assessment District)</td>
<td>0 spaces <strong>(no changes)</strong></td>
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<tr>
<td><strong>Min. Parking Space Size:</strong></td>
<td>N/A</td>
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<tr>
<td><strong>Loading Area:</strong></td>
<td>0 spaces</td>
<td>0 spaces <strong>(no changes)</strong></td>
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<tr>
<td><strong>Screening:</strong></td>
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<td></td>
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<tr>
<td><strong>Parking:</strong></td>
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<td>N/A</td>
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<tr>
<td><strong>Loading:</strong></td>
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<tr>
<td><strong>Rooftop Mechanical:</strong></td>
<td>Fully screened from public view</td>
<td>Fully screened <strong>(no changes)</strong></td>
</tr>
<tr>
<td><strong>Elect. Transformer:</strong></td>
<td>Required:</td>
<td>N/A</td>
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<td>-------------------------</td>
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</tr>
<tr>
<td></td>
<td>Proposed:</td>
<td>N/A</td>
</tr>
</tbody>
</table>

| **Dumpster:**          | Required: | Fully screened from public view |
|                       | Proposed: | Fully screened **(no changes)** |
Minutes of the regular meeting of the City of Birmingham Planning Board held on May 23, 2018. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Jason Emerine

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

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

05-90-18

SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT
FINAL SITE PLAN AND DESIGN REVIEW

1. 225 E. Maple Rd, Social Kitchen - Application for SLUP Amendment and Final Site Plan and Design Review to allow changes to the exterior of the building

Ms. Ecker advised the subject site is located at 225 E. Maple Rd., between N. Old Woodward Ave. and Park St. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant, Social Kitchen, is seeking an amendment to their SLUP.

They are proposing to replace the existing retractable awnings covering the rooftop dining area with a new unenclosed rooftop canopy with wood pergola, retractable canvas panels (overhead only), new lighting, fans, and a fire suppression system. Other work proposed is the re-cladding of the existing canopy over the exit stairs leading to the via, relocation of service doors, new wall finishes on the rooftop, and new planters. There is no enclosure around the rooftop dining area. Finally, the applicant is proposing to paint the existing building a new color. Therefore the changes are mainly aesthetic. The number of seats will remain the same.

Ms. Ecker stated that this is deemed a structure and an enclosure so the applicant will have to meet all of the Building Code requirements for a building.

Chapter 10 of the Zoning Ordinance requires that the applicant obtain a SLUP and approval from the City Commission to operate an establishment with a Bistro License within the City of Birmingham. Accordingly, the applicant is required to receive a recommendation from the Planning Board on the Final Site Plan and SLUP, and subsequently obtain approval from the City Commission.
for the Final Site Plan and SLUP Amendment. Historic District Commission approval will also be required, as the proposed bistro is located within the Central Business District Historic District.

**Design Review**

Ms. Ecker advised that the applicant is proposing to paint the entire exterior of the existing building in Benjamin Moore Historical Collection “Chrome Green,” and is proposing to replace the existing awning on the exterior stair on the via with a new fabric awning in ivory to match the existing canopy. In addition, the applicant is proposing numerous improvements to the rooftop dining area. The applicant proposes to relocate the existing service access door leading to the roof, and to install a new unenclosed canopy with a walnut finish pergola structure and rigid clear polycarbonate panels fastened over the wood structure, along with a retractable fabric “ceiling” beneath the canopy.

New pendant lighting is proposed to hang from the canopy, and LED strip lighting is proposed along both the east and west edges of the canopy structure. New fans are also proposed. In accordance with the request of the Fire Department, the applicant will also be installing a fire suppression system under the rooftop canopy structure. New lattice trim is proposed to be affixed to the exterior walls of the building on the rooftop, and to the north and south ends of the canopy structure, to be painted in Benjamin Moore Historical Collection “Fairview Taupe.” New furniture is also proposed for the rooftop dining area, as well as floor lighting and planters. It is not clear from the plans which tables are proposed to be bar height with stools and which are regular height dining tables and chairs.

Mr. Roman Bonislawski, Ron and Roman Architects, said that it is time for a refresh of Social. The pergola style canopy structure has a polycarbonate sun screen underneath. Linear LED lighting gently casts light up into the wooden structure above. No changes are proposed for the main level downstairs or occupancy load. He will follow up with Mr. O’Meara to make sure there is no pergola encroachment into the Maple Rd. right-of-way.

In response to Mr. Boyle, Mr. Bonislawski said he is confident the plantings they have chosen will grow up along the posts.

Chairman Clein took public comments on this matter at 7:53 p.m.

Mr. Mitch Black, proprietor of Dick O’Dows, 160 W. Maple Rd., said his concern as a business owner is that new establishments are allowed to exceed the original seating intent of the Bistro Ordinance which was to allow 55 seats and up to ten bar stools. At what point does the Planning Board take a look and decide this is not what they intended to do.

Ms. Ecker noted they are in the process of tightening up on some of Mr. Black’s points. Chairman Clein said the Planning Board will be reviewing the Bistro Regulations related to outdoor dining.

For Ms. Whipple-Boyce, Mr. Bonislawski summarized they are not proposing any change from the way the street-level café is operating. The downstairs stays as it is, the building gets a paint job, the interior will get a little tweak that doesn't affect seating, and there is no permanent enclosure on the roof.

Ms. Ecker reviewed the seating arrangement which adds up to 150 seats and is not being changed:
Mr. Williams thought there should be discussion about code enforcement when the matter of Bistro Regulations comes back before the board.

Mr. Boyle noted the City is investing a significant amount of money in improving Old Woodward Ave. and Maple Rd. He asked what is being done about the via. Ms. Ecker responded the City is not planning any changes to the via at this time. Mr. Boyle thought it is only fair that the City improve the vias when they get the opportunity, such as with a development like this. When the proposal for something like a mural comes back he will step up and ask for the City to consider what to do for the vias.

Motion by Mr. Boyle
Seconded by Mr. Williams that based on a review of the information presented tonight, the Planning Board recommends APPROVAL of the SLUP Amendment and Final Site Plan and Design Review for 225 E. Maple Rd., Social Kitchen, pending receipt of the following:

1. Historic District Commission approval to be required as the proposed bistro is located within the Central Business District Historic District;
2. The applicant complies with the requirements of City departments and ensures that the canopy projection is within the regulations of the City.

Mr. Koseck indicated that he will not support the motion. He has no issue with the proposed improvements, but his view is that when a SLUP comes back it should be looked at holistically. His issue is with the enclosure of the existing first floor addition in the via. When the weather is nice this is a really a large building and he would like to see other aspects of it come into what in his mind is compliance.

Ms. Whipple-Boyce thought this a fantastic improvement but she is torn because of the enclosed patio that became enclosed with Isinglass. She sympathizes with the Class C License holders because the City is not delivering what it told them. Going forward, she is glad the board will study this further.

At 8:10 p.m. the Chairman called for public comments on the motion.

Mr. Jack Reinhart, who is involved with the 555 Building and also the Triple Nickel, commented on the way the City has approached the liquor licenses. In the last six months the Stand, Mitchells, and Café Via have gone out of business. Also he has heard that Hyde Park is going out. Triple Nickel struggles. The Chairman invited him to be present when the Planning Board talks about possible changes to the bistro regulations.

Motion carried, 5-2.

ROLLCALL VOTE
Yeas: Boyle, Clein, Jeffares, Emerine, Whipple-Boyce
Nays: Koseck, Williams
Absent: None
DATE: September 18, 2012

TO: Robert J. Bruner, Jr., City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Use of Isinglass Enclosure for Outdoor Dining Areas

Last week it came to the City’s attention that the owner of Social Kitchen & Bar intended to enclose the outdoor dining area in the public passage with isinglass curtains. Isinglass is a synonym for any transparent material that is used to bring sunlight indoors while providing protection from the wind, rain and cold. Among other things, it is used by restaurants to extend the outdoor dining season.

After reviewing the Special Land Use Permit (“SLUP”), Bistro Contract, Lease Agreement for use of the public passage, and the approved plans, City staff determined isinglass curtains were not explicitly included in any of the approved documents. However, video of the January 9, 2012 City Commission meeting confirms Commissioner McDaniel asked whether or not “plastic curtains” would be used in this manner and the applicant’s architect responded in the affirmative. This discussion was not included in the meeting minutes or reflected in the approved documents. The approved documents are attached for your reference.

Thus, the Planning Division seeks clarification regarding whether or not it was the City Commission’s intent to approve the isinglass curtain enclosure of the outdoor dining area in the public passage adjacent to Social Kitchen and Bar as discussed during the January 9, 2012 City Commission meeting.

While reviewing this issue, it was noted that isinglass curtains were used to enclose a portion of the outdoor dining area at Café Via. After reviewing the Special Land Use Permit (“SLUP”), Bistro Contract and the approved plans, City staff determined isinglass curtains were not explicitly included in any of the approved documents. The approved documents are attached for your reference.

Accordingly, the Planning Division also seeks clarification regarding whether or not it was the City Commission’s intent to approve the isinglass curtain enclosure of the outdoor dining area adjacent to Café Via.
Based on the ambiguities noted above, the Planning Division recommends that all future SLUP applications duly note on the plans presented to the Planning Board and the City Commission whether they seek approval to enclose outdoor dining areas, and if so, to provide details on the materials proposed and the timeframe and conditions under which the enclosure system will be used.

**SUGGESTED RESOLUTION:**

(1) To provide clarification that the City Commission specifically approved the use of isinglass to temporarily enclose Social Kitchen and Bar’s outdoor dining area in the public passage as discussed during the City Commission meeting of January 9, 2012; OR
To provide clarification that the City Commission did not approve the use of isinglass to temporarily enclose Social Kitchen and Bar’s outdoor dining area in the public passage as it was not included on the approved plans nor in the SLUP resolution adopted by the City Commission on January 9, 2012; OR
To direct Social Kitchen and Bar to submit a Special Land Use Permit Amendment request and Revised Final Site Plan request through the standard process to the Planning Board for recommendation to the City Commission;

AND

(2) To provide clarification that the City Commission specifically approved the use of isinglass to temporarily enclose the outdoor dining area in the private plaza at Café Via as approved by the City Commission on September 24, 2007; OR
To provide clarification that the City Commission did not approve the use of isinglass to temporarily enclose the outdoor dining area in the private plaza at Café Via as it was not included on the approved plans nor in the SLUP resolution adopted by the City Commission on September 24, 2007; OR
To direct Café Via to submit a Special Land Use Permit Amendment request and Revised Final Site Plan request through the standard process to the Planning Board for recommendation to the City Commission;

AND

(3) To direct all future SLUP applicants to duly note on the plans presented to the Planning Board and the City Commission whether they seek approval to enclose proposed outdoor dining areas, and if so, to provide details on the materials proposed and the timeframe and conditions under which the enclosure system will be used.
SOCIAL KITCHEN AND BAR

City Commission Minutes
January 9, 2012

01-06-12 PUBLIC HEARING - SPECIAL LAND USE PERMIT
223 - 225 E. MAPLE, SOCIAL KITCHEN AND BAR

Mayor Nickita opened the Public Hearing to consider approval of a Special Land Use Permit and Final Site Plan for the operation of a new bistro at 223 - 225 East Maple, Social Kitchen and Bar, pursuant to Article 7, Section 7.34, Zoning, of the Birmingham City Code at 8:34 PM.

Ms. Ecker presented the proposed bistro. She explained that as a result of conditions set by the Planning Board, the applicant has submitted a revised plan. She noted that the storefront along Maple and the side along the pedestrian passage will be redone. She explained the proposed lighting and signage. She noted that the height of the mechanical unit must be confirmed as it is not allowed to project above the wall.

Commissioner Rinschler questioned the upgrades recommended to the alley. He noted that if the City did the work, the cost would be divided between the property owners. Mr. Bonislawski noted that the improvements to the alley and the two via signs cost approximately $30,000.

In response to a question from Commissioner Hoff regarding the staircase, Ms. Ecker explained that the applicant will have to enter a lease with the City as the staircase is over public property.

Dorothy Conrad expressed concern with the word “bar” in the name. She noted that the passageway is intended to benefit all property owners. If a private business is utilizing it, they should pay for improvements.

Tim Holmes, owner of Pluto, encouraged improvement of the alley and expressed concern with the valet parking proposal.

The Mayor closed the Public Hearing at 9:41 PM.

Mr. Bonislawski stated that valet parking will only be used for private events held on the rooftop.

Mayor Pro Tem Dilgard expressed concern with “bar” in the name. Zack Sklar, applicant, explained that the name explains that it is a full service restaurant. Social is the name and kitchen and bar is the description.

The Commission discussed the language in the SLUP, conditions set by the Planning Board, and revisions submitted on January 15, 2012. Commissioner Hoff and Mayor Pro Tem Dilgard expressed that they would not support the project with the current name, but supported the concept.
Mr. Sklar, stated that he is willing to remove the word “bar” from the name to move the project forward. He stated that the new name will be “Social”.

**MOTION:** Motion by McDaniel, seconded by Rinschler:

To approve the Final Site Plan and Design and a Special Land Use Permit for 223 - 225 E. Maple – Social Kitchen and Bar, LLC, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code, based on revisions submitted January 15, 2012 and in accordance with the recommendation of the Planning Board on November 30, 2011:

WHEREAS, Social Kitchen and Bar, LLC filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate their new restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;

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

WHEREAS, The land is zoned B-4, 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 November 30, 2011 reviewed the application for a Special Land Use Permit and recommended approval with conditions;

WHEREAS, The Birmingham City Commission has reviewed Social Kitchen and Bar, LLC Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that the Social Kitchen and Bar, LLC application for a Special Land Use Permit authorizing the operation of a bistro at 223 - 225 E. Maple in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

1) Applicant provide pedestrian passage pavement improvements;
2) Applicant comply with the requests of City departments subject to Planning Department review with the exception of Engineering points 2 and 3 with regards to relocating trees and removing the canopy in the via for the winter;
3) Applicant enter into a license agreement with the City for use of via and provide required insurance;

4) Deal with water and ice conditions coming off of awnings into via;

5) Remove words “Improvements by City” from plans;

6) Revise exposed aggregate and broom finish concrete pattern to cover entire passage;

7) Valet parking may only be done in rear alley, not on Maple;

8) Allow the use of the proposed Navy chairs that are made of white recycled plastic;

9) All rooftop units must be screened subject to administrative approval;

10) Social Kitchen and Bar, LLC shall abide by all provisions of the Birmingham City Code;

11) The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;

12) The hours of operation for outdoor dining shall cease at 12:00 a.m.;

13) Social Kitchen and Bar, LLC shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area; and

14) Social Kitchen and Bar, LLC shall enter into a contract with the City outlining the details of the proposed bistro operation.

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, Social Kitchen and Bar, LLC 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 Social Kitchen and Bar, LLC to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that Social Kitchen and Bar, LLC which may do business under an assumed name to be determined at a later date, which will do business at 223 - 225 E. Maple, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan
Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that Social Kitchen and Bar, LLC which may do business under an assumed name to be determined at a later date, is recommended for the operation of a bistro, with a Class C Liquor License, at 223 - 225 E. Maple, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

- AND -

To allow Social Kitchen and Bar, LLC which may do business under an assumed name to be determined at a later date, a new food establishment in Birmingham, to obtain a liquor license with an outdoor dining endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code;

- AND

To authorize the Mayor and the City Clerk to complete and execute the contract for operation of Social Kitchen and Bar, LLC at 223 - 225 E. Maple.

VOTE: Yeas, 5
Nays, None
Absent, 2 (Moore, Sherman)
Executive Summary

The subject site is located at 223 - 225 E. Maple, between N. Old Woodward and Park Street. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant, a new restaurant by the name of Social Kitchen, is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code. Chapter 10 requires that the applicant obtain a Special Land Use Permit and approval from the City Commission to operate an establishment with a Bistro License within the City of Birmingham. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit, and then obtain approval from the City Commission for the Final Site Plan, Special Land Use Permit, and for the operation of a Bistro License. Historic District Commission approval will also be required as the proposed bistro is located within the Central Business District Historic District.

1.0 Land Use and Zoning

1.1 Existing Land Use - The proposed restaurant space is currently composed of two storefronts, one vacant, and the existing Tokyo Sushi. Land uses surrounding the site are retail, commercial and parking.

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.
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<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
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</thead>
<tbody>
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<td><strong>Existing Land Use</strong></td>
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<tr>
<td><strong>Downtown Overlay Zoning District</strong></td>
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<td>D-4</td>
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</table>

A Google maps image of the site is attached for your review.

### 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. Social Kitchen is proposing 54 interior seats, with an additional 10 seats at the bar, for a total of 64 interior seats. Fifty-six outdoor dining seats are proposed in the pedestrian passage immediately adjacent to the east elevation of the building, and a rooftop terrace is also proposed for outdoor dining. The rooftop terrace is proposed to contain relaxed sofa seating for 6 people and 24 regular dining seats on the rooftop. Social Kitchen will be a new restaurant applying for a new bistro license. The proprietors of the proposed bistro are currently the owners and operators of Cutting Edge Cuisine, a catering company headquartered in Plymouth, MI. Social Kitchen is proposing a full service kitchen, which has a unique and eclectic tapas style menu featuring brunch, lunch and dinner selections.

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

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

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

As discussed above, Social Kitchen is proposing to have 10 seats situated at a bar towards the front of the bistro. No direct connect bar permit will be permitted from this license if it is approved. Alcohol may only be served to seated patrons and those standing in the bar area. The applicant has provided a 175.5 sq.ft. defined bar area, which includes the 10 seats at the bar, two drink rails and an iced wine display area.

Social Kitchen does not propose any dancing area or any entertainment.

Social Kitchen is proposing to have tables located in the storefront space lining E. Maple, and along the pedestrian passage east of the building. **The storefront appears to provide the required 70% glazing along the front façade, but the applicant will be required to verify this by providing detailed calculations.**

The applicant has provided a signed copy of the contract with the City that must be fully executed upon approval of the SLUP and bistro license.

Social Kitchen is proposing 56 seats for outdoor dining to be situated in the pedestrian passage adjacent to the building. In order to create a cozy bistro feel, the applicant is proposing to install fabric panels from open air metal structures with fabric canopies both in the passage and on the rooftop to create intimate outdoor dining areas, reminiscent of a European bistro. There is an existing door which will be replaced and will open directly into the outdoor café area in the pedestrian passage to provide circulation for patrons and staff. New clear glass storefront fixed windows are also proposed along the east elevation, along with four sliding glass patio doors that will allow the restaurant to open to the pedestrian passage in good weather. The outdoor dining area as proposed provides for safe and efficient pedestrian flow via the required 5' wide pathway between the proposed café seating and the existing newsrack in the alley. This pedestrian path widens to 7.66’ wide just north of the newsrack. The applicant is also proposing to mount clip on planters to the painted metal structure that will be planted with Coleus annuals to enclose the outdoor café in the pedestrian passage. The goal is to create an outdoor room with interaction between seated patrons and pedestrians. One Tucci umbrella is now proposed north of the large canopy area. An outdoor dining license is required for use of the public passage.

Outdoor dining is also proposed on the rooftop terrace as noted above. A painted metal frame is also proposed on the rooftop, to be surrounded by clear glass guard rail and a fabric canopy overhead. Trees in pots are proposed to be added to the west side of the rooftop to enclose the outdoor dining space. As this rooftop dining is on private property, an outdoor dining license is not required.
The applicant intends to have business hours of 11am to midnight Monday – Friday and 9:30am to midnight Saturday and Sunday for both the indoor and outdoor areas of the bistro.

3.0 Screening and Landscaping

3.1 Screening - Existing rooftop mechanical equipment is unscreened. The applicant is proposing to relocate one rooftop mechanical units, and add one, for a total of 5 rooftop mechanical units. All are proposed to be clustered on the northwest corner of the rooftop and screened by a 6’ high painted corrugated cement panel screen wall. The applicant has provided specification sheets for the proposed rooftop mechanical units to demonstrate that the screening proposed complies with the screening requirements contained in the Zoning Ordinance.

3.2 Landscaping - Two existing street trees are proposed to remain. No outdoor dining is proposed along the sidewalk on the Maple elevation, thus the existing 5’ clear pedestrian pathway will remain. Potted Coleus annuals will line the outdoor dining in the passage as noted above, as well as the rooftop dining terrace. In addition, the applicant is proposing to add 2 Bradford Pear trees in pots on the southwest corner of the rooftop, and to relocate the existing landscape annual bed in the pedestrian passage to the east to accommodate the new egress stair. Five Bradford Pear trees are proposed in the new landscape bed, with English Ivy groundcover at the base of the trees. No other landscaping is required, nor proposed.

4.0 Parking, Loading, Access, and Circulation

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

4.2 Loading - Loading spaces are not required, nor proposed.

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

4.4 Pedestrian Access & Circulation - Pedestrian access to Social Kitchen is available directly from the City sidewalk. Pedestrian access to the ground level outdoor dining area is available from the public pedestrian passage. Under the 2016 Plan, outdoor cafes are encouraged as they create a more pedestrian friendly environment. All outdoor dining areas must maintain a 5 foot minimum width of unobstructed pedestrian access in the public right-of-way, however as mentioned above, the Planning Board has determined that each applicant would be reviewed on a case by case basis to determine the existing pedestrian traffic flow. The proposed layout does provide for outdoor seating along the side of the building, an exterior door and sliding doors that provide access to the passage, and provides for good circulation between the restaurant and the outdoor dining area.
4.5 **Streetscape** – The existing sidewalk along E. Maple and leading into the pedestrian passage is concrete. Brick pavers are installed further back in the pedestrian passage near the existing door and adjacent to the rear alley. There are existing street trees lining E. Maple, but none are located immediately in front of the proposed Social Kitchen storefront. Pedestrian scale lighting is also in place along E. Maple, complete with banners and hanging baskets. One existing trash receptacle is located next to the street light just east of the storefront. One double head parking meter is located in front of the building. The proposed outdoor dining in the pedestrian passage will complement the existing streetscape, and add life to a passage that the Planning Board has long sought to activate. Existing windows along the east elevation of the building will be enlarged and replaced to provide for visibility of activity between patrons seated indoors and out, and will assist in creating visual interest at this corner. **However, as noted by the Engineering Department, the applicant will be removing and/or damaging portions of the pedestrian passage to allow installation of the egress stair and relocation of the existing landscape bed, in addition to the installation of the canopy structure.** In addition, the Planning Board is currently in the process of creating design standards for alleys and passages to improve the pedestrian experience. Accordingly, the Planning Division recommends that the applicant install the new sections of exposed aggregate and broom finish concrete in accordance with the proposed alley and passage design. In addition, the Planning Board may wish to consider having the applicant install a sculptural via sign at either end of the pedestrian passage.

5.0 **Lighting**

The applicant has provided specification sheets for all proposed building and landscape lighting. A photometric plan is not required as the applicant is not proposing extensive lighting, nor does the applicant propose to add a lighted parking facility.

Subtle architectural lighting is proposed for the rear projecting sign on the alley. Two dark bronze aluminum Sign Star lighting Style C by B-K Lighting, which extend 4’ from the building are proposed to be mounted above the projecting sign, and one other Sign Star fixture is proposed on the east elevation to light the pedestrian passage wall sign. Given the proposed installation with the fixture shining directly on the signs, the bulbs will not be visible, and thus the fixtures could be considered to cut-off. WLFA2 series Waterproof Light Fixture with 15 LED lights per strip in warm white are proposed to be mounted behind the name letter sign on E. Maple to provide a halo lighting effect behind the sign.

Two HALO lights by Cooper Lighting are proposed under the new rear awning over the alley entrance. These fixtures are 5” insulated ceiling AIR-TITE recessed halogen pot light fixtures that will direct light down.

Five Power Canopy System mounts by B-K Lighting in dark bronze aluminum are proposed with Denali floodlights to be mounted along the east edge of the proposed canopy for the outdoor dining area in the pedestrian passage. These fixtures will be single head fixtures,
and 12 double head fixtures are also proposed under the rooftop canopy along both the east and west edges of the canopy. Finally, 5 Quorum International Patio 5 blade ceiling fans are proposed to be mounted from the center of the canopy structure on the rooftop terrace. These fans are 120 volt, and designed for use in wet conditions.

Tree Strap lighting by B-K Lighting is also proposed to uplight the canopy of each of the proposed trees. Denali floodlights will also be used and mounted onto an olive green nylon strap on the 5 proposed trees in the pedestrian passage and 2 proposed rooftop potted trees.

6.0 Departmental Reports

6.1 Engineering Division - The Engineering Division has reviewed the plans dated November 18, 2011, for the above referenced outdoor café. We offer the following comments:

1. Stairway to Roof:
The plan proposes the secondary required exit from the rooftop dining area to be installed on City property. The stairway will be in place year round, whether the roof is being used or not. As such, it will become an attachment to the building, using City land for the sole benefit of an adjoining neighbor. The City cannot turn over the use of public land to a private party without either a sale or lease of the subject property. As such, approval of this plan must be contingent upon the owner entering into a contract approved by the City Commission that remits to the City (under a sale or lease), the appraised value of this land. Since some future use may not desire to continue the outdoor dining use, the agreement must have language that clarifies the responsibility of the owner for removal of the stairs either at the expiration of the contract, or at which time the outdoor dining use on the roof is no longer desired, whichever comes first.

2. Passageway:
The proposed row of five trees now proposed raises two concerns:

   a. Between the bottom of the stairs and the alley to the north, the trees form a barrier, requiring a seven foot wide path that has no other purpose than to serve as an exit to the emergency stairs.
   b. Installing the trees in the middle of the passageway will serve to obscure the view of the public pathway during the winter, when the outdoor café is not in operation.

The Planning Board may want to consider if the trees as proposed is both the best use of this area, and if it offers an atmosphere that欢迎s the public to use this passageway during the winter.

Secondly, should the tree planter area be constructed as proposed, the existing pavement in this area will likely all have to be removed and
replaced. The note regarding the installation of exposed aggregate concrete being installed by the City in the future does not seem to consider the damage that will be done to the existing pavement. It is recommended that the applicant develop a permanent plan to replace the pavement in the passageway consistent with the theme being proposed, as a part of the project.

3. **Outdoor Dining Area:**
The proposed support structure for the awning over the outdoor dining area has been modified. Since it appears to be a simpler, painted metal frame structure, it appears that the intent is to disassemble it each winter. The agreement between the applicant and the City must specify that the disassembly of this outdoor dining area would be similar to that required for those installed in the public right-of-way, allowing full use of the area by the public during the winter.

6.2 **Department of Public Services** - Comments will be provided from the DPS prior to the Planning Board meeting on November 30, 2011.

6.3 **Fire Department** - The following comments were received from the Fire Dept for the previously submitted Social Kitchen plans at 225 E. Maple.

1. The exterior steel stairs must meet the minimum square foot requirements of IFC 2009.

2. Interior and exterior fabrics must be non-combustible or comply with IFC 2009, NFPA 701 section 807.2. Owner will need to submit documentation of compliance.

3. Building will need a means of egress from the 1st floor bistro area and the exterior stairs without having to re-enter the building.

4. Building must have a sprinkler system throughout.

5. The IFC also requires the building to have a key box mounted near the front entrance, location to be approved by FD, for after hours emergencies. I will have more details on this in the near future as we are just developing the program per the newly adopted IFC.

6. Use of outdoor heating devices must comply with IFC 2009 sections 603.4.2.1 through 603.4.2.3.4.

6.4 **Police Department** - No concerns were reported from the Police Dept.

6.5 **Building Department** - The following comments were received from the Building Department on the previously submitted plans for Social Kitchen:
1. The height of the roof top guard rail must be a minimum of 42 inches above finish floor surface or 42 inches above adjacent seating. It appears that seating is adjacent to a proposed guard rail system. Section 1013.2

2. The exit separation distance of the two exits from the roof top dining area must be a minimum of 1/3 of the diagonal distance of the roof area when the building is equipped throughout with an automatic fire sprinkler system. The proposed drawing does not comply with this requirement. Section 1015.2.1

3. This building must be equipped throughout with an automatic fire sprinkler system. The occupant load of the interior level and roof top level (combined fire area) is 100 or more. Also, the roof top dining area is located on a floor other than the level of exit discharge. Section 903.2.1.2

4. The exterior stairs must be protected from water accumulation and accumulations of ice and snow. Several methods of protection considered code compliant are noted in the 2009 Building Code Commentary. Section 1009.6.2

5. Roof live load must be minimum 100 (psf). Section 1607.1

7.0 Design Review

The applicant is proposing exterior design changes that will make the new bistro a more pedestrian friendly and vibrant space for the area. The applicant is proposing to add a new recessed entrance into the vacant storefront to the west, and to remove the existing Tokyo Sushi storefront door and replace it with a new light bronze aluminum sash and clear glass storefront window system. Just east of the new door, a second light bronze aluminum sash and clear glass storefront window system will be installed. The applicant is proposing to paint the existing concrete American Deco front façade in Duxbury Gray paint. Existing dentil details on the front elevation will be maintained, and two new wood plank panels will be installed above to provide a distinct sign band. A new solid wood plank door is also proposed for the front entrance to match the sign band, with an internally illuminated pack painted glass door pull in Cornucopia Tan.

In addition, the applicant is proposing to open up the east elevation of the building by adding all new light bronze sash and clear glass windows, with four sliding glass door walls interspersed to allow the bistro to open to the outdoors. The existing door that leads into the pedestrian passage will be replaced with a new fixed glass door that will also provide access to the outdoor dining area. The existing plaster finish on the northern end of the east façade is proposed to be painted in Duxbury Gray to match the front façade.

In addition to exterior changes to the existing storefront, the applicant is also proposing to add painted metal structures over the outdoor dining areas proposed in the pedestrian passage, and on the rooftop. These structures will be constructed with aluminum frames painted in Duxbury Gray. In the pedestrian passage, this metal structure will be covered in a canvas awning in Sunbrella “Parchment” (light tan color), with wood planter boxes clipped on to the metal frame surrounding the outdoor dining
area. Outdoor Sunbrella fabric drape panels in Parchment are also proposed to frame the columns of the canopy structure. On the rooftop, the painted metal structure will be covered in a canvas awning in Sunbrella “Pumpkin” (rusty orange color), with clear glass guard rails attached to surround the rooftop dining area. Outdoor Sunbrella fabric drape panels in Pumpkin are also proposed to frame the columns of the rooftop canopy structure. The rooftop terrace will utilize Trex decking over the existing roof. Both of the proposed canopy structures provide space definition, but maintain an open and airy appearance so that interaction is possible between dining patrons and pedestrians.

An open painted steel staircase is also proposed adjacent to the outdoor dining area in the pedestrian passage to provide access to the rooftop dining terrace. The painted steel staircase will have steel railings and will be covered by a canvas awning in Sunbrella “Pumpkin”, to be installed on a painted metal frame. This egress staircase is now proposed in a single run with a landing midway, as previously requested by the Engineering Department. The railings and staircase are open and airy and the colors and materials selected tie the staircase into the proposed storefront improvements and outdoor dining enclosures.

Outdoor Dining Area

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

1. Outdoor dining areas shall provide and service refuse containers within the outdoor dining area and maintain the area in good order.
2. All outdoor activity must cease at the close of business, or as noted in Subsection 3 below, whichever is earlier.
3. When an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the close of business or 12:00 a.m., whichever is earlier.
4. All tables and chairs provided in the outdoor dining area shall be constructed primarily of metal, wood, or material of comparable quality.
5. Table umbrellas shall be considered under Site Plan Review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.
6. For outdoor dining located in the public right-of-way:
   (a) All such uses shall be subject to a license from the city, upon forms provided by the Community Development Department, contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
   (b) In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 feet.
   (c) An elevated, ADA compliant, enclosed platform may be erected on the street adjacent to an eating establishment to create an outdoor dining
area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.

(d) No such facility shall erect or install permanent fixtures in the public right-of-way.

(e) Commercial General Liability Insurance must be procured and maintained on an "occurrence basis" with limits of liability not less than $1,000,000 per occurrence combined single limit, personal injury, bodily injury and property damage. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members, as an additional insured. This coverage must be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance, and shall include an endorsement providing for a thirty (30) day advance written notice of cancellation or non-renewal to be sent to the city’s Director of Finance.

The applicant has now provided a trash receptacle within the outdoor dining area along the pedestrian passage as required by Article 04, section 4.42 OD-01 of the Zoning Ordinance. The rooftop dining area notes a service station location, which the applicant has indicated includes a trash receptacle.

The applicant intends to have business hours of 11am to midnight Monday – Friday and 9:30 am to midnight Saturday and Sunday 11 a.m. to midnight for both the indoor and outdoor dining areas. The proposed outdoor dining areas are not immediately adjacent to multi-family zoned property.

The applicant has provided specification sheets of the proposed tables and chairs. The applicant is proposing a total of 16 tables and 56 chairs in the outdoor dining area in the passage. The tables have a black metal base, with Corian table tops in “Antarctica”. The chairs proposed are Emeco 111 Navy Chairs, and are made of recycled plastic. The applicant will be required to provide chairs constructed primarily of metal, wood or material of comparable quality. The applicant intends to bring a sample of the Emeco chair to the Planning Board meeting so that the Planning Board can evaluate the quality of the material. The same tables are proposed for the rooftop dining area, however metal and dark wood chairs are proposed for the rooftop dining area, as well as woven Beechwood lounge seats in dark brown with moss green cushions. A fire pit is also proposed. Specification sheets have not been provided on the firepit or the proposed coffee tables on the rooftop.

One Tucci umbrella is proposed for the outdoor dining areas in the pedestrian passage with a Sunbrella “Parchment” fabric cover. This umbrella does not impede views into any Maple storefronts.

The applicant is proposing outdoor seating along the east side of the building, along an existing pedestrian passage. The outdoor café area is proposed to be enclosed as above with wooden planter boxes attached to the painted metal columns of the canopy structure. The café area is proposed to project 12’ from the eastern building façade.
The café area is proposed to maintain the required 5’ pedestrian pathway at the tightest point adjacent to the pedestrian passage, and 7.66’ of clear pathway will be provided past the existing newsracks. The applicant is also proposing outdoor dining on the rooftop of the building on private property.

The applicant will be required to enter into a license agreement with the City for use of the public right-of-way, and to provide the required insurance. Liquor liability insurance will also be required for the service of liquor in the right-of-way.

**Signage**

The applicant is permitted to have a total of 31 square feet of signage, based on the frontage of the building. They are proposing to have three signs, for a total of 23.715 square feet of signage.

One name letter sign is proposed on the Maple elevation reading “Social Kitchen and Bar”. This name letter sign is proposed within the sign band of the building, and will include the use of pinned off flat cut painted metal letters in Duxbury Gray with an internally illuminated back painted glass circle in Cornucopia Tan for the dot of the letter i. These letters are proposed to be a height of 1’ 8” in height and mounted on a solid wood plank fascia panel, with white LED lighting proposed behind the fascia panel to provide a halo effect around the entire plank. This sign projects 2” from the wall, is a total of 8.715 square feet in size, and thus meets the maximum size requirements.

A second name letter sign is proposed on the east elevation of the building at the rear by the intersection of the pedestrian passage and the service alley. This sign will match the color and design of the main frontage sign, but will be only 3.325 square feet in size, and the letters will be mounted 2” from the building at a height of 4.5 feet above grade. As this name letter sign marks the rear entrance to Social Kitchen, it does not count toward the total signage since it is less than 6 square feet in size.

A third sign is proposed on the rear of the building. This projecting sign is proposed to be 8.75 square feet in size per side (17.5 sq.ft. total) and to project 4’ from the north elevation, at a height of 12.5 feet above grade. This sign is proposed to have the letters carved into the wood plank face to a depth of .75” on each side. **Projecting signs can be a maximum size of 7.5 square feet per side, and may only project 30” over the property line. The applicant has advised that they will reduce the size of the sign and the projection to comply with the Sign Ordinance.**

8.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-4 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. Specifically, the 2016 Plan recommends the addition of outdoor dining areas in the public right-of-way as it is in the public’s best interest as it enhances street life, thus promoting a pedestrian friendly environment.

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

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

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

- The applicant's demonstrated ability to finance the proposed project.
- The applicant's track record with the city including responding to city and/or citizen concerns.
- Whether the applicant has an adequate site plan to handle the bistro liquor license activities.
- Whether the applicant has adequate health and sanitary facilities.
- The establishment's location in relation to the determined interest in the establishment of bistros in the Overlay District and the Triangle District.
- The extent that the cuisine offered by applicant is represented in the city.
- Whether the applicant has outstanding obligations to the city (ie property taxes, utilities, etc.).

Social Kitchen’s application for a bistro license was one of the two applications pre-selected for review by the City Commission for the 2012 calendar year. Social Kitchen will be a new establishment.

The selection criteria provided above must be considered to provide a recommendation to the City Commission as to whether or not to approve the operation of a Bistro License at Social Kitchen.

The applicant has provided a letter from Parker & Co., P.C. that indicates the ownership team has liquid assets in excess of several million dollars available for investment purposes.

The proposed outdoor dining does provide for safe and efficient pedestrian flow via a 5’ walkway between the outdoor dining enclosure and the eastern edge of the pedestrian passage. The applicant has confirmed that the rooftop service station will include a trash receptacle.

Social Kitchen is proposed to be located within the Overlay District. The City is interested in attracting bistro operations within both the Overlay District and Triangle District; therefore this operation fits into the parameters outlined by the Bistro Ordinance guidelines.
Social Kitchen is proposing to serve an eclectic mix of uniquely presented tapas style food.

**10.0 Approval Criteria for Final Site Plan**

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

1. The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.

2. The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

3. The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.

4. The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.

5. The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.

6. The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

**11.0 Approval Criteria for Special Land Use Permits**

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the **City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed** for the site described in the application of amendment.

The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

**12.0 Suggested Action**
Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board APPROVE the applicant’s request for Final Site Plan and a SLUP to permit a Bistro License for Social Kitchen at 223 - 225 E. Maple with the following conditions:

1. The applicant is required to obtain HDC approval;
2. The applicant must provide confirmation that the front façade provides the required 70% glazing;
3. The applicant provide the pedestrian passage pavement improvements and the addition of two sculptural via signs;
4. The applicant comply with the requests of City departments;
5. The applicant provide specification sheets on the proposed firepit for use on the rooftop;
6. The applicant enter into a license agreement with the City for use of the public right-of-way, and provide the required insurance; and
7. The applicant reduce the size and projection of the proposed alley projecting sign or obtain a variance from the Board of Zoning Appeals.

13.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL of the applicant’s request for Final Site Plan and a SLUP to the City Commission to permit a Bistro License for Social Kitchen at 223 - 225 E. Maple with the following conditions:

1. The applicant is required to obtain HDC approval;
2. The applicant must provide confirmation that the front façade provides the required 70% glazing;
3. The applicant provide the pedestrian passage pavement improvements and the addition of two sculptural via signs;
4. The applicant comply with the requests of City departments;
5. The applicant provide specification sheets on the proposed firepit for use on the rooftop;
6. The applicant enter into a license agreement with the City for use of the public right-of-way, and provide the required insurance; and
7. The applicant reduce the size and projection of the proposed alley projecting sign or obtain a variance from the Board of Zoning Appeals.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP to the City Commission for 223 - 225 E. Maple, Social Kitchen for the following reasons:

1. ____________________________________________________________
2. ____________________________________________________________
OR

Motion to recommend POSTPONEMENT of the Final Site Plan and SLUP to the City Commission for 223 - 225 E. Maple, Social Kitchen, with the following conditions:
SPECIAL LAND USE PERMIT ("SLUP") REVIEW
223 & 225 E. Maple Rd.
Social Kitchen and Bar (former Tokyo Sushi and vacant storefront)
Request for Final Site Plan and Special Land Use Permit ("SLUP") approval to allow
the operation of a new bistro

FINAL SITE PLAN REVIEW
223 & 225 E. Maple Rd.
Social Kitchen and Bar (former Tokyo Sushi and vacant storefront)
Request for Final Site Plan and Special Land Use Permit ("SLUP") approval to allow
the operation of a new bistro

Ms. Ecker outlined the proposal. The City Commission pre-screened the bistro applications and
selected two this year. The top two that moved forward were Market and Social Kitchen.

Ms. Ecker advised that the subject site is located at 223 - 225 E. Maple Rd., between N. Old
Woodward Ave. and Park St. The parcel is zoned B-4, Business-Residential and D-4 in the
Downtown Overlay District. The applicant, a new restaurant by the name of Social Kitchen, 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 of Birmingham. Accordingly,
the applicant is required to obtain a recommendation from the Planning Board on
the Final Site Plan and Special Land Use Permit, and then obtain approval from the
City Commission for the Final Site Plan, Special Land Use Permit, and for the
operation of a Bistro License. Historic District Commission approval will also be
required as the proposed bistro is located within the Central Business District
Historic District.

Social Kitchen is proposing ten seats in a defined bar area, which includes two drink rails and an
iced wine display area. Additionally, there will be seating inside for sixty-four diners, including
ten seats at the bar.

Ms. Ecker advised that fifty-six outdoor dining seats are proposed in the pedestrian passage
immediately adjacent to the east elevation of the building. The café area is proposed to project
12 ft. from the eastern building façade and will be enclosed with a railing and planters. This will
leave a 5 ft. required pedestrian path at the narrowest point. The applicant is proposing to
install fabric panels from open air metal structures with fabric canopies, both in the passage
and on the rooftop to create intimate outdoor dining areas. An open painted steel staircase is
proposed adjacent to the outdoor dining area in the pedestrian passage to provide access to
and egress from the rooftop dining terrace.

A rooftop terrace with 30 seats is also intended for outdoor dining. A painted metal frame is
proposed on the rooftop, to be surrounded by a clear glass guard rail and a fabric canopy
overhead. Bradford Pear trees in pots are proposed to be added to the west side of the rooftop
to enclose the outdoor dining space, and an outdoor fire pit is planned.
Since the applicant will be ripping up concrete in the alley in order to add the covered outdoor dining area along with a stairway to the rooftop terrace, the Engineering Dept. feels it would be a perfect time for the applicant to re-pave the alley with exposed aggregate and broom finish concrete panels in compliance with new guidelines for alleys and passages.

Social Kitchen is proposing a full service kitchen with a unique and eclectic tapas style menu featuring brunch, lunch, and dinner selections.

The applicant is permitted to have a total of 31 sq. ft. of signage, based on the frontage of the building. They are proposing to have three signs, for a total of 23.715 sq. ft. of signage.

This projecting sign proposed for the rear of the building will be 8.75 sq. ft. in size per side and project 4 ft. from the north elevation at a height of 12.5 ft. above grade. Projecting signs can be a maximum size of 7.5 square feet per side, and may only project 30 in. over the property line. **The applicant must reduce the size and projection of the proposed alley projecting sign or obtain a variance from the Board of Zoning Appeals ("BZA").**

Ms. Ecker related that the Alleys and Passages Committee thinks it would be better to leave the outdoor dining structure out all year long. Mr. DeWeese thought the stairs should also remain during the winter months.

It was discussed that Zachary Sklar is listed as the applicant. Mr. Williams was not familiar with Parker & Co., PC, the firm that has indicated the ownership team has liquid assets in excess of several million dollars available for investment purposes. Ms. Ecker read a letter into the record from Parker & Co., PC, Certified Public Accountants in Commerce Twp., certifying assets.

Ms. Lazar received confirmation that the canvas on the rooftop is intended to be permanent. She thought the bathroom facilities are rather minimal for potentially 150 people.

Mr. Zachary Sklar, one of two proposed owners of Social Kitchen & Bar, summarized details about his background and about the future bistro. Mr. Sklar is currently the owner of Cutting Edge Cuisine Catering Co. which is the fastest growing catering company in Michigan. The applicant feels that their vision for Social matches Birmingham’s aesthetics and will be a dining landmark for years to come. Chairman Boyle indicated he went on line to check on Mr. Sklar’s business partner, Mr. Jim Bellingham, and found that he has extensive holdings. The applicant in this case is an LLC with two members. With the next bistro application, it was agreed all of the information that was provided to the City Commission will be given to the Planning Board.

Mr. Ron Rea and Mr. Roman Bonasowski, Ron and Roman Architects, stated that access to the rooftop terrace would be through the restaurant. The stairs are meant for emergency egress and transporting of food. They will meet the 70 sq. ft. requirement for storefront glazing by using a 2 in. sash. They are looking to the Code to provide guidelines for handicap access to the rooftop. If the Building Dept. has found some new resource that that needs to be addressed, they will do that. Trees were placed in the via in order to enliven the entire passageway. Finally, they will comply with the projecting sign size. The architects brought in a
chair that is proposed for the passageway patio. It is constructed of 111 recycled Coke bottles and feels like a metal chair. They believe that it falls within the spirit of the Ordinance. Their goal is to provide an infra-red tube heater that would run down the center of the terrace and provide an even level of heating. Changes to the via will be made that are required by the tree locations and the pedestrian way in accordance with the new standards as set forth by the Alleys and Passages Sub-Committee.

Mr. Koseck spoke regarding accessibility to the upper terrace. He feels someone in a wheelchair should have the right to get up there like anyone else. He received confirmation that the outdoor furniture in the alley will be brought in at night during the winter; however, everything on the roof can stay in place. Further, Mr. Koseck pointed out that something is needed to control water that comes off the awning so that it doesn't fall into the passageway. Mr. Rea agreed that is very important.

Mr. Rea went on to explain that they met the criteria for not having an elevator by keeping a certain percentage on the roof,

Chairman Boyle and Mr. Clein were having trouble with passageway dining being open 12 months. Mr. Clein added that he struggles with 150 potential seats all year because he starts to not look at this as a bistro.

Mr. DeWeese noted that the bistros work because their first focus is on food, and he was uncomfortable with calling this a bar. Mr. Williams announced he is ok with the proposal as long as the applicant is going to make significant improvements to the alley. If the focus was on something other than food he might feel differently. The City can control the issue by its contract with the applicant to utilize the public right-of-way.

Mr. Sklar said they picked the location so they could have space on the rooftop and in the alleyway. His area of expertise is in catering for large amounts of people and he has made sure the kitchen will have the capacity to turn out these numbers. They may go with a lighter menu on the rooftop.

Ms. Whipple-Boyce said this plan exceeds what the Alleys and Passages Sub-Committee could have asked for. The narrowing of the alley benefits the pedestrian feeling by making the passage more intimate. The permanent awning is key to helping this to succeed. There will be opportunities in the winter to bring a little life to the passage. Also, there is an annual review of bistros and if there is a problem it can always be addressed.

Ms. Lazar thought that the volume of 120 people pushes the envelope on the whole bistro issue. She feels the Planning Board needs to be somewhat cautious.

Mr. DeWeese noted that the awning in the passageway provides an opportunity for the public to get out of the inclement weather.

Mr. Koseck agreed with Ms. Whipple-Boyce that the proposal gives purpose and life to the alley. However, he wondered how many people would be out there dining in the cold.
Mr. Williams observed that this applicant is creating a precedent with their rooftop dining that maybe the first eight bistros missed. He shared the concern about pushing the envelope on size. However, the enhanced passageway increases the values on the block and on the north side of Maple Rd.

Chairman Boyle pointed out that the stair is not shown on the plan and it does change the nature of the alley. Mr. Rea noted that Boston ivy will be planted on the blank walls, and the stairway is part of an alley experience. Closing the passageway in will humanize it so that more people will come through there.

There were no members of the public who wished to comment on this application at 9:07 p.m.

**Motion by Ms. Whipple-Boyce**
Seconded by Mr. DeWeese that based on a review of the site plans submitted, the Planning Board recommends approval of the applicant’s request for Final Site Plan and a SLUP to the City Commission to permit a Bistro License for Social Kitchen at 223-225 E. Maple Rd. with the following conditions:

1. The applicant is required to obtain HDC approval;
2. The applicant must provide confirmation that the front façade provides the required 70 percent glazing;
3. The applicant provide the pedestrian passage pavement improvement and the addition of two sculptural Via signs;
4. The applicant comply with the requests of City departments, subject to review by the Planning Dept. with the exception of Engineering Dept.’s points 2 and 3 which point to the location of the trees and the permanent awning;
5. The applicant provide specification sheets on the proposed fire pit for use on the rooftop;
6. The applicant enter into a license agreement with the City for use of the public right-of-way, and provide the required insurance;
7. The applicant reduce the size and projection of the proposed alley projecting sign or obtain a variance from the BZA;
8. The applicant deal with the water and ice conditions created by the awning for administrative approval;
9. The applicant remove the words “improvements by City” from their drawings;
10. The applicant revise the pattern and the finishes of the aggregate and concrete in the entire via for administrative approval;
11. Valet parking may only be permitted via the alley behind the restaurant; and
12. The Planning Board makes an exception to permit the use of the plastic chair.

Chairman Boyle agreed this is an exciting proposal that will enliven the area. However, it is a public space in a public alley and success really comes down to maintaining the space by cleaning it, keeping it tidy, and bringing furniture in and out as discussed.

There were no final comments from the public at 9:20 p.m.
Motion carried, 7-0.

ROLLCALL VOTE
Yeas:  Whipple-Boyce, DeWeese, Boyle, Clein, Koseck, Lazar, Williams
Nays:  None
Absent:  None

The board took a short recess at 9:21 p.m.
<table>
<thead>
<tr>
<th><strong>NOTICE OF PUBLIC HEARING</strong></th>
</tr>
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<tbody>
<tr>
<td><strong>BIRMINGHAM CITY COMMISSION</strong></td>
</tr>
<tr>
<td><strong>PROPOSED REZONING</strong></td>
</tr>
</tbody>
</table>
| **Meeting - Date, Time, Location:** | Monday, August 13, 2018 7:30 PM  
Municipal Building, 151 Martin  
Birmingham, MI 48009 |
| **Nature of Hearing:** | To consider the proposed rezoning of 469-479 S. Old Woodward from B3/D4 (Office Residential/Downtown Overlay) to B3/D5 (Office Residential/Downtown Overlay). |
| **City Staff Contact:** | Jana Ecker, 248.530.1841  
jecker@bhamgov.org |
| **Notice:** | Publish: July 15, 2018  
Mailed to all property owners within 300 feet of subject address. |
| **Approved minutes may be reviewed at:** | City Clerk’s Office |

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk’s Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.
MEMORANDUM
Planning Division

DATE: August 8, 2018

TO: Joseph A. Valentine, City manager

FROM: Jana Ecker, Planning Director


The City Commission set a public hearing date for August 13, 2018 to consider approval of a rezoning request for 469 – 479 S. Old Woodward (former Mountain King and Talmer Bank sites) to rezone the site from B3/D4 to B3/D5. This request was made pursuant to Article 7, section 7.02, of the Zoning Code.

On June 27, 2018, the Planning Board reviewed the rezoning request. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward.

On August 8, 2018, the applicant submitted a letter requesting that the City postpone the public hearing that was previously set for August 13, 2018 to allow the applicant to present new information to the Planning Board for their review and consideration.

Suggested Action:

To cancel the public hearing to consider approval of the rezoning of 469 – 479 S. Old Woodward from B3/D4 to B3/D5 and to refer the matter back to the Planning Board.
August 8, 2018

City of Birmingham  
City Commission  
Planning Board  
151 Martin St.  
Birmingham, MI 48009  
Attention: Ms. Jana Ecker

Re: Request for Re-Hearing on Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Ms. Ecker and Members of the City Commission and Planning Board:

This confirms our phone conferences wherein the Applicant, Birmingham Towers Partners, LLC, respectfully requests that the rezoning matter be postponed and taken off the agenda of the City Commission meeting set for August 13, 2018. The Applicant is requesting a re-hearing before the Plan Board to introduce new critical information that was not previously heard in the original Planning Board hearing. The details of this new information will be delivered in letter form to the Planning Department prior to the August 13th City Commission meeting.

Thank you. Please contact me if you have any questions.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

[Signature]

Richard D. Rattner
APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

TO THE CITY COMMISSION:
The undersigned hereby makes application to the City Commission to:

1. Zoning Map Change:

   Change premises described as:

   479 South Old Woodward Avenue

   No. Street

   Tax ID #: 19-36-208-012; see documents for more information

   Legal Description from its present zoning


   A sealed land survey showing location, size of lot and placement of building (if any) on
   the lot to scale must be attached.

   Statements and reason for request or other data have a direct bearing on the request.

2. Change premises described as:

   No. Street

   Legal Description from its present zoning

   classification of ______________________ to ______________________.

   A sealed land survey showing location, size of lot and placement of building (if any) on
   the lot to scale must be attached.

   Statements and reasons for request or other data have a direct bearing on the request.

Signature of Applicant: __________________

Print Name: Christopher J. Longe

Name of Owner: Birmingham Tower Partners, LLC

Address and Telephone Number: 251 East Merrill Street, Suite 205

Birmingham, Michigan 48009
APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received: ______________________  Received By: ______________________

Resolution No. ______________________  Approved/Denied ______________________

Application Fee: $1,500.00  Receipt Number ______________________

The petitioner shall be responsible for any costs incurred by consultant, including but not limited to traffic and environmental, contracted by the city to review the proposed site plan and/or community impact study as determined by the city planner.
ZONING MAP OR ORDINANCE AMENDMENT PROCEDURE

Procedure to be followed on all applications for Zoning Map or Ordinance amendments.

1. Preliminary discussion with the Community Development Director or City Planner.

2. Formal application to City Commission with the following information:
   a) Change requested
   b) Signature and name of persons requesting change
   c) Reasons for requested change

3. City Commission will refer request to the Planning Board for recommendation and final report.

4. Planning Board will hold a public hearing prior to which a notice will be published in an official paper or a paper of general circulation not less than fifteen (15) days prior to the hearing.

5. At the conclusion of a public hearing, the Planning Board will forward a recommendation of the Zoning Map or Ordinance amendment request. The City Commission may, by ordinance, change the Zoning Map or Ordinance only after the Planning Board had held at least one (1) public hearing regarding the proposed amendment and has reported to the City Commission thereon. The City Commission may hold additional public hearings as it deems necessary.

6. Upon the presentation of protest petition meeting the requirements listed below, an amendment to the Zoning Map or Ordinance which is the object of the petition shall be passed only by a three-fourths (3/4) vote of the City Commission. The protest petition shall be presented to the City Commission before final action on the amendment, and shall be signed by one (1) of the following:
   a) The owners of at least twenty percent (20%) of the area of land included in the proposed change.
   b) The owners of at least twenty percent (20%) of the area of the land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

For the purpose of calculating the twenty percent (20%) requirement, publicly-owned land shall be excluded.

7. The City Commission will then take action on the application upon review of the Planning Board’s recommendation and approved minutes of the Public Hearing.

8. Following adoption of a Zoning Map or Ordinance change by the City Commission, one (1) notice of adoption shall be published in the newspaper of general circulation in the City within fifteen (15) days after adoption.
APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

TO THE CITY COMMISSION:
The undersigned hereby makes application to the City Commission to:

1. Zoning Map Change:

Change premises described as:

469 South Old Woodward Avenue

__________________________  __________________________
No.                        Street

__________________________
Tax ID #: 19-36-208-011; see documents for more information

__________________________
Legal Description

classification of B3/D4  to  B3/D5

A scaled land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reason for request or other data have a direct bearing on the request.

2. Change premises described as:

__________________________
No.                        Street:

__________________________
Legal Description

classification of  to  

A scaled land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reasons for request or other data have a direct bearing on the request.

Signature of Applicant:

Print Name: Christopher J. Longe

Name of Owner: Birmingham Tower Partners, LLC

Address and Telephone Number: 251 East Merrill Street, Suite 205

Birmingham, Michigan 48009
APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE
Birmingham, Michigan

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received: __________________________ Received By: __________________________

Resolution No. __________________________ Approved/Denied __________________________

Application Fee: $1,500.00 Receipt Number __________________________

The petitioner shall be responsible for any costs incurred by consultant, including but not limited to traffic and environmental, contracted by the city to review the proposed site plan and/or community impact study as determined by the city planner.
City of Birmingham
City Commission
151 Martin St.
Birmingham, MI 48009

Re: Application to include 469 and 479 S. Old Woodward, Birmingham, MI ("Subject Property") in the D5 Downtown Birmingham Overlay District Zone ("Application")

Dear Members of the Planning Board and City Commission:

Please accept this letter from the property owner ("Property Owner") of 469 and 479 S. Old Woodward ("Property") as a supplement to the referenced rezoning Application file to rezone the Subject Property from the D-4 Zone to the D-5 Overlay Zone in the Downtown Birmingham Overlay District.

Executive Summary

The Subject Property is a former single-story restaurant building and bank that sits between two existing tall buildings in the City. Birmingham Place is located to the north and the 555 Buildings are located to the south. The placement of the buildings is not only inconsistent with a cohesive and harmonious streetscape in that area but is contrary to the intent of the Master Plan. This inconsistent height results in a streetscape along South Old Woodward that appears to have a "missing tooth."

If the Subject Property is rezoned to D-5, there is an excellent opportunity for the Subject Property, Birmingham Place and the 555 Buildings to create an impressive southern gateway to Downtown Birmingham. It is therefore reasonable that the Subject Property, sitting directly between the 555 Buildings and Birmingham Place, be included in the same zoning district, that is as part of the D-5 Overlay District, as those neighboring two buildings.

Rezoning the Subject Property to the same classification as the buildings immediately to the north and south will enhance and complete the streetscape of these important two blocks of Downtown Birmingham. Inclusion of the Subject Property in the D-5 Overlay Zone is consistent with the 2016 Master Plan. Moreover, it will allow the Subject Property to enjoy the same development regulations as the neighboring properties.
The Subject Property and the Master Plans

A review of the history surrounding the zoning of this area of Downtown is instructive. The minutes of the City Commission during the late 1960s and early 1970s, reveals that the height of the buildings in this area of Downtown were historically zoned for the height of the 555 Buildings and Birmingham Place. However, the zoning ordinance was amended in the 1970’s after the construction of those buildings to a maximum of four stories. Therefore, for several years, the taller buildings in the City were burdened with the status of legal nonconforming uses.

In 2016, the City corrected this down zoning for the 555 Building to the south and Birmingham Place to the north, with the creation of the D-5 Zone to allow for existing heights (in the case of the 555 Buildings and Birmingham Place) and to allow for new construction to a height up to the same height of an immediately adjacent or abutting building (see Ordinance 3.04-4-b). While the 555 Building and Birmingham Place are now at allowable heights, sitting in between them, the Subject Property is the only building in that streetscape that cannot be constructed to a height that is consistent to its neighbors. This inconsistency creates an obvious gap in the street’s architecture which is not harmonious with the overall downtown design and longer-range plan for that part of South Old Woodward.

The Birmingham of 2016

In 1996, the City Commission adopted the Downtown Birmingham 2016 Plan (“2016 Plan”) and amended the Zoning Ordinance to include the Downtown Birmingham Overlay District. The Subject Property is located in the D-4 Zone, sitting between two tall buildings in the City that have been rezoned to the D-5 zone. These multi-story buildings are the established character of this particular area of the City. Placing the Subject Property in the D-5 zone would allow development of the Subject Property to be at a similar height to the buildings directly to the north and south. The Applicant desires to develop the Subject Property in a manner that completes the block between Brown and Hazel while adding to the cohesiveness of the South Old Woodward southern gateway area.

The Birmingham Zoning Ordinance at Sec. 1.04 provides that the purpose of the Zoning Ordinance is to “…guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan (“Birmingham Plan”), and Downtown Birmingham 2016 Plan. A review of the Birmingham Plan (1980) and the Downtown Birmingham 2016 Plan (1996) reveals that this application to include the Subject Property in a D-5 Overlay District meets the spirit and intent of the ordinance as well as the 2016 Plan. It will allow for mixed uses and add to the vitality of the modern streetscape envisioned for this part of town by the 2016 Plan. With rezoning, the Subject Property can become that desired mixed-use space for retail, residential and hotel, and bring new life to the South Old Woodward area.
Any redevelopment of the Subject Property in compliance with its current zoning classification would result in a building with frontage dwarfed by the existing neighboring structures. Therefore, by rezoning the Subject Property to the D-5 overlay, a new building could be built to a similar height as the neighboring buildings, and effectively complete an otherwise missing piece of the streetscape.

In summary, it is clear that the intent of the 2016 Plan includes development of this southern area of the Downtown Overlay District as a gateway to Downtown through enhancing the character of buildings and providing our City with an active, pedestrian-friendly, urban streetscape.

**Rezoning Amendment – Sec. 7.02 (B)(2)(b)(i)-(iii)**

The Zoning Ordinance at Sec. 7.02 requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission. Please consider the following comments with respect to these issues.

**7.02(B)(2)(b)(i) - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership**

Rezoning of the Subject Property is necessary to preserve the Applicant’s enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the Applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed-use building. Furthermore, the D-5 Ordinance, at section 3.04-4-b, anticipates that the Subject Property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

**Sec. 7.02(B)(2)(b)(ii) - An Explanation of Why the Existing Zoning Classification is No Longer Appropriate**

The existing D-4 zoning classification is no longer appropriate for the Subject Property. The Subject Property is surrounded by the Birmingham Place, a ten-story building on the north side and the 555 Buildings, a fifteen-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an “infill” rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the Subject Property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the
existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the Subject Property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Board has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the Subject Property sandwiched between two properties in the D-5 Zone, the D-4 Zone is no longer appropriate.

Sec. 7.02(B)(2)(b)(iii) - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

The proposed rezoning of the Subject Property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-4 Zone. The surrounding properties to the north and south already are in the D-5 Zone. When these neighboring properties were rezoned, the Planning Board anticipated that eventually the Subject Property also may be rezoned for the reasons stated in this letter. Placing the Subject Property in D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Conclusion

The Applicant respectfully requests that the City Commission rezone the Subject Property from the D-4 to the D-5 Zone as discussed in this letter.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

[Signature]

Richard D. Rattner

RDR/cmc

1208960
CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

MARCH 6, 2017

NOT FOR CONSTRUCTION

C-4.1

PEA, Inc.
CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

MARKUS MANAGEMENT GROUP, LLC
251 EAST MERRILL STREET, SUITE #205
BIRMINGHAM, MICHIGAN, 48009

DESCRIPTION

DN.
SUR.
P.M.

SOUTH OLD WOODWARD

3 FULL WORKING DAYS
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(TOLL FREE)
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Call
before you dig

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Troy, MI  48083-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

PEA, Inc.
NOT FOR CONSTRUCTION

L-1.0

2430 Rochester Ct, Ste 100
Troy, MI  48083-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

MARKUS MANAGEMENT GROUP LLC
PEA, Inc.

NOTES:

1. KEEP Drainage and utilities on right side.
2. Drainage ditches and stream shall be constructed to direct surface runoff away from existing and new paved areas.
3. All paving shall be constructed to meet Michigan DOT standards for asphalt pavement.
4. All parking areas shall be designed with adequate grades to ensure runoff into existing drainage structures.
5. All grades and elevations shall be maintained within 1/4".

FLOOR PLAN:

- South Old Woodward Avenue
- Hazel Street

SCALE: 1" = 20'

TREE PLANT LIST:

<table>
<thead>
<tr>
<th>QTY</th>
<th>TREE ID</th>
<th>SPECIES</th>
<th>DIA.</th>
<th>SITE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>P07</td>
<td>Pinus rigida 'Stricta'</td>
<td>3&quot;</td>
<td>LW</td>
</tr>
</tbody>
</table>

CAUTION!!

The locations and elevations of existing underground utilities as shown on this drawing are only approximate. No guarantee is either expressed or implied as to the completeness or accuracy thereof. The contractor shall be exclusively responsible for determining the exact utility locations and elevations prior to the start of construction.

www.missdig.org
1-800-482-7171 (TOLL FREE)
MISS DIG System, Inc.

MARCH 6, 2017
**PASSEL "A" SURVEYOR'S NOTES:**
- Overhead wire runs through the subject parcel and crosses the property line on its north side.
- Walk runs through the subject parcel and crosses the property line on its south side.
- Property line matches existing exterior walks and interior party wall on the north side of the subject parcel.
- Parking on the subject parcel is included in the existing building, no access available at the time of the survey.
- The current zoning classification was not provided by the client.
- No Zoning District is listed for the Minimum standard details requirements for ALTA/NSPS land title surveying.

**PASSEL "A" SCHEDULE OF EXCEPTIONS:**
- Detects, lines, encroachments, adverse claims or other matters, if any created, not appearing in the public records or existing subsequent to the effective date hereof but prior to the date the proposed work was commenced are not shown or otherwise incorporated into this survey.
- Standard exceptions set forth in a jacket.
- True and/or measurements which become a fear or become due and payable subsequent to the effective date hereof are not shown and are not incorporated into this survey.
- No liability is assured by the Company for any increase occasioned by constructive demolition or change in land usage caused by, through and hereunder.
- Rights of the public to any portion of the Law lying within the bounds of any right, road, alley or easement.
- Property implications in the creation, organization or authority of the insured or its agent to acquire or require the title.
- Railroad, line, streets, and over tracks, if any, and all rights therein. [See railroad line, streets & over tracks shown in the time of the survey.]

An Instrument entitled Party Wall Agreement, Recorded No. [Parcel] Page 570 and re-recorded in Liber 3008, Page 677. [As planned]

**PASSEL "B" SURVEYOR'S NOTES:**
- Overhead wire runs through the subject parcel and crosses the property line on its north side, no comments provided.
- Walk runs through the subject parcel and crosses the property line on its south side.
- Property line matches existing exterior walks and interior party wall on the north side of the subject parcel.
- Parking on the subject parcel is included in the existing building, no access available at the time of the survey.
- The current zoning classification was not provided by the client.
- No Zoning District is listed for the Minimum standard details requirements for ALTA/NSPS land title surveying.

**PASSEL "B" SCHEDULE OF EXCEPTIONS:**
- Detects, lines, encroachments, adverse claims or other matters, if any created, not appearing in the public records or existing subsequent to the effective date hereof but prior to the date the proposed work was commenced are not shown or otherwise incorporated into this survey.
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- Rights of the public to any portion of the Law lying within the bounds of any right, road, alley or easement.
- Property implications in the creation, organization or authority of the insured or its agent to acquire or require the title.
- Railroad, line, streets, and over tracks, if any, and all rights therein. [See railroad line, streets & over tracks shown in the time of the survey.]

An Instrument entitled Party Wall Agreement, Recorded No. [Parcel] Page 570 and re-recorded in Liber 3008, Page 677. [As planned]
DATE: May 18th, 2018

TO: Jana Ecker, Planning Director

FROM: Nicholas Dupuis, Planning Intern

SUBJECT: Rezoning Request for 469-479 S. Old Woodward – Project M1

The applicant for 469-479 S. Old Woodward (Parcel Numbers 1936208011 and 1936208012 respectively) is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed use building in between the Birmingham Place and the 555 building. The maximum height allowed in the D-4 zoning district is 4-5 stories. In the D-5 zoning district, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 zone.

The 0.423 acre subject site spans Hazel Street from S. Old Woodward to Woodward. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Chinese Restaurant and First Place Bank). The applicant is proposing to demolish the present buildings for the construction of a nine-story mixed use building with three levels of underground parking.

History of Property

Information gathered by PM Environmental for a Phase 1 Environmental Site Assessment on the property history revealed that 469 S. Old Woodward was home to various occupants since around 1937, including many auto sales companies and most recently the First Place Bank, which closed in 2014. The one story commercial building has since been vacant. 479 S. Old Woodward has been home to a few restaurants, most recently Mountain King (1998-2014). Similarly, the one story commercial building has also been vacant since its last tenant in 2014.

The applicant has noted that historically, Birmingham’s buildings were zoned for the height of the 555 building and the Birmingham Place in the late 1960’s and early 1970’s. When the zoning was changed in the 1970’s, the two buildings were designated to a legal nonconforming use. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay. In 2016, a new D5 zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D5 currently.
Requirements for Rezoning

The requirements for a request for the rezoning of a property are set forth in Article 07, section 7.02 of the Zoning Ordinance as follows:

Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:

1. **An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.**

   **Applicant response:**
   - Rezoning of the subject property is necessary to preserve the applicants enjoyment of rights associated with ownership of a property zoned for mixed uses. Because of the size and corner configuration of the parcel, it will not support street-level retail, residential, and parking for residents in the same manner as the neighboring properties. The 2016 Plan clearly anticipates mixed use developments. Such planning requires space to design and locate mixed uses within a given structure. Without the ability to go higher with a new building than current zoning allows, the applicant will not have the required area within which to locate a mix of uses, or otherwise to be able to enjoy all of the allowed uses that would commonly be associated the design of such a modern, mixed use building. Furthermore, the D-5 Ordinance, at Section 3.04-4-b, anticipates that the subject property and those similarly situated may enjoy the same rights of usage through an extension of height as other existing tall buildings already enjoy in the D-5 Overlay District.

2. **An explanation of why the existing zoning classification is no longer appropriate**

   **Applicant response:**
   - The existing D-3 zoning classification is no longer appropriate for the subject property. The subject property is surrounded by the Birmingham Place, a 10-story building on the north side and the 555 Buildings, a 15-story building on the south side. This height is an established pattern in this area of the City. This rezoning request is actually an “infill” rezoning to bring the entire area into architectural and design harmony with surrounding buildings. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. This would allow development of the property in a manner consistent with the existing structures from Brown Street south to Haynes Street. It will create a more unified block and enhance the character of the gateway area to Downtown Birmingham. The rezoning of the subject property would restore the property to a zoning classification this area of the City once enjoyed, as the Planning Bard has done for with Birmingham Place and the 555 Buildings. Hence, given the location of the subject property
sandwiched between two properties in the D-5 Zone, the D-3 Zone is no longer appropriate.

3. An explanation of why the proposed rezoning will not be detrimental to the surrounding properties.

**Applicant response:**

- The proposed rezoning of the subject property is not detrimental to surrounding property owners. Note that the proposed rezoning does not extend the D-5 classification further to the north or south of the current D-5 Zoning, but actually fills in the one gap in the streetscape that is noticeably out of place and anachronistically remains in the D-3 Zone. The surrounding properties to the north and south are already in the D-5 zone. When these neighboring properties were rezoned the Planning Board anticipated that eventually the subject property also may be rezoned for the reasons stated in this letter. Placing the subject property in the D-5 Zone will be placing it on equal footing with the surrounding properties from a structural, use and design perspective. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the South Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Master Plan.

Article 7, section 7.02 of the Zoning Ordinance further states:

Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. (See attached)

Information required on plot plans shall be as follows:

1. Applicant’s name, address and telephone number.
2. Scale, north point, and dates of submission and revisions.
3. Zoning classification of petitioner’s parcel and all abutting parcels.
4. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
5. Existing use of the property.
6. Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
7. Location of existing drainage courses, floodplains, lakes, streams, and wood lots.
8. All existing easements.
9. Location of existing sanitary systems and or septic systems.
10. Location and size of existing water mains, well sites and building service.
11. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans. If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply and, furthermore, why the items are not applicable.

A land survey was provided by the applicant and submitted to the Planning Board (see attached).
Article 7 section 7.02 of the Zoning Ordinance further states:

The Planning Board shall hold at least one public hearing on each application for amendment at such time and place as shall be established by the Planning Board.

The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:
  a. The objectives of the City's then current master plan and the City's 2016 plan.
  b. Existing uses of property within in the general area of the property in question.
  c. Zoning classification of property within the general area of the property in question.
  d. The suitability of the property in question to the uses permitted under the existing zoning classification.
  e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

**Planning Division Analysis**

**A. The objectives of the City’s then current master plan and the City’s 2016 Plan**

Section 1.04 of the Birmingham Zoning Ordinance states: the purpose of the Zoning Ordinance is to guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Future Land Use Plan and the Downtown Birmingham 2016 Plan. A review of both plans reveals that the proposal to rezone the subject property to the D-5 Zoning District meets the spirit and intent of the ordinance. The 2016 Plan recommends specific building heights and massing that appropriately defines the public street. The proposed building allows for mixed uses and a scale that will seamlessly match the adjacent buildings, meanwhile supporting the improvement of the streetscape along S. Old Woodward, Hazel and Woodward by building to the frontage line.

The 2016 Plan also recommends that the City should encourage future buildings to front Woodward to project a positive image of the City and to hold Woodward areas to the same standards of quality and design as the best areas of Birmingham. The proposed building will project a strong image of the City towards Woodward with consistent architectural details and similar massing to the adjacent buildings.

**B. Existing uses of property within the general area of the property in question**

As mentioned above, the Birmingham Place and 555 Buildings are located to the north and south of the subject site, respectively. The property is located on Woodward Avenue, which has a 200’ wide right of way. The southbound lanes of Woodward lie directly east of the property, and South Old Woodward lies to the west. Across Woodward to the east is the Audi dealership, and across S. Old Woodward to the West is the long commercial building with a CVS and other businesses.
The following chart summarizes the land uses and zoning districts adjacent to and in the vicinity of the subject site.

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<thead>
<tr>
<th></th>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Land Use</strong></td>
<td>Retail/Commercial</td>
<td>Retail/Commercial</td>
<td>Commercial/Parking</td>
<td>Commercial/Parking</td>
</tr>
<tr>
<td><strong>Existing Zoning</strong></td>
<td>B-3, Office Residential</td>
<td>B-3, Office Residential</td>
<td>B-2, General Business</td>
<td>B-2B, General Business</td>
</tr>
<tr>
<td><strong>Overlay Zoning</strong></td>
<td>D-5</td>
<td>D-5</td>
<td>MU-5</td>
<td>D-2</td>
</tr>
</tbody>
</table>

C. **Zoning classification of property within the general area of the property in question.**

The properties immediately north and south of the subject site are zoned B3 and D5, which allow a mix of residential, retail and commercial uses, and buildings over 5 stories in height up to a maximum height of 180’. The property to the east across Woodward Avenue is zoned MU5 which also allows a mix of residential, retail and commercial uses and allows buildings up to 6 stories and 78’ in height. The property to the west across S. Old Woodward is zoned B2-B and D2, also allowing a mix of residential, retail and commercial uses and buildings up to 3 stories and 56’ in height.

D. **The suitability of the property in question to the uses permitted under the existing zoning classification.**

Under the current zoning, all of the same uses are permitted as those under the D5 zoning classification. However, under the current zoning of D4, the building would be capped at a height of 5 stories and thus be dwarfed by the adjacent Birmingham Place and 555 Buildings.

E. **The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.**

In the immediate Southern Woodward Gateway area, there have been no new buildings recently constructed, however, the 555 Building was renovated extensively. Three existing buildings were rezoned in 2017 to D5 under the Downtown Overlay (Merrillwood Building, the 555 Building and Birmingham Place) to permit buildings over 5 stories in height (up to 180’) so long as they are compatible with adjacent buildings. There have been no new buildings constructed under the D-5 Overlay Zoning classification.

**Departmental Reports**

1. **Engineering Division** - The Engineering Department has no concerns with the rezoning application at this time.

2. **Department of Public Services** - The Department of Public Services has no concerns at this time.
3. **Fire Department** – The Fire Department has no concerns with the rezoning at this time.

4. **Police Department** – The Police Department has no concerns with the rezoning application.

5. **Building Department** – No comments were provided from the Building Department on the rezoning application.

**Planning Department Findings**

Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable master plan documents, current zoning and recent development trends in the area, the Planning Department finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the downtown overlay district for the purpose of building as high, but no higher than, adjacent buildings. Given the recommendations of the 2016 Plan, the existing mix of uses in the immediate area and given the size and quality of the building, the proposal to rezone for the purpose of building to nine stories is appropriate and compatible in the area. The following sample motions with attached conditions have been provided in the event that the Planning Board deems it appropriate to send a recommendation of approval forward to the City Commission.

**Sample Motion Language**

Based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board recommends **APPROVAL** to the City Commission for the rezoning of 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay.

**OR**

Motion to recommend **DENIAL** to the City Commission of the applicant’s request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay for the following reasons:

1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________

**OR**

Motion to recommend **POSTPONEMENT** of the applicant’s request for the rezoning of the property at 469 - 479 S. Old Woodward from D-4 to D-5 in the Downtown Overlay, pending review and approval of the following:

1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________
City Commission Minutes  
February 13, 2017

02-29-17: PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 126, ZONING, TO CREATE NEW D5 ZONE

Mayor Nickita opened the Public Hearing at 10:22 PM.

City Planner Ecker explained the history of this zoning ordinance amendment request by the owners of the 555 Building. The amendment would allow buildings to be considered either legal and conforming, or legal non-conforming, but have the ability to add on in some way. The amendments have to do with height, number of stories, and setbacks. The Planning Board looked at several options. The Board came up with a fairly simple method, by changing Section 6.02 to allow all buildings to be improved in some way if they are non-conforming, or to consider the creation of a D5 zone, defined as over five stories. The impact of the amendments would make the three buildings legal conforming buildings, and they would be allowed to be extended or enlarged with a Special Land Use Permit. If a new building was constructed, it could match the height of the existing building with a Special Land Use Permit. The new category would deal with existing buildings located in the D5 zone. This change enables applicants to obtain funding for significant renovations or improvements as a legal conforming building. The second part allows expansion with the restriction to meet the overlay.

City Planner Ecker explained for Commissioner Boutros that the 555 site has room where a new building could be constructed.

City Planner Ecker explained that none of the three buildings can be any higher or add any extra stories under the ordinance amendment.

Mayor Pro Tem Harris asked about maintenance and repair under the current ordinance.

City Planner Ecker said an interpretation is required in every case currently. Under the ordinance amendment, maintenance and repair would be permitted.

Commissioner Hoff asked if Birmingham Place or Merrillwood could buy the adjacent structures and then build in the space.

City Planner Ecker said they could not, because the properties next door would not have the D5 zoning classification.

Commissioner Hoff asked how the determination is made as to an enlargement and an addition.

City Planner Ecker said the enlargements or extensions are an absolute right if the regular overlay standards are met. If it is an addition or new construction which would exceed the D4 requirements, it can be done with a Special Land Use Permit.
Mr. Rick Rattner addressed the Commission and said with the ordinance amendment, the 555 Building would be in compliance allowing the owners to move forward to make the changes and renovations to keep it an iconic building.

Mayor Nickita closed the Public Hearing at 10:40 PM.

**MOTION: Motion by DeWeese, seconded by Boutros:**

To amend Chapter 126, Zoning, Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district, and Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

**AND**

To approve the rezoning of the following properties:

(a) 555 S. Old Woodward (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
(b) 411 S. Old Woodward (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
(c) 225 E. Merrill (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

City Planner Ecker confirmed for Commissioner Hoff that the ordinance amendment would allow the 555 Building to build an addition as tall as it is only with a Special Land Use Permit approved by the Commission. She added that a new building to the south could be built that meets the D4 standards as of right. The setbacks will basically be the same.

**VOTE: Yeas, 7**

Nays, 0
Absent, None
ORDINANCE NO.________

THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 03, DOWNTOWN BIRMINGHAM OVERLAY DISTRICT, SECTION 3.04, TO CREATE A NEW D5 ZONE AND TO ESTABLISH DEVELOPMENT STANDARDS FOR THIS DISTRICT.

Article 03 shall be amended as follows:

**Section 3.04 Specific Standards**

A. **Building Height, Overlay:** The various elements of building height shall be determined as follows for the various zones designated on the Regulating Plan:

1. **D2 Zone (two or three stories):**
   a. Eave line for sloped roofs shall be no more than 34 feet.
   b. Peak or ridge of any sloped roof shall be no more than 46 feet as measured to the average grade.
   c. Maximum overall height including the mechanical and other equipment shall be no more than 56 feet.
   d. A third story is permitted if it is used only for residential.
   e. All buildings in D2 Zone containing a third story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
   f. A third story shall continue in a different plane, beginning at the eave line, not greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
   g. All buildings constructed in the D2 Zone must have a minimum eave height or 20 feet.

2. **D3 Zone (three or four stories):**
   a. Eave line for sloped roofs shall be no more than 46 feet.
   b. Peak or ridge of any sloped roof shall be no more than 58 feet as measured to the average grade.
   c. Maximum overall height including the mechanical and other equipment shall be no more than 68 feet.
   d. A fourth story is permitted if it is used only for residential.
   e. All buildings in D3 Zone containing a fourth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
f. The fourth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.

g. All buildings constructed in a D3 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.

3. D4 Zone (four or five stories):
   a. Eave line shall be no more than 58 feet.
   b. Peak or ridge of any sloped roof shall be no more than 70 feet as measured to the average grade.
   c. Maximum overall height including mechanical and other equipment shall be no more than 80 feet.
   d. The fifth story is permitted if it is used only for residential.
   e. All buildings containing a fifth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
   f. The fifth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
   g. All buildings constructed in the D4 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.

4. D5 Zone (over 5 stories)
   a. All existing buildings located in the D5 Zone on November 1, 2016 are deemed legal, conforming buildings with regards to setbacks, number of stories and height.
   b. All existing buildings located in this zone district on November 1, 2016 may be extended or enlarged only if the property owner elects to develop the extended or enlarged portion of the building under the provisions of the Downtown Overlay and the extension or enlargement meets all of the requirements of the Downtown Birmingham Overlay District and the D4 Zone.
   c. New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D-5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building in the D-5 to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit.

4.5 C and P Zones: Downtown Birmingham Overlay District building height shall comply with the underlying height restrictions listed in each two-page layout in Article 2 of the Zoning Ordinance, but may be negotiated by the Planning Board.

5.6. Stories at sidewalk level shall be a minimum of 10 feet in height from finished floor to finished ceiling. The Planning Board may reduce this standard for renovations to existing buildings that do not meet this standard.
6.7. A transition line shall be provided between the first and second stories. The transition shall be detailed to facilitate an awning.

7.8. The maximum width of all dormers per street elevation on buildings may not exceed 33% of the width of the roof plane on the street elevation on which they are located.

B. Building placement. Buildings and their elements shall be placed on lots as follows:

1. Front building facades at the first story shall be located at the frontage line, except the Planning Board may adjust the required front yard to the average front setback of any abutting building.

2. In the absence of a building facade, a screenwall shall be built along the frontage line and aligned with the adjacent building facade. Screenwalls shall be between 2.5 and 3.5 feet in height and made of brick, stone or other masonry material matching the building. Upon approval by the Planning Board, screenwalls may be a continuous, maintained evergreen hedge or metal fencing. Screenwalls may have openings a maximum of 25 feet to allow vehicular and pedestrian access.

3. Side setbacks shall not be required.

4. A minimum of 10 foot rear yard setback shall be provided from the midpoint of the alley, except that the Planning Board may allow this setback to be reduced or eliminated. In the absence of an alley, the rear setback shall be equal to that of an adjacent, preexisting building.

5. First-floor awnings may encroach upon the frontage line and public sidewalk, but must avoid the street trees; provide at least 8 feet of clearance above the sidewalk; and be set back a minimum of 2 feet from the road curb.

6. Upper-floor awnings shall be permitted only on vertically proportioned windows, provided that the awning is only the width of the window, encroaches upon the frontage line no more than 3 feet, and is not used as a backlit sign.

7. Loading docks and service areas shall be permitted only within rear yards. Doors for access to interior loading docks and service areas shall not face a public street.

8. All buildings shall have their principal pedestrian entrance on a frontage line.

ORDAINED this ______ day of __________, 2017 to become effective 7 days after publication.

____________________________
Mark Nickita, Mayor

____________________________
Cheryl Arft, City Clerk
REZONING APPLICATION

1. 469-479 S. Old Woodward Ave. (former Mountain King) - Request to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building

Chairman Clein said that judging from all of the letters that have been received related to this project, it is very clear that the residents of Birmingham Place oppose the rezoning. All of the letters will be added to the record.

Ms. Ecker explained the applicant for 469-479 S. Old Woodward is requesting that the Planning Board hold a public hearing to consider the rezoning of the property from B-3 (Office Residential) and D-4 (Downtown Overlay) to B-3 (Office Residential) and D-5 (Downtown Overlay). The applicant is seeking the rezoning to allow for the construction of a nine-story mixed-use building with three levels of underground parking in between the Birmingham Place and the 555 Building. The maximum height allowed in the D-4 Zoning District is 4-5 stories. In the D-5 Zoning District, developers may build as high, but no higher than the adjacent buildings which are located in the D-5 Zone. The 0.423 acre subject site spans Hazel St. from S. Old Woodward Ave. to Woodward Ave. The site currently contains two vacant single-story commercial buildings (formerly Mountain King Restaurant and Talmer Bank). The applicant is proposing to demolish the present buildings for the construction of a ten-story mixed-use building.

The applicant has noted that when the zoning was changed down to one or two floors in the 1970s, the 555 Building and Birmingham Place were designated to a legal non-conforming use because their height was not allowable. Ultimately, the zoning was changed to D-4 in 1996 by the adoption of the 2016 Plan and the Downtown Overlay that raised the height up to a maximum of five stories Downtown. In 2017, a new D-5 Zone was created to bring the 555 Building, the Merrillwood Building and Birmingham Place into a legal conforming status. The subject property is located between Birmingham Place and the 555 Building, both of which are zoned D-5 currently.

Ms. Ecker went through the three items that the applicant must demonstrate for the rezoning of a property and the applicant’s reasons as to how they feel they have met them.

Ms. Ecker then went through the planning analysis based on the evidence provided by the application. Based on a review of the rezoning application and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents, current zoning and recent development trends in the area, the Planning Dept. finds that the applicant meets the established ordinance requirements to qualify for a rezoning of the property from D-4 to D-5 in the Downtown Overlay District for the purpose of building as high, but no higher than, the building to the north, Birmingham Place.

Answering Mr. Boyle, Ms. Ecker said the Master Plan which dates back to 1980 did not give specific height requirements like the 2016 Plan recommended. Under the 2016 Plan the recommended height in the Downtown was a maximum of five stories. The 555 Building
submitted an application to the City and to the Planning Board to consider creating a new category that would make them a legal and conforming building that would allow them to receive financing to renovate the building and bring it up to current standards in the marketplace. The D-5 Ordinance was crafted by the Planning Board as a result of that application and included the other two buildings in a similar situation.

Mr. Rick Rattner, Attorney, Williams, Williams, Rattner & Plunkett, PC, emphasized that in the D-5 going above five stories subjects the property to a Special Land Use Permit ("SLUP") which is different than just building as of right. Secondly, in 2016 Andres Duany commented favorably on the 555 Building and on Birmingham Place.

He presented a PowerPoint that went to four issues that have to do with rezoning:

- **Rezoning Amendment** - Sec. 7.02 (B) (2) (b) (i)-(iii) requires that as part of an application for rezoning, the petitioner should address certain issues to be considered by the Planning Board and the City Commission.
- **Sec. 7.02 (B) (2) (b) (i)** - An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership. Without the ability to go higher with a new building than the zoning allows, the applicant will not have the required area within which to locate a mix of uses that would commonly be associated with the design of a modern, mixed-use building.
- **Sec. 7.02 (B) (2) (b) (ii)** - An explanation of Why the Existing Zoning Classification is No Longer Appropriate. It is reasonable for the subject property to share the same zoning classification as its surrounding neighbors. Given the location of the subject property sandwiched between two properties in the D-5 Zone, the D-4 Zone is no longer appropriate.
- **Sec. 7.02 (B) (2) (b) (iii)** - An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties. The proposed rezoning will enhance the entire area by allowing it to be developed as an attractive part of the S, Old Woodward gateway and bring that area into compliance with the spirit and intent of the 2016 Plan.

Mr. Rattner concluded by asking the Planning Board to favorably recommend that they are able to use their property and preserve their rights of usage, fit into the streetscape, fit the Master Plan and fit all elements of this Ordinance because they meet every single one of them.

At 8:45 p.m. the Chairman opened the meeting to public comments.

Ms. Susan Friedlander, 1564 Henrietta, attorney for Birmingham Place Residential Condominium Association, made the following points:

- The City created the D-5 District for a singular and special purpose which was to bring several buildings into conforming status.
- The proposed building is not sandwiched between the 10-story Birmingham Place and the 15-story 555 Building - there is Hazel, a 50 ft. right-of-way that provides a proper transition between buildings. There is not even a height difference, because the building that is immediately adjacent to Hazel is 77 ft. tall. So if this proposed building went up to 80 ft, which it is allowed to do under D-4 it would be very consistent with the building right across the street. There would be a perfect transition. It would only be 34 ft. shorter than Birmingham Place.
• If the proposed building is zoned D-5, what about the building on the north, the Powerhouse Building, Jax Car Wash or the Varsity Building. Why shouldn't they get the D-5 Zoning as well?
• There is a process that must be followed so that property is not rezoned on an ad hoc and an arbitrary basis.

Mr. Tom Lasky, 2006 Cole, spoke in support of the rezoning request. This is the face of new Birmingham and will be done responsibly.

Mr. Mike Humphrey, who lives in Birmingham Place, said there is nothing in the record that shows that the D-5 Overlay was created to do anything other than to make the three tall existing buildings legal and conforming. The developer bought the property knowing how it was zoned; but now they say that they cannot develop a four or five-story mixed-use building there. If the City is going to change the Master Plan, go for it, but do it with professional study and community involvement; not a piece at a time.

Mr. David Nykian, 40700 Woodward Ave., said he represents some of the owners in the Birmingham Place Condominium. He believes the facts lead to the conclusion that the D-4 Zoning is actually clearly appropriate for this property:
• The D-5 District was created just to address the non-conformities of three buildings. So the City has already made the decision in the past as to what zoning is appropriate for this site.
• Nothing about the property has changed since then that should cause the City to alter its conclusion about what the appropriate height is.
• The height of the 555 Building on the north is 77 ft. So if the subject site were developed today under D-4, it could be taller than the 555 Building.
• Breaking up the building heights would provide more of an architectural character to the City than one monolithic height across the entire street.
• There is nothing under the D-4 Zoning classification that would prohibit the developer from developing a mixed-use development.
• The only things that would change by amending the classification from D-4 to D-5 are the height of the building and the profit margin of the developer.

Mr. Mickey Schwartz, 411 Old Woodward Ave., stated that infill has nothing to do with height equality. So he thinks the developer has to have a better excuse for building a 10-story building. The small town feeling is what is unique about Birmingham. Deny the rezoning request.

Dr. Cynthia Neil, a resident of Birmingham Place, said she was deeply offended by the petitioner's statement that the development would not adversely affect the residents. From her balcony she would be able to bounce a tennis ball against the wall of the proposed building.

Mr. Chris Jonna, C&P Real Estate Group, spoke in support of the project. The applicant builds nothing but first-class buildings. Increasing the zoning classification will be a tremendous benefit to Downtown Birmingham by bringing in more people to the area.

Mr. Lewis Rockind, a resident of Birmingham Place, emphasized that the zoning has to be contemplated in the context of what is intended to be developed. As a resident of Birmingham
Place he is looking at the detrimental effect on the surrounding properties of increased vehicle and pedestrian traffic.

Mr. Daniel Jacob, 261 E. Maple Rd., said he is 100% in support of the project. The intended use of the property is much needed and would be a huge benefit to the City. Birmingham is changing and this project moves with the times.

Mr. Joseph Shalala, 255 S. Old Woodward Ave., spoke in support of the proposed building. It will support all of the small businesses by bringing in people such as office, residential, and hotel users. All of those things combined will help Birmingham.

Ms. Tony Schwartz, 411 Old Woodward Ave., maintained that it is the height of the building that is in question here, not its quality. Secondly, traffic is a big problem on that corner. There is a new hotel that is starting to be built on the corner of Brown and Old Woodward which will add more traffic to that corner. She understands there may be a pool deck on the top floor of the proposed building - who is going to control music and noise and parties. She lives right across on the tenth floor.

Chairman Clein advised that concerns related to traffic and noise are not part of a rezoning but would be handled under a Site Plan Review, and should this be moved forward to a rezoning the applicant would be required to obtain a Special Land Use Permit ("SLUP") which allows the City Commission to put additional restriction on the uses of the building.

Mr. Duraid Markus, one of the partners in the ownership entity for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank), said if this happened in New York, Chicago or LA there would not be a single skyscraper built. He noted that everybody who opposes this is only one contingent, and it has not been the entire City that comes in to support or not support. It makes sense to build where the project is harmonious and fits in with the rezoning proposal. For those reasons he asked the board to consider all of the comments and make the decision to allow them to rezone the parcel.

Ms. Wilma Thelman who lives in Birmingham Place said none of them have heard why a conforming building cannot be built on that site.

Mr. Jeffares noted that things change and now Birmingham holds 21 thousand people. Secondly he recalled that the Board did discuss rezoning the subject property; however there was nobody from there to make their case so the Board just rezoned the existing buildings.

Mr. Koseck advised that D-4 Zoning allows a building to be built to 80 ft. So it will already block six floors of Birmingham Place. He did not believe the applicant's contention that they cannot make a five-story building work. He thought that a five-story could be a successful mixed-use building. In some ways it might even fit the form and the transition better and the upper three floors of Birmingham Place will not be affected.

Ms. Whipple-Boyce said when the Board established the D-5 Zoning Classification she felt it applied to three specific buildings. In her mind it had to do with bringing non-conforming buildings into conformity so that they could qualify for financing and improve their properties.
Thinking about some of the other properties that could be affected down the road that are adjacent to other properties like this is an unanswered question for her. It causes her to hesitate tonight on recommending the rezoning to D-5.

Mr. Boyle made the following points:

- The Master Plan is meant to have the ability to adapt to changing circumstances. Similarly, zoning is powerful when it is able to adapt. So, change is normal; it is not frequent, but it is usual.
- He was positive about the potential impact on the City as a whole of rezoning this property.
- The potential impact of rezoning on the contiguous properties will affect a number of people. The Board is here to determine who has the weight in this particular discussion, the entire City or the adjacent neighbors.
- There are checks and balances built into the system. If the rezoning were to be approved, the community would have two elements to be brought to the table. One would be the Site Plan Review process, and secondly the height would kick in the SLUP where the Planning Board can recommend controlling modifications to the City Commission who will hold a public hearing on the proposal.
- At the end of the day he is of a mind to approve the rezoning because overall he sees the benefits for the City and for this particular area. However, he does not underestimate the cost for the immediate residents in the contiguous building.

Ms. Ramin stated one of the burdens the applicant must carry to justify rezoning is an explanation of why the existing D-4 classification is no longer appropriate.

Mr. Duraid Markus said they cannot get in a hotel concept on this little parcel so they have to go vertical by a couple of floors. He has to be honest, it is the economics. He cannot get a development off the ground. They are not in the Parking Assessment District and are therefore limited by the required parking for an office building or a restaurant.

Answering Mr. Emerine, Ms. Ecker explained that anyone on any site on any site can apply for a rezoning to any of the existing zoning classifications.

Chairman Clein commented that rezoning is the most difficult thing the Board has to do - balancing the rights of adjacent land owners. To Ms. Ramin's point, the burden has not been met as to why a five-story building will not work. The answer that was given was economics, which has no place in a rezoning discussion. Therefore, he is not supportive of the rezoning.

Mr. Jeffares said he cannot come up with a reason for the height of the proposed building to be lower.

Ms. Whipple-Boyce indicated she has no problem with the subject building being built as high as Birmingham Place. But she doesn't think the applicant has made the case that they deserve to be rezoned and that the current zoning classification is no longer appropriate. She was appalled to hear the applicant say they bought this property and the only thing that will work there is a ten-story hotel and it should be rezoned because that is what they want to build. Therefore she doesn't think the applicant has proved their case.
Mr. Rattner noted that maybe the best thing for them to do is to ask for postponement so they can come back with a different plan. Chairman Clein stated that for him postponing would just be kicking the can down to another meeting. Mr. Boyle said he is in favor of not accepting that proposal and actually making a motion this evening.

**Motion by Mr. Boyle**
Seconded by Mr. Jeffares that based on a review of the rezoning request and supporting documentation submitted by the applicant, a review of the applicable Master Plan documents and the development trends in the area, the Planning Board recommends APPROVAL to the City Commission for the rezoning of 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

There were no comments from the public on the motion at 10 p.m.

**Motion failed, 2-5.**

**ROLLCALL VOTE**
Yeas: Boyle, Jeffares
Nays: Clein, Koseck, Emerine, Ramin, Whipple-Boyce
Absent: Share, Williams

**Motion by Ms. Whipple-Boyce**
Seconded by Mr. Koseck to recommend DENIAL to the City Commission of the applicant’s request for the rezoning of the property at 469-479 S. Old Woodward Ave. from D-4 to D-5 in the Downtown Overlay.

**Motion carried, 5-2.**

**ROLLCALL VOTE**
Yeas: Whipple-Boyce, Koseck, Clein, Emerine, Ramin
Nays: Jeffares, Boyle
Absent: Share, Williams
Figure 5
Trip Distribution - Valet

Proposed Mixed-Use Development
City of Birmingham, MI
June 22, 2018

Jana Ecker, Planning Director
City of Birmingham (MI)
151 Martin St.
P.O. Box 3001
Birmingham, MI 48012-3001

Dear Jana:

I am following up on our communications in regards to residents at 411 S. Old Woodward known as Birmingham Place and their concerns with fire protection. The proposed project at 469-479 S. Old Woodward is potentially going to be a nine story building, built very close to the South side of Birmingham Place. Their concern is the fire department’s ability to fight a fire at Birmingham Place if the proposed project does not allow aerial operations on the South side of the building.

Though we would not deploy our aerial truck for operations on the South side of the building, we do have access from both the East and West sides of the building. Our aerial truck has an extended 100’ ladder which would reach approximately six to seven stories based on the distance the aerial is positioned, due to this most high rise fires are fought from the inside of a high rise building. The Birmingham Place has a fire pump to increase pressure to upper floors, fire suppression sprinklers that when activated would extinguish a fire or contain the spread of the fire, standpipes at each floor allowing firefighters to connect hose lines to fight a fire and a fire alarm which would alert residents of the building. The exterior of the building is of a material that is non-combustible and smoke alarms throughout the building. Our officers and firefighters are well trained to aggressively attack a fire in a high rise building. There should be no concerns that the proposed project would hinder fire operations in the Birmingham Place.

I hope this letter will help ease the concerns of our residents as the Planning Board and other stakeholders discuss the proposal and the future of the site. Please let me know if I can assist you in any other way.

Sincerely,

John M. Connaughton, Fire Chief
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

RE: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable ‘gap’ between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity - while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the D5 zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Thank you for your attention herein. As always, should you have any question or require any additional information, please do not hesitate to call me directly. I remain,

Very truly yours,

THE ABRO LAW FIRM

GA/gja
David Breedlove  
85 Tradd Street  
Charleston, SC. 29401  

June 20, 2018

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)  

Ladies and Gentlemen:  

I am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project referenced above. I am no longer a resident of Birmingham but maintain a condominium in Birmingham. Birmingham has been my home for most of my 70 years since my parents bought their first home on Villa in 1949. I remember visiting Pearls for a nice Chinese dinner. So, I know the area well. And while we moved from our home on Lincoln to warmer weather after retirement, Birmingham will always be home. I have watched how the character of the town has changed over the last 65 years. I was sad when the City allowed 555 to be built. I will always believe it was a mistake. We do not need another mistake.

I was encouraged when the City leaders realized they needed to protect the character and feel of the city. There was no place for skyscrapers in Birmingham. The city’s 2016 Master Plan recognized the need to control the height of new buildings in the city center. I think they have done an excellent job over the last twenty years.

I have watched in my new home, Charleston, as real estate investors have tried to come in and build one more hotel and destroy what makes Charleston attractive. It is an on-going battle. You are faced with the same economic pressures and arguments I hear in Charleston. It is just one more hotel. There are already buildings of similar height in town. The city needs more hotel rooms. It will generate more business in town. The arguments are always the same and unfortunately, so are the results. The town becomes more impersonal. Small businesses are replaced by those that cater to the transient visitors. Residents must go elsewhere to shop.

As city commissioner, you must protect what you have today and what makes Birmingham so attractive as a place to live, work and raise a family. It is unique place in southeast Michigan, beautiful neighborhoods surrounding a friendly and inviting downtown.

I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept I firmly believe is very important to
maintaining the character and long-standing plan for this beautiful city. If someone wants to build a 9 or 10 story hotel, let them go to Troy or Southfield.

The city's 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest, Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population. Approving a change to the zoning will open the door for the next developer to come in and argue for a similar change. What is the argument against building a high rise on the North side of Birmingham Place? Across the street?

I cannot assess the technical implications of the proposal such as traffic, impact on city services, disruption of business during construction and impact on surrounding structures. I leave that to the Commissioners and their technical experts. The parties who purchased the reference property knew the zoning at the time. They are calculating they can change the City Commissioner's minds. They are not concerned with the long term implications to the city but only how to maximize return on their investment. I sincerely hope their calculations are wrong. Another high rise in the southern end of town will ruin the neighborhood feel and open the door for more rezoning requests.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve what is a beautiful and people friendly city.

Yours very truly,

David Breedlove
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable ‘gap’ between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the D5 zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Jacques Van Staden - Founder & CEO  
176 S. Old Woodward Ave  
Birmingham, MI 48009
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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9. Contribute to the economic vitality of the City of Birmingham.
For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

[Signature]

Scott S. Yaldo, Esq.
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete and old one-story buildings that sit between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.
10. This project would continue to make the City of Birmingham the premier city to live and shop
For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

[Signature]

Kevin Denha
40700 Woodward Ave Suite 125
Bloomfield Hills, MI 48304
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

June 20, 2018

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

ISHBIA & GAGLEARD, P.C.

Jeffrey A. Ishbia
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Brian Najor
Najor Companies
600 N. Old Companies, Ste 100
Birmingham, MI 48009
6/20/18

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

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For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Joseph Jonna, Jonna Luxury Homes
June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

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Very truly yours,

RANDAL TOMA & ASSOCIATES, P.C.

[Signature]

Randal S. Toma
Attorney at Law
Lexi Drew  
152 N Old Woodward  
Birmingham, MI 48009  
248.220.1731

Date 6/20/2018  
Birmingham City Commission & Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue  
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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

[Signature]

Kevin Kejbou  
152 N Old Woodward  
Birmingham MI 48009
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable ‘gap’ between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the D5 zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

David Hesano
First Vice President
David.hesano@cbre.com
6/18/2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

John Kello
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Anthony Toma
CEO & Founder
Nine9
2653 Industrial Row Dr.
Troy, MI 48084
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

RE: Proposed Project at 469-479 S Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Gregg Speaks
Managing Director
CIBC Bank USA
34901 Woodward Avenue, Suite 200
Birmingham, MI 48009
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Nason Kassab
35270 Woodward Ave
Birmingham, MI 48009
June 21, 2018

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

Jonna Construction is a builder and investor in Downtown Birmingham.

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings. The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.
For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Frank G. Jonna
6200 2nd Ave., Suite D-102
Detroit, MI 48202
June 20, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

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7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

[Signature]

Joseph P. Vicari
7096 E. 14 Mile Rd.
Warren, MI 48092
June 21, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members:

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

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8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

The Elia Group, LLC

[Signature]

Zaid D. Elia, President
Edwin B. and Felicia P. Shaw
411 South Old Woodward Ave. Unit #910
Birmingham, Michigan 48009

June 12 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city’s 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest, Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:
1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city’s already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the “four stack” valet service recommended by the developer’s own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project’s plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City’s own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer’s traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation (“digging half way to China,” as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Edwin B. Shaw

Felicia P. Shaw
Fwd: Proposal for a 9 story building on S. Old Woodward, Birmingham

1 message

Stuart Jeffares <stuartjeffares@gmail.com>
To: Jana Ecker <jecker@bhamgov.org>

Wed, Jun 13, 2018 at 9:52 PM

---------- Forwarded message ----------
From: Julie Wolfe <julie@moosejaw.com>
Date: Sun, Jun 10, 2018, 1:08 PM
Subject: Proposal for a 9 story building on S. Old Woodward, Birmingham
To: Julie Wolfe <julie@moosejaw.com>

From: Julie Wolfe

411 S. Old Woodward #1021
Birmingham, MI 48009

6/10/18

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009
Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally not zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. More construction to this area is very disturbing and frustrating. The city has been torn up enough.

Thank you.

Julie Wolfe
Fwd: 469-479 S. Old Woodward Ave. (the "Proposed Project") Objection

Stuart Jeffares <stuartjeffares@gmail.com>  
To: Jana Ecker <jecker@bhamgov.org>

Wed, Jun 13, 2018 at 9:52 PM

---------- Forwarded message ---------
From: Alice Lezotte <zareyskid@gmail.com>
Date: Sun, Jun 10, 2018, 12:53 PM
Subject: Fwd: 469-479 S. Old Woodward Ave. (the "Proposed Project") Objection
To: <stuartjeffares@gmail.com>

Sent from my iPad

Begin forwarded message:

From: Alice Lezotte <zareyskid@gmail.com>
Date: June 10, 2018 at 12:47:33 PM EDT
Subject: 469-479 S. Old Woodward Ave. (the "Proposed Project") Objection

411 S. Old Woodward, #511
Birmingham, MI 48000
June 8, 2018

Mr. Jeffares, I am a city of Birmingham constituent. I would like to express my disapproval and opposition to the request for rezoning and to the Proposed Project itself.

The Birmingham city code has many statements to keep in mind when considering a new city project (I paraphrase):

1. Regulation and control of a project should promote the public health, safety, and general welfare of the city
2. Provide orderly growth and HARMONIOUS development
3. Secure adequate traffic circulation and "lessen" congestion on our streets
4. Ensure adequate provisions for water drainage, sanitary sewer facilities, and other health requirements
5. Achieve the maximum utility and "livability" of a project
6. Natural features must be preserved and changes should "add" to the attractiveness and "value" of the neighborhood
7. Any Proposed project should take into consideration as to the impact on adequate supply of light and air to adjacent properties and the capacity of essential public facilities, such as police and fire protection, drainage structures, municipal water, sanitary sewers, and refuse disposal

Wise decisions have been made in the past (e.g., Forefront, Bristol, etc.) in accordance with The city's 2016 Master Plan and our Building Codes.
It is my hope similar consideration will prevail and this proposal will be denied.
Maple Road and Woodward on the south east corner would be an ideal location for this proposed project.
We want to keep our "Walkable" community as safe and pleasant as possible.
Best regards,
Alice Lezotte
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city’s 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest, Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:
1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. We also suggest that the Proposed Project would unduly burden our city’s already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the “four stack” valet service recommended by the developer’s own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project’s plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City’s own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer’s traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation (“digging half way to China,” as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, we sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Eric Sterling

Janis Sterling
411 S. Old Woodward Ave., Unit 1018  
Birmingham, MI 48009  
May 16, 2018

VIA HAND DELIVERY

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

Re: 469-479 S. Old Woodward Avenue (the “Proposed Development”)  
Request to Rezone from B3/D4 to B3/D5 Filed by Christopher Long  
on Behalf of Birmingham Tower Partners, LLC (the “Applicant“)  
Hearing Scheduled for Wednesday, May 23, 2018 (the “Hearing”)

Dear Ms. Ecker:

I request that the Hearing be rescheduled for two (2) reasons. First, I received notice of the Hearing by mail on May 8, 2018 and visited the City Planning Office on Friday, May 11, 2018 to review the application. As of that date, the Applicant had not filed the statements required under subsection 7.02 B.2.b of the Rezoning Amendments (i.e., explanations of why rezoning is necessary, of why the existing zoning classification is no longer appropriate, and of why the proposed rezoning will not be detrimental to the surrounding properties). I suggest that failure to timely file those explanations caused the notice of the Hearing not to meet the fifteen (15) day advance notification required under subsection 7.02 B.4.a.i of the Rezoning Amendments.

Second, as a Birmingham resident living adjacent to the Proposed Development, I would appreciate time to review the very extensive documents filed by the Applicant. I suggest that public input is critical on a project that seeks to permission to erect the first building greater than five (5) stories to be built in downtown Birmingham in decades, which could well set a precedent for continuing development of high rise structures in our beautiful community. Substantial additional time will be required for myself and the many other Birmingham residents who are affected by the Proposed Development to adequately review and to respond to these filings.

Please contact me at the above address, via email to mickeyschwartz@gmail.com, or at telephone numbers (248) 229-9989 or (248) 593-3155 with any questions or further requirements and in any event with the new hearing date. Thank you for your time and attention.

Yours very truly,

Michael Schwartz, MD

xc: Applicant (via email to dmarkus@yahoo.com)  
Planning Board Members (via separate emails)
411 S. Old Woodward, Suite  
Birmingham, MI 48009  

June 15, 2018

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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Yours very truly,

Michael [Signature]

Tom Schwartz

411 S. Old Woodward

B’ham 38009
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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[Signature]

[Signature]

E.A. Elsholz
411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]

Unit 606
411 S. Old Woodward Ave
Birmingham, MI 48009
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

June 15, 2018

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

Ralph Boyll
Rose Boyll

06/08/18
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

Eunice Galperin
411 S. Old Woodward, Suite  
Birmingham, MI 48009  

June 15, 2018  

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)  

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Yours very truly,

Vandad Raofi

and

Negar Farhi
Unit # 703
411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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[Signature]
Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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[Signature]

[Signature]
June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]

Gary Asbeck

605 Purdy
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

June 15, 2018

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Carol Kozlow

[Signature]
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally not zoned as D5, despite being located between two of the D5 buildings.

We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

[Signature]

Bev Ross
Birmingham, MI 48009

June 18, 2018

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

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Yours very truly,

Susan Borman

Judge Susan O. Borman (Retired)
411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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Yours very truly,

Erin Mellott
ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]

Jay Hack
1376 Smith Ave.
Birmingham, MI 48009
411 S. Old Woodward  
Birmingham, MI 48009  

June 19, 2018  

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)  

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Yours very truly,  

Dana Bassipour
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

June 15, 2018

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

June 14, 2018

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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Yours very truly,

Catherine Brozek
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]

Unit #514
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

June 15, 2018

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]

Alex [Name]

# 514
411 S. Old Woodward, Suite 603
Birmingham, MI 48009

June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

Stuart Glasier
June 8, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

Alice Legate #571
April 2023

411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Ted Elsholz
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. We believe that a 9-story building on this 0.41-acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city’s 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest, Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, we have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.
2. I also suggest that the Proposed Project would unduly burden our city’s already hard-pressed police and public safety/rescue facilities.

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Yours very truly,

[Signature]

Nikole Fine
Unit #521
ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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[Signature]
ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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Yours very truly,

[Signature]

955 Broad Birmingham, MI 48009
ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Signature]

1115 Old Woodward
Unit 624
Birmingham, MI
Jana,

Could you please let the Planning Board know my thoughts on the rezoning request for the former Franklin/First Place/Talmer bank building and Chinese restaurant on Woodward/Old Woodward?

I don't know why that property was not included in the D5 rezoning that occurred several months ago, but it should have been. Birmingham Place is nine stories, and the 555 building is 15. I can't imagine that the city would not allow something of similar height and mass to occupy the space between these two projects.

Beyond that, I think the city ought to insist on a project that brings some vitality to Old Woodward and the side street (Hazel), which are now dead zones. Either that, or just vacate Hazel insist on a use that is advantageous to the city.

My two cents, which are worth at least a nickel, I think.

Cheers!

Clint
411 S. Old Woodward, Suite # 901
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Helen O. Kane
Owner
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

June 15, 2018

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally not zoned as D5, despite being located between two of the D5 buildings.

I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

[Signature]

[Name]

411 S. Old Woodward, Suite 529
Birmingham, MI 48009
411 S. Old Woodward, Suite  
Birmingham, MI 48009  

June 15, 2018  

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)  

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Yours very truly,

[Signature]
Birmingham Place, unit #529
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Yours very truly,

[Signature]

[Address]

[Date]
June 25, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: Proposed Project at 469-479 S. Old Woodward Avenue

Dear City Commission and Planning Board Members,

I am writing to express my strong support for the ‘Re-Zoning Request’ for the Mixed-Use Project that is proposed for 469-479 S. Old Woodward Avenue.

The proposed project will replace two obsolete one-story buildings that are sandwiched between two high-rise, mixed-use buildings - Birmingham Place (to the north) which is 9 stories and the 555 Building (to the south) which 15 stories. The City would benefit if these one-story buildings were redeveloped in a way that matches the scale and use of these adjacent buildings.

The project that has been proposed for this in-fill site should be approved because it would be appropriate for this parcel of land. If allowed to be built, the project would:

1. Be in harmony with the pattern of the neighboring buildings by filling in the noticeable ‘gap’ between them, which can be seen from both South Old Woodward and Woodward Avenue.
2. Be consistent with the building heights, uses, and character of Birmingham Place and the 555 Building.
3. Increase the walkability of this area by providing retail at the street level, and by strengthening the retail connection between Birmingham Place and the 555 Building.
4. Add foot traffic (shopper & travelers) to the south end of the city by encouraging foot traffic from the downtown to continue on the completed blocks.
5. Activate Hazel Street in perpetuity – while currently busy with construction bypass traffic, Hazel is an otherwise dormant street (which is vacated on the east side of Woodward Avenue).
6. Adhere to the spirit and intent of both the 2016 Master Plan and the DS zoning overlay.
7. Provide the required parking onsite and not rely on street parking (as the existing restaurant and bank do).
8. Be consistent with fundamental planning and land use principles.
9. Contribute to the economic vitality of the City of Birmingham.

For the above stated reasons and more, I respectfully request that the City Commission and Planning Board respond favorably to the re-zoning request and the proposed plans for this development.

Sincerely,

Derek Dickow
211 E Merrill St., 504
Birmingham, MI 48009
June 27, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin St
Birmingham, MI 48009

I am writing to express my strong support for the Re-Zoning request for the mixed use project being proposed for 469-479 S. Old Woodward Ave.

The proposed project will fit in nicely with its neighbors on either side, bearing in mind, each of which are 9 and 15 stories in height. With this development, rather than the present one story buildings, we will now have a building matching the scale, character and use of those buildings on either side.

Additionally, the proposed project would most certainly attract a greater amount of people to the south end of town, and no doubt also throughout the town, while adding retail shopping, thus tying into the already existing retail in the two neighboring buildings. Perhaps one of the most advantageous parts of the project, will be the alleviation of the necessity to accommodate parking on the street, as a result of the parking that will be provided on site.

This project is a win-win, and should be approved for re-zoning in the most hasty of manners, continuing Birmingham’s lead in cutting edge developments, as we continue to see the increasing competition for tenancy from our neighboring cities.

Sincerely,

Peter R. Sobelton
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

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Yours very truly,
June 27, 2018

VIA HAND DELIVERY

John M. Connaughton, Fire Chief
572 South Adams
Birmingham, MI 48009

Re: Proposal to Rezone 469-479 S. Old Woodward Avenue

Dear Chief Connaughton:

I am writing, individually and as an officer and director of the Birmingham Place Residential Condominium Association, in response to your letter of June 22 Jana Ecker. A number of residents here discussed this matter with Joel Campbell and wish we had been sent a copy of the letter, but at least we got it as part of the agenda for tomorrow night’s Planning Board hearing.

In any event, we have some serious concerns with this situation in general and with your letter in particular, which include:

1. The proposed new building is not planned to be built “very close to the South Side of Birmingham Place” but rather is proposed to literally abut the southerly walls of Birmingham Place. This may not have a direct bearing on fire issues, but it does raise other issues and should, in any event, be stated accurately.

2. We understand that the fire equipment currently has some, albeit limited, access to Birmingham Place from Hazel Street. Your letter correctly states that you “… would not deploy our aerial truck for operations on the South Side of the building,” but it fails to note that the proposed building, which would be 22 feet taller than Birmingham Place, completely eliminates whatever access is currently available from Hazel Street.

3. Your letter also states “… we do have access from both the East and West sides of the building.” If the proposed building is built, a review of the drawings makes it clear that there would, in fact, be no fire equipment access whatsoever to most, if not all, of the residential and office units on the southerly part of Birmingham Place from the east side and only limited access to these units from the west side.
4. Current access from the west side also includes an alley running from Woodward Avenue to the rear of 469 S. Old Woodward. While this alley might well not accommodate larger fire trucks, it certainly provides some access to some equipment, which would be completely cut off by the proposed building.

5. We agree completely with the balance of the second paragraph regarding fighting "high rise" fires from within the building and also detailing the helpful fire fighting fixtures and equipment in Birmingham Place. Nevertheless, the simple fact remains that fire protection for Birmingham Place (and more importantly, the people who live and work here) will be less than it was if the proposed building is built as planned.

Our bottom line, so to speak, is that fire protection to at least the southerly portion of Birmingham Place would be reduced if the proposed building were allowed, and we have to ask you, as Fire Chief, how much increased risk for the sake of new development that hopes to maximize and increase the currently allowable building size is acceptable. The increased risk can easily be avoided by the City denying the rezoning request and maintaining the status quo. The value of adding several stories to a building pales in comparison to any increased risk to the health, safety and welfare of the Birmingham Place residents and occupants as well as the firefighters tasked with protecting the residents and occupants.

We request that you very seriously reconsider your position on this matter and advise both the Planning Board and the City Commission of the same, preferably before the meeting tonight but in any event at your first opportunity. Thank you for your time and attention. Best regards.

Yours very truly,

Michael D. Umphrey

xc: All Birmingham Planning Board Members (via hand delivery)
All Birmingham City Commissioners (via hand delivery)
411 S. Old Woodward, Suite  
Birmingham, MI 48009  

June 15, 2018

Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city’s 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.
2. I also suggest that the Proposed Project would unduly burden our city’s already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the “four stack” valet service recommended by the developer’s own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project’s plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City’s own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer’s traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

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Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

[Signature]

Unit 606
411 S. Old Woodward Ave
Birmingham, MI 48009
ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

[Handwritten signature]

Michael L. Smith

Don Schwartz

411 S. Old Woodward

B’ham 48009

4/10/18
Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

June 15, 2018

Re: 469-479 S. Old Woodward Avenue (the "Proposed Project")

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I believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept I firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. I respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

[Signature]

[Note: The handwritten signature appears to be "Megan White" and the handwritten number "505".].
June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am writing, as the owner of a residential condo unit in Birmingham Place, to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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Yours very truly,

Michael Hanna
411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Yours very truly,

Valerie Sorey
411 S. Old Woodward Ave
Unit 508
Birmingham MI
48009
June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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I am writing, as the owner of three residential condo units in Birmingham Place, to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

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Doris Hanna
June 19, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

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Mooussa Hanna
Birmingham City Commission
Birmingham Planning Board
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Birmingham, MI 48009

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Yours very truly,

Mark D. Rubinstein
268 Pilgrim
6/23/18

Athene R. Rubinstein
268 Pilgrim
6/23/18
Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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[Signature]

[Address]
411 S. Old Woodward, Suite
Birmingham, MI 48009

June 15, 2018

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Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

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3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the “four stack” valet service recommended by the developer’s own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project’s plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City’s own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer’s traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation (“digging half way to China,” as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

[Signature]

411 S. Old Woodward Ave
Unit 508
Birmingham, Michigan
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009  

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city’s 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest. Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, I have serious safety and other concerns, including:

1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.
2. I also suggest that the Proposed Project would unduly burden our city's already hard-pressed police and public safety/rescue facilities.

3. Hazel Street is already a busy connector between Woodward and Old Woodward, especially at rush hour times. The Proposed Project would literally clog this small street with excess traffic, especially if the “four stack” valet service recommended by the developer’s own traffic study is implemented and if the current four on-street parking spaces are included in the Proposed Project’s plan for adequate parking, as Christopher Longe recently stated to the Planning Board would be the case. We note that the City’s own traffic advisor, Fleis & Vandenbrink, also finds considerable fault with the developer’s traffic study.

4. The demolition and construction time of the Proposed Project would be finite, but during that time, the heavy equipment needed for a project this size would cause construction damage to Hazel Street, Old Woodward and Woodward. Depending on the timing, this could result in at least the repaving work already planned for Old Woodward south having to be redone at a very substantial cost.

5. The Proposed Project will require deep excavation (“digging half way to China,” as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

Dennis W. Liu
ADDRESS:

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally not zoned as D5, despite being located between two of the D5 buildings.

We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

Jackie Pippin
642 Oak Ave
Birmingham 48009
ADDRESS

DATE:

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 460-470 S Old Woodward Avenue (the "Proposed Project")

Ladies and Gentlemen

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival and success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided DS zoning for only three already existing buildings. However, the small parcel for which rezoning is requested was intentionally not zoned as DS, despite being located between two of the DS buildings.

We believe that a three-story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

P. Steven Warren
1996 Stanley Blvd
Birmingham, Mich
48009
Birmingham City Commission  
Birmingham Planning Board  
151 Martin Street  
Birmingham, MI 48009

Re:  469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

We are residents of the City of Birmingham and are writing to express our deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. In 1996, after careful thought and planning, including obtaining outside expertise, and after much time and expense, the city adopted the 2016 Master Plan, which has been crucial to the current revival/success of downtown Birmingham and has been strictly followed for over twenty years. The 2016 Master Plan provided D5 zoning for only three already existing buildings. However, the small parcel for which re-zoning is requested was intentionally not zoned as D5, despite being located between two of the D5 buildings.

We believe that a nine story building on this 0.41 acre parcel would be totally out of place, would violate the 2016 Master Plan and would be inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city. We respectfully ask that you stay the course that has been followed and has been successful for so long. Thank you.

Yours very truly,

LISA A. MARTIN
Birmingham, MI 48009

June 16, 2018

Birmingham City Commission
Birmingham Planning Board
151 Martin Street
Birmingham, MI 48009

Re: 469-479 S. Old Woodward Avenue (the “Proposed Project”)

Ladies and Gentlemen:

I am a resident of the City of Birmingham and am writing to express my deeply felt disapproval of and opposition to the request for rezoning and to the Proposed Project itself. I believe that a 9 story building on this 0.41 acre parcel would be totally out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plan for this beautiful city.

The city’s 2016 Master Plan intentionally left this little parcel zoned to limit building to 4 or 5 stories, and there is no reason to change that well thought out plan that the city has consistently followed for nearly 20 years. Virtually all other developments in this general area (e.g., Bristol, Forefront, Daxton, Brookside, 750 Forest, Peabody, etc.) are consistent with the 2016 Master Plan. It is crucial that the same rules apply to the Proposed Project, which is on footprint smaller than most, if not every, other recent development.

Anything built on this little parcel must be harmonious with the overall downtown design and long-range plans for that part of South Old Woodward. Birmingham was never meant to be, is not and should never be, cast in the mold of larger urban areas with high rise developments that cater to a much bigger population.

The Proposed Project is also esthetically displeasing. Instead of enhancing the Woodward corridor with an attractive entrance, it presents only a blank wall to the passing public. It would also create the hostile appearance of blocking off much of South Old Woodward and beyond by erecting a virtual wall of buildings running from the south end of the 555 residential units through the north end of Birmingham Place, reminiscent of medieval walls built around cities to keep people out, not to invite them in.

In addition, I have serious safety and other concerns, including:
1. Birmingham firefighting capability is limited to 7 stories. This would leave most of the back of the Proposed Project and virtually all of the south end of Birmingham Place with inadequate or no fire protection.

2. I also suggest that the Proposed Project would unduly burden our city’s already hard-pressed police and public safety/rescue facilities.

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5. The Proposed Project will require deep excavation (“digging half way to China,” as Mr. Longe recently expressed to the Planning Board) and heavy equipment and materials, which could seriously jeopardize the structural integrity of Birmingham Place. The developer has not adequately addressed this and has not made provision to repair, or more importantly to prevent, any damage to Birmingham Place.

Thank you for your time and attention, and for, I sincerely hope, your vote to preserve all the great attributes of this beautifully walkable, charming, friendly small city.

Yours very truly,

[Signature]

[Woodward]
DATE: August 3, 2018

TO: Joseph A. Valentine, City Manager

FROM: Leslie Pielack, Museum Director

SUBJECT: Birmingham Museum Grounds Group Use Rules, Application, and Fees

The four-acre site of the Birmingham Museum is one of the most historically and topographically complex in the city. The flower gardens at the Allen house, the steeply sloping lawn, the spring-fed pond and pool, and the woodlands that lead down to the adjacent Rouge River corridor make it a haven for wildlife. It is also unique in the city in that it has historic landscape structures that date to the 19th and the 20th centuries that require protection and preservation. In addition, the entire site and the two buildings (the Allen House and the Hunter House) are part of the city’s Mill Pond Historic District.

The Museum Board has developed guidelines and rules specific to the museum grounds to allow group use within the limits of preserving and protecting the landscape’s natural and historic resources. They are designed to manage the use of the landscape responsibly while permitting public enjoyment. Not every use is compatible with this primary objective. However, recent inquiries suggest that some low impact use is of interest to the community and established rules and procedures would be beneficial for the current landscape and in keeping with the Birmingham Museum Landscape Master Plan.

The proposed rules provide for administrative approval of small group use, with larger groups requiring review first by the Museum Board and then by the City Commission. Fees are proposed for use of the grounds that are consistent with similar fees at Shain Park. Applicants are responsible for following all existing city ordinances and city park rules not otherwise specified by the Birmingham Museum group use rules.

SUGGESTED RESOLUTION:

To approve the Birmingham Museum Grounds Group Use Rules and associated application and fees.
Birmingham Museum Grounds Group Use Rules

The four-acre site of the Birmingham Museum is one of the most historically and topographically complex in the city. The flower gardens at the Allen house, the steeply sloping lawn, the spring-fed pond and pool, and the woodlands that lead down to the adjacent Rouge River corridor make it a haven for wildlife. It is also unique in the city in that it has historic landscape structures that date to the 19th and the 20th centuries that require protection and preservation. In addition, the entire site and the two buildings (the Allen House and the Hunter House) are part of the city’s Mill Pond Historic District.

The following guidelines have been developed to allow group use within the limits of preserving and protecting the landscape’s natural and historic resources. They are designed to manage the use of the landscape responsibly while permitting public enjoyment. Not every use is compatible with this primary objective. The City of Birmingham and/or its designee reserves the right to deny any permit applicant if it deems an activity is not in keeping with this objective.

A permit is required:

- For use of the grounds (see areas below) for any organized group activity of ten (10) or more people, with a maximum number of one hundred (100) people
- Groups larger than 100 will be considered only on a case by case basis by the Museum Board with final approval by the City Commission

The following areas are available for permitted use (see map):

- The paved patio and immediately adjacent lawn and walks on the north side of the Allen House and the Allen House back porch
- The Hill School Bell plaza area between the Allen and Hunter Houses
- The grassy lawn area and slope below the Allen House and the Hunter House, adjacent to Willits Street
- Access to the Allen and Hunter House buildings is NOT part of permitted use of the grounds.

To allow time for complete review, applications must be received by the Museum Director as follows:

- 21 days before a planned activity for 10-20 people (administrative approval)
- 90 days before a planned activity for 21-100 people (Museum Board and City Commission approval)

For your convenience, the following additional documents are attached to these rules:

1. Birmingham Museum Grounds Group Use Permit Application and fee structure
2. Clean up checklist
3. Insurance liability requirement
4. City of Birmingham Parks Rules and Regulations

Conditions of Permitted Use

1. The intent of the group use permit is to allow low impact use of the grounds to enjoy the natural beauty and historic setting. Sports activities, political rallies, outdoor concerts, fund raising events and the like are not appropriate for this park.
2. The Birmingham Museum site is a public park. Any permitted use according to these rules is considered non-exclusive use; the public may not be prevented from access to any area of the grounds. *Applicants are responsible for following all existing city ordinances and city park rules not otherwise specified by the Birmingham Museum group use rules (see attached).* Alcohol is not allowed in any park in Birmingham.
3. Permitted group activities are limited to 4 hours during normal park hours between dawn and dusk, inclusive of set up and clean up.

4. Insurance is required and must be supplied with application (see attached).

5. No permitted use will be allowed that will interfere with normal museum programming, exhibits, or general operations in or around the buildings. Permitted group use is encouraged outside ordinary museum operating hours of Tuesday-Saturday, 1 to 4 pm and 1-8 pm the second Thursday of the month. The City of Birmingham and/or its designee reserves the right to deny the use or the continued use of its facility to any person or organization not in compliance with rules or at its discretion to protect the grounds and buildings of the Birmingham Museum.

6. Access to the museum buildings will not be included in any permitted group use of the museum grounds. A porta jon may be rented for a permitted activity, subject to approval at time of application and must be placed at the north end of the driveway adjacent to the Allen House. The porta jon must be dropped off no earlier than the evening before the event and must be picked up no later than the morning after the event. Porta jon use is non-exclusive; the public may not be prevented from using any porta jon on the museum grounds.

7. Catered food by licensed caterers is allowed with pre-approval by the Birmingham Museum; no cooking of food is permitted on the property, and no flames, fires, sterno, or lit candles are permitted.

8. Parking and vehicle access is not permitted on Willits Street except as currently provided by posted ordinance, or on museum property except for loading and unloading in driveway. Public parking is available at the Chester Street parking deck. Under no circumstances may the handicapped parking area or barrier free paths be obstructed.

9. For any permitted group activity use of the grounds, a minimum of two (2) museum staff must be on site. Museum staff persons are not available to assist with the permitted activity; their purpose is to oversee the safety of the site and the museum. Group use fees reflect the cost of providing these staff.

10. Canopy tents of 12 X 12 may be used. Tents must be stabilized with sandbags; no stakes are allowed. Canopy tents are restricted to the patio area near the Allen House porch and the Hill School Bell Plaza area. No signage of any kind may be placed on the museum premises.

11. Electrical supply requests are subject to review at the time of application and must be requested in advance on the permit application.

12. Children twelve (12) years of age and younger must be under direct supervision of parents/adult guardians at all times.

13. Please be aware that the Birmingham Museum grounds are within a residential area and any amplification of sound is discouraged. Requested sound amplification is subject to review on a case-by-case basis at the time of application and is subject to city-wide standards relating to public noise.

14. In consideration of the environment and of the preservation of the site, nothing whatsoever may be thrown on the premises, e.g., glitter, confetti, rice, bird seed, flowers. No fastening or securing of decorations, lighting, devices or materials on any building, structure, tree or plant is permitted, and no balloons are allowed. Nothing whatsoever can be placed in or around the pool or other water features. No staking or driving of holes or disturbance of the ground for any purpose is permitted.

15. A security deposit is required at time of application. If approved, the fee balance is due within seven days. A clean up checklist must be approved by museum staff the day of the event for return of security deposit (see attached).

16. As the museum grounds is an outdoor setting, no provisions can be made regarding inclement weather. The museum buildings will not be available for participants at an outdoor permitted event.
Blue areas indicate group use locations

1. Allen House Patio and back porch
2. Lawn area (west)
3. Lawn area (east)
4. Plaza area
Application for Museum Grounds
Group Use Permit

Date application received ___________________________  (Note: Application is not a guarantee of final approval)

Name of applicant: ____________________________________________________________

Address: _____________________________________________________________________

Telephone/cell number: ____________________________ Email: _______________________

Type of event or special occasion: ________________________________________________

Describe intended use: ______________________________________________________________________________________________________________

Date requested: _________________ Start time (include set up) : _________ End time (include clean up):___________

Area of grounds requested: (see map) _______________________________________________________________________________________________

No. of expected participants:  ____up to 20*  ____21-100**  ____more than 100 (explain)***:

_________________________________________________________________________________________________

*requires administrative approval; 21 day notice  ** requires Museum Board and City Commission approval; 90 day notice.
***may be considered on a limited basis through review by Museum Board and City Commission, and requires 90 day notice.

Alcohol on site is not allowed in any Birmingham park. Applicant and guests are responsible for following all existing city ordinances
and city park rules not otherwise specified by the Birmingham Museum Grounds Group Use Rules.

Number and proposed location of 12 X 12 or smaller canopies ____________________________________________

Other proposed equipment (e.g., seating, tables) and source: ____________________________________________________________

Porta jon rental (must be placed at extreme back of driveway) ____________________________________________

Proposed outdoor caterer (must be licensed and pre-approved) ____________________________________________________________

Please describe proposed sound amplification ____________________________________________________________

Electrical supply requested: __________________________________________________________________________

Number of participants | Permit Fee-Resident | Permit Fee-Non-Resident | Additional Security deposit
---|---|---|---
Up to 20 | $250 | $500 | $100
21-100 | $400 | $800 | $100
Over 100*** (Additional fees will apply) | $250 |

Please complete this section with application and include a check made out to City of Birmingham
for the required security deposit.  ** If approved, balance is due within 7 days of final approval.**

My permit fee:  $ 

My security deposit:  $ 

Total:  $ 

***Special review and approval on a limited basis only

I agree to abide by the permit requirements and the Birmingham Museum Group Use/Event Rules and understand that
failing to comply may result in revocation of permit or removal from premises and loss of security deposit.

Signature of Applicant/Contact: ___________________________________________  Date: _______________________

Print Name: ____________________________

Administrative Approval: ____________________________________________________________________________  Date: _______________________

Print Name/Title: ____________________________

Museum Board and City Commission approval dates: Museum Board__________ City Commission ________________

Deposit inspection approved by_________________________ Date _______________________

Deposit refund processed by_________________________ Date _______________________

556 West Maple Road • Birmingham, Michigan • 48009 • 248-530-1928 • www.bhamgov.org/museum
This checklist must be completed to the satisfaction of the museum personnel on duty upon completion of the event and before the permit holder leaves the premises in order for a refund to be provided per permit rules. Museum personnel is not available for clean-up.

- All trash and leftover food have been bundled and removed from the museum grounds.
- All equipment not the property of the museum (such as tables, chairs, serving dishes and the like) has been removed from the premises.
- All caterers have completed their clean up.
- No debris has been left anywhere on the premises.
- All areas where food and/or beverages were served have been checked for clean up.
- All areas occupied have been checked for damage, and all damage has been noted below. Damage to plant materials, buildings, structures, and other parts of the museum premises will result in forfeit of the security deposit.
- Museum personnel have noted the following damage:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

The above checklist has been completed to the satisfaction of museum personnel on duty and with the agreement of the renter as to all damage noted.

Signature of Renter or Authorized Representative ___________________________ Date

Signature for Birmingham Museum Staff ___________________________ Date
Birmingham Museum Group Use Insurance Requirements

1. Please attach a copy of your standard certificate of insurance. The required limits and conditions may vary depending upon the scope of the event and the organization of the event sponsor. You will be notified of additional insurance requirements, if applicable, upon completion of the review process. An event-specific insurance rider is required, for the date and purpose referenced in the application, and shall include an endorsement stating the following shall be Additional Insureds: “The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.”

2. A separate Hold Harmless Agreement is required on the event sponsor’s letterhead, with signature of an authorized representative of the organization, with the following language: “Hold-Harmless Agreement: To the fullest extent permitted by law, the (applicant/organization name) and any entity or person for whom the (applicant/organization name) 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 this activity/event. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the city of Birmingham.

______________________________________________________ Applicant Signature.”
1. The use of any facility is at your own risk. The City does not assume responsibility for injury or for any loss, theft or damage to personal items.

2. A person holding a park permit shall maintain such permit in his or her possession at all times while utilizing the municipal facility. Such permit shall be presented by its holder upon request by a City official or employee. A permit does not give its holder exclusive use of the entire park, except for Springdale Shelter.

3. A rental permit is required for reservation of all city facilities which would include rain dates and no refund of the rental fee shall be made due to inclement weather. Park permits may not be assigned or otherwise transferred.

4. All set-up/clean-up must be done by the permit holder.

5. All parks must be maintained and left in a neat and clean condition, with garbage and refuse prepared for proper disposal. The person or entity in whose name the rental permit is issued shall be responsible for leaving the facility in a clean and orderly condition. Further, the permit holder accepts full responsibility for all damage to City property as a result of its activities, ordinary wear and tear excepted. A fee may be assessed should clean up by the City become necessary. This fee shall include, but is not limited to, all labor, equipment and administration expense incurred by the City.

6. Any equipment, valuables, or clothing left in or around the park shelter on closing shall be disposed of by the Department of Public Services.

7. The City reserves first priority with regard to the use of all City Parks. A park permit grants its holder a license to use the specified park and or an area and is revocable by the City. The City may order revocation of a park permit, if warranted at any time, with refund of fees paid. All permits are granted with this understanding.

8. The Director of Public Services may, subject to the approval of the City Manager and the City Commission, establish supplemental regulations for all uses requiring the issuance of a permit for use of municipal facilities, and fees for the use of the various facilities.

9. No person shall bring into, have in their possession, drink, or consume any intoxicant or intoxicating beverage in any park areas and city owned properties with the exception of beer and wine sold by the City for consumption at Lincoln Hills Golf Course or Springdale Park, Springdale Park Shelter and Springdale Golf Course in conjunction with golf functions only.

10. The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.

(1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.
(2) Adams Park shall be closed from 9:00 p.m. to 8:00 a.m.
(3) Springdale Park hours shall coincide with Springdale Golf Course hours and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty.
(4) Except as provided in subsections (1), (2) and (3) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
(5) All public property not included in subsections (1), (2), (3) and (4) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.

11. Leashed dogs are allowed in any public park except in those areas as designated and posted by the Department of Public Services. Dogs are allowed on public property as long as they are restrained by a six foot maximum length chain or leash and under the reasonable control of some person. Owners and walkers of dogs on public property must comply with all City ordinances, including Chapter 18, Article II, pertaining to dogs and cats.

Sec. 18-33 Restraint of dogs.
It shall be unlawful for any owner of any dog to permit the dog to go beyond the premises of such owner unless restrained by a chain or leash and under the reasonable control of some person. (Code 1963, § 9.80(1))

12. Dogs are not permitted in any public playground or in any other area designated by the Department of Public Services. These areas shall generally include, but shall not be limited to, areas under and immediately adjacent to play structures and play equipment; sandboxes; the playing surface of ball fields, soccer fields, tennis courts, outdoor ice rinks, golf courses and sledding hills, when such areas are in use; pavilions and stages; fountains; and in areas designated for City permitted events and functions of concentrated use during said event or function.
Rules and Regulations

13. The owner or walker of a dog is responsible for the collection of all fecal matter and the disposal of such fecal matter in an appropriate waste receptacle in accordance with ordinance Section 18-35.

**Sec. 18-35 Sanitation.**

(a) It shall be unlawful for any person to permit any animal owned or harbored by him to deposit fecal matter in any place other than the premises where the animal is harbored or kept, unless such fecal matter is immediately collected and removed to the premises where the animal is harbored or kept.

(b) It shall be unlawful for any person to walk any animal on any property not owned by such person, whether public or private, unless such person has an appropriate device for the collection of fecal matter in his immediate possession and an appropriate depository for the transmission of fecal matter to the premises where the animal is harbored or kept.

(Code 1963, § 9.95; Ord. No. 1586, 4-18-94)

14. The use of loudspeakers or other equipment for the amplification of sound or music is prohibited, unless allowed by permit issued by the City.

15. Smoking is not permitted in any building or structure in City Parks. No person shall ignite or use ground fire or open fire except with the expressed permission of the Department of Public Services, provided however, that this restriction shall not be applicable to the use of barbecue burners or cooking in the picnic area at Springdale Park. No person shall leave the immediate vicinity of any fire, which he/she has started or used without first extinguishing the fire.

16. No person shall obstruct any walk or drive in any public park or playground. No person shall injure, mar or damage, in any manner, any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, or other public property within or pertaining to such parks.

17. No person shall engage in the business of peddling or vending in the city without first obtaining a license from the city clerk.

18. No person shall interfere with any fence constructed in or about any park; or deface, injure, remove, or destroy any tree, shrub, sward, or turf in any park or boulevard; or remove any dirt, sand or earth from any park or boulevard, or otherwise remove, destroy or injure any property therein; or leave or deposit any filth, rubbish, dirt, wastepaper or other refuse in any place in any park or boulevard except in containers provided in parks for that purpose. Dumping or disposal of household or commercial waste transported from off-site to city property is prohibited.

19. No vehicles, except authorized City vehicles, are allowed to be driven across lawns, sidewalks, or any other park surface for any reason.

20. No person shall expose, distribute, place any sign, advertisement, circular notice, or statement, or display any banner, City of Birmingham emblem, or design without written permission from the City.

21. **Decorations may be attached to the Springdale shelter by means of masking or cellophane tape only.** There should be no decorations drilled, fastened, or otherwise attached to the shelter with materials such as staples, nails, or tacks.

22. No person shall place or operate any boat propelled by any engine in or upon waters in any park in the city, including the water of Quarton Lake.

23. Fishing in any water park in the City of Birmingham, including Quarton Lake is restricted to minors under the age of fourteen (14) years, and residents’ sixty-two (62) years of age and older, subject to State of Michigan fishing licenses regulations.

24. No person shall feed any geese, ducks, birds or other fowl in any City Park or any municipal Golf Course.

25. No person, except an authorized city employee shall injure, kill or capture any wild bird, or disturb any wild bird’s nest or the contents thereof.

26. Swimming and/or wading is prohibited in any lake, river, public fountain or public pond in the City of Birmingham.

27. No person shall operate, use, ride, or pull another individual on a wheeled vehicle, on City-owned tennis courts, basketball courts, fountains and stone work ledges. Vehicles not permitted include, but are not limited to in-line skates, skateboards, bicycles, wagons, roller-skates, and scooters.

28. It is unlawful for any person to operate any motorized vehicle, trail bike, all-terrain vehicle, or similar type of sport vehicle anywhere in a park, except for the proper use of golf carts on city golf courses.

29. On-site parking at Barnum Park is limited to 3 hours and is exclusively for use of persons while they are using the Park.

30. Violation of these rules or other posted rules is a misdemeanor punishable by a fine up to $500, or imprisonment for a term not exceeding 90 days, or both.

City Commission Approval 07-25-2016
Currently, parking is required to be provided for residential uses on all properties, whether or not they are located within a Parking Assessment District. However, there is one exemption in the Zoning Ordinance that eliminates the parking requirement for residential units located within the existing second and third floors of landmark buildings located within the Central Business Historic District as defined in Chapter 62 of the City Code.

A desire to reduce or eliminate parking standards for all residential units has been raised in order to reduce the cost of development, thus reducing the amount charged for the sale or lease of residential units. The Planning Board has discussed this issue several times over the past 10 years, and has reduced the parking requirements for senior living options, and removed the parking requirement for outdoor dining areas. Both of these decisions were made to encourage senior living developments and outdoor dining options in the City, and this strategy has successfully attracted both as desired. The elimination of parking standards for residential units may attract smaller unit sizes and lower sale or lease rates for units as developers will not be required to build the cost of parking facilities into their development costs.

On June 18, 2018, the City Commission and the Planning Board held a joint meeting and discussed sending draft Zoning Ordinance amendments to the Planning Board for review to consider the removal of all residential parking requirements throughout the City. The City Commission and the Planning Board also discussed hiring a consultant to review our residential parking requirements and prepare recommendations and ordinance amendments to address their findings. There was discussion about utilizing the City’s current parking consultant, Nelson Nygaard, to provide these services, along with MKSK, the City’s planning and transportation consultant. While no decisions were made at the joint meeting, there appeared to be consensus that further study of residential parking requirements was needed, as well as potentially a study of parking requirements for other uses. The City Manager stated that a draft Scope of Work / RFP would be prepared and could be extended to Nelson Nygaard / MKSK (our current parking/land use consulting team who already has extensive knowledge of Birmingham) by way of an amendment to their current contract, or an RFP could be issued to solicit other consultants.

On July 11, 2018, the Planning Board reviewed the draft amendments to eliminate residential parking requirements discussed at the joint meeting. Several board members expressed
concern that parking requirements for single family residential uses should not be eliminated throughout the whole City. In addition, the Planning Board stated that ordinance amendments should not be considered until the parking study discussed at the joint meeting with the City Commission was completed. The Planning Board then reviewed a draft RFP for planning, zoning and parking consulting services to conduct a complete review of residential parking requirements and future parking needs. There was much discussion about broadening the scope of the study from just residential parking standards, to parking standards for residential, office and other uses as well. In addition, the Planning Board did not feel a City-wide study needed to be done, but rather that the parking standards and issues studied should be contained to Downtown, the Triangle District and the Rail District which are all commercial and mixed use areas with multiple family residential housing opportunities. Several board members stated that the intent of the study should be clearly stated to increase the residential density in Downtown, the Triangle District and the Rail District, while encouraging the new housing to be more affordable through the use of incentives, including but not limited to relaxed parking standards or bonus floors. Finally, board members stated that the study should also include current and future parking trends and best practices for parking standards to achieve the desired mix of residential and other uses in similar walkable communities.

Finally, on July 25, 2018, the Planning Board reviewed a revised draft of an RFP for planning, zoning and parking consulting services. Board members were pleased with the changes made to the prior version. Several members requested that language be added to inform consultants that this study would be used as a basis for further study of parking during the master planning process that the City will be conducting over the next several years. In addition, staff noted that a section on the number of meetings anticipated with staff and City officials would also be added. The Planning Board voted unanimously to recommend approval of the draft RFP to the City Commission.

Please find attached a revised draft RFP for planning, zoning and parking consulting services incorporating the Planning Board’s comments.

Suggested Action:

To APPROVE the Planning, Zoning & Parking Consulting Services RFP, and to direct staff to issue the RFP by August 17, 2018;

OR

To APPROVE the scope of work for Planning, Zoning & Parking Services and seek to amend the existing service agreement with the City’s existing parking consultant team (Nelson Nygaard / MKSK) given their familiarity with Downtown parking and land use regulations and return to the City Commission for approval.
REQUEST FOR PROPOSALS
FOR PLANNING, ZONING, & PARKING CONSULTANT SERVICES

Sealed proposals endorsed “PLANNING & ZONING CONSULTANT SERVICES”, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until Monday, September 10, 2018 after which time bids will be publicly opened and read.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to provide planning and zoning consultant services to evaluate existing parking requirements in the City’s key commercial and mixed use districts and to provide recommendations for improvement. This work must be performed as specified accordance with the specifications contained in the Request For Proposals (RFP).

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

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

Submitted to MITN: ______________, 2018
Deadline for Submissions: Monday, September 10, 2018 by 4:00 PM E.S.T.
Contact Person: Jana L. Ecker
P.O. Box 3001, 151 Martin Street
Birmingham, MI 48012-3001
Phone: 248.530.1841
Email: jecker@bhamgov.org
REQUEST FOR PROPOSALS
FOR PLANNING, ZONING, & PARKING CONSULTANT SERVICES

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INTRODUCTION

For purposes of this request for proposals the City of Birmingham will hereby be referred to as “City” and the private firm will hereby be referred to as “Contractor.” References to the “parking requirements” shall generally refer to the parking requirements for private developments in commercial and mixed use zone districts located within the Downtown Overlay, the Triangle District and the Rail District as established in Article 4, Section 4.45 through 4.52, including Table A, of the Zoning Ordinance. A copy of the City’s zoning map is attached as Attachment “E”, to identify each of the zone district locations referred to in Article 4 that are also located within the Downtown Overlay, Triangle District and Rail District. In the downtown area, the City operates a public parking system that consists of 5 public parking structures providing roughly 3,580 spaces, three surface parking lots providing roughly 190 spaces and 1,070 on-street parking meters. There are also two private independently run parking structures located in the Central Business District. Outside of the downtown area, there is public, on street parking available on many streets, and limited permit parking for residents only on some residential streets. Please see Attachment “F” for a map of the City’s public parking facilities.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to provide planning and zoning consulting services to evaluate existing parking requirements in commercial and mixed use zone districts in the Downtown Overlay, the Triangle District and the Rail District and to provide recommendations for improvement based on current parking trends, future parking demand, emerging and innovative technologies and best practices in other walkable urban communities. The goals of the City in conducting this review and analysis are to increase residential density in the Downtown Overlay, the Triangle District and the Rail District, to encourage the development of smaller sized and more affordable residential units in these areas, and to ensure that current and future parking demands will be met within these districts.

All work must be performed as specified accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP). The final report resulting from the Contractor’s review and analysis of the City’s parking requirements will be used by elected officials, city boards and city staff to implement amendments to the Zoning Ordinance, and to provide a basis for the parking discussion portion of the City’s master planning process that will occur over the next two years.

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

It is anticipated the selection of a firm will be completed in October 2018. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.
REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide planning and zoning consulting services to evaluate parking standards and needs within the City’s main commercial and mixed use zoning districts and to provide recommendations for improvement to meet the City’s stated goals to increase the density of residential units in these districts, encourage smaller sized and more affordable residential units and to meet current and future parking needs. The final report will also be used to inform the parking discussion during the City’s master plan update over the next two years.

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than Monday, September 10, 2018 by 4:00 PM Eastern Standard Time to:

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

One (1) original and one (1) copy of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, “PLANNING & ZONING CONSULTANT SERVICES”. Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

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

2. Any request for clarification of this RFP shall be made in writing and delivered to: Jana L. Ecker, Planning Director at jecker@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 5 days prior to the deadline for submissions.

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

4. The contract will be awarded by the City of Birmingham to the most responsive and responsible bidder with the lowest price and the contract will require the completion of the work pursuant to these documents.
5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.

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

**EVALUATION PROCEDURE AND CRITERIA**

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

1. Ability to provide services as outlined.
2. Related experience with similar projects, Contractor background, and personnel qualifications.
3. Quality of the response to this RFP including a demonstrated understanding of the enclosed scope of work and knowledge of planning and transportation trends and best practices.
4. Overall costs.
5. References.

**TERMS AND CONDITIONS**

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

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

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

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

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

6. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

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

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

CONTRACTOR’S RESPONSIBILITIES
Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
   a. Bidder’s Agreement (Attachment B - p. 16)
   b. Cost Proposal (Attachment C - p. 17)
   c. Iran Sanctions Act Vendor Certification Form (Attachment D - p. 18)
   d. Agreement (p. 10 – only if selected by the City).

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

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

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

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

6. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for similar projects.

7. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.
8. The selected Contractor is expected to attend public meetings as needed. This will include a minimum of two meetings during the award of the contract, three meetings with the Planning Board, at least one meeting in a workshop format with local stakeholders, and a minimum of one meeting with the City Commission.

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

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

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

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

EXECUTION OF CONTRACT
The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

INDEMNIFICATION
The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 13 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.
CONFLICT OF INTEREST
The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 14 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

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

PROJECT TIMELINE
The selected Contractor is expected begin services upon award of the contractor and have a final report of recommendations provided within 4 – 6 months. The Contractor will not exceed the timelines established for the completion of this project.

SCOPE OF WORK
This section shall constitute the Scope of Work and the Contractor shall perform the following services in accordance with the requirements as defined and noted herein:

1. **Project Coordination:** The Contractor shall coordinate with designated City staff regarding schedule, deliverables and the scope of work. The Contractor shall attend a minimum of 7 public meetings as listed above. Additional meetings may be required and will be billed as noted on Attachment C.

2. **Conduct an Evaluation of Current Parking Requirements:** The Contractor shall complete a review and analysis of the City’s current parking requirements for private development in commercial and mixed use zones in the Downtown Overlay, the Triangle District and the Rail District, including, but not limited to, standard requirements, the use of shared parking agreements, off-site parking allowances, and the permissible use of on-street parking to meet parking requirements for all permitted uses. The Contractor shall provide an analysis of the effect of the current parking standards on land use, the density, size, location and cost of residential units in the mixed use areas noted, and identify any unintended consequences arising from the use of the existing standards.

3. **Provide a Summary and Analysis of Current and Future Parking Trends and Best Practices:** The Contractor shall outline current and future parking trends occurring or expected to occur in other walkable urban communities of comparable size and character to Birmingham, with vibrant, mixed use areas. Trend analysis should include the consideration of emerging and innovative transportation technologies, the use of ride sharing systems and mass transit options. The Contractor shall also identify best practices for parking standards in comparable communities that assist the municipality in achieving a higher density
of residential uses in a mixed use environment, and that assist in encouraging smaller, more affordable residential units in these communities.

4. Identify and Evaluate Parking Recommendations: Upon the completion of the steps above, the Contractor shall provide specific recommendations for updating the City’s current parking regulations, providing development incentives and/or other related concepts to assist the City in meeting current and future parking demands, while increasing residential density in the Downtown Overlay, the Triangle District and the Rail District, and while encouraging the development of smaller sized and more affordable residential units in these areas. The Contractor shall then evaluate and prioritize recommendations based on the potential impact given Birmingham’s local and regional market.

5. Conduct a Community Outreach Process: The Contractor shall facilitate a community outreach program to solicit input on parking needs and recommendations for the commercial and mixed use areas within the Downtown Overlay, Triangle District and Rail District. At least one town hall meeting to solicit input from residents, property owners and shall be held. The City is open to additional strategies and approaches to enhance community engagement at the recommendations of the Contractor.

6. Presentation of Final Report: It is expected the consultant shall prepare and present the final report to the City.

7. Attendance at Meetings: The contractor shall expect to attend the following meetings and base their fees accordingly:

   a. One (1) meeting with the Planning Board to discuss the process and finalize a schedule to meet the requirements of this RFP.
   b. One (1) meeting with the City Commission to discuss the process and finalize a schedule to meet the requirements of this RFP.
   c. Two (2) public engagement activities with business owners, retailers, and citizens.
   d. One (1) meeting with the Planning Board to provide a preliminary update of findings.
   e. One (1) meeting with the Planning Board to provide a final presentation of findings and recommendations.
   f. One (1) meeting with the City Commission to provide a final presentation of findings and recommendations.

This outline is not necessarily all-inclusive and the Contractor shall include in the proposal any other tasks and services deemed necessary to satisfactorily complete the project.
This AGREEMENT, made this _______ day of __________, 2018, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and _____________, Inc., having its principal office at _____________________ (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham has heretofore advertised for bids for the procurement and performance of services required to perform parking consultant services to evaluate parking operations, strategies and practices in the City’s Central Business District and provide recommendations for improvement, and in connection therewith has prepared a request for sealed proposals (“RFP”), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to perform parking consultant services to evaluate parking operations, strategies and practices in the City’s Central Business District and provide recommendations for improvement.

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to perform parking consultant services to evaluate parking operations, strategies and practices in the City’s Central Business District and provide recommendations for improvement and the Contractor’s cost proposal dated ______________, 2018 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed ________________, as set forth in the Contractor’s ____________, 2018 cost proposal.

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

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

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

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

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

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

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

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

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

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

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

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

   D. **Additional Insured:** Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be **Additional Insureds:** The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

   E. **Professional Liability:** Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage.
F. Cancellation Notice: Workers’ Compensation Insurance, Commercial General
Liability Insurance and Motor Vehicle Liability Insurance (and Professional
Liability Insurance, if applicable), as described above, shall include an
endorsement stating the following: "Thirty (30) days Advance Written Notice of
Cancellation or Non-Renewal, shall be sent to: Finance Director, City of
Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

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

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

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

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

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

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

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

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

    City of Birmingham     CONTRACTOR
    Attn: Jana L. Ecker     (Insert Contractor Information)
    151 Martin Street
    Birmingham, MI 48009
    248.530.1841

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

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.
IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

_______________________________  By:_____________________________

Its:

_______________________________  By:_____________________________

CITY OF BIRMINGHAM

_______________________________  By:_____________________________

Andrew Harris
Its: Mayor

_______________________________

Cherilynn Mynsberge
Its: City Clerk

Approved:

Jana L. Ecker, Planning Director
(Approved as to substance)

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

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

Joseph A. Valentine., City Manager
(Approved as to substance)
ATTACHMENT B - BIDDER’S AGREEMENT
FOR PLANNING & ZONING CONSULTANT SERVICES

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

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

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

PREPARED BY (Print Name)       DATE

AUTHORIZED SIGNATURE

Title       E-MAIL ADDRESS

COMPANY

ADDRESS       PHONE

NAME OF PARENT COMPANY       PHONE

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

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

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| GRANDTOTAL AMOUNT | $   |

Firm Name________________________________________________________

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

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

PREPARED BY (Print Name) DATE

AUTHORIZED SIGNATURE E-MAIL ADDRESS

TITLE

COMPANY

ADDRESS PHONE

NAME OF PARENT COMPANY PHONE

ADDRESS

TAXPAYER I.D.#
ATTACHMENT F

MAP OF PARKING ASSESSMENT DISTRICT
Mayor Harris stated that this is a workshop session where no formal decisions will be made. The purpose of this workshop format is to focus on problem definition and desired outcomes. Each Commissioner will have an opportunity to share their perspective and thoughts on problems and possible solutions, and to engage the Planning Board for input. Citizens will also have opportunity to make public comment at the end of the workshop meeting.

City Manager Valentine said the objective was to provide discussion items in order to clarify how the City should move forward on the following issues.

**B. PARKING STANDARDS**

Planning Director Ecker noted this issue has been discussed in the past. She explained that requiring residential units to provide parking has the consequences of:

- Inflating the cost of the residential units;
- Encouraging the building of larger units in order to be in-line with the cost; and,
- Discouraging the building of smaller apartment units because people would not be getting good value for their money and because the building would be unable to provide parking for each unit.

- This, in turn, reduces economic diversity in housing in Birmingham's downtown.

Planning Director Ecker continued:

- There has been past discussion of eliminating the residential parking standards altogether, and that the same option is being revisited this evening.
- Only historic landmark buildings adding residences on the second or third floor are currently exempt from the parking standards.
- An overview of how parking is usually provided as part of a residential building within Birmingham.
- The public parking system could be used for residential parking since residents require parking during off-peak, non-business hours.

City Manager Valentine suggested:

- A two-prong approach of hiring a consultant to clarify relevant considerations in making this change and asking the Planning Board to study the issue would be the most effective course of action.
- The City would ask its current parking consultant to further explore the land-use issues at hand. The consultant would work with two other firms currently familiar with the parking situation in Birmingham – Nelson-Nygaard and MKSK.

Mr. Boyle opined that there may be a conflict in asking parking industry experts to explore ways to reduce the need for parking in the City.

Commissioner DeWeese said:
- The residential parking requirement should be voided and a method of dis-incentivizing the creation of more office-space in Birmingham should be explored, so as to tax Birmingham's parking systems less.
- While dis-incentivizing more offices, he would like to see parking remain affordable for Birmingham's retail workers.
- The City's goal is to enable people to live and work downtown, and finding ways to increase the affordability is part of achieving the City's goal.
- Nelson-Nygaard or any other contractor hired for the project must be capable of handling Birmingham's particular parking circumstances and goals in order to offer the most relevant solutions.
- This issue should not be delayed until the Master Planning process, but the City must also ensure that the solutions reached will be compatible with the Master Plan's objectives.

Mr. Koseck affirmed the City should solicit the help of experts in parking and land-use in order to understand all the relevant factors. He continued:
- One-and-a-half parking spaces in the City costs between $30,000 and $40,000. Removing the parking requirement for a hypothetical $800,000 unit would only reduce the cost of the apartment by 5%. This decrease would not make residential units significantly more affordable.
- Because of this, the goal needs to be clarified. If the goal is smaller residential units and more flexibility, there are many ways to pursue that.
- These considerations must be part of the Master Planning process.

Mayor Pro Tem Bordman noted:
- Metro Detroit's dearth of mass transit makes giving up a vehicle relatively unfeasible.
- Many Birmingham households have a car for each adult, meaning residential parking remains in high demand.
- Making residential units more affordable by eliminating the parking standards is a worthy goal, but Mr. Koseck's calculations imply that this change will not have the intended impact.
- If the goal is making residential units more affordable, then hiring a consultant with broader experience in that area would be necessary.
- Determining whether City has a goal of increasing affordable residential units gets to the heart of how Birmingham wants to define itself. This is a much more complicated and theoretical question than just parking.

Mr. Williams said:
- The issue at hand is land-use and not just parking.
- Because residents already perceive Birmingham as lacking sufficient parking, the City should be very cautious with how it proceeds.
- If MKSK and Nelson-Nygaard have the necessary experience with complex land-use issues, Mr. Williams is in favor of using them. If these two consultants do not have the necessary experience, however, they must be supplemented with another consultant.

Commissioner Nickita ventured:
- This about a specific use in a particular district, meaning it should be addressed as a parking issue and not a broader land-use issue.
The land-use aspects would be explored during the Master Planning process. It would be wise to consider alternative consultants due to the issues raised by Mr. Williams, but Commissioner Nickita remains confident that Nelson-Nygaard would also be up to the task.

Requiring parking is one of the most challenging aspects of developing high-density residences in cities. Developers are often forced to pass on developing in cities with more strict residential parking requirements.

The parking requirements are a large part of why there are so many buildings with one, two, or three residences downtown.

Shared parking is a very viable option in Birmingham because downtown parking is so underutilized in the evenings.

Residents in urban areas are largely comfortable and familiar with off-site parking as long as the streets are safe and comfortable.

The 2016 Plan had a goal of increasing resident-density downtown and this would be an effective way to do it.

A study should specifically clarify whether and how much the parking standards correlate with a lower resident-density downtown.

Commissioner DeWeese pointed out:

- Some of the senior residences in Birmingham became possible in when the parking requirements were halved.
- Those residences still have parking available because of the less-frequent car use of their residents.
- The built-in cost of parking for downtown residents is likely higher than the cost to get a monthly long-term parking permit.
- Some parking standards should remain, but the more they can be reduced the more the Birmingham market will respond in a positive and desired manner.
- A resident should be guaranteed the ability to purchase access to parking downtown should they so choose.

Mayor Harris noted consensus regarding the need for further study of the issue.

City Manager Valentine said he would return with a proposed Scope of Work which, if approved, can be extended either to Nelson-Nygaard or bid out to other contractors.
3. Residential Parking Requirements

Mr. Baka recalled that on June 18, 2018, the City Commission and the Planning Board held a joint meeting and the consensus was that it would be worthwhile to have a consultant do an evaluation of our current parking standards, centered around residential. Thus, the draft amendments to eliminate residential parking requirements throughout the City as discussed at the joint meeting are provided, along with a draft RFP for planning, zoning and parking consulting services to conduct a complete review of residential parking requirements and future needs.

Mr. Share noted that if the goal is to get more dense and affordable housing in multiple-family areas, he is not sure that eliminating off-street parking in the R-1 Neighborhood makes sense because the streets would start to get clogged. Secondly, he was not sure about the concept that if you don't have to build off-street parking for residential it will incentivize affordable housing. Rather, he could easily see that what you would get is the same expensive housing with a higher profit margin to the developer.

Chairman Clein noted he didn't see anywhere that tells what the intent of the study is.

Mr. Williams was not convinced that eliminating the parking requirement would be a good idea throughout the City. People in the neighborhoods will object to that concept.

Ms. Whipple-Boyce was not certain this would encourage more affordable living Downtown.

Mr. Share thought maybe the question should be how to create more affordable housing in Multiple-Family Districts. Ask the consultant how to do that, and parking could be one component. Another might be to offer the developer a bonus floor or other ways to incentivize smaller, more affordable units. If the objective is what he understands it to be, then he felt a study like this is too narrow. Ms. Whipple-Boyce voiced her opinion that the board needs to also look at parking for office.

Chairman Clein suggested that instead of focusing strictly on residential, the RFP should focus on Downtown, the Rail and the Triangle. Indicate that there is a desire to increase residential density in a manner that brings smaller, more affordable units to the market. The board wants the consultant to help them understand current and future parking trends across comparable cities and understand the mix that they are trying to go toward, looking at office, retail, residential, and provide us recommendations.
2. Parking Requirements

Ms. Ecker noted that on July 11, 2018, the Planning Board reviewed the draft amendments to eliminate residential parking requirements discussed at their joint meeting with the City Commission on June 18, 2018. Several board members expressed concern that parking requirements for single-family residential uses should not be eliminated throughout the whole City. Rather, the focus should be on the mixed-use areas in the Downtown, the Triangle and Rail Districts. In addition, the RFP should be broadened so as not to just study the residential parking standards, but look at parking requirements for other uses as well. Also, the board had directed staff to add the objective that the reason for the study is to try to increase the density of residential in those three mixed-use areas and also to encourage smaller, more affordable units within those areas.

Also on July 11, 2018, board members stated that the study should also include current and future parking trends and best practices for parking standards to achieve the desired mix of residential and other uses in similar walkable communities to Birmingham.

A revised draft RFP for a parking standards study incorporating the Planning Board’s comments from the July 11, 2018 meeting was presented. Ms. Ecker suggested the idea of having the order of meetings set out as it is in the Retail RFP.

Mr. Boyle asked if there is some language that ties this study in with the Master Plan. Ms. Ecker thought the sense of the City Commission was that it should be separate. She said both of the RFPs that are looked at tonight are designed to be handled much quicker than the Master Plan process because the Commission sensed more urgency on those issues. Also, It is a good idea to acknowledge somewhere in these documents that the City is also embarking on a Master Planning Project.

Mr. Boyle suggested that language be added that demonstrates to the consultant that this study is part of a portfolio of policy activity that the City is engaging in with urgency on retail and equal importance for parking, building up to a Master Plan process.

Motion by Mr. Boyle
Seconded by Mr. Williams to move the proposed RFP on parking standards to the City Commission with the suggested changes as noted this evening.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Williams, Clein, Emerine, Koseck, Ramin, Whipple-Boyce
Nays: None
Absent: Jeffares, Share
After the City Commission adopted a new definition for personal services in relation to retail use on November 13, 2017, the City Manager directed the Planning Board to continue studying the larger issue of retail use in Downtown Birmingham, specifically but not limited to the following:

1. To evaluate the current geographic boundary of the Retail District for modification and also consider a priority level hierarchy consisting of the downtown core and other areas within the current Redline Retail Boundary.
2. To evaluate current properties in the Redline Retail Boundary that were not built to support first floor retail uses and provide recommendations to address this issue. Such properties may, for example, have not been built with first floor frontage at grade or the building was not previously designed to support retail use.
3. To evaluate a prohibition of desks, workstations and office related amenities placed within the first 20 feet of depth of window frontage within the Retail District and recommend ordinance language to address the issue.

The Planning Board has reviewed multiple data sets, including walking radius, distribution of uses, asking prices, proximity to metered parking, and new developments in downtown. They have also considered a tiered system of permissible first floor uses and evaluated potential tiers for these boundaries.

On June 18, 2018, The Planning Board and City Commission held a joint meeting where the Board expressed a desire to have a private consultant review Birmingham’s Retail Frontage Line and make a recommendation related to the directives of the City Manager. That was a general consensus from City Commission that a consultant would be beneficial to the process.

On July 11, 2018 the Planning Department presented the first draft of an RFP for a retail consultant. The Planning Board expressed that they would like to see more public engagement activities from the consultant. New public engagement requirements were added to the scope of work, as well as additional meetings with the City Commission.
On July 25, 2018, the Planning Board reviewed a revised draft of an RFP for retail review. Board members were pleased with the changes made to the prior version. The Planning Board requested that the title of the RFP be changed to “Downtown Retail Review”, and requested minor wording changes to the public engagement section to encourage different types of public engagement activities. The Planning Board voted unanimously to recommend approval of the draft RFP to the City Commission.

Please find attached a revised draft RFP for a Downtown Retail Review, incorporating the Planning Board’s comments.

Suggested Action:

To APPROVE the Downtown Retail Review RFP, and to direct staff to issue the RFP by August 17, 2018.
Sealed proposals endorsed “DOWNTOWN RETAIL REVIEW”, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until Friday, September 14, 2018 at 3:00pm after which time bids will be publicly opened and read.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to conduct a review of retail trends and policy in relation to its downtown. This work must be performed as specified in accordance with the specifications contained in the Request For Proposals (RFP).

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

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

**Submitted to MITN:** (Date), 2018
**Deadline for Submissions:** September 14, 2018 at 3:00pm
**Contact Person:**
Jana L. Ecker, Planning Director
P.O. Box 3001, 151 Martin Street
Birmingham, MI 48012-3001
Phone: 248-530-1841
Email: jecker@bhamgov.org
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INTRODUCTION

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

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

It is anticipated that the selection of a firm will be completed by October 30, 2018. An agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein as Attachment A. Contract services will commence upon execution of the service agreement by the City.

The City of Birmingham, Michigan is seeking a comprehensive review of its Retail Frontage Line policy. It is accepting sealed bid proposals from qualified professionals who have experience in retail market analysis, projecting retail trends, and creating zoning policy related to retail corridors. Qualified contractors must demonstrate experience in conducting market analysis, projecting trends in retail, and making zoning recommendations that encourage a strong retail corridor in a traditional walkable downtown.

The Retail Frontage Line in Birmingham is 3.25 linear miles with approximately 280 first floor businesses. Its purpose is to require street level uses that will create a downtown environment that activates the street and contributes to a walkable pedestrian experience. This zoning policy was first proposed in the Downtown Birmingham 2016 Plan which was adopted in 1996. The Retail Frontage Line policy and permissible uses are defined as follows:

Retail Frontage Line is defined as:

All lot lines abutting a public street that are required to be retail, as designated on the Downtown Birmingham 2016 Regulating Plan.

Retail Use is defined as:

Any of the following uses, Artisan, community, commercial, entertainment (including all establishments operating with a liquor license obtained under Chapter 10, etc) bistro or restaurant uses.

Commercial Use is defined as:

Premises used generally in connection with purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services.

Personal Services is defined as (Adopted November 13, 2017):

Establishment Open to general public and engaged primarily in providing services directly to individual consumers, including, but not limited to, personal care services, services for care of apparel and other personal items, but not including business to business services, medical, dental, and/or mental health services.
Section 3.04(C)(6) in the Downtown Birmingham Overlay District states:

*Buildings that have frontage along the required retail frontages, as specified on the Regulating Plan, shall consist of retail with minimum depth of 20 feet from the frontage line within the first story.*

The boundary of the current Retail Frontage Line is illustrated in the Overlay Zoning Map provided below:
Page 5

The purpose of this RFP is to request sealed bid proposals from qualified candidates. The bid shall include presentation of qualifications, capabilities, and costs for providing a comprehensive review of Birmingham’s Retail Frontage Line policy. Specific issues that the City wishes to address include:

1. Is there enough demand for retail in Birmingham to justify 3.25 linear miles of a Retail Frontage Line?
2. Is a Retail Frontage Line policy necessary for a prosperous retail corridor in Birmingham’s downtown?
3. What are the future trends and projections for retail that are suitable for Birmingham?
4. What mix of uses contribute to a viable, walkable retail corridor?
5. Would a tiered system that expands permissible uses on the first floor in certain areas contribute or detract from a walkable downtown?

This work must be performed as specified in accordance with the specifications outlined by the Scope of Work contained in this Request for Proposals (RFP).

SCOPE OF WORK
The selected Contractor will work with the public, City staff, the Planning Board, and the City Commission to review and provide recommendations for Birmingham’s Redline Retail Frontage Line. The Contractor will coordinate with City staff and the City Attorney to ensure compliance with all State and/or Federal laws related to a market analysis update. The scope of services is as follows:

1. **Review the Downtown Overlay District’s Retail Frontage Line Boundary Requirements and the City Manager’s Research Directives for the Planning Board.** The definition of Retail was recently addressed by City Commission to provide more clarity about personal services in relation to commercial uses in the Retail Frontage Line boundary. After the new definition for personal services was adopted, the City Manager directed the Planning Board to continue studying the larger issue of retail use in Downtown Birmingham, specifically but not limited to the following:
   a. To evaluate the current geographic boundary of the Retail District for modification and also consider a priority level hierarchy consisting of the downtown core and other areas within the current Redline Retail Boundary.
   b. To evaluate current properties in the Redline Retail Boundary that were not built to support first floor retail uses and provide recommendations to address this issue. Such properties may, for example, have not been built with first floor frontage at grade or the building was not previously designed to support retail use.
   c. To evaluate a prohibition of desks, workstations and office related amenities placed within the first 20 feet of depth of window frontage within the Retail District and recommend ordinance language to address the issue.

2. **Review Current Research Done by City Staff & Consultants.** Birmingham’s Planning Department has conducted an inventory of all businesses in the Redline Retail District and organized them by zoning categories in order to help determine where there are strong clusters of retail use. The Planning Department has also gathered available
asking rent data and occupancy rate data to help determine the various levels of demand. Data such as quarter mile and half mile walking radius, proximity to metered parking, and how retail has expanded into new buildings since 1996 when the Redline Retail District was adopted was also considered. The Planning Board reviewed a three-tiered system of allowable first floor uses and various boundaries for these tiers as well. In addition, review the existing market studies completed by a consultant for the Birmingham Shopping District in 2012, 2013 and 2016.

3. **Provide an Existing Conditions Report.** A market analysis of retail use in Birmingham's Downtown Overlay District is desired. The Planning Board wishes to evaluate the distribution of first floor uses, asking rents, and vacancies in order to determine demand for retail in downtown. A comparison of second and third floor office rents versus first floor retail rents is also desirable in determining demand and the premium for first floor space.

4. **Provide a Comparable Communities Report.** The Planning Board would like to know more about how Birmingham's retail market compares to communities with a similar downtown shopping corridor, surrounding demographics, and public transportation linkages.

5. **Provide Trends in Retail and Projections for Retail Demand in Similar Walkable, Urban Communities.** The City's retail district has a mixture of national retailers, restaurants, and independent boutique shops. The Planning Board would like to see projections of shopper and retailer preferences for main street shopping districts such as Birmingham's. The Planning Board would also like to see projections of how demand for main street retail will change as online retailing continues to grow, and the market changes over the next 5 to 10 years.

6. **Evaluate Current Boundary of Retail Frontage Line, as well as Proposed Boundaries for a Tiered System of First Floor Uses.** The current Retail Frontage Line is 3.25 linear miles with consistent rules and regulations throughout. The Planning Board has examined a two and three tiered system with different permissible first floor uses for each boundary. The Planning Board would like the Contractor to review the proposed tiered system of permissible uses and provide feedback on where they believe boundaries should begin and end. They would also like the Contractor to review the merits of maintaining the current Retail Frontage Line, switching to a tiered system of uses, or remove the policy altogether.

7. **Coordinate Public Engagement.** Public participation will be an aspect of the Retail Frontage Line boundary review. During the review process, the Contractor will be expected to attend three Planning Board meetings and two City Commission meetings. The first meetings with the Planning Board and City Commission will be introductory and involve discussion of issues and the scope of work. The second meeting with the Planning Board is for the Contractor to provide a research update, go over preliminary findings, and answer any questions. The third meeting with the Planning Board will be a final presentation of findings and recommendations. The final meeting with City Commission will include the final findings and recommendations along with any comments of the Planning Board.
The Contractor shall conduct public engagement to get feedback from building owners, retailers, and citizens. The Contractor will be expected to conduct a minimum of two public engagement activities to receive input and engage the public on the Retail Frontage Line policy and the suggested tiered system reviewed by the Planning Board. The Contractor will also be expected to coordinate their public notifications with the Birmingham Shopping District.

8. **Provide Final Analysis with Recommendations for Retail Boundaries and Uses Within Each Boundary.** The final analysis should include recommendations related to the findings from the existing conditions analysis and the retail trends and projections. Recommendations should also evaluate the current geographic boundary of the Retail District for modification and consider whether or not there should be a priority level hierarchy with multiple tiers of permissible 1st floor uses. If multiple tiers are recommended, final analysis should include where the boundaries of these tiers should be. An evaluation of current properties in the Reline Retail Boundary that were not built to support first floor retail uses should also be conducted, and the final report should include recommendations to address this issue. The final report should also evaluate a prohibition of desks and other office furniture within the first 20 feet of depth of window frontage on the first floor and provide recommendations and/or ordinance language to address this issue.

9. **Attendance at Meetings.** The contractor shall expect to attend the following meetings and base their fees accordingly:

   a. One (1) meeting with the Planning Board to discuss the process and finalize a schedule to meet the requirements of this RFP.
   b. One (1) meeting with the City Commission to discuss the process and finalize a schedule to meet the requirements of this RFP.
   c. Two (2) public engagement activities with business owners, retailers, and citizens.
   d. One (1) meeting with the Planning Board to provide a preliminary update of findings.
   e. One (1) meeting with the Planning Board to provide a final presentation of findings and recommendations.
   f. One (1) meeting with the City Commission to provide a final presentation of findings and recommendations.

This outline is not necessarily all-inclusive and the Contractor shall include in the proposal any other tasks and services deemed necessary to satisfactorily complete the project.

**DELIBERABLES**

The Contractor shall provide a detailed report of their findings and conduct a final presentation to the Planning Board and City Commission.

1. One (1) reproducible PDF digital file and sixteen (16) hard color copies of the completed Report; and
2. One web-friendly, reduced size PDF digital file of the final Report for publication on the web and social media.

All data, illustrations and projections created or compiled throughout the project shall become the sole property of the City of Birmingham.

TIME SCHEDULE AND COST PROPOSAL
All proposals must include a proposed time schedule for completion of the report and a fixed price agreement with an associated fee schedule for extra meeting costs, should they be required. Reimbursable expenses will be billed at direct cost plus a 10% administrative charge. Normal reimbursable expenses including... associated with the project are to be included in the estimated fees as outlined in the proposal.

The Contractor shall perform all services outlined in this RFP in accordance with the requirements as defined and noted herein.

INVITATION TO SUBMIT A PROPOSAL
Proposals shall be submitted no later than **Friday, September 14, 2018 at 3:00pm** to:

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

One (1) electronic copy and one (1) hard copy of the proposal must be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, **“Downtown Retail Review”**. Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Respondents may submit more than one proposal provided each proposal meets the functional requirements.

SUBMISSION REQUIREMENTS
All proposals that wish to be considered must contain the following:

(i) **Cover Letter**;

(ii) **Outline of qualifications of the Contractor and of the key employees that will be involved in the project.** The project team should include each of the following skill sets:

- Retail market analysis;
- Retail trends and projections;
- Zoning policy related to downtown retail corridors; and
- Experience working with cities that have a mixed-use, form based code.

(iii) **Outline of Contractor(s) experience with the preparation of similar market analyses, market projections, public engagement activities, and zoning policy recommendations, including references from at least two relevant communities where such plans have been completed.** (Portions of sample plans prepared by the Contractor should be submitted with the proposal, up to a maximum of twenty-five (25) pages);

(iv) **Outline presenting a description of the scope of work to be completed, broken down into the following separate components:**
(i) Review the Downtown Overlay District’s Retail Frontage Line;
(ii) Review current research done by city staff;
(iii) Provide an existing conditions/market analysis report;
(iv) Provide details of how the public engagement strategy will be implemented;
(v) Provide trends in retail and projections for retail demand in Birmingham;
(vi) Evaluate current boundary of Retail Frontage Line, as well as proposed boundaries for a tiered system of first floor uses;
(vii) Provide final analysis with recommendations for retail boundaries and uses Within each boundary;
(i) Proposed time frame for completion of each component of the scope of work;
(ii) A statement of any additional services that you recommend, if any. Define hourly rates for additional services by discipline.
(iii) Bidders Agreement (Attachment B);
(iv) Cost Proposal (Attachment C); and
(v) Iran Sanctions Act Vendor Certification (Attachment D).

INSTRUCTIONS TO BIDDERS

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

2. Any request for clarification of this RFP shall be made in writing and delivered to: Jana L. Ecker, Planning Director, 151 Martin Street, Birmingham, MI, or via email to jecker@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 5 days prior to the deadline for submissions. Email requests must contain in their subject line “Request for Clarification”. All inquiries received will be answered and posted on MITN at least 3 days prior to the RFP submission due date.

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

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

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

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

EVALUATION PROCEDURE AND CRITERIA

The City will utilize a qualifications-based selection process in choosing a Contractor for the completion of this work. The evaluation panel will consist of City staff, board members, and/or any other person(s) designated by the City who will evaluate the proposals based on, but not limited to, the following criteria:

- Ability to provide services as outlined.
- Experience of the Contractor with similar projects.
- Content of Proposal.
- Cost of Services.
- Timeline and Schedule for Completion.
- References.

TERMS AND CONDITIONS

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

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

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

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

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

6. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

7. The Contractor will not exceed the timelines established for the completion of this project.
8. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

CONTRACTOR’S RESPONSIBILITIES
Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
   a. Bidder’s Agreement (Attachment B)
   b. Cost Proposal (Attachment C)
   c. Iran Sanctions Act Vendor Certification Form (Attachment D)
   d. Agreement (Attachment A – only if selected by the City).
2. Provide a description of completed projects that demonstrate the firm’s ability to complete projects of similar scope, size, and purpose, and in a timely manner, and within budget.
3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work.
4. The Contractor will be responsible for any changes necessary for the plans to be approved by the City of Birmingham.
5. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.
6. Provide a list of sub-contractors and their qualifications, if applicable.
7. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for similar projects.
8. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

CITY RESPONSIBILITY
The City will provide a designated representative to work with the Contractor to coordinate both the City’s and Contractor’s efforts and to review and approve any work performed by the Contractor.

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

INSURANCE
The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 12 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.
CONTINUATION OF COVERAGE
The Contractor also agrees to provide all insurance coverages as specified. Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT
The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandonment of all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

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

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

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

ANTICIPATED PROJECT TIMELINE
Evaluate Respondents  September 2018
Interview Contractors  October 2018
Award Contract  October 2018
Project Kick-Off Meeting  November 2018
Project Update  January 2019
Final Draft of Plan Completed  March 2019

The Contractor will not exceed the timelines established for the completion of this project. A shorter timeline is encouraged and preferred.
This AGREEMENT, made this _____ day of ____________, 2018, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and ______________, Inc., having its principal office at ______________________ (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham has heretofore advertised for bids for the procurement and performance of services required to perform retail consulting services to provide a comprehensive review and analysis of existing retail conditions and policy in the City’s Central Business District and to provide recommendations for improvement, including future retail strategy, policy and implementation, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to perform retail consulting services to evaluate current and future retail strategies and practices in the City’s Central Business District and provide recommendations for improvement.

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to perform retail consulting services to evaluate current and future retail strategies and practices in the City’s Central Business District and provide recommendations for improvement and the Contractor’s cost proposal dated ______________, 2018 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed __________________, as set forth in the Contractor’s ____________, 2018 cost proposal.

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

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

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

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

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

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

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

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

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

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:
A. **Workers' Compensation Insurance**: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

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

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

D. **Additional Insured**: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be **Additional Insureds**: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

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

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

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

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

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

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

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

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

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

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

City of Birmingham
Attn: Jana L. Ecker
151 Martin Street
Birmingham, MI 48009
248.530.1841

CONTRACTOR
(Insert Contractor Information)

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

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

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

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<th>WITNESSES:</th>
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<td>Cherilynn Mynsberge</td>
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<td>Its: City Clerk</td>
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Approved:

Jana L. Ecker, Planning Director  
(Approved as to substance)

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

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

Joseph A. Valentine, City Manager  
(Approved as to substance)
ATTACHMENT B - BIDDER’S AGREEMENT
FOR DOWNTOWN RETAIL REVIEW

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

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

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

PREPARED BY (Print Name) DATE

AUTHORIZED SIGNATURE

Title E-MAIL ADDRESS

COMPANY

ADDRESS PHONE

NAME OF PARENT COMPANY PHONE

ADDRESS
ATTACHMENT C - COST PROPOSAL
FOR DOWNTOWN RETAIL REVIEW

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

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

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<th>COST PROPOSAL</th>
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<td>ITEM</td>
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<td>TOTAL BID AMOUNT</td>
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<th>ADDITIONAL BID ITEMS</th>
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<td>Additional meetings with City staff and boards</td>
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<td>Other -</td>
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<td>GRANDTOTAL AMOUNT</td>
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Firm Name

Authorized signature

Date_________________
ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
FOR DOWNTOWN RETAIL REVIEW

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

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

PREPARED BY (Print Name) DATE

AUTHORIZED SIGNATURE E-MAIL ADDRESS

TITLE

COMPANY

ADDRESS PHONE

NAME OF PARENT COMPANY PHONE

ADDRESS

TAXPAYER I.D.#
B. RETAIL ORDINANCE REVIEW

Assistant Planner Cowan reviewed the direction to the Planning Board (PB) to:

- Evaluate the boundary of the redline retail district (‘Redline’);  
- Identify buildings less-suited to retail; and  
- Discuss what is permitted in retail spaces within the first twenty feet from the door.

Assistant Planner Cowan discussed the maps provided to the meeting which delineated:

- The distribution of uses in the Redline;  
- Market-rent data for various areas of the Redline; and,  
- How the retail distribution in the Redline reflected the stated development goals of the 2016 Plan.

Assistant Planner Cowan then explained that the PB considered:

- Dividing the Redline into multiple tiers with more or less strict retail zoning requirements: D4 and D5 would have the strictest retail zoning requirements, and D2 and D3 would have slightly looser retail zoning requirements.  
- Maintaining a strict retail core and then decreasing stringency in tiers as the zoning moves out from the City center.  
- Maintaining a strict retail core, and relaxing the retail zoning requirements along the edges.

Assistant Planner Cowan said the PB recommends hiring a consultant because they feel they lack sufficient information regarding retail market and trends in Birmingham.

PB Chairman Clein reiterated that none of the above possibilities was moved as a recommendation to the Commission by the PB at this time, and that if the Commission is interested in exploring the possibilities, hiring a consultant would be the next step. PB Chairman Clein emphasized that the issue of where to draw zoning lines would be an important issue for a consultant to address.

Commissioner Nickita suggested Buxton may be able to provide some of the necessary information since the company is already working with the Birmingham Shopping District (BSD) in a consultant role. He also said the goals of the delineation need to be made more clearly.

Planning Director Ecker specified:

- The Commission this evening was only provided with five pages of highlights out of the PB’s review materials, which comprise about 500 pages per PB agenda item.
The PB has reviewed all information available from Buxton and the BSD from the last three years.

- Each property has been reviewed methodically for demand on the space, what kind of business is currently located in the property, what kind of businesses are suitable for the property, and other factors.
- Her understanding is that Buxton is only doing research on niche retailers in Birmingham, not a more systemic study.
- The PB is sure the retail core should remain and should be zoned strictly. All other possibilities remain open for consideration.

Commissioner Nickita explained that he was not questioning whether there has been sufficient research into this issue by the PB. Rather, his main concern was that the Commission was provided a map of Birmingham retail areas with green, red and blue sections, with no indication as to what those colors signify.

Commissioner DeWeese delineated the relevant issues as what is happening now in the Redline area, and what the City would like to be happening in 20 years in the Redline area, citing changes to Bates Street as a future anchor for retail. He continued that:

- Buxton could clarify why retailers are not moving to Birmingham. With that information, the City can then explore options for remedying the perceived issues.
- If a business in the Redline area is over a certain percentage of replacement, the business must be brought up to code.
- If a business in the Redline area is under a certain percentage of replacement, said business should retain grandfathered status.
- There may be use in providing incentive to businesses that elect to come up to code.
- In terms of street-friendliness, differentiation should be made between services like banks, which have windows open and engaging to the street, and doctors’ offices, which have windows closed and not-engaging to the street and no after-hours use.
- Retail businesses that do not have street-centric windows should be encouraged to shift that practice through zoning and code enforcement.
- Birmingham’s goal is to make the pedestrian experience friendly, open, interactive, and street-centric.
- The development of outdoor dining in Birmingham has enhanced the liveliness of the streetscape, for one example.

Ms. Whipple-Boyce explained that the PB had hypotheses as to what the green, red and blue sections on the provided map could signify, but had not narrowed it down enough to provide it as a legend. She added that:

- The PB will explore Commissioner DeWeese’s concerns after the zones are clarified.
• In order to clarify the zones and the conditions leading to the delineation of the zones a consultant would be helpful.

Mr. Share said the PB undertook the process to explore reasons for vacant retail spaces, which turned into a need to consider the City’s future retail goals. In order to do that, however, the PB needs to:

• Understand what broader retail trends are in order to best suggest a policy for the City.
• Know what kind of incentives would actually be desirable for retail businesses. A consultant specializing in retail is the most prudent way to obtain such information.

Commissioner Boutros suggested asking Buxton if they are able to provide the information the PB needs, and if not, agreed the City should hire an outside consultant to explore these questions. The City must also be very clear on its goals for a consultant if that route is pursued.

Commissioner Hoff commended the PB on its work and said it returned what the Commission requested. She said the red zone on the map was clearly strict retail, the blue zone seemed to allow for more services, and the green zone is to be clarified. She continued Buxton should be able to provide retail trends and information, even if that is not currently part of its contract with Birmingham. Once that information is available a more informed exploration of these issues can continue.

Mayor Harris said:

• Procedurally staff can draw of a Request for Proposals (RFP) for a consultant, and at that point Buxton could determine whether they are an appropriate fit for the role. Until the City determines the criteria for an RFP, however, a consultant cannot be hired.
• He agrees with Commissioner Hoff that the PB has done thorough research and due diligence, and based on the information concurs that a retail consultant should be hired.

Commissioner Sherman concurred with Mayor Harris and Commissioner Hoff.
Planning Board Minutes
July 11, 2018

2. Retail Discussion

Mr. Cowan recalled the Planning Board has been studying Redline Retail Districts since January. They brought their findings to the City Commission and asked to bring in a retail consultant. Therefore, the Planning Dept. has created a retail consultant RFP for the Planning Board to review. The scope of work includes a review of the City’s current Retail Frontage Line policy, data the Planning Board has gone over, an existing conditions analysis, retail trends and projections, and a final analysis with policy recommendations. Included are a few specific issues that the City wishes to address:

- Is there enough demand for retail in Birmingham to justify 3.25 linear miles of a Retail Frontage Line?
- What are the future trends and projections for retail that are suitable for Birmingham?
- What mix of uses contributes to a viable, walkable retail corridor?
- Would a tiered system that expands permissible uses on the first floor in certain areas contribute or detract from a walkable downtown?

The RFP lists the Scope of Work:

1. Review the Downtown Overlay District’s Retail Frontage Line Boundary. Requirements and the City Manager’s Research Directives for the Planning Board.
   - Evaluate the current geographic boundary of the Retail District for modification;
   - Evaluate current properties in the Redline Retail Boundary that were not built to support first-floor retail uses;
   - Evaluate a prohibition of desks, workstations and office related amenities placed within the first 20 ft. depth of window frontage within the Retail District and recommend ordinance language to address the issue.
2. Review current research done by City staff.
4. Provide Trends in Retail and Projections for Retail Demand in Downtown Birmingham.
5. Evaluate the Current Boundary of Retail Frontage Line, as well as Proposed Boundaries for a Tiered System of First Floor Uses.
6. Provide Final Analysis with Recommendations for Retail Boundaries and Uses Within Each Boundary.
7. Attendance at Meetings.
   - One (1) initial meeting with the Planning Board to discuss the process and finalize a schedule.
   - One (1) meeting with the Planning Board to provide a preliminary update of findings.
   - One (1) final meeting with the Planning Board to provide a final presentation of findings and recommendations.

Mr. Williams wanted to see the RFP’s scope of work expanded to include a meeting where the public would be invited. Also, acknowledge that the bidder will have to work with the Birmingham Shopping District ("BSD").
Mr. Jeffares suggested finding out from retailers in Birmingham who have stores in other communities what is going on in those communities and their approach to zoning.

- Ask if Birmingham should even have a Redline District or just buildings dedicated to retail.
- What businesses would be affected by eliminating desks that are placed in the window?
- Add to number 4: Evaluate Birmingham in a peer group that has a similar lack of public transportation.
- For number 6, question the need for Retail Boundaries.

Mr. Williams thought that participation from retail owners and building owners is important for a successful outcome. Mr. Share added it is incumbent upon City administration to reach out and tell the public this is an excellent time for them to provide their input.

Chairman Clein suggested that Public Participation is listed as an integral part of the Scope of Work. He thought that Public Engagement should be a separate line item and bid separately. He wants to hear what the consultant suggests for Public Engagement.

Mr. Williams hoped to have the BSD show up so that they are part of the solution.

Chairman Clein said if the City Manager wants this board to further review the RFP, it can be brought back at the next meeting. If not, they can take the comments and move forward.
DRAFT Planning Board Minutes
July 25, 2018

1. Retail Discussion

Chairman Clein rejoined the meeting.

Mr. Cowan recalled the Planning Board has been studying the Redline Retail District since January. They brought their findings to the City Commission and asked to bring in a retail consultant. The Planning Dept. has now prepared an RFP for a retail consultant for the Planning Board to review.

On July 11, 2018, the Planning Dept. presented the first draft of the RFP to the Planning Board. The Board's suggestions from that meeting have been incorporated into tonight's draft.

Mr. Boyle did not understand why the word "Line" is included in the title, "Retail Frontage Line Review." Mr. Cowan replied that he went by the definitions from the Zoning Ordinance. Board members concluded that the title should be changed to omit "Line" and reworded to "Downtown Retail Review".

Mr. Williams concluded with regard to SCOPE OF WORK (5) Trends in Retail and Projections, that the scope of retail is changing rapidly and the projection should be for up to 10 years.

Chairman Clein said his only concern with SCOPE OF WORK (7) Coordinate Public Engagement, is they are specifically prescribing how many meetings will be held. Perhaps say that it is a minimum of two public engagement meetings to receive feedback. The suggestion was to substitute "meetings" with "activities." That would give the consultant the opportunity to do different things. Everyone liked that idea.

Mr. Williams pointed out that getting the public to engage is critical to getting public buy-in.

Ms. Ecker provided language for SCOPE OF WORK (7) Coordinate Public Engagement: "The Contractor will be expected to host two (2) public engagement activities to receive input and engage the public related to the Retail Frontage Line policy . . ." Further, for SCOPE OF WORK (7) Attendance at Meetings (c), change "meetings" to "activities."

Motion by Mr. Williams

Seconded by Mr. Emerine to forward this proposed RFP along to the City Commission for their consideration.

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Emerine, Boyle, Clein, Koseck, Ramin, Whipple-Boyce
Nays: None
Absent: Jeffares, Share
In the past few years, our department has seen a dramatic rise in cases involving fraud and/or identity theft. The proliferation of wireless technology has given identity thieves easy access to credit card and other personal financial accounts, where the victim’s name and other stolen personal information are used for criminal purposes with the intent to defraud.

These new trends were discussed with the City Attorney to address an appropriate enforcement response. The City Attorney suggested adding two new amendments to Part II of the City Code, Chapter 74, Offenses, Article IV – Offenses against Property. These new local ordinance amendments mirror state law, but carry a penalty of being a misdemeanor punishable by imprisonment for not more than ninety-three (93) days and/or by a fine of not more than five hundred dollars ($500).

I am recommending the following ordinances be adopted by the City Commission to amend Part II of the City Code, Chapter 74, Offenses, Article IV – Offenses against Property:

1. Section 74-81: Theft; Prosecution; Jurisdiction
2. Section 74-109: Intent to defraud for services and Section 74-109 (A) – Penalty for Violation of Section 109.

The above two ordinance amendments were drafted by the City Attorney. Each amendment can be individually viewed in the attachment to this memorandum (see attached).

SUGGESTED RESOLUTION:

That the City Commission amend Part II of the City Code, Chapter 74, Offenses, Article IV, Offenses Against Property to include the following two new ordinances:
Section 74-81: Theft; Prosecution; Jurisdiction

AND

Section 74-109: Intent to Defraud for Services and Section 74-109 (A) – Penalty for Violation of Section 74-109.

Furthermore, to authorize the Mayor and the City Clerk to sign the ordinance amendments on behalf of the City.
AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 74 – OFFENSES, ARTICLE IV. – OFFENSES AGAINST PROPERTY, DIVISION 2 – THEFT, TO ADD SECTION 74-109 INTENT TO DEFRAUD FOR SERVICES OR TO USE VICTIM’S INFORMATION TO COMMIT AND ILLEGAL ACT.

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 74, Offenses, Article IV. Offenses Against Property, Division 2. – Theft, shall be amended to add Section 74-109 Intent to Defraud for Services or to use victim’s information to commit an illegal act, and shall read as follows:

DIVISION 2. – THEFT

74-109. Intent To Defraud For Services.

No person shall knowingly and with the intent to commit an illegal act or to defraud, provide any other person’s identity such as their name, address, phone number, financial account numbers, financial transaction device(s) or device numbers, date of birth, Social Security number or any other part of a person’s identity, with the intent to cause another to provide to that person telephone services, utility services, insurance or insurance policies, or any other type of service regardless of financial loss or to use such identifying information to commit an illegal act.

Secs. 74-110—74-115. - Reserved.

All other Sections of Chapter 74 - Offenses, shall remain unaffected.

Ordained this _____ day of __________________, 2018. Effective upon publication.

______________________________
Andrew Harris, Mayor

______________________________
J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held ____________________, 2018 and that a summary was published ____________________, 2018.

______________________________
J. Cherilynn Mynsberge, City Clerk
AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 74 – OFFENSES, ARTICLE IV. – OFFENSES AGAINST PROPERTY, DIVISION 2 – THEFT, TO ADD SECTION 74-109 INTENT TO DEFRAUD FOR SERVICES

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 74. Offenses, Article IV. Offenses Against Property, Division 2. – Theft, shall be amended to add Section 74-109 Intent to Defraud for Services, and shall read as follows:

DIVISION 2. – THEFT

74-109. Intent To Defraud For Services.

No person shall knowingly and with the intent to defraud, provide any other person’s identity such as their name, address, phone number, financial account numbers, financial transaction device(s) or device numbers, Social Security number or any other part of a person’s identity, with the intent to cause another to provide to that person telephone services, utility services, insurance or insurance policies, or any other type of service regardless of financial loss.

Secs. 74-110—74-115. - Reserved.

All other Sections of Chapter 74 - Offenses, shall remain unaffected.

Ordained this _____ day of ______________________, 2018. Effective upon publication.

______________________________________________
Andrew Harris, Mayor

______________________________________________
J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held ______________________, 2018 and that a summary was published ______________________, 2018.

______________________________________________
J. Cherilynn Mynsberge, City Clerk
MEMORANDUM
City Clerk’s Office

DATE: August 3, 2018
TO: Joseph A. Valentine, City Manager
FROM: J. Cherilynn Mynsberge, City Clerk
SUBJECT: Designation of Voting Delegate(s) for the Michigan Municipal League Annual Meeting

The City of Birmingham is a member of the Michigan Municipal League (MML). The MML is holding its annual meeting in Grand Rapids, MI on September 21, 2018. On the agenda for the meeting is the election of six members to the MML Board of Trustees and a vote on the Core Legislative Principles document.

A resolution by the City Commission is required to designate a voting delegate and alternate voting delegate to vote on behalf of the City. The deadline to submit delegate information to the MML is August 21st.

Mayor Pro Tem Bordman and Commissioner Hoff have registered for the MML Convention.

SUGGESTED RESOLUTION:
To appoint Commissioner ______ as the Birmingham City Commission’s official voting delegate, and Commissioner ______ as the alternate voting delegate, at the Michigan Municipal League Annual Meeting to be held in Grand Rapids, Michigan on September 21, 2018.
July 18, 2018

Michigan Municipal League Annual Meeting Notice

(Please present at the next Council, Commission or Board Meeting)

Dear Official:

The Michigan Municipal League Annual Convention will be held in Grand Rapids, September 20-22, 2018. The League’s “Annual Meeting” is scheduled for 3:45 pm on Friday, September 21 in Ambassador Ballroom West at the Amway Grand Plaza Hotel. The meeting will be held for the following purposes:

1. **Election of Trustees.** To elect six members of the Board of Trustees for terms of three years each (see #1 on page 2).

2. **Policy.** A) To vote on the Core Legislative Principles document.

   In regard to the proposed League Core Legislative Principles, the document is available on the League website at http://www.mml.org/delegate. If you would like to receive a copy of the proposed principles by fax, please call Monica Drukis at the League at 800-653-2483.

   B) If the League Board of Trustees has presented any resolutions to the membership, they also will be voted on. (See #2 on page 2.)

   In regard to resolutions, member municipalities planning on submitting resolutions for consideration by the League Trustees are reminded that under the Bylaws, they must be submitted to the Trustees for their review by **August 21, 2018.**

3. **Other Business.** To transact such other business as may properly come before the meeting.

**Designation of Voting Delegates**

Pursuant to the provisions of the League Bylaws, you are requested to designate by action of your governing body one of your officials who will be in attendance at the Convention as your official representative to cast the vote of the municipality at the Annual Meeting, and, if possible, to designate one other official to serve as alternate. Please submit this information through the League website by visiting http://www.mml.org/delegate **no later than August 21, 2018.**
Regarding the designation of an official representative of the member to the annual meeting, please note the following section of the League Bylaws:

“Section 4.4 - Votes of Members. Each member shall be equally privileged with all other members in its voice and vote in the election of officers and upon any proposition presented for discussion or decision at any meeting of the members. Honorary members shall be entitled to participate in the discussion of any question, but such members shall not be entitled to vote. The vote of each member shall be cast by its official representative attending the meeting at which an election of officers or a decision on any proposition shall take place. Each member shall, by action of its governing body prior to the annual meeting or any special meeting, appoint one official of such member as its principal official representative to cast the vote of the member at such meeting, and may appoint one official as its alternate official representative to serve in the absence or inability to act of the principal representative.”

1. Election of Trustees

Regarding election of Trustees, under Section 5.3 of the League Bylaws, six members of the Board of Trustees will be elected at the annual meeting for a term of three years. The regulations of the Board of Trustees require the Nominations Committee to complete its recommendations and post the names of the nominees for the Board of Trustees on a board at the registration desk at least four hours before the hour of the business meeting.

2. Statements of Policy and Resolutions

Regarding consideration of resolutions and statements of policy, under Section 4.5 of the League Bylaws, the Board of Trustees acts as the Resolutions Committee, and “no resolution or motion, except procedural and incidental matters having to do with business properly before the annual meeting or pertaining to the conduct of the meeting, shall be considered at the annual meeting unless it is either (1) submitted to the meeting by the Board of Trustees, or (2) submitted in writing to the Board of Trustees by resolution of the governing body of a member at least thirty (30) days preceding the date of the annual meeting.” Thus the deadline this year for the League to receive resolutions is **August 21, 2018**. Please submit resolutions to the attention of Daniel P. Gilmartin, Executive Director/CEO at 1675 Green Rd., Ann Arbor, MI 48105. **Any resolution submitted by a member municipality will go to the League Board of Trustees, serving as the resolutions committee under the Bylaws, which may present it to the membership at the Annual Meeting or refer it to the appropriate policy committee for additional action.**

Further, “Every proposed resolution submitted by a member shall be stated in clear and concise language and shall be accompanied by a statement setting forth the reasons for recommending the proposed resolution. The Board shall consider the proposal at a Board meeting prior to the next annual meeting and, after consideration, shall make a recommendation as to the advisability of adopting each such resolution or modification thereof.”
3. **Posting of Proposed Resolutions and Core Legislative Principles**

The proposed Michigan Municipal League Core Legislative Principles and any new proposed Resolutions recommended by the Board of Trustees for adoption by the membership will be available on the League website, or at the League registration desk to permit governing bodies of member communities to have an opportunity to review such proposals and delegate to their voting representative the responsibility for expressing the official point of view of the member at the Annual Meeting.

The Board of Trustees will meet on Thursday, September 20 at Amway Grand Plaza Hotel for the purpose of considering such other matters as may be requested by the membership, in addition to other agenda items.

Sincerely,

Catherine Bostick-Tullius  
President  
Commissioner, City of Lapeer

Daniel P. Gilmartin  
Executive Director & CEO

We love where you live.
DATE: July 31, 2018

TO: City Commission

FROM: Joseph A. Valentine, City Manager

SUBJECT: Request for Closed Session pursuant to Section 8(h) of the Open Meetings Act, MCL 15.261 - 15.275

It is requested that the City Commission meet in closed session pursuant to Section 8(h) of the Open Meetings Act.

SUGGESTED RESOLUTION:
To meet in closed session pursuant to Section 8(h) of the Open Meetings Act, MCL 15.261 - 15.275.

(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)
NOTICE OF INTENTION TO APPOINT TO DESIGN REVIEW BOARD

At the regular meeting of Thursday, September 6, 2018 the Birmingham City Commission intends to appoint three members to the Design Review Board to serve three-year terms to expire September 25, 2021.

Interested parties may submit an application available from the city clerk's office on or before noon on Friday, August 24, 2018. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

The function and duty of the Design Review Board is to advise the City Commission in regard to the proper development of the City. The Design Review Board is specifically charged with carrying out the goals, objectives and intent of the City's adopted master plan and urban design plan and other development-oriented plans which may subsequently be adopted. The Design Review Board is authorized to advise and cooperate with the City Commission, City Planning Board, Historic District Commission and other City advisory boards and cooperate with the planning, historic district and legislative bodies of other governmental units in any area outside the boundaries of the City.

<table>
<thead>
<tr>
<th>Criteria/Qualifications of Open Position</th>
<th>Date Applications Due (by noon)</th>
<th>Date of Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Members shall represent, insofar as possible, different occupations and professions such as, but not limited to, the legal profession, the financial or real estate professions, and the planning or design professions. Members shall be residents.</td>
<td>08/24/18</td>
<td>09/06/18</td>
</tr>
</tbody>
</table>

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
At the regular meeting of Thursday, September 6, 2018 the Birmingham City Commission intends to appoint three regular members to the Historic District Commission to serve three-year terms to expire September 25, 2021.

Interested parties may submit an application available from the City Clerk's Office on or before noon on Friday, August 24, 2018. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

The function and duty of the Historic District Commission is to advise the City Commission with respect to the proper development of the City with primary emphasis upon the City's established historic districts, sites, properties and historic resources. The Commission is also authorized to recommend for the guidance of the City Commission amendments to the City Code relating to the control and development of lands within historic districts.

<table>
<thead>
<tr>
<th>Criteria/ Qualifications of Open Position</th>
<th>Date Applications Due (by noon)</th>
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</tr>
</thead>
</table>
| • A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation.  
   • Must be a resident | 08/24/2018 | 09/06/2018 |

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
NOTICE OF INTENTION TO APPOINT TO
BOARD OF ZONING APPEALS

At the regular meeting of Thursday, September 6, 2018 the Birmingham City Commission intends to appoint one (1) alternate member to the Board of Zoning Appeals to serve the remainder of a three-year term to expire February 17, 2020.

Interested parties may recommend others or themselves for these positions by submitting a form available from the City Clerk's office. Applications must be submitted to the City Clerk's office on or before noon on Friday, August 24, 2018. Applications will appear in the public agenda at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

Duties of Board
The Board of Zoning Appeals acts on questions arising from the administration of the zoning ordinance, including the interpretation of the zoning map. The board hears and decides appeals from and reviews any order, requirement, decision or determination made by the Building Official.

<table>
<thead>
<tr>
<th>Criteria/Qualifications of Open Position</th>
<th>Date Applications Due (by noon)</th>
<th>Date of Interview</th>
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<tbody>
<tr>
<td>Members shall be property owners of record and registered voters.</td>
<td>8/24/18</td>
<td>9/6/18</td>
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</tbody>
</table>

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
NOTICE OF INTENTION TO APPOINT TO THE
PARKS & RECREATION BOARD

At the regular meeting of Thursday, September 6, 2018, the Birmingham City Commission intends to appoint one regular member to the Parks and Recreation Board to serve the remainder of a three-year term to expire March 13, 2021.

Interested citizens may submit an application available at the City Clerk’s office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s office on or before noon on Friday, August 24, 2018. These applications will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on the appointments.

Responsibilities
The Parks & Recreation Board consists of seven members who serve for three-year terms without compensation. The goal of the board is to promote a recreation program and a park development program for the City of Birmingham. The Board shall recommend to the City Commission for adoption such rules and regulations pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals, and welfare of the public.

The meetings are held the first Tuesday of the month at 6:30 P.M.

<table>
<thead>
<tr>
<th>Criteria/Qualifications of Open Position</th>
<th>Date Applications Due (by noon)</th>
<th>Date of Interview</th>
</tr>
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<tbody>
<tr>
<td>Members must be electors (registered voters) of the City of Birmingham.</td>
<td>38/24/18</td>
<td>9/6/18</td>
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</table>

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
DATE: August 3, 2018

TO: Joseph A. Valentine, City Manager

FROM: Tiffany J. Gunter, Assistant City Manager

SUBJECT: Parking Utilization Report Summary

There are two additional components that have been included in the Parking Utilization Report for this month, which are the 1) Parking Utilization Dashboard and 2) the 10 am – 2 pm Occupancy Tables and Charts for both June and July. These additional components were developed to accommodate the request made by the City Commission to update the traditional reporting documents with more comprehensive information regarding parking system utilization.

The Parking Utilization Dashboard provides an illustration of a six month rolling comparison of metrics using current and prior year usage data addressing monthly permit parkers, transient parkers, roof-top valet assist program adoption, on-street meter payment type distribution, visitors staying for more or less than two hours, and average occupancy levels in the parking garages during peak periods. Staff is working to collect additional information that will eventually be added to the dashboard, such as number of hits on the parking widget and more information regarding on street metered parking as sensors are brought online and become operational.
The 10 am – 2 pm Occupancy Tables and Charts include a full month of manual reporting from June and July 2018 from Monday through Friday from 10 am until 2 pm in each of the parking garages. The following is a snapshot during the first week of July.

<table>
<thead>
<tr>
<th>Occupancy 10a-2p(Weekday Analysis)</th>
<th>Occupancy 10a-2p(Weekday Analysis)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/2/2018 10am 11am 12pm 1pm 2pm</td>
<td>7/2/2018 10am 11am 12pm 1pm 2pm</td>
</tr>
<tr>
<td>Chester(880) 756 773 759 751 763</td>
<td>Chester(880) 86% 88% 86% 85% 87%</td>
</tr>
<tr>
<td>N.O.W.(745) 556 573 578 500 584</td>
<td>N.O.W.(745) 63% 65% 66% 67% 66%</td>
</tr>
<tr>
<td>Park(811) 674 699 706 725 727</td>
<td>Park(811) 77% 79% 80% 82% 83%</td>
</tr>
<tr>
<td>Peabody(437) 291 307 285 286 294</td>
<td>Peabody(437) 33% 35% 32% 33% 33%</td>
</tr>
<tr>
<td>Pierce(706) 528 540 563 556 573</td>
<td>Pierce(706) 60% 61% 64% 63% 65%</td>
</tr>
<tr>
<td>7/3/2018 10am 11am 12pm 1pm 2pm</td>
<td>7/3/2018 10am 11am 12pm 1pm 2pm</td>
</tr>
<tr>
<td>Chester(880) 662 678 644 638 608</td>
<td>Chester(880) 75% 77% 73% 73% 69%</td>
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<td>N.O.W.(745) 443 452 483 506 444</td>
<td>N.O.W.(745) 50% 51% 55% 58% 50%</td>
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<tr>
<td>Park(811) 684 699 674 667 628</td>
<td>Park(811) 78% 79% 77% 76% 71%</td>
</tr>
<tr>
<td>Peabody(437) 281 295 299 316 308</td>
<td>Peabody(437) 32% 34% 34% 36% 35%</td>
</tr>
<tr>
<td>Pierce(706) 400 417 458 506 476</td>
<td>Pierce(706) 45% 47% 52% 58% 54%</td>
</tr>
<tr>
<td>7/5/2018 10am 11am 12pm 1pm 2pm</td>
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<tr>
<td>Chester(880) 631 663 674 676 673</td>
<td>Chester(880) 72% 75% 77% 77% 76%</td>
</tr>
<tr>
<td>N.O.W.(745) 359 387 404 398 409</td>
<td>N.O.W.(745) 41% 44% 46% 45% 46%</td>
</tr>
<tr>
<td>Park(811) 612 675 697 702 708</td>
<td>Park(811) 70% 77% 79% 80% 80%</td>
</tr>
<tr>
<td>Peabody(437) 187 210 223 225 232</td>
<td>Peabody(437) 21% 24% 25% 26% 26%</td>
</tr>
<tr>
<td>Pierce(706) 392 424 484 496 482</td>
<td>Pierce(706) 45% 48% 55% 56% 55%</td>
</tr>
<tr>
<td>7/6/2018 10am 11am 12pm 1pm 2pm</td>
<td>7/6/2018 10am 11am 12pm 1pm 2pm</td>
</tr>
<tr>
<td>Chester(880) 601 628 614 609 604</td>
<td>Chester(880) 68% 71% 70% 69% 69%</td>
</tr>
<tr>
<td>N.O.W.(745) 335 401 493 499 484</td>
<td>N.O.W.(745) 38% 56% 56% 57% 55%</td>
</tr>
<tr>
<td>Park(811) 518 602 575 512 543</td>
<td>Park(811) 59% 68% 65% 58% 62%</td>
</tr>
<tr>
<td>Peabody(437) 235 256 259 288 255</td>
<td>Peabody(437) 27% 29% 29% 33% 29%</td>
</tr>
<tr>
<td>Pierce(706) 433 442 485 516 506</td>
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</tr>
<tr>
<td>7/9/2018 10am 11am 12pm 1pm 2pm</td>
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<tr>
<td>Chester(880) 854 865 848 846 849</td>
<td>Chester(880) 97% 98% 96% 96% 96%</td>
</tr>
<tr>
<td>N.O.W.(745) 617 667 666 667 664</td>
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</tr>
<tr>
<td>Park(811) 714 801 804 795 789</td>
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</tr>
<tr>
<td>Peabody(437) 345 364 361 354 372</td>
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</tr>
<tr>
<td>Pierce(706) 468 515 512 511 515</td>
<td>Pierce(706) 53% 59% 58% 58% 59%</td>
</tr>
<tr>
<td>7/10/2018 10am 11am 12pm 1pm 2pm</td>
<td>7/10/2018 10am 11am 12pm 1pm 2pm</td>
</tr>
<tr>
<td>Chester(880) 830 851 837 850 850</td>
<td>Chester(880) 94% 97% 95% 97% 97%</td>
</tr>
<tr>
<td>N.O.W.(745) 637 707 699 705 704</td>
<td>N.O.W.(745) 72% 80% 79% 80% 80%</td>
</tr>
<tr>
<td>Park(811) 752 798 809 809 788</td>
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</tr>
<tr>
<td>Peabody(437) 361 410 410 412 408</td>
<td>Peabody(437) 41% 47% 47% 47% 46%</td>
</tr>
<tr>
<td>Pierce(706) 791 598 628 678 647</td>
<td>Pierce(706) 90% 68% 71% 77% 74%</td>
</tr>
<tr>
<td>7/11/2018 10am 11am 12pm 1pm 2pm</td>
<td>7/11/2018 10am 11am 12pm 1pm 2pm</td>
</tr>
<tr>
<td>Chester(880) 836 878 871 871 863</td>
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</tr>
<tr>
<td>N.O.W.(745) 603 682 688 690 696</td>
<td>N.O.W.(745) 69% 78% 78% 78% 79%</td>
</tr>
<tr>
<td>Park(811) 741 792 791 794 803</td>
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</tr>
<tr>
<td>Peabody(437) 340 387 396 381 382</td>
<td>Peabody(437) 39% 44% 45% 43% 43%</td>
</tr>
<tr>
<td>Pierce(706) 478 557 596 617 615</td>
<td>Pierce(706) 54% 63% 68% 70% 70%</td>
</tr>
</tbody>
</table>

The parking system utilized 90% or more of its capacity for the majority of the month in June. It is important to note that the table counts do not reflect the roof top valet assist capacity. While the City experienced a 499% increase in usage of roof top valet, at no point in time did
the system exceed total capacity. As pictured below, the accompanying tables for each of the garages provides an illustration of the month for each garage by time of day.

As illustrated in the dashboard, the average occupancy during the month of June 2018 was 89% while average occupancy was 69% during July 2018. The decrease in utilization was due in part to the ongoing construction of Old Woodward.

In order to obtain the occupancy data, the Parking Management staff is required to take a manual count every hour between 10 am and 2 pm daily. The Parking Management staff is limited and this process is labor intensive. As such, staff is engaging data analytics firms that offer programs that would provide the same and improved data in real time automatically.

In order to obtain this data, SP+ is required to gather this information manually, which proves to be a challenge for the parking operations team that is not staffed to support this function and does not possess the sophistication that data analytics software would provide.

Staff has begun evaluating various parking analytics companies and have learned that having an analytics platform for parking will provide key benefits, such as:
- Quick access to occupancy, revenue, payment information and better operational insight and analysis,
- With PARCS equipment or third-party data sources, the City can transform operational decisions by understanding parker movement, parker duration, pricing segmentation, revenue per space, and space utilization,
- Ability to leverage transaction data supports staff ability to make better recommendations on rate mix, staffing cycles or enforcement route planning. It provides another set of warning indicators enabling corrective actions to take place sooner.

Using an analytics program would provide a platform that aggregates multiple data points, provides key performance indicators and analysis to complete the picture of how both on street and off street parking are performing and would ultimately assist us in reaching our goal of having an integrated on street and off street platform for the first time in the City and that data may be used to feed into a City Parking app for our users to enjoy.

Staff will provide more information regarding data analytics programs for consideration in the coming weeks.
City of Birmingham Parking Utilization Dashboard – June 2018

Monthly Permit Parking: -11%

Transient Parking: -16%

Transactions Under 2 Hours: -17%

Transactions Over 2 Hours: -11%

On Street Parking Meters Payment Distribution

% Usage

Coin
Credit
ParkMobil

10 am - 2 pm Parking Garage Occupancy Average

Cars Parked Rooftop Valet: +499%
## CITY OF BIRMINGHAM - Combined
### Income Statement
### For Periods Indicated

<table>
<thead>
<tr>
<th>REVENUES:</th>
<th>Month Ended</th>
<th>12 Month Ending</th>
<th>Month Ended</th>
<th>12 Month Ending</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2018</td>
<td>June 30, 2017</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td>Revenues - Monthly parking</td>
<td>221,541.00</td>
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<td>272,135.75</td>
<td>2,455,847.25</td>
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<td>2,953,713.09</td>
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<td>2,549,779.39</td>
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<td>14,325.00</td>
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<td>6,575.00</td>
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<tr>
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<td>5,158,250.04</td>
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<table>
<thead>
<tr>
<th>EXPENSES:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Wages</td>
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<td>90,517.31</td>
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<td>87,259.63</td>
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<tr>
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<td>4,462.64</td>
<td>36,135.56</td>
<td>3,838.44</td>
<td>34,240.53</td>
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<tr>
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<td>Uniforms</td>
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<td>2,906.91</td>
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<td>1,105.90</td>
<td>13,207.25</td>
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<td>Parking Tags/Tickets</td>
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<td>14,910.81</td>
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<td>Accounting Fees</td>
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<td>4,601.62</td>
<td>53,241.84</td>
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<td>Card Refund</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Operating Cost - Vehicles</td>
<td>746.65</td>
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<td>584.63</td>
<td>6,952.89</td>
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<tr>
<td>Pass Cards</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Appreciation</td>
<td>190.41</td>
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<td>148.50</td>
<td>1,770.45</td>
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<td>Credit Card Fees</td>
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<td>106,036.96</td>
<td>102,605.50</td>
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<td>Bank Service Charges</td>
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<td>157.52</td>
<td>4,155.86</td>
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<td>Miscellaneous Expense</td>
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<td>4,829.43</td>
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<td>46,500.00</td>
<td>3,875.00</td>
<td>46,500.00</td>
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<tr>
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<td>1,681,430.21</td>
<td>161,799.87</td>
<td>1,679,007.26</td>
</tr>
</tbody>
</table>

| OPERATING PROFIT                                 | 336,558.46  | 4,127,013.94    | # 379,224.67 | 3,479,242.78    |
# CITY OF BIRMINGHAM PIERCE DECK
## Income Statement
For Periods Indicated

## REVENUES:

<table>
<thead>
<tr>
<th></th>
<th>Month Ended June 30, 2018</th>
<th>12 Month Ending June 30, 2018</th>
<th>Month Ended June 30, 2017</th>
<th>12 Month Ending June 30, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues - Monthly parking</td>
<td>33,350.00</td>
<td>450,366.95</td>
<td>41,116.75</td>
<td>414,747.20</td>
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<tr>
<td>Revenues - Cash Parking</td>
<td>68,342.00</td>
<td>806,976.27</td>
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<tr>
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<td>15.00</td>
<td>2,018.00</td>
<td>90.00</td>
<td>3,195.00</td>
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<tr>
<td><strong>TOTAL INCOME</strong></td>
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<td><strong>1,259,361.22</strong></td>
<td><strong>117,677.75</strong></td>
<td><strong>1,215,666.05</strong></td>
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</tbody>
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## EXPENSES:

<table>
<thead>
<tr>
<th></th>
<th>Month Ended June 30, 2018</th>
<th>12 Month Ending June 30, 2018</th>
<th>Month Ended June 30, 2017</th>
<th>12 Month Ending June 30, 2017</th>
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</thead>
<tbody>
<tr>
<td>Salaries and Wages</td>
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<td>147,767.94</td>
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<tr>
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<tr>
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<td>4,049.25</td>
<td>57,498.98</td>
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<td>54,559.63</td>
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<td>Uniforms</td>
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<td>934.80</td>
<td>274.00</td>
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<tr>
<td>Insurance</td>
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<td>865.37</td>
<td>10,384.44</td>
</tr>
<tr>
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<td>66.35</td>
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<td>33.74</td>
<td>905.53</td>
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<tr>
<td>Card Refunds</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Operating Cost - Vehicles</td>
<td>149.33</td>
<td>1,452.01</td>
<td>116.93</td>
<td>1,365.93</td>
</tr>
<tr>
<td>Pass Cards</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Appreciation</td>
<td>14.20</td>
<td>273.21</td>
<td>29.70</td>
<td>270.24</td>
</tr>
<tr>
<td>Credit Card Fees</td>
<td>3,258.08</td>
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<td>775.00</td>
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<td><strong>32,434.05</strong></td>
<td><strong>336,892.73</strong></td>
</tr>
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</table>

**OPERATING PROFIT** **68,985.90** **932,521.60** **85,243.70** **878,773.32**
CITY OF BIRMINGHAM PEABODY DECK
Income Statement
For Periods Indicated

<table>
<thead>
<tr>
<th></th>
<th>Month Ended</th>
<th>12 Month Ending</th>
<th>Month Ended</th>
<th>12 Month Ending</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2018</td>
<td>June 30, 2017</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td><strong>REVENUES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues - Monthly parking</td>
<td>22,790.00</td>
<td>320,132.50</td>
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<td>270.00</td>
<td>630.00</td>
</tr>
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<td>59,510.00</td>
<td>704,985.55</td>
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<tr>
<td><strong>EXPENSES:</strong></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Salaries and Wages</td>
<td>16,208.16</td>
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<td>151,480.46</td>
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<td>5,910.84</td>
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<td>905.53</td>
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<tr>
<td>Card Refund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Appreciation</td>
<td>14.20</td>
<td>273.21</td>
<td>29.70</td>
<td>270.24</td>
</tr>
<tr>
<td>Operating Cost - Vehicles</td>
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<tr>
<td>Pass Cards</td>
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<tr>
<td>Credit Card Fees</td>
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<td>775.00</td>
<td>9,300.00</td>
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<tr>
<td><strong>TOTAL EXPENSES</strong></td>
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<td>284,128.03</td>
<td>27,247.19</td>
<td>302,580.98</td>
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<tr>
<td><strong>OPERATING PROFIT</strong></td>
<td>30,161.83</td>
<td>499,342.47</td>
<td>32,262.81</td>
<td>402,404.57</td>
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</table>
CITY OF BIRMINGHAM PARK DECK
Income Statement
For Periods Indicated

<table>
<thead>
<tr>
<th></th>
<th>Month Ended</th>
<th>12 Month Ending</th>
<th>Month Ended</th>
<th>12 Month Ending</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2018</td>
<td>June 30, 2017</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td><strong>REVENUES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues - Monthly parking</td>
<td>49,766.00</td>
<td>619,208.51</td>
<td>57,275.00</td>
<td>574,409.50</td>
</tr>
<tr>
<td>Revenues - Cash Parking</td>
<td>53,662.00</td>
<td>611,872.00</td>
<td>56,487.00</td>
<td>601,685.60</td>
</tr>
<tr>
<td>Revenues - Card Fees</td>
<td>15.00</td>
<td>(27.00)</td>
<td>60.00</td>
<td>435.00</td>
</tr>
<tr>
<td><strong>TOTAL INCOME</strong></td>
<td>103,443.00</td>
<td>1,231,053.51</td>
<td>113,822.00</td>
<td>1,176,530.10</td>
</tr>
</tbody>
</table>

| **EXPENSES:**        |             |                 |             |                 |
| Salaries and Wages   | 21,103.30   | 164,243.68      | 20,113.69   | 179,077.28      |
| Payroll Taxes        | 1,988.76    | 16,643.20       | 1,901.48    | 17,810.45       |
| Workmens Comp Insurance | 958.40      | 7,222.10        | 852.80      | 7,050.46        |
| Group Insurance      | 3,374.30    | 45,289.11       | 3,728.66    | 42,950.50       |
| Uniforms             | 226.24      | 933.43          |             | 438.15          |
| Insurance            | 2,276.47    | 28,921.26       | 2,125.49    | 24,697.36       |
| Utilities            | 201.00      | 2,228.46        | 221.18      | 2,565.14        |
| Maintenance          | 946.98      | 6,964.27        | 1,296.50    | 19,640.31       |
| Parking Tags/Tickets |             |                 | 564.97      | 3,575.19        |
| Accounting Fees      | 881.28      | 10,600.64       | 993.93      | 10,688.01       |
| Office Supplies      | 66.35       | 1,148.12        | 33.74       | 905.50          |
| Card Refund          | -           |                 |             |                 |
| Operating Cost - Vehicles | 149.33   | 1,452.01        | 116.93      | 1,365.91        |
| Pass Cards           | -           |                 |             |                 |
| Employee Appreciation | 133.61      | 780.28          | 29.70       | 261.90          |
| Credit Card Fees     | 2,558.24    | 30,698.98       | 2,451.11    | 24,286.77       |
| Bank service charges | 11.49       | 128.15          | 57.24       | 949.34          |
| Miscellaneous Expenses | 126.47      | 441.98          | 15.69       | 317.31          |
| Management Fee Charge | 775.00      | 9,300.00        | 775.00      | 9,300.00        |
| **TOTAL EXPENSES**   | 35,777.22   | 327,560.64      | 34,713.14   | 345,879.58      |

| **OPERATING PROFIT** | 67,665.78   | 903,492.87      | 79,108.86   | 830,650.52      |
## CITY OF BIRMINGHAM CHESTER DECK
### Income Statement
For Periods Indicated

### REVENUES:

<table>
<thead>
<tr>
<th></th>
<th>Month Ended</th>
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<th>Month Ended</th>
<th>12 Month Ending</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2018</td>
<td>June 30, 2017</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td>Revenues - Monthly parking</td>
<td>55,495.00</td>
<td>600,974.00</td>
<td>75,732.00</td>
<td>579,363.00</td>
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<tr>
<td>Revenues - Cash Parking</td>
<td>58,335.00</td>
<td>634,981.82</td>
<td>41,934.79</td>
<td>361,752.54</td>
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<tr>
<td>Revenues - Card Fees</td>
<td>135.00</td>
<td>1,340.00</td>
<td>45.00</td>
<td>1,295.00</td>
</tr>
<tr>
<td><strong>TOTAL INCOME</strong></td>
<td>113,965.00</td>
<td>1,237,295.82</td>
<td>117,711.79</td>
<td>942,410.54</td>
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### EXPENSES:

<p>| | | | | |</p>
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<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Wages</td>
<td>24,523.10</td>
<td>204,269.71</td>
<td>15,675.48</td>
<td>159,984.81</td>
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<td>2,535.64</td>
<td>21,440.52</td>
<td>1,482.77</td>
<td>19,625.26</td>
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<td>1,113.23</td>
<td>9,032.90</td>
<td>664.88</td>
<td>7,684.80</td>
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<tr>
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<tr>
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<td>29,150.60</td>
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<td>201.00</td>
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<td>2,542.61</td>
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<tr>
<td>Maintenance</td>
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<td>Parking Tags/Tickets</td>
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<td>1,666.71</td>
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<td>1,093.02</td>
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<td>11,848.73</td>
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<tr>
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<td>66.35</td>
<td>1,148.12</td>
<td>33.74</td>
<td>905.55</td>
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<tr>
<td>Card Refund</td>
<td>-</td>
<td>-</td>
<td>116.93</td>
<td>1,489.20</td>
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<tr>
<td>Operating Cost - Vehicles</td>
<td>149.33</td>
<td>1,452.02</td>
<td>116.93</td>
<td>1,489.20</td>
</tr>
<tr>
<td>Pass Cards</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Appreciation</td>
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<td>29.70</td>
<td>697.84</td>
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<td>429.69</td>
<td>49.38</td>
<td>173.94</td>
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<td>Misc Expense</td>
<td>129.13</td>
<td>986.90</td>
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<td>Management Fee Charge</td>
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<td>775.00</td>
<td>9,300.00</td>
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<tr>
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<td>415,708.01</td>
<td>31,658.01</td>
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**OPERATING PROFIT**

<p>| | | | | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
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<td></td>
<td>72,745.49</td>
<td>821,587.81</td>
<td>86,053.78</td>
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CITY OF BIRMINGHAM N. WOODWARD DECK
Income Statement
For Periods Indicated

<table>
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<th></th>
<th>Month Ended</th>
<th>12 Month Ending</th>
<th>Month Ended</th>
<th>12 Month Ending</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2018</td>
<td>June 30, 2017</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td><strong>REVENUES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues - Monthly parking</td>
<td>60,140.00</td>
<td>641,693.00</td>
<td>73,467.00</td>
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<td>447,314.00</td>
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<td>1,020.00</td>
</tr>
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<td><strong>TOTAL INCOME</strong></td>
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<td>972,609.35</td>
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<tr>
<td><strong>EXPENSES:</strong></td>
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<td></td>
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<td>Salaries and Wages</td>
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<tr>
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<td>-</td>
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</tr>
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<td>891.89</td>
<td>10,905.78</td>
</tr>
<tr>
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<td>66.35</td>
<td>1,148.12</td>
<td>33.74</td>
<td>905.50</td>
</tr>
<tr>
<td>Card Refund</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Operating Cost - Vehicles</td>
<td>149.33</td>
<td>1,452.02</td>
<td>116.93</td>
<td>1,365.91</td>
</tr>
<tr>
<td>Pass Cards</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Employee Appreciation</td>
<td>14.20</td>
<td>273.21</td>
<td>29.70</td>
<td>270.23</td>
</tr>
<tr>
<td>Credit Card Fees</td>
<td>1360.21</td>
<td>22,572.02</td>
<td>1509.45</td>
<td>16,034.56</td>
</tr>
<tr>
<td>Bank Service Charges</td>
<td>11.49</td>
<td>128.15</td>
<td>10.10</td>
<td>952.11</td>
</tr>
<tr>
<td>Miscellaneous Expense</td>
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<td>446.40</td>
<td>17.34</td>
<td>318.76</td>
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<td>Management Fee Charge</td>
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<td>9,300.00</td>
<td>775.00</td>
<td>9,300.00</td>
</tr>
<tr>
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<td>32,336.98</td>
<td>325,014.72</td>
<td>33,566.39</td>
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<td>56,335.02</td>
<td>764,187.28</td>
<td>74,716.61</td>
<td>617,391.85</td>
</tr>
<tr>
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<td>Month Ended</td>
<td>12 Month Ending</td>
<td>Month Ended</td>
<td>12 Month Ending</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------</td>
<td>-----------------</td>
<td>-------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2018</td>
<td>June 30, 2017</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td><strong>INCOME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues - Monthly Parking Lot #6 &amp; Southside</td>
<td>40,845.55</td>
<td>208,031.10</td>
<td>24,020.00</td>
<td>146,048.40</td>
</tr>
<tr>
<td><strong>TOTAL INCOME</strong></td>
<td>40,845.55</td>
<td>208,031.10</td>
<td>24,020.00</td>
<td>146,048.40</td>
</tr>
<tr>
<td><strong>EXPENSES</strong></td>
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<td></td>
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<td>Liability Insurance</td>
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<td>Office Supplies (Hanging Tags)</td>
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<td>1,810.90</td>
</tr>
<tr>
<td>Misc.</td>
<td>181.09</td>
<td>2,179.18</td>
<td>181.09</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL EXPENSES</strong></td>
<td>181.09</td>
<td>2,179.18</td>
<td>181.09</td>
<td>2,173.08</td>
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<tr>
<td><strong>NET PROFIT</strong></td>
<td>40,664.46</td>
<td>205,851.92</td>
<td>23,838.91</td>
<td>143,875.32</td>
</tr>
</tbody>
</table>
# Birmingham Parking System

## Transient & Free Parking Analysis

### Months of June 2017 & June 2018

### June 2017

<table>
<thead>
<tr>
<th>GARAGE</th>
<th>TOTAL CARS</th>
<th>FREE CARS</th>
<th>CASH REVENUE</th>
<th>% FREE</th>
</tr>
</thead>
<tbody>
<tr>
<td>PEABODY</td>
<td>18,294</td>
<td>10,099</td>
<td>$34,695.00</td>
<td>55%</td>
</tr>
<tr>
<td>PARK</td>
<td>21,262</td>
<td>9,231</td>
<td>$56,487.00</td>
<td>43%</td>
</tr>
<tr>
<td>CHESTER</td>
<td>8,994</td>
<td>3,137</td>
<td>$41,934.79</td>
<td>35%</td>
</tr>
<tr>
<td>WOODWARD</td>
<td>15,145</td>
<td>7,580</td>
<td>$34,786.00</td>
<td>50%</td>
</tr>
<tr>
<td>PIERCE</td>
<td>34,072</td>
<td>16,797</td>
<td>$76,471.00</td>
<td>49%</td>
</tr>
</tbody>
</table>

| TOTALS   | 97,767     | 46,844    | $244,373.79  | 48%    |

### June 2018

<table>
<thead>
<tr>
<th>GARAGE</th>
<th>TOTAL CARS</th>
<th>FREE CARS</th>
<th>CASH REVENUE</th>
<th>% FREE</th>
</tr>
</thead>
<tbody>
<tr>
<td>PEABODY</td>
<td>15,403</td>
<td>8,967</td>
<td>$36,590.00</td>
<td>58%</td>
</tr>
<tr>
<td>PARK</td>
<td>20,514</td>
<td>8,782</td>
<td>$53,662.00</td>
<td>43%</td>
</tr>
<tr>
<td>CHESTER</td>
<td>7,704</td>
<td>2,429</td>
<td>$58,335.00</td>
<td>32%</td>
</tr>
<tr>
<td>WOODWARD</td>
<td>13,414</td>
<td>6,543</td>
<td>$28,532.00</td>
<td>49%</td>
</tr>
<tr>
<td>PIERCE</td>
<td>24,956</td>
<td>12,292</td>
<td>$68,342.00</td>
<td>49%</td>
</tr>
</tbody>
</table>

| TOTALS   | 81,991     | 39,013    | $245,461.00  | 48%    |

### BREAKDOWN:

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<tr>
<th>Component</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>TOTAL CARS</td>
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</tr>
<tr>
<td>FREE CARS</td>
<td>-16%</td>
</tr>
<tr>
<td>CASH REVENUE</td>
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</tbody>
</table>
## MONTHLY PARKING PERMIT REPORT

For the month of June 2018  
Date Compiled: July 18, 2018

<table>
<thead>
<tr>
<th>Pierce Park</th>
<th>Peabody</th>
<th>N.Old Wood</th>
<th>Chester</th>
<th>Lot #6/$210</th>
<th>Lot #6/$150</th>
<th>South Side</th>
<th>Lot B</th>
<th>35001 Woodward</th>
<th>Lot 12</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>706</td>
<td>811</td>
<td>437</td>
<td>745</td>
<td>985</td>
<td>174</td>
<td>79</td>
<td>8</td>
<td>40</td>
<td>40</td>
<td>150</td>
</tr>
<tr>
<td>370</td>
<td>348</td>
<td>224</td>
<td>359</td>
<td>425</td>
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<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>336</td>
<td>463</td>
<td>213</td>
<td>386</td>
<td>500</td>
<td>174</td>
<td>79</td>
<td>8</td>
<td>30</td>
<td>40</td>
<td>100</td>
</tr>
<tr>
<td>550</td>
<td>750</td>
<td>400</td>
<td>800</td>
<td>1140</td>
<td>150</td>
<td>40</td>
<td>8</td>
<td>30</td>
<td>50</td>
<td>150</td>
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### Monthly Permits Authorized

<table>
<thead>
<tr>
<th>Pierce Park</th>
<th>Peabody</th>
<th>N.Old Wood</th>
<th>Chester</th>
<th>Lot #6/$210</th>
<th>Lot #6/$150</th>
<th>South Side</th>
<th>Lot B</th>
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### Permits - end of previous month

550 750 400 800 1140 150 40 8 30 50 100 4018

### Permits - end of month

550 750 400 800 1140 150 40 8 30 50 100 4018

### Permits available at end of month

0 0 0 0 0 0 0 0 0 0 0

### Permits issued in month includes permits effective 1st of month

15 3 2 10 9 0 0 0 0 0 0 39

### Permits given up in month

15 3 2 10 9 0 0 0 0 0 0 39

### Net Change

0 0 0 0 0 0 0 0 0 0 0 0

### On List - end of month

1041 953 991 1325 917 0 0 0 0 0 0 5227

### On List - Unique Individuals

3301

### Added to list in month

28 19 17 37 25 0 0 0 0 0 0 126

### Withdrawn from list in month (w/o permit)

0 0 0 0 0 0 0 0 0 0 0 0

### Average # of weeks on list for permits issued in month

143 82 141 128 57 0 0 0 0 0 0 110

### Transient parker occupied

201 140 162 122 65 N/A N/A N/A N/A N/A N/A 690

### Monthly parker occupied

462 660 257 598 902 N/A N/A N/A N/A N/A N/A 2879

### Total parker occupied

663 800 419 720 967 N/A N/A N/A N/A N/A N/A 3569

### Total spaces available at 1pm on Wednesday 6/20

43 11 18 25 18 N/A N/A N/A N/A N/A N/A 115

### "All Day/" parkers paying 5 hrs. or more

A:Weekday average. 196 200 98 150 127 N/A N/A N/A N/A N/A N/A 771

B:Maximum day N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* 0

### Utilization by long term parkers

N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* N/A* #DIV/0!

---

1. Lot #6 does not have gate control, therefore no transient count available  
2. (Permits/Oversell Factor + Weekday Avg.) / Total Spaces  
3. Average Maximum day not available currently in Skidata  
4. Unique individuals represent the actual number of unique people on the wait list regardless of how many structures they have requested.
## Structure Occupancy at 1pm Tuesday-Thursday

### Available Spaces

### July 2018

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<th>Sunday</th>
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<th>Wednesday</th>
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Notes:
Peabody Street Structure
Garage full list

**JULY 2018**

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### July 2018

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### Notes:

- Valet service details:
  - Valet-2 cars
  - Valet-19 cars
  - Valet-22 cars
  - Valet-5 cars
  - Valet-17 cars
  - Valet-31 cars
Chester Street Structure
Garage full list

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Notes:
### Pierce Street Structure

Garage full list

**JULY 2018**

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**Notes:**
Structure did not fill.
2017-18 Combined Parking Structure Full Status

Number of business days/year - 251 x 4 structures = 1004

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<th>Month</th>
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<tr>
<td>July</td>
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</table>

Total monthly occurrences of Chester, Park, Peabody and Pierce structures being full (1-4 hrs.)
Structure Occupancy at 1 pm Tuesday-Thursday
Average Available Spaces - July 2018

- Chester: 81 (Tue), 101 (Wed), 129 (Thur)
- N. Old Woodward: 92 (Tue), 61 (Wed), 92 (Thur)
- Park: 45 (Tue), 37 (Wed), 62 (Thur)
- Peabody: 45 (Tue), 45 (Wed), 90 (Thur)
- Pierce: 95 (Tue), 102 (Wed), 132 (Thur)
Parking Full Status by Structure
July 2018 Business Days Only (M-Friday)

- Pierce St.: 0
- Peabody St.: 0
- Park St.: 0 (Rooftop valet utilized 7 days)
- N.Old Woodward: 0 (Rooftop valet utilized 1 day)
- Chester: 0 (Rooftop valet utilized 4 days)

- Bar graph indicating total occurrences by structure of being full 1-4 hrs
Park Street Structure
Valet Assist Data - July 2017 - July 2018

- Days valet assisted to keep garage open
- Business days valet open, Mon-Friday
<table>
<thead>
<tr>
<th>Date</th>
<th>Chester(880)</th>
<th>N.O.W.(745)</th>
<th>Park(811)</th>
<th>Peabody(437)</th>
<th>Pierce(706)</th>
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<td>556</td>
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August 1, 2018

Ms. Cherilynn Brown, Clerk  
City of Birmingham  
151 Martin St.  
Birmingham, MI 48012-3001  

RE: Important Information—Channel Lineup Changes  

Dear Ms. Brown:

We are committed to keeping you and our customers abreast of the expiration of upcoming programming agreements. We regularly inform our customers in their bills and annual notices that we maintain a website (www.xfinitytv.com/contractrenewals) and toll-free number ((866) 216-8634) that are updated regularly to provide notice of the programming contracts that are set to expire in the coming months and the channels we might lose the rights to continue carrying.

As part of our ongoing commitment to keep you informed, we wanted to update you that Comcast’s right to continue carrying beIN Sports’ beIN and beIN en Español expired on July 31, 2018. As a result, we lost authorization to continue carrying these beIN networks as part of our lineup on August 1, 2018.

We want to carry these beIN Sports networks and provide our customers with the best value for beIN programming. To date, however, beIN Sports has been unwilling to provide an agreement that would enable us to carry its content in a way that reflects the value of these networks in a very competitive marketplace.

Since we lost authorization to carry this beIN Sports programming, we are preparing to activate www.ComcastFacts.com to help keep our customers informed during this period. We will continue to provide updates to you and our customers as we work to reach an agreement with beIN.

Sincerely,

Kyle V. Mazurek  
Manager of External Affairs  
Comcast, Heartland Region  
41112 Concept Drive  
Plymouth, MI 48170