Navigating through the agenda:

- Use the bookmarks on the left to navigate through the agenda.

- **Tablet Users:** Tap the screen for available options, select “Open in”, select “Adobe Reader”. The agenda will open in Adobe Reader. Scroll through the bookmarks to navigate through the agenda. *(The Adobe Reader application is required to download the agenda and view the bookmarks. This free application is available through the App Store on your tablet device.)*
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mark Nickita, 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 last of the 2017 Farmers Market events will be on Sunday, October 22\textsuperscript{nd} and October 29\textsuperscript{th} from 9:00 AM to 2:00 PM in Municipal Parking Lot #6. On October 29\textsuperscript{th}, special activities will include hayrides, Trick-or-Treating, corn shelling, live music, children’s pumpkin crafts, and pumpkin carving demonstrations. For more information, visit [www.enjoybirmingham.com](http://www.enjoybirmingham.com) or call 248.530.1200.
• The annual Halloween Parade and Pumpkin Patch happens on Sunday, October 29\textsuperscript{th}. The Pumpkin Patch opens at 1:00 PM in Shain Park, followed by the Parade at 4:00 PM. For more information visit [www.bbcc.com](http://www.bbcc.com), or call 248.430.7668 or 248.644.3163.
• Tuesday, November 7\textsuperscript{th} is Election Day in Birmingham. Polls will be open from 7:00 AM to 8:00 PM. Complete election information is available at [www.Michigan.gov/VOTE](http://www.Michigan.gov/VOTE). The City Clerk’s Office will be open on Saturday, November 4\textsuperscript{th} from 9:00 AM to 2:00 PM for issuing Absent Voter ballots.
• Celebrate the 90\textsuperscript{th} anniversary of the Baldwin Public Library at a speakeasy-themed fundraiser on Friday, November 10\textsuperscript{th} from 6:00 until 9:00 PM. Proceeds will be used for an expansion and renovation of the Youth Room. Tickets can be purchased at [www.baldwinlib.org](http://www.baldwinlib.org), or by calling 248.554.4683.
• The Veterans Day wreath laying ceremony is at 11:00 AM on Saturday, November 11\textsuperscript{th} in Shain Park. The ceremony is sponsored by the Piety Hill Chapter of the D.A.R.

Guests:
• Introduction of Kevin Byrnes, Communications Director
• Legislative Update by Representative Mike McCready

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. Approval of City Commission minutes of September 25, 2017
B. Approval of warrant list, including Automated Clearing House payments, of September 27, 2017 in the amount of $1,095,419.23.
C. Approval of warrant list, including Automated Clearing House payments, of October 4, 2017 in the amount of $2,985,815.30.
D. Approval of warrant list, including Automated Clearing House payments, of October 11, 2017 in the amount of $1,005,737.68.

E. Resolution authorizing the City Manager to cast a vote, on the City’s behalf, for the four incumbent members of the Michigan Municipal League Liability and Property Pool Board of Directors for three year terms, beginning January 1, 2018.

F. Resolution approving the appointment of election inspectors, absentee voter counting board inspectors, receiving board inspectors and other election officials as recommended by the City Clerk for the November 7, 2017 Election pursuant to MCL 168.674(1) and granting the City Clerk authority to make emergency appointments of qualified candidates should circumstances warrant to maintain adequate staffing in the various precincts, counting boards and receiving boards.

G. Resolution approving the amendment to the professional services agreement with McKenna Associates, Inc. to provide for the use of a City vehicle by the Consultant’s employees performing construction site code enforcement duties.

H. Resolution approving the federal funds in the amount of $20,310.00 for the 2017 Emergency Management Performance Grant period of 10/1/2016 to 9/30/2017. Further, directing the Mayor to sign the agreement on behalf of the City.

I. Resolution authorizing the IT department to purchase 95 block hours of GIS support from Geographic Information Services, Inc. 2100 Riverchase Center, Suite 105, Birmingham, AL 35244, the total purchase not to exceed $15,000.00. Funds are available in the IT GIS fund account # 636-228.000-973.0500.

J. Resolution approving the purchase for the painting of 72 light poles and traffic signal poles on West Maple Road with Seaway Painting, LLC in the amount not to exceed $18,280.00. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances. Funds are available in the Street Lighting Maintenance Account #202-449.003-937.0500. In addition, waiving the normal bidding requirements because Seaway is a DTE selected contractor.

K. Resolution approving a request submitted by the Birmingham Jewish Connection to display a Menorah in Shain Park from December 12, 2017 – December 20, 2017, and to hold a lighting ceremony on December 14, 2017, 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.

L. Resolution setting Monday, November 13, 2017 at 7:30 PM for a Public Hearing to consider the proposed lot combination of 607 & 635 S. Bates.

M. Resolution setting Monday, November 13, 2017 at 7:30 PM for a public hearing to consider the Final Site Plan and Special Land Use Permit Amendment for 505 N. Old Woodward to allow interior and exterior changes to the existing Salvatore Scallopini bistro at 505 N. Old Woodward.

N. Resolution authorizing the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and approving the liquor license transfer for Whole Foods that requests a transfer of Class C License issued under MCL 436.1521(A)(1)(B) to be located at 2100 East Maple Rd., Suite B, Birmingham, Oakland County, MI 48009. Furthermore, pursuant to Birmingham City Ordinance, authorizing the City Clerk to complete the Local Approval Notice at the request of Whole Foods approving the liquor license transfer request of Whole Foods for the transfer of a Class C License to be issued under MCL 436.1521 (A) (1) (B) located at 2100 East Maple Rd, Suite B, Birmingham, Oakland County, MI 48009.

O. Resolution approving the Lighting Agreements with Essco of Birmingham and Merrillwood Collection, granting permission for the City for said lighting to be placed
over Merrill Street during the 2017 holiday season, and further directing the Mayor to sign the agreement on behalf of the City.

P. Resolution awarding the 2017 Sewer Lining Program, Contract #8-17(S), to Lanzo Trenchless Technologies North, of Roseville, MI in the amount of $786,997.00, to be charged to the Sewer Fund as follows:

   590-536.001-981.0100   $100,887.00
   590-536.001-981.0200   $686,110.00

Further, granting a waiver of Section 50-74(b)(2) of the Birmingham City Code to Lanzo Lining Technologies North pertaining to the sewer lining proposed in the downtown area, which will allow the work to be done at those times of day that traffic demands are relatively light, and building occupancy is low.

Q. Resolution designating City Manager Valentine, Communications Director Byrnes, City Planner Ecker, Finance Director Gerber, Police Commander Grewe, City Engineer O’Meara, and BSD Director Tighe as representatives for Election Commission members Mayor Nickita, Mayor Pro Tem Harris, and Commissioners Bordman, Boutros, DeWeese, Hoff and Sherman for the purpose of conducting the Public Accuracy Test of the electronic tabulating equipment which will be used to count votes cast at the November 7, 2017 Election.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. Public Hearing to consider the proposed rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning)

   1. Resolution approving the rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning) as recommended by the Planning Board on September 13, 2017;

   OR

   Resolution denying the rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning).

   OR

   Resolution approving the rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning) as recommended by the Planning Board on September 13, 2017 with the conditions as outlined in the letter dated October 5, 2017 from Chester Street Partners, LLC, A Surnow Company.

B. Resolution authorizing the Mayor and Clerk to sign the license agreement authorizing the removal of eight metered parking spaces on the Old Woodward Ave. frontage of 298 S. Old Woodward Ave., to be used as a valet loading area, at the current rate of $3,000 per meter per year, effective upon closure of the area for construction of the adjacent hotel.

C. Ordinance amending Chapter 127, Section 25(20) of the Birmingham City Code to add 927 Purdy as a Historic District

   1. Resolution establishing the home at 927 Purdy as a non-contiguous historic district in accordance with the requirements of section 127 of the Birmingham City code by amending Chapter 127, section 25 (20) to add 927 Purdy as a Historic District in the City of Birmingham.

D. Resolution allowing the use of glyphosate as a means of control for invasive plants, weeds, and other nuisance vegetation in limited areas by trained and certified applicators in accordance with regulated application standards.

   OR

   October 16, 2017
Resolution continuing the ban on the use of glyphosate as as a means of control for invasive plants, weeds, and other nuisance vegetation in the City.

E. Resolution to meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act. (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

A. South Poppleton Homeowners communication re: Adams Park

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

X. REPORTS

A. Commissioner Reports
   1. Notice to appoint two alternates to Planning Board on November 20, 2017.
   2. Notice to appoint two business operators and one business operator/property owner to the Birmingham Shopping District Board on November 20, 2017.
   3. Notice to appoint members to the Ad Hoc Unimproved Street Study Committee on December 4, 2017.

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

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).
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 7:30 p.m.

II. ROLL CALL

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

Absent, None

Administration: City Manager Valentine, City Clerk Brown, Police Chief Clemence, City Attorney Currier, City Planner Ecker, DPS Manager Filipski, City Engineer O'Meara, BSD Director Tighe, DPS Director Wood

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

Mayor Nickita announced:
- The first session of the Fall Citizens Academy begins tomorrow evening at 6:00 PM in the City Commission Room. If you are interested in attending, you must register with the City Manager’s office at 248.530.1807.
- The Farmers Market continues on Sundays through October 29th from 9:00 AM to 2:00 PM in Municipal Parking Lot #6 on N. Old Woodward.
- The Fire Department is hosting its annual Open House on Saturday, October 14th from 1:00 PM to 4:00 PM at 572 S. Adams.

09-256-17 APPOINTMENTS TO THE BROWNFIELD REDEVELOPMENT AUTHORITY

Dan Haugen and Harry Awdey were present and were interviewed by the Commission.

MOTION: Motion by Commissioner DeWeese:
To concur in the Mayor’s appointment of Harry Awdey to the City of Birmingham Brownfield Redevelopment Authority as a regular member to serve the remainder of a three-year term to expire May 23, 2019.

VOTE: Yeas, 7
Nays, 0
Absent, 0
The City Clerk administered the Oath of Office to Harry Awdey.

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.

09-257-17 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Mayor Pro Tem Harris: Item B, Approval of Joint City Commission/Planning Board Workshop

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To approve the Consent Agenda, with Item B removed.

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

Nays, None
Absent, None

A. Approval of City Commission minutes of September 11, 2017
C. Approval of warrant list, including Automated Clearing House payments, of September 13, 2017 in the amount of $1,063,737.15
D. Approval of warrant list, including Automated Clearing House payments, of September 20, 2017 in the amount of $17,647,605.35
E. Resolution approving a request from the Birmingham Shopping District to hold the Winter Market, in Shain Park and surrounding streets from December 1 - 3, 2017 and to allow the use of temporary liquor licenses in Shain Park for this event, 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.
F. Resolution approving a request from the Birmingham Shopping District to place the Santa House in Shain Park from November 22 to December 24, 2017, 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 setting Monday, October 16, 2017 at 7:30 PM for a Public Hearing to consider the proposed rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning).
H. Resolution approving the purchase of two (2) 2018 GMC Sierra 4x4 pickup trucks from Todd Wenzel Buick GMC through the Oakland County extendable purchasing contract #4850 in the amount of $55,992.00 from account #641-441.006.971.0100.
I. Resolution approving Change Order #1 to Florence Cement Co., in the amount of $50,500 be authorized for the 2017 Asphalt Resurfacing Program, Contract #5-17(P), to provide
asphalt conditioning services and prepare the following sections of local streets for cape sealing:

Webster Ave. – Woodward Ave. to Adams Rd.
S. Worth Ave. – 300 Ft. North of Webster Ave. to Woodward Ave.

Further, approving the appropriations and budget amendment as follows:

Local Street Fund
Revenues:
- Draw from Fund Balance #203-000.000-400.0000 $26,955
- Oakland County Local Road Improvement Grant #203-000.000-583.0005 $30,598
- Total Revenue Adjustments $57,553

Expenditures:
- Public Improvements #203-449.001-985.7500 $57,553
- Total Expenditure Adjustments $57,553

The Commission agreed to discuss items removed from the Consent Agenda at this time.

09-258-17 APPROVAL OF CITY COMMISSION/ PLANNING BOARD JOINT WORKSHOP MINUTES OF SEPTEMBER 18, 2017 (ITEM B)

Mayor Pro Tem Harris explained that on the first page, in the last paragraph, there was a reference to Duany’s 2016 review of a 2014 plan, but those years should be transposed – it was actually a 2014 review of the 2016 plan.

MOTION: Motion by Mayor Pro Tem Harris, seconded by Commissioner Boutros to approve the City Commission/Planning Board Joint Workshop minutes of September 18, 2017, as amended:

VOTE: Yeas, 7
Nays, 0
Absent, 0

V. UNFINISHED BUSINESS

09-259-17 ADOPTION OF BOARD OF ETHICS ADVISORY OPINION 2016-03

City Manager Valentine provided an overview of the issue:
- There was previous discussion on incorporating the Board of Ethics’ opinion setting forth guidelines for Commissioners’ appointments to non-profit organizations.
- Based on the Commission’s conversation, it was best to incorporate the entire opinion by adoption of the Commission.

City Manager Valentine confirmed for Commissioner Hoff that Commissioners could serve as non-voting liaisons to non-profit boards if so appointed by the Commission, and explained that in addition to non-voting liaisons Commissioners could be appointed as voting members or non-voting members to non-profit boards.

City Manager Valentine continued that there are implications for each type of appointment as laid out in the advisory opinion, and that his understanding of the Commission’s intention was to pursue the non-voting liaison position in order to avoid the potential conflicts of interest attendant to the other roles.

City Manager Valentine confirmed for Commissioner Hoff that:
• Future Commissions can choose to appoint Commissioners as non-voting liaisons to boards, but the adoption of the Board of Ethics’ opinion in its entirety will allow the Commission leeway to make other types appointments as well.
• Per his understanding, this Commission seems to prefer non-voting liaison appointments.

Commissioner Bordman suggested that incorporating the entire advisory opinion:
• Allows future Commissions to provide future non-profits seeking appointments with the entire opinion so as to explain how the Commission may be choosing a particular appointment type; and
• Allows future Commissioners the same thorough understanding of the decision-making process around appointments as this current Commission has; and
• Provides the greatest amount of leeway to future Commissions.

Mayor Nickita added that while incorporating the entire advisory opinion does provide future Commissions with leeway, the current Commission's practice will also set precedent that will be considered by future Commissions.

Commissioner Bordman explained that:
• The NEXT board voted to change its bylaws to make its future Commissioner appointments non-voting liaison positions; and
• This opinion was shared with the other communities present at the most recent NEXT board meeting, which may help those communities in their decision-making process around similar types of appointments.

MOTION: Motion by Commissioner Bordman, seconded by Commissioner DeWeese:
To adopt Advisory Opinion 2016-03 as guidance for Commissioners with respect to serving on community based organizations.

VOTE: Yeas, 7
      Nays, 0
      Absent, 0

09-260-17 SET PUBLIC HEARING TO CONSIDER ADDING DEFINITION OF PERSONAL SERVICES TO ZONING ORDINANCE
Commissioner Sherman said he would like to see the list the Planning Board made in their consideration of the definition of personal services before the Commission schedules a public hearing.

City Manager Valentine confirmed for Commissioner Sherman that the Planning Board’s first meeting in November would be November 8, and that the Commission should ask to receive the Planning Board’s list and notes by November 9 at the latest.

Commissioner Sherman clarified he does not want the Planning Board to hold another public hearing; rather, he wants the list the Planning Board had been working on to be provided to the Commission.

Commissioner Sherman explained to City Planner Ecker that he would like the list to be inclusive of the uses the Planning Board did and did not consider including in their definition of personal services.
Commissioner Bordman echoed Commissioner Sherman’s comments, and added that in all the personal research she had conducted on personal services definitions in different communities, illustrative lists of uses were included. Commissioner Bordman continued that when the Planning Board provides the Commission with its list, it should also include pros and cons for including or excluding each use.

Commissioner DeWeese stated:
- He was similarly bothered by the lack of real-world examples, and this lack could lead to uncertainty in interpretation of the ordinance.
- He would like to see how all the businesses currently operating in the red-line retail district would be categorized, even with the understanding that those businesses are grandfathered in, so as to be able to refine how the definitions and uses should be applied.
  - He is not comfortable moving forward with a definition without a more concrete sense of this information.

Mayor Nickita summarized that he was hearing the Commissioners call for more specific examples and information from the Planning Board.

Commissioner Hoff pointed out:
- The Planning Board was originally hesitant in providing a list because every use would have exceptions.
- Other approaches might be more consistent with the Commission’s desire to promote vibrant, active businesses in the City’s retail areas.
- Giving the Planning Board sufficient leeway to explore other approaches might be beneficial.

Mayor Nickita stated that the Commission seemed to be addressing two related issues: use issues and application issues. Citing Lululemon as an example, Mayor Nickita explained that if they, as a retail business, decided to put an office desk in one of their windows, that would be both a use and an application issue.

Commissioner Hoff echoed Mayor Nickita’s point, saying that Lululemon was a good example because they have frequent customers and less dynamic windows, which brings up difficulties with this ordinance and its application.

Commissioner Sherman reiterated that the topic before the Commission was whether to set a public hearing on the public services definition, or to send the topic back to the Planning Board with a request for further information.

Mayor Pro Tem Harris stated:
- This topic has been discussed in at least three joint sessions.
- He believes the Planning Board fulfilled the Commission’s request to provide a definition for public services.
- The Commission now has a number of options, including:
  - Rejecting the definition;
  - Accepting the definition; or
  - Asking the Planning Board to generate a list of additional ways to create a vibrant and active downtown.
• He does not want to send the current definition back to the Planning Board for further elaboration.

Mayor Nickita:
• Agreed with Commissioner Hoff that asking for a list of uses may be complicated because exceptions will exist, but added that he also does not believe the Commission has been provided enough information by the Planning Board to move forward with crafting the ordinance.
• Preferred to receive a list from the Planning Board, even with the drawbacks of generating one, in order to address the issue of clarity around the ordinance’s implementation.

Commissioner Hoff reminded the Commission that Chairman Scott Clein of the Planning Board called for further study of the definition before implementation, and that Chairman Clein did not likely intend that a list of uses would be sufficient substitute for that study.

Mayor Nickita replied that the Planning Board’s recommendation of further study of the definition would be beneficial long-term, but would not resolve the short-term issue of current, appropriate implementation of the ordinance.

Commissioner DeWeese stated:
• His request for a list is in order to provide the Commission with concrete examples with which to work.
• He also agrees with Commissioner Hoff that the more pressing issue at hand is to figure out what rules or regulations should be applied to the first twenty feet of space in these types of zoning situations, and this is more than a use issue.
• There are some uses that may be technically prohibited, but would be more vibrant and interesting to passersby than other uses which are technically permitted but visually lacking, and that acknowledging these potential contradictions will allow the Commission to achieve its ultimate goal of making streets livelier, independent of the master planning process.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Bordman:
To send the issue of the definition of personal services back to the Planning Board for the purpose of providing the Commission with the list of uses discussed at the Joint City Commission/Planning Board meeting on September 18, 2017, have the Planning Board complete the list, including the rationale for each use’s inclusion or exclusion, and submit the list by November 9 or earlier.

Commissioner Bordman asked to add “to provide rationale for including or excluding each use” to the motion.

Commissioner Sherman suggested the information may be in the Planning Board’s minutes, and Commissioner Bordman replied she did not believe it was.

Mayor Nickita suggested that if this were to be added as an amendment, the request would need to be more specific. He added that requesting a pro and con list for every use considered may be cumbersome.
Commissioner Bordman said that maybe it would be more efficient to include pros and cons for categories instead of individual uses, and Mayor Nickita agreed.

Upon Mayor Nickita’s request, City Clerk Mynsberge read the amendment proposed as: “You are sending this issue back to the Planning Board for the purpose of having them provide us with their list of uses discussed at the joint meeting, to have that list cleaned up, have it back to the Commission by November 8, and to include the rationale of the advantages and disadvantages for each category.”

Mayor Nickita and City Manager Valentine agreed to change “cleaned up” to “completed”.

Commissioner DeWeese stated:
- He would still like to have concrete examples of how the definition applies within Birmingham’s redline retail district.
- The information could come from the Planning staff instead of the Planning Board.

City Manager Valentine suggested that Commissioner DeWeese’s concerns could be addressed administratively. Mayor Nickita concurred that a presentation on the topic would be useful.

Commissioner Hoff stated she was still concerned because the Planning Board did not endorse its own definition, and therefore a list of rationales to build on the unendorsed definition would not be beneficial.

Mayor Nickita requested that further Commission comments be related to the motion.

Commissioner Boutros stated:
- Ultimately, in requesting a list, the Commission is asking the Planning Board to commence a limited study without appropriate time or resources.
- He believes the Commission should either accept the currently provided definition or not, and more forward from there.
- He believes a list with sub-items would only further complicate the issue.

Mayor Nickita reminded the Commission the motion on the table was to request further information from the Planning Board so as to clarify the ordinance, and that such a motion could be beneficial so the Commission does not continue to attempt performing work more appropriately carried out by the Planning Board.

Mayor Nickita explained to Commissioner Hoff that the intent of the motion was to provide a list of categories that fall within the definition of personal use, and the rationale for the uses’ inclusion or exclusion. In this way, the Commission hopes to gain information as to how the ordinance may be more clearly implemented.

Commissioner Hoff stated she believes the motion just delays the Commission’s effort towards cultivating vibrant and active streets.

Mayor Nickita replied that, while he agrees the issue has already been more delayed than he expected, this motion would only delay the process by an additional month, with a public hearing at the end of November instead of the end of October. He continued that doing so has the benefit of being as informationally complete as possible.
VI. NEW BUSINESS

09-261-17  RESOLUTION REQUIRING OATH OF SUPPORT FOR CITY ORDINANCES

From City Clerk Mynsberge and City Attorney Currier’s staff report to City Manager Valentine dated September 13, 2017:

At the September 11, 2017 City Commission meeting, Commissioner Bordman noted the Oath of Office does not include adherence to city ordinances and asked that a way be found to include in the oath process a requirement to adhere to city ordinances.

The Birmingham City Charter, Chapter III, Section 31 specifies the language for the Oath, and changing the language itself requires a Charter amendment.

City Attorney Currier and City Clerk Mynsberge discussed the issue and agreed it is best addressed with a formal resolution by the City Commission requiring officers elected or appointed to any city office to take an additional oath to observe the City Charter and the Code of Ordinances. This oath, “I do solemnly swear (or affirm) that I will support the City of Birmingham Charter and Code of Ordinances in the performance of the duties of my office,” would be administered immediately following the Oath of Office specified by City Charter.

Attorney Currier explained that requiring this oath by resolution will benefit the City by avoiding the need for an expensive Charter amendment election.

City Clerk Mynsberge confirmed for Commissioner Hoff that this oath would be in addition to the one currently administered to officials.

Commissioner Sherman said:
- If this additional oath is going to be added, it should be done correctly.
- He does not see an issue with the language already included in the Charter and the oath, which includes the “honest and efficient administration of the affairs of Birmingham”.
- He believes the process currently being discussed would be very cumbersome.
- This discussion reminded him of a prior issue before the Commission regarding conflicts of interest where the disclosure of one’s and one’s parents’ personal assets was proposed.

Commissioner Bordman replied:
- ‘Honesty and efficiency’ is not the same as saying one supports the Charter of the City, which officials say for the national and state constitutions.
- She was not clear why two separate signings would be required if the proposed oath is added to the administration of the already existing oath of office.
- She believes the language is important, because if it were not, it would not have been included regarding the national and state constitutions.

Commissioner Sherman stated:
• If the Commission wants officials to state that they support the City Charter, the Charter should be amended, rather than administering two separate oaths.
• The current oath does not specify that officials will uphold national or state laws; rather, the oath specifies the support of constitutions.
• For this reason, he suggested that adding support of the City Code of Ordinances, which are laws, to the oath would be in excess of what is being done on the national and state levels, since constitutions are not laws.

Commissioner Bordman replied that an Oath of Office containing support of the national and state constitutions is an agreement to support the laws included within those documents, and asked if Commissioner Sherman would prefer the language be changed to Charter instead of Code of Ordinances.

Mayor Nickita ventured that the discussion was not about whether the language was worthwhile, but rather how best to include the language.

Commissioner Sherman asked why the discussion is important if it is not important enough to merit a Charter amendment.

City Attorney Currier explained to Commissioner DeWeese:
• Administering the proposed oath with the current oath and having one signing is inadvisable because the first oath is Charter-mandated.
• Combining the two oaths runs the risk of giving the public the inappropriate impression that the Charter was changed without due process.
• Because the extant oath was mandated by Charter, and the proposed oath would be mandated by resolution, they should not be combined because they were not created or vetted in the same way.

City Attorney Currier affirmed for Commissioner Bordman that the proposed oath could be typed and sent home along with the Affidavit and Disclosure Statement required by the Ethics Ordinance (Ethics Affidavit), and could be reviewed, signed, and returned from there by the new city official.

Mayor Pro Tem Harris stated he would be inclined to support City Attorney Currier’s solution, because he believes supporting the Charter and Code to be an important principle.

Commissioner Hoff added that if the proposed oath were taken home with the Ethics Affidavit, she would be inclined to support as well.

City Attorney Currier explained to Mayor Nickita:
• There is no problem with administering the oath in this way; and
• Both oaths are somewhat superfluous because a city official must obey national, state, and city laws.
• The existing oath is required by charter and serves to reiterate the commitment to uphold national and state laws, and that the proposed oath would serve the same purpose for city laws.

Commissioner Sherman suggested combining the proposed oath with the Ethics Affidavit so as to reduce the need for two signings. He emphasized that the oath takers are volunteers, and keeping it as simple as possible for them is worthwhile.
Commissioner Bordman questioned whether signing two separate forms would be sufficiently cumbersome so as to deter volunteers.

Mayor Nickita affirmed for Commissioner Boutros that if the proposed resolution is passed, future Commissions can make changes.

Commissioner Boutros added his voice to those in support of signing the oath at home along with the Ethics Affidavit.

Mayor Nickita echoed Commissioner Sherman’s suggestion that the oath be added to the Ethics Affidavit so as only require one signature.

Commissioner Sherman asked if City Attorney Currier could make the changes and bring them to the next Commission meeting, and asked if the Ethics Ordinance would need to be revised.

Commissioner Bordman expressed belief that the proposed oath should remain separate and distinct from the Ethics Affidavit, since it is topically so.

Mayor Pro Tem Harris clarified that he did not support making the oath and the Ethics Affidavit one document; rather, he supported sending them home together and having them be signed one after the other.

Mayor Nickita then laid out for the Commission the two options before them:

- Request that the City Attorney and staff look into making the oath and Ethics Affidavit one document, or;
- Move forward with the oath and Ethics Affidavit as two separate documents requiring two separate signatures.

Commissioner Bordman strongly emphasized her belief that reading and signing the oath’s single sentence, either before or after the Ethics Affidavit, would not be an impediment, and that further discussion was superfluous.

Mayor Pro Tem Harris agreed with Commissioner Bordman.

City Attorney Currier pointed out Section 2-321 of the Ethics Ordinance, The Responsibilities of Public Office, requires officials “to carry out impartially and completely the laws of the nation, state, and the city”. He suggested a further oath to that effect may be redundant.

Commissioner Bordman replied that the section City Attorney Currier read is still lacking the word “support”, and she wants to garner support for the City Charter.

**MOTION:**  Motion by Commissioner Bordman, seconded by Mayor Pro Tem Harris:
To require an affirmation of support of the City of Birmingham Charter and Code of Ordinances as a supplemental document to be signed by appointed and elected officials along with the Ethics Affidavit and Disclosure statement:

“I do solemnly swear (or affirm) that I will support the City of Birmingham Charter and Code of Ordinances in the performance of the duties of my office.”
Commissioner Sherman explained that he would be voting against the motion not because he does not value the idea, but because he believes it is already covered.

City Attorney Currier clarified for Mayor Nickita that, while the proposed oath would be repeating some of the language from the Ethics Ordinance, there is precedent for doing so and that it would help emphasize the importance of the issue to new office holders.

VOTE: Yeas, 6  
Nays, 1 (Sherman)  
Absent, 0

**09-262-17 CREATION OF AD HOC UNIMPROVED STREET STUDY COMMITTEE**

From City Manager Valentine's report to the City Commission dated September 18, 2017:

The City has roughly 90 miles of roads within its jurisdiction. These roads are categorized as either “improved” or “unimproved”. Improved roads comprise the majority of roads in the City and are constructed by engineered design and include curbs and gutters to drain water runoff and are constructed of either a concrete or asphalt surface. Unimproved roads comprise roughly 26 miles of roads in the City and are constructed with a simple gravel base topped with a chip and slurry seal. The method of providing maintenance for unimproved roads is through a process called cape sealing. In Birmingham, cape seal is used as an inexpensive non-structural driving surface that provides an enhanced look and feel on what is essentially a gravel road. The process for maintaining these unimproved roads has been a growing concern from residents living on these streets given their lack of durability and maintenance cycle of every 7 to 10 years among other issues.

To best address the concerns with unimproved roads it is recommended to create an Ad Hoc committee to conduct a city-wide study of unimproved roads and develop a recommendation outlining a long term plan for addressing these roads. A resolution is attached providing for the creation of this Ad Hoc committee for this purpose. The focus of the Committee will be to review and evaluate unimproved roads while considering road durability, maintenance cycles, drainage, rights-of-way usage, traffic speeds and costs.

Commissioner Hoff stated:
- Her support for the ad hoc committee being proposed.
- Her belief the Committee will promote good relationships with the residents.

City Manager Valentine confirmed for Commissioner Hoff the Committee’s goal will be to have recommendations for the Commission by December 2018 that could potentially be implemented during the 2019 construction season.

City Manager Valentine also explained:
- Residents living on unimproved streets have been advised as to their current options, which are:
  - Continuing with scheduled cape seal maintenance or,
  - Petitioning the City to improve their street.
- After the Committee makes its recommendations, the options may change.
Commissioner Bordman suggested the three members who are to be residents living on unimproved streets, as stated in 2.b) of the proposed resolution, should come from different parts of the City where possible, and that the Committee's goals, as stated in 3.b., should include taking resident preferences into account.

City Manager Valentine explained to Commissioner Bordman he had not sought to include someone from the MMTB because the Committee's purpose is a matter of policy, not design.

Commissioner Sherman said he did not think resident preference needs to be part of the Committee's goals, since the Committee is focused solely on creating general policy for the City. He proposed the appropriate time to solicit resident preference would be in the future as individual unimproved streets come up for future policy implementation. Mayor Nickita agreed.

Commissioner Bordman replied that City residents sometimes have very specific preferences for their neighborhoods, so it is important to find out what they want as the policy discussion is taking shape.

City Manager Valentine reported he intends to have public hearings on the Committee's recommendations. Commissioner Bordman felt having a public hearing after the Committee has completed its recommendations is too late in the process to be seeking public feedback.

Mayor Nickita explained this Committee is concerned only with fundamentals, and particulars like resident preferences would happen at another time. City Manager Valentine concurred.

Mayor Pro Tem Harris requested the scope outlined in paragraph 3 be expanded to include research into how neighboring municipalities fund their unimproved streets in order to find ideas for best practices.

Commissioner Boutros echoed Commissioner Hoff's enthusiasm for the formation of the Committee.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Hoff:
To adopt the resolution creating an Ad Hoc Unimproved Street Study Committee to conduct a city-wide study of unimproved roads and provide a recommendation to the City Commission outlining a long term plan for these roads, incorporating amendments made tonight. *Formal resolution appended to these minutes as Attachment A.*

City Manager Valentine explained appointments will be made after the positions are advertised and all applicants appear before the Commission for interviews.

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

**09-263-17** RESOLUTION TO MEET IN CLOSED SESSION TO DISCUSS ATTORNEY-CLIENT PRIVILEGE COMMUNICATION IN ACCORDANCE WITH SECTION 8(H) OF THE OPEN MEETINGS ACT (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 adjournning the meeting.)

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To meet in closed session to discuss an attorney/client privileged communication in accordance
with Section 8(H) of the Open Meetings Act.

**ROLL CALL VOTE:**

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| Nays,            | None                                      |
| Absent,          | None                                      |

Mayor Nickita stated there would be no action following the closed session.

**VII. REMOVED FROM CONSENT AGENDA**

The items removed were discussed earlier in the meeting.

**VIII. COMMUNICATIONS**

None.

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

None.

**X. REPORTS**

**09-264-17 COMMISSIONER COMMENTS**

Commissioner DeWeese questioned the use of prime city streets such as Old Woodward for
multi-day special events, noting:

- There is concern that these have a negative effect on businesses.
- Such events might be better hosted in Shain Park, behind or in front of City Hall, or
  behind the library.

Commissioner DeWeese suggested that as those events are relocated during the construction
on North Old Woodward beginning next year, it might behoove the City to have those events
remain in their reassigned locations.

Commissioner Bordman reported on her and Mayor Nickita's attendance at the Michigan
Municipal League (MML) Conference in Holland, Michigan. Of particular interest was Holland's
snow melt system, which is comprised of an electrical grid under the sidewalk. She noted
Holland has their own energy park, which allows them to create hot water under the street.
Commissioner Bordman also addressed proposed statewide legislation to eliminate local zoning
authority with respect to short-term rental properties, which are defined as leases running 28
days or less. This is a concern for Birmingham because it may create a loophole where
landlords can change their leases to 28-day cycles so as to avoid ever having their properties be
inspected by the City.
Mayor Nickita added:

- Zoning concerns in regard to rentals are related to Air-BnB as well, and this legislation will likely not be the end of discussions.
- The final session of the MML was with a woman from Colorado who spoke about the effect legalization of marijuana has had on the state. She presented an extensive list of issues that have arisen, including enforcement, deaths, other drug-related issues, and other concerns. Mayor Nickita stated the presentation did not paint a very positive picture. Mayor Nickita, and offered to provide a hyperlink to the presentation for anyone who is interested.

Mayor Nickita changed topics to address the City’s biking infrastructure. He said he noticed a marked improvement in the availability of bike loops which sends a positive message about Birmingham’s commitment to encouraging biking as an alternative mode of transportation.

Commissioner Bordman publically commended Chief of Police Clemence for saving a man from drowning and for his effort and care in carrying out his job. She said he is a role model for officers new and experienced, and thanked him for his service.

**09-265-17 CITY STAFF REPORTS**

The Commission received the Birmingham Brand Development-Update on City Logo Design report, submitted by Assistant to the City Manager Haines.

Commissioner Hoff stated that giving McCann half the money now is a very good resolution, and that this process has been handled very well. She inquired as to where the City would get its new logo, since McCann will provide the City with style guides once the new logo is completed.

Assistant to the City Manager Haines explained that the City has three options from McCann, some alternative designs, and all of McCann’s project files which will allow the City to manipulate the designs.

**XII ADJOURN**

Mayor Nickita adjourned the meeting into closed session at 9:32 p.m. and reconvened the regular meeting at 10:02 p.m.

The regular meeting was adjourned at 10:02 p.m.

_____________________________
J. Cherilynn Mynsberge, City Clerk

**ATTACHMENT A**

**RESOLUTION 09-262-17**
CREATING AN AD HOC UNIMPROVED STREET STUDY COMMITTEE TO CONDUCT A CITY-WIDE STUDY OF UNIMPROVED STREETS AND PROVIDE A RECOMMENDATION TO THE CITY COMMISSION OUTLINING A LONG TERM PLAN FOR THESE STREETS.

WHEREAS, the City of Birmingham has roughly 90 miles of public streets throughout its jurisdiction; and

WHEREAS, included in the roughly 90 miles of public streets, the City of Birmingham has roughly 26 miles of unimproved streets, which receive a cape seal treatment; and

WHEREAS, unimproved streets require more frequent maintenance than improved streets and have been an increasing concern for residents living on them; and

WHEREAS, the City of Birmingham is desirous of conducting a city-wide study of its unimproved streets to develop a long term solution that considers such issues as road durability, maintenance cycles, drainage, Rights-of-Way usage, traffic speeds, parking and costs; and

WHEREAS, the City Commission wishes to establish an Ad Hoc Unimproved Street Study Committee to review the City's unimproved street maintenance program and provide a long term plan to address these streets.

NOW THEREFORE BE IT RESOLVED that an Ad Hoc Unimproved Street Study Committee is hereby established to develop and recommend a long term plan for addressing the City's unimproved streets in accordance with the following:

1. The Committee will be Ad Hoc. The term of the Committee shall continue through December 31, 2018 and the Committee will cease functioning unless otherwise directed by the Commission at that time.

2. The City Commission hereby appoints a seven (7) member Ad Hoc Committee to be comprised of the following members.
   a. Two members of the City Commission.
   b. Three members comprised of residents living on an unimproved street representing different areas of the City.
   c. One member comprised of a resident living on an improved street.
   d. One member with a background in road design and maintenance.

   The City Commission also hereby appoints the City Manager as an ex officio member of the committee and the City Manager may designate additional staff members and consultants to assist the committee in providing information and assistance as required.

3. The scope of the Committee shall be to develop a long term plan on how to best proceed in addressing unimproved roads in the City in accordance with the following:
a. Review the history and evolution of the road system in the City.
b. Review and evaluate the types of streets in the City while considering road durability, maintenance cycles, drainage, Rights-of-Way usage, traffic speeds, parking, resident preference and aesthetics.
c. Review and evaluate policies from neighboring communities for addressing unimproved streets.
d. Review the policies and procedures attributed to each type of street construction and maintenance method used by the City.
e. Review conditions where small sections of unimproved streets exist within a predominately improved block and provide recommendations.
f. Review conditions where large areas of unimproved streets exist within a neighborhood and provide recommendations.
g. Review and evaluate cost and budget implications of any proposed recommendations and include strategic funding alternatives.
h. Compile the Committee’s findings and recommendations into a report to be presented at the end of the Committee’s term.

4. The Committee may request professional services as may be required in the analysis of street design, maintenance and cost considerations.

5. The Committee is not authorized to expend funds or enter into agreements. All recommendations made by the Committee shall be in the form of a report to the City Commission.

All meetings of the Committee shall be open to the public. Agenda and minutes for all meetings shall be prepared.

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the above is a true and correct copy of a resolution adopted by the Birmingham City Commission at their regular meeting of September 25, 2017.

______________________________
J. Cherilynn Mynsberge
City Clerk
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Sub Total Checks: $916,021.60
Sub Total ACH: $179,397.63
Grand Total: $1,095,419.23

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 9/27/2017

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**Awaiting approval from Commission.
Cutwater Asset Management provides advisory and reporting services for the City's general investments. It was acquired by Bank of New York Mellon, N.A. in January 2015. As a result of the acquisition, they no longer accept checks as payment for services. Once the Commission approves this warrant list, the City will electronically transmit payment. These invoices will appear once a month on the ACH Warrant List.
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Grand Total: $2,985,815.30

Sub Total Checks: $1,340,824.18
Sub Total ACH: $1,644,991.12

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 10/4/2017

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## City of Birmingham
### Warrant List Dated 10/11/2017

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- Sub Total Checks: $855,667.48
- Sub Total ACH: $150,070.20
- Grand Total: $1,005,737.68

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
### 10/11/2017

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The City of Birmingham is a member of the Michigan Municipal League Liability and Property Pool. The Michigan Municipal League is the state’s leading provider of municipal workers’ compensation and risk management services.

The Michigan Municipal League Liability and Property Pool is holding an election for this year’s Board of Directors. Four of the Board’s incumbent Directors have agreed to seek re-election. A brief biographical sketch of each candidate is attached for your review. The four incumbent Board members are:

Jason Eppler, City Manager, City of Ionia
Ken Hibl, City Manager, City of Clare
Sue Osborn, Mayor, City of Fenton
David Post, Village Manager, Village of Hillman

A resolution is required to authorize the City of Birmingham’s vote to be cast for the above persons to serve as Directors of the Michigan Municipal League Liability and Property Pool Board. These four incumbents are the only four candidates seeking re-election to this Board.

SUGGESTED RESOLUTION:

To authorize the City Manager to cast a vote, on the City's behalf, for the four incumbent members of the Michigan Municipal League Liability and Property Pool Board of Directors for three year terms, beginning January 1, 2018.
Dear Pool Member:

Enclosed is your ballot for this year's Board of Directors election. Four (4) incumbent Directors have agreed to seek re-election. You also may write in one or more candidates if you wish.

A brief biographical sketch of each candidate is provided for your review.

I hope you will affirm the work of the Nominating Committee by returning your completed ballot in the enclosed return envelope, no later than November 13. You may also submit your ballot online by going to www.mml.org. Click on Insurance, then Liability and Property Pool; the official ballot is located in the left navigation bar under Online Forms.

The MML Liability & Property Pool is owned and controlled by its members. Your comments and suggestions on how we can serve you better are very much appreciated. Thank you again for your membership in the Pool, and for participating in the election of your governing board.

Sincerely,

Michael J. Forster
Pool Administrator

mforster@mml.org
THE CANDIDATES
Three-year terms beginning January 1, 2018

Jason Eppler, City Manager, City of Ionia

Jason has over two decades of experience as a municipal official, serving since 2005 as the City Manager of Ionia. He is currently a Trustee on the Michigan Municipal League Board, a member of the International City Management Association and the Michigan Local Government Association. He also serves as Chairman of the Sparrow Ionia Hospital Board of Directors and is a Trustee on the Sparrow Ionia Hospital Foundation Board. Jason is also a member of the Ionia Rotary Club and serves as Vice-Chair of the Ionia County Economic Alliance. Jason is seeking re-election to his fourth term.

Ken Hibl, City Manager, City of Clare

Ken has more than eighteen years Michigan municipal government experience, serving as the city manager of Clare. Prior to this appointment, he served as a commissioned officer in the U.S. Armed Forces for thirty years in leadership positions in armor, aviation, law enforcement, installation management, and the diplomatic service in Europe, the Far East, the Middle East, Africa, the Caribbean, and various locations within the U.S. He is a Rotarian and member of the Michigan Local Government Management Association and International City Management Association. Ken is seeking re-election to his second term.

Sue Osborn, Mayor, City of Fenton

Sue has more than twenty-nine years experience as a municipal official, serving as the mayor in the City of Fenton for the last sixteen. She was appointed to Fenton’s city council in 1985 and has been a continuous member since that time. Prior to her council service, she was a member of the Planning Commission from 1978-1985. Sue is a member of the Michigan Association of Mayors and is also active in several local and regional civic organizations. Sue is seeking re-election to her second term.

David Post, Village Manager, Village of Hillman

Dave has more than twenty-one years experience as a municipal official, serving as the manager in the Village of Hillman. Dave is a past member of the Michigan Municipal League Board of Trustees and several MML committees. He is currently a member of the Northeast Michigan Council of Governments board, Hillman Community Radio board and the North Eastern Michigan Rehabilitation and Opportunity Center (NEMROC) board. Dave is also active in several local and regional civic organizations. Dave is seeking re-election to his second term.
DATE: October 10, 2017

TO: Joseph A. Valentine, City Manager

FROM: J. Cherilynn Mynsberge, City Clerk

SUBJECT: Appointment of Election Inspectors

As the official Election Commission for the City of Birmingham, election law requires the City Commission appointment of at least three election inspectors for each precinct for all elections. Attached is a list of inspectors that have been assigned to serve for the November 7, 2017 Election.

SUGGESTED RESOLUTION:
Resolution approving the appointment of election inspectors, absentee voter counting board inspectors, receiving board inspectors and other election officials as recommended by the City Clerk for the November 7, 2017 Election pursuant to MCL 168.674(1) and granting the City Clerk authority to make emergency appointments of qualified candidates should circumstances warrant to maintain adequate staffing in the various precincts, counting boards and receiving boards.
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DATE: October 9, 2017

TO: Joseph A. Valentine, City Manager

FROM: Bruce R. Johnson, Building Official

SUBJECT: Amendment to Professional Services Agreement
McKenna Associates, Inc.

Attached is an amendment to the professional services agreement between the City of Birmingham and McKenna Associates, Inc. A copy of the original agreement dated January 26, 2015, is also provided for reference. The amendment is necessary to allow a McKenna employee to drive a City vehicle while performing duties for the City.

The Building Department utilizes McKenna resources for additional support during inspector vacancies, vacations, excessive workloads generated by large-scale commercial projects and construction site maintenance and complaint enforcement. The department recently added an additional McKenna employee to provide proactive code enforcement at construction sites and to respond quickly to complaints regarding them. This additional resource was budgeted for in the current fiscal year along with the purchase of a new code enforcement vehicle for this activity.

The amendment is minor in nature. McKenna employees utilize their personal vehicles under the current agreement while working in the City. The amendment simply expands Section 1 (A) of the agreement to allow McKenna employees to drive a City vehicle while conducting construction site code enforcement activities within the City. McKenna already carries the required types of insurance under the current agreement.

SUGGESTED RESOLUTION:
To approve the amendment to the professional services agreement with McKenna Associates, Inc. to provide for the use of a City vehicle by the Consultant’s employees performing construction site code enforcement duties.
AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT, entered into this ___ day of ____________, by and between the CITY OF BIRMINGHAM, a Michigan Municipal Corporation, hereinafter referred to as "City", and McKENNA ASSOCIATES, INCORPORATED, a Michigan Corporation of Northville, Michigan, hereinafter referred to as "Consultant."

WITNESSETH:

WHEREAS, the parties entered into a contract dated January 26, 2015 providing professional services by the Consultant to the City as set forth in said Agreement; and,

WHEREAS, the parties wish to amend that contract as set forth herein.

NOW, THEREFORE, all provisions as set forth in the January 26, 2015 Agreement shall remain in full force and effect with the exception of the following amendment to Section 1. Scope of Services, paragraph A, which shall read as follows:

SECTION 1. SCOPE OF SERVICES

A. Provide the City with proof that each of the Consultant’s servants, agents and employees performing services pursuant to the contract possesses a valid operator’s/driving license or identification card issued by the State of Michigan. The City shall provide a vehicle to be used by Consultant’s employees who perform specific construction site code enforcement duties. The Consultant agrees that all employees who drive this vehicle shall be duly licensed as set forth above and agree that the vehicle will be parked in the Chester Street parking structure deck and will not be driven out of the City except when on official City business. The City shall provide all vehicle expenses including fuel, routine maintenance and necessary repairs.

McKENNA ASSOCIATES, INCORPORATED

By: ____________________________
John R. Jackson
Its: President

CITY OF BIRMINGHAM

By: ____________________________
Mark Nickita, Mayor

By: ____________________________
Cherilynn Brown, City Clerk
APPROVAL:

By: Joseph A. Valentine, City Manager
    as to substance

By: Timothy J. Currier, City Attorney
    as to form

By: Mark Gerber, Director of Finance
    as to financial obligation

By: Bruce R. Johnson, Building Official
    as to substance
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, entered into this 26th day of January 2015, by and between the CITY OF BIRMINGHAM, State of Michigan, hereinafter referred to as “City” and McKENNA ASSOCIATES, INCORPORATED, a Michigan corporation of Northville, Michigan, hereinafter referred to as “Consultant.”

WITNESSETH:

WHEREAS, the City regularly performs inspection services; and

WHEREAS, the City has reviewed and approved the Consultant’s proposal of August 6, 2014;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES

The Consultant represents and warrants to the City that he employs or contracts for, State of Michigan licensed building officials, building, mechanical, electrical and plumbing inspectors and plan reviewers and that they shall remain so licensed during the term of this agreement. The Consultant shall perform all the following services under this Agreement:

A. Provide the City with proof that each of the Consultant’s servants, agents and employees performing services pursuant to the contract possesses a valid operator’s/driving license or identification card issued by the State of Michigan.

B. Provide and maintain a sufficient number of inspectors, to the satisfaction of the City Administration. The Consultant shall provide the City with information showing that the Consultant performed background checks on each of its servants, agents and employees to determine their fitness to perform services under the agreement.

C. Provide transportation and other equipment used in the performance of the requested services.

D. When performing inspection services of any kind, the Consultant’s servants, agents and employees shall wear presentable attire. When performing services under the agreement, such individuals shall be in possession or, and shall display, identification to be provided by the City.

E. Provide services to the public on-site in the City and elsewhere, as necessary. Such services shall be provided pursuant to a regular schedule for the term of this agreement.

F. Maintain written and electronic files pertaining to all services rendered by the Consultant.

G. Review building plans and related construction documents for new construction, additions, and alterations or improvements to existing structures within the City, which are subject to review and approval by the City for conformance with the requirements of the City and State building codes. Consultant shall delineate on the plans provided to it, or in written
report format, or both as requested by the City, items requiring correction or alteration for conformance with the appropriate codes. The Consultant shall re-review all revised plans to determine whether corrections previously noted have been made.

H. Upon notification and request of the City, Consultant shall inspect buildings and structures for which a building, electrical, mechanical, or plumbing permit has been issued by the City in order to determine whether the construction and installations meets the requirements of the appropriate codes and permit requirements. The Consultant shall perform required business license building inspections as requested by the City. Upon completion of each inspection, Consultant shall enter the results into the City’s database, or provide the City a written report of the inspection results, or both as requested by the City. The results shall include comments in sufficient detail delineating what was approved and/or items requiring correction or alteration for conformance with the permit.

I. Work performed by the Consultant shall comply with approved State and local codes, which govern the plan review, permit and inspection processes.

The Consultant shall not allow any person to perform any plan reviews or construction codes inspections (1) without first determining each servant, agent and employee of the Consultant providing plan review or inspection services is qualified and possesses all the necessary licenses and credentials required by the State of Michigan to perform the inspection and (2) shall provide the City with documentary proof verifying that each such servant, agent or employee has been issued an “Registered Code Official and Inspectors” card issued by the Michigan Department of Labor and Economic Growth, Bureau of Construction Codes setting forth their State Registration Number, the Expiration Date and specific categories for which each is licensed. The Consultant shall also provide the City with any correspondence from the State of Michigan approving the Consultant and its employees in accordance with Act 54 or otherwise, or approving the Consultant to perform “Plan Review,” and “Inspector” duties, as these terms are defined by Act 54 and Michigan law.

J. In providing these Construction code services the Consultant shall:

1. Provide “Inspector” services as these terms are defined by Michigan law. The Consultant shall also provide “plan review” services as defined by Michigan law; provide a written report of each plan review within five (5) working days of receipt of said plans by the Consultant in a professional and competent manner.

2. Review plans for the issuance of permits; conduct and/or attend pre-plan review meeting to provide guidance in the plan development process; and meet with customers to discuss plan review findings.

3. The physical preparation and issuance of permits and the scheduling of inspections will be performed by the City. City personnel shall be responsible for the issuance of certificates, as necessary, for completed and compliant work.

4. Conduct inspection of the construction, renovation, rehabilitation or integrity of residential and non-residential structures to determine compliance with approved plans,
applicable codes and ordinances; under the oversight and authority of the City’s Building Official, issue violation notices for non-compliant work and issue stop-work orders;

5. Conduct open hole and final grade demolition inspections;

6. Participate in enforcement activities, including court appearances, regarding non-compliant work;

7. Evaluate existing structures for safety and health issues, the necessity of permits for work performed, hazardous or unsafe condition, or other violations, including declarations of emergencies and emergency demolition orders.

8. Monitor expiring permits, open inspection findings and non-compliant corrections notices and contact property owners to schedule follow-up inspections; provide information to City on status of expirations, non-compliant inspections; and facilitate scheduling of same;

9. Assist customers by phone, internet and in person, as necessary.

10. Participate in meetings with the public, other City agencies and elected officials, or other jurisdiction, State or Federal representatives,

11. When requested, provide opinions in development and implementation of goals, objectives, fee schedules, ordinances, budgets, policies and priorities for the City.

K. It is recognized, in accordance with state law, that the City of Birmingham will retain the authority to determine the fees for permits and applications. The City of Birmingham in consultation with the Building Official will also be responsible for any necessary interpretations of the various codes with the City administration.

L. It is recognized that, in accordance with state law, documents that are prepared by architects and engineers are required to have an original seal and signature, and, consequently, these documents cannot legally be submitted electronically.

SECTION 2: CITY AUTHORITY

The City, in its sole discretion to make the following determinations and give the following directives:

A. The City Manager or his designee shall determine the projects the Consultant shall perform services on.

B. The City Manager or his designee shall direct when the Consultant’s services shall be used.

C. The City Manager or his designee shall determine when the Consultant’s services on a given project shall cease.
SECTION 3: INSURANCE

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

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

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

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

4. **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.

5. **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.

6. **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.

7. **Proof of Insurance Coverage:** Consultant 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.

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

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

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

   iv. Two (2) copies of Certificate of Insurance for Professional Liability Insurance;

8. **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.

**SECTION 4: INDEMNIFICATION**

To the fullest extent permitted by law the Consultant agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees and volunteers and others working on behalf of the City against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City, its elected and appointed officials, employees, volunteers or others working on behalf of the City, by reason of personal injury, including bodily injury 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. 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.

**SECTION 5. COMPENSATION AND METHOD OF PAYMENT**

A. **Inspections.** The City shall pay the Consultant for services, as described in SECTION 1. SCOPE OF SERVICES, as follows:

   The City shall compensate the Consultant for Inspection and Plan Review services on an hourly basis or at a maximum rate of 70 percent of the City's revenue on a project basis.
Hourly rate for inspectors and plan reviewers is $75.00 per hour; however, there shall be a cost savings for extended engagements of one month or more.

The following table is the Consultant for inspection and plan review services for 8 hours per day on a weekly and a monthly basis based on our hourly rate.

<table>
<thead>
<tr>
<th>Inspection Categories</th>
<th>Hourly Compensation Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hourly</td>
</tr>
<tr>
<td>A. Building</td>
<td>$75.00</td>
</tr>
<tr>
<td>B. Mechanical</td>
<td>$75.00</td>
</tr>
<tr>
<td>C. Plumbing</td>
<td>$75.00</td>
</tr>
<tr>
<td>D. Electrical</td>
<td>$75.00</td>
</tr>
<tr>
<td>E. Fire Alarm</td>
<td>$75.00</td>
</tr>
<tr>
<td>F. Fire Suppression</td>
<td>$75.00</td>
</tr>
</tbody>
</table>

*Represents a 7 percent cost savings.

The following table is the Consultant percentage fee for inspection and plan review services provided on a project basis.

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Milestone</th>
<th>% Invoiced</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan Review</td>
<td>First comment submittal; Plan review completion</td>
<td>50%</td>
</tr>
<tr>
<td>Inspection</td>
<td>Date permit issued; 3 months from issuance; 6 months from issuance; Project completion or 12 months from issuance whichever comes first; 30 days after completion</td>
<td>20%; 20%; 30%; 10%</td>
</tr>
</tbody>
</table>

The Consultant will work with the City to establish a mutually acceptable threshold for using hourly rates or percentage based compensation.

For the rates cited above, Consultant will furnish all materials and services including salaries of employees engaged by Consultant and other overhead expenses necessary to undertake the above services for the City and to assume all cost, including transportation, insurance, licensing, benefits, etc.

B. **Additional Services.** At the hourly rates below, the Consultant shall provide additional professional services to the City, at the City's request, which are beyond the Scope of Services described in Section 1. above, including:

1. Attendance at City internal and public meeting, and appearing at court or at depositions.
2. Written evaluation of structures for safety and health issues other than code compliance.
3. Permit Technician for assisting the public with permit applications, entering permit data, issuing permits, etc.
4. Support staff services in assisting the public and directing inquires appropriately.
5. Generating special reports for the City, beyond the regular maintenance of written and electronic files pertaining to all services,
6. Other services at the request of the City.

The Consultant shall provide additional services on an hourly basis as follows:

<table>
<thead>
<tr>
<th>Professional Classification</th>
<th>Rate Per Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>President</td>
<td>$150.00</td>
</tr>
<tr>
<td>Executive or Senior Vice President</td>
<td>$135.00</td>
</tr>
<tr>
<td>President</td>
<td>$130.00</td>
</tr>
<tr>
<td>Director</td>
<td>$120.00</td>
</tr>
<tr>
<td>Senior Principal or Manager</td>
<td>$110.00</td>
</tr>
<tr>
<td>Principal</td>
<td>$ 97.00</td>
</tr>
<tr>
<td>Senior</td>
<td>$ 78.00</td>
</tr>
<tr>
<td>Building Trade Inspector</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Associate</td>
<td>$ 68.00</td>
</tr>
<tr>
<td>Assistant (Permit Technician)</td>
<td>$ 55.00</td>
</tr>
<tr>
<td>Aide (Support Staff)</td>
<td>$ 44.00</td>
</tr>
<tr>
<td>Administrative Assistant</td>
<td>$ 42.00</td>
</tr>
</tbody>
</table>

Note: These hourly rates are valid through June 30, 2015, after which the Consultant may increase the hourly rates per classification by a percentage equal to the increase in the Consumer Price Index.

C. Payment. Payment for hourly rate services shall be monthly. Payment for project based services shall be in accordance with a mutually agreed upon percentage based schedule. Consultant shall submit a monthly invoice for hourly services and milestone invoices for project services, and the City shall within thirty (30) days satisfy itself as to the performance of such work and pay the amount for services and reimbursement requested by the invoice.

SECTION 6. TERM

This contract shall continue in effect for five (5) years from the date hereof. However, each party may terminate the Agreement earlier, with sixty days (60) written notice of termination. After the initial five (5) year term, this contract may be extended for additional one (1) year terms by the written agreement of the parties.

SECTION 7. CITY DATA AND SERVICES TO BE PROVIDED TO CONSULTANT

If requested by the Consultant and if available, the City shall furnish the following in digital format, or paper format if no digital version is available, without charge to the consultant:

A. Copies of applicable revenue reports of Building Department activity showing permit revenue amounts for each permit issued, within five (5) calendar days after the 1st day of each month.
B. One set of the most recent aerial photos (with property lines) of the City.
C. Hard copies of City Ordinances for each inspector or make available online.
D. Access to updated assessment and ownership date, tax maps, and other basic data to be gathered and/or made available from City and County files, as may become available.
E. Access to information on utilities, both public and private, applicable records, minutes, agendas, base maps, tax maps, environmental data and other basic data to be gathered and/or made available from City files.
F. Any professional, legal or accounting services connected with the project and the cost of publication, postings, notices and mailings. The City shall be responsible for all scheduling and notification of meetings.
G. Designation of a project manager for Consultant services.
H. Should the City reduce inspection fees during the term of this agreement, the Consultant percentage of compensation shall increase proportionately to avoid any reduction in annual compensation.

SECTION 8. SERVICES

The City hereby engages the services of the Consultant to perform the duties, provide the information, prepare such materials and render such advice as are fully described herein.

SECTION 9. TIME

The Consultant shall complete work required and described in the Agreement according to a mutually agreed upon schedule.

SECTION 10. ACCEPTANCE

Consultant hereby agrees to perform the services described herein.

SECTION 11. EQUAL EMPLOYMENT OPPORTUNITY

There shall be no discrimination against any employee who is employed in the work covered by this Contract or against any applicant for such employment because of race, color, religion, sex or nation of origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

SECTION 12. OWNERSHIP OF DATA

All reports, charts, maps, and graphics shall become the property of the City, and shall not be furnished to any other party without written permission of the City.

SECTION 13. COMPLIANCE WITH ALL LAWS

In performance of this agreement, the Consultant agrees to comply with all applicable federal, State and local statutes, ordinances and regulations, when applicable, including minimum wages, Social Security, unemployment compensation insurance, and Worker's Compensation, and to obtain any and all permits applicable to the performance of this agreement.
SECTION 14. NO CONFLICT OF INTEREST

During the term of this contract, the Consultant agrees that it shall not accept employment, nor shall it perform services for or on behalf of any client whose interests are adverse to that of the City, or for which a conflict between the City and Consultant would be created, without the prior written consent of the City.

If, after the effective date of this contract, 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 contract Lease, or the affairs of the Consultant, the City shall have the right to terminate this contract without further liability to the Consultant if the disqualification has not been removed within thirty (30) days after the City has given the Consultant notice of the disqualifying interest. Employment shall be a disqualifying interest.

SECTION 15. CONTROVERSY/ARBITRATION

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

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.

SECTION 16: 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 City and consultant have executed this Agreement the day and year fir above written.

McKENNA ASSOCIATES, INCORPORATED

By: Phillip C. McKenna, PCP, AICP

Its: President

THE CITY OF BIRMINGHAM

By: Stuart Lee Sherman, Mayor

By: Laura Pierce, City Clerk

APPROVAL:

By: Joseph A. Valentine, City Manager
    as to substance

By: Timothy J. Currier,
    City Attorney as to form

By: B. Sharon Nettie Ostin, Director
    of Finance as to financial
    obligation

By: Bruce R. Johnson, Building Official
    As To Substance
The City of Birmingham has established their own Emergency Management Program pursuant to Ordinance #986 of the Birmingham City Code and the Michigan Emergency Management Act, Act 390.

The purpose of this grant is to provide federal pass-through funds to the City of Birmingham for the development and maintenance of an emergency management program capable of protecting life, property and vital infrastructure in times of disaster or emergency.

The City of Birmingham is awarded $20,310.00 in federal funds under the FY 2017 EMPG; the performance period for this award is 10/1/2016 to 9/30/2017. The purpose of these funds is to offset administration costs to run the EMPG program.

It is recommended that the Birmingham City Commission authorize the Mayor to sign the attached agreement for 2017 Emergency Management Performance Grant with the Michigan State Police, Emergency Management and Homeland Security Division.

SUGGESTED RESOLUTION:

To approve the federal funds in the amount of $20,310.00 for the 2017 Emergency Management Performance Grant period of 10/1/2016 to 9/30/2017. Further, to direct the Mayor to sign the agreement on behalf of the City.
August 16, 2017

Dear Local Emergency Management Coordinator:

Enclosed is the Fiscal Year 2017 Emergency Management Performance Grants (EMPG) Grant Agreement package. Please return the required grant documentation listed on the enclosed Subrecipient Checklist to our office at the following address:

Attn: Ms. Sara Long
Emergency Management and Homeland Security Division
Michigan Department of State Police
PO Box 30634
Lansing, Michigan 48909

Reimbursement for the EMPG program is contingent upon completion of the activities in the signed Emergency Management Annual Work Agreement. In order to remain eligible for EMPG funding, current and adequate plans must be maintained and exercise requirements must be met. If a work activity is not completed in the designated quarter, reimbursement may not be made until the work is completed. The Emergency Management and Homeland Security Division District Coordinators may make recommendations on reimbursement, but final approval remains with the Deputy State Director of Emergency Management and Homeland Security, who may or may not approve a delay in the completion of the activity. If work activities (for which funds have been withheld) have not been completed by the end of the fiscal year, forfeiture of those funds may be required. As a recipient of funding from the U.S. Department of Homeland Security, you are responsible for the management and fiscal control of all funds. These responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by federal or state audit. For specific responsibilities and requirements, please refer to Section II (Statutory Authority) and Section IV (Responsibilities of the Subrecipient) in the Fiscal Year 2017 EMPG Grant Agreement.

This grant agreement and all required attachments must be completed, signed, and returned no later than November 1, 2017. If this requirement is not met, this grant agreement will be invalid after November 1, 2017, unless a prior written exception is provided by the Michigan State Police, Emergency Management and Homeland Security Division.

Sincerely,

[Signature]

Capt. Chris A. Kelenske, Commander
Deputy State Director of Emergency Management and Homeland Security

Enclosures (8)
Michigan State Police
Emergency Management and Homeland Security Division

Grant Agreement

**FEDERAL AWARD IDENTIFICATION**

<table>
<thead>
<tr>
<th>SUBRECIPIENT NAME</th>
<th>GRANT NAME</th>
<th>CPDA NUMBER</th>
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</thead>
<tbody>
<tr>
<td>City of Birmingham</td>
<td>Emergency Management Performance Grant</td>
<td>97.042</td>
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<tr>
<th>SUBRECIPIENT IRS/VENDOR NUMBER</th>
<th>FEDERAL AWARD IDENTIFICATION NUMBER (FAIN)</th>
<th>FEDERAL AWARD DATE</th>
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<tbody>
<tr>
<td>38-6004664</td>
<td>EMC-2017-EP-00001-S01</td>
<td>08/04/2017</td>
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<table>
<thead>
<tr>
<th>SUBRECIPIENT DUNS NUMBER</th>
<th>SUBAWARD PERFORMANCE PERIOD</th>
<th>FROM</th>
<th>TO</th>
</tr>
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<tbody>
<tr>
<td>074239450</td>
<td></td>
<td>10/1/2016</td>
<td>9/30/2017</td>
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**RESEARCH & DEVELOPMENT**

<table>
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<tr>
<th>N/A</th>
<th>Funding</th>
<th>Total</th>
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<tbody>
<tr>
<td></td>
<td>Federal Funds Obligated by this Action</td>
<td>$20,310</td>
</tr>
<tr>
<td></td>
<td>Total Federal Funds Obligated to Subrecipient</td>
<td>$20,310</td>
</tr>
<tr>
<td></td>
<td>Total Amount of Federal Award</td>
<td>$9,002,685.00</td>
</tr>
</tbody>
</table>

**FEDERAL AWARD PROJECT DESCRIPTION**

2017 Emergency Management Performance Grant

**DETAILS**

The 2017 EMPG allocation is 35.69% of the Subrecipient’s emergency program manager’s salary and fringe benefits. The FY 2017 EMPG program has a 50% cost match (cash or in-kind) requirement.

**FEDERAL AWARDING AGENCY**

Federal Emergency Management Agency
Grant Operations
245 Murray Lane – Building 410, SW Washington DC 20528-7000

**PASS-THROUGH ENTITY (RECIPIENT) NAME**

Michigan State Police
Emergency Management and Homeland Security Division
PO Box 30634
Lansing, MI 48909
SUBRECIPIENT CHECKLIST

FY 2017 EMERGENCY MANAGEMENT PERFORMANCE GRANTS (EMPG) GRANT AGREEMENT

CFDA No: 97.042

Submit the following items as necessary to:
Attn: Mrs. Sara Long, Emergency Management and Homeland Security Division, Michigan Department of State Police, PO Box 30634, Lansing, Michigan 48909

SUBRECIPIENT WILL NOT BE REIMBURSED FOR FUNDS UNTIL ALL REQUIRED SIGNED DOCUMENTS ARE RECEIVED

☐ 1. Grant Agreement. There are two identical grant agreements enclosed. Please sign both, but retain one signed document for your records and return the other signed document.

☐ 2. Standard Assurances

☐ 3. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

☐ 4. Audit Certification (EMD-053)

☐ 5. Request for Taxpayer Identification Number and Certification (W-9)

POST REIMBURSEMENT REQUIREMENTS

Participate with Recipient in an on-site monitoring of financial documents. Also retain financial records, supporting documents, and all other records pertinent to the grant for at least three years after the grant is closed by the awarding federal agency. Be sure to comply with Single Audit requirements of Subpart F of 2 CFR 200. If required, the Subrecipient submits audit copy to: Michigan Department of State Police, Grants and Community Services Division, PO Box 30634, Lansing, Michigan 48909.

FOR GRANT AGREEMENT QUESTIONS, PLEASE CONTACT MS. SARA LONG AT LONGS@MICHIGAN.GOV OR 517-284-3960.
State of Michigan
FY 2017 Emergency Management Performance Grant
Grant Agreement

October 1, 2016 to September 30, 2017

CFDA Number: 97.042
Grant Number: EMC-2017-EP-00001

This Fiscal Year (FY) 2017 Emergency Management Performance Grant (EMPG) grant agreement is hereby entered into between the Michigan Department of State Police, Emergency Management and Homeland Security Division (hereinafter called the Recipient), and the

CITY OF BIRMINGHAM
(hereinafter called the Subrecipient)

Purpose

The purpose of this grant agreement is to provide federal pass-through funds to the Subrecipient for the development and maintenance of an emergency management program capable of protecting life, property, and vital infrastructure in times of disaster or emergency.

The FY 2017 EMPG program plays an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. The objective of the NPS is to facilitate an integrated, all-of-nation/whole community, risk driven, capabilities-based approach to preparedness.

In support of the National Preparedness Goal, the FY 2017 EMPG program supports a comprehensive, all-hazard emergency preparedness system to build and sustain core capabilities across the Prevention, Protection, Mitigation, Response, and Recovery mission areas.

For more information on the NPS, federally designated priorities, and the FY 2017 EMPG objectives, as well as guidance on allowable costs and program activities, please refer to the FY 2017 EMPG Notice of Funding Opportunity (NOFO) located at http://www.fema.gov/grants.

II. Statutory Authority


The Subrecipient shall also comply with the most recent version of:


B. 44 CFR, Part 10, Environmental Considerations.

III. Award Amount and Restrictions

A. The City of Birmingham is awarded $20,310 under the FY 2017 EMPG. The Recipient determined the Subrecipient’s EMPG allocation as 35.69% of the Subrecipient’s local emergency manager’s salary and fringe benefits. The Subrecipient may receive less than the allocated amount if the Subrecipient’s cost share (match) of wages and fringe benefits paid to the local emergency manager are less than the total allocation. The Subrecipient’s EMPG program budget must be documented on the Local Budget for Emergency Management Performance Grant form (EMD-17).

B. The FY 2017 EMPG covers eligible costs from October 1, 2016 to September 30, 2017. The funds awarded in the grant agreement shall only be used to cover allowable costs that are incurred during the agreement period. Grant agreement funds shall not be used for other purposes. For guidance on allowable costs, please refer to the FY 2017 EMPG NOFO, specifically Appendix B.

C. This grant agreement designates EMPG funds for the administration and oversight of an approved emergency management program. The Subrecipient may utilize grant funds for the reimbursement of salary, overtime, compensatory time off, and associated fringe benefits for the local emergency manager, and up to 5% of the total allocation may be utilized for M&A costs. No other expenditures are allowed. If M&A costs are claimed, a narrative must be submitted detailing the expenses that are included in these costs.

D. The FY 2017 EMPG program has a 50% cost share (cash or in-kind) requirement, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, (Pub. L. No. 93-288) (42 U.S.C. §§ 5121 et seq.), specifically, Title VI, sections 611(j) and 613. Federal funds cannot exceed 50% of eligible costs. Unless otherwise authorized by law, federal funds cannot be matched with other federal funds.

The Federal Emergency Management Agency (FEMA) administers cost sharing requirements in accordance with 2 CFR § 200.306. To meet matching requirements, the Subrecipient contributions must be reasonable, allowable, allocable, and necessary under the grant program and must comply with all federal requirements and regulations.

See the FY 2017 EMPG NOFO for additional cost share guidance, definitions, basic guidelines, and governing provisions.

E. All EMPG funded personnel must complete training requirements for the National Incident Management System (NIMS) and the FEMA Professional Development Series (PDS) and record proof of completion. All EMPG funded personnel must also participate in no less than three exercises in a 12 month period.

EMPG programs are required to complete a quarterly training and exercise report (Quarterly Training and Exercise Reporting Worksheet) identifying training and exercises completed during the quarter. Guidance for accomplishing these requirements will be provided by the Recipient.

F. Upon request, the Subrecipient must provide to the Recipient information necessary to meet any state or federal subaward reporting requirements.

G. In the event that DHS determines that changes are necessary to the award document after an award has been made, including but not limited to changes to the period of performance or terms and conditions, Subrecipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate Subrecipient acceptance of the changes to the award.
IV. Responsibilities of the Subrecipient

A. **Grant funds must supplement, not supplant, state or local funds.** Federal funds must be used to supplement existing funds, not replace (supplant) funds that have been appropriated for the same purpose. Potential supplanting will be carefully reviewed in subsequent monitoring reviews and audits. Subrecipients may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

B. The Subrecipient agrees to comply with all applicable federal and state regulations; the FY 2017 EMPG NOFO, located at: www.fema.gov/grants; the Agreement Articles Applicable to Subrecipients: Fiscal Year 2017 Emergency Management Performance Grants, included with the grant agreement package for reference; and the EMPG Guidebook (EMD-PUB 208), located at www.michigan.gov/emhsd under Grants Programs & Publications.

C. In addition to this grant agreement, the Subrecipient shall complete, sign, and submit to the Recipient the following documents, which are incorporated by reference into this grant agreement:
   1. Standard Assurances
   2. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements
   3. Audit Certification (EMD-053)
   4. Request for Taxpayer Identification Number and Certification (W-9)
   5. Other documents that may be required by federal or state officials

D. Complete and submit quarterly work reports, the Quarterly Training and Exercise Worksheet, and the Annual Training and Exercise Plan Worksheet in accordance with the schedule outlined in the FY 2017 EMPG Work Agreement/Quarterly Report (EMD-31).

E. Enact enabling legislation establishing the local emergency management program and ensure a copy of the local resolution or ordinance is on file with the Recipient.

F. Appoint an emergency management program manager who is able to assume responsibility for the following functions:
   1. Development and maintenance of programs and systems for effective coordination of community resources in each of the five mission areas: prevention, protection, mitigation, response, and recovery.
   3. Planning and preparation for its appropriate role in response to natural and man-made emergencies and disasters.
   4. Exercising the emergency operations plan of the jurisdiction.
   5. Emergency management training.
   6. Response and recovery from natural and man-made hazards, homeland security related incidents, and other emergencies that may threaten the safety and well-being of citizens and communities.
   7. Promoting public awareness of hazards and encouraging family and individual preparedness.
   8. Identifying and implementing measures to mitigate the negative impact of disasters and emergencies.
   9. Comply with National Incident Management System (NIMS) requirements to be eligible to receive federal preparedness funds. NIMS information is available at http://www.fema.gov/national-incident-management-system. More information on complying with NIMS is available from the State NIMS Coordinator.
   10. Identify and prioritize needs while simultaneously addressing issues of state and national concern through implementation of the National Preparedness System and the integration of preparedness efforts that build, sustain, and deliver the core capabilities necessary to achieve the National Preparedness Goal of a secure and resilient nation.

G. Provide the Recipient with a complete job description for the federally funded EMPG local emergency manager, including non-EMPG duties.
H. Notify the Recipient immediately of any changes in the EMPG funded local emergency manager's position.

I. The Subrecipient will contribute to the development and maintenance of the state's multi-year Training and Exercise Plan (TEP) and conduct exercises that comply with local, state, and federal requirements, including the Homeland Security Exercise and Evaluation Program (HSEEP), to accomplish this goal.

Specific requirements are as follows:
1. Exercises must be conducted by the Subrecipient at least annually.
2. Exercises must comply with the Subrecipient's annual EMPG Work Agreement.
3. The Subrecipient must submit a three-year exercise plan worksheet reflecting upcoming training events and exercises which are to be included in the annual state multi-year Training and Exercise Plan.

J. Ensure the EMPG funded local emergency manager completes specific training as required by the annual EMPG Work Agreement.

K. Have an approved and current emergency operations plan on file with the MSP/EMHSD District Coordinator.

L. The Subrecipient agrees to prepare the form EMD-007 EMPG Expenses Claimed for Local Program Contributions. This form is also referred to as the EMPG Quarterly Billing. The Subrecipient agrees to submit this form with supporting documentation, including all required authorized signatures and required reimbursement documentation, to the appropriate District Coordinator by the due date following the end of each quarter, as identified in FY-2017 Emergency Management Report Schedule. The most current EMD-007 form must be used and can be obtained from the District Coordinator.

M. Comply with applicable financial and administrative requirements set forth in the current edition of 2 CFR, Part 200, including, but not limited to, the following provisions:
1. Account for receipts and expenditures, maintain adequate financial records, and refund expenditures disallowed by federal or state audit.
2. Retain all financial records, statistical records, supporting documents, and other pertinent materials for at least three years after the grant is closed by the awarding federal agency for purposes of federal and/or state examination and audit.
3. Non-federal organizations which expend $750,000 or more in federal funds during their current fiscal year are required to have an audit performed in accordance with the Single Audit Act of 1984, as amended, and 2 CFR, Part 200.

N. Complete federally-mandated reporting requirements, including, but not limited to, requirements related to the Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Public Law 109-282), as amended by Section 6202(a) of the Government Funding Transparency Act of 2008 (Public Law 110-252) and Department of Homeland Security (DHS) program specific reporting requirements.

O. The Subrecipient must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. The Subrecipient also agrees to require any subrecipients, contractors, successors, transferees, and assignees to acknowledge and agree to comply with these same provisions. Detailed information on record access provisions can be found in the DHS Standard Administrative Terms and Conditions located at https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions, specifically in the DHS Specific Acknowledgements and Assurances on pages 1.
V. Responsibilities of the Recipient

The Recipient, in accordance with the general purposes and objectives of this grant agreement, will:

A. Administer the grant in accordance with all applicable federal and state regulations and guidelines and submit required reports to the awarding federal agency.

B. Provide direction and technical assistance to the Subrecipient.

C. Provide to the Subrecipient any special report forms and reporting formats (templates) required for administration of the program.

D. Reimburse the Subrecipient, in accordance with this grant agreement, based on appropriate documentation submitted by the Subrecipient.

E. At its discretion, independently, or in conjunction with the federal awarding agency, conduct random on-site reviews of the Subrecipient(s).

VI. Reporting Procedures

A. The Subrecipient agrees to prepare quarterly work reports using the FY 2017 EMPG Work Agreement/Quarterly Report (EMD-31) and submit them through EMHSD's online reporting tool by the due date following the end of each quarter. Reimbursement of expenditures by the Recipient is contingent upon the Subrecipient's completion of scheduled work activities.

B. If the Subrecipient fails to complete the scheduled work activities during a quarter, the Recipient will withhold reimbursement until either the work is completed, or the Deputy State Director of Emergency Management and Homeland Security approves a delay in the completion of the activity. Forfeiture of funds may result if scheduled work activities are not completed according to established deadlines.

C. A Subrecipient that fails to complete the annual exercise requirement, as scheduled within the FY 2017 EMPG Work Agreement/Quarterly Report, may be ineligible for EMPG funding for that quarter and all subsequent quarters.

D. The Subrecipient’s failure to fulfill the quarterly reporting requirements, as required by the grant, may result in the suspension of grant funding.


VII. Payment Procedures

A. The Subrecipient agrees to prepare the form EMD-007 EMPG Expenses Claimed for Local Program Contributions. This form is also referred to as the EMPG Quarterly Billing. The Subrecipient agrees to submit this form with supporting documentation, including all required authorized signatures and required reimbursement documentation, to the appropriate District Coordinator by the due date following the end of each quarter, as identified in FY-2017 Emergency Management Report Schedule. The most current EMD-007 form must be used and can be obtained from the District Coordinator.

B. If the Subrecipient submits required quarterly reports that are late or incomplete, the reimbursement may not be processed until the following quarter. Forfeiture of funds may result if quarterly reports are not completed according to established deadlines.

C. The Subrecipient agrees to return to the Recipient any unobligated balance of funds held by the Subrecipient at the end of the agreement period or handle them in accordance with the instructions provided by the Recipient.
VIII. Employment Matters

The Subrecipient shall comply with Title VI of the Civil Rights Act of 1964, as amended; Title VIII of the Civil Rights Act of 1968; Title IX of the Education Amendments of 1972 (Equal Opportunity in Education Act); the Age Discrimination Act of 1975; Titles I, II and III of the Americans with Disabilities Act of 1990; the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq.; the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq., and all other federal, state and local fair employment practices and equal opportunity laws and covenants. The Subrecipient shall not discriminate against any employee or applicant for employment, to be employed in the performance of this grant agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment; or any matter directly or indirectly related to employment because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, limited English proficiency, or handicap that is unrelated to the individual’s ability to perform the duties of a particular job or position. The Subrecipient agrees to include in every subcontract entered into for the performance of this grant agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of the grant agreement.

The Subrecipient shall ensure that no subcontractor, manufacturer, or supplier of the Subrecipient for projects related to this grant agreement appears on the Federal Excluded Parties List System located at https://www.sam.gov.

IX. Limitation of Liability

The Recipient and the Subrecipient to this grant agreement agree that each must seek its own legal representative and bear its own costs, including judgments, in any litigation that may arise from performance of this contract. It is specifically understood and agreed that neither party will indemnify the other party in such litigation.

This is not to be construed as a waiver of governmental immunity for either party.

X. Third Parties

This grant agreement is not intended to make any person or entity, not a party to this grant agreement, a third party beneficiary hereof or to confer on a third party any rights or obligations enforceable in their favor.

XI. Grant Agreement Period

This grant agreement is in full force and effect from October 1, 2016 to September 30, 2017. No costs eligible under this grant agreement shall be incurred before the starting date of this grant agreement, except with prior written approval. This grant agreement package consists of two identical grant agreements, simultaneously executed; each is considered an original having identical legal effect. This grant agreement may be terminated by either party by giving thirty (30) days written notice to the other party stating reasons for termination and the effective date, or upon the failure of either party to carry out the terms of the grant agreement. Upon any such termination, the Subrecipient agrees to return to the Recipient any funds not authorized for use, and the Recipient shall have no further obligation to reimburse the Subrecipient.

XII. Entire Grant Agreement

This grant agreement is governed by the laws of the State of Michigan and supersedes all prior agreements, documents, and representations between the Recipient and the Subrecipient, whether expressed, implied, or oral. This grant agreement constitutes the entire agreement between the parties and may not be amended except by written instrument executed by both parties prior to the grant end date. No party to this grant agreement may assign this grant agreement or any of his/her/its rights, interest, or obligations hereunder without the prior consent of the other party. The Subrecipient agrees to inform the Recipient in writing immediately of any proposed changes of dates, budget, or services indicated in this grant agreement, as well as changes of address or personnel affecting this grant agreement. Changes in dates, budget, or services are subject to prior written approval of the Recipient. If any provision of this grant agreement shall be deemed void or unenforceable, the remainder of the grant agreement shall remain valid.
The Recipient may suspend or terminate grant funding to the Subrecipient, in whole or in part, or other measures may be imposed for any of the following reasons:

A. Failure to expend funds in a timely manner consistent with the grant milestones, guidance, and assurances.
B. Failure to comply with the requirements or statutory objectives of federal or state law.
C. Failure to make satisfactory progress toward the goals or objectives set forth in the annual EMPG Work Agreement.
D. Failure to follow grant agreement requirements or special conditions.
E. Failure to submit required reports.
F. Filing of a false certification in the application or other reports or documents.

Before taking action, the Recipient will provide the Subrecipient reasonable notice of intent to impose corrective measures and will make every effort to resolve the problem informally.

XIII. Business Integrity Clause

The Recipient may immediately cancel the grant without further liability to the Recipient or its employees if the Subrecipient, an officer of the Subrecipient, or an owner of a 25% or greater share of the Subrecipient is convicted of a criminal offense incident to the application for or performance of a state, public, or private grant or subcontract; or convicted of a criminal offense, including, but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under state or federal antitrust statutes; or convicted of any other criminal offense which, in the sole discretion of the Recipient, reflects on the Subrecipient's business integrity.

XIV. Freedom of Information Act (FOIA)

Much of the information submitted in the course of applying for funding under this program, or provided in the course of grant management activities, may be considered law enforcement-sensitive or otherwise critical to national security interests. This may include threat, risk, and needs assessment information; and discussions of demographics, transportation, public works, and industrial and public health infrastructures. Therefore, each Subrecipient agency Freedom of Information Officer will need to determine what information is to be withheld on a case-by-case basis. The Subrecipient should be familiar with the regulations governing Protected Critical Infrastructure Information (6 CFR, Part 29) and Sensitive Security Information (49 CFR, Part 1520), as these designations may provide additional protection to certain classes of homeland security information.
XV. Official Certification

For the Subrecipient
The individual or officer signing this grant agreement certifies by his or her signature that he or she is authorized to sign this grant agreement on behalf of the organization he or she represents. The Subrecipient agrees to complete all requirements specified in this grant agreement.

________________________________________
Subrecipient Name

________________________________________
Subrecipient’s DUNS Number

For the Chief Elected Official

________________________________________
Printed Name

________________________________________
Title

________________________________________
Signature

________________________________________
Date

For the Local Emergency Manager

________________________________________
Printed Name

________________________________________
Title

________________________________________
Signature

________________________________________
Date

For the Recipient (Michigan State Police, Emergency Management and Homeland Security Division)

Capt. Chris A. Kelenske, Commander
Printed Name

Deputy State Director of Emergency Management and Homeland Security
Title

_____________________________________
Signature

8/31/17

_____________________________________
Date
STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

3. It will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.

4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).


7. If a governmental entity--

   a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C.§ 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and

   b) it will comply with requirements of 5 U.S.C.§§ 1501-08 and §§7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

Signature Date

Date
CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, “New Restrictions on Lobbying” and 28 CFR Part 67, “Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).” The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over $100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.815 and 67.520—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantees policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not indentified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

**DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67, Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 Seventh Street NW., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date

AUDIT CERTIFICATION

AUTHORITY: MCL 30.407a and 2 CFR Part 200, Subpart F; COMPLIANCE: Voluntary, but necessary to be considered for grant assistance.

Federal Audit Requirements
Non-federal organizations, which expend $750,000 or more in federal funds during their current fiscal year, are required to have an audit performed in accordance with 2 CFR Part 200, Subpart F. Subrecipients MUST submit a copy of their audit report for each year they meet the funding threshold to: Michigan State Police, Grants and Community Services Division, P.O. Box 30634, Lansing, Michigan 48909.

Submit completed document to:
Michigan State Police
Emergency Management and Homeland Security Division
P.O. Box 30634
Lansing, Michigan 48909

<table>
<thead>
<tr>
<th>I. Program Information</th>
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<td>Program Name</td>
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<th>II. Subrecipient Information</th>
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<tr>
<td>Subrecipient Name</td>
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<td>Street Address</td>
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<th>III. Certification for Fiscal Year</th>
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<td>Subrecipient Fiscal Year Period:</td>
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☐ I certify that the subrecipient shown above does NOT expect it will be required to have an audit performed under 2 CFR Part 200, Subpart F, for the above listed program.

☐ I certify that the subrecipient shown above expects it will be required to have an audit performed under 2 CFR Part 200, Subpart F, during at least one fiscal year funds are received for the above listed program. A copy of the audit report will be submitted to: Michigan State Police, Grants and Community Services Division, P.O. Box 30634, Lansing, Michigan 48909.

Signature of Subrecipient’s Authorized Representative | Date
Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

1. Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2. Business name/disregarded entity name, if different from above.

3. Check appropriate box for federal tax classification; check only one of the following seven boxes:
   - Individual/sole proprietor
   - C Corporation
   - S Corporation
   - Partnership
   - Trust/estate
   - Single-member LLC
   - Limited liability company.

   Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

4. Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
   - Exempt payee code (if any)
   - Exemption from FATCA reporting code (if any)

   (Applies to accounts maintained outside the U.S.)

5. Address (number, street, and apt. or suite no.)

6. City, state, and ZIP code

Requestor's name and address (optional)

7. List account number(s) here (optional)

Part I

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer Identification number

Part II

Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

3. I am a U.S. citizen or other U.S. person (defined below); and

4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here

Signature of U.S. person

Date

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding,

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See What is FATCA reporting? on page 2 for further information.
Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request a TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such trade or business. Further, in certain cases, Form W-9 has not been released. Therefore, the IRS does not have a Form W-9 for these partnerships. Partnerships that conduct a trade or business in the United States, provide Form W-9 to the partnership to establish its U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China Income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third-party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after May 26, 1999).

Certain payments and payments are exempt from backup withholding. See Exempt payee code on page 3 and the separate instructions for the Requester of Form W-9 for more information.

Also see Special rules for partnerships above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See Exemption from FATCA reporting code on page 3 and the instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer pay a tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; do not leave this line blank. The name must match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose name you entered in Part I of Form W-9.

a. Individual. Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. TIN applicanth. Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. Sole proprietor or single-member LLC. Enter your individual name as shown on your Form 1040/1040A/1040EZ or line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation. Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. Other entities. Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(b)(2)(ii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.
Line 2
If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3
Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC), if the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box but instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions
If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.
• Generally, individuals (including sole proprietors) are not exempt from backup withholding.
• Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
• Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
• Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).
2—The United States or any of its agencies or instrumentalities
3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
5—A corporation
6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
7—A futures commission merchant registered with the Commodity Futures Trading Commission
8—A real estate investment trust
9—An entity registered at all times during the tax year under the Investment Company Act of 1940
10—A common trust fund operated by a bank under section 584(a)
11—A financial institution
12—A middleman known in the investment community as a nominee or custodian
13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

<table>
<thead>
<tr>
<th>IF the payment is for</th>
<th>THEN the payment is exempt for</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest and dividend payments</td>
<td>All exempt payees except for 7</td>
</tr>
<tr>
<td>Broker transactions</td>
<td>Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2010.</td>
</tr>
<tr>
<td>Barter exchange transactions and patronage dividends</td>
<td>Exempt payees 1 through 4</td>
</tr>
<tr>
<td>Payments over $600 required to be reported and direct sales over $5,000</td>
<td>Generally, exempt payees 1 through 6</td>
</tr>
<tr>
<td>Payments made in settlement of payment card or third party network transactions</td>
<td>Exempt payees 1 through 4</td>
</tr>
</tbody>
</table>

1. See Form 1099-MISC, Miscellaneous Income, and its instructions.

However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank.

Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requestor may indicate that a code is not required by providing you with a Form W-8 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(7)
B—The United States or any of its agencies or instrumentalities
C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(5)
E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(5)
F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
G—A real estate investment trust
H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
I—A common trust fund as defined in section 584(a)
J—A bank as defined in section 581
K—A broker
L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payees code should be completed.

Line 5
Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6
Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (TIN). Enter it in the social security number box. If you do not have an ITIN, see How to get a TIN below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see Limited Liability Company (LLC) on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradeable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.
Part II. Certification
To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see Exempt payee code earlier.

Signature requirements: Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.
2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.
4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical or health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing vessel crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 927), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

<table>
<thead>
<tr>
<th>For this type of account:</th>
<th>Give name and SSN of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Individual</td>
<td>The individual</td>
</tr>
<tr>
<td>2. Two or more individuals (joint account)</td>
<td>The actual owner of the account or, if combined funds, the first individual on the account</td>
</tr>
<tr>
<td>3. Custodian account of a minor (Uniform Gift to Minors Act)</td>
<td>The minor²</td>
</tr>
<tr>
<td>4. a. The usual revocable savings trust (grantor is also trustee)</td>
<td>The grantor-trustee²</td>
</tr>
<tr>
<td>b. So-called trust account that is not a legal or valid trust under state law</td>
<td>The actual owner¹</td>
</tr>
<tr>
<td>5. Sole proprietorship or disregarded entity owned by an individual</td>
<td>The owner¹</td>
</tr>
<tr>
<td>6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(ii)(A))</td>
<td>The grantor²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>For this type of account:</th>
<th>Give name and EIN of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Disregarded entity not owned by an individual</td>
<td>The owner</td>
</tr>
<tr>
<td>8. A valid trust, estate, or pension trust</td>
<td>Legal entity¹</td>
</tr>
<tr>
<td>9. Corporation or LLC electing corporate status on Form 8832 or Form 2553</td>
<td>The corporation</td>
</tr>
<tr>
<td>10. Association, club, religious, charitable, educational, or other tax-exempt organization</td>
<td>The organization</td>
</tr>
<tr>
<td>11. Partnership or multi-member LLC</td>
<td>The partnership</td>
</tr>
<tr>
<td>12. A broker or registered nominee</td>
<td>The broker or nominee</td>
</tr>
<tr>
<td>13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments</td>
<td>The public entity</td>
</tr>
<tr>
<td>14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(ii)(B))</td>
<td>The trust</td>
</tr>
</tbody>
</table>

¹ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.
² List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account state.) Also see Special rules for personal retirement plans.
³ Note: Grantor also must provide a Form W-9 to trustee of trust.
⁴ Note. if no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft
Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:
- Protect your SSN;
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4440 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4776 or TTY/TDD 1-800-829-0459.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4388).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice
Section 8109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.
DATE: 10/16/2017
TO: Joseph A. Valentine, City Manager
FROM: Eric Brunk, IT Manager
SUBJECT: GIS Inc Support Contract renewal

The City of Birmingham has contracted with Geographic Information Services, Inc. (GIS Inc.) for support of our GIS software and systems. The 2016-2017 contract with GIS Inc. from the IT department was for 30 hours of support at a base cost of $166.67 per hour which was enough to cover basic updates and general support requests.

Community Development, Engineering, DPS and Fire have all asked for the ability to use many of the features that our GIS system supports but we do not have a GIS department to field those requests and help bring them to completion. During the 2017-2018 budget meeting with the Finance Director and the City Manager it was discussed that rather than each of these departments contracting for GIS support that it would be better to increase the amount of hours contracted through the IT department and open the support to all departments needing GIS support.

At this time the IT department would like to increase the current level of support to 95 hours at a cost of 157.89 per hour of support for a total of $15000 and open the GIS support to all departments. We have budgeted for up to $60,000 in total support costs but would like to gauge the amount needed before increasing to the full budgeted amount.

SUGGESTED RESOLUTION:
Authorize the IT department to purchase 95 block hours of GIS support from Geographic Information Services, Inc. 2100 Riverchase Center, Suite 105, Birmingham, AL 35244, the total purchase not to exceed $15,000.00. Funds are available in the IT GIS fund account # 636-228.000-973.0500
September 15, 2017

Eric Brunk  
IT Director  
City of Birmingham  
151 Martin St.  
Birmingham, MI 48012

Dear Eric,

**RE: GIS Support Block Quote**

Thank you for your interest in our GIS Support Block. Included in the following pages are GISinc’s Support Block details and prices.

GIS Support Blocks will provide a vehicle for accessing GIS support on-demand to City of Birmingham (the City). I hope you find this information helpful. If I can provide further assistance, please do not hesitate to contact me.

Thank you again for your interest. We look forward to working with you.

Sincerely,

Tyler Prahl  
State & Local Account Manager  
Geographic Information Services, Inc.  
2100 Riverchase Center, Suite 105 | Birmingham, AL 35244  
p: 205.941.0442 ext.487 | m: 612.275.6752 | e: tyler.prahl@gisinc.com
I. GIS Support Block

GIS Support Blocks provide a vehicle for accessing GIS support on-demand. Once a GIS Support Block is put in place, GISinc will provide professional services to assist the City with GIS support. All services provided as part of the GIS Support Blocks will be conducted by the most effective and cost-efficient method, including: virtually through remote network access, telephone conference calls, Internet (WebEx) demonstrations, or on-site consultants.

*How do GIS Support Blocks work?*

Once the GIS Support Block vehicle is in place, GISinc will provide the City with a single point of contact. GISinc will identify the support tasks and establish a communication plan for coordinating the activities of the task as well as status reporting. We will match the support task with the correct GISinc resource.

If a support task becomes large, GISinc may require using a management team. This function includes people, processes, and technology that are designed to make sure that the City receives outstanding value. Milestones and completion dates will be established for the Planning and Analysis, Client review, Design, Client review, Development, Testing, and Installation/Implementation phases of a large task or project. There are many tasks and risks that have the potential to derail a project. To manage this effort, larger tasks or projects that we execute are assigned a Project Coordinator or Technical Architect from GISinc.
II. Pricing

Prepaid blocks of hours can be purchased at the prices listed in Table 1 and volume discounts are included at each block level. Support block hours expire after 12 months from the date of signature. GISinc will invoice the City upon receiving the signed form.

You may indicate your acceptance of the above proposal with a signature from authorized personnel at the City. Any expenses or travel incurred by GISinc while performing GIS Support Block services to the City will be billed at actual costs separate from this contract.

<table>
<thead>
<tr>
<th>Price</th>
<th>Block of Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,000</td>
<td>30</td>
</tr>
<tr>
<td>$10,000</td>
<td>60</td>
</tr>
<tr>
<td>$15,000</td>
<td>95</td>
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<tr>
<td>$20,000</td>
<td>135</td>
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<td>$25,000</td>
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<td>$50,000</td>
<td>370</td>
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<tr>
<td>$60,000</td>
<td>455</td>
</tr>
<tr>
<td>$75,000</td>
<td>585</td>
</tr>
<tr>
<td>$100,000</td>
<td>800</td>
</tr>
</tbody>
</table>

**Support Block Amount:** $15,000

**Signature:**

**Name:** Eric V. Brunk

**Title:** IT Manager

**Date:** 10/16/2017

**City of Birmingham, MI**

**Quotation Terms and Conditions**

This confidential quotation is valid for thirty (30) days unless otherwise stated and does not include shipping or tax unless otherwise stated. This quotation information is proprietary and may not be copied or released other than for the express purpose of system and service selection and purchase. This information may not be given to outside parties or used for any other purpose without written consent from Geographic Information Services, Inc. (GISinc).
DATE: October 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: West Maple Road Light Pole Painting Project

DTE Community Lighting is the owner of 64 cobra light poles along West Maple Road between Southfield Road and Cranbrook Road, so any work performed to the light poles, including painting, must be done by a DTE approved contractor. The City of Birmingham is responsible for the costs to keep the light poles painted to City standards. Seaway Painting, LLC is the current painting contractor for DTE and was contacted by the Department of Public Services for a proposal to paint the selected light poles on Maple Rd. In addition, there are 8 Mast arm poles at the intersections that are in need of painting as well, for a total of 72 poles in this area in need of paint. DTE is aware of this project and agrees to the selected contractor.

Since Seaway Painting, LLC is the current painting contractor for DTE and provided a quote for this project consisting of 72 posts, no other bids were obtained. See the attached quote. The total purchase price to accomplish this project is $18,280.

The recommended vendor, Seaway Painting, LLC has performed other light pole painting projects for us. In 2014, a comparable project was the painting of DTE Light Poles on Woodward Median. The total project cost for the Woodward Avenue project was $20,936.82 for 111 poles, an average of $188.62 per pole. In 2016, a painting project of light posts downtown was a total of $13,260.00. The average cost per post is $172.21. For the 2016 project the light poles were of a different style from the cobra light poles on West Maple Road.

According to the contractor this is good weather for painting now through mid-November and they will start right away upon approval. He anticipates full completion of the project this year. Other light poles along Maple Road going east will be targeted for painting in the spring of 2018. Money is budgeted in account#202-449.003-937.0500, Street Lighting Maintenance, Street Light Post Painting for this work.

SUGGESTED RESOLUTION:
To approve the purchase for the painting of 72 light poles and traffic signal poles on West Maple Road with Seaway Painting, LLC in the amount not to exceed $18,280.00. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances. Funds are available in the Street Lighting Maintenance Account #202-449.003-937.0500. In addition, to waive the normal bidding requirements because Seaway is a DTE selected contractor.
October 2, 2017

City of Birmingham
151 Martin St
Birmingham, MI 48012
Attn: Ms. Carrie Laird

Ref: Painting of Poles on Maple from Southfield to Cranbrook
Seaway Proposal # 10-02-17

Ms. Laird,
Thank you in advance for the opportunity to quote your painting needs. It is understood that there are approximately 64 - 28’6” Cobra Poles and approx. 8 galvanized Mast arm standards that need to be painted green to match the other posts in Birmingham. The color of the poles will match Sherwin Williams Cedar Green 4032.

Scope of Work General:
- Clean the exterior of the pole by hand or air powered tools, solvent wipe the poles.
- Application of primer to the Metal Cobra Poles will be Carbomastic 90 for the first 6 feet of the pole and spot primed thereafter.
- Application of primer to the Galvanized Strain Poles will be Carboline Galloseal WB if the pole is unpainted. If the pole has been previously painted we will clean the pole and apply the Carbomastic 90 to that pole as needed.
- Application of topcoat to the pole exterior (Match SW Cedar Green 4032) Carboline Carbothane 134HG

Unit Pricing:

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paint Steel Cobra Poles</td>
<td>64</td>
<td>$ 245.00</td>
<td>$15,680.00</td>
</tr>
<tr>
<td>Paint Galvanized Strain Poles</td>
<td>8</td>
<td>$ 325.00</td>
<td>$ 2,600.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$18,280.00</td>
</tr>
</tbody>
</table>

MDOT ROW
If a permit is required the City of Birmingham will have to provide the permit.

General Requirements:
- All signs, banners, flags, etc. must be removed from the poles by others. They should not be reinstalled until the poles have achieved final cure. Depending on weather, the cure time could take 7 to 14 days.
- It is recommended that the owner rinse the poles annually after the last snowfall with clean water. This will help remove contaminants that are present on the poles as a result of salting during the winter months.
• It is the sole responsibility of the City to provide any necessary permits or traffic control devices in excess of one Arrow Board that Seaway Painting, LLC will provide. Please note that if work hours are restricted causing a reduction with productivity this price may be amended.

Hoping the above meets with your approval. If you have any questions please give me a call. Please let me know if approved and what time frame you would like to have the poles painted.

Sincerely,

Bill Loughrey
Seaway Painting, LLC
ATTACHMENT A - AGREEMENT
For West Maple Rd Painting Project

This AGREEMENT, made this _____ day of ________, 2017, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Seaway Painting, LLC, having its principal office at 31801 Schoolcraft, Livonia, MI 48150 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Department of Public Services, is desirous of having 72 light and traffic signal posts prepped and painted in the City of Birmingham.

WHEREAS, the City has heretofore requested a quote from a qualified, DTE approved contractor to perform the painting of 72 light and traffic signal posts located on W. Maple Rd.,

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 the painting of the 72 light and traffic signal posts located on W. Maple between Southfield Rd. and Cranbrook Rd.

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 the painting of 72 light and traffic signal posts located on W. Maple between Southfield Rd. and Cranbrook Rd. and the Contractor's cost proposal dated October 2, 2017 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 $18,280.00, as set forth in the Contractor's October 2, 2017 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. 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.

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

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

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

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

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

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

4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;

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

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

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

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

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

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

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:
   City of Birmingham
   Attn: Lauren Wood
   Department of Public Services
   851 S Eton St
   Birmingham, MI 48009
   (248) 530-1700

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

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

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

WITNESSES:

CONTRACTOR

By: [Signature]

Its: [Signature]

CITY OF BIRMINGHAM

By: [Signature]

Mark Nickita
Its: Mayor

By: [Signature]

J. Cherilynn Mynsberge
Its: City Clerk

Approved:

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

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

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

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

**Client#: 1058**

**SEAPAI**

**DATE (MM/DD/YYYY):** 08/14/2017

**PRODUCER:**

ZERVOS GROUP, INC.
24724 Farmbrook  (248) 355-4411
P.O. Box 2067
Southfield, MI 48037-2067

**CONTACT NAME:** Steve Zervos
**PHONE:** (248) 355-4411
**E-MAIL:** maraha@zervosgroup.com
**INSURER B:** Navigators Specialty Insurance
**INSURER D:** Selective Ins Co of America
**INSURER E:**

**INURED:**

SEAWAY PAINTING, LLC
31801 Schoolcraft
Livons, MI 48150

**INSCRIBED NO.:** X

**COVERAGE CAPSULE:**

- **COMMERICAL GENERAL LIABILITY (CLAIMS-MADE X OCCUR):** A5CG11271600
- **AUTOMOBILE LIABILITY (CLAIMS-MADE X OCCUR):** A5CA11271600
- **UMBRELLA LIABILITY (CLAIMS-MADE X OCCUR):** CH16EXC5004291C
- **WORKERS’ COMPENSATION:** A5CW11271500
- **POLLUTION:** NY15ECP304965IC
- **LEASED/RENTED:** S2178386

**EXPIRATION DATE:** 08/14/2018

**CERTIFICATE HOLDER:**

City of Birmingham
Attn: Finance Director
151 Martin Street
P.O. Box 3001
Birmingham, MI 48012-3001

**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:**

[Signature]

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**ACORD 25 (2014/01) 1 of 1** The ACORD name and logo are registered marks of ACORD #S350153/M350998
DATE: September 25, 2017

TO: Joseph A. Valentine, City Manager

FROM: J. Cherilynn Mynsberge, City Clerk

SUBJECT: Special Event Application

Menorah Display

Attached is a special event application submitted by the Birmingham Jewish Connection requesting permission to display a Menorah in Shain Park from December 12, 2017 – December 20, 2017, and to hold a lighting ceremony on December 14, 2017.

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. This event does not pose a conflict with the proposed event.

<table>
<thead>
<tr>
<th>Event Name</th>
<th>Date</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winter Markt</td>
<td>Dec 1-3</td>
<td>Shain Park</td>
</tr>
<tr>
<td>Santa House</td>
<td>Dec. 1-Dec. 24</td>
<td>Shain Park</td>
</tr>
<tr>
<td>Nativity Display</td>
<td>Nov. 22 – Dec. 29</td>
<td>Shain Park</td>
</tr>
</tbody>
</table>

SUGGESTED RESOLUTION:
To approve a request submitted by the Birmingham Jewish Connection to display a Menorah in Shain Park from December 12, 2017 – December 20, 2017, and to hold a lighting ceremony on December 14, 2017, 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

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 9/13/17

Name of Event Menorah in Shain Park

Detailed Description of Event (attach additional sheet if necessary) Annual electric menorah display
for 8 days of Chanukah. One night special holiday gathering by the menorah.

Location Shain Park

Date(s) of Event 12/13 - 12/20 7 pm, 12/14 for gathering
Date(s) of Set-up 12/12 Hours of Event 10 am - noon
Date(s) of Tear-down 12/20 Hours of Set-up 10 am - noon

Organization Sponsoring Event Birmingham Jewish Connection
Organization Address c/o Rabbi Boruch Cohen, 1578 Lakeside Dr, Birmingham
Organization Phone 248-225-0246

Contact Person Rabbi Boruch Cohen
Contact Phone 248-225-0246
Contact Email birminghamrabb@gmail.com
II. **EVENT INFORMATION**

1. Organization Type: \underline{Non-profit} \\
   (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.) \underline{N/A}

3. Is the event a fundraiser? \underline{YES} \ NO \\
   List beneficiary \underline{_________________________} \\
   List expected income \underline{_________________________} \\
   Attach information about the beneficiary.

4. First time event in Birmingham? \underline{YES} \ NO \\
   If no, describe \underline{Annual event for 12 years} \\

5. Total number of people expected to attend per day \underline{For 12/14 gathering: about 60} \\

6. The event will be held on the following City property: (Please list) \\
   [ ] Street(s) \underline{_________________________} \\
   [ ] Sidewalk(s) \underline{_________________________} \\
   [ ] Park(s) \underline{Shain} \\

7. Will street closures be required? \underline{YES} \ NO \\

8. What parking arrangements will be necessary to accommodate attendance? \underline{N/A}
### 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 for $200.00</td>
<td></td>
<td>A request for more than six tables will be evaluated based on availability.</td>
</tr>
<tr>
<td>Trash Receptacles</td>
<td>$4.00 each</td>
<td></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>$200.00 per day</td>
<td></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</td>
<td>Varies</td>
<td>Charges according to final requirements of event.</td>
</tr>
<tr>
<td>Water/Fire Hydrant</td>
<td>Contact the Fire Department.</td>
<td></td>
<td>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>$200.00 per day</td>
<td></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)*

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

EVENT NAME  Stein Park March
EVENT DATE  12/13-20  |  special gathering  12/14

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]  02/14/11

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.
SPECIAL EVENT REQUEST NOTIFICATION LETTER

DATE: 9/25/17

TO: Residential Property or 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 an opportunity exists for comments prior to this approval.

EVENT INFORMATION
NAME OF EVENT: SHAIN PARK MENORAH DISPLAY

LOCATION: SHAIN PARK, BIRMINGHAM

DATE(S) OF EVENT: 12/12 - 12/20

BRIEF DESCRIPTION OF EVENT/ACTIVITY: STANDING ELECTRIC MENORAH DISPLAY; SPECIAL ‘LIGHTING’ GATHERING, 7 - 8 PM THURSDAY, 12/14

DATE(S) OF SET-UP: 12/12  HOURS OF SET-UP: 10 AM - NOON

DATE(S) OF TEAR-DOWN: 12/20  HOURS OF TEAR-DOWN: 10 AM-NOON

DATE OF CITY COMMISSION MEETING: 10/16

The City commission meets in room 205 of the Municipal Building at 151 Martin at 7:30PM. 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: RABBI BORUCH COHEN

ADDRESS: 1578 LAKESIDE DR, BIRMINGHAM

PHONE: 248-225-0246 (CELL)

FOR QUESTIONS ON DAY OF EVENT, CONTACT: RABBI COHEN
# Certificate of Liability Insurance

**Date:** 09/26/2017

**Producer:**
Barbara Merten-Dubensky  
2028 Hazel St  
Birmingham MI 48009

**Insured:**
BIRMINGHAM JEWISH CONNECTION  
1578 LAKESIDE DRIVE  
BIRMINGHAM, MI 48009

**Coverages and Certificate Number:**

<table>
<thead>
<tr>
<th>Ins.</th>
<th>Type of Insurance</th>
<th>Addl/Sub</th>
<th>Policy Number</th>
<th>Policy Eff (MM/DD/YYYY)</th>
<th>Policy Exp (MM/DD/YYYY)</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Commercial General Liability</td>
<td>CLAIMS-MADE</td>
<td>X OCCUR</td>
<td>92-B6-A3141</td>
<td>11/25/2016</td>
<td>11/25/2017</td>
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</tbody>
</table>

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

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

**Certificate Holder:**
City of Birmingham

**Cancellation:**

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

**Authorized Representative:**

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ACORD 25 (2014/01)  
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1001486 132849.9 02-04-2014
HOLD-HARMLESS AGREEMENT
Shain Park Menorah 2017

To the fullest extent permitted by law, the Birmingham Jewish Connection and any entity or person for whom the Birmingham Jewish Connection 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's signature and date]
## DEPARTMENT APPROVALS

**EVENT NAME**: SHAIN PARK MENORAH  
**LICENSE NUMBER**: #17-00011065  
**COMMISSION HEARING DATE**: OCT. 16, 2017  
**DATE OF EVENT**: 12/13-12/20/17

**NOTE TO STAFF**: Please submit approval by **SEPT. 25, 2017**

<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>PLANNING</td>
<td>SC</td>
<td>No comments.</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>BUILDING</td>
<td>mm</td>
<td>No comments</td>
<td>None</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>FIRE</td>
<td>JMC</td>
<td></td>
<td></td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>POLICE</td>
<td>SG</td>
<td>On duty personnel to give extra patrol.</td>
<td>None</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>PUBLIC SERVICES</td>
<td>Carrie Laird</td>
<td>A representative from the DPS department requests to meet with the representative for the proper installation of the Menorah Display.</td>
<td>None</td>
<td>$0</td>
<td></td>
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<tr>
<td>ENGINEERING</td>
<td>A.F.</td>
<td>Do not obstruct Public Sidewalks</td>
<td>None</td>
<td>$0</td>
<td>$0</td>
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<td>SP+ PARKING</td>
<td>A.F.</td>
<td>Emailed information to SP+ on 9/18/17</td>
<td>None</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>INSURANCE 248.530.1807</td>
<td>CA</td>
<td>Approved</td>
<td>None</td>
<td>$0</td>
<td>$0</td>
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<td>CLERK 101-000.000-614.0000 248.530.1803</td>
<td></td>
<td>Notification letters mailed by applicant on 9/27. 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 11/28/17.</td>
<td>Applications for vendors license must be submitted no later than N/A.</td>
<td></td>
<td>$165 pd</td>
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<td>TOTAL DEPOSIT REQUIRED</td>
<td>ACTUAL COST</td>
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<td>$0</td>
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FOR CLERK’S OFFICE USE

Deposit paid ___________
Actual Cost ___________
Due/Refund ___________

Rev. 10/9/17
h:\shared\special events\- general information\approval page.doc
DATE: October 9, 2017

TO: Joseph A. Valentine, City Manager

FROM: Matthew Baka, Senior Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: Set Public Hearing for a Lot Combination of 607 & 635 S. Bates, Parcel # 1936178026, T2N, R10E, SEC 36 ASSESSOR’S REPLAT OF PART OF TORREY’S, HOOD’S & SMITH ADDS PART OF LOT 53 BEG AT PT DIST N 01-09-00 E 43.66 FT FROM SW LOT COR, TH N 01-09-00 E 43 FT, TH S 89-06-52 E 121.39 FT, TH S 00-44-40 W 43 FT, TH N 89-06-51 W 121.69 FT TO BEG 3-27-14 FR 021 and 635 S. Bates, Parcel #1936178027, T2N, R10E, SEC 36 ASSESSOR’S REPLAT OF PART OF TORREY’S, HOOD’S & SMITH ADDS PART OF LOT 53 BEG AT SW LOT COR, TH N-01-09-00 E 43.66 FT, TH S 89-06-51 E 121.69 FT, TH S 00-44-40 W 43.70 FT, TH N 89-05-49 W 122 FT TO BEG 3-27-14 FR 021

The owner of the properties known as 607 & 635 S. Bates is seeking approval to combine the two parcels into one lot. The two subject lots were previously one lot as recently as 2014.

On March 10, 2014 the City Commission approved a lot split of the parcel to allow for the renovation of the house at 607 Bates and the construction of a new house on the empty lot to the south. However, after the lot split was approved and recorded at the county, the property owner abandoned the project and later sold both parcels.

The new owners were recently approved by the Historic District Commission to put an addition on to the existing home and would like to maintain the two parcels as one property. The house on the property is historically designated in the City of Birmingham.

At this time the Planning Division recommends that the City Commission set a public hearing date of November 13, 2017 to consider the proposed lot combination, pursuant to the procedures set forth in Section 102-52 of the Subdivision Ordinance. The application and land survey have been included for your review.

SUGGESTED ACTION:
To set a Public Hearing for November 13, 2017 to consider the proposed lot combination of 607 & 635 S. Bates.
WARRANTY DEED

Know All Persons by These Presents: That 607 S. Bates, LLC, a Michigan limited liability company
whose address is 330 E Maple Road Ste 448, Birmingham, MI 48009

Convey(s) and Warrant(s) to Joseph R. Angileri, as Trustee of the Joseph R. Angileri Revocable Trust U/A/D
01/05/1993, as Amended and Restated on 07/30/2012 and Julie S. Douse-Angileri, as Trustee of the Julie
S. Douse-Angileri Revocable Trust U/A/D dated 07/30/2012
whose address is 25800 Meadowdale, Franklin, MI 48025

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

Deeded As:
Part of Lot(s) 53 of ASSessor's PLAT OF PART OF TORREY'S ADDITION, HOOD's ADDITION AND SMITH ADDITION
according to the plat thereof recorded in Liber 41 of Plats, Page 36 of Oakland County Records, beginning at the
Southwest Lot corner, thence North 01 degrees 09 minutes 00 seconds East 86.68 feet to the Northwest Lot corner,
thereafter South 88 degrees 52 minutes 03 seconds East 121.76 feet, thence South 00 degrees 59 minutes 25 seconds West
86.70 feet, thence North 88 degrees 51 minutes 30 seconds West 122 feet to the point of beginning.

Assessed As:
Town 2 North, Range 10 East, Section 36, Assessor's Replat of part of Torrey's Hood's & Smith Addition, part of Lot 53
commencing at the Southwest lot corner, thence North 01 degrees 09 minutes 00 seconds East 43.66 feet along the West
line of said Lot 53 to the point of beginning, thence North 01 degrees 09 minutes 00 seconds East, 43.00 feet to the
Northwest lot corner, thence South 89 degrees 06 minutes 52 seconds East, 121.39 feet along the North line of said Lot
53, thence South 00 degrees 44 minutes 40 seconds West, 43.00 feet, thence North 89 degrees 06 minutes 51 seconds
West, 121.69 feet to the point of beginning.

And

First American Title

First American Title Insurance Company
(Attached to and becoming a part of Warranty Deed dated: August 09, 2016 between 607 S. Bates, LLC, a Michigan limited liability company, as Seller(s) and Joseph R. Angileri, as Trustee of the Joseph R. Angileri Revocable Trust U/A/D 01/05/1993, as Amended and Restated on 07/30/2012 and Julie S. Douse-Angileri, as Trustee of the Julie S. Douse-Angileri Revocable Trust U/A/D dated 07/30/2012, as Purchaser(s).)

Dated this August 09, 2016.

Seller(s):

607 S. Bates, LLC, a Michigan limited liability company

By: ____________________________
   [Signature]

   Name: Anthony Cupisz
   Title: Sole Member

State of Michigan
County of ______________________

The foregoing instrument was acknowledged before me this August 09, 2016 by Anthony Cupisz, Sole Member of 607 S. Bates, LLC.

[Signature]

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

JENNIFER LYNNE PAYTIER
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF LIVINGSTON
My Commission Expires June 9, 2023
Acting in the County of ____________________________
Town 2 North, Range 10 East, Section 36, Assessor's Replat of Part of Torrey's Hood's & Smith Addition, part of Lot 53 beginning at the Southwest lot corner, thence North 01 degrees 09 minutes 00 seconds East, 43.66 feet, thence South 89 degrees 06 minutes 51 seconds East, 121.69 feet, thence South 00 degrees 44 minutes 40 seconds West, 43.70 feet, thence North 89 degrees 05 minutes 49 seconds West, 122 feet along the South line of said Lot 53 to the point of beginning.

More commonly known as: **607 and 635 South Bates Street, Birmingham, MI 48009**

For the full consideration of: **six hundred twenty five thousand** Dollars ($625,000.00)

**Subject To:**
Existing building and use restrictions, easements, and zoning ordinances, of record.
Combination of Platted Lots Application

1. Applicant
   Name: Jullie & Joe Angileri
   Address: 25800 Meadowlake
   Franklin, MI 48025
   Phone Number: 248-676-6575
   Fax Number: 
   Email Address: joe_angileri@gmail.com

2. Applicant's Attorney/Contact Person
   Name: William Finnicum
   Address: Finnicum & Breenlie Architects
   25800 Germantown Road, Franklin, MI 48025
   Phone Number: 
   Fax Number: 
   Email Address: 

3. Project Information
   Address/Location of Property: 607 S Bates
   Birmingham, MI 48009
   Sidwell #: 19-30-178-024 + 19-36-178-027
   Current Zoning: residential R-3

4. Attachments
   - Proof of ownership
   - Written statement of reasons for request
   - A letter of authority or power of attorney in the event the application is made by a person other than the property owner
   - Other data having a direct bearing on the request
   - Sketches of proposed development (optional)
   - One digital copy of plans
   - Two (2) copies of a registered land survey showing:
     - All existing and proposed platted lot lines
     - Legal descriptions of proposed lots
     - Locations of existing/surrounding structures for at least 500 feet in all directions
     - Footprints of proposed development including proposed building envelope with front, side and rear setbacks clearly marked.

(I), (We), the undersigned, do hereby request to combine lots of record in the City of Birmingham, Oakland County, Michigan. (I), (We), do hereby swear that all of the statements, signatures, and descriptions appearing on and with this request are in all respects true and accurate to the best of (my), (our), knowledge.

Signature of Property Owner: ___________________________ Date: 9/16/17
Print Name: Jullie S. Dowe-Angileri
Signature of Applicant: ___________________________ Date: 9/16/17
Print Name: Joseph R. Angileri

Fee: $200.00 per lot affected, minimum fee $400

* Joseph R. Angileri, as trustee of the Joseph R. Angileri Revocable Trust U/A/D 07/05/93, as amended, and restated on 07/30/02, and Julie S. Dowse-Angileri, as trustee of the Julie S. Dowse-Angileri Revocable Trust U/A/D dated 7/30/02
CERTIFICATE OF SURVEY

PARCEL "A"
LEGAL DESCRIPTION: LAND IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: TOWN 2 NORTH, RANGE 10 EAST, SECTION 36, "ASSESSOR’S REPLAT OF PART OF TORREY’S, HOOD’S & SMITH ADDITION", PART OF LOT 53 COMMENCING AT THE S.W. LOT CORNER, THENCE N.01°09’00”E., 86.66 FEET ALONG THE WEST LINE OF SAID LOT 53 TO THE N.E. LOT CORNER; THENCE SOUTH 89°06’52”E., 121.39 FEET ALONG THE NORTH LINE OF SAID LOT 53, THENCE S.00°44’40”W., 86.70 FEET, THENCE N.89°05’49”W., 122.00 FEET TO THE POINT OF BEGINNING.

COMMONLY KNOWN AS: ___ S. BATES ST., BIRMINGHAM, MI 48009
PARCEL ID: 19-36-178-___

EXISTING PARCELS 026 & 027
LEGAL DESCRIPTION: LAND IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: TOWN 2 NORTH, RANGE 10 EAST, SECTION 36, "ASSESSOR’S REPLAT OF PART OF TORREY’S, HOOD’S & SMITH ADDITION", PART OF LOT 53 COMMENCING AT THE S.W. LOT CORNER, THENCE N.01°09’00”E., 43.66 FEET ALONG THE WEST LINE OF SAID LOT 53 TO THE POINT OF BEGINNING, THENCE N.01°09’00”E., 43.00 FEET TO THE N.E. LOT CORNER, THENCE SOUTH 89°06’52”E., 121.39 FEET ALONG THE NORTH LINE OF SAID LOT 53, THENCE S.00°44’40”W., 43.00 FEET, THENCE N.89°06’51”W., 121.69 FEET TO THE POINT OF BEGINNING.

COMMONLY KNOWN AS: 607 S. BATES ST., BIRMINGHAM, MI 48009
PARCEL ID: 19-36-178-026

LEGAL DESCRIPTION: LAND IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: TOWN 2 NORTH, RANGE 10 EAST, SECTION 36, "ASSESSOR’S REPLAT OF PART OF TORREY’S, HOOD’S & SMITH ADDITION", PART OF LOT 53 COMMENCING AT THE S.W. LOT CORNER, THENCE N.01°09’00”E., 43.66 FEET, THENCE SOUTH 89°06’51”E., 121.69 FT., THENCE S.00°44’40”W., 43.70 FEET, THENCE N.89°05’49”W., 122.00 FEET ALONG THE S. LINE LINE OF SAID LOT 53 TO THE POINT OF BEGINNING.

COMMONLY KNOWN AS: 631 S. BATES ST., BIRMINGHAM, MI 48009
PARCEL ID: 19-36-178-027

PREPARED FOR:
WILLIAM FINNICUM AIA
P.O. BOX 250550
FRANKLIN, MI 48025
(248) 821-5022

SHEET. 2 OF 2

P 248.656.1092 F 248.656.7099
Mail@ReichertSurveying.com
140 Flumerfelt Lane - Rochester, MI 48306

DATE: REV. BY:
MEMORANDUM:

Date:
September 21, 2017

To:
Jana Ecker
Planning Director
City of Birmingham

From:
William Finnicum AIA NCARB
Finnicum Brownlie Architects

Re:
STATEMENT OF REQUEST FOR LOT COMBINING, 607 S. Bates

In or about 2012, the former owner of the property located at 607 S. Bates split the existing platted lot. He intended to move the existing historic house onto the northern parcel and build a second house on the southern parcel. The project did not proceed and in 2016 he sold the house and two lots to Mr. and Mrs. Joseph Angileri.

Mr. and Mrs. Angileri value the historic resource, wish to restore its exterior and enlarge it with an addition toward the East. Drawings prepared by Finnicum Brownlie Architects were submitted to the Historic District Commission and a certificate of appropriateness was issued. Additionally, the Board of Zoning Appeals approved requested dimensional variances. Building Department review of both requests pointed out the need to re-join the two lots.

Attached you will find a completed lot combination application; 2 copies of the new plot plan with new legal description; 2 copies of the proposed site plan as approved by the HDC and the BZA; the footprints of all structures within 500 feet and proof of ownership.

Thank you,
The subject site, Salvatore Scallopini, is located at 505 N. Old Woodward, on the northwest corner of N. Old Woodward and Harmon Street. The parcel is zoned O2, Office Commercial and D-2 in the Downtown Birmingham Overlay District. The applicant is applying for a Special Land Use Permit Amendment ("SLUP") to allow interior and exterior changes to the existing bistro.

Article 2, section 2.23, O2 (Office/Commercial) District allows a bistro as a permitted use with a valid Special Land Use Permit ("SLUP"). Salvatore Scallopini currently operates a bistro under a SLUP. The changes proposed require a SLUP Amendment, and thus the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit Amendment, and then obtain approval from the City Commission for the Final Site Plan and Special Land Use Permit Amendment.

On September 27, 2017, the Planning Board conducted a public hearing to discuss the applicant’s request for the proposed changes to the existing bistro. The Planning Board voted to recommend approval to the City Commission of the SLUP Amendment and Final Site Plan for 505 N. Old Woodward, Salvatore Scallopini, with the following conditions:

1. The non-operating door be filled in and turned into a window; and
2. The sill of the window is to match all other windows across the facade of the building.

Thus, the Planning Division requests that the City Commission set a public hearing date for November 13, 2017 to consider approval of the Final Site Plan and Special Land Use Permit Amendment to allow interior and exterior changes to the existing bistro at 505 N. Old Woodward. Please find attached the staff report presented to the Planning Board, along with the relevant meeting minutes for your review.

**SUGGESTED ACTION:**

To set a public hearing date of November 13, 2017 to consider the Final Site Plan and Special Land Use Permit Amendment for 505 N. Old Woodward to allow interior and exterior changes to the existing Salvatore Scallopini bistro at 505 N. Old Woodward.
PLANNING BOARD MINUTES
WEDNESDAY, JUNE 27, 2007

SPECIAL LAND USE PERMIT ("SLUP")
505 N. Old Woodward Ave., Salvatore Scallopini
Request for Bistro License

FINAL SITE PLAN REVIEW
505 N. Old Woodward Ave., Salvatore Scallopini
Request for Bistro License

Ms. Ecker explained that all of the same standards apply to this proposal as applied to the last application. The subject site is located on the west side of N. Old Woodward Ave. across from Booth Park. The parcel is zoned B-4 Business Residential and D-4 in the Downtown Overlay District. The applicant 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 will be required to obtain a recommendation from the Planning Board on the SLUP and Final Site Plan and then obtain approval from the City Commission for the Final Site Plan, SLUP, and for the operation of a Bistro License.

As the applicant is proposing changes to the exterior of the building, approval of the Design Review Board ("DRB") is also required. The plans also show the addition of a projecting sign which would require DRB approval. However, the applicant submitted a letter on June 21, 2007 that they would like to remove the proposed signage from their application.

Salvatore Scallopini’s bistro proposes to provide 49 percent glazing along both Harmon and N. Old Woodward Ave. They propose to install a new seasonal glass service entry door on the Harmon St. elevation. The applicant will be required to obtain a variance from the BZA as they do not meet the minimum 70 percent glazing requirement. They have applied to the BZA to be heard on July 10, 2007.

Salvatore Scallopini’s bistro is proposed to include 62 interior seats, including four in the new 50 sq. ft. bar area. Salvatore Scallopini’s currently has a full-service kitchen which will continue to operate. Salvatore Scallopini’s bistro is proposing an additional 30 seats for outdoor dining, with 16 on an elevated platform along Harmon, and 10 in the sidewalk along N. Old Woodward Ave. However, the 5 ft. clear pedestrian walkway along N. Old Woodward Ave. is not immediately adjacent to the storefront. If they wish to serve alcohol along N. Old Woodward Ave. they will have to enclose it according to Liquor Control Commission rules. Along Harmon, the applicant is proposing to construct a temporary 16.5 ft. by 14.5 ft. platform of composite, non-slip decking fastened with clips to provide a level outdoor dining surface on the sidewalk and into the street. The fencing system will match the existing railing at Booth Park across the street. The dining along Harmon does provide a 5 ft. clear pedestrian path adjacent to the storefront.

They are also proposing a park concession stand near the corner of N. Old Woodward Ave. and Harmon which includes an umbrella, a small cart for concessions, and a trash receptacle.
Mr. Roman Bonasowski from Ron and Roman said they are remiss in not showing the curb ramps at the corner of Harmon and N. Old Woodward Ave. It is their proposal not to have any alcohol service on the N. Old Woodward Ave. side, only on the platform that is along Harmon. Since the application was submitted they have mirrored the location of the ramp on the platform to be further away from the intersection. He passed out new copies of the plans which added a trash receptacle along N. Old Woodward Ave. and mirrored the deck.

Mr. Nickita noted there is 5 – 6 ft. space between the end of the platform and the next parking space to the west. He wondered if the applicant had considered expanding the platform and adding two more tables. Mr. Bonasowski thought that is a very sensible suggestion. Mr. Rea said at this point they will not consider the potential of running another row of seating near the curb along the edge of the sidewalk.

Mr. Bonasowski said they are requesting approval this evening for the plan as shown with the following changes:
- The platform on Harmon to extend an additional 5 ft. to the west with a shift of the ramp;
- Removal of four potted topiaries;
- Add a trash receptacle on N. Old Woodward Ave.; and
- Relocation of the service door.

Ms. Lisa Hamameh, Attorney, speaking to represent Salvatore Scallopini Bistro, announced they are scheduled on the BZA July agenda for the glazing item. Aside from that issue, their plan comports with the Zoning Ordinance. They are also on the July DRB agenda for the door. The tables will be plywood with vinyl black and white checkered tablecloths and black metal bases. They are caught up on payment of taxes to the City.

The chairman called for audience comment at 10:42 p.m.

Mr. Chuck Matthews, 521 Brookside, recommended that the board approve granting the Bistro License.

Ms. Ecker read two e-mails into the record that were in support of the Bistro Liquor License request.

Mr. Dave Cowens, 280 Harmon, had no problem with the licensing. However, he did have an issue with noise from delivery trucks in the early morning and after 11 p.m. from people that have been drinking.

Chairman Boyle indicated the board is looking at the owners and managers of this establishment to make sure that the neighbors are satisfied.

Mr. Blaesing said the idea of a concession stand on the corner could be a real asset to the park and to the whole neighborhood. The bar area has been defined and measured, so he will vote in favor of the proposal.
Motion by Mr. Williams
Seconded by Mr. Haberman to recommend approval of the Final Site Plan and SLUP for
505 N. Old Woodward Ave, Salvatore Scallopini, to the City Commission with the
following conditions:
1. Extend the elevated platform along Harmon 5 ft. to the west to accommodate
two additional four-top tables. That would bring the length of the platform to
17.5 ft. plus 4 ft. for the ramp;
2. Shift the entrance ramp to the west side of the platform;
3. Removal of four potted topiaries along Harmon;
4. Add a trash receptacle along N. Old Woodward Ave.;
5. The applicant would enter into a contract with the City;
6. No direct connect bar permit would be allowed;
7. Resin and wicker is deemed to be of comparable quality to the metal and wood;
8. The applicant would enter into the amended License Agreement and provide the
required Commercial General Liability Insurance and Liquor Liability Insurance;
and
9. DRB approval is required, as well as a variance from the BZA.

Motion carried, 7-0.

ROLLCALL VOTE
Yeas: Williams, Haberman, Blaesing, Boyle, Dilgard, Lazar, Nickita
Nays: None
Absent: None
DATE: September 5th, 2017

TO: Planning Board

FROM: Nicholas Dupuis, Planning Intern

APPROVED BY: Jana Ecker, Planning Director

SUBJECT: 505 N. Old Woodward – Salvatore Scallopini – Final Site Plan Review and Special Land Use Permit Amendment

Executive Summary

The subject site is located at 505 N. Old Woodward. The building, Salvatore Scallopini Bistro, lies at the corner of N. Old Woodward and Harmon Street. The applicant is seeking a Special Land Use Permit to make interior and exterior changes to the building, including reworking the bar, expanding indoor seating to 64 seats, painting, recladding existing awnings, adding new awnings, removing the existing dining patio and installing a new mosaic tile base.

The bar, with four seats, was previously approved when reviewed at Final Site Plan. The bar is simply being reworked and updated. The expansion of indoor seating remains within the boundaries of the Bistro Ordinance, which requires Bistros to have no more than 65 indoor seats (proposal going from 62-64 seats).

With the removal of the outdoor dining patio, the applicant is proposing to place new outdoor seating along the south elevation, and expand the existing outdoor seating on the east elevation. The previously approved amount of outdoor seating was 26, which the applicant wishes to expand to 36. The plans show that there will be a 5 ft. walking path for pedestrians, as well as new various sized planters to separate the dining area from the walking path.

Salvatore Scallopini was approved for a Bistro license on June 27th, 2007. The minutes from that meeting are attached for your review.

1.0 Land Use and Zoning

1.1 Existing Land Use – The existing site currently houses Salvatore Scallopini’s restaurant. Land uses surrounding the site are retail and commercial.

1.2 Existing Zoning – The property is currently zoned B-4, Business-Residential, and D-2 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.
1.3 **Summary of Land Use and Zoning** - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

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<th>East</th>
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2.0 **Screening and Landscaping**

2.1 **Screening** – No changes are proposed.

2.2 **Landscaping** – No changes are proposed.

3.0 **Parking, Loading, Access, and Circulation**

3.1 **Parking** – No changes are proposed.

3.2 **Loading** – No changes are proposed.

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

3.4 **Pedestrian Access & Circulation** – No changes are proposed.

3.5 **Streetscape** – The applicant is proposing to remove the existing outdoor dining deck and move new seating to the south and east elevations on the sidewalk. In doing this, the applicant will not be removing any trees, but plans on removing a public bench and newspaper rack and adding planters to separate the dining area from the public area. The Planning Board may wish to have the applicant relocate the bench to another area.
4.0 Lighting

The applicant is proposing two new light fixtures to illuminate the proposed blade sign at the southeast corner of the building. The proposed sign lights are from B-K Lighting (Sign Star model, Style L). The shielded lights have a black chrome finish and can project between 18”-48” from the wall to properly illuminate the sign.

5.0 Departmental Reports

5.1 Engineering Division – The Engineering Division has no concerns.

5.2 Department of Public Services – No concerns were reported from the DPS.

5.3 Fire Department – No comments were received from the Fire Department.

5.4 Police Department - The Police Department has no concerns.

5.5 Building Division – No comments were received from the Building Division.

6.0 Design Review

The proposed changes are predominantly exterior. The proposed indoor changes are to the previously approved bar and an indoor seat expansion from 62-64 seats. Exterior changes are mostly cosmetic (paint, new mosaic tile base, new awnings on south elevation, re-cladding existing awnings), with one proposed new sign, a multi-window replacement, and an outdoor seating change.

- The new sliding windows with screens will be made of wood and be stained and varnished. The color of the proposed wood will be Brazilnut and Banister Beige. The windows will not be tinted, and no new signage is proposed.
- The new canopies and existing canopies will be clad in Sunbrella Fabric (Color: Alpine). The canopies will be 8 ft. above grade. See signage section for the proposed signage on the canopies.
- The building exterior will be painted “El Cajon Clay” by Benjamin Moore.
- The mosaic tile for the new base will come from American Olean. The tile will be unglazed and the color is “Cinnabar.”

SIGNAGE

The proposed new sign is to be located at the southeast corner of the building. The sign will be a blade sign that protrudes into the right of way. Blade sign regulations are outlined in Article 1, Section 1.10 of the Birmingham Sign Ordinance. The ordinance states that the maximum sign area allowed is 7.5 sq. ft. per side, totaling 15 sq. ft. and the sign must be at least 8 ft. above grade. Wall mounted projecting signs are allowed to be illuminated and must not be within 20 ft. of any other projecting sign.

The proposed blade sign measures 2 ft. wide and 3 ft. tall, totaling 6 sq. ft. per side, and 12 sq. ft. total. The sign will feature a smiling Chef with an impressive moustache. The sign will
be made from cut wood and colored with gold leaf and black paint on both sides. The sign is proposed to be 8.5 ft. above grade, meeting requirements.

The applicant is also proposing to add signage to the canopy above the main entrance. The wording will be placed along the valence, and will read “Salvatore Scallopini” in gold lettering. No dimensions have been provided for the signage on the valance. The applicant has very little signage on the building so it appears that the amount of signage is well within the square footage limits allow by the sign ordiance. However, the applicant must provide the height and width of the letters to determine if it is in compliance.

7.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-2 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. Specifically, Salvatore Scallopini’s follows the 2016 Plan by including outdoor dining areas in the public right-of-way as it is in the public’s best interest which enhances street life, thus promoting a pedestrian friendly environment.

The proposed changes as outlined in the Special Land Use Permit Application will not alter the attributes of this building that lend themselves to promoting the vision of the Downtown Birmingham 2016 Plan.

8.0 Approval Criteria

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

(1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.

(2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

(3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.

(4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.

(5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.

(6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.
9.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed for the site described in the application of amendment.

The City Commission’s approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

10.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL to the City Commission of the applicant’s request for Final Site Plan and a SLUP for 505 N. Old Woodward, Salvatore Scallopini.

11.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL to the City Commission of the applicant’s request for Final Site Plan and a SLUP for 505 N. Old Woodward, Salvatore Scallopini with the following condition;

1. Applicant must provide the dimensions of the awning sign to verify sign ordinance compliance.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP to the City Commission for 505 N. Old Woodward, Salvatore Scallopini for the following reasons:

1. __________________________________________________________
2. __________________________________________________________

OR

Motion to POSTPONE the Final Site Plan and SLUP for 505 N. Old Woodward, Salvatore Scallopini, pending receipt of the following:

1. __________________________________________________________
2. __________________________________________________________
2. **505 N. Old Woodward Ave. (Salvatore Scallopini’s) - Request for approval of a SLUP Amendment and Final Site Plan and Design Review to allow interior and exterior changes to an existing bistro**

Mr. Baka provided background. The subject building, Salvatore Scallopini Bistro, lies at the corner of N. Old Woodward Ave. and Harmon St. The applicant is seeking a SLUP Amendment to make interior and exterior changes, including reworking the bar, expanding indoor seating to 64 seats, painting, re-cladding existing awnings, adding new awnings, removing the existing dining patio and installing a new mosaic tile base. The bar, with four seats, was previously approved when reviewed at Final Site Plan Review. The bar is simply being reworked and updated. The expansion of indoor seating remains within the boundaries of the Bistro Ordinance, which requires bistros to have no more than 65 indoor seats (proposal going from 62-64 seats).

With the removal of the outdoor dining platform along Harmon, the applicant is proposing to place new outdoor seating along the south elevation, and expand the existing outdoor seating on the east elevation along N. Old Woodward Ave. The previously approved amount of outdoor seating was 26, which the applicant wishes to expand to 36. The plans show that there will be a 5 ft. walking path for pedestrians, as well as new various sized planters to separate the dining area from the walking path. Salvatore Scallopini was approved for a Bistro License on June 27, 2007.

**Design Review**

The proposed changes are predominantly exterior. The indoor changes are to the previously approved bar and an indoor seat expansion from 62 to 64 seats. Exterior changes are mostly cosmetic (paint, new mosaic tile base, new awnings on south elevation, re-cladding existing awnings), with one proposed new sign, a multi-window replacement, and an outdoor seating change.

- The new sliding windows with screens will be made of wood and be stained and varnished. The color of the proposed wood will be Brazilnut and Banister Beige. The windows will not be tinted;
- The new canopies and existing canopies will be clad in Sunbrella Fabric (Color: Alpine). The canopies will be 8 ft. above grade.
- The building exterior will be painted “El Cajon Clay” by Benjamin Moore.
- The mosaic tile for the new base will come from American Olean. The tile will be unglazed and the color is “Cinnabar.”

Material samples were passed around.

**Signage**

The proposed new sign is to be located at the southeast corner of the building. It will be a blade sign that protrudes into the right-of-way. Blade sign regulations are outlined in Article 1, Section 1.10 of the Birmingham Sign Ordinance. The ordinance states that the maximum sign area allowed is 7.5 sq. ft. per side, totaling 15 sq. ft. and the sign must be at least 8 ft. above grade. Wall mounted projecting signs are allowed to be illuminated and must not be within 20 ft. of any other projecting sign. The proposed blade sign measures 6 sq. ft. per side, and 12 sq. ft. total. The sign will feature a smiling chef with an impressive moustache. It will be made from cut wood and
colored with gold leaf and black paint on both sides. The sign is proposed to be 8.5 ft. above grade, meeting requirements.

The applicant is also proposing to add signage to the canopy above the main entrance. The wording will be placed along the valence, and will read “Salvatore Scallopini” in gold lettering. Dimensions have been provided for the signage on the valence and the total amount of signage is well within the square footage limits allowed by the Sign Ordinance.

The existing street furniture and newspaper box will be removed to accommodate the improvements to the outside of the building. They will be integrated into another Downtown location. Chairman Clein noted the applicant is shifting the outdoor focus from Harmon to N. Old Woodward Ave.

Mr. Daryl Dingus with Ron & Roman Architects explained the existing building is being given an interior and exterior refresh and reconfiguration of some of the seating. Also, four windows are being replaced with sliding windows.

Ms. Whipple-Boyce had questions about the second door that comes off of the dining room. Mr. Dingus replied it will stay but not function as a door. She was also concerned that the randomly placed planters seem to end up in the right-of-way. Mr. Dingus said they do not want to create a problem for pedestrians.

Mr. Koseck asked why the applicant doesn't make the second door fit the interior configuration of the bistro. Mr. Dingus replied that was a consideration. Further, Mr. Koseck was really troubled about the thin tile at the base of the building. He encouraged the use of granite or some material with a longer life that could take winter abuse. Mr. Dingus explained the tile will be raised up from the sidewalk and trimmed with copper that will age to a green patina that will match new copper sills on all exterior windows.

No one from the public wished to comment at 8:20 p.m.

Motion by Mr. Boyle
Seconded by Mr. Jeffares to recommend approval to the City Commission of the request to amend the SLUP and approve the Final Site Plan and Design for 505 N. Old Woodward Ave., Salvatore Scallopini’s.

Ms. Whipple-Boyce wanted some order to the planter boxes so they cannot be pushed into the right-of-way.

Amended by Ms. Whipple-Boyce and
Accepted by the makers of the motion to add the following conditions:

- The non-operating door be filled in and turned into a window;
- The sill of the window to match all other windows across the facade of the building.

Mr. Koseck stated there is no question in his mind that the tile is in the wrong location as it is only one eighth of an inch thick and can be easily cracked. There are other materials that are stronger and can provide the same sort of aesthetic.
Comments on the motion were taken from members of the public at 8:30 p.m.

Mr. Guy Simons, 563 Watkins, received confirmation that the street furniture and newspaper box being removed will go back to the City to be relocated in the same vicinity in order to provide the same amenity.

**Motion carried, 4-3.**

ROLLCALL VOTE
Yeas: Boyle, Jeffares, Clein, Share
Nays: Koseck, Prasad, Whipple-Boyce
Absent: Lazar, Williams
WHEREAS, Salvatore Scallopini filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate their existing 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 at the northwest corner of Harmon and N. Old Woodward;

WHEREAS, The land is zoned O-2, Office Commercial, 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 September 27, 2017 reviewed the application for a Special Land Use Permit Amendment and Final Site Plan to allow interior and exterior changes to the existing bistro, and recommended approval with the following conditions:

1. The non-operating door be filled in and turned into a window; and
2. The sill of the window to match all other windows across the facade of the building.

WHEREAS, The applicant is required to obtain an amended Outdoor Dining License from the City Clerk’s office for the proposed outdoor dining;

WHEREAS, The applicant has complied with all other conditions for approval as recommended by the Planning Board on September 27, 2017;

WHEREAS, The Birmingham City Commission has reviewed Salvatore Scallopini’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 the Salvatore Scallopini application for a Special Land Use Permit Amendment authorizing the proposed interior and exterior changes to the existing bistro at 505 N. Old Woodward in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

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

1. Salvatore Scallopini shall abide by all provisions of the Birmingham City Code;
2. The Special Land Use Permit Amendment may be canceled by the City Commission upon finding that the continued use is not in the public interest;
3. The hours of operation for outdoor dining shall cease at 12:00 a.m.;
4. Salvatore Scallopini 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. Salvatore Scallopini shall maintain a license agreement for use of the public right-of-way with the appropriate insurance certificates; and
6. Salvatore Scallopini 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, Salvatore Scallopini 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 Salvatore Scallopini to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, 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 October 16, 2017.

Cherilynn Mynsberge, City Clerk
MEMORANDUM

DATE: October 12, 2017

TO: Joseph A. Valentine, City Manager
     Jana Ecker, Planning Director

FROM: Mark H. Clemence, Chief of Police

SUBJECT: The Whole Foods Market Group, Inc., is requesting to transfer ownership and location of a Class C liquor license with Sunday Sales (AM and PM) from Sweet Lorraine’s Inc. (In escrow at 29101 Greenfield Rd., Southfield, Michigan, Business Id. No. 5767), to Whole Foods Market Group, Inc., to be located at 2100 East Maple., Suite B, Birmingham, Oakland County, Michigan, issued pursuant to MCL 436.1521(A) (1) (B).

The Whole Foods Market Group, Inc. (“Whole Foods”) has paid the initial fee of $1,500.00 for a business that serves alcoholic beverages for consumption on the premises per section 7.33 of the Birmingham City Code.

The police department has received a request from the law firm of Adkison, Need, Allen, and Rentrop regarding the transfer of ownership of a Class C license from Sweet Lorraine’s Inc., to Whole Foods. Whole Foods will have the following permits in conjunction with the Class C license: SDM license (beer and wine to go including growlers), Sunday Sales (AM and PM) and an Outdoor Service Area permit. The police department examines two factors in any proposed liquor transfer, the background of the proposed ownership person(s), group(s) or business(es) and the legitimacy of the funding mechanism used to obtain the financing necessary for the operation of the business.

On April 24, 2017, the City of Birmingham approved the SLUP and final site plan application for Whole Foods for the Class C/Bistro restaurant (see attached minutes). The hours of operation will be 7 days a week from 8:00am to 10:00pm. The Bistro has a raised patio that seats 33 people at 11 tables. The on-site alcohol consumption will be confined to the Bistro by signs and store security (see attached business layout). The menu includes modestly priced breakfast sandwiches, grilled sandwiches, and hamburgers. The beverage list includes wine, sparkling water and craft beers.

Whole Foods is ultimately owned by Amazon.com, Inc., a public corporation (see attached organization chart). The cost to Whole Foods for the Class C/Bistro portion of the building for the construction, furniture, fixtures and equipment is approximately $335,000, and the cost for the license is $80,000. The entire project will be funded by internally generated sales from the public corporation.

As a result of this investigation, no information was developed or uncovered that would give cause to deny the applicant’s request.
A representative from the law firm of Adkison, Need, Allen, and Rentrop PLLC will be present to answer any questions.

SUGGESTED RESOLUTION:

To authorize the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and to approve the liquor license transfer for Whole Foods that requests a transfer of Class C License issued under MCL 436.1521(A)(1)(B) to be located at 2100 East Maple Rd., Suite B, Birmingham, Oakland County, MI 48009.

Furthermore, pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the Local Approval Notice at the request of Whole Foods approving the liquor license transfer request of Whole Foods for the transfer of a Class C License to be issued under MCL 436.1521 (A) (1) (B) located at 2100 East Maple Rd, Suite B, Birmingham, Oakland County, MI 48009.
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Nickita
          Mayor Pro Tem Harris
          Commissioner Bordman
          Commissioner Boutros
          Commissioner DeWeese
          Commissioner Hoff (arrived at 8:13 PM)
          Commissioner Sherman

Absent, None

Administration: City Manager Valentine, City Attorney Currier, City Clerk Brown, Police Chief Clemence, City Planner Ecker, Building Official Johnson, City Engineer O'Meara, DPS Director Wood, DPS Manager Aaron Filipski, Senior Planner Matthew Baka

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

Mayor Nickita announced

- The next session of the Citizens Academy program begins April 25th. There are a few spots still available for interested residents. For more information on the program and how to register, contact Joellen Haines in the City Manager's Office at 248-530-1807.
- The spring Used Book Sale, sponsored by the Friends of Baldwin Public Library, will be held Friday, May 5th through Monday May 8th at the Library. For more information, contact Baldwin Library at 248-647-1700 or visit www.baldwinlib.org.
- The Farmer's Market begins Sunday, May 7th from 9:00 AM to 2 PM, in Municipal Parking Lot #6 on N. Old Woodward. For more information, visit www.enjoybirmingham.com.

04-104-17 APPOINTMENTS TO STORM WATER UTILITY APPEALS BOARD

Robert Lavoie and Laura Keener were present and were interviewed by the Commission.

Mr. Lavoie stated he is a resident, a licensed engineer with 40 years of experience in civil engineering, and is recently retired.

Ms. Keener explained she is a resident, a licensed engineer, and recently retired after working for more than 30 years as a civil engineer.

MOTION: Motion by Commissioner Bordman:

To appoint Laura Keener to the Storm Water Utility Appeals Board as Regular Licensed Engineer to serve a three-year term to expire January 31, 2020.
Commissioner Bordman questioned the proposal to convert the front porch windows to doors. Senior Planner Baka explained pictorial evidence shows the windows were not original to the house and that the front porch was changed at an undisclosed point in time.

Senior Planner Baka, in response to a question from Commissioner Hoff, explained the second story of the structure will not be used as part of the restaurant, but will be utilized by separate tenants with separate leases. Mr. Chris Longe, the architect, explained the elevator servicing the upper floor is located in a rear office area which has no access into restaurant.

Mr. Longe spoke about plans to activate the front yard green space for outdoor bistro seating and the opportunity a bistro in the proposed location offers for attracting patronage south of the central business district. Mr. Longe noted the total restaurant will comprise 2600 square feet of space, with 1600 square feet dedicated to the seating areas for 65 people. He clarified for Commissioner Hoff that the five-top table shown on the porch in the plan drawing is included in the total of 70 outdoor seats, and confirmed the porch will not be enclosed.

Kenny Koza, owner, indicated that in the first year of operation the bistro would be open only for dinner and weekend brunch, and that in year two consideration will be given to opening for lunch. Mr. Koza stated he hopes to open by the end of year, and confirmed the chef is a partner in the venture. He verified the fire pit has been eliminated from the plans.

Mayor Nickita closed the public hearing at 8:28 PM

Commissioner DeWeese received confirmation that a motion by the Commission to award a bistro license would automatically include the conditions imposed by the Planning Board and the Historic District Commission.

04-111-17 RESOLUTION AWARDING BISTRO LICENSE FOR 2017
MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Harris:
To award a Bistro License to Adachi Bistro for 2017, and to approve the Special Land Use Permit and Contract, subject to any necessary contracts being executed by the Applicant and City.

Mayor Nickita clarified the SLUP limits operation of the outdoor dining areas to April 1st – November 15th.

VOTE: Yeas, 7
Nays, None
Absent, None

04-112-17 PUBLIC HEARING - FINAL SITE PLAN AND SPECIAL LAND USE PERMIT FOR 2100 E. MAPLE - WHOLE FOODS BISTRO
Mayor Nickita opened the public hearing at 8:33 PM.

City Planner Ecker presented the request from Whole Foods for a Special Land Use Permit and Final Site Plan to allow the operation of a new bistro on a 4.95 acre site located at 2100 E. Maple Rd, noting:
- The parcel is zoned B2;
- The applicant is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code, requiring the applicant to 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; and

- As part of the previously approved grocery store, the applicant is now proposing a small bistro which will serve customers and provide indoor and outdoor seating and will be located in the northeast portion of the building.

City Planner Ecker reported the applicant obtained the required recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit on February 22, 2017 by unanimous vote with the following conditions:

1. The applicant will be required to enter into a contract with the City outlining the nature of the bistro operation;
2. The applicant must comply with the requirements of City departments; and
3. The applicant must provide appropriate restroom facilities, such plan to be submitted to Planning Department staff and approved.

In the course of discussion City Planner Ecker clarified:

- The hours of operation of the bistro will be 8:00 AM-10:00 PM daily;
- Applicant proposes 237 parking spaces, which is in excess of the 162 required;
- Outdoor dining will be on a raised patio area with 33 seats at 11 tables;
- No part of the operation will be on public property; and
- Applicant is not proposing any exterior changes or additional exterior signage for the bistro.

In response to questions from Commissioner Hoff, City Planner Ecker noted there is a wall alongside the bistro at the exterior entrance into store and a partial wall along one side. The bistro includes one long table with communal seating for ten, and takeout service is proposed.

Commissioner Boutros received clarification that the outside seasonal tables facing Maple are enclosed by a railing, and that the landscape plan calls for 11 street trees and landscaping along the front of the building.

Mr. Scott Salsbury, Executive Director of Store Development, and Michael Bashaw, Midwest Regional President, made a PowerPoint presentation showing the evolution of the bistro plan from its inception in May, 2015 to the current plan which has been recommended for approval by the Planning Board.

Mr. Bashaw explained the bistro will have typical table service in the evenings, but during the day customers will order from the bar and food will be delivered to the tables by bar staff. Food may be purchased in other parts of the store and brought into the bistro, but signs and store security will be used to confine alcohol within the bistro. The bistro will close at the same time as the store, and there are currently no Whole Foods stores that remain open past 10:00 PM.

Mr. Bashaw stated Whole Foods doesn’t own the building but has a 20-year lease with two 10-year options.

Responding to a question from Commissioner Bordman, Mr. Bashaw stated that to his knowledge the report in Financial Times that Albertson’s is interested in purchasing Whole Foods is speculative, that he is unaware of discussions between Whole Foods and Albertson’s holding company, and that there is no current interest in selling Whole Foods.
Norm LePage, Big Rock Chophouse, expressed support for the Lincoln Yard proposal and for Whole Foods Bistro. He suggested the Commission readdress the zoning requirements for bistros, noting the original template has evolved to a model that may allow for enclosed patios operating year round. Mayor Nickita indicated the situation is being reviewed.

Mayor Nickita closed the public hearing at 9:02.

04-113-17 RESOLUTION AWARDING BISTRO LICENSE FOR 2017
MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To award a Bistro License to Whole Foods Bistro for 2017, and to approve the Special Land Use Permit and Contract, subject to any necessary contracts being executed by the Applicant and City.

VOTE: Yeas, 7
Nays, None
Absent, None

04-114-17 OLD WOODWARD AVE. PAVING PROJECT, CONTRACT #2- 17(P) — REJECT BIDS
City Engineer O'Meara summarized the proposed paving project with a PowerPoint presentation highlighting the following points:

Phase I
- Why is project necessary?
  - To address old streetscape and bring into compliance.
    - Addressing ADA issues
    - Removing existing brick sidewalk liability issues
    - Removing the double curb condition
  - To upgrade water & sewer systems
  - To upgrade 40 year old streetlights with new LED
  - To replace 65 year old road substructure
- Plans were finalized and bid in early Spring in accordance with the project plan.
- Bids received have exceeded budgeted allocations.

Project Estimates
- FY 2013-14 - Initial budget created at $1,580,000 for streets, sewer & water (traffic signal not included)
- FY 2014-15 - Budget adjusted to $1,980,000 for market trends.
- FY 2016-17 - Budget adjusted to $3,282,000 for market trends and inclusion of sidewalks.
- January 2017- Engineer's estimate at $4.5 million - $5.4 million based on options.

Bid Responses

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Staff Recommendations:
- To reject bids and postpone the project until Spring, 2018.
DATE: October 11, 2017

TO: Joseph A. Valentine, City Manager

FROM: Ingrid Tighe, BSD Executive Director

SUBJECT: Holiday Light Display On Merrill Street

The Birmingham Shopping District would like to once again hang the holiday lighting display over Merrill St. for the 2017 holiday season. The annual light display has been well-received by merchants and shoppers in Birmingham and we would like to continue this tradition.

Representatives from Merrillwood Collection and Essco of Birmingham have both signed an agreement, stating their approval for the use of their building. In order for the City to approve this plan, we are requesting a resolution in support of the project, along with the Mayor’s signature on the two agreements.

Suggested Resolution

To approve the Lighting Agreements with Essco of Birmingham and Merrillwood Collection, granting permission for the City for said lighting to be placed over Merrill Street during the 2017 holiday season, and further to direct the Mayor to sign the agreement on behalf of the City.
LIGHTING AGREEMENT

THIS AGREEMENT made this _____ day of __________, 2017 by and between the CITY OF BIRMINGHAM, A Michigan Municipal Corporation, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as “City”) and Merrillwood Collection whose address is 225 East Merrill Street, (hereinafter referred to as “Owner”).

WITNESSETH:

WHEREAS, the City desires to place certain lighting on the owners’ building from _______ to __________.

WHEREAS, the City is the owner of Merrill Street over which this lighting is temporarily installed; and,

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. The OWNER shall grant permission to the CITY for said lighting to be placed over Merrill Street where it is currently installed until __________, 2017.

2. The CITY shall be responsible for the connection to the buildings on which the lighting is attached.

3. The CITY shall be responsible for the payment of any and all electrical charges in connection with said lighting display over Merrill Street.

4. The CITY shall be responsible to remove said lighting from over Merrill Street on or before __________, 2017.

5. The CITY agrees to be responsible for any liability, defend, pay on behalf of, OWNERS, 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 the OWNERS.

6. The CITY has the following insurance coverage:

A. Workers' Compensation Insurance: CITY 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:** CITY 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:** CITY 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.

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.

8. **Nothing contained in this Agreement shall be construed to imply a joint venture or partnership with the CITY, and neither party by virtue of this Agreement, shall have any right, power or authority to act or create any obligation expressed or implied on behalf of the CITY, except as specifically outlined herein. Neither CITY nor OWNER 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. This Agreement shall not be construed as a contract of agency.**

9. **This Agreement shall not be assignable by either party.**

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

11. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate upon completion of the performances.

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

WITNESSES:

CITY OF BIRMINGHAM
A Michigan Municipal Corporation

By: ______________________
Mark Nickita
Its: Mayor

OWNERS
By: ______________________
Richard Wagner
Its: Building Manager

APPROVED:

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

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

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

Ingrid Tighe, BSD Executive Director
(Approved as to form)

(Approval is required in accordance with Sec. 2-289)
LIGHTING AGREEMENT

THIS AGREEMENT made this 17th day of October, 2017 by and between the CITY OF BIRMINGHAM, A Michigan Municipal Corporation, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as “City”) and Esco of Birmingham, LLC whose address is 210 S. Old Woodward, Suite 230, (hereinafter referred to as “Owner”).

WITNESSETH:

WHEREAS, the City desires to place certain lighting on the owners’ building from __________ to __________.

WHEREAS, the City is the owner of Merrill Street over which this lighting is temporarily installed; and,

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. The OWNER shall grant permission to the CITY for said lighting to be placed over Merrill Street where it is currently installed until __________, 2017.

2. The CITY shall be responsible for the connection to the buildings on which the lighting is attached.

3. The CITY shall be responsible for the payment of any and all electrical charges in connection with said lighting display over Merrill Street.

4. The CITY shall be responsible to remove said lighting from over Merrill Street on or before __________, 2017.

5. The CITY agrees to be responsible for any liability, defend, pay on behalf of, OWNERS, 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 the OWNERS.

6. The CITY has the following insurance coverage:

A. Workers’ Compensation Insurance: CITY 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: CITY 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: CITY 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.

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.

8. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership with the CITY, and neither party by virtue of this Agreement, shall have any right, power or authority to act or create any obligation expressed or implied on behalf of the CITY, except as specifically outlined herein. Neither CITY nor OWNER 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. This Agreement shall not be construed as a contract of agency.

9. This Agreement shall not be assignable by either party.
10. This Agreement constitutes the entire Agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

11. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate upon completion of the performances.

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

WITNESSES:

CITY OF BIRMINGHAM
A Michigan Municipal Corporation

By: __________________________
   Mark Nickita
   Its: Mayor

OWNERS

By: __________________________
   James E. Cashalee
   Its: Manager

APPROVED:

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

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

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

Ingrid Tighe, BSD Executive Director
(Approved as to form)

(Approval is required in accordance with Sec. 2-289)
In 2011, the City Commission approved a comprehensive Backyard Sewer & Water Master Plan. The plan provided a detailed schedule of suggested projects designed to phase in various needed improvements to the sewer and water system, as it pertained to maintaining or abandoning various backyard sewers and water mains. The projects can be categorized into two areas:

1. Projects that focused on the installation of new water mains and laterals needed to require existing buildings to remove their backyard connections, and reconnecting into newer, improved systems in the street. These projects have all been executed as of 2014.
2. Projects that focus on lining existing sewers that are planned to be maintained in backyards. The majority of these sewers are located in the Quarton Lake Subdivision. Two other blocks exist along the E. Maple Rd. corridor.

As a part of the Backyard Sewer and Water Master Plan, it was determined that 351 easements would have to be acquired from individual property owners, documenting that the City has the legal access required to access and work on sewers located on private property. The backyard sewer easements can be broken into three categories:

1. **Properties that have no easements.** The applicable areas include Quarton Lake properties south of Oak St. and east of Lakepark Dr., as well as those north of Maple Rd. and east of Eton Rd. Every property along the route of these backyard sewers need to sign an easement.
2. **Properties that have ten foot wide total easements** (five foot each on adjoining properties). The applicable areas include all remaining Quarton Lake properties. Five foot wide easements are not considered sufficiently wide to complete any meaningful work on a sewer (sewer easements today are typically granted at 20 feet wide.)

Through consultation with the City Attorney’s office, it was decided that full 10 ft. wide easements should be obtained on those properties where both a manhole exists, and where the easiest access from the street to the manhole currently exists.

3. **Properties that have a full width easement.** In the Birmingham Villas subdivision south of Maple Rd. and east of Adams Rd., the area was platted with a 16 ft. wide alley. When the alley was vacated, a utility easement was created on the full alley. Therefore, no additional easement acquisition is required.
The Engineering Dept. began efforts to acquire easements from the affected properties in 2011. Over 70% of the easements have now been resolved. In order that a meaningful sewer lining contract could be put together, over the last year, emphasis was placed on those blocks that had only one easement gap remaining. Our efforts were successful, and the City is now prepared to line 13 blocks in the Quarton Lake Subdivision in this contract (map attached). Other areas planned for lining in this project include:

1. The front yard sewer located on Oak St. west of Chesterfield Ave.
2. The backyard sewer located south of Maple Rd. and east of Adams Rd.

Finally, sewer lining is planned on the Old Woodward Ave. reconstruction project. This work was bid out as a part of the reconstruction contract last year. Since that contract was not awarded, and since the City is now directly hiring a sewer lining contractor, we felt it may be advantageous to include this lining work in this contract, rather than bidding it again in next year’s reconstruction contract. Advantages to this strategy include:

1. Unlike the other work planned in the reconstruction contract, the sewer lining can be done independently. The work does not cause damage to the existing streets or sidewalks.
2. The work is best done at night, when the adjacent buildings are not occupied, and the roads are not carrying significant traffic. (Since these sewers primarily serve commercial properties, it would be difficult to require that all flow be stopped for several hours during the day, when hundreds of people are occupying the adjacent buildings.)
3. By hiring a lining contractor directly, instead of working through a prime contractor, the City's costs should be less. In this instance, the low bidder's cost for the downtown work is $100,887. Applying the prices obtained from the low bidder on the reconstruction project contract last spring bid, the City will save about $28,000 on this work.
4. By completing this work now, the reconstruction project bid can be reissued with one less subcontractor for bidders to have to work with when preparing bids for that project.

Finally, to clarify why sewer lining is recommended downtown when all paved surfaces are being replaced, there are two key reasons:

1. An existing combined sewer runs along the east edge of the Old Woodward Ave. right-of-way from Oakland Blvd. to Brown St., just ten feet away from adjacent buildings’ basement walls. Given the age of some of these buildings, and their proximity, we do not recommend attempting to excavate and replace this sewer. Lining it will create less disruption to the adjacent buildings and businesses, and will provide the same benefit.
2. Existing sewers in the middle of Maple Rd. would be nearly impossible to remove and replace while keeping at least one lane of traffic operating at all times on Maple Rd. These sewers can be lined late at night while flagging traffic around open manholes, which is a much safer and simpler construction strategy.

City code requires that all work of this nature be accomplished from 7 AM to 7 PM. Given the benefits of accomplishing this work after building occupancy and traffic demands are low, the Engineering Dept. is requesting a waiver from the ordinance Section 50-74(b)(2) so as to allow these downtown sewers to be lined during the period of 8 PM to 7 AM, Monday through
Thursday. The work does not cause excessive noise, other than the idling of engines needed to provide hot water.

**Bidding & Project Schedule**

On October 5, 2017, the Engineering Dept. opened bids from contractors to perform the work on this project. A summary of the bid results is attached. Three companies submitted bids for this project. The low bidder was Lanzo Trenchless Technologies North, Inc., of Roseville, MI with their bid of $786,997.00. The Engineer's estimate for this work was $854,000. Since it has been many years since the City has conducted a lining project of this nature, we have no recent experience with this firm. However, when reviewing their work history with other jurisdictions, positive responses have been received. We are confident that they are qualified to perform satisfactorily on this contract.

It is expected that the work on this project will be completed during the coming months (sometime between November and January). The contractor will be asked to avoid any activity that would disrupt businesses in the downtown area from Thanksgiving through the month of December. It is expected that there will be an odor emitted when the liner is installed, but it will quickly dissipate upon completion.

Funding for this project will be charged to two different sewer funds, split between the downtown work, labeled as a Capital Improvement, and the backyard sewer work, which falls under preventative maintenance:

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Backyard Sewer Lining</td>
<td>585-536.001-981.0200</td>
<td>$686,110.00</td>
</tr>
<tr>
<td>Old Woodward Ave. Sewer Lining</td>
<td>585-538.001-981.0100</td>
<td>$100,887.00</td>
</tr>
</tbody>
</table>

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

It is recommended that the 2017 Sewer Lining Program, Contract #8-17(S), be awarded to Lanzo Lining Technologies North of Roseville, MI in the amount of $786,997.00.

**SUGGESTED RESOLUTION:**

To award the 2017 Sewer Lining Program, Contract #8-17(S), to Lanzo Trenchless Technologies North, of Roseville, MI in the amount of $786,997.00, to be charged to the Sewer Fund as follows:

<table>
<thead>
<tr>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>590-536.001-981.0100</td>
<td>$100,887.00</td>
</tr>
<tr>
<td>590-536.001-981.0200</td>
<td>$686,110.00</td>
</tr>
</tbody>
</table>

Further, to grant a waiver of Section 50-74(b)(2) of the Birmingham City Code to Lanzo Lining Technologies North pertaining to the sewer lining proposed in the downtown area, which will allow the work to be done at those times of day that traffic demands are relatively light, and building occupancy is low.
<table>
<thead>
<tr>
<th>Company Name</th>
<th>Addendums</th>
<th>5% Bid Security</th>
<th>Base Bid</th>
<th>Alternate w/o Division C</th>
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<tbody>
<tr>
<td>Lanzo Trenchless Technologies - North</td>
<td>N/A</td>
<td>Bond</td>
<td>$786,997.00</td>
<td>$686,110.00</td>
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<td>Inland Waters Pollution Controls, Inc.</td>
<td>N/A</td>
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<td>$1,003,145.50</td>
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<tr>
<td>D.V.M. Utilities, Inc.</td>
<td>N/A</td>
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<td>$1,300,468.75</td>
<td>$1,124,348.75</td>
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MEMORANDUM
City Clerk's Office

DATE: October 12, 2017
TO: Joseph A. Valentine, City Manager
FROM: J. Cherilynn Mynsberge, City Clerk
SUBJECT: Conduct of Public Accuracy Test for November 7, 2017 Election

The Birmingham City Charter names the city commission as the election commission:
Chapter IV. – Registrations, Nominations and Elections
Section 22. - [Election commission.]
The city commission shall constitute the election commission for the city and shall perform all of the duties required of the city election commissions by the general laws of the state.

The attached excerpt from the Election Officials’ Manual of the Michigan Bureau of Elections (BOE) cites the duties of a city election commission and draws distinctions between those which must be conducted by the election commission and those which may be delegated to designated representatives.

One of the duties which must be handled via an Open Meeting by Election Commission members or their designated representatives is the conduct and certification of the Public Accuracy Test. The Test is required by Michigan Election Law, MCL 168.798 “to determine if the electronic tabulating equipment will accurately count the votes cast for all offices” (attached). This is done by creating a chart of predetermined results (attached) in compliance with promulgated rule R 168.778, and marking a set of test ballots to correspond. The results produced by the tabulator must match the totals in the chart of predetermined results.

Since the November 7, 2017 election is a local election, and the office of City Commissioner is on the ballot, I recommend the members of the Commission designate representatives to conduct the Test in their stead. By the entire Commission taking this action, the Commission as a whole and each of its individual members are removed from the process and therefore avoid any perception of impropriety. The City Clerk and her staff are not eligible to be the designated representatives for the Public Accuracy Test.

The Public Accuracy Test is scheduled for Monday, October 30th at 3:00 p.m. in Room 205 of the Birmingham Municipal Building, 151 Martin, Birmingham.

SUGGESTED RESOLUTION:
To designate City Manager Valentine, Communications Director Byrnes, City Planner Ecker, Finance Director Gerber, Police Commander Grewe, City Engineer O'Meara, and BSD Director Tighe as representatives for Election Commission members Mayor Nickita, Mayor Pro Tem Harris, and Commissioners Bordman, Boutros, DeWeese, Hoff and Sherman for the purpose of
conducting the Public Accuracy Test of the electronic tabulating equipment which will be used to count votes cast at the November 7, 2017 Election.
CITY AND TOWNSHIP ELECTION COMMISSIONS:

Note: The chart above outlines the composition of the local election commissions based on your jurisdiction’s form of government. The only exception to the composition of the local election commission must be provided by a city charter.

City and Township Election Commission members are responsible for the following:

- Establishing precincts, including temporary precinct consolidations for non-State/Federal elections;
- Establishing Absent Voter Counting Boards (AVCBs);
- Assessing voting equipment needs;
- Performing logic and accuracy testing for voting equipment. **NOTE:** Even if the county performs the programming for the local jurisdictions, it is still the responsibility of the local election commission to conduct pre-election logic and accuracy testing for their voting equipment prior to each election. Preliminary testing may be delegated to the local clerk; however, **public accuracy testing must be conducted by the election commission or each members’ designated representative.**
- Authorizing the printing and provision of ballots for use in city, township, village and certain school district elections;
- Providing election supplies (including forms and ballot containers);
- Appointing precinct inspectors prior to each election, including AVCB members, Receiving Board members, precinct chairpersons and alternates; note that certified election inspectors must be appointed at least 21 days prior to the election and no more than 40 days prior to each election;
- Notifying major political parties of the appointment of election inspectors in federal and state elections; and
- Carrying out other election related duties for their respective jurisdictions.
**Election Commission Responsibilities that should be handled via an Open Meeting by Election Commission Members:**

- Approving of ballots
- Appointing precinct inspectors
- **Public Accuracy Test**
- Precinct Changes / Consolidations
- Adoption of resolution outlining delegated duties

**Election Commission Duties that may be delegated to the Local Clerk or authorized assistant**

*(note: Delegated duties should be documented via resolution)*:

- Preparing meeting materials for the Election Commission (ballots proof for approval, list of election inspectors for appointment, etc.)
- Preparing, printing and delivering ballots
- Providing candidates and the Secretary of State with proof copies of ballots
- Providing notice to voters in the case of precinct changes/consolidations
- Providing election supplies and ballot containers
- Preliminary logic and accuracy testing
- Notifying major political parties of certified precinct Inspector appointments (federal and state elections only)

**SCHOOL ELECTION COORDINATING COMMITTEE:** Every school district has a School Election Coordinating Committee responsible for determining the details of how special school elections will be administered. The School Election Coordinating Committee is composed of a school election coordinator, the secretary of the school board and the clerks of all jurisdictions covered by the school district. For a school district wholly contained within a single jurisdiction, that clerk is the school election coordinator. In a school district that crosses jurisdiction lines the county clerk is the coordinator.

**TYPES OF ELECTIONS**

There are several types of elections conducted in Michigan. The following is an overview of the various types.
168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.

Sec. 798. (1) Before beginning the count of ballots, the board of election commissioners shall test the electronic tabulating equipment to determine if the electronic tabulating equipment will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be given at least 48 hours before the test by publication in a newspaper published in the county, city, village, township, or school district where the electronic tabulating equipment is used. If a newspaper is not published in that county, city, village, township, or school district, the notice shall be given by publication in a newspaper of general circulation in that county, city, village, township, or school district. The test shall be conducted in the manner prescribed by rules promulgated by the secretary of state pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In the test, a different number of valid votes shall be assigned to each candidate for an office, and for and against each question. If an error is detected, the board of election commissioners shall determine the cause of the error and correct the error. The board of election commissioners shall make an errorless count and shall certify the errorless count before the count is started. The electronic tabulating equipment that can be used for a purpose other than examining and counting votes shall pass the same test at the conclusion of the count before the election returns are approved as official.

(2) On completion of the test and count, the programs, test materials, and ballots arranged by precincts shall be sealed and retained as provided by this subsection and rules promulgated by the secretary of state pursuant to Act No. 306 of the Public Acts of 1969. If the electronic tabulating equipment that is tested and certified to by the board of election commissioners will be used to count votes at the precinct, a memory device containing the tested programs, if any, shall be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals shall remain sealed in the electronic tabulating equipment or, if removed from the electronic tabulating equipment, shall remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.


Popular name: Election Code

### CHART OF PREDETERMINED RESULTS

**Non Partisan 2017 Birmingham**

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**Key:**

0 = vote marked on ballot but not counted by tabulator. The votes are invalid because the contest is overvoted.

1 = vote marked on ballot and counted by tabulator.

**Can1, etc.** = the position of each candidate on the ballot (i.e. 1st, 2nd)

**WI1** = ballots must have spaces for write-in candidates equal to the number of candidates to be elected.

*A ballot from Precinct 1 is attached for visualization.*
### Official Ballot

November 7, 2017 Election
Oakland County, Michigan
Birmingham, Precinct 1

<table>
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<tr>
<th>CITY</th>
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<tr>
<td>Commissioner</td>
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<td>Vote for not more than 3</td>
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<tr>
<td>□ Rackeline Hoff</td>
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<td>□ Mark Nickita</td>
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<td>□ Stuart Lee Sherman</td>
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<td>Library Board Member</td>
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<td>Vote for not more than 3</td>
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<td>□ Ashley Aidenbaum</td>
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<td>□ Mike Kroll</td>
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<td>□ Melissa S. Mark</td>
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**NOTICE OF PUBLIC HEARING**

**BIRMINGHAM CITY COMMISSION**

**PROPOSED REZONING**

| Meeting - Date, Time, Location: | Monday, October 16, 2017, 7:30 PM  
|                                 | Municipal Building, 151 Martin  
|                                 | Birmingham, MI 48009 |
| Nature of Hearing:              | To consider the proposed rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning). |

| City Staff Contact:             | Jana Ecker, 248.530.1841 jecker@bhamgov.org |
| Notice:                        | Publish: October 1, 2017  
|                                | 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.
The property owner of 191 N. Chester (The First Church of Christ, Scientist), is requesting the rezoning of the property from TZ-1 (Transitional Zone 1) to TZ-2 (Transitional Zone 2) to allow office use. The applicant is proposing to keep the building as-is on site while renovating the inside for an office use.

The subject site is located on the west side of N. Chester, with single family homes to the north and office/commercial buildings to the south (Integra Building) and east (McCann Worldgroup Building). The existing building is 16,000 sq. ft. in size. The subject property is currently zoned TZ1 (Transitional Zoning), as well as C - Community Use in the Downtown Overlay District, due to its former use as a Church.

On September 13, 2017, the Planning Board conducted a public hearing to consider the requested rezoning of 191 N. Chester, First Church of Christ Scientist. After much discussion, the Planning Board voted to recommend approval of the proposed rezoning to the City Commission. Please find attached the reports and illustrations presented to the Planning Board, along with all relevant minutes for your review. On September 25, 2017, the City Commission set a public hearing date for October 16, 2017 to consider the requested rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning).

Since the Planning Board’s review and recommendation to approve the proposed rezoning, the applicant has submitted a letter voluntarily offering to limit the use of the property at 191 N. Chester to office use only should the rezoning to TZ2 be approved. The applicant’s letter is attached for your review. In addition, since the Planning Board meeting, the applicant has also submitted numerous letters of support from the surrounding property owners. These letters are also attached for your review.
**Suggested Action:**

To approve the rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning) as recommended by the Planning Board on September 13, 2017;

OR

To deny the rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning).

OR

To approve the rezoning of 191 N. Chester from TZ1 (Transitional Zoning) to TZ2 (Transitional Zoning) as recommended by the Planning Board on September 13, 2017 with the conditions as outlined in the letter dated October 5, 2017 from Chester Street Partners, LLC, A Surnow Company.
1. An ordinance to amend Chapter 126, Zoning, of the Code of the City of Birmingham as follows:

1. AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM AS FOLLOWS:

TO AMEND ARTICLE 2, SECTION 2.43, TZ-2 (TRANSITION ZONE 2) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ADD THE TZ-2 ZONING CLASSIFICATION;

TO AMEND ARTICLE 2, SECTION 2.44, TZ2 DEVELOPMENT STANDARDS TO ADD STANDARDS FOR THE TZ-2 DISTRICT;

TO MOVE THE EXISTING TZ-3 (TRANSITION ZONE 3) ZONING CLASSIFICATION, DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ARTICLE 2, SECTION 2.45 WITH NO CHANGES;

TO MOVE THE EXISTING TZ-3 (TRANSITION ZONE 3) ZONING CLASSIFICATION, DEVELOPMENT STANDARDS TO ARTICLE 2, SECTION 2.46 WITH NO CHANGES;

TO AMEND ARTICLE 5, SECTION 5.15, USE SPECIFIC STANDARDS, TO ADD USE SPECIFIC STANDARDS FOR THE TZ-2 ZONE DISTRICT; AND

TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM, ARTICLE 4, ALL SECTIONS NOTED BELOW, TO APPLY EACH SECTION TO THE NEWLY CREATED TZ-2 ZONE DISTRICTS AS INDICATED:

<table>
<thead>
<tr>
<th>Ordinance Section Name</th>
<th>Section Number</th>
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<tbody>
<tr>
<td>Accessory Structures</td>
<td>4.02</td>
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<tr>
<td>Standards (AS)</td>
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<td>Essential Services</td>
<td>4.09</td>
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<tr>
<td>Standards (ES)</td>
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<td>Fence Standards (FN)</td>
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<td>Floodplain Standards (FP)</td>
<td>4.13</td>
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<td>Height Standards (HT)</td>
<td>4.16</td>
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<td></td>
<td>4.18</td>
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<tr>
<td>Landscaping Standards (LA)</td>
<td>4.20</td>
</tr>
</tbody>
</table>
Motion by Mr. Jeffares
Seconded by Mr. Boyle to accept as pointed out in the packet:

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 02 District Intent, Permitted Uses, and Special Uses, Section 2.43 TZ-2 (Transition Zone) District to create the TZ-2 Zoning Classification.

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 02 Development Standards, Section 2.44 TZ-2 (Transition Zone) to adopt the following development standards for the TZ-2 Zone District, as in the packet.

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to renumber the existing TZ-3 (Transition Zone 3) Zoning Classification, District Intent, Permitted Uses, and Special Uses to Article 2, Section 2.45 with no changes.

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to renumber the existing TZ-3 (Transition Zone 3) Zoning Classification, Development Standards to Article 2, Section 2.46 with no changes.
An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 5, Section 5.15, Use Specific Standards, to add Use Specific Standard for the TZ-2 District, as in the packet.

Ms. Ecker added a friendly amendment and it was accepted by the makers of the motion:

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to update the following sections in Article to add TZ-2 as a zone district to which they apply: 4.02, 4.04, 4.09, 4.10, 4.13, 4.16, 4.18, 4.20, 4.21, 4.22, 4.24, 4.30, 4.44, 4.45, 4.46, 4.47, 4.53, 4.54, 4.59, 4.65, 4.73, 4.74, 4.83, 4.84, 4.88, 4.89, 4.90.

Motion carried, 7-0.

STUDY SESSION ITEMS

1. Window Tinting

Motion by Mr. Williams
Seconded by Mr. Jeffares that the Planning Board set a public hearing for June 14, 2017 to allow the public to comment on these proposed changes and for the Planning Board to make a recommendation to the City Commission on these issues.

Motion carried, 7-0.
Minutes of the regular meeting of the City of Birmingham Planning Board held on May 10, 2017. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Vice Chairperson Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Isabella Niskar

Absent: Student Representative Ariana Afrakhteh

Alternates: Lisa Prasad and Dan Share were not asked to attend

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

05-86-17

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF MARCH 29, 2017

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to approve the Planning Board Minutes of March 29, 2017 as presented.

Motion carried, 5-0.

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

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF APRIL 26, 2017

Mr. Jeffares noted with respect to 2010 Cole St. that the CIS was accepted by the board and the Preliminary Site Plan Review was postponed, correction on pages 2 and 11.
Motion by Mr. Koseck  
Seconded by Mr. Jeffares to approve the Planning Board Minutes of April 26, 2017 as amended.

Motion carried, 5-0.

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

CHAIRPERSON’S COMMENTS (none)

APPROVAL OF THE AGENDA (no change)

PUBLIC HEARING

1. An ordinance to amend Chapter 126, Zoning, of the Code of the City of Birmingham as follows:

1. AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM AS FOLLOWS:

TO AMEND ARTICLE 2, SECTION 2.43, TZ-2 (TRANSITION ZONE 2) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ADD THE TZ-2 ZONING CLASSIFICATION;

TO AMEND ARTICLE 2, SECTION 2.44, TZ2 DEVELOPMENT STANDARDS TO ADD STANDARDS FOR THE TZ-2 DISTRICT;

TO MOVE THE EXISITNG TZ-3 (TRANSITION ZONE 3) ZONING CLASSIFICATION, DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ARTICLE 2, SECTON 2.45 WITH NO CHANGES;

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AND

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<td>Vision Clearance Standards (VC)</td>
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<tr>
<td>Window Standards (WN)</td>
<td>4.73</td>
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</table>

The Chairman opened the public hearing at 7:35 p.m.

Mr. Baka stated that the City Commission and Planning Board have held a number of meetings relating to this issue. On March 29, 2017, the Planning Board held a study session to further discuss the TZ-2 Zone. After much discussion the Planning Board set a public hearing for May 10th, 2017 to consider the adoption of the TZ-2 Zoning District and all of the additional provisions associated with the creation of this new zone. In addition to setting the hearing the board also requested some minor changes to the existing draft ordinance that would make it consistent with the TZ-3 Zone in regards to permitted uses. However, at this time the Planning Board is not considering applying the new zone to any specific properties. Accordingly, the Planning Division has revised
the draft ordinance language in accordance with the comments of the Planning Board. He highlighted the standards as they are currently proposed.

Discussion concluded that "hours of operation" includes when employees are present and not just when business is being conducted. If an extension is needed those affected can apply to have that made a condition of the SLUP.

No comments from the public were heard at 7:48 p.m.

Mr. Williams noted it needs to be explained to the City Commission that the distinction between TZ-2 and TZ-3 has more to do with massing and less to do with types of uses. It was discussed that the cost to obtain a SLUP is $2,800.

Motion by Mr. Jeffares
Seconded by Mr. Boyle to accept as pointed out in the packets:

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 02 District Intent, Permitted Uses, and Special Uses, Section 2.43 TZ-2 (Transition Zone) District to create the TZ-2 Zoning Classification.

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Ms. Ecker added a friendly amendment and it was accepted by the makers of the motion:

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Motion carried, 7-0.

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

Chairman Clein closed the public hearing at 7:57 p.m.

05-90-17

OLD BUSINESS

1. 225 E. Maple Rd., Social Kitchen
   Request for Special Land Use Permit ("SLUP") Amendment and Revised Final Site Plan to allow construction of a glass enclosure system around the existing outdoor dining in the via, and to allow a new canopy on the rooftop (postponed from March 22, 2017)

The applicant was not present.

Ms. Ecker said the applicant met with the Building Official as the Planning Board had asked; however the Building Official requested them to send a letter outlining all of their arguments as to why the glass enclosure system is not a permanent structure and an interior space with over 65 seats. The Building Official has not received anything back from them.

Board members noted it was not part of their original contemplation for bistros that there would be such large facilities all year around.

No one motioned to postpone, so the matter died.

05-91-17

STUDY SESSION ITEMS

1. Window Tinting

Mr. Baka stated that the City Commission has held a public hearing and the Planning Board has held several study sessions to discuss the issue of window standards and examine potential changes to the Ordinance to address the concerns of the City Commission. As a result of those discussions, a general consensus was reached that prohibiting the tinting of windows would promote the intent of creating a pedestrian friendly interactive condition in the commercial areas of the City.

With regards to the treatment of glazing in passageways and vias, the Planning Board decided not to recommend a required amount of glazing in these spaces as it might impede important “back of house” functions and have a negative impact on businesses. Presently, the Via Activation Overlay Standard does indicate a requirement for windows
but does not set a specific percentage that is required. As currently written, this provision allows the Planning Board to evaluate projects on a case-by-case basis but does not provide a baseline or minimum amount of glazing that is required in these spaces.

Discussions have concluded that clear glass must have a visual transmission level of at least 80%. Further, not less than 70% visual transmission qualifies as lightly tinted. (The lower the percentage, the darker the tint.)

On March 29, 2017, the Planning Board reviewed draft ordinance language and requested that it be revised to include definitions for clear glazing and lightly tinted glazing that have specific percentages of visual transmittance. Accordingly, those definitions have been drafted and are now incorporated. This draft language also includes the original ordinance amendments that were recommended to the City Commission in July of 2016.

Chairman Clein made a change to 4.90 WN-01 (2) to say "Only clear glazing is permitted on storefront facades . . ."

Discussion from the public was taken at 8:15 p.m.

Mr. Steve Kalczynski from the Townsend Hotel said that regarding their second-story bakery it was strongly suggested they take the blinds down, so they put curtains up because of the need to block the sun.

Ms. Ecker suggested inserting the following provision to the Downtown Overlay Standard 3.04 prior to setting a public hearing: "First floor windows shall not be blocked with opaque materials or furniture, products, signs, blank walls, or the back of shelving units. This language could be added for purposes of discussion at the public hearing. It can always be taken out.

Mr. Koseck indicated his view is to have clear glass throughout the first floor of the City with a visual transmission level of 80%. If the sun is blazing in he is okay with a blind because it might go away, the use might change, etc. Further, above the first floor, blinds may be permitted.

Motion by Mr. Williams
Seconded by Mr. Jeffares that the Planning Board set a public hearing for June 14, 2017 to allow the public to comment on these proposed changes and for the Planning Board to make a recommendation to the City Commission on these issues.

There were no comments from the public at 8:30 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Jeffares, Boyle, Clein, Koseck, Lazar, Whipple-Boyce
Nays: None
2. Definition of Retail

Ms. Ecker advised that last week Planning Staff was directed by the City Manager to come up with a temporary ordinance amendment that would halt the conversion of first-floor retail space to quasi office/quasi retail uses. The City Commission talked about that on May 8 and in the end they voted in favor of directing the Planning Board to bring back to them by July 24 an ordinance amendment that would be a temporary measure of relief until the board's overall discussion of retail is completed. Further, they have asked the board to consider an ordinance amendment that would temporarily stop personal services and community uses from being on first-floor retail space Downtown while the board studies the full issue. They want personal services to be defined.

After researching the subject, Ms. Ecker thought the best example of defining Personal Services came from the City of Bremerton, Washington:

Personal Service Business means an establishment engaged primarily in providing services involving the care of a person or apparel, such as: shoe repairs, laundry and dry cleaning, beauty and barber shops, clothing/costume rental, tanning, other personal grooming facilities and domestic assistance services. This does not include massage parlors, health care services, exercise establishments, nor funeral services.

At their meeting on May 8 it seemed the majority of Commission members appeared to value the beauty services as something that drives activity Downtown.

Mr. Boyle noted this is the fundamental problem of a form based code. It is not easy to take that form and assume you will get what you want in it.

Ms. Lazar observed the board needs to remember that offices like McCann Erickson that have moved into town have increased foot traffic, which also helps the retail. Chairman Clein said this board can either craft a measure for the presumed short term that solves a policy issue that the City Commission has already come to a conclusion on, and then come back and try and make it right; or they can continue to spin until the joint meeting.

Board members decided to add personal services to the definition of retail and to add a definition personal service that includes retail bank branches. Then in the Downtown Overlay, community uses should not be considered retail, but personal services should be allowed.

Consensus was to send this matter back to Staff for due consideration and they will bring back appropriate definitions to the next meeting. Also, invite the BSD Director to that meeting. The board can talk about scheduling a public hearing at that time.
3. Parking Requirements for all uses

Ms. Ecker noted the Planning Board was asked to study the current parking requirements for all uses within the City.

At the March 29, 2017 Planning Board meeting, the board discussed the complex issue of parking throughout the City. After much discussion, the board requested additional information on options that reduce demand, including a sample Transportation Demand Model ("TDM") report to show how developers were designing to reduce reliance on automobiles.

Mr. Boyle suggested taking the Community Impact Study ("CIS") model and tweaking it to include certain elements that will or will not affect parking. Chairman Clein said it seems to him many of the complaints about the parking problem are between 11 a.m. and 2 p.m. when all of the offices are full and people have come into town for lunch. Now there are offices in the Parking Assessment District that were not anticipated and they are being given "free" parking. Mr. Williams noted that the perceived 11 a.m. to 2 p.m. parking problem results from the growth of the restaurant business combined with daytime office uses.

Ms. Ecker said the Ad Hoc Parking Development Committee did a parking study and they found the single biggest problem is that more people are being housed in smaller amounts of space.

Mr. Jeffares observed that offices in the absence of affordable housing provide the density required to have retail work.

Ms. Whipple-Boyce thought that asking a potential developer for the added information about how they plan to handle parking for their employees is not about being able to tell an applicant whether or not they can build a building because they cannot accommodate the people who will be in the building. But, asking for the added information will help the Planning Board manage the way they help the building evolve.

Ms. Ecker said that looking at what extra information can be added as part of the CIS is an option. Also, mandating that every new development incorporate bike parking, and having designated ride-share spots in the parking decks or in a private development may be options.

Ms. Whipple-Boyce encouraged the board to take a look at the terms of the Parking Assessment District and identify some of the things they see from the work they do that are contributing to the problem.

Ms. Ecker noted the difficulty is that the parking problem is Downtown where everyone has paid into the Parking Assessment District and there is no parking requirement for most of the uses that cause the problem. Mr. Williams added they can't quantify the extent of the problem. It is not known how many people don't come now to shop in Birmingham because they can't park.
Chairman Clein said there is data that suggests two parking decks within Downtown are at least near capacity during key summer hours. So there is a demand problem there. But if the City doesn’t change the processes moving forward there will just be more demand problems. In his view the 2016 Plan has not been successful with Downtown residential. So perhaps this board could offer opinions to the Commission that they not only need to attack the current demand, but immediately move toward with reviewing the Parking Assessment District to determine whether or not they need to make some shifts in the current ordinance that says you get an extra floor of office if you add a fifth floor of residential.

Mr. Boyle said he has had thoughts about asking the Planning Dept. if they would consider organizing a parking workshop. They could invite several people to speak about the current situation, and what other cities are doing. Have open discussion about the current parking situation in Birmingham and the likely changes that will occur based upon the pipeline of development.

Chairman Clein asked staff to bring back to the next study session a bulleted list of problems inside or outside of the scope of the Planning Board. Make a recommendation to the City Manager that a workshop be held and present the key issues, many of which are not under the Planning Board’s jurisdiction.

05-94-17

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approval Correspondence

   ➢ 2100 E. Maple Rd., Whole Foods – Approval of two raceway mounted and one individually mounted channel letter signs, and one ground sign.

   ➢ 2075 E. Fourteen Mile Rd. - Application to locate two (2) A/C condensers 10 ft. south of N/E corner, screened by 4 ft. tall hedge of Hicks Yews.

   ➢ 2200 Holland, Mercedes Benz Storage Facility - To remove Mercedes Benz emblems on the building.

   ➢ 2400 E. Lincoln, The Sheridan at Birmingham – Temporary Use Permit to allow a temporary sales trailer.

c. Draft Agenda for the Regular Planning Board Meeting on May 24, 2017

   ➢ 298 S. Old Woodward Ave, CIS and Preliminary Site Plan;
   ➢ 2010 Cole, Preliminary Site Plan;
   ➢ 277 Pierce (Varsity Shop), CIS and Preliminary Site Plan;
   ➢ Definition of Retail, Study Session.
d. **Other Business** (none)

05-95-17

**PLANNING DIVISION ACTION ITEMS**

a. **Staff report on previous requests** (none)

b. **Additional items from tonight’s meeting** (none)

05-96-17

**ADJOURNMENT**

No further business being evident, the Chairman adjourned the meeting at 9:50 p.m.

Jana Ecker  
Planning Director
06-154-17 PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 126, ZONING, OF THE CITY CODE TO CREATE THE TZ2 TRANSITION ZONE

Mayor Nickita opened the public hearing at 8:46 p.m.

Senior Planner Baka reported:

• The intent for the Transition Zone is to:

  o Provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single-family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single-family residential areas.
  o Develop a fully integrated, mixed-use, pedestrian-oriented environment between residential and commercial districts by providing for graduated uses from the less intense residential areas to the more intense commercial areas.

• TZ2 is proposed for mixed use with a maximum height of 30 ft, 2 stories that encourages a mix of residential and commercial uses.

• Specifications for TZ2 are as follows:

  Maximum Building Height 30’and 2 stories minimum

  For sloped roofs, the eave line shall be no more than 24’ and the roof peak shall be no more than 35’

  First story shall be a minimum of 14’ in height, floor to floor

  Minimum Lot Area/Unit N/A

  Minimum Open Space N/A

  Maximum Lot Coverage N/A

  Minimum Front Yard Setback 10’, 20’ abutting single family zoning district

  Minimum Side Yard Setback 0’ from interior side lot line, 10’ from side lot line abutting a single family district
Minimum Combined Front and Rear Setback N/A
Minimum Floor Area/Unit N/A
Maximum Total Floor Area N/A

- Permitted uses for TZ2 are as follows:

**Residential Permitted Uses**
- Dwelling – attached single family
- Dwelling – single family (R3)
- Dwelling – multi-family

**Commercial Permitted Uses**
- Art gallery
- Artisan use
- Barber/beauty salon
- Bookstore
- Boutique
- Drugstore
- Gift shop/flower shop
- Hardware
- Jewelry store
- Neighborhood convenience store
- Office
- Tailor

**Uses with SLUP**
- Any permitted commercial use with interior floor area over 3,000 sq. ft. per tenant
- Assisted living
- Bakery
- Bank/credit union with drive-thru
Church and Religious Institution
Coffee shop
Essential services
Food and drink Establishment
Government office/use
Grocery store
Health club/studio
Independent hospice facility
Independent senior living
School – private and public
Skilled nursing facility
Specialty food shop

• Additional controls on commercial uses are as follows:
  o All food related uses & dry cleaners will require a SLUP (regardless of size)
  o All uses commercial uses that occupy more than 3,000 sq. ft. in TZ2 will require a SLUP
  o All commercial uses, except office, restricted to hours of operation of 7:00 a.m. – 9:00 p.m. unless approved for extension by the Planning Board
  o Additional buffering requirements (landscaping and screen walls)

Discussion confirmed:
• The proposal is to establish the classification of TZ2 without designating which properties should be included.
• Property owners may apply to rezone their parcels to TZ2 if they wish.
• When TZ1 and TZ3 were established, a list of properties belonging in those districts was
recommended.

- The process for TZ2 is two-pronged. Once the district is established further conversation will occur to incrementally apply the classification to appropriate properties.

Senior Planner Baka clarified for Commissioner Boutros:

- Medical services fall under the medical offices category, but with different parking requirements.

- The maximum building height in TZ2 would be 30’, which is two-stories.

Mayor Nickita felt strongly that neighborhood convenience stores should be a use requiring a SLUP.

Commissioner Bordman contended drugstores should likewise be a use requiring a SLUP.

Mayor Pro Tem Harris concurred with both neighborhood convenience stores and drugstores requiring a SLUP.

Mayor Nickita closed the public hearing at 9:10 p.m.

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Harris:

To adopt the Ordinance amending Chapter 126, Zoning, of the City Code, as follows:

Article 2, section 2.43, TZ2 (Transition Zone 2) District Intent, permitted uses, and special uses to add the TZ2 zoning classification, as amended to move Drugstore and Neighborhood Convenience Store from Commercial Permitted Uses to Uses requiring a Special Land Use Permit;

Article 2, section 2.44, TZ2 Development Standards to add Standards for the TZ2 District;

Renumber the existing TZ3 (Transition Zone 3) zoning classification, District Intent, permitted uses, and special uses to Article 2, section 2.45 with no changes;

Renumber the existing TZ3 (Transition Zone 3) zoning classification, Development Standards to article 2, section 2.46 with no changes;

Article 5, section 5.15, Use Specific Standards, to add use specific standards for the TZ2 zone district.

**AND**
Article 4, all sections noted below, to apply each section to the newly created TZ2 zone district as indicated:

<table>
<thead>
<tr>
<th>Ordinance Section</th>
<th>Name</th>
<th>Section Number</th>
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<td>Accessory Structures Standards (AS)</td>
<td>4.02 4.04</td>
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<tr>
<td>Essential Services Standards (ES)</td>
<td>4.09</td>
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<td>Fence Standards (FN)</td>
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<td>Floodplain Standards (FP)</td>
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<td>Height Standards (HT)</td>
<td>4.16 4.18</td>
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<td>Outdoor Dining Standards (OD)</td>
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<td>Temporary Use Standards (TU)</td>
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<td>Vision Clearance Standards (VC)</td>
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<td>Window Standards (WN)</td>
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VOTE: Yeas, 7

Nays, 0

Absent, 0
August 29, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

The First Church of Christ, Scientist was originally owned and built in 1926 by the Christian Science congregation. For over 90 years, the Christian Science group occupied and maintained this building until they vacated in December of 2016 due to lack of funding. It was one of the longest tenancies in the history of Birmingham. The building’s Greek revival architecture is almost identical to the Christian Science churches built throughout the country during that time in the early 1900’s. While now vacant, the building is in good working order as well as structurally sound. Almost everything is in original condition, although there was an add-on done to the building in the late 60’s.

In September of 2015, the property was rezoned from R4 to TZ1. Unfortunately, the only other zoning option at the time of the rezoning was TZ3, which has a wide variety of commercial uses and would have prevented the intended buffer between reasonable commercial uses and single family residential. As TZ2 was subsequently adopted in 2017 as part of the city’s zoning ordinance, we believe that this is the appropriate classification for 191 N. Chester, specifically so we can keep the structure by converting it to a Class A office building and have onsite parking. Please refer to the below responses that justify the rationale for this proposed zoning change from TZ1 to TZ2:

An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership:

- The subject property was purchased because of the desire to enjoy and preserve the current building, the Christian Science Church, which is currently and has been situated on the same piece of land for over 90 years. The first option we considered was whether or not the building could continue to be used for religious purposes, thus being able to preserve and enjoy it. Over the last 14 months, Surnow has marketed the property with a reputable religious broker in the area, and has proved there is no market for a 16,000 sq ft facility, especially with how large it is and the amount of expense that the building would require to stay operational (CAM, Insurance, Taxes) before even considering rent. Due to a market that is non-existent, it was concluded that the building is no longer suitable
for a religious use.

- With the current residential zoning being TZ1, The Surnow Company has invested significant resources in determining whether or not the Christian Science Church could be converted to a residential building, with the goal of preserving what is currently there. Based on the following reasons, it was found that having a residential use while also preserving the Church was simply not feasible.

- The lack of feasibility in converting the church to a residential structure had to do with multiple issues, including the lack of glass and views. Most residential units demand plenty of windows as well as a surrounding view of the neighborhood for the residents to enjoy. The Church has a very limited amount of glass windows, and approximately two thirds of the glass is currently located in areas that are undesirable for views. The building is mainly surrounded by massive office structures, with the Mcann Worldgroup Building to the east, and the Integra Building to the south. That only leaves one side view of Willits to the north, which would potentially require the landlord to punch out and destroy the brick to allow for large glass openings.

- Converting the Church to a residential structure was also compared to the loft style renovations of old warehouses in Pontiac and Detroit into apartments/condominiums. The loft style conversions lend itself to a residential use because of the wide-open, box-type nature of those structures. The Church building has 5 or 6 different levels, at least two of which a person cannot even stand in, and the building also has very complicated configuration with multiple corridors, etc. Almost all of these hallways and rooms are entirely supported by load bearing walls, and with very tight and awkward configurations. This would require a significant amount of demolition and construction to the point where it doesn’t make sense to keep the building for creating a residential environment. With an office development, however, we can utilize those areas for storage, copy machine/office supply areas, janitorial closets, HVAC equipment locations, utility/phone/data demark rooms, small conference rooms, or small executive offices. Because of the demand for open areas and view with residential, economically it would make more sense to completely demolish the current building and build residential from the ground up. Of course having new construction still does not negate the fact that you are surrounded by commercial office as well as the restricted views.

- Therefore, with the lack of a religious market, along with the fact that the Building is not able to be converted to a residential unit, the current residential zoning ordinance essentially forces the landlord to demolish the current building.
This action would then prevent the preservation of the Building and enjoyment of the rights of usage commonly associated with owning this property.

An explanation of why the existing zoning classification is no longer appropriate:

- The existing zoning classification of TZ1 is no longer appropriate because demolishing the current building and replacing with new construction will heavily impact and change the feeling of the neighborhood. In March of 2017, a meeting was held between the Surnow Company and the neighborhood surrounding the Church. The feedback received was that this building has been part of the community for over 90 years. The neighbors like the building, are used to it, and they would prefer to keep it since it is a historically significant structure.

- If the Church was to be torn down with new residential, the development would be maximized to cover as much height and surface area as possible. A new building would require a much greater footprint on the land, as the Church is currently well short of the zero-lot line. With a residential development, the landlord would have to decrease the setbacks in order to maximize what is allowed. Also, as the property is in the D4 overlay, where the landlord can build higher with multiple stories, thus also changing the low-rise nature of the church. See Exhibit A for the current property line and building, the proposed office development, and the massing study shown for what we would build for residential. This would not only greatly impact the neighborhood due to scale and visibility, but a vital piece of Birmingham’s history is essentially eliminated by replacing the structure with a new building.

- In addition to having the impact to the neighborhood associated with a new structure, the neighborhood will also be impacted due to the extra traffic trips taken by residential compared to office. With onsite parking for residential, there are extra trips taken on nights, weekends, holidays, etc, as well as multiple trips per day. With office, tenants typically arrive once at 9am, and depart once at 5pm when leaving. Although the building is part of the parking assessment district and is very close to the Chester Street Deck, there will be onsite parking sufficient to accommodate the office tenants, which not only makes the building more attractive to high profile tenants, but will also not impact the parking shortage that the city currently faces. To us that is a win-win situation, and we have already started ideas with the engineering department to control the flow of traffic properly. These conversations are necessary whether we keep the building or go residential.

- Despite the negative effects of changing the look and feel of the neighborhood, it
would be a shame to demolish a structure that lends itself so well to an adaptive re-use. At the neighbor meeting, it was then concluded that there are very few heritage type buildings left in town, and that keeping the current structure has the least amount of impact on the community, including scale, visibility, and the traffic.

An explanation of why the proposed rezoning will not be detrimental to the surrounding properties:

- The proposed zoning change from TZ1 to the TZ2 classification will not be detrimental to the surrounding properties, because we are keeping exactly what you see today. One of the other projects that our company completed in 2011 was the renovation of the Birmingham Post Office Building. While the inside of the building was completely updated to a modern, Class A office environment as well as brought to code, the outside of the building was completely preserved to keep the original look and feel of the historic structure. The project ended up being so low impact to the surrounding properties and neighborhood, that even to this day, almost 7 years later, individuals enter multiple times a week looking to mail an envelope or package, still thinking it’s a post office.

- Similarly to the Post Office project, our organization is looking to restore the outside of the current Church building, which will greatly minimize the impact to the surrounding properties. While the inside will be remodeled to the same standards as the other Surnow buildings in town, we will only be fixing or replacing, not changing, the exterior windows, limestone and masonry detail, as well as any other exterior repairs needed to maintain what is original.

- As discussed in our March 2017 meeting with the neighbors on Willits, the only potential impact would be the traffic impact of onsite parking for the office tenants. However, the onsite parking required with the construction of new residential units would have a heavier impact to the neighborhood, as mentioned above. It’s also noted that only one side of the building faces the Willits neighborhood, the other sides of the building are surrounded by commercial.

- Put it simply, what you see today, will be what you see tomorrow. For these reasons, we believe that the proposed rezoning will not be detrimental to the surrounding properties.

As with the Post Office, School Administration, and the recently completed Woodward
Building, The Surnow Company has a proven track record of preserving and renovating historically significant structures, and converting them into beautiful, contemporary buildings. While we are open to the idea of demolishing the building and developing the lot into a residential use, we believe it would be a shame to lose one of the city’s oldest gems that the neighborhood has enjoyed for over 90 years. Our organization strongly desires to continue the positive impact we’ve created in the community by moving this project forward, and would greatly appreciate the opportunity for our family company to put the same passion and creativity into the Christian Science Church as we have with our other Birmingham developments. Thank you for your time and consideration.

Sincerely,

Sam Surnow
President
DATE:   September 6, 2017

TO:     Planning Board Members

FROM:   Nicholas Dupuis, Planning Intern

APPROVED:  Jana L. Ecker, Planning Director

SUBJECT:  Rezoning Request for 191 N. Chester – The First Church of Christ, Scientist

The property owner (Parcel Number 1925356023) of 191 N. Chester (The First Church of Christ, Scientist), is requesting that the Planning Board to consider the rezoning of the property from TZ-1 (Transitional Zone 1) to TZ-2 (Transitional Zone 2).  The applicant is proposing to keep the building as-is on site while renovating the inside to suit an office use.

The subject site is located on the west side of N. Chester, with single family homes to the north and office/commercial buildings to the south (Integra Building) and east (McCann Worldgroup Building). The area of the site is .40 acres, the building is 16,000 sq. ft. in size. A copy of the Certified Land Survey for the property is attached. The subject property is in the Downtown Overlay District and is zoned C - Community Use, due to its former use as a Church.

The applicant is seeking a rezoning as they would like to convert the former Church building into an office use. In the current TZ1 zoning district, office uses are not permitted. When the property was last rezoned from R4, the TZ2 zone did not exist. The only other option at the time was TZ3, whose wide commercial uses could have damaged the intended buffer between residential and commercial uses. Thus, the property was rezoned TZ1 to keep the sensitive buffer zone intact. The applicant states that with the City’s adoption of TZ2 into the Zoning Ordinance, the TZ2 classification would be better suited for the following reasons:

- The building is no longer suitable for a Church or other religious use. The applicant has marketed the property with a reputable religious broker in the area, which proved that there is no market for a 16,000 sq. ft. facility, especially with the amount of expense that the building would require to stay operational, before even considering rent. Therefore, keeping a Church as a legal non-conforming use is off the table.
- While the building is in good condition, it is not suitable to be converted into residential. Unlike the loft style renovations of old warehouses in Pontiac and Detroit into apartments/condominiums, which are easy to do because of the wide-open, box type nature of those structures, this building has 6 different levels, along with a very complicated configuration/load bearing walls with corridors, etc., that does not lend itself to adaptive reuse as a residential development.
- By keeping this property as TZ1, the landlord is in essence forced to tear the building down as it cannot be converted to residential. This building has been in the community
for over 90 years, and has historical significance. There are very few heritage type buildings left in town, and it would be a shame to demolish a structure that lends itself well to an adaptive reuse.

- The neighbors and community are used to the building. During a meeting held with the surrounding neighbors on Willits back in March of 2017, the applicant presented the idea of converting the building to an office, which was widely accepted and well received as everyone is already familiar with the mass and scale of the existing building.
- The applicant is looking to simply preserve and restore the outside of the building, and renovate the inside for office use.
- The building is also well short of the zero lot line. If the applicant were to tear the building down and build residential to fit the current zoning, the development would be maximized to cover as much height and surface area as possible. This along with the extra traffic trips taken by residential (nights, weekends, multiple trips per day) would be more disruptive to the neighborhood as opposed to simply leaving what is already there, which sits well within the property line threshold.
- Although the building is part of the Parking Assessment District and is very close to the Chester Street Deck, there will be onsite parking which will not impact the parking shortage that the city currently faces.
- The building is already surrounded by commercial uses and does not have very good views for a residential apartment/condo complex, without increasing the height of the building.

**History of Property**

The First Church of Christ, Scientist was originally built in 1926 and has been used as such ever since. In 2015, the property was rezoned from R4 to TZ1. In the Downtown Overlay Zoning District, the property is zoned C, Community Use. In 2016, the church was relocated and the building at 191 N. Chester was sold. The only physical modification done to the building was in 1956, when an addition was added to the existing Church. The Church building is still present today, and in fair condition.

**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:**
   - The subject property was purchased because of the desire to enjoy and preserve the current building, the Christian Science Church, which is currently, and has been, situated on the same piece of land for over 90 years. The first option considered was whether or not the building could
continue to be used for religious purposes, thus being able to preserve and enjoy it. Over the last 14 months, Surnow has marketed the property with a reputable religious broker in the area, and has proved there is no marked for a 16,000 sq. ft. facility, especially with how large it is and the amount of expense that the building would require to stay operational (CAM, Insurance, Taxes, etc.) before even considering rent. Due to a market that is non-existent, it was concluded that the building is no longer suited for a religious use.

- With the current zoning being TZ1, the Surnow Company has invested significant resources in determining whether or not the Christian Science Church could be converted to a residential building, with the goal of preserving what is currently there. Based on the following reasons, it was found that having a residential use while also preserving the Church was simply not feasible.
  - The lack of feasibility in converting the church to a residential structure had to do with multiple issues, including the lack of glass and views. Most residential units demand plenty of windows as well as a surrounding view of the neighborhood for the residents to enjoy. The Church has a very limited amount of glass windows, and approximately two thirds of the glass is currently located in areas that are undesirable for views. The building is mainly surrounded by massive office structures, with the McCann Worldgroup building to the east, and the Integra building to the south. That only leaves one side view of Willits to the north, which would potentially require the landlord to punch out and destroy the brick to allow for large glass openings.
  - Converting the Church to a residential structure was also compared to the loft-style renovations of old warehouses in Pontiac and Detroit into apartments/condominiums. The loft-style conversions lend themselves to a residential use because of the wide open, box-type nature of those structures. The Church building has 5 or 6 different levels, at least two of which a person cannot even stand in, and the building also has a very complicated configuration with multiple corridors, etc. Almost all of these hallways and rooms are entirely supported by load bearing walls, and with very tight and awkward configurations. This would require a significant amount of demolition and construction to the point where it doesn’t make sense to keep the building for creating a residential environment. With an office development, however, we can utilize those areas for storage, copy machine/office supply areas, janitorial closets, HVAC equipment, utility/phone/data rooms, small conference rooms, or small executive offices. Because of the demand for open areas and view with residential, economically it would make more sense to completely demolish the current building and build residential from the ground up. Of course having new construction still does not negate the fact that the building would still be surrounded by commercial office as well as the restricted views.
Therefore, with the lack of a religious market, along with the fact that the building is not able to be converted into a residential use, the current residential zoning ordinance essentially forces the landlord to demolish the current building. This action would then prevent the preservation of the building and enjoyment of the rights of usage commonly associated with owning this property.

2. An explanation of why the existing zoning classification is no longer appropriate

Applicant response:

- The existing zoning classification of TZ1 is no longer appropriate because demolishing the current building and replacing with new construction will heavily impact and change the feeling of the neighborhood. In March of 2017, a meeting was held between the Surnow Company and the neighborhood surrounding the Church. The feedback received was that this building has been part of the community for over 90 years. The neighbors like the building, are used to the building, and they would prefer to keep it since they feel it is a historically significant structure.

- If the Church was to be torn down for new residential construction, the development would be maximized to cover as much of the height and surface area as possible. A new building would require a much greater footprint on the land, as the church is currently well short of the zero lot line. With a residential development, the landlord would have to decrease the setbacks in order to maximize what is allowed. Also, as the property is in the D4 overlay, the landlord can build higher with multiple stories, thus also changing the low-rise nature of the Church. See Exhibit A for the current property line and building, the proposed office development, and the massing study shown for what could built for residential. This would not only greatly impact the neighborhood due to scale and visibility, but a vital piece of Birmingham’s history would essentially be eliminated by replacing the structure with a new building.

- In addition to having the impact to the neighborhood associated with a new structure, the neighborhood will also be impacted due to the extra traffic trips taken by residential compared to office. With onsite parking for residential, there are extra trips taken on nights, weekends, holidays, etc., as well as multiple trips per day. With office, tenants typically arrive once at 9 AM, and depart once at 5PM when leaving. Although the building is part of the Parking Assessment District and is very close to the Chester Street Deck, there will be onsite parking sufficient to accommodate the office tenants, which not only make the building more attractive to high profile tenants, but will also not impact the parking shortage that the city currently faces. The Surnow Group believes that this is a win-win situation, and they have already started ideas with the engineering department to control the flow of traffic properly. These conversations are necessary whether we keep the building or go residential.
Despite the negative effects of changing the look and feel of the neighborhood, it would be a shame to demolish a structure that lends itself so well to an adaptive reuse. At the neighbor meeting, it was concluded that there are very few heritage type buildings left in town, and that keeping the current structure has the least amount of impact on the community, including scale, visibility, and traffic.

3. An explanation of why the proposed rezoning will not be detrimental to the surrounding properties.

Applicant response:
- The proposed zoning change from TZ1 to the TZ2 classification will not be detrimental to the surrounding properties, because the Surnow Company is keeping exactly what is there today. One of the other projects that the Surnow Company completed in 2011 was the renovation of the Birmingham Post Office building. While the inside of the building was completely updated to a modern, Class A office environment as well as brought to code, the outside of the building was completely preserved to keep the original look and feel of the historic structure. The project ended up being so low impacts to the surrounding properties and the neighborhood that even to this day, almost 7 years later, individuals enter multiple times a week looking to mail an envelope or package, still thinking it is a post office.
- Similar to the Post office project, the Surnow Company is looking to restore the outside of the current Church building, which will greatly minimize the impact to the surrounding properties. While the inside will be remodeled to the same standards as other Surnow buildings in town, the company will only be fixing or replacing, not changing, the exterior windows, limestone and masonry detail, as well as any other exterior repairs needed to maintain what is original.
- As discussed in our March 2017 meeting with neighbors on Willits, the only potential impact would be the traffic impact of offsite parking for the office tenants. However, the onsite parking required with the construction of new residential units would have a heavier impact to the neighborhood, as mentioned above. It is also noted that only one side of the building faces the Willits neighborhood, the other sides of the building are surrounded by commercial.
- To put it simply, what is seen today will be seen tomorrow. For the reasons above, the Surnow Company believes the proposed rezoning will not be detrimental to the surrounding properties.

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) that includes all of the required elements.

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

The City’s current master plan is The Birmingham Future Land Use Plan (“Master Plan”) which was the last comprehensive plan done for the entire City in 1980. The residential area to the north and west of 191 N. Chester is not identified in the Master Plan as a
sensitive residential area. It is identified as the edge of the CBD. Commercial Development Policy 4 in the Master Plan states:

Whenever possible, commercial areas in close proximity to residential development should be restricted to office and low-intensity commercial uses.

As the western edge of the CBD is in close proximity to residential development, the proposed office use would comply with Policy 4 in the Master Plan.

The Downtown Birmingham 2016 Plan focuses on retaining and enhancing the character and vitality of Downtown Birmingham. The subject property, existing in a sensitive transitional zone between commercial and residential, aims to accomplish the intent of the Downtown Birmingham 2016 Plan (2016 Plan), retaining the character of the area through adaptive reuse. In accordance with the 2016 Plan vision statement (pg. 181), the proposed development can certainly add to the economic viability of the Downtown business community and ensure good land use transitions and structural compatibility in form and mass to the traditional, residential neighborhoods surrounding Downtown.

The intersections at Chester and Maple Road (nearby intersection), as well as Chester and Willits (subject property at this intersection), were specifically targeted for improvements in the 2016 Plan. The improvements were envisioned to enhance local access and circulation in the downtown and improve the ease of pedestrian crossing at these intersections. Although unrelated to circulation, the subject properties proposed renovation will not change the dynamic of the intersections by demolishing the existing structure and rebuilding residential units. The intersections will remain improved and viable throughout the rehabilitation.

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 a TZ2 District meets the spirit and intent of the ordinance. The adaptive reuse of a vacant historic building would not only support growth and development, but also keep the character of the neighborhood intact.

Rezoning the subject property from TZ1 to TZ2 will support the intent of the City’s Master Plan, the Downtown Birmingham 2016 Plan and uphold the purpose of the Birmingham Zoning Ordinance.

B. Existing uses of property within the general area of the property in question

North of the subject site across Willits Street there are single family homes. The west side of the property, behind the building, also abuts single family homes. To the east of the property, the McCann Worldgroup office/commercial building resides. Lastly, the Integra Building (office/commercial) is to the south.

The following chart summarizes the land uses and zoning districts adjacent to and in the vicinity of the subject site.
<table>
<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>Single Family Residential</td>
<td>Office, Commercial</td>
<td>Office, Commercial</td>
<td>Single Family Residential</td>
</tr>
<tr>
<td><strong>Existing Zoning</strong></td>
<td>R2, Single Family Residential</td>
<td>TZ3, Transitional Zone 3</td>
<td>B-4, Business-Residential</td>
<td>R-2, Single Family Residential</td>
</tr>
<tr>
<td><strong>Overlay Zoning</strong></td>
<td>N/A</td>
<td>D4</td>
<td>D4</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**C. Zoning classification of property within the general area of the property in question**

The general area, aside from the immediate properties in relation to the subject property described above, are zoned R6 – Multi Family Residential and PP – Public Property. Public property includes the nearby Chester Street Parking Deck, Booth Park, and the Birmingham Historical Museum and Park.

**D. The suitability of the property in question to the uses permitted under the existing zoning classification.**

Under the current zoning, the building would be useless unless torn down and the land newly constructed upon. The TZ1 district does not permit a church, but the building is currently a legal non-conforming use. As described above, it is not economically feasible to convert the existing building to residential use, which is the only use permitted in the TZ1 zoning classification. Thus, if the community desires to preserve the existing structure, residential uses are not suitable.

**E. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.**

The subject property is located along the outer edge of the Downtown Overlay District. The majority of adjacent properties are also in the Overlay District, except the residential properties to the north and west. The Integra Building to the south was built to its final form in 2016 having added a lobby to an existing 3-story office building. The McCann Worldgroup building was completed in 2005. Being such an old building, the subject property has watched Downtown Birmingham change and grow from the start to what it is today. Aside from the residential sections on two sides, development has been toward office/commercial uses in that corridor. The proposed rezoning would continue the trend of office/commercial uses.

**Departmental Reports**

1. Engineering Division – No concerns were reported.
2. Department of Public Services – No concerns were reported.
3. Fire Department – The Fire Department has no concerns with this site plan at this time.
One note: the parking area will require fire suppression.

4. **Police Department** – The Police Department does not have any concerns.

5. **Building Department** – No comments were received.

**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 TZ1 (Transitional Zone 1) to TZ2 (Transitional Zone 2) to permit the adaptive reuse of the building for office/commercial use. Given the recommendations of the Master Plan and the 2016 Plan, the existing mix of uses in the immediate neighborhood and given the age and character of the building, the proposal to adaptively reuse the building is appropriate and compatible with 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 191 N. Chester from TZ1 (Transitional Zone 1) to TZ2 (Transitional Zone 2).

**OR**

Motion to recommend POSTPONEMENT of the applicant’s request for the rezoning of the property at 191 N. Chester from TZ1 (Transitional Zone 1) to TZ2 (Transitional Zone 2), pending review and approval of the following:

1. A site plan and elevation drawings detailing the proposed development of the property for office/commercial use.

**OR**

Motion to recommend DENIAL to the City Commission of the applicant’s request for the rezoning of the property at 191 N. Chester from TZ1 (Transitional Zone 1) to TZ2 (Transitional Zone 2), for the following reasons:

1. 
2. 
3. 
Planning Board Minutes  
September 13, 2017

1. **191 N. Chester, First Church of Christ, Scientist**  
   Request for rezoning from TZ-1 to TZ-2 (Transitional Zoning) to allow the adaptive reuse of the existing building for office use

Chairman Clein returned to chair the meeting.

Ms. Ecker reported that the property owner is requesting the rezoning of the property to keep the building as-is on site while renovating the inside for an office use.

The subject site is located on the west side of N. Chester, with single-family homes to the north and office/commercial buildings to the south (Integra Building) and east (McCann Worldgroup Building). The area of the site is .40 acres, the building is 16,000 sq. ft. in size. The subject property is in the Downtown Overlay District and was zoned C - Community Use, due to its former use as a church. At the time of the transitional rezoning the City Commission created the TZ-1 Zone District and the TZ-3 Zone District. They did not create the TZ-2 Zone District then and the property was rezoned TZ-1 which allows only a residential use and not an office use.

The applicant lists a number of reasons that with the City’s adoption of TZ-2 into the Zoning Ordinance, the TZ-2 classification would be better suited. The applicant would like to re-purpose the existing church building into an office use. While office use is permitted in the TZ-2 Zoning District, any office use over 3,000 sq. ft. in size would require a Special Land Use Permit (“SLUP”). The applicant has affirmed the building is not suitable for adaptive reuse to residential.

The applicant had meetings with the adjoining property owners who have indicated a desire to keep the existing building as opposed to demolishing it and increasing and changing the height and mass with a new structure. They felt building as it stands would have the least impact on the neighborhood in terms of scale, visibility, and traffic.

The applicant has tried to market the building as a religious institution but has been unsuccessful in finding someone who is interested.

The only physical modification done to the building was in 1956 when an addition was added to the existing church. The church building is still in fair condition today.

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 TZ-1
(Transitional Zone 1) to TZ-2 (Transitional Zone 2) to permit the adaptive reuse of the building for office/commercial use. Given the recommendations of the Master Plan and the 2016 Plan, the existing mix of uses in the immediate neighborhood, and given the age and character of the building, the proposal to adaptively reuse the building is appropriate and compatible with the area. The Planning Board will make a recommendation to the City Commission and the City Commission shall make the final determination on whether this potential rezoning should be approved.

Mr. Boyle asked what design oversight there might be with this building if it was rezoned to TZ-2. Ms. Ecker replied that just the design of the building would go to the Design Review Board or come to the Planning Board for review. If they are going to propose over 3,000 sq. ft. of office use, it will come to the Planning Board because it would require a SLUP which would bring in all of the design elements as well as the signage. Then it would go to the City Commission for the final decision.

In response to Mr. Koseck, Ms. Ecker said the applicant has the option to seek a use variance for the building. The Chairman asked about the difference between TZ-1 and TZ-2 with regard to massing and height. Ms. Ecker advised that TZ-1 allows three stories and 35 ft. in height with a minimum of two stories. In TZ-2 only a two-story maximum is allowed.

Ms. Ecker explained for Mr. Boyle that there is no requirement that there must be a mix of uses on a transitional zoned property.

Mr. Williams said a question for the City Attorney would be whether the site can be rezoned to TZ-2 with the condition that the building structure remain the same. Ms. Ecker noted the Planning Board at this level has not made a recommendation to go down the conditional rezoning path.

The applicant, Mr. Sam Surnow, 320 Martin, said they have spent a lot of time over the last three years trying to figure out what to do because they acquired the property before it was rezoned to TZ-1. Based on feedback from all of the neighbors and the different departments, they have been guided in the direction of rezoning the existing building for office use. They feel it is the best choice. It seems that a residential development would have the potential to change the impact on the neighborhood. On-site parking will be needed to be marketable and to attract tenants. Therefore they will have to take away a few thousand feet in the lower level to make room for ten or fifteen parking spaces. Then, after taking away the common areas, the office space left will be much less than 16,000 sq. ft.

Mr. Surnow stated that they decided not to apply for a use variance with the BZA because having a use variance in a TZ-1 Zone that is meant for residential use only would be contradictory. Also if the City could have rezoned to TZ-2 which didn't exist at the time, it
probably would have. They don't have an issue with coming up with an agreement stating they will preserve exactly what is there if the City Commission requested that.

Mr. Kevin Biddison, 320 Martin, added they are excited hopefully to be involved in another project with the Surnows. This is really a similar challenge to what they did with the post office and they are looking to do some of the very same things and create multi-uses for smaller businesses which can tuck into the very unusual nature of the building.

No one from the public came forward with comments at 8:38 p.m.

Mr. Boyle observed that office space is changing. He hoped this iconic building will be redesigned and repurposed in such a way that it can accommodate the contemporary office and how it is going to operate. Also, he thought a mixed use in some shape or form might enliven this street.

Mr. Koseck noted this is a unique building on a challenging site. The Chester Parking Structure is least used so the project could help to populate that. These developers have a proven track record and he is in favor of the proposal to rezone.

**Motion by Mr. Koseck**

**Seconded by Mr. Boyle to recommend approval to the City Commission for the rezoning of 191 N. Chester from TZ-1 (Transitional Zone 1) to TZ-2 (Transitional Zone 2).**

Chairman Clein thought the adaptive reuse that is being proposed is awesome and the rezoning to facilitate that makes perfect sense. However he has concerns about rezoning, and that means ten years from now the building could be razed and a 17,000 sq. ft. site could turn into 30,000 sq. ft. of something. He leans toward approving the request because he feels this is a fantastic project but he thinks the Commission needs to weigh those concerns.

At 8:43 p.m. there were no comments from the members of the public on the motion.

**Motion carried, 6-0.**

**ROLLCALL VOTE**

Yeas: Koseck, Boyle, Clein, Jeffares, Lazar, Williams  
Nays: None  
Absent: Whipple-Boyce
Map of Neighbors Surrounding 191 N. Chester Street, First Church of Christ, Scientist

Legend:

<table>
<thead>
<tr>
<th>Address</th>
<th>Property Owner</th>
<th>Support Rezone Y/N</th>
<th>Letter Attached</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>548 Willits St</td>
<td>Keith Pomeroy</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 2</td>
</tr>
<tr>
<td>532 Willits</td>
<td>Robert Citrin</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 3</td>
</tr>
<tr>
<td>520 Willits</td>
<td>William Ludwig</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 4</td>
</tr>
<tr>
<td>504 Willits</td>
<td>Otto Soeding</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 5</td>
</tr>
<tr>
<td>488 Willits</td>
<td>Michelle Mayne</td>
<td>N/A</td>
<td>No</td>
<td>Unable to reach</td>
</tr>
<tr>
<td>468 Willits</td>
<td>Derek Hodgson</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 6</td>
</tr>
<tr>
<td>448 Willits</td>
<td>Mary Gardner</td>
<td>N/A</td>
<td>No</td>
<td>Unable to reach</td>
</tr>
<tr>
<td>424 Willits</td>
<td>Stuart Kaufman</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 7</td>
</tr>
<tr>
<td>412 Willits</td>
<td>Jonathan Stein</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 8</td>
</tr>
<tr>
<td>380 Willits</td>
<td>Rick Cohen</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 9</td>
</tr>
<tr>
<td>487 Willits</td>
<td>Susan Martin</td>
<td>Yes</td>
<td>Yes</td>
<td>Pg 10</td>
</tr>
<tr>
<td>460 W Maple</td>
<td>Eric Jergens</td>
<td>Yes</td>
<td>No</td>
<td>voiced support at 9/13 planning meeting</td>
</tr>
</tbody>
</table>
September 22, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family's vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

Keith J. Pomeroy
548 Willits St.
Birmingham, MI 48009
September 21, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family’s vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

[Signature]

(please sign name and provide address)
September 29, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family's vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

W. [Signature]

(please sign name and provide address)

520 Willits
48009
September 21, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family’s vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

[Signature]

504 Willis St.
Birmingham, MI 48009

(please sign name and provide address)
September 21, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family's vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

(please sign name and provide address)

Derek Hodgson
468 Willits St.
Birmingham, MI, 48009
September 27, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

I am a resident of 424 Willits, located directly across the street from the Christian Science Church. I support the Surnow family’s vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2 as their plan will have the least long and short term adverse effect on our neighborhood. It will also conserve a classic structure.

Sincerely,

(please sign name and provide address)
September 26, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As residents of a property across from 191 N Chester Street, we support the Surnow family’s vision of preserving and converting the Church to office use, by rezoning the property from TZ1 to TZ2. We are particularly in favor of the idea if there are provisions within the plan that preclude future non-office uses of the property such as retail, entertainment or dining establishments.

The plan as presented preserves the character of the street and the history of our city, while at the same time allowing an older building to be re-purposed for the benefit of its tenants and the community. While it is our understanding that the City of Birmingham seldom engages in “spot zoning,” in this instance the zoning change is preferable to the destruction of a historic structure and the creation of a large-scale housing development, the only other practical use of the space under the current zoning.

Sincerely,

[Signature]

Jonathan and Lauren Stein

Homeowners
412 Willits Street
City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family’s vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

[Signature]

382 Willits, Birmingham Mi

(please sign name and provide address)
September 28, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family’s vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

(Signed)

(please sign name and provide address)

As the resident directly adjacent to the church on Chester St., I fully support the Surnow Company’s plan to rezone and renovate the church for office use. I appreciate the plans to preserve the structural integrity of the building and the neighborhood. I plan to attend the rezoning meeting to further voice my support.
October 5, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Voluntary Conditional Rezoning of 191 N. Chester Street (First Church of Christ, Scientist):

Dear Commissioners:

In connection with the application to rezone 191 N Chester Street from TZ1 to TZ2, we voluntarily submit this letter to offer the condition that should this rezoning request be approved, we are willing to limit the use of the property to only an office use, now and indefinitely into the future.

As stated above, should the commission approve the request to rezone 191 N Chester from TZ1 to TZ2, the property will only be used for office purposes and no other use permitted under the TZ2 zoning ordinance.

Sincerely,

Sam Surnow
President
The Surnow Company
October 11, 2017

City Commission
151 Martin Street
Birmingham, MI 48009

RE: Rezoning of 191 N. Chester Street (First Church of Christ, Scientist)

Dear Commissioners:

As a nearby resident of the property located at 191 N Chester Street, I support the Surnow family’s vision of preserving and converting the Church to office, by rezoning the property from TZ1 to TZ2.

Sincerely,

[Signature]

(please sign name and provide address)
PROPOSED RENOVATION OF THE
FIRST CHRIST SCIENTIST CHURCH

191 N CHESTER ST, BIRMINGHAM MI
PROPOSED SITE PLAN
EXISTING LOWER LEVEL PLAN
EXISTING FIRST FLOOR PLAN
PROPOSED FIRST FLOOR PLAN
EXISTING SECOND FLOOR PLAN
PROPOSED SECOND FLOOR PLAN
EXISTING ELEVATIONS
PROPOSED NORTH ELEVATION
PROPOSED EAST ELEVATION
OPTIONAL RESIDENTIAL MASSING
In June, the Planning Board issued preliminary site plan approval to the owner of the above property (owned by Lorient Capital, LLC), located at the NW corner of Brown St. The applicant has proposed the construction of a five-story hotel, containing 126 rooms, 17 long-term stay apartments, as well as banquet, restaurant, and lounge facilities on the first floor. Due to the nature of the business, Lorient has designed the plan to include 24-hour a day valet service at the front door, located on the S. Old Woodward Ave. frontage. The valet loading zone will occupy space that is currently used for on-street metered parking. Therefore, the valet operation will require the permanent removal of metered public parking. As a condition of final plan approval, the applicant was asked to appear before the Advisory Parking Committee (APC), and obtain a recommendation to the City Commission regarding changing the future use of this area.

The item was first reviewed by the APC at their meeting of July 12, 2017. Staff provided the package of information now attached to this memo. At that meeting, it was requested that the APC have the opportunity to review the traffic study that had been prepared by the Lorient team, as a part of the Planning Board review. That information was gathered, and provided to the APC for review prior to their meeting of August 2.

During the two discussions before the APC, the following points were considered:

1. Generally, removal of on-street parking is seen as a detriment to the parking system, as well as to the adjoining businesses.
2. The City has not had many requests for permanent removal of on-street parking in favor of a valet operation. A similar precedent was set in 1999 when the Townsend Hotel built an addition to its facility facing Merrill St. An agreement, similar in nature to the one now prepared for this project, was written and signed at that time. That agreement is still in effect, and the Townsend Hotel continues to be charged annually for the loss of the meter revenue so that a valet loading zone area may remain available on Merrill St.
3. Although there are eight metered parking spaces on this property's frontage today, the City has redesigned the street in anticipation of the reconstruction of N. Old Woodward Ave. next year. In the best case scenario, wherein the property would not have a private driveway access, as many as twelve angled parking spaces could be constructed on the street in this area. Not only has the applicant proposed a valet loading area, but they also plan to construct a driveway to act as the vehicle exit for two levels of underground private parking on site. Typically, the City has not charged a private...
property owner a parking meter removal fee if they are constructing a driveway in an area where metered parking exists. In order to be consistent with past precedent, it was noted that four of the twelve metered parking spaces would have been removed from the street in order for the driveway to function. Only the remaining eight planned parking spaces are being removed as a result of the valet parking area proposal.

4. The applicant is proposing to construct 56 new private parking spaces on site. A portion of those will be occupied by the 17 long term residences that are proposed to be constructed. The rest are open to be used by patrons as the owner sees fit. The entrance to the garage will be located on the south side Brown St. frontage, while the exit, as noted above, is on S. Old Woodward Ave. The garage has been designed to encourage the valet drivers to use on-site parking first during periods of high demand, and then only using other sites, such as the Pierce St. Parking Structure, when their own on-site capacity has been filled.

The agreement has been written to compensate the City for the loss of revenues that will be experienced when eight parking spaces have been removed. Considering that meters are typically not collecting revenue during all possible hours of the business week, a reduction factor has been applied similar to that used in previous agreements. The final charge reflects the current rate of $1.50 per hour, which should be increased in the future if and when the parking rate is increased. The total charge is $3,000 per parking meter, or a total annual payment of $24,000 per year.

After further discussion, the Advisory Parking Committee passed the following recommendation, on a vote of 5-1:

To recommend to the City Commission the removal of eight on-street parking spaces at 298 S. Old Woodward Ave. to allow for the operation of a valet service by the adjacent property owner, in exchange for an annual payment of $24,000 (at $3,000 per meter) to be charged annually once the adjacent hotel is open for business.

As you know, the City is currently planning to reconstruct its two main downtown corridors over three phases, starting in 2018, and finishing in 2020. The first phase plans have been completely engineered, and will soon be bid for construction. Phases 2 and 3 have not been engineered, but have been laid out conceptually based on the concepts prepared by planning consultant MKSK. Using these numbers, below is the projected total change for metered parking spaces that will result for the downtown area, assuming the City proceeds with its three downtown construction projects:

<table>
<thead>
<tr>
<th>PHASE</th>
<th>STREET RECONSTRUCTION AREA</th>
<th>EXISTING PARKING SPACES</th>
<th>PROPOSED PARKING SPACES</th>
<th>NET CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Old Woodward Ave. – Willits St. to Brown St. (including proposal at 298 S. Old Woodward)</td>
<td>122</td>
<td>104</td>
<td>-18</td>
</tr>
<tr>
<td>2</td>
<td>Maple Rd. – Chester St. to Woodward Ave.</td>
<td>60</td>
<td>58</td>
<td>-2</td>
</tr>
<tr>
<td>3</td>
<td>Old Woodward Ave. – Brown St. to Landon Ave.</td>
<td>155</td>
<td>160</td>
<td>+5</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>337</td>
<td>322</td>
<td>-15</td>
</tr>
</tbody>
</table>
Other than the parking spaces referenced in this memo, other losses to parking can be attributed to:

1. The requirement to provide a loading area to the side of reconstructed accessible parking spaces.
2. The addition of mid-block pedestrian crossings (phases 1 and 2)
3. The introduction of wider sidewalks combined with left turn lanes on Maple Rd. (phases 1 and 2).

Gains to parking currently planned to help offset greater losses include:

1. The addition of six new parallel spaces on Park St. north of Maple Rd. once Park St. is changed to two-way traffic.
2. Converting parallel parking to angled parking on S. Old Woodward Ave. north and south of Brown St.

A suggested resolution has been prepared below for the consideration of the City Commission:

SUGGESTED RESOLUTION:

To authorize the Mayor and Clerk to sign the license agreement authorizing the removal of eight metered parking spaces on the Old Woodward Ave. frontage of 298 S. Old Woodward Ave., to be used as a valet loading area, at the current rate of $3,000 per meter per year, effective upon closure of the area for construction of the adjacent hotel.
LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") entered into this ___ day of ________________, 2017 by and between the City of Birmingham, a Michigan Municipal Corporation, whose address is 151 Martin Street, Birmingham, Michigan 48012-3001 (hereinafter referred to as the "City"), and WOODWARD BROWN VENTURES, LLC, whose address is 102 Pierce St., Birmingham, Michigan 48009 (hereinafter referred to as "Woodward Brown"). The "Term" of this Agreement shall be as defined in paragraph 5.

WHEREAS, Woodward Brown is the owner of a Boutique Hotel (hereinafter referred to as the "Hotel") located at 298 S. Old Woodward Ave. in the City of Birmingham; and,

WHEREAS, in connection with construction of the Hotel, Woodward Brown desires to establish a valet parking zone on S. Old Woodward Ave.; and,

WHEREAS, in order to accommodate Woodward Brown's desire to establish a valet parking zone for the Hotel, the City has agreed to remove eight parking meters and parking spaces from S. Old Woodward Ave. and authorize the Hotel to utilize a portion of the public right-of-way pursuant to the terms of this License Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the City and Woodward Brown hereby agree as follows:

1. **License.** The City hereby grants Woodward Brown a revocable license to use a portion of the City's public right-of-way for the purpose of conducting a valet parking service at the Boutique Hotel.

2. **Location.** Woodward Brown shall be entitled to use the following described area ("Valet Parking Area") as designated in plans on file in the Community Development Department.

3. **Use.** The location described in paragraph 2 may be used to operate a licensed valet parking service in accordance with Chapter 26, Article VIII of the Birmingham City Code. No other uses are permitted. This location shall be designated as a valet parking zone and standing shall be allowed. Woodward Brown shall operate a valet parking service in such a manner as to minimize interference with vehicular and pedestrian traffic on surrounding streets and sidewalks.

4. **Removal of Parking Meter Heads.** The City at its expense shall remove the eight parking meter heads located on the street in front of the Boutique Hotel. The remainder of the reconstruction costs for the Valet Parking Area shall be paid by Woodward Brown.

5. **Term.** This License Agreement shall commence on the date that the Street Obstruction Permit is issued by the Engineering Dept. (thereby signaling the beginning of the construction project), and shall remain in effect for a period of one year. This Agreement shall be renewed automatically each year, unless at least ninety (90) days prior to its expiration date, either the City or Woodward Brown provides written notice of their intention to terminate the Agreement, or Woodward Brown fails to pay the license fee as set forth in paragraph 7. In the
intends to terminate the Agreement, then the City shall give Woodward Brown written notice of its intention to terminate and an amount of the License Fee due. Woodward Brown shall have a period of ninety (90) days from the date of receipt of the notice to cure the defaulted payment.

6. **License Fee.** Woodward Brown shall pay to the City an annual license fee in the amount of $24,000.00. The first annual license fee payment shall be paid within thirty (30) days of the commencement of the Term of this Agreement. Each additional annual payment shall be paid in advance prior to the anniversary date that the Term of this Agreement commenced. In the event that this Agreement is terminated in accordance with paragraph 8, the license fee shall be calculated on a per diem basis. Any payments made by Woodward Brown in advance which exceed this amount shall be returned by the City to Woodward Brown within thirty (30) days after the Agreement is terminated. In the event that the hourly rate for parking meters located on streets adjacent to the Hotel is increased by the City, upon ninety (90) days prior written notice to Woodward Brown the annual license fee shall be increased by the same percentage that the hourly parking meter rate is increased. The license fee shall be increased each time that the applicable hourly parking meter rate is increased, provided that any increase in the license fee shall become effective and payable commencing on Woodward Brown’s next anniversary of the annual license fee payment.

7. **Termination.** This License Agreement may be terminated by either party upon ninety (90) days advance written notice. In the event that this Agreement is terminated, Woodward Brown shall reimburse the City for the City's costs in reinstalling the parking meters and parking spaces and restoring the public right-of-way to its original condition. Woodward Brown shall provide to the City upon the signing of this Agreement a bond in the amount of $2,000.00 to secure Woodward Brown’s payment of these costs. In the event that Woodward Brown provides to the City the name and address of its lender(s), the City shall provide written notice to Woodward Brown’s lender(s) of the termination of this Agreement.

8. **Condition of Location.** Woodward Brown has designed the Valet Parking Area based upon the City’s Old Woodward reconstruction plan as proposed at the time of the City’s approval of the Valet Parking Area. In the event the City modifies its design for the Old Woodward reconstruction and such modification impacts the Valet Parking Area, the City shall provide Woodward Brown with ninety (90) days advance written notice of the Old Woodward reconstruction design changes. Woodward Brown shall maintain the property identified in Section 2 and Section 5 and shall keep it clean, free of trash and litter, and in good order and appearance. Woodward Brown shall surrender the property at the termination of this Agreement in as good condition as when received, ordinary and reasonable wear and tear excepted. Upon the termination of this Agreement and upon written demand made by the City, Woodward Brown shall restore the bulb-out to the condition in which it existed prior to the execution of this Agreement.

9. **Indemnification.** To the fullest extent permitted by law, Woodward Brown agrees to defend, pay on behalf of, and hold harmless the City, its elected and appointed officials, all employees and volunteers working on behalf of the City, its boards, commissions and/or authorities, including employees and volunteers thereof, against any claims, demands, suits or loss, including all costs and reasonable attorneys fees connected therewith, for any damages which may be asserted or recovered against or from the City, its elected and appointed officials, all employees and volunteers working on behalf of the City, its boards,
commissions and/or authorities, including employees and volunteers thereof, 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 with Woodward Brown’s use of the Valet Parking Area. This paragraph shall not apply to damages caused by the City.

10. **Insurance.** Woodward Brown shall procure and maintain at all times for the life of the Agreement the following minimum insurance coverage subject to the following conditions:

   a) **Worker’s Compensation Insurance:** Woodward Brown shall procure and maintain during the term 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:** Woodward Brown shall procure and maintain during the term of this Agreement, Commercial General Liability Insurance on an “occurrence basis,” with limits of liability of not less than $1,000,000 per occurrence, Combined Single Limit, Personal 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.

   c) **Motor Vehicle Liability Insurance:** Woodward Brown shall procure and maintain during the term of this Agreement Motor Vehicle Liability Insurance, including Michigan 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, non-owned and hired vehicles.

   d) **Garage Liability and Garage Keepers Legal Liability Insurance:** Woodward Brown shall procure and maintain during the term of this Agreement Garage Liability Insurance with limits of liability of not less than $2,000,000 per occurrence, and Garage Keepers Legal Liability Insurance with limits of liability of not less than $100,000 per occurrence.

   e) **Additional Insured:** Commercial General Liability Insurance, Motor Vehicle Liability Insurance, Garage Liability Insurance and Garage Keepers Legal Liability Insurance, as described above, shall name the City of Birmingham as additional insured for all activities connected with this Agreement and shall include an endorsement stating the following as “Additional Insured”: The City of Birmingham, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, including employees and volunteers thereof. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether said other available coverage be primary, contributing or excess.
f) Cancellation Notice: Thirty (30) days advance written notice of insurance cancellation, non-renewal, reduction and/or material change in coverage, will be provided to the City. Notice of cancellation, material change or reduction must be attached to the Certificate of Insurance, or otherwise evidenced as in effect under the policy listed.

g) Proof of Insurance Coverage: Woodward Brown shall provide the City, at the time the contract is awarded by the City, certificates and policies as listed below:

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

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

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

d. If so requested, Certified Copies of all Policies mentioned above will be furnished.

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

i) Failure to Maintain Insurance: Upon failure of Woodward Brown to obtain or maintain such insurance coverage for the term of the Agreement, the City may, at its option, purchase such coverage and charge the cost of obtaining such coverage to Woodward Brown who shall reimburse the City for this cost. In obtaining such coverage, the City shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage. If, after the City procures insurance, Woodward Brown renews its insurance policies, then the City's policies shall be cancelled by the City.

11. Modification. This License Agreement may not be modified unless such modification is in writing signed by both parties.

12. Notices. Any notices required to be provided by this Agreement may be delivered personally or sent by first class mail, postage prepaid, to the following addresses:

City: City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, Michigan 48012-3001
Attention: City Clerk
Woodward Brown: Woodward Brown Ventures, LLC
102 Pierce St.
Birmingham, MI 48009

Notices shall be deemed received upon the date of mailing, in the case of first class mail or on the date of personal delivery, supported by an affidavit of delivery.

13. **Compliance with Law.** Woodward Brown shall comply with local, state and federal laws and regulations related to the operation of the Valet Parking Area.

**IN WITNESS WHEREOF,** the parties execute this License Agreement on the date and year first above written.

**WITNESSES:**

*Signature*

**WOODWARD BROWN VENTURES, LLC,**
a Michigan Limited Corporation

By: ______________________________

Its: **Manager**

**CITY OF BIRMINGHAM**

By: ______________________________

Mark Nickita

Its: **Mayor**

By: ______________________________

Cherilynn Brown

Its: **Clerk**

Approved:

Joseph A. Valentine, City Manager
As to Substance

Mark Gerber, Director of Finance
As to Financial Obligation

Paul T. O’Meara, City Engineer
As to Substance

Timothy J. Currier, City Attorney
As to Form
MEMORANDUM

DATE:       July 6, 2017
TO:         Advisory Parking Committee
FROM:       Paul T. O'Meara, City Engineer
SUBJECT:    298 S. Old Woodward Ave.
            Removal of On-Street Parking Spaces

The owner of the above property, located at the northwest corner of Brown St., has submitted plans requesting a permit to construct a five-story hotel with two underground levels of private parking. The plans have received preliminary site plan approval from the Planning Board. As a condition of such approval, the Planning Board asked the applicant to appear before the Advisory Parking Committee (APC) to receive a recommendation relative to the removal of on-street parking, as proposed on their plan.

The applicant’s representative has prepared the attached letter of request, as well as an aerial photo of the existing conditions, and a plan of the Level 1 site plan. As supplemental information, we have attached an front elevation view of the proposed building, as well as the plan sheet of the Old Woodward Ave. street paving project. The following information is provided for background:

1. The applicant is requesting approval to remove five parking spaces to create a permanent valet service at the front door of the new building. The traffic management plan has been studied extensively at the Planning Board level, with multiple discussions occurring between the applicant’s traffic engineer, and the City’s traffic engineer. In simple terms, the applicant plans to have valet service available for all visitors to the building, whether they are overnight guests, long term residents, patrons at the restaurant, meeting attendees, etc. Vehicles will be taken to the building’s proposed Brown St. garage entrance when space permits, and vehicles will be returned to the valet area using the S. Old Woodward garage exit. When space does not permit, the valet drivers will seek other options, such as the Pierce St. Parking Structure.

2. The applicant is asking for the permanent removal of all on-street parking on the S. Old Woodward Ave. frontage of the building to support a valet service. A similar request has been granted in the past for the Townsend Hotel, which operates a valet area on its Merrill St. side. This approval was granted in 1999 during the construction of this addition to the building. The City charges the Hotel a fee equal to $2,000 per meter per year to continue this service, to account for revenue lost to the parking system. With the recent change in the metered parking rate to $1.50 per hour, this fee will now be changed to $3,000 per meter per space.

3. As you know, the City has been making plans for well over a year to reconstruct Old Woodward Ave. from Willits St. to Brown St. Construction was originally planned for 2017, and it has been postponed to 2018. The plans were originally prepared before any plans for this vacant property had been received. The attached plans were
prepared as a “best case scenario” for the City wherein a new building would be constructed on this property that could fully utilize its Brown St. side as a means to construct a driveway to an underground parking facility. Such an assumption was within the realm of possibilities, with the understanding that the City and likely the applicant would want to construct a building here that would focus on making the Old Woodward Ave. frontage an uninterrupted, positive pedestrian experience. Under this scenario, the plans depict the installation of 12 on-street parking spaces, up from the existing 9. The increase is possible because the City already committed to narrowing the Old Woodward Ave. pavement in favor of wider sidewalks and improved on-street parking counts.

4. To be consistent with other projects, the City does not “charge” property owners building new buildings if they wish to introduce or change a driveway to the property as a part of the development (consistent with our recent discussion on E. Frank St.). With that consideration, it could be argued that having one driveway on the Old Woodward Ave. frontage would reduce the space for angled on-street parking down to 8 spaces. The applicant is requesting approval for the removal of 5 spaces, based on the existing parallel parking configuration, which the City had already committed to changing to angled parking, again in an effort to create more on-street parking. If the committee is inclined to approve this recommendation, they will need to discuss and consider what the appropriate loss of parking spaces truly is for this site.

The Planning Board generally expressed praise for this design, and appears to be in support of the idea to operate a valet station within the public right-of-way. However, they would like the perspective of the APC, before this issue is finalized by the City Commission. A suggested recommendation is provided below:

SUGGESTED RECOMMENDATION:

To recommend to the City Commission the removal of ____ on-street parking spaces at 298 S. Old Woodward Ave. to allow for the operation of a valet service by the adjacent property owner, in exchange for an annual payment of $__________ at $3,000 per meter) to be charged annually once the adjacent hotel is open for business.
July 6, 2017

By e-mail and hand delivery

City of Birmingham
Advisory Parking Committee
151 Martin Street
Birmingham, MI 48009
Attn.: Mr. Paul O’Meara, City Engineer

Re: Hotel Site Plan for 298 S. Old Woodward; Lorient Capital, LLC (“Applicant”)

Dear Mr. O’Meara:

On behalf of our client, the Applicant, we make this submission for approval to the City of Birmingham’s Advisory Parking Committee as follows: (a) for purposes of accommodating the Applicant’s hotel arrival and departure queue, the removal of five existing parking spaces on S. Old Woodward; (b) to accommodate the Applicant’s ingress and egress to the new 56-car, below-ground parking structure, the removal of three existing parking spaces; and (c) to accommodate the City’s future plan for a “bump-out” at the corner of S. Old Woodward and Brown, the removal of one parking space. This submission is a requirement of the Planning Board’s preliminary site plan approval granted to the Applicant on May 24, 2017. The preliminary site plan envisions the development of 298 S. Old Woodward, at the northwest corner of Brown and S. Old Woodward, as a new five-story, boutique, luxury hotel with an expanded two tier underground parking garage with 56 new parking spaces.

We ask the Advisory Parking Committee to take account of the following:

- The area created by the assignment of the parking spaces to the Applicant will be used for hotel valet and drop off purposes. See the enclosed Google Earth overhead photograph (Exhibit A) and ground level site plan drawing (Exhibit B).

- In order to maximize efficiency and traffic flow, the Applicant requests that the Advisory Parking Committee approve the removal of five of the nine parking spaces on S. Old Woodward for the hotel’s valet drop off. The Applicant has worked closely with the City’s Planning Department, Planning Board, engineering, and traffic consultants to avoid any traffic flow interruption. The results of this in-depth analysis show that the use of curbside valet and drop, as applied for in this petition, is the most effective and efficient way to ensure a continued traffic flow on southbound S. Old Woodward.
• It should be noted that the Applicant, at great expense to itself, has expanded the originally intended single-level underground parking garage to a **two-level, underground garage** that accommodates **56 new** parking spaces. One result of this impressive increase in parking spaces, is that it effectively eliminates any impact of the assignment of nine spaces at the curb. Not only will this removal have no effect on overall parking available to hotel and retail patrons, but the net effect of the curbside valet will actually increase the number of spaces available to hotel guests and retail patrons.

• Notwithstanding the fact that the site is located in the Downtown Parking Assessment District, the Applicant has provided a parking and traffic plan for the hotel that not only meets all of the City's requirements, but provides **more than double** the on-site parking required by the City ordinance. The ordinance requires only **22** on-site parking spaces.

• As stated above, it is important to note that only five spaces will be used for valet and drop off parking. The remaining four spaces will be used as follows: (a) one of the lost spaces is due to the sidewalk bump-out that is part of the upcoming reconstruction of S. Old Woodward; and (b) another three spaces must be removed to allow for the exit drive for the hotel's underground garage. The Applicant requires the assignment of only **five** existing spaces for use by the valet.

• The site plan greatly enhances the streetscape of the property. It includes a landscaped front along S. Old Woodward with 16.5” sidewalks, added trees, planters and pedestrian-level lighting, all in accordance with the City's current S. Old Woodward reconstruction plan. This attractive new façade, without the parking spaces, provides a pedestrian friendly, walkable design that is in compliance with the City's master plan and a benefit to the health, safety and welfare of the community in general.

• The design of this new hotel eliminates the need for surface parking and thereby creates an attractive pedestrian-friendly, walkable environment. Many of the neighboring businesses have surface parking. There is surface parking behind Lutz Capital, Frank’s Shoe Service and Roche Bobois in the block south across Brown Street. In addition, the office building at 255 E. Brown, directly behind the hotel site, has surface parking. Because this new hotel discretely provides parking below ground, it allows all who visit our City to enjoy this handsome, sophisticated design and architecture.
We respectfully request the Advisory Parking Committee’s approval to assign five parking spaces from the front streetscape of the hotel, beginning at the start of construction on or about March 2018, for the hotel’s valet operations, together with four other spaces needed for the S. Old Woodward reconstruction curb bump-out and for the ingress and egress to the new 56-car, below-ground parking structure.

Please contact the undersigned should you have any further questions or comments.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

[Signature]
Richard D. Rattner

RDR/cmc
Paving Plan - Alternate A1

N./S. Old Woodward Ave
Sta. 8+00 to P.O.E.

C. Danielsen
B. Buchholz

1" = 20'

SCALE:

Know what's below
Call before you dig.

Paving Notes & Legend

Remove Notes & Legend

03-09-17 City Review
03-20-17 For Bids

UTILITY NOTE

THE LOCATIONS AND ELEVATIONS OF SOME OF THE EXISTING UNDERGROUND UTILITIES AS SHOWN ON THE SURVEY DRAWING WERE OBTAINED FROM MUNICIPAL AND UTILITY COMPANY RECORDS AND MAPS. THEREFORE, NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.
These are the minutes for the Advisory Parking Committee ("APC") regular meeting held on Wednesday, July 12, 2017. The meeting was called to order at 7:30 a.m. by Chairman Lex Kuhne.

Present:
Chairman Lex Kuhne
Gayle Champagne
Anne Honhart
Steven Kalczynski
Judith Paskiewicz
Al Vaitas

Absent:
Lisa Krueger

SP+ Parking:
Catherine Burch
Sara Burton

Administration:
Austin Fletcher, Asst. City Engineer
Paul O’Meara, City Engineer
Carole Salutes, Recording Secretary

RECOGNITION OF GUESTS (none)

MINUTES OF REGULAR MEETING OF JUNE 7, 2017

Motion by Ms. Champagne
Seconded by Ms. Paskiewicz to approve the Minutes of the APC Meeting of June 7, 2017 as presented.

Motion carried, 6-0.

VOICE VOTE:
Yeas: Champagne, Paskiewicz, Honhart, Kalczynski, Kuhne, Vaitas
Nays: None
Absent: Krueger
298 S. OLD WOODWARD AVE.
VALET PARKING REQUEST

Mr. O'Meara advised that the owner of the above property, located at the northwest corner of Brown St., has submitted plans requesting a permit to construct a five-story hotel with two underground levels of private parking. The plans have received Preliminary Site Plan approval from the Planning Board. As a condition of such approval, the Planning Board asked the applicant to appear before the Advisory Parking Committee ("APC") to receive a recommendation relative to the removal of on-street parking, as proposed on their plan.

The applicant is requesting approval to remove five parking spaces to create a permanent valet service at the front door of the new building on S. Old Woodward Ave. The applicant plans to have valet service available for all visitors to the building, whether they are overnight guests, long term residents, patrons at the restaurant, meeting attendees, etc. Vehicles will be taken to the building’s proposed Brown St. garage entrance when space permits, and they will be returned to the valet area using the S. Old Woodward garage exit. When space does not permit, the valet drivers will seek other options, such as the Pierce St. Parking Structure. There is precedent for removing parking spaces for valet. The Townsend Hotel pays a fee for the meters and uses eight parking spaces along Merrill St.

With the recent change in the metered parking rate to $1.50 per hour, the City will now charge $3,000/year per meter per space.

The applicant is requesting approval for the removal of five spaces, based on the existing parallel parking configuration. The City already committed to changing to angled parking with the reconstruction of Old Woodward Ave. in 2018 as an effort to create twelve on-street parking spaces, up from the existing nine. If the committee is inclined to approve this recommendation, they will need to discuss and consider what the appropriate loss of parking spaces truly is for this site. The Planning Board generally expressed praise for this design, and appears to be in support of the idea to operate a valet station within the public right-of-way. However, they would like the perspective of the APC, before this issue is finalized by the City Commission.

It was discussed that with the Old Woodward Ave. reconstruction the bus stop will be moved north of Merrill St. The existing bumpout will be enlarged to accommodate the bus stop.
Mr. Kalczynski was curious as to how the flow of traffic in front of the hotel would work with 20 or 25 valets and the timing of the lights. The letter from Richard D. Rattner, Attorney, states the valet will benefit the health, safety, and welfare of the community in general. Mr. Kalczynski was not sure how this would be a benefit to the safety of citizens. It was noted that the parking overflow goes to the Pierce St. Structure for both of the hotels.

Mr. O’Meara said when the garage fills the valets will have to figure out other alternatives.

Comments were heard from the public at 7:55 a.m.

Mr. David Berman with the ownership group, Lorient Capital, said they are only required to provide 22 on-site spaces for the residential component, as they are located in the Parking Assessment District. However, they have chosen to build an extra underground level of parking to provide an additional 34 spaces which are not required. That should make up for the seven or eight spaces they are taking out in front of the hotel. In terms of traffic management for the valet operations, they have consulted with the City's Traffic Engineer and have worked out a plan that he is comfortable with. With regard to overflow in the garage, they plan to use multiple structures, as they are centrally located within the City. In addition, they have submitted a plan to the City for when there are large events. They will work with the Police Dept. in order to coordinate how to best manage the additional traffic. Most of their events will occur in the evening or on weekends so they are using spaces when others are not.

In response to the Chairman, Mr. Berman stated that 40 spaces in the private lot on their property will be going away. No on-site parking will be provided for employees of the hotel. Mr. Michael Kitchen, VP of Development and Acquisitions for Aperian Hotels, operator of the hotel, noted their employees will usually arrive by car pool or public transit. If the project was an office use, it would require a lot more parking.

Ms. Gail McGregor, Attorney with Williams, Williams, Rattner & Plunkett, P.C., 380 N. Old Woodward Ave., stated this will be a smooth operation. The garage will be utilized as part of the staging for the valet. Curbside valet will help to reduce congestion on S. Old Woodward at the intersection. Further, valet is a very safe way to accommodate arrivals and departures.

Mr. Kitchen walked the committee through how the traffic will work in terms of flow. There is an entrance on one side of the garage and departure from the other side. Short stays can be staged along the ramp and overspill will go into the City parking structures.
Ms. Champagne observed the valet overcomes any loss of parking spaces because vehicles are moved off the street and down below.

Ms. Kalczynski indicated he struggles with the fact there is a very high demand for spaces, and there are not enough spaces right now to fit that demand. Ms. McGregor commented they have submitted a major event plan to the City that outlines workable ways to prevent significant traffic problems on the street. Mr. Kitchen added if they have a large event they will notify the City and the Police Dept. They have a unique ambassador program where every one of the front house staff is cross-trained to park cars in case there is a huge influx of guests arriving at one time.

Mr. Berman noted they have developed a traffic and parking plan with the City and Police Dept. that has been approved and accepted by them. As they get closer to construction additional options will be explored for parking in lots that are not filled in evenings or on weekends.

Ms. Paskewicz observed the impact on parking is not only about spaces for valet; it is about other needs for this kind of facility such as making room for busses.

The chairman commented this has been an under-utilized piece of real estate in Birmingham and to him this seems to be a viable usage. In the future, parking shortages will be reduced with the onset of self-driving cars and increased use of Uber.

Mr. Berman reiterated they are creating more spaces for the City with this project, rather than removing them. However, the chairman pointed out they are also creating a lot more dense usage.

Mr. Kalczynski expressed his desire to see the traffic and parking management plan that was submitted to the City before the committee votes on this matter. He is looking for information about how the traffic flow will happen.

Ms. Champagne motioned to recommend the removal of eight on-street parking spaces at 298 S. Old Woodward Ave. to allow for the operation of a valet service by the adjacent property owner, in exchange for an annual payment of $24,000 (at $3,000 per meter) to be charged annually once the adjacent hotel is open for business. However, the motion died for lack of a second.

After lengthy discussion, the committee concluded they need more information with regard to the traffic flow. After studying the traffic and parking management plan they will do their best to move the applicant's request forward at the next meeting.
At the July 12, 2017 meeting of the Advisory Parking Committee (APC), the above topic was reviewed. The Committee asked to have the opportunity to review the traffic impact analysis prepared for the project, as a part of the Planning Board’s review. That information is now attached. The original information assembled for the July 12 meeting follows. The Suggested Recommendation prepared for this item has been provided again below:

**SUGGESTED RECOMMENDATION:**

To recommend to the City Commission the removal of ____ on-street parking spaces at 298 S. Old Woodward Ave. to allow for the operation of a valet service by the adjacent property owner, in exchange for an annual payment of $_________ at $3,000 per meter) to be charged annually once the adjacent hotel is open for business.
REVISED
TRAFFIC & PARKING STUDY FOR PROPOSED
BIRMINGHAM BOUTIQUE HOTEL

Prepared for
LORIENT CAPTIAL LLC
Birmingham, MI

By
GIFFELS WEBSTER
Washington Township, MI

May 11, 2017
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**APPENDICES**

A: Shared Parking Analysis
B: Assignments of Site Traffic by Type
C: Synchro Printouts

* For additional background material, see Appendices A-F in *Traffic & Parking Study for Proposed Birmingham Boutique Hotel*, Giffels Webster, April 2017.

** Printouts for the current and future background traffic scenarios are found only in Appendix I of the April 2017 report.
REVISED TRAFFIC & PARKING STUDY FOR PROPOSED BIRMINGHAM BOUTIQUE HOTEL

EXECUTIVE SUMMARY

Lorient Capital LLC is proposing to demolish the two existing one-story office buildings on the northwest corner of Old Woodard and Brown and replace them with a five-story boutique hotel. The first four levels of the hotel (plus a mezzanine) will include 126 guest rooms, two restaurants, two bars, a banquet room, four meeting rooms, and other ancillary facilities. Level 5 will include 17 rental apartments. Two underground levels will provide 56 on-site parking spaces, 22 of which must (by ordinance) be reserved for the apartments. Proposed floor plans for all levels are included in the body of this report. Construction and full use of the building is desired within two years.

The cars of all arriving residents and patrons will be parked (and later un-parked) by valets based at a service bay on the hotel’s Old Woodward frontage. These valets will take those cars to the building’s underground garage, one or more City parking decks, or other available public places in the general area; those needing to be parked during the peak hours of street traffic are expected to be parked west of Old Woodward in the general vicinity of the new hotel.

This study was prepared by Giffels Webster staff, guided by the City of Birmingham’s Traffic Study Questionnaire Form B, comments by the City’s traffic engineering consultant, and widely accepted traffic planning and engineering practice for such studies. Since the April 2017 release of the original study report, the proposed site plan has changed somewhat, along with various study’s assumptions, findings, and conclusions. Appendices A-F of the earlier report contain information still valid in the revised study, so they are incorporated herein by reference.

Key findings and conclusions developed in this revised study are as follows:

- All cars transporting building residents and visitors to and from the site will be parked by valets. The hotel’s proposed two-level underground garage will feature 56 parking spaces, with 22 of those spaces being reserved for fifth-floor apartment residents and 34 being available to other valeted visitor cars. Valets needing to park additional cars will seek public off-site parking spaces, ideally in the City’s nearby Pierce Street parking deck.

- The trip generation forecast provides a separate forecast for the proposed banquet and meeting rooms, since their combined floor area (7,446 s.f.) will be relatively large compared to the number of guest rooms (126). At the direction of the City’s traffic consultant, this study assumes a maximum special-event scenario, wherein the banquet and meeting rooms are in full simultaneous day-long use, with all arrivals occurring during the AM peak hour of street traffic and all departures occurring during the PM peak hour of street traffic. Also at the consultant’s request, no walking trips are assumed, whether from guest rooms within the hotel or from various off-site locations.
Valet queuing analyses were completed for both an average weekday without special events and a maximum special-event weekday. Based on field measurements, it was assumed that the valet service time would average 4.7 minutes. To keep the service bay occupancy limited to its six-vehicle capacity (at a 95% confidence level), it was found that on an average weekday, the AM peak hour would require nine valets and the PM peak hour would require ten valets. On a maximum special-event day, however, the peak-hour valet requirements could be as high as 27 and 24, respectively.

The traffic impacts of the proposed hotel will be minimal and can be easily mitigated. For the future total peak-hour traffic volumes forecasted at the Old Woodward/Brown intersection, very acceptable levels of service of C or better – for most individual movements as well as for the overall intersection – can be achieved with signal retiming (level of service is assigned on an A-F grading scale based on anticipated vehicular delays).

Vehicles exiting the hotel’s parking garage and valet service bay can be expected to experience a level of service of B. On average, southbound backups from the signal at Brown should not materially interfere with egress from the service bay. Drivers attempting to exit that bay will, however, occasionally find it to their advantage to pause until signal-queued vehicles have discharged after receiving the green light.

The valet operation and associated pedestrian movements will benefit from the streetscape plan outlined in this report. In addition to the features shown, it is recommended that the plan also include pedestrian benches and bike racks on the site’s Old Woodward frontage (at a minimum, on the nearby intersection bump-out). Directional signing for the nearest bus stops north and south of the site may also be appropriate.
TRAFFIC & PARKING STUDY FOR PROPOSED BIRMINGHAM BOUTIQUE HOTEL

INTRODUCTION

Lorient Capital LLC is proposing to demolish the two existing one-story office buildings on the northwest corner of Old Woodard and Brown (Figures 1-3) and replace them with a five-story boutique hotel. The first four levels of the hotel (plus a mezzanine) will include 126 guest rooms, two restaurants, two bars, a banquet room, four meeting rooms, and other ancillary facilities. Level 5 will include 17 rental apartments. Two underground levels will provide 56 on-site parking spaces, 22 of which must (by ordinance) be reserved for the apartments. Proposed floor plans for all levels are included in the body of this report (Figures 4-10). Construction and full use of the building is desired within two years.

The cars of all arriving residents and patrons will be parked (and later un-parked) by valets based at a service bay on the hotel’s Old Woodward frontage. These valets will take those cars to the building’s underground garage, one or more City parking decks, or other available public places in the general area; those needing to be parked during the peak hours of street traffic are expected to be parked west of Old Woodward in the general vicinity of the new hotel.

This study was prepared by Giffels Webster staff, guided by the City of Birmingham’s Traffic Study Questionnaire Form B, comments by the City’s traffic engineering consultant, and widely accepted traffic planning and engineering practice for such studies. Since the April 2017 release of the original study report, the proposed site plan has changed somewhat, along with various study assumptions, findings, and conclusions. Appendices A-F of the earlier report contain information still valid in the revised study, so they are incorporated herein by reference.

EXISTING CONDITIONS

Roadway Characteristics

Both Old Woodward and Brown are lighted, 25-mph streets under the jurisdiction of the City of Birmingham. The existing lane configuration of the two streets near their intersection can be seen in Figure 3. This intersection is controlled by a two-phase pre-timed traffic signal now operating on an 80-sec cycle 24 hours a day, seven days a week (per timing permit in Appendix C of April report).

Alternative Modes

Given their downtown location, both streets abutting the site are equipped with sidewalks on both sides. All four intersection approaches are equipped with zebra-bar crosswalks and count-down pedestrian signals. There are no public pedestrian benches near the intersection.

SMART offers fixed-route bus service along Old Woodward, with two bus stops for each direction of travel within one block of Brown. The nearest stops for SB travel are on the southwest corner of Old Woodward and Merrill and a short distance south of Daines. For NB travel, there are stops opposite both Daines and Merrill.
Figure 1. Vicinity Map
Figure 2. Walking Distance, Site to Nearest Two City Parking Decks
Figure 3. Site Aerial
Figure 4. Floor Plan for Lower Underground Parking Level
Figure 5. Floor Plan for Upper Underground Parking Level
Figure 6. Ground-Level Floor Plan (4/20/17)
Figure 7. Mezzanine-Level Floor Plan (4/20/17)
Figure 8. Second-Level Floor Plan
Figure 9. Third and Fourth-Level Floor Plan
Figure 10. Fifth-Level Floor Plan
Presently, there are no signed bike lanes or bike routes near the site. Most bicycle parking in the area occurs informally. There is only one nearby bike rack, on the southwest corner of Old Woodward and Merrill.

Current Use of Pierce and Peabody Street Parking Decks

It is expected that the hotel parking valets will primarily utilize the City’s Pierce and/or Peabody Street parking decks. To determine the prospective parking space availability in those decks – as now configured – GW acquired current occupancy data from the deck operator (SP+) for representative weeks in July 2016 and March 2017. These data are detailed in Appendix E of this study’s April report and are summarized in Tables 1 and 2 (below).

*If the existing parking availability in the Pierce and Peabody decks is insufficient to handle proposed new developments in the area, one or both decks may have to be enlarged by the City as part of its parking assessment district. Alternatively, other locations for adding parking in the general vicinity may have to be identified by the City. Certain simplifying assumptions in this regard are made in this study, however, in order to reasonably distribute the hotel’s valet-related parking traffic (see later section on trip distribution).*

Current Traffic Volumes

At the direction of the City’s traffic consultant, GW estimated the current (March 2017) peak-hour volumes at the Old Woodward and Brown (shown in Figure 11) by adjusting the May 2016 counts done for the City by Traffic Data Collection (see Appendix F of the April report). The needed adjustment factor was developed by first estimating the average annual rate of increase in the Annual Average Daily Traffic (AADT) volume on Old Woodward. In searching SEMCOG’s on-line data base, the nearest point on that street for which AADT data were found to exist for two different years was north of the site, between Maple and Oak. The two-way AADT volumes on that segment were 10,355 in 2013 and 8,830 in 2007, which indicate an effective annual average rate of increase of 2.7%. Since only 10 months elapsed between May of last year and March of this year, it was then estimated that the increase over this period was likely on the order of \((10/12) \times 2.7\%\), or 2.25%. The latter value was applied to the City counts to predict the current volumes. The above method and results were reviewed and approved by the City’s traffic consultant.

Assuming that traffic volume in the PM peak hour represents a typical 9% of daily traffic, the estimated current PM peak-hour volumes suggest that the average daily volumes at the subject intersection are approximately 8,200 vehicles on Old Woodward and 10,300 on Brown.

FUTURE CONDITIONS

Background Traffic Volumes

A traffic impact study generally forecasts the future background traffic that can be expected to exist at the time of project build-out, but in its hypothetical absence; this is done to provide a suitable “base case” for evaluating the impacts of adding project-generated traffic. The projected growth in
### Table 1. Open Parking Deck Spaces in July 2016

<table>
<thead>
<tr>
<th>Hour</th>
<th>Pierce Deck</th>
<th>Peabody Deck</th>
<th>Total of Two Decks</th>
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<th>Peabody Deck</th>
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<td>388</td>
<td>520</td>
<td>371</td>
<td>1024</td>
<td>891</td>
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</tbody>
</table>

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**Total Parking Availability in Two City Decks, Weekday in March**

![Graph showing total parking availability over the course of a day](chart)
Figure 11. Current Peak-Hour Traffic Volumes\textsuperscript{1}

\textsuperscript{1} Estimated by increasing the volumes counted (by others) in May 2016 by 2.25\% (i.e., the 2.7\% annual growth rate between 2007 and 2013, based on SEMCOG data, times (10/12), the fraction of a year between May 2016 and March 2017).
background traffic typically accounts for both regional economic development and the future occupation of approved but as yet unbuilt nearby developments. The City and its traffic consultant confirmed that there are no such developments likely to add significant new traffic to the Old Woodward/Brown intersection during this project’s assumed two-year buildout period. Hence, the study assumes the above-forecasted 2.7% annual rate of traffic growth, compounded over two years to yield a 5.5% volume increase between 2017 and 2019. Figure 12 shows the expected peak-hour background traffic at the earliest time the hotel is likely to be built and fully occupied.

**Hotel Parking**

Since the subject site is within the City’s downtown Parking Assessment District, only its residential uses (i.e., 17 apartments) require on-site parking spaces. The Zoning Ordinance specifies 1.25 parking spaces per residential unit, so 22 of the 56 new underground spaces must be reserved for residents. The parking demand generated by the building’s other proposed uses can be partially accommodated in the 34 spare underground spaces, with the balance served by off-site public parking spaces, at a location or locations selected by the applicant.

Since the non-residential uses within the proposed hotel will share the use of an off-site parking supply (via valet service), it is appropriate to estimate the needed total supply with the Urban Land Institute’s *Shared Parking Model* (the 2nd Edition of the *SPM* was released in 2005). This Excel-based model was designed to account for:

- **Timesharing of parking space use.** The *SPM* uses nationally sampled typical variations in parking demand by use, month, type of day (weekday versus weekend day), hour of the day, and type of arrival (visitor versus employee). These time-based variations are represented by a series of embedded tables indicating the percentage of peak parking demand occurring each hour for each arrival type.

- **Capture and mode adjustments.** Ordinance-specified parking ratios in most Michigan communities generally reflect a suburban, non-CBD setting. These ratios are intended to establish the peak parking needs of individual land uses as if each use is isolated and operated independently of all other uses. They also assume negligible walking, transit use, and ridesharing. To more realistically estimate the parking needed for a mixed-use development, the *SPM* includes capture and mode adjustments reflecting the reduction in parking due to the use of alternative modes – primarily walking between one site use and another (internal capture) or between the site and off-site locations (mode adjustment).

At the direction of the City’s traffic consultant in this particular application, no capture or mode adjustments were assumed in the analysis described below. The shared parking analysis requested by the City’s traffic consultant also assumes:

- **Full simultaneous use of the proposed banquet and meeting rooms.** These rooms have a total floor area of 7,446 s.f.; per the building code, this would accommodate 496 persons.

- **To properly apply the *Shared Parking Model*,** the amount of “conference” space per guest room must be determined; per the preceding assumption, this ratio is (7,446 s.f./126 guest
Forecasted by increasing the existing volumes estimated in Figure 11 by 5.5% (i.e., the 2.7% annual growth rate between 2007 and 2013, based on SEMCOG data, compounded over the two-year build-out anticipated for this project).
rooms)=) 59.1 s.f./guest room. As can be seen in appendix Table A-1, ULI considers this high of a ratio to indicate “convention” space rather than “conference center/banquet” [space]. The “Convention Space’ designation prompts lower recommended parking ratios, and as will be seen later, also yields a critical parking scenario in the daytime rather than evening.

Absent any timesharing of parking spaces, the ULI-recommended parking ratios for the preceding uses indicate a total need for 307 spaces on a weekday and 210 spaces on a weekend day (see columns headed “Max Parking Spaces” in Table A-2).

An SPM analysis based on the above assumptions predicts that the time of peak parking need will be 9 a.m. on a weekday in February, when the total need (with timesharing) will be 253 spaces. At the same time on a weekend day in the same month, the total need will be 162 spaces (Table A-3).

The model also predicts the parking need by hour in the peak month (February), for both weekdays and weekend days (Table A-4). The peak parking demand by month is graphed for weekdays and for weekend days in Figures A-1 and A-2, respectively. Finally, the hotel’s peak-month daily parking demand by hour and type of day is charted in Figure 13.

For the City’s planning purposes, the hotel’s projected late-winter weekday parking demand by hour is compared in Table 3 to the corresponding deck parking space availability this March. This table predicts significant deficiencies in the existing midday parking supply. These predicted deficiencies should be considered “worst-case,” however, in that they are based on the very conservative shared parking assumptions described above.

It is also important to recognize that more of the hotel’s off-site parking will likely consist of self-parking – on-street or in other lots – than assumed here. Again, the reader is reminded that the projected hotel parking demand is not an issue relative to site plan approval; it should be, however, a matter of some concern to the City as it plans its future public parking supply.

**Trip Generation**

Table 4 summarizes the trip generation forecast prepared in general accordance with GW's understanding of the guidelines provided by the City’s traffic consultant. This forecast assumes:

- The “hotel” forecast includes trips generated by the guest rooms plus all ancillary facilities except the banquet and meeting rooms. The latter are treated separately because their combined floor area is relatively large compared to the number of guest rooms, likely more so than typical in ITE’s trip generation sample for generic hotels (predominately suburban).

- Full simultaneous use of the proposed banquet and meeting rooms. These rooms have a total floor area of 7,446 s.f.; per the building code, this would accommodate 496 persons.

- Consistent with the ULI Shared Parking Model, the banquet and meeting rooms are considered “convention space,” with all arrivals occurring during the AM peak hour of adjacent street traffic and most departures occurring during the PM peak hour of adjacent street traffic (about 75%, according to the model’s estimated hourly parking demands;
Figure 13. Total Peak Hotel Parking Need Based on Shared Parking Model (with Combined Meeting Spaces and No Capture)
### Table 3. Weekday-in-March Parking Space Availability in Two City Decks vs. Potential Hotel Off-Site Parking Need in Peak Month of February, per Shared Parking Model

<table>
<thead>
<tr>
<th>Hour</th>
<th>Supply in March 2017 (Table 2)</th>
<th>Hotel Off-Site Need (Table A-4 less 34)</th>
<th>Surplus (Supply - Need)</th>
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<td>Pierce</td>
<td>Peabody</td>
<td>Total</td>
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</tr>
<tr>
<td>3:00 PM</td>
<td>128</td>
<td>15</td>
<td>143</td>
</tr>
<tr>
<td>4:00 PM</td>
<td>164</td>
<td>32</td>
<td>196</td>
</tr>
<tr>
<td>5:00 PM</td>
<td>233</td>
<td>120</td>
<td>353</td>
</tr>
<tr>
<td>6:00 PM</td>
<td>320</td>
<td>215</td>
<td>535</td>
</tr>
<tr>
<td>7:00 PM</td>
<td>301</td>
<td>237</td>
<td>538</td>
</tr>
<tr>
<td>8:00 PM</td>
<td>323</td>
<td>283</td>
<td>606</td>
</tr>
<tr>
<td>9:00 PM</td>
<td>423</td>
<td>329</td>
<td>752</td>
</tr>
<tr>
<td>10:00 PM</td>
<td>536</td>
<td>362</td>
<td>898</td>
</tr>
<tr>
<td>11:00 PM</td>
<td>636</td>
<td>388</td>
<td>1024</td>
</tr>
</tbody>
</table>

Values not computed by SPM.

1 Assumes banquet room and all four meeting rooms simultaneously occupied at full capacity; no internal capture (walking between those rooms and hotel guest rooms); no downtown capture (walking between the hotel and other buildings or self-park locations); and no hotel room guests using alternative transportation services (taxis, limousines, shuttles, etc.).
A trip is defined as a one-directional vehicular movement to or from the site. All trips will be serviced here by valets; however, to simplify this table, only trips by apartment residents and other site visitors are listed. Reverse trips by valets are not shown in this table but are accounted for in the valet queuing and traffic impact analyses. Trip forecasts for the apartments and hotel are based on rates and methodology recommended by the Institute of Transportation Engineers in its Trip Generation Manual – 9th Edition (2012). All trip forecasts in this table are conservatively high, as they assume that all visitors will arrive and depart in an automobile, and all employees will park on-site.

2 Hotels sampled by ITE typically include supporting facilities, such as “restaurants, cocktail lounges, meeting and banquet rooms, limited recreational facilities, and/or other retail and service shops,” and are generally located in suburban rather than downtown locations.

3 Given the sizable amount of meeting and banquet space proposed relative to the number of guest rooms – separate “worst-case” trip forecasts are made here for the banquet and meeting rooms. ITE has not published any trip rates for this type of use; however, in cases such as this, it does state that another “reasonable predictor of trip generation may be used” (see Transportation Impact Analyses for Site Development, 2005, p. 40). Accordingly, the forecasts in this table assume seating capacities consistent with the building code (1 person per 15 s.f.) and vehicle occupancies consistent with the Zoning Ordinance parking requirement for banquet facilities (3 persons per vehicle).

4 The shared parking analysis (Table A-4) estimates peak “convention space” parking to be 149 spaces at 9 a.m.; hence, all visitors to the banquet and meeting rooms are assumed to arrive in the preceding hour, which happens here to be the peak hour of adjacent street traffic. The shared parking analysis also estimates “convention space” parking of 149 spaces at 4 p.m. and 75 spaces at 6 p.m.; it is reasonable to assume that the average of these two values, 112 spaces, occurs at 5 p.m., the start of the afternoon peak hour of adjacent street traffic. The exiting trips that hour are therefore assumed to equal (112/149 =) 0.75 times the number of arrivals in the AM peak hour. Absent any available data to the contrary, it is assumed that visitors make no exiting trips in the AM peak hour or entering trips in the PM peak hour.

5 These trip totals would occur only on days featuring special events making maximum use of the banquet room and all four meeting rooms.

Note: No internal capture (i.e., walking internally between hotel guest rooms and the banquet and meeting rooms) is quantified in this table, since the associated ITE methodology uses data collected at relatively large mixed-use suburban study sites (not downtown infill sites), and since it does not address banquet facilities per se.

### Table 4. Trip Generation Forecast (without Capture)

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Use</th>
<th>Size</th>
<th>Weekday Trips</th>
<th>AM Peak-Hour Trips</th>
<th>PM Peak-Hour Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td><strong>Trips on Average Weekday without Special Events</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apartments</td>
<td>220</td>
<td>17 d.u.</td>
<td>113</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>Hotel</td>
<td>310</td>
<td>126 rooms</td>
<td>755</td>
<td>40</td>
<td>27</td>
</tr>
<tr>
<td><strong>Subtotals</strong></td>
<td></td>
<td></td>
<td>868</td>
<td>42</td>
<td>34</td>
</tr>
<tr>
<td><strong>Additional Trips on a Day Experiencing Maximum Use of Banquet and Meeting Rooms</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banquet Room</td>
<td>-</td>
<td>321 seats</td>
<td>Unk.</td>
<td>107</td>
<td>0</td>
</tr>
<tr>
<td>Meeting Rooms</td>
<td>-</td>
<td>174 seats</td>
<td>Unk.</td>
<td>58</td>
<td>0</td>
</tr>
<tr>
<td><strong>Subtotals</strong></td>
<td></td>
<td></td>
<td>Unk.</td>
<td>165</td>
<td>0</td>
</tr>
<tr>
<td><strong>Weekdays Featuring Special Events</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td></td>
<td>Unk.</td>
<td>207</td>
<td>34</td>
</tr>
</tbody>
</table>

1. A trip is defined as a one-directional vehicular movement to or from the site. All trips will be serviced here by valets; however, to simplify this table, only trips by apartment residents and other site visitors are listed. Reverse trips by valets are not shown in this table but are accounted for in the valet queuing and traffic impact analyses. Trip forecasts for the apartments and hotel are based on rates and methodology recommended by the Institute of Transportation Engineers in its Trip Generation Manual – 9th Edition (2012). All trip forecasts in this table are conservatively high, as they assume that all visitors will arrive and depart in an automobile, and all employees will park on-site.

2. Hotels sampled by ITE typically include supporting facilities, such as “restaurants, cocktail lounges, meeting and banquet rooms, limited recreational facilities, and/or other retail and service shops,” and are generally located in suburban rather than downtown locations.

3. Given the sizable amount of meeting and banquet space proposed relative to the number of guest rooms – separate “worst-case” trip forecasts are made here for the banquet and meeting rooms. ITE has not published any trip rates for this type of use; however, in cases such as this, it does state that another “reasonable predictor of trip generation may be used” (see Transportation Impact Analyses for Site Development, 2005, p. 40). Accordingly, the forecasts in this table assume seating capacities consistent with the building code (1 person per 15 s.f.) and vehicle occupancies consistent with the Zoning Ordinance parking requirement for banquet facilities (3 persons per vehicle).

4. The shared parking analysis (Table A-4) estimates peak “convention space” parking to be 149 spaces at 9 a.m.; hence, all visitors to the banquet and meeting rooms are assumed to arrive in the preceding hour, which happens here to be the peak hour of adjacent street traffic. The shared parking analysis also estimates “convention space” parking of 149 spaces at 4 p.m. and 75 spaces at 6 p.m.; it is reasonable to assume that the average of these two values, 112 spaces, occurs at 5 p.m., the start of the afternoon peak hour of adjacent street traffic. The exiting trips that hour are therefore assumed to equal (112/149 =) 0.75 times the number of arrivals in the AM peak hour. Absent any available data to the contrary, it is assumed that visitors make no exiting trips in the AM peak hour or entering trips in the PM peak hour.

5. These trip totals would occur only on days featuring special events making maximum use of the banquet room and all four meeting rooms.

Note: No internal capture (i.e., walking internally between hotel guest rooms and the banquet and meeting rooms) is quantified in this table, since the associated ITE methodology uses data collected at relatively large mixed-use suburban study sites (not downtown infill sites), and since it does not address banquet facilities per se.
see footnote 4). For purposes of this analysis, no departures are assumed to occur in the AM peak hour, and no arrivals are assumed to occur in the PM peak hour.

Special events making maximum simultaneous use of the banquet and meeting rooms are expected by the operator to be rare to non-existent. Hence, subsequent analyses in this study look at two operating scenarios: an average weekday without special events, and weekdays featuring maximum potential special events.

**Valet Service**

As mentioned in this study’s first report, the proposed valet service bay will be large enough to accommodate six passenger vehicles. To determine the number of valets needed to generally keep single-file queuing of vehicles within the bay, an analysis was performed using methodology outlined on pp. 230-231 of ITE’s Transportation and Land Development (1st Edition, 1988). This analysis assumed Poisson (random) arrivals and negative exponential service times.

One of the main inputs to the queuing analysis is the assumed average arrival rate, in vehicles per hour. The trip generation forecast in Table 4 shows only arriving and departing residents and patrons; it does not show the reverse “trips” made by valet drivers. To properly evaluate the flow of all vehicles – driven by valets as well as residents and patrons – this flow is referred to here as “throughput.” See Table 5.

To estimate valet service rate for use in the queuing analysis, several tests were conducted in the field. These tests found that a valet would need about 4.6 minutes to drive from the midpoint of the site’s Old Woodward frontage (approximating the future hotel’s main entrance) to the top level of the Pierce parking deck (via Brown Street) and then walk briskly back to the starting point. It was also found that a valet would need about 5.0 minutes to walk briskly from the future main entrance to the top of the deck and then drive back to the starting point (via Pierce, Merrill, and Old Woodward). Weighting these two round-trip times by the corresponding number of trips in Table 4, it was found that the overall average valet service time would be about 4.7 minutes. Working full-time at peak demand, each valet would be able to service \((60/4.7=)\) 12.8 vehicles per hour.

To facilitate queuing analyses of the valet operation for alternative sets of assumptions, the queuing model was formulated as an Excel spreadsheet. Several alternatives each were evaluated for an “average weekday without special events” and for “all hotel traffic on a maximum special-event weekday,” and the results are shown in Tables 6 and 7, respectively. To limit queues to six or fewer vehicles with a confidence level of 95%:

- On average weekdays, 9 valets would be needed in the AM peak hour and 10 valets would be needed in the PM peak hour.
- On maximum special-event weekdays, 27 valets would be needed in the AM peak hour and 24 valets would be needed in the PM peak hour. (Bear in mind that this scenario assumes 496 convention attendees arriving in the AM peak hour, plus hotel guests and employees, restaurant patrons, and apartment residents – both coming and going.)
### Table 5. Valet Service Bay Throughput in Weekday Peak Hours

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Use</th>
<th>Size</th>
<th>Vehicle Class</th>
<th>AM Peak-Hour Vehicles</th>
<th>PM Peak-Hour Vehicles</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>Apartment</td>
<td>220</td>
<td>17 d.u.</td>
<td>Resident</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Valet</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Hotel</td>
<td>310</td>
<td>126 rooms</td>
<td>Patron</td>
<td>40</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Valet</td>
<td>27</td>
<td>40</td>
</tr>
<tr>
<td>Average Weekday Throughput without Special Events</td>
<td>76</td>
<td>76</td>
<td>152</td>
<td>87</td>
<td>87</td>
</tr>
<tr>
<td>Banquet Room</td>
<td>-</td>
<td>321 seats</td>
<td>Patron</td>
<td>107</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Valet</td>
<td>0</td>
<td>107</td>
</tr>
<tr>
<td>Meeting Rooms</td>
<td>-</td>
<td>174 seats</td>
<td>Patron</td>
<td>58</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Valet</td>
<td>0</td>
<td>58</td>
</tr>
<tr>
<td>Maximum Special-Event Throughput</td>
<td>165</td>
<td>165</td>
<td>330</td>
<td>124</td>
<td>124</td>
</tr>
<tr>
<td>Maximum Total Weekday Throughput</td>
<td>241</td>
<td>241</td>
<td>482</td>
<td>211</td>
<td>211</td>
</tr>
</tbody>
</table>

1 Necessary to properly complete the queuing analysis for the valet service bay. Resident and patron numbers here are also shown in the Table 4 trip generation forecast. All residents and patrons are assumed to arrive and depart by automobile.
### Table 6. Valet Queuing Analysis:
**Average Weekday without Special Events**

<table>
<thead>
<tr>
<th>No. of Peak-Hour Valets</th>
<th>Assumed Valet Cycle Time (min.)</th>
<th>Total Service Rate (Q, vph)</th>
<th>Utilization Factor (\rho = q/Q)</th>
<th>(Q_m) (=\rho) for (n=1)</th>
<th>No. of Queued Vehicles by Confidence Level (p. 231)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>90% (p =) 0.10</td>
</tr>
<tr>
<td>AM Peak Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Arrival Rate = 76 vph</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>4.7</td>
<td>102.1</td>
<td>0.7442</td>
<td>0.7442</td>
<td>6</td>
</tr>
<tr>
<td>9</td>
<td>4.7</td>
<td>114.9</td>
<td>0.6615</td>
<td>0.6615</td>
<td>4</td>
</tr>
<tr>
<td>13</td>
<td>7.0</td>
<td>111.4</td>
<td>0.6821</td>
<td>0.6821</td>
<td>4</td>
</tr>
<tr>
<td>17</td>
<td>9.4</td>
<td>108.5</td>
<td>0.7004</td>
<td>0.7004</td>
<td>4</td>
</tr>
<tr>
<td>PM Peak Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Arrival Rate = 87 vph</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>4.7</td>
<td>114.9</td>
<td>0.7572</td>
<td>0.7572</td>
<td>6</td>
</tr>
<tr>
<td>10</td>
<td>4.7</td>
<td>127.7</td>
<td>0.6815</td>
<td>0.6815</td>
<td>4</td>
</tr>
<tr>
<td>15</td>
<td>7.0</td>
<td>128.6</td>
<td>0.6767</td>
<td>0.6767</td>
<td>4</td>
</tr>
<tr>
<td>20</td>
<td>9.4</td>
<td>127.7</td>
<td>0.6815</td>
<td>0.6815</td>
<td>4</td>
</tr>
</tbody>
</table>

1 Based on methodology described in the ITE publication entitled *Transportation and Land Development (1st Edition, 1988)* and the average arrival rates shown in Table 5 (which assume everyone arrives by automobile). A confidence level of 95% is most often preferred. The valet service bay will accommodate a single file of 6 queued vehicles (hence the bolding).

2 An average valet cycle time of 4.7 min. was sampled for the Pierce St deck. This table also shows what the effects would be hypothetically increasing that average cycle time by 50% and 100%.
### Table 7. Valet Queuing Analysis:
All Hotel Traffic on a Maximum Special-Event Weekday

<table>
<thead>
<tr>
<th>No. of Peak-Hour Valets</th>
<th>Assumed Valet Cycle Time (min.)</th>
<th>Total Service Rate (Q, vph)</th>
<th>Utilization Factor (ρ = q/Q)</th>
<th>$Q_m$ ($= \rho$ for n=1)</th>
<th>No. of Queued Vehicles by Confidence Level (p. 231)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>90% (p =)</td>
</tr>
<tr>
<td>AM Peak Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.10</td>
</tr>
<tr>
<td>25</td>
<td>4.7</td>
<td>319.1</td>
<td>0.7551</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>27</td>
<td>4.7</td>
<td>344.7</td>
<td>0.6992</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>40</td>
<td>7.0</td>
<td>342.9</td>
<td>0.7029</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>PM Peak Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>4.7</td>
<td>280.9</td>
<td>0.7513</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>24</td>
<td>4.7</td>
<td>306.4</td>
<td>0.6887</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>36</td>
<td>7.0</td>
<td>308.6</td>
<td>0.6838</td>
<td>4</td>
<td>6</td>
</tr>
</tbody>
</table>

1 Based on methodology described in the ITE publication entitled *Transportation and Land Development (1st Edition, 1988)* and the average arrival rates shown in Table 5 (which assume everyone arrives by automobile). A confidence level of 95% is most often preferred. The valet service bay will accommodate a single file of 6 queued vehicles (hence the bolding).

2 An average valet cycle time of 4.7 min. was sampled for the Pierce St deck. This table also shows what the effects would be hypothetically increasing that average cycle time by 50%.

Arrival Rate = **241** vph

Arrival Rate = **211** vph
Trip Distribution

Figure 14 shows the expected peak-hour directional distribution of resident and patron vehicles approaching the valet service bay, as well as the directional distribution of valet-driven vehicles leaving the bay after drivers and passengers have alighted. These distributions assume that:

- The percentage arriving from the north will correspond to the SB directional split of total traffic now passing the site on Old Woodward: 47% in the AM peak hour and 45% in the PM peak hour. The balance will generally approach from the east, west, and south in proportion to the number of vehicles at Old Woodward and Brown now turning right from WB Brown, left from EB Brown, and continuing through from NB Old Woodward.

- Given that U turns will not be permitted to enter the service bay, arrivals from the east and south will pass the site and use other streets west of Old Woodward (such as Pierce and Merrill) to reach a SB site approach on Old Woodward. Arrivals from the west will turn left before reaching the site and use such streets to reach the site frontage.

- The critical hour in the morning experiences the maximum-event arrival traffic forecasted in Table 4. In that hour, the new underground garage will have more-than-adequate parking for residents, plus 34 other spaces available for parking event visitors (cars belonging to overnight hotel guests are assumed here to have been parked off-site, so as to alleviate the morning “surge” of event arrivals). Hence, the number of arriving cars assumed to be parked by valets in the new garage that hour equals (2 residents + 34 visitors=) 36. The corresponding percentage of entering valets is therefore (36/207=) 17%.

- The balance of valet-driven arrival vehicles (83%) will be parked west of Old Woodward, since this maximizes the share of traffic exiting the service bay able to turn right at Brown (easier than turning left). It also avoids requiring patrons and valets to cross Old Woodward on foot during the busiest traffic hours.

Figure 15 shows the expected peak-hour directional distribution of resident and patron vehicles departing the valet service bay, along with the directional distribution of valet-driven vehicles approaching the bay prior to pick-up. These distributions assume that:

- Resident and patron vehicles – all departing to the south – will distribute at the Old Woodward/Brown intersection in proportion to the current peak-hour volumes there.

- Given that U turns will not be permitted in exiting the service bay, departing drivers desiring to go north will make SB right turns at Brown and “go around the block” to reach northbound Old Woodward (e.g., via Pierce and Merrill).

- Per Table 4, only valet-driven resident vehicles will exit the new garage in the AM peak hour, destined for the valet service bay. They will constitute (7/34=) 21% of all departure-serving valet traffic that hour; the other 79% will go to the service bay from off-site parking locations west of Old Woodward.

(continued)
Figure 14. Distribution of Arriving Vehicles (Residents + Patrons In & Valets Out)
Figure 15. Distribution of Departing Vehicles (Valets In & Residents + Patrons Out)

Legend

X / Y, where
X = AM peak hour
Y = PM peak hour

Red = Valet-driven vehicles
Blue = Resident & patron-driven vehicles

Note: Only valets access garage.
In the PM peak hour, valet traffic exiting the new garage will consist of the four exiting resident vehicles (per Table 4) plus 34 “convention” vehicles assumed to have been parked there all day. This subtotal of 38 vehicles will constitute (38/165=) 23% of all valet-driven departure vehicles that hour.

Traffic Assignment

The trip distribution percentage models described above were applied to the corresponding trip generation subtotals in Table 4 (with consideration given to the associated valet “trips”) to produce the peak-hour assignments of arrival- and departure-related site traffic illustrated in appendix Figures B-1 and B-2, respectively. Figure 16 (below) sums those two figures to determine the total volumes of peak-hour site traffic. Finally, Figure 17 forecasts future total traffic by adding the site traffic shown in Figure 16 to the future background traffic shown in Figure 12.

IMPACT ANALYSES

Levels of Service

Method and Criteria – Capacity analyses were conducted using the Synchro 9 Light computerized traffic model, based on methodologies contained in the Transportation Research Board’s 2010 Highway Capacity Manual. The primary objective of such analyses is to determine the level of service, a qualitative measure of the “ease” of traffic flow based on vehicular delay. Analytical models are used to estimate the average control delay for specific vehicular (through or turning) movements – and in the case of all-way stop-controlled and signalized intersections – each approach and the overall intersection as well. The models account for lane configuration, grade (if any), type of traffic control, traffic volume and composition, and other traffic flow parameters.

Level of service (LOS) is expressed on a letter grading scale, with A being the highest level and F being the lowest level. Achieving an overall intersection and/or approach LOS of D or better is the normal objective in an urban or suburban area; however, LOS of E or worse may be unavoidable for some turning movements onto heavily traveled roads, especially when those movements are controlled by stop signs as opposed to signals.

Table 8 (below) defines LOS, in terms of average control delay per vehicle, for signalized intersections and unsignalized intersections, respectively (the latter include road/driveway intersections).

Unmitigated Results – Synchro was used to evaluate AM and PM peak-hour traffic conditions at the intersection of Old Woodward and Brown under current, future background, and future total traffic volumes, and at the valet bay and garage exit under future total traffic. The entry-only driveway on Brown was not included in the Synchro network, since there will be no entering left turns there as well as no exiting movements (entering right turns are not assigned a LOS rating).

Synchro printouts for the current and future background traffic scenarios appear in Appendix I of the April study report and are included here by reference. Printouts for future total traffic scenario are included in Appendix C of the present report.
Figure 16. Site-Generated Trips

Legend
X / Y, where
X = AM peak hour
Y = PM peak hour
Note: Only valets access garage.

1 Adds Figures B-1 and B-2. Includes all site-generated vehicles, whether driven by residents, patrons, or valets.
Figure 17. Future Total Peak-Hour Volumes

Legend
X / Y, where
X = AM peak hour
Y = PM peak hour

\(^1\) Adds Figures 12 and 16. Includes all site-generated vehicles, whether driver by residents, patrons, or valets.
Table 8. Level of Service Criteria

<table>
<thead>
<tr>
<th>Level of Service</th>
<th>Control Delay per Vehicle (sec)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Signalized Intersections</td>
</tr>
<tr>
<td>A</td>
<td>≤ 10</td>
</tr>
<tr>
<td>B</td>
<td>&gt; 10 and ≤ 20</td>
</tr>
<tr>
<td>C</td>
<td>&gt; 20 and ≤ 35</td>
</tr>
<tr>
<td>D</td>
<td>&gt; 35 and ≤ 55</td>
</tr>
<tr>
<td>E</td>
<td>&gt; 55 and ≤ 80</td>
</tr>
<tr>
<td>F</td>
<td>&gt; 80</td>
</tr>
</tbody>
</table>

The estimated average delays and associated levels of service are summarized in Tables 9-11 (below). All of these “unmitigated” results assume no changes to lane use or signal timing at the Old Woodward/Brown intersection.

Table 9 shows northbound left turns to be the only movement of potential concern, as follows:

- Background traffic growth alone will decrease this movement’s PM peak-hour LOS to a D from the current C; however, a D would still be acceptable and would be due to an increase in average delay of only 2.4 sec (7%).

- The further addition of site-generated traffic would – without any signal timing changes – decrease the LOS for NB left turns to F in both peak hours; this would be undesirable and should be mitigated if possible.

Tables 10 and 11 (above) show that site traffic exiting both the valet bay and garage would experience a level of service of B in both peak hours.

**Mitigated Results** – Given the LOS F predicted for northbound left turns in the PM peak hour, Synchro was used to hypothetically optimize signal timing for the forecasted future AM and PM peak-hour volumes; basically, this involved borrowing some green time from Brown to decrease delays on Old Woodward (maintaining the current 80-sec signal cycle). Table 12 shows that such mitigation would yield for that movement acceptable levels of service of D in the AM peak hour and C in the PM peak hour, while retaining LOS A, B, or C or all other movements.

**Signal-Related Queuing**

The City’s traffic consultant asked that this study evaluate signal-produced traffic backups potentially affecting site access. The only affected access locations requiring evaluation in this regard are the proposed valet service bay – and possibly the proposed garage exit – both on Old Woodward. The garage entry on Brown will receive entering right turns only, so EB traffic backups from the signal will not be an issue.

SimTraffic, a companion microsimulation based on Synchro inputs, was used to forecast the extent of the peak-hour traffic backups on the SB Old Woodward approach to Brown, assuming that the
Table 9. Unmitigated Levels of Service at Old Woodward and Brown

<table>
<thead>
<tr>
<th>Approach</th>
<th>Movement</th>
<th>AM Peak Hour</th>
<th></th>
<th>PM Peak Hour</th>
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</tr>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Volume</td>
<td>Delay (sec)</td>
<td>LOS</td>
<td>Volume</td>
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<td><strong>Current Traffic</strong></td>
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<td>C</td>
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<td>55</td>
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<td>72</td>
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<td>T + R</td>
<td>352</td>
<td>20.9</td>
<td>C</td>
<td>580</td>
</tr>
<tr>
<td>WB</td>
<td>L</td>
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<td>22.6</td>
<td>C</td>
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<td></td>
<td>T + R</td>
<td>191</td>
<td>19.6</td>
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<td>C</td>
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</tr>
<tr>
<td></td>
<td>T</td>
<td>193</td>
<td>13.4</td>
<td>B</td>
<td>241</td>
</tr>
<tr>
<td></td>
<td>R</td>
<td>65</td>
<td>12.2</td>
<td>B</td>
<td>46</td>
</tr>
<tr>
<td>SB</td>
<td>L</td>
<td>49</td>
<td>25.1</td>
<td>C</td>
<td>57</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>192</td>
<td>22.2</td>
<td>C</td>
<td>247</td>
</tr>
<tr>
<td><strong>Future Background Traffic</strong></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Intersection</td>
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<td>20.8</td>
<td>C</td>
<td>1,757</td>
<td>21.6</td>
</tr>
<tr>
<td>EB</td>
<td>L</td>
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<td>21.3</td>
<td>C</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>371</td>
<td>21.3</td>
<td>C</td>
<td>612</td>
</tr>
<tr>
<td>WB</td>
<td>L</td>
<td>15</td>
<td>23.2</td>
<td>C</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>202</td>
<td>19.9</td>
<td>B</td>
<td>253</td>
</tr>
<tr>
<td>NB</td>
<td>L</td>
<td>228</td>
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<td>C</td>
<td>155</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>204</td>
<td>13.5</td>
<td>B</td>
<td>254</td>
</tr>
<tr>
<td></td>
<td>R</td>
<td>69</td>
<td>12.2</td>
<td>B</td>
<td>49</td>
</tr>
<tr>
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<td>L</td>
<td>52</td>
<td>25.6</td>
<td>C</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>202</td>
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<td>C</td>
<td>261</td>
</tr>
<tr>
<td><strong>Future Total (Background + Site) Traffic</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>Intersection</td>
<td>1,729</td>
<td>43.3</td>
<td>D</td>
<td>1,989</td>
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</tr>
<tr>
<td>EB</td>
<td>L</td>
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<td>21.6</td>
<td>C</td>
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<td></td>
<td>T + R</td>
<td>371</td>
<td>21.3</td>
<td>C</td>
<td>612</td>
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<tr>
<td>WB</td>
<td>L</td>
<td>15</td>
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<td>T + R</td>
<td>212</td>
<td>20.2</td>
<td>C</td>
<td>258</td>
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<td>305</td>
<td>154.6</td>
<td>F</td>
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<td>T</td>
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<td></td>
<td>R</td>
<td>69</td>
<td>12.2</td>
<td>B</td>
<td>49</td>
</tr>
<tr>
<td>SB</td>
<td>L</td>
<td>61</td>
<td>16.4</td>
<td>B</td>
<td>106</td>
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<tr>
<td></td>
<td>T + R</td>
<td>434</td>
<td>20.1</td>
<td>C</td>
<td>426</td>
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Table 10. Levels of Service at Old Woodward and Valet Service Bay

<table>
<thead>
<tr>
<th>Approach</th>
<th>Movement</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Volume</td>
<td>Delay (sec)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future Total (Background + Site) Traffic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EB</td>
<td>R</td>
<td>241</td>
<td>14.4</td>
</tr>
</tbody>
</table>

Table 11. Levels of Service at Old Woodward and Hotel Parking Garage Exit

<table>
<thead>
<tr>
<th>Approach</th>
<th>Movement</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Volume</td>
<td>Delay (sec)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future Total (Background + Site) Traffic</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>EB</td>
<td>L + R</td>
<td>7</td>
<td>11.7</td>
</tr>
</tbody>
</table>

Table 12. Mitigated Levels of Service at Old Woodward and Brown

<table>
<thead>
<tr>
<th>Approach</th>
<th>Movement</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td>Volume</td>
<td>Delay (sec)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future Total (Background + Site) Traffic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intersection</td>
<td>1,729</td>
<td>26.0</td>
<td>C</td>
</tr>
<tr>
<td>EB</td>
<td>L</td>
<td>58</td>
<td>32.6</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>371</td>
<td>30.3</td>
</tr>
<tr>
<td>WB</td>
<td>L</td>
<td>15</td>
<td>30.7</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>212</td>
<td>27.8</td>
</tr>
<tr>
<td>NB</td>
<td>L</td>
<td>305</td>
<td>51.7</td>
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<tr>
<td></td>
<td>T</td>
<td>204</td>
<td>9.4</td>
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<tr>
<td></td>
<td>R</td>
<td>69</td>
<td>8.5</td>
</tr>
<tr>
<td>SB</td>
<td>L</td>
<td>61</td>
<td>11.4</td>
</tr>
<tr>
<td></td>
<td>T + R</td>
<td>434</td>
<td>13.4</td>
</tr>
</tbody>
</table>

Table 13. Future Queuing on SB Old Woodward Approach to Brown (feet)

<table>
<thead>
<tr>
<th>Lane</th>
<th>Type of Queue</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>L</td>
<td>Average</td>
<td>35</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>95th.-Percentile</td>
<td>76</td>
<td>74</td>
</tr>
<tr>
<td>T + R</td>
<td>Average</td>
<td>79</td>
<td>71</td>
</tr>
<tr>
<td></td>
<td>95th.-Percentile</td>
<td>102</td>
<td>88</td>
</tr>
</tbody>
</table>

1 Assumes future total traffic flows shown in Table 12.
signal timing is optimized. These simulated queuing results are detailed in Appendix C and summarized in Table 13 (above).

On average, the predicted SB queues on Old Woodward are not expected to materially interfere with egress from the valet service bay. Ample times for egress will be available near the end of each signal cycle’s green phase, if not sooner. It is important to bear in mind that the predicted 95th-percentile queues would be experienced (if at all) only very briefly within either peak hour.

**Transportation Standards**

When the abutting section of Old Woodward is rebuilt in the near future, it will include a narrow two-way left-turn lane. This lane will not be needed for access to the hotel, however, since there will not be any entering left (or right) turns at the proposed garage access on Old Woodward.

There are generally no existing right-turn lanes along Old Woodward, even at Maple, and their addition – at Maple or elsewhere – would be inconsistent with the City’s future design concept for the street (e.g., such lanes lengthen crosswalks). Adding a right-turn lane for the proposed valet service bay is unnecessary and would be inappropriate as well, since it could result in visibility-blocking vehicle stacking north of the garage access drive. Vehicles entering that bay should use the opening provided by the garage access drive as a taper area.

At a minimum, the clear line of sight to and from the north for vehicles exiting the hotel parking garage should be sufficient for through drivers on Old Woodward to stop from an assumed 25 mph approach speed. From a viewing point 10 feet (minimally) to 14.5 feet (desirably) west of the through lane, exiting drivers should be able to see the center of the southbound through lane at least 155 feet to the north; this may require some curtailment in the on-street parking north of the proposed driveway.

**Bicycle and Transit Activity**

Once rebuilt, Old Woodward will feature “sharrow” markings reminding drivers to share the road with bicyclists. In recognition of the increased bicycle riding thus encouraged, bike racks should be added – at a minimum, on the proposed intersection “bump-outs” (aka “curb extensions”), including the new bump-out to be built on the hotel’s corner.

As noted earlier in this report, there are existing bus stops on Old Woodward for each direction of travel, all about a block north and south of the hotel. To encourage bus ridership by hotel guests as well as employees, it would be advisable to provide some related directional signing for pedestrians exiting the hotel’s main entrance.

**Pedestrian Activity**

Several areas of improvement are proposed for the Old Woodward frontage of the proposed hotel. The sidewalk will be widened to a minimum of 17 feet in accordance with the Old Woodward frontage plan provided by the City Engineer. Within these 17 feet will be a clear width of sidewalk
of 10 feet adjacent to the building, a 5-foot-wide planter, and a 2-foot buffer area between the planters and face of curb. A curbed bump-out will be constructed at the northwest corner of Brown and Old Woodward, in accordance with the City’s streetscape plan. This bump-out will lessen the east-west crossing distance of Old Woodward, protect the valet staging area, and add a pedestrian movement area between the hotel entrance doors and valet staging area (Figure 19).

Figure 19. Concept Plan for Pedestrian Movements along Old Woodward Frontage

Valet staging is proposed for the parking area between the curbed bump-out and the garage exit drive. The valet staging (or service) area will be wide enough to keep valeted vehicles and the associated drivers, passengers, and valets safely clear of the southbound travel lane. Passengers alighting in this area will be able to proceed to the bump-out and directly enter the hotel, thus minimizing any conflicts with through pedestrian movements along the main-line sidewalk. The streetscape planters will also separate the valet operations from through pedestrian movements.

Traffic Management

As noted above, all hotel parking will be serviced by valets. The hotel operator will be contracting with a professional parking management / valet service company (ABM Parking Services) to provide valet operations. On-site parking will be provided for the fifth-floor apartments and a limited number of additional vehicles. Off-site parking will occur in City-owned parking decks and/or at other locations to be determined (as required).

All valet operations will be southbound on Old Woodward, generally operating in a clockwise direction around the site and making right turns. There will be space for six vehicles in the valet staging area on Old Woodward. Valet staffing levels will be adjusted as required to meet the operational requirements of the hotel and/or banquet events. Normal valet operations are not expected to significantly impact, or be impacted by, southbound through traffic on Old Woodward.
In instances where southbound through traffic and hotel traffic are at unusual peak levels, traffic control personnel (private and/or public/police) will be engaged to maintain traffic flow in the area.

Deliveries to the building will be to the loading dock area on Brown Street. The loading dock area will be large enough to accommodate most delivery vehicles and not block Brown, except briefly when trucks are entering or leaving.

**KEY FINDINGS AND CONCLUSIONS**

Key findings and conclusions developed in this study are as follows:

- All cars transporting building residents and visitors to and from the site will be parked by valets. The hotel’s proposed two-level underground garage will feature 56 parking spaces, with 22 of those spaces being reserved for fifth-floor apartment residents and 34 being available to other valeted visitor cars. Valets needing to park additional cars will seek public off-site parking spaces, ideally in the City’s nearby Pierce Street parking deck.

- The trip generation forecast provides a separate forecast for the proposed banquet and meeting rooms, since their combined floor area (7,446 s.f.) will be relatively large compared to the number of guest rooms (126). At the direction of the City’s traffic consultant, this study assumes a maximum special-event scenario, wherein the banquet and meeting rooms are in full simultaneous day-long use, with all arrivals occurring during the AM peak hour of street traffic and all departures occurring during the PM peak hour of street traffic. Also at the consultant’s request, no walking trips are assumed, whether from guest rooms within the hotel or from various off-site locations.

- Valet queuing analyses were completed for both an average weekday without special events and a maximum special-event weekday. Based on field measurements, it was assumed that the valet service time would average 4.7 minutes. To keep the service bay occupancy limited to its six-vehicle capacity (at a 95% confidence level), it was found that on an average weekday, the AM peak hour would require nine valets and the PM peak hour would require ten valets. On a maximum special-event day, however, the peak-hour valet requirements could be as high as 27 and 24, respectively.

- The traffic impacts of the proposed hotel will be minimal and can be easily mitigated. For the future total peak-hour traffic volumes forecasted at the Old Woodward/Brown intersection, very acceptable levels of service of C or better – for most individual movements as well as for the overall intersection – can be achieved with signal retiming (level of service is assigned on an A-F grading scale based on anticipated vehicular delays).

- Vehicles exiting the hotel’s parking garage and valet service bay can be expected to experience a level of service of B. On average, southbound backups from the signal at Brown should not materially interfere with egress from the service bay. Drivers attempting to exit that bay will, however, occasionally find it to their advantage to pause until signal-queued vehicles have discharged after receiving the green light.
The valet operation and associated pedestrian movements will benefit from the street-scape plan outlined in this report. In addition to the features shown, it is recommended that the plan also include pedestrian benches and bike racks on the site’s Old Woodward frontage (at a minimum, on the nearby intersection bump-out). Directional signing for the nearest bus stops north and south of the site may also be appropriate.
May 19, 2017

Ms. Jana L. Ecker
Planning Director
City of Birmingham
151 Martin Street
Birmingham, Michigan  48012

RE:  Birmingham Boutique Hotel– Brown & Old Woodward
Revised Traffic Impact & Parking Study Review

Dear Ms. Ecker:

Fleis & VandenBrink (F&V) staff has completed our review of the revised traffic and parking study completed for the proposed Hotel development located in the northwest quadrant of the Brown Street & Old Woodward intersection. The study prepared by Giffels Webster (GW) is dated May 11, 2017 and was received by F&V on May 17, 2017, and the supplemental Synchro/SimTraffic models were received by F&V on May 18, 2017. Based on this review, we have the following comments and observations:

Traffic Impact Analysis Comments

1. Giffels Webster provided the City of Birmingham and F&V with a second revised trip generation analysis on May 8, 2017 for review and approval prior to use in the analysis. A response was provided by F&V to Giffels Webster on May 9, 2017 with the following comments which need to be addressed accordingly in the final report.

   a. The trip generation analysis relies upon numerous assumptions. If the proposed trip generation as presented by GW is used, it should be compared with the typical trip generation analysis shown in the table below to quantify any variances between the proposed methodology and accepted engineering practice.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Code</th>
<th>Amount</th>
<th>Units</th>
<th>Average Daily Traffic</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>Apartments</td>
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<td>D.U.</td>
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<tr>
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<td>Rooms</td>
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</tr>
<tr>
<td>Mtg Facilities</td>
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<td>174</td>
<td>Seats/Employee</td>
<td>709</td>
<td>95</td>
<td>0</td>
</tr>
<tr>
<td>Banquet Facilities</td>
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<td>Seats/Employee</td>
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<tr>
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<tr>
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<td></td>
<td></td>
<td>3,036</td>
<td>297</td>
<td>34</td>
</tr>
</tbody>
</table>

2. The Synchro model provided for review includes Old Woodward from Brown Street to Willits Street; however, background growths and site-generated traffic were only applied at the Old Woodward & Brown intersection. For SimTraffic purposes, the volumes should be distributed and balanced upward through all intersections in the network OR the network size should be reduced to evaluate only the influencing intersections. All Synchro/SimTraffic models should be developed in accordance with the MDOT Electronic Traffic Control Guidelines.
3. Based on the results of the analysis as presented, the northbound left-turn movement on Old Woodward exceeds the available storage length for approximately 35 minutes of the AM peak hour and 33 minutes of the PM peak hour. These queues spillback into the through travel lanes along northbound Old Woodward and create long vehicle queues on northbound Old Woodward. Using the trip generation calculations, as noted in the table above, these queues and the resulting impact may be longer.

4. Assuming that the placement of the Valet Service Bay exit is correctly modeled, valet exit will be blocked for approximately 7 minutes of the AM peak hour and 17 minutes of the PM peak hour. This will significantly impact the service rate for the valet service during the peak period. In addition, using the trip generation calculations, as noted in the table above, these queues and the resulting impact may be longer.

5. Provide an intersection sight distance evaluation and figure for all the proposed site driveways. The study states that some on-street parking may need to be removed to provide adequate site distance; this should be identified on the sight-distance figures.

6. Provide a summary of any impacts to the existing infrastructure (i.e. sidewalks, bike racks, bus stops, etc.), if there are none, this should be stated in the report.

Parking Analysis Comments

7. The parking generation calculations presented are consistent with accepted engineering practice and reflect a shared peak parking demand of 253 spaces during the weekday and 162 spaces on the weekend.

8. The City of Birmingham provided existing (March 2017) parking occupancy information for the Pierce and Peabody Decks. Based on this data, the Pierce Deck has a peak period (1:00 PM) occupancy of 92% and the Peabody Deck has a peak period occupancy of 98%. A self-park, parking facility that exceeds 95% occupancy is essentially at capacity; therefore, the parking generated by this development cannot be fully accommodated by the existing public off-street parking facilities.

9. The study states that “the projected hotel parking demand in not an issue relative to the site plan approval; it should be, however a matter of some concern to the City”. Although, parking is not a requirement for this site, parking intensity of this land use will put a strain on the City’s existing parking system. The demand from this land use will displace current users of the existing parking facilities.

10. The study also states, “The parking demand generated by the other proposed uses (hotel, banquet facilities, meeting rooms) can be accommodated off-site in public parking spaces, at a location or locations selected by the applicant.” Based on the existing parking supply and the projected demand for this site, the existing facilities will not be able to accommodate the parking generated by this development. The applicant should identify how they propose to accommodate the projected demand at the off-site locations as noted.

Traffic Management Plan

11. The study identified that ALL hotel parking will be serviced by valet service. This analysis included both patrons of the hotel, banquet facilities, and employees. We have some questions and concerns about how the valet will operate.

   a. ABM Parking Service performed trial runs for calculating an average service time 4.7 minutes per vehicle using City owned parking decks and/or at other locations to be determined.

   • Did these trial runs account for the transition time between valet and customer at the service bay?
   • Loading / unloading of luggage for hotel guests?
   • When were the trial runs performed? (Weekdays, Weekend, Peak, Off-Peak)
   • When parked in the parking decks for more than an hour, payment is required, was this egress delay included in the calculations?
   • Is there a plan for parking vehicles in the decks? As previously noted, the decks are at capacity. Will valet drivers have to circle to find open spaces? Was this included in the
service time calculations? How long will it take the return valet to find the vehicle in the
deck—since it probably won’t be the same valet?

- Where will hotel, banquet, and valet employees park? Will they use the valet service?
  Will they use City parking decks? These decks are at capacity, so where will the valet
  park the cars if these are filled with employees?

12. There are several variables that need to be confirmed associated with the valet parking demand and the
service times. Based on this information, the peak queues will not exceed the six spaces provided, this
assumes that the vehicles will arrive and depart in a single file line. Considering that the valet egress will
be blocked by southbound queues on Old Woodward at Brown Street, the valet is not expected to
operate as shown. The vehicles will continue to queue on southbound Old Woodward, and are expected
to block both the through lane and the egress for the site parking garage.

13. During the peak special event operations, the valet will need to provide 24-27 staff to accommodate the
demand. Additional information should be provided by GW and/or ABM Parking Service how the logistics
of this operation will work.

The study should be revised to address these comments as necessary and the trip generation and parking
generation assumptions should be provided to the City and F&V for review and approval prior to use in the
analysis. F&V would be happy to meet with the applicant, and their traffic consultant, and the City to further
discuss the items noted in this letter to help in the analysis of the site.

We hope that this review satisfies the City’s current planning needs regarding this project. If you have any
questions or concerns, please contact our office.

Sincerely,

FLEIS & VANDENBRINK

Michael J. Labadie, PE
Group Manager

JMK/SJR:mjl
1. The latest trip generation forecasts of Giffels Webster and Fleis and VandenBrink are compared in the attached table, per F&V’s request of 6-12-17.

2. In any future analyses, we would propose to limit the Synchro street network to Old Woodward’s intersections with Brown and Merrill. As in earlier analyses, only the Brown intersection would be considered part of the study area; the Merrill intersection would be included only to reflect any influence it might have on SB traffic approaching Brown.

3. As can be seen on our attached aerial photo, the NB Old Woodward approach to Brown is wide enough to facilitate its restriping to match the directional distribution of both current and future traffic volumes. Presently, the left-turn lane is too short and the right-turn lane is unnecessarily long. Pending the City’s 2022 provision of a continuous left-turn lane on this section of Old Woodward, this approach could be restriped to lengthen the existing 80-ft-long left-turn lane to as long as 200 ft, thereby substantially decreasing the potential frequency of left-turn vehicles spilling back into the through lane. In conjunction with this restriping, it would be advisable to relocate the Old Woodward crosswalk at Daines to the south side of the intersection (i.e., out of the left-turn lane entry gap and nearer the existing SB bus shelter).

4. Despite the modeling need to identify a discrete exit point from the valet service bay, assumed here to be the longitudinal midpoint, the actual exiting points will vary with stopping position and the manner in which vehicles are processed.

5. The requisite clear-vision triangles are best illustrated on the proposed site plan. These triangles are shown (but not detailed) for the garage exit on Old Woodward in Figure 19 of our revised TIS report. To minimize the loss of parking along Old Woodward north of the garage exit, consideration should be given to converting the first few angled parking spaces to parallel parking, effectively removing them the clear-vision triangle. No clear-vision triangles will be needed at the site access drive on Brown, as that drive will serve only entering traffic.

6. The existing infrastructure adjacent to the site includes varying widths of sidewalk but no pedestrian benches or bike racks (see Figure 3 in our TIS reports). The nearest bus stops in each direction are (and will remain) one block away. The site plan details proposed sidewalk and associated landscaping improvements, pedestrian benches and bike racks, and other amenities (as determined by others). As previously proposed, consideration should also be given to installing directional signing to the nearest bus stops north and south of the site.

7. Comment acknowledged. No further response on our part is required.

8. Comment acknowledged. Please note, however, that the reference to “existing public off-street parking facilities” only applies to the two City parking decks addressed in our study.
(Pierce and Peabody). Other public (as well as authorized private) parking spaces, elsewhere in Birmingham, may also be used by the hotel’s valet operator.

9. It is expected that the valet operator will identify and make appropriate use of alternative parking locations within a reasonable distance of the hotel (per response 8). It is not certain that there will be any displacement of current users of existing City parking facilities.

10. The quotation from our TIS report is an alternative way of stating what we have said in response 8 (above). The applicant cannot identify and commit to specific off-parking parking locations at this early stage. This is an operational decision to be made closer to the time of hotel completion and occupancy. The hotel operator has a vested interest in ensuring a successful valet operation.

11. Relative to our modeling of the valet operation:

- The 4.7-minute average valet service time was estimated by GW, not ABM.

- The service time sampling was done by two people significantly older and slower than typical valets. Also contributing to the estimation of conservatively high service times was GW’s method of making all runs to the top level of the Pierce deck. Together, these two aspects of the method were considered adequate to offset the transaction times between valets and customers, which were not explicitly estimated or modeled.

- Hotel guest traffic as a percent of total traffic would be only about 28% in the AM peak hour and 36% in the PM peak hour. It is GW’s opinion that any time spent loading or unloading (the typically minimal) amount of luggage, for this small proportion of total valet traffic, would be so minor relative to the overall valet service time as to be negligible.

- Test runs were made in the late morning of a typical weekday, verging on the onset of the lunchtime peak.

- One must insert a ticket into the exiting machine and have it processed, regardless of the time spent in the parking deck. Any additional time needed to process a credit card (for stays exceeding 2 hours) was considered negligible relative to overall run time.

- GW is confident that experienced valet operators are efficient at locating and retrieving vehicles parked earlier.

- All employees will be encouraged to self-park at relatively remote locations. None will be authorized to use the hotel’s valet service.
• Lastly, it should be noted that the valet queuing analyses documented in the revised TIS report also estimated the valet requirements for a hypothetical average service time 50% longer than sampled; that is, 7 minutes.

12. See comment 4 above relative to the operation of the valet service bay. As discussed in the Traffic Management section of GW’s revised report, “Valet staffing levels will be adjusted as required to meet the operational requirements of the hotel and/or banquet events... In instances where southbound through traffic and hotel traffic are at unusual peak levels, traffic control personnel (private and/or public/police) will be engaged to maintain traffic flow in the area.” Also, in response to the meeting discussion of 6-08-17, GW has determined that the underground garage could easily accommodate as many as 21 additional vehicles if short-term stacking is needed to avoid backups into the through lane of SB Old Woodward.

13. During the peak special event operations, hotel ownership, management, and its valet company is committed to providing required number of valets to maintain the queue within the valet staging area and expected turnaround times. It is noted that hotel staff is cross-trained to act as valets in the event that the regular valets are not able to maintain adequate turnaround times. To assist in special event operations, the hotel parking garage can be used as a valet staging area to take some pressure off the on-street staging area. On rare occasions, the hotel and valet company will coordinate with the city’s Police Department to ensure that traffic operations at the hotel do not significantly impact S. Old Woodward.
## Comparison of GW and ITE-Based Trip Generation Forecasts

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Use</th>
<th>Size</th>
<th>Weekday Trips</th>
<th>AM Peak-Hour Trips</th>
<th>PM Peak-Hour Trips</th>
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<td></td>
<td></td>
<td>Total In</td>
<td>Total Out</td>
<td>Total In</td>
</tr>
<tr>
<td>Giffels Webster Trip Generation Forecast</td>
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<tr>
<td>Apartments</td>
<td>220</td>
<td>17 d.u.</td>
<td>113</td>
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<td>7</td>
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<tr>
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<tr>
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1 A trip is defined as a one-directional vehicular movement to or from the site.
2 Assuming that the number of daily trips is 7.43 times the number of trips in the AM peak hour, per the ITE-based forecast below.
Figure __. Potential Restriping to Lengthen Left-Turn Lane on the NB Old Woodward Approach to Brown
| **MAJOR EVENT TRAFFIC PLAN**  
| **298 S. OLD WOODWARD HOTEL** |
| --- | --- |
| **TRIGGER EVENT:** | **Description of Event:** |
| Any event where the attendance in the banquet room plus the meeting rooms is expected to equal or exceed the (building code) capacity of the banquet room of 321 persons. | The hotel will have two levels of underground parking which will be used during a Major Event. This parking provides the hotel and community with a great advantage as immediate queuing of cars will be under the hotel and not on S. Old Woodward, S. Old Woodward will not be congested and traffic should not be adversely impacted. |
| **Important Fact to Consider During a Major Event at the hotel:** | **Staging of Vehicles:** |
|  | • 1<sup>st</sup> point of arrival is front of hotel.  
• 2<sup>nd</sup> a valet moves car underground by turning right onto Brown Street and entering the hotel underground parking garage at the Brown Street entrance and queues cars for valet movement from garage.  
• 3<sup>rd</sup> a valet moves cars to offsite parking structures from underground garage staging area by exiting garage with a right turn onto S. Old Woodward and disburses vehicles from that point. |
| **Description of Valet set-up and layout including points of ingress and egress.** | **Notice to Stakeholders:** |
|  | • Meeting with Valet and all Hotel personnel.  
• Alert Birmingham Police Department |
| **Notice will be given to stakeholders of any Major Event at the hotel.** | **Transmittal List:** |
|  | • City of Birmingham Police Department |
June 20, 2017

Ms. Jana L. Ecker  
Planning Director  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48012  

Via Electronic Mail

Re: Traffic Management Plan For Birmingham Boutique Hotel at Brown and Old Woodward (the “Hotel”)

Dear Ms. Ecker,

As previously shared, Aparium Hotel Group (“Aparium”), as manager of the Hotel, has extensive experience operating valet and parking in like hotel properties in urban and suburban environments with heavy densities and significant traffic flow.

Our entire Front of House staff is expertly trained to handle back flow of guest arrivals. In delivering the very best, luxury service, the first and last guest experience is imperative to our overall success and much stress is put on providing seamless arrival and departure experiences. Our Standard Operating Procedures or “SOPs” are attached as it relates to the Valet component.

In addition, it is very important to us that we are in regular communication with the applicable City channels when we expect large events and increased traffic patterns. As such, we are more than happy, as is the case with our other hotels, to put into practice the following.

1.) City parking deck utilization data and reports will be reviewed considering the day, time and month to determine the most suitable parking structure(s) for major events and prioritize their use.
   a. The Pierce Street deck will be the default parking structure for daily operations of the Hotel.
   b. Should the Pierce Street structure be fully occupied, the Peabody and Chester parking structures may be used, particularly if there is an event that will require these alternative structures.
c. To accommodate the longer turnaround times at the Chester and/or Peabody structures, we will consider the use of shuttles to shorten the car retrieval times.

2.) The City Police Department will be given advanced notice for major events that would cause for significantly greater traffic patterns.

3.) Guests to the Hotel, for any purpose, will be instructed to the greatest extent possible to arrive from the north on Old Woodward for valet drop off.

4.) If Old Woodward traffic is expected to be impeded for a meaningful period of time, operations will commit to hiring suitable traffic control persons (i.e. off-duty police) to assist and enforce proper traffic flow.

5.) Rather than queuing cars extensively on Old Woodward, the garage would be used for short term arrivals/departures to keep Old Woodward free of congestion.

6.) All of the Front of House (“Ambassador”) staff will be cross-trained to park and retrieve vehicles and will act quickly to fill any voids in valet staff should an unexpected influx of traffic arrive to the Hotel.

We are, of course, open to further recommendations and suggestions from the City. We remain very confident in our ability to operate the arrival/departure experiences at a world-class hospitality level, without causing burden to the City as a result of the Hotel.

Sincerely,

Mario Tricoci
CEO
Aparium Hotel Group

Attachment:

Aparium Hotel Group Employee Resource Guide (Arrival / Departure Related Contents)
GUEST SERVICES SEQUENCE OF SERVICE

The Sequence of Service is the recommended order that service will be given to every guest or tasks that will need to be done during, before, or after the interaction. Each sequence is created to consistently meet the standards and to ensure efficient and effective service or completion of tasks.

VALET

Guest Automobile Security

- Always be aware of strangers loitering on the hotel driveway or in the garage
- The valet areas should be off-limits to those who are not associates of the hotel
- If you spot anyone who is without a specific purpose in the valet’s area or is loitering, notify your supervisor or security immediately

The following services should be made available through a local garage or auto service:

- Jump starting (based on valet company liability coverage)
- Fixing a flat tire or adding air
- Window washing
- Car wash/Car detailing
- Gas and oil
- Maintenance
- Lock out assistance
- Associates should not change tires on behalf of guests because of liability issues. It must be done by qualified mechanics through a garage or auto service

Handling a challenging guest request

- We will attempt to accommodate any reasonable request that a guest makes
- When a guest asks for something we do not have or is difficult to provide, follow the problem resolution standards:
  - Listen carefully to what the guest is saying
  - Begin with a positive attitude, empathize
  - Ask questions when appropriate
  - Offer options; let guest select solution
  - Follow-up and ensure the solution was given
  - Tell and involve your manager
Parking Vehicles

Sequence of Service

1. Greet the guest
   a. Approach the guest, acknowledge them within 10 seconds of arriving. “Good morning, welcome to the hotel, will you be valet parking with us today?” if the guest indicates yes, “May I have your name please?”
   b. Next, radio the Front Desk with the name of the guest to start the check in process.

2. Explain parking options
   a. For valet parking inform guest of valet charge for overnight guests only
   b. Generally tickets are marked to indicated whether a guest is parking for an event and will need to pay at the cashier station in the event space or guest is staying in the hotel and charges to be added to the guest room folio

3. Review vehicle for damages. Vehicles should be checked for:
   a. Pre-existing damage. If applicable, a notion should be made on the reverse of the ticket or where available. The guest should be notified of damage on the vehicle while the guest is there, whenever practical, if damage is of concern advise your manager to ensure the guest is informed
   c. Any items of value left in the vehicle should be reported to a manager or supervisor, with notation on ticket

4. Park Vehicle
   a. If you must move the seat of a guest’s automobile to safely operate it, return the seat to its original position when you exit the car
   b. Do not smoke, eat, or drink in any guest’s car
   c. Do not listen to or change stations on the radio
   d. Do not drive a guest’s automobile to any location outside the designated delivery points, unless instructed to do so by the garage manager
   e. Ensure door locks, lights and windows are properly secured
   f. Do not spin wheels
   g. Do not slam door or trunk
   h. Check side view mirror before opening door
   i. Do not rev the car engine
j. While driving in the garage, on the motor concourse, or on the street, you should obey all traffic, directional and stop signs.

k. Leave the appropriate portion of the ticket on the dashboard to identify and match numbers when the car is retrieved.

l. For security reasons, do not write the guest's name and room number on the portion of the ticket that remains visible in the vehicle.

5. Store Keys
   a. Tag the car keys
   b. Place keys in locked valet cabinet
   c. Retain the valet ticket portion containing vehicle condition and place in filing system
   d. Do not hold a set of keys for any length of time
Retrieving Vehicles

Sequence of Service

1. Retrieve ticket from valet printer or other device
   a. Upon receiving ticket from printer or other device, locate the valet ticket number for retrieving keys
   b. Retrieve keys from locked cabinet
   c. Open cabinet and match the guest ticket number to the valet ticket

2. Locate vehicle
   a. Review valet ticket attached to keys to identify parked location of vehicle
   b. Upon locating vehicle cross reference valet ticket attached to keys to the valet ticket placed in the vehicle

3. Drive vehicle to the front drive
   a. If you must move the seat of a guest’s automobile to safely operate it, return the seat to its original position when you exit the car
   b. Do not smoke, eat, or drink in any guest’s car
   c. Do not listen to or change stations on the radio
   d. Do not drive a guest’s automobile to any location outside the designated delivery points, unless instructed to do so by the garage manager
   e. Ensure door locks, lights and windows are properly secured
   f. Do not spin wheels
   g. Do not slam door or trunk
   h. Check side view mirror before opening door
   i. Do not rev the car engine

4. Wait for the guest

5. Greet the guest
   a. Inquire if the guest would like a bottle of water
   b. Retrieve bottled water from the refrigerator underneath the valet counter

6. Obtain claim ticket
   a. Verify the valet claim ticket to the ticket in the vehicle

7. Inquire if the guest enjoyed their visit
8. Assist the guest with any items
   a. Inquire where the guest would like the items placed in the vehicle
   b. Items are to be handled with the utmost of care. Do not toss carelessly or stack improperly in vehicle

9. Offer directions
   a. Inquire if the guest is in need of directions, if the guest says yes, maps and printed directions for popular destinations should be readily available at the door post

10. Bid the guest farewell
1. Parking strategy
   a. The traffic lane closest to the hotel must be kept clear for the convenience of arriving and departing guests
   b. Established hand signals should be used by door posts with a professional and directive motion while moving traffic through the hotel drive
   c. Arriving guest automobiles should be removed from the hotel entrance immediately to the parking garage
   d. Automobiles should not remain on the drive, this causes congestion and detracts from the welcoming environment of the hotel entrance
   e. Door posts should ensure consistent posting of valet hikers on the drive. Valet hikers must be immediately available to handle all automobiles
   f. Temperature permitting, parked automobiles should have their engines turned off

2. Driveway cleanliness
   a. Cleanliness is imperative to the hotel’s image
   b. Litter on the drive and entrance way, ash urns and trash cans are to be the responsibility of the door attendant to monitor and maintain

3. Storage and work area cleanliness
   a. Umbrellas are freely available at the front door and a stock is kept to ensure they are always available to resident guests of the hotel
   b. Water bottles for guests should be available at all times, a cooling facility fridge or large ice bin should be available within close access to the drive to ensure a constant cold supply is available

4. Deliveries
   a. Large deliveries are to be made through the loading dock without exception
   b. Receiving and banquets are to be notified immediately by telephone when deliveries are referred to the loading dock

5. Handling intoxicated guests
   a. In the event you observe a guest to be unsuitable to operate their automobile due to intoxication, you are to contact the GSM and security
b. Do not release the automobile unless approved by GSM and/or security. Look for the following conditions:

c. Slurred speech or diction

d. Physical coordination- stumbling or falling

e. Impaired judgment

f. If a guest is under the influence of alcohol, offer a taxi or the designated driver service through hotel valet to take the guest home or if necessary offer a room to stay-over

g. The most senior person on duty will handle this tactfully and preferably out of the public view without embarrassing the guest

6. Emergency vehicles

a. In case of emergencies, all staged or parked automobiles must be promptly moved in the anticipation of emergency automobiles

b. Door post and valet hikers/parking attendants are to direct emergency response personnel to the proper area within the hotel, always providing clear and precise directions

c. Contact security immediately via radio

7. Local area knowledge

a. Door posts and valet parkers are to be well informed and knowledgeable on routes to popular destinations and approximate costs of taxis

b. Popular roadways or transportation methods to be knowledgeable about include:

c. Knowledge of the highways, interstates, and motorways within the hotel’s vicinity

d. Directions to and from airports, approximate costs

e. Airport shuttle services, approximate cost

f. Provide guest destinations to the cab driver (especially if there may be a language barrier)

g. Popular destinations and routes to be knowledgeable include:

h. Directions and locations of the various restaurants and cuisines, bars and night clubs of interest

i. Directions to shopping centers, fashion malls, museums, hotels

j. Directions to sport facilities and main tourist attractions

k. Knowledge of hotel activities relating to arrivals and departures of guest functions

l. Knowledge of jogging trails

m. Knowledge of nearest ATM or bank

8. Handling a challenging guest request

a. We will attempt to accommodate any reasonable request that a guest makes

b. When a guest asks for something we do not have or is difficult to provide, follow the problem resolution standards:
c. Listen carefully to what the guest is saying

d. Begin with a positive attitude, empathize

e. Ask questions when appropriate

f. Offer options; let guest select solution

g. Follow-up and ensure the solution was given

h. Tell and involve your manager
Arriving Guest

Sequence of Service

1. Approach the vehicle
   a. Be aware of all activity in the main entrance area. When an automobile approaches, move towards the vehicle and observe occupants
   b. After you have opened the door and established eye contact, acknowledge the guest by saying “welcome to the hotel.”
   c. If the guest is a return guest, welcome them back by saying, “Welcome back, Mr. Smith. We are glad to see you.”
   d. Dialogue should be attentive and natural
   e. Door posts should remain outside the hotel positioned between drive and front doors, striving to greet all automobile doors and assist guests

2. Inquire the guest’s purpose
   a. If guest is arriving via house transportation, guest purpose should be determined from the communication center agent or metro dispatch
   b. If guest is arriving in transportation other than house car, decide if the guest is checking in or just visiting the hotel
   c. Determine the reason for the guest’s arrival by asking, “How may I assist you today?” or “Welcome back” The guest will provide you with the needed answer if they are checking in, returning, or attending an event or function in the hotel
   d. Ask the guest their name if unknown or check valet ticket
   e. Assist the guest based upon the reason for their visit
   f. If the guest is checking in, immediately radio front desk post of guest arrival in order for escorting ambassador to retrieve the key packet and exit to meet the guest in the courtyard

3. Offer parking options
   a. Offer the guest parking options for:
      i. Checking in to the hotel
      ii. Dining in the restaurant
      iii. Visiting an in house guest
      iv. Using the spa
v. Attending a function
   b. Be informed of the prices for valet
   c. If parking options are available at your hotel, they should be offered at this time
   d. Know how to respond to guests who request for their vehicle to remain in the driveway
   e. Have street parking information readily available to hand out to guests

4. Assist with luggage
   a. Remove luggage from automobile promptly once doors are open and salutation is completed
   b. Immediately look on the luggage tags for guest’s name and count pieces. Confirm with the guest using guest name, “Mr. Smith, we have 3 pieces of luggage. Is this correct?”
   c. If the guest has multiple pieces they are unable to handle, you can assume they will accept your offer of assistance. Explain to the guest, “Mr. Smith, we will have the luggage delivered to your room shortly.”
   d. Tag each piece of luggage and provide bell post with claim stubs
   e. Guest luggage is to be handled with the utmost of care. Do not toss carelessly or stack improperly on cart or in storage areas
   f. If luggage is damaged pre-arrival, such as a loose handle or broken zipper, offer damage repair. “Mr. Smith, I noticed your suitcase handle is loose. We can have that sent out and repaired for you.” Advise your manager of the response and ensure prompt follow up of the request

5. Open door entrance
   a. The front door will always have an associate in position to assist with opening and closing of the door
   b. All interactions with guests should be enthusiastic, upbeat, positive and immediate
   c. When giving a guest directions, escort them towards the destination until they are comfortable they can find it (for non-check in guests)
   d. Be informed of the daily functions and events that are happening at your property

6. Bid the guest farewell
   a. As a final contact courtesy for a guest arriving to the hotel, bid the guest an enjoyable stay by saying, “Mr. Smith, enjoy your stay with us.”
   b. If the guest has arrived at the hotel for a reason other than checking in, you can say, “Enjoy your dinner this evening in the restaurant.”
   c. Inform the guest that they may pay for valet by credit card at the front desk.
Departing Guests
Sequence of Service

1. Open door entrance
   a. Door Post will hold doors open for all arriving and departing guests
   b. The Door Post is in control of maintaining the flow of the driveway or front entrance. A crunch procedure is to be established when the door becomes busy. This includes greeting guests, parking cars and handling of luggage
   c. All interactions with guests should be enthusiastic, upbeat, positive and immediate
   d. Door Posts should remain outside the hotel positioned between drive and front doors, striving to greet all automobile doors and assist guests

2. Offer assistance. Here are some suggested phrases:
   a. “How can we help you?”
   b. “Let me take your luggage miss.”
   c. “Can I assist you with directions?”
   d. “Do you need assistance with transportation?”

3. Inquire to guest’s needs
   a. Be aware of guests leaving the hotel and anticipate their purpose for their exit of the hotel. Guest will either be:
   b. Checking-out of the hotel and in need of transportation
   c. In need of transportation to another location
   d. Walking to their next destination
   e. Ask departing guests if they would like directions to their destination by saying, “Mr. Smith, do you need directions for the airport?” if the guest says yes, maps and printed directions for popular destinations should be readily available at the Door Post

   If a guest is checking-out and departing from the hotel, determine:
   a. Where the guest is going and if they need transportation
   b. If the guest is going to the airport, ask what time their flight is and what airline they are flying on. Provide any useful information about the airport.
Arrange transportation via taxi

   a. Front desk is responsible for all taxi requests.
   b. If valet receives a request they radio guest services to place the call.
   c. Quote the guest the approximate arrival time of the taxi.
   d. Ensure the quality of the taxi cabs used is of our hotel standards and the expectations of our guests
   e. Maintain orderly queue of taxis if they are waiting for guest pick up
   f. Respect guest requests for air-conditioning, non-smoking, etc.
   g. Door attendants have the ability to reject taxis that are not deemed appropriate
   h. Verify interior of taxi and overall cleanliness and condition of automobile
   i. Door Attendant should ask guest of their destination and advise taxi driver
   j. Verify the driver understands the destination. Door Attendant may be expected to give the approximate cost of the taxi ride
   k. Provide guest destination to cab drivers, giving written directions to guest. It is the responsibility of the Door Post and not the guest to inform the driver of the destination

Arrange transportation busses

   a. Be aware of all planned pickups and drop offs by coach companies planned by the hotel
   b. The door attendant should ensure that the driver has detailed directions for the guest’s destination to ensure against errors

Arrange transportation limousine

   a. The hotel will develop local procedures to ensure the smooth communication between the limousine car service, concierge desk and Door Attendants
   b. Door Attendant will ensure that drivers maintain decorum and composure expected of all associates
   c. Drivers will advise the Door Attendant of pick up times and information. It is important that the Door Attendant maintains good control of the location and placement of drivers while waiting for guests
   d. Door Attendant should communicate directly with concierge when drivers arrive at the hotel to ensure good communication with the guest

4. Bid the guest farewell

   a. Offer all departing guests a sincere farewell by saying, “Thank you Mr. Smith for staying with us. We look forward to your return,” or “Goodbye Mr. Smith, have a safe journey.”
   b. Always use the guest’s name during departure. This provides a sense of caring and appreciation that the guest chose us as their hotel of choice
   c. Ensure that the door of the automobile is closed securely
MINUTES

These are the minutes for the Advisory Parking Committee ("APC") regular meeting held on Wednesday, August 2, 2017. The meeting was called to order at 7:35 a.m. by Chairman Lex Kuhne.

Present: Chairman Lex Kuhne
Gayle Champagne
Anne Honhart
Steven Kalczynski
Lisa Krueger
Al Vaitas

Absent: Judith Paskiewicz

Birmingham Shopping District
Richard Astrein
Ingrid Tighe

SP+ Parking:
Catherine Burch
Sara Burton
Jay O'Dell

Administration:
Commander Mike Albrecht
Austin Fletcher, Asst. City Engineer
Paul O'Meara, City Engineer
Carole Salutes, Recording Secretary

RECOGNITION OF GUESTS (none)

MINUTES OF REGULAR MEETING OF July 12, 2017

Motion by Ms. Champagne
Seconded by Dr. Vaitas to approve the Minutes of the APC Meeting of July 12, 2017 as presented.
Motion carried, 6-0.

VOICE VOTE:
Yeas:  Champagne, Vaitas, Honhart, Kalczynski, Krueger, Kuhne
Nays:  None
Absent: Paskiewicz

298 S. OLD WOODWARD AVE.
VALET PARKING REQUEST

Mr. O'Meara advised that the owner of the above property, located at the northwest corner of Brown St., has submitted plans requesting a permit to construct a five-story hotel with two underground levels of private parking. The plans have received Community Impact Study ("CIS") and Preliminary Site Plan approval from the Planning Board. As a condition of such approval, the Planning Board asked the applicant to appear before the Advisory Parking Committee ("APC") to receive a recommendation relative to the removal of on-street parking, as proposed on their plan.

The applicant is requesting approval to remove all existing parking spaces to create a permanent valet service at the front door of the new building on S. Old Woodward Ave. The applicant plans to have valet service available for all visitors to the building, whether they are overnight guests, long term residents, patrons at the restaurant, meeting attendees, etc. Vehicles will be taken to the building’s proposed Brown St. garage entrance when space permits, and they will be returned to the valet area using the S. Old Woodward garage exit. When space does not permit, the valet drivers will seek other options, such as the Pierce St. Parking Structure. There is precedent in town for removing parking spaces for valet. The Townsend Hotel pays a fee for the meters and uses seven parking spaces along Merrill St.

With the recent change in the metered parking rate to $1.50 per hour, the City will now charge $3,000/year per meter per space.

At the July 12, 2017 meeting of the Advisory Parking Committee ("APC"), the above topic was reviewed. The APC asked to have the opportunity to review the traffic impact analysis prepared for the project as a part of the Planning Board’s review. That information is now provided.

It was mentioned that there is no space on Brown St. for delivery trucks to line up to unload, as there is only the one traffic lane. Mr. Kalczynski observed that traffic flow and parking are intertwined. The APC is being asked to remove eight
spaces at a time when the City is in a crisis mode with parking. When additional people are added, where do they go?

Addressing a question, Mr. O'Meara advised the bus stop will be moved north of Merrill St., and the space will be turned back to parking. The redesign will represent a net gain of two parking spaces.

Mr. John Gaber, Attorney with Williams Williams Rattner & Plunkett, PC, spoke to represent the property owner, Lorient Capital, LLC. Mr. Gaber wanted to ensure there is no conflict of interest with respect to Mr. Kalczynski being the manager of the Townsend Hotel. The Chairman indicated the nature of this board is that it is comprised of stakeholders. Mr. Kalczynski provides insight into situations that the committee would not have otherwise.

Mr. Kalczynski noted he does not have a conflict of interest. His role on the APC is only to approve or disapprove recommendations for parking. Therefore he will not recuse himself from the consideration of this matter.

Mr. Gaber went on to note that under the current parking nine spaces will be removed. After the street is reconstructed, the area is proposed for 12 spaces. However, accommodating three spaces for the driveway and one space for the sidewalk bumpout at the corner gets it down to eight. The project is a five-story luxury boutique hotel comprised of 126 guest rooms with 17 rental apartments on the fifth floor. There will be a banquet hall, meeting rooms, restaurants, and bars. One component of the building is the two floors of underground parking which provide 56 parking spaces. Only 22 of those spaces are required for the apartment units on the top floor. So the other 34 are available for the general use of the facility. Another feature of this project is enhancement of the streetscape which will help to facilitate some of the City's goals and objectives relative to pedestrian and bicycle traffic.

Their Traffic Management Plan has been reviewed by the City's Traffic Engineer and he has signed off, as has the Planning Board. That plan provides for valet at the front. From there the valets will circulate around the Brown St. side of the building and enter the parking garage there. If there is not room below to park the cars they will be stacked and the valets will relocate them off site. One feature of the Plan they think is important is there will be cross training of hotel employees in valet service. Then they can assist when needed.

With regard to the loading situation on Brown St., trucks will back up into a driveway, be off of the road, and be able to use that area for loading and unloading.
There was discussion by the APC members that $3,000/year per space seems low. Mr. O'Meara explained that figure is based on 60% occupancy. Mr. Richard Astrein received confirmation that the City Commission is the final arbitor of the cost structure.

Motion by Ms. Champagne
Seconded by Ms. Krueger to recommend to the City Commission the removal of eight on-street parking spaces at 298 S. Old Woodward Ave. to allow for the operation of a valet service by the adjacent property owner, in exchange for an annual payment of $24,000 (at $3,000 per meter) to be charged annually once the adjacent hotel is open for business.

Ms. Champagne added she thinks one of the things that makes the Townsend Hotel really special and part of the ambiance of the City is the valet in front.

Mr. Gaber stated they think that a hotel is the highest and best use for this property. The City could be looking at a dense office building there. That would put more daytime peak demand on the system than the hotel will. Secondly, in addition to the 56 spaces underneath, there is stacking for 20 more cars. Also, if public spaces are not available they are obligated to work out an arrangement for other parking. Lastly, progress is being made because the City has recognized the parking problem and is expanding the N. Old Woodward Structure.

Motion carried, 5-1.

VOICE VOTE:
Yeas: Champagne, Krueger, Honhart, Kuhne, Vaitas
Nays: Kalczynski
Absent: Paskiewicz

Mr. Astrein brought up the point that the rate to pay into the Parking Assessment District is low, as is the rate being charged to the hotels for taking meters off the street. Someone coming into the Parking Assessment District now should be paying market rates to buy in to the structures.

AD HOC PARKING DEVELOPMENT COMMITTEE UPDATE

Mr. O'Meara reported there were four different development teams that submitted a response to the Request for Qualifications of how they thought the N. Old Woodward Ave. property could be redeveloped. All four were brought to the Ad Hoc Parking Development Committee. It was decided that all four are viable options and the teams will have another 90 days to submit their final proposal.
DATE:          October 10, 2017
TO:            Joseph A. Valentine, City Manager
FROM:          Matthew Baka, Senior Planner
APPROVED:      Jana Ecker, Planning Director
SUBJECT:       Ordinance Amendment for Historic Designation of 927 Purdy

In March of 2016 the owner of the house located at 927 Purdy, Luis Barrio, requested that the City Commission consider designating his home as a historic structure within the City of Birmingham. In accordance with this request, the City Commission passed a resolution directing the Historic District Study Committee to prepare a study committee report evaluating the home for historic designation as outlined in section 127-4 of the City Code, *Establishing additional, modifying, or eliminating historic districts.*

As required by the City Code the committee has prepared a final report with its recommendations which is now ready for consideration by the City Commission for the establishment of a new historic district. After receiving the final report the City Commission, at its discretion may introduce and pass or reject the proposed ordinance. The final report from the HDSC and relevant meeting minutes are attached for your review.

**SUGGESTED ACTION:**

To establish the home at 927 Purdy as a non-contiguous historic district in accordance with the requirements of section 127 of the Birmingham City code by amending Chapter 127, section 25 (20) to add 927 Purdy as a Historic District in the City of Birmingham.
03-82-16  HISTORIC DESIGNATION REQUEST
927 PURDY

City Planner Baka explained that the applicant has requested that the City consider designating the home historic. City research shows that the home is at least 100 years old. The applicant has submitted extensive research that shows that it is likely quite a bit older. The designation process includes the City Commission direction to the Historic District Study Committee to produce a report which is then reviewed by the Planning Board and several historic boards and organizations within the state. Any recommendations from those entities would be brought back to the City Commission for consideration to determine whether or not to adopt the house as a historic district.

Mr. Baka explained that most of the City’s historic structures are considered non-contiguous districts which contain one home that establishes a district onto itself. He confirmed that this item will return to the Commission within one year.

MOTION: Motion by DeWeese, seconded by Boutros:
To direct the Historic District Study Committee to prepare a study committee report on 927 Purdy as outlined in section 127-4 of the City Code:
WHEREAS, the owner of the Property located at 927 Purdy has requested that this home be considered for Historic Designation within the City of Birmingham,
WHEREAS, The land for which the Historic Designation is sought is located on the east side of Purdy between George and Ann St.,
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 home at 927 Purdy 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 927 Purdy.

VOTE: Yeas, 7
Nays, one
Absent,
None
Minutes of the regular meeting of the Historic District Study Committee (“HDSC”) held Wednesday, May 5, 2016. All members present declined to chair the meeting. Matthew Baka agreed to facilitate the meeting in the absence of a chair.

1. ROLL CALL

Present:  Gigi Debbrecht, Patricia Lang, Gretchen Maricak, Michael Xenos

Absent: None

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

2. 927 PURDY
   Historic Designation request

Mr. Baka announced the owner of the house located at 927 Purdy, Mr. Luis Barrio, has requested that the City Commission consider designating his home as a historic structure within the City of Birmingham. Previous City research indicates that the home is at least 100 years old. Mr. Barrio has submitted extensive research that he has done detailing the history of the home. It appears, based on the information that Mr. Barrio submitted, that the home is likely quite a bit older than 100 years. The process for designating a property or structure as historic is outlined in section 127-5 of the City Code, 'Establishing Additional, Modifying, or Eliminating Historic Districts.'

The first step in the process towards considering historic designation of this property is for the City Commission to pass a resolution directing the Historic District Study Committee (“HDSC”) to commence with the creation of a study committee report as outlined in section 127-4 of the City Code, 'Historic District Study Committee and the Study Committee Report.'

The City Commission passed a resolution on March 14, 2016 directing the HDSC to conduct a study in accordance with section 127-4 of the City Code to consider the designation of 927 Purdy as a Historic Structure. The HDSC has been charged with producing a preliminary HDSC report in accordance with the criteria set forth in the City Code. Accordingly, the committee will need to complete steps 1 and 2, and then evaluate the research to determine if the criteria for evaluation referenced in the Code have been met. The Planning Staff suggests that steps 1
and 2 be completed and that the committee then reconvene to evaluate the property and begin preparing the preliminary report.

Ms. Debbrecht said there may be a way of finding a hand drawn map which she thinks is circa 1885 and showing the houses in that Birmingham area.

Mr. Baka noted everything Mr. Barrio has submitted pretty much deals with between the time the house was built and time it was moved to Purdy. His information clearly indicates that the house is historic. A lot of what this board needs to consider is whether changes have been made to the house that are so drastic that it no longer has the character it had when it was built.

Discussion brought out that there have not been any new designations since the late '80s. The problem is that State level tax credits were eliminated by Governor Snyder when he came into office. Board members agreed that designation would save this house from demolition in the future.

Ms. Maricak noticed significant detail change has been made to the existing house over the years. The building needs to be faithful as much as possible to the original structure. Mr. Xenos pointed out that the siding is aluminum. Mr. Baka noted evidence needs to be submitted that suggests the details are the way the house originally looked. He wondered if looking at similar homes built in a similar era would be good enough to justify the addition of those details back onto this house.

Mr. Baka advised that once the HDSC puts their report together it must be sent to the State and other organizations and then they will reply with feedback. The final decision on designation lies with the City Commission.

Ms. Debbrecht thought the house at the corner of Adams and Maple Rd. would be a candidate for designation.

The board studied Criteria for Evaluation and determined the strongest point is 'Distinctive characteristics of a type, period, or method of construction.' The general consensus was that more information is needed from the owner that could help the board with its decision. Board members were definitely in favor of saving the beautiful old house.

Mr. Baka thought the next step would be for him to contact the homeowner and ask for any additional information he has on the restoration he did. The one thing the homeowner doesn't have are Sanborn maps of where the house is now. When the house appeared on that Sanborn map would confirm his theory that it was moved.

Board members discussed a future meeting date but could not yet reach a consensus.
Minutes of the regular meeting of the Historic District Study Committee (“HDSC”) held Thursday, March 28, 2017. Chairperson Gigi Debbrecht called the meeting to order at 6 p.m.

1. ROLL CALL

Present: Paul Beshouri, Gigi Debbrecht, Patricia Lang, Michael Xenos

Absent: Gretchen Maricak

Administration: Matthew Baka, Senior Planner
Mario Mendoza, Recording Secretary

2. 927 PURDY

Historic Designation Public Hearing

The public hearing opened at 6 p.m.

Mr. Baka noted the committee's purpose this evening is to take public comment on its recommendation to designate this house. He presented a PowerPoint that reviewed the basics of what is known along with the main criteria that led this committee to recommend designation. Based on records supplied by the homeowner, the house was constructed in approximately 1880. It was originally located at what was then 121 Pierce, currently 217 Pierce. According to information available, it appears the owner, Alemon Whitehead, founder of the Eccentric Newspaper, sold the house sometime between 1904 and 1910 to Irving Bailey. About 1944 the home was sold again to the McBride Family who were famous for operating a hardware store. That building at 128 S. Old Woodward Ave. is historically designated within the City. In 1944 the home was moved from Pierce to its current location at 927 Purdy. Once moved it was remodeled and occupied by Russell McBride, son of Harry McBride, founder of the hardware store.

The current homeowner, Mr. Barrio, has done extensive exterior work on the home. He based his changes on other homes in the area from the same time period.

Public comments were taken at this time.

Mr. Keith Deyer, 1283 Buckingham, who currently serves on the HDC and DRB, recalled the last historic designation in the City was done in 1997, the Bates St. Historic
District. So in his mind this is a landmark event because it is the first time in many decades that someone has come forward with documentation indicating they would like their house to receive historic designation. The reason designation fell off in popularity is that the State used to offer tax credits for historic designation. That would offset some of the cost of doing the restorations. However, that is no longer the case. Therefore he applauded what this homeowner is trying to do.

Ms. Susie Vestovich, 920 Purdy, spoke in favor of the designation. The house is beautiful and it makes the neighborhood and the whole city better.

Mr. Baka advised he has sent the report to a contact person at the State Historic Preservation Office ("SHPO") and she will forward it to several state-level boards for their review. As long as she has a positive recommendation, they will probably do the same. Then the request for designation will move to the City Commission who will have the final say.

Mr. Deyer commented that whatever SHPO does or doesn't do will not impact what the City chooses to do with regard to getting the home on the National Register.

No further business being evident, the board members closed the public hearing at 6:11 p.m.

Matthew Baka
Senior Planner
Minutes of the regular meeting of the Historic District Study Committee (“HDSC”) held Thursday, August 10, 2017. Chairperson Gigi Debbrecht called the meeting to order at 1 p.m.

3. ROLL CALL

Present: Chairperson Gigi Debbrecht, Jonathan DeWindt, Paul Beshouri, Patricia Lang, Michael Xenos

Absent: None

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

4. 927 PURDY
Study Committee Report Update

Mr. Baka recalled that 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 with a recommendation to approve the designation request. One of the requirements of Section 127-5 is that the report be sent to the State Historic Preservation Office ("SHPO") for comment before being considered by the City Commission. After a lengthy delay due to staffing issues at the State office, SHPO has sent the City their comments regarding the report. The comments focus on the format and content of the report rather than the recommendation itself.

Basically they want more information:

- Especially on the history of the house;
- One or two lines of bio on each committee member;
- What each member’s demonstrated interest is in historic preservation;
- They thought the name of the proposed District should be reconsidered;
- They want the District to be called the Bailey House Historic District since the Baileys were the longest owners of the property;
- Background data should read like a historical narrative.
- The term "Late 19th Century Farmhouse" is not an accepted architectural style term. The style for this house would be considered to be a gable front Folk Victorian;
- The appropriate term for the windows is "double hung,"
• Decide on a period of significance for the house.

Mr. Baka passed out a list of local resources for historic research.

It was thought the house was most significant before it was moved to Purdy.

Mr. Beshouri volunteered to find information on the Bailey Family and to e-mail it to everyone.

Chairperson. Debbrecht said she will call the homeowner and see if he has anything further to add with respect to SHIPO’s requested information, especially the sequence of events on the alterations.

Ms. Lang agreed to find more information on Almuron Whitehead and Mr. Xenos will work with her.

Mr. DeWindt indicated he will research Russell McBride.

Everyone will send a bio to Mr. Baka.
Minutes of the regular meeting of the Historic District Study Committee ("HDSC") held Thursday, August 24, 2017. Chairperson Gigi Debbrecht called the meeting to order at 1 p.m.

1. ROLL CALL

Present:   Chairperson Gigi Debbrecht, Jonathan DeWindt, Patricia Lang, Michael Xenos

Absent:   Paul Beshouri

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

2. 927 PURDY
Study Committee Report Update

Mr. Baka recalled that 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 with a recommendation to approve the designation request. One of the requirements of Section 127-5 is that the report be sent to the State Historic Preservation Office ("SHPO") for comment before being considered by the City Commission. After a lengthy delay due to staffing issues at the State office, SHPO has sent the City their comments regarding the report. The comments focus on the format and content of the report rather than the recommendation itself.

On August 10, 2017 the HDSC held a study session to discuss the comments provided by the SHPO. It was agreed that the comments provided should be addressed and incorporated into the report before it is forwarded to the City Commission. Accordingly, the committee agreed to divide the additional research and bring any new information to the next study committee meeting.

The group discussed any changes to the report. Mr. Baka noted that he still needs bios from everybody. Ms. Lang said that after her research she thinks that the home should be named after Almeron Whitehead, considering the number of things he is known for.

Mr. DeWindt said he could not find much on the McBride family, other than they were into hardware. There was nothing about them being involved with the community.
Everything he read at the library was about the Whitehead family and how they immersed themselves into the community.

Mr. Baka remarked that Mr. Beshouri had said he didn't find much on Bailey.

Ms. Debbrecht noted that Whitehead owned the home when it was originally on Pierce and kept it until it was sold to Bailey. Mr. DeWindt said the State used Bailey as a name just because Bailey owned the house the longest, but they didn't know all of the background. If more information is added to the report it will become clear why the house has been named Whitehead.

**Motion by Ms. Lang**
**Seconded by Mr. Xenos to keep the name Almeron Whitehead associated with 927 Purdy.**

**Motion carried, 4-0.**

**VOICE VOTE**
Yeas: Lang, Xenos, Debbrecht, DeWindt
Nays: None
Absent: Beshouri

Mr. Baka said that after receipt of the bios he will put the report together and send it around to the committee members for them to proofread.
DATE: October 9, 2017

TO: City Commission

FROM: Historic District Study Committee

SUBJECT: 927 Purdy – Historic Designation request

In accordance with the resolution passed by the City Commission at the March 14, 2016 meeting, the Historic District Study Committee has prepared a report on the request for historic designation submitted by the owner of the property located at 927 Purdy, Birmingham MI. As required by Section 127-5, Establishing additional, modifying, or eliminating historic districts, the HDSC has prepared the following report for consideration by the City Commission. Photographs submitted by the applicant and aerial photos from Oakland County have been attached in support of this report.

Charge of the Committee – Evaluate the property located at 927 Purdy for potential designation as a historic resource.

Committee Members:
Gigi Debbrecht - Lived in the King Argus House, c 1880, (743 Frank St, Birmingham MI), one of the historically designated homes in Downtown Birmingham from 1983 – 1990. Later moved into a local Craftsman house built in the 1920’s. She also initiated a yearly walking tour of older downtown homes sponsored by the Birmingham Community House. Licensed realtor that has listed and sold a number of the designated historic homes in Birmingham and surrounding areas.

Michael Xenos - Works in the architectural field as a construction administrator. Has renovated 5 homes in Birmingham, Michigan saving the architecture from the past. Graduate of the University of Michigan School of Architecture. 20 year member of the National Trust for Historical Preservation.

Johnathan Dewindt - Interest in historical preservation stems from conversations about history with his dad who was one of the founders of the Harbor Springs Historical Society. These conversations included topics about the people who first settled and explored in and around MI and how industry played a part in changing the Michigan landscape and communities. Topics of interest include the history of the Native American Indians and the impact the Shay locomotive had on Michigan's tourism and business. Lived in Charleston SC for 5 years which fostered a strong appreciation for architecture and history, visiting plantations and taking countless historical tours. Active Docent, grandson of the late pastor, Dr. Harold DeWindt, and a member of the Kirk In the Hills Presbyterian church, sharing the history of the church through tours.
Patricia Lang – Has lived in Birmingham since October, 1983. House on Floyd St. in Birmingham was built in 1919. Also owns a Harbor Springs home built in approx. 1910 which has fostered a deep appreciation for historic homes. Has served on the HDSC for the past 8 years.

Paul Beshouri – Licensed Realtor with several years working as a real estate & development reporter for Vox Media. Extensive historical research experience in the fields of architecture & neighborhoods. Volunteer and preservation advocate in the City of Detroit.

District studied
927 Purdy, Birmingham MI, 48009
PIN – 1936256003
Legal Description: T2N, R10E, SEC 36 BUELL’S ADD LOT 41, ALSO W 1/2 OF VAC ALLEY ADJ TO SAME.

Boundary Description - The boundary of the proposed zone would be limited to the legal description of the property. As a proposed non-contiguous historic resource, no other properties are currently included in this study. Non-contiguous historic districts are historically designated homes in the City of Birmingham that are not part of a larger historic district. There are currently fourteen (14) non-contiguous districts in the City.

History
The Birmingham Historical Museum and Park records indicate that the house was built in approximately 1880. The structure bears historical distinction as it was once owned by Almeron Whitehead, one of the most prominent figures in the history of Birmingham and founder of the Eccentric Newspaper. When he died on July 25, 1926 at age 75 the Birmingham Eccentric stated, Almeron Whitehead was a man who contributed more than any other single individual to the growth and civic spirit of the community”. Being a progressive and open to new ideas he was the first person in town to buy, own or inaugurate the following: phonograph, bicycle, bathtub, telephone, gasoline automobile, safe, typewriter, bank, letter press and newspaper.

Besides all of the above he was the township clerk (1875-77), on the Library Board, township Supervisor and Superintendent of the Poor. He also served on the village board and community projects. He did printing jobs and ran a general store where the 1st safe in town was housed. This grew into the 1st bank in town which in 1910 this private exchange bank became the First National Bank of Birmingham with Almeron as President. His store also was where the 1st telephone switchboard was installed. He later built and owned the Telephone Building on Pierce. Years later he organized the Birmingham Brick Co. Limited. By 1890 he and his partner got involved in real estate developing property and selling lots and houses. He was a notary republic and became involved in plans to provide better and faster transportation between Detroit and Birmingham leading to the operation of the electric railway in 1895.

As village president for 13 years Almeron was instrumental in providing concrete sidewalks, supported Martha Baldwin’s proposal for Library Hall, worked to build village waterworks replacing individual wells and helped build St. James Episcopal Church in 1895.
The original plat for the property was established in 1842 as Lot 3 of Hunters plat was where the house was built (see 1842 map attached) James Hunt owned lot 3 in 1874 (The house was later built on that lot, but was not there in 1874) The south west side of lot 3 was purchased by Almeron Whitehead, founder of the Birmingham Eccentric. The house appears to have been there in 1881 (see bird’s eye view attached). Almeron Whitehead paid taxes for the property, as indicated by records dated 1885, 1887, 1890, 1897, 1902, 1904. A copy of a newspaper article mentioning that Almeron Whitehead owned a house on the east side of Pierce Street that was rented in the 1890s was discovered (attached). According to the Federal Census of 1910, the property was later re-platted and the legal description of the house changed to Assessor’s Plat 24, part of lots 15 and 16, at 121 Pierce St. (current day 217 Pierce St.) along with an oil station on the same parcel.

Records indicate that Irving Bailey purchased and remodeled the home between 1904 and 1910. The Sanborn Fire Insurance Map of 1910 shows the house with the exact footprint as the current basement. Irving Baily occupied the home from approximately 1904 to 1944 whilst also owning and operating the oil station next door. In 1945 the house was purchased by the McBride family and subsequently moved to its present location on Purdy St. An article from the September 20, 1945 issue of the Birmingham Eccentric explains that the house was relocated to make way for a new commercial building that would contain three establishments. Once moved, the home was remodeled and occupied by Russell McBride. Russell’s father, Harry McBride, was a progressive business man and influential citizen who owned the Hardware House of Birmingham. He served as mayor of Birmingham. Russell was treasurer of the Birmingham board of education from 1917 to 1921 and was later elected mayor of the city in 1922. His term in office was marked by liberal and progressive policies.

**Evaluation Criteria**

**Description** - The primary building at 927 Purdy St. is a late 19th century Gable front Folk Victorian. All elevations are faced with wood siding and fenestrated with double-hung windows. A covered porch enclosed by baluster spindles and supported by two detailed wooden posts creates an opening to the house’s main entry door. The front elevation features a gabled roof at its right side and a centrally located chimney, giving the house an asymmetrical look.

The subject house at 927 Purdy has recently undergone exterior restorations which include removal of the aluminum siding, restoration of the wood lap siding underneath and recreation of several of the accent details. Other homes in the area from the same time period were used as the basis for these changes, which are contrasted with the accompanying before photos. New ornamentation was added to the façade of the house to recreate original detail as closely as possible. On the porch, there are now brackets joining the posts with its roof. A bracket pediment is affixed to the gable roof. It is also of note that the windows have been re-encased with a new trim. The entirety of the house’s exterior has received new paint, from the wood paneling that is now beige, to the porch, ornamentation, and fascia that are now accented with a vintage white.

**Significance** - The study committee has evaluated the significance of the Almeron Whitehead House at 927 Purdy, according to the criteria for listing in the National Register of Historic Places. The committee finds that the house is significant under National Register criterion b, for its association with persons of significance in our past, and criterion c, because it embodies the distinctive characteristics of the late 19th century Gable front Folk Victorian style of architecture.
The National Register Criteria
The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship and association, and:

B. That are associated with persons of significance in our past.

Almeron Whitehead, one of the most prominent figures in the history of Birmingham. When he died on July 25, 1926 at age 75 the Birmingham Eccentric where he was an editor circa 1907 stated, Almeron Whitehead was a man who contributed more than any other single individual to the growth and civic spirit of the community”. Being a progressive and open to new ideas he was the first person in town to buy, own or inaugurate the following: phonograph, bicycle, bathtub, telephone, gasoline automobile, safe, typewriter, bank, letter press and newspaper.

C. That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

The home at 927 Purdy St. is a late 19th century Gable front Folk Victorian. All elevations are faced with wood siding and fenestrated with double-hung windows. A covered porch enclosed by baluster spindles and supported by two detailed wooden posts creates an opening to the house’s main entry door. The front elevation features a gabled roof at its right side and a centrally located chimney, giving the house an asymmetrical look.

Bibliography
Book of Birmingham, 1976
Information provided by Luis Barrio (home owner)
Eccentric Newspapers
Archival Records maintained by the Birmingham Historical Museum
ORDINANCE NO.________

THE CITY OF BIRMINGHAM ORDAINS:
AN ORDINANCE TO AMEND CHAPTER 127, HISTORIC DISTRICTS, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND CHAPTER 127, SECTION 127-25, HISTORIC DISTRICT BOUNDARIES, TO ESTABLISH A NEW NON-CONTIGUOUS HISTORIC DISTRICT.

Sec. 127-25. - Historic district boundaries.

The boundaries of the Shain Park historic district, the central business historic district, and the Bates Street historic district are as shown on the maps which are on file in the city clerk's office. Such maps with all notations, references, and other information shown thereon are incorporated and are a part of this chapter.

Unless otherwise shown or noted in the following descriptions, the boundaries of all districts shall be lot lines and/or centerlines of streets or alleys or such lines extended.

(1) - (19) Unchanged

(20) Almeron Whitehead House Historic District (927 Purdy):

T2N, R10E, SEC 36 BUELL'S ADD LOT 41, ALSO W 1/2 OF VAC ALLEY ADJ TO SAME

ORDAINED this _____ day of _________, 2017 to become effective 7 days after publication.

____________________________
Mark Nickita, Mayor

_______________________
Cherilynn Mynsberge, City Clerk
927 Purdy, Birmingham MI 48009 - Almeron Whitehead House
Almeron Whitehead house district boundaries
HUNTERS Addition

State of Michigan
Oakland County
On this twenty-first day of June 1842 personally appeared before me John W. Hunter and acknowledged that he is the proprietor and owner of the within plat of part of the village of Birmingham

Notary Public
Oakland Co.

Harvey Parker
Surveyor

Received and recorded June 21, 1842
at 10:30 A.M.
927 PURDY
Merged from 205 PIERCE (Village Store)

FARM HOUSE STYLE CIRCA 1880-1900
ALUM. SIDING

CITY FC. 45-41
James C. Allen is the grandson of a former Birmingham school superintendent and a Birmingham schoolteacher. He is also the son of an ex-mayor and an ex-mayor himself.

In 1880 his maternal grandfather, Warren Duane Clizbe, was superintendent of the Hill School, the only school in town. In 1882 Clizbe married Nellie Richardson, who taught at the school. His grandmother had lived with her parents in a house on Martin Street where the Michigan Bell Telephone Company now stands. The Richardson family had originally moved from New York.

Clizbe was superintendent of schools for five years when Nellie’s father became superintendent of schools in Lapeer. They also spent five years in Ionia while Clizbe was superintendent of schools there. However, the family returned to Birmingham when Marion Clizbe, Allen’s mother, was 7. This time they settled in a rented house on the east side of Pierce Street. Their landlord, Almeron Whitehead, a co-founder of the Birmingham Eccentric, charged the Clizbes $12 a month in rent, the knowledgeable family historian recalled.

In 1894, Clizbe built a new home on the site of 588 Southfield Road where Marion married Harry Allen in 1914. Allen was the son of John and Susan Allen, born when the family lived on a farm on West Maple Road. The house was located on the south side of the street.

At the age of 10, James C. Allen contracted polio, returning to school later with the aid of crutches and braces. He recalls that a classmate drove him to school in a wagon and by sled in the winter. He was later to go on to the University of Michigan where his classmates included playwright Arthur Miller and famed poet A.H. Auden was the professor in residence. (Staff photo by Stephen Cantrell)
m's Allens

I with roots secure in the past

road, just east of where the Oakland Hills Country Club now stands.

Allen's mother once wrote in her memoirs that the Hunter House, now an historical site, was then on the west side of Woodward where the Birmingham Camera Shop now stands. The house was eventually moved to Brown Street, and finally came to rest on West Maple a few houses from the Allen House.

After their marriage, Allen continued, Harry and Marion Allen moved to Detroit where he was born. When they returned to Birmingham in 1926 they moved into a house on the site of the house which is now known as the Allen House. That house, he explained, had been left to the couple by Warren and Nellie Clube, but because of its deteriorated condition the Allens tore it down and built a new home on the site.

The house, which cost $30,000 to build according to Allen, remained in the Allen family until his mother's death. In 1974, Jim and his wife Rosemary now live in a house further west on Maple; and the Allen House is owned by the City of Birmingham.

In 1930 Allen's father, Harry Allen, was elected president of the Village of Birmingham after being defeated earlier by Harold Ellerby in the election of 1926.

"Dad was head of the Charter Commission in 1933 when the Village of Birmingham was voted a city by Birmingham residents," Allen stated. "I guess the people thought a city would have greater power than a village."

"THEY PAID a fee of $5 per meeting to commissioners who attended regular meetings," Allen said, "the same as they do now."

During the Depression, the commissioners voted to return their pay to the city, he said. That is, all but one commissioner, who confessed that he needed it badly for his family.

"George Averill, Ralph Coryell, Harold T. Ellerby, Lawrence Hubert, Ernest W. Osborne, Frank S. Packard, Charles J. Shain, and Lee A. White signed the charter that made Birmingham a city," Allen said.

As a boy, Allen started school in Detroit, then entered the Hill School third grade after the family returned to Birmingham. He recalls a "Mrs. Caldwell" among his teachers. The following summer, when Allen was about 10, polio struck and he was admitted by Dr. Lloyd Kemp to Ford Hospital. He remained in the hospital for a month and eventually was able to walk again with the aid of braces and crutches.

Allen returned to the Hill School at the beginning of the fifth grade, he recalled. Among his classmates were Joe Lamet, now of Detroit, and Francis Allen, who was no relation.

"Francis would take me to school in a wagon or on a sled in the winter," Allen said. "I started Baldwin (High School) in 1929," he continued, "I was in the last class to leave the Hill School." Some of his classmates included John Hubert, now living in Dearborn, Holden Drury, now of Detroit, and Janet Hart Hatch.

"I was the perennial class president," Allen said, "and graduated in an all-time large class of 100."

WHEN HE entered the University of Michigan in the fall of 1936, Allen knew he would be a lawyer one day. "Father was a pure, honest-to-God lawyer. He really believed in the law. There was never any questions in my mind as to what I was expected to become!"

As an undergraduate, Allen worked on the Michigan Daily, the student newspaper, and also on a literary magazine called "Perspectives."

Others working on the magazine, he recalled, included noted playwright Arthur Miller, John Clardi, a poet and editor of the Saturday Review of Literature, and famed poet A. H. Auden, who was then a professor in residence.

"The only poem I ever wrote that I liked was inspired by F. Scott Fitzgerald's last and unfinished novel "The Last Tycoon," he stated.

In Ann Arbor, Allen met Rosemary Aldrich, an art major whose father was a professor of art. The couple were married in 1944. Today, Mrs. Allen says that she has "sold a few things, but I haven't painted for a long time. I'm a non-active member of the Women's Painters group and the Birmingham-Bloomfield Art Association."

In the meantime, Allen graduated from Michigan, and the U of M law school in a class of only 12 students. Everybody was away in the service," he explained. "It was probably the smallest law school class Michigan ever had."

The Allens returned to Birmingham in 1944 after their marriage. Their first home was an apartment over Bruni's grocery store on Woodward. Allen started a law practice "the minute I got out of law school," he said with a chuckle. "My father saw to that!"

DURING HIS first court case, in the Common Pleas Court, he found out about justice, he explained. "It was an automobile accident case with me pitted against an insurance company lawyer," he said. "Let the insurance company pay for it!" decreed the judge, and it has been ever thus!

Allen practiced primarily corporate law with the firm of Face, Haas and Allen. "I remember Judge Robert Toms was my favorite judge," he recalled. "He served as a judge at the Nuremberg trials and was a fine judge."

The Allens moved to Bates Street in 1945. Their family is a large one. A son, William, 32, lives in Colorado. Then there are Martha (Henderson), 32, Molly Allen Harp, 25, a resident of Birmingham, and Jim, who is serving with (Continued on Page 2B)
1885 Property Taxes

It reads:

BV (Birmingham Village) Hunter Pt W pt (west part) Lot 3

Property Value $800
<table>
<thead>
<tr>
<th>Property</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>Whitehead</td>
<td>18.0</td>
</tr>
<tr>
<td>Flowers</td>
<td>18.0</td>
</tr>
<tr>
<td>Total</td>
<td>36.0</td>
</tr>
</tbody>
</table>
1890 Taxes

It reads:

“ BV(Birmingham Village) Hunter Pl W pt of lot 3 (West part of lot 3)”

Property Value: $700

It reads:

“ BV Hunter Pt East Part of lot 3”
1897 property Taxes

Whitehead Almonor
West of Lot 3 Avenue 14 W. V.
200 by 300 ft. N. by E. by
By 200 by 300 ft. N. by E. by
St. Louis Ave. S. by E. by Park W.
by Laguna Ave. N. V.

2500
Michigan: A History

Lillian Drake Avery, 1925

J. Harry McBride, the progressive business man and influential citizen who figures as the proprietor of the Hardware House of McBride, one of the leading business establishments in the city of Birmingham, Oakland county, is known as one of the liberal and public spirited citizens of this community and has served as mayor of Birmingham. Mr. McBride reverts to the old Buckeye state as the place of his nativity, his birth having occurred at Beaver Dam, Allen county, Ohio, January 24, 1881. He is a son of William and Lillie (Gates) McBride, the former of whom was born at Chardon, that state, in 1850, and the latter of whom was born at Cortland, Ohio, in 1854. The public schools of his native place afforded Mr. McBride his early education, which was therein continued until 1899, and later he attended the Ohio Northern University, at Ada. He made a record of specially successful service as a teacher in the public schools of his old home town of Beaver Dam, where his professional activities along this line were continued from 1899 to 1903. Thereafter he was for a time employed as a clerk in the establishment of the J. J. Ewing Hardware Company, of Lima, Ohio, and since November 3, 1910, he has been engaged successfully in the retail hardware business at Birmingham, Michigan. His large and well equipped establishment is maintained on a metropolitan standard and is known as the Hardware House of McBride. In the conducting of this substantial business Mr. McBride now has as his valued assistant his son, Russell A. Mr. McBride has not abated his lively interest in educational affairs, and he was treasurer of the Birmingham board of education in the period of 1917-21.

In 1922 he was elected mayor, or president of the municipal board of trustees of Birmingham, and his two terms of service in this office were marked by characteristically liberal and progressive policies. Mr. McBride married Miss Edith M. Wood, of Detroit, and the one child of this union is Russell A., who was born February 26, 1903, who was graduated in the Birmingham high school as a member of the class of 1921 and who is now actively associated with his father's hardware business. Thomas L. Wood a brother of Mrs. McBride, served with the Shirley hospital unit over seas in the World war period, and another brother, Harry Wood, was in the aviation service of the United States navy, he having been at the Great Lakes Naval Training Station, near Chicago, at the time when the armistice brought the great World war to a close.
According to the Birmingham Eccentric, dated September 20, 1945, construction began for a new store building on Pierce Street for three establishments. According to the article, the old house on the property was moved to 929 Purdy. The home, for many years occupied by Mr. & Mrs. Edwin Bailey, was to be repaired, improved and occupied by Mr. & Mrs. Russell McBride. J.H. & Russell McBride had completed the plans for the new Pierce Street building for which Edward Bissell was the architect. The architectural design was intended to harmonize with the municipal building across the street and the public library.
THIS AND THAT

Lt. Harwood's Ship Buzz-Bombed And Attacked By Subs

By Edith N. Harper

Lt. Harwood's ship buzzed by a German submarine off the coast of France. The Germans attack was foiled by a French warship which shot down the submarine. Lt. Harwood was left uninjured.

Returning Servicemen Want Voice In Affairs Of Community And The Nation

Edith N. Harper

Returning servicemen want a voice in the affairs of their community and the nation. They have come back from fighting for their country and are now looking for a way to contribute to their local communities.

City Drafting New Plan for Handling Its Street Paving

Will Blow Lid Off Football Season At Pierce Field Friday

Birmingham To Have Part In New School Recreation Program

Will Blow Lid Off Football Season At Pierce Field Friday

Baldwin High School Band Promises To Be One Of Best In Birmingham's History


turn to page 7

New Building Will House Three Stores Along Pierce Street

Patterson asks for something about the way to Manchester. He is lost and needs directions to the hotel. The man at the gas station tells him to turn left at the next intersection and then right at the traffic light.
New Building Will House Three Stores Along Pierce Street

Pierce street is to have a new store building housing three mercantile establishments. J. H. and Russell McBride of the McBride Hardware have plans completed for the new structure, just north of Maple street. The new building will face west and will be of an architectural design to harmonize with the municipal building and the public library.

Work started last week when the old house on the property was moved to 929 Pundy street. The house is to be repaired and improved into a modern home and will be occupied by Mr. and Mrs. Russell McBride. The residence property was known as the Bailey home and was occupied for years by Mr. and Mrs. Edwin Bailey, now residing at East Tawas, Mich.

The new store building will have a frontage of 50 feet on Pierce street. Edward E. Blissel is the architect now drawing the plans. Contracts are now being let for various parts of the building operations and the excavation for the basement is expected to be started this week.

J. H. McBride stated today that no leases had been signed for the stores because of the uncertainty of date of completion of the structure.
**Tax Description**

1. T2N, R10E, SEC 36
2. ASSESSOR'S PLAT NO 24
3. PART OF LOTS 15 & 16
4. BEG AT PT DIST
5. N 01-52-25 W 22 FT
6. FROM SW COR OF LOT 16,
7. TH N 87-00-00 E 100.56 FT,
8. TH N 05-21-50 E 20.34 FT,
9. TH N 35-22-05 W 57.55 FT,
10. TH N 11-52-30 W 17.15 FT,
11. TH S 54-26-10 W 82.08 FT,
12. TH S 01-52-25 E 41.48 FT
13. TO BEG, ALSO
14. SLY PART OF LOT 17 MEAS
15. 3 FT ON ELY LOT LINE &
16. 48.53 FT ON WLY LOT LINE

**Legacy Lineage**

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<th>Delete Date</th>
<th>Child(ren)</th>
<th>Add Date</th>
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<td>FROM 19-36-201-003/004</td>
<td>12/14/1976</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Address Information**

- **Address**: 18855 Warwick St
  Beverly Hills MI 48025-4068
- **Address**: 165 Pierce St
  Birmingham MI 48009
- **Address**: 217 Pierce St
  Birmingham MI 48009-6046

**Related PINs**

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<th>CVT</th>
<th>PIN</th>
<th>Parcel Type</th>
<th>Status</th>
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<td>Business Account</td>
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<tr>
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<td>99-00-000-158</td>
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<td>Inactive</td>
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<tr>
<td>08</td>
<td>99-00-003-063</td>
<td>Business Account</td>
<td>Active</td>
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<tr>
<td>08</td>
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<tr>
<td>08</td>
<td>99-00-010-098</td>
<td>Business Account</td>
<td>Inactive</td>
</tr>
</tbody>
</table>
Irving Bailey
in the 1910 United States Federal Census

Name: Irving Bailey
Age in 1910: 44
Birth Year: abt 1866
Birthplace: New York
Home in 1910: Bloomfield, Oakland, Michigan
Street: Pierce Street
Race: White
Gender: Male
Relation to Head of House: Head
Marital Status: Married
Spouse's Name: Hattie Bailey
Father's Birthplace: New York
Mother's Birthplace: New York
Native Tongue: English
Occupation: Repairer
Industry: Rep Shop
Employer, Employee or Other: Own Account
Home Owned or Rented: Own
Home Free or Mortgaged: Free
Farm or House: House
Able to Read: Yes
Able to Write: Yes
Years Married: 26
Neighbors: View others on page

Household Members:

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irving Bailey</td>
<td>44</td>
</tr>
<tr>
<td>Hattie Bailey</td>
<td>44</td>
</tr>
</tbody>
</table>
PARTIES and SUNDAY DINNERS A SPECIALTY

172 S. Woodward Avenue - Phone 294

Atkinson, Frank W., lawyer, 411 Harmon.
Atkinson, Olivia, housewife, 411 Harmon.
Atwell, James, Ford Motor, 311 Townsend.
Atkinson, Nancy I., student, 411 Harmon.
Atkinson, Frank W. Jr., student, 411 Harmon.

Atwell, Elizabeth, housewife, 311 Townsend.
Austin, Melville M., oil broker, Lincoln.
Austin, Edna M., housewife, 521 Lincoln.
Averill, George R., owner Birmingham Eccentric, 203 Poppleton.
Averill, Louise, housewife, 203 Poppleton.

Babcock, Maud, maid, 314 Frank.
Babcock, May Miss, 401 Townsend.
Babcock, Clyde, Ford motor, 401 Townsend.
Bacon, L. W., Chevrolet sales, 511 Watkins.
Bailey, Irving, oil station, 121 Pierce.
Bailey, Hattie, housewife, 121 Pierce.
Bailey, Alice, housewife, 227 Hamilton.
Bailey, Manley, student, 227 Hamilton.
Bailey, Milo L., Radio eng., 218 N. Woodward.
Bailey, Elsie, housewife, 218 North Woodward.
Bailey, Edgar L., electrical engineer, 233 Ferndale.
Bailey, Margaret W., housewife, 233 Ferndale.
Baird, J. W., plumbing, 206 Park.
Baird, Rose, housewife, 206 Park.
Baird, Ella V., 631 Wallace.
Baird, Russel, 631 Wallace.

Baird, Ella Mrs., housewife, 631 Wallace.
Baker, R. D., contractor, 536 Southfield.
Baker, Harriet, housewife, 536 Southfield.
Baker, Adele, housewife, 423 East Maple.
Baker, Carrie Mrs., Ford motor, 315 Haynes.
Baker, Howard, cement blocks, 315 Haynes.
Baldwin, Ruth, housewife, 614 Dorchester.
Baldwin, Stowe D., salesman, 614 Dorchester.
Baldock, Maud, housewife, 401 Brown.
Baldwin, J. W., retired, 416 Harmon.
Baldwin, Florence C., housewife, 416 Harmon.
Baldwin, Geo. E., Fuel Co., 600 Pierce.
927 Purdy St., formerly @ 121 Pierce St. (Today 217 Pierce St.)
404 Bates St.

Built 1880
339 Townsend St.

Built 1881
MEMORANDUM
Department of Public Services

DATE: October 9, 2017
TO: Joseph A. Valentine, City Manager
FROM: Lauren A. Wood, Director of Public Services
SUBJECT: Glyphosate Review and Recommendation

At the July 25, 2016 City Commission meeting when the chemical/fertilizer purchases for the golf courses were presented to the City Commission and approval was granted minus the City using glyphosate on the golf courses. As a result, the use of glyphosate has been banned citywide on municipal properties. In fact, we went “cold turkey” last July.

This past year, while reviewing and evaluating the effects and impact of not using glyphosate and trying alternative products to care for the expanse of parks and public property we provide the following analysis and recommendations for future weed control. In order to give you a sense of the areas for which we are responsible to keep weed free, the following serves as list of examples: All parks in limited areas, sidewalks, tree wells, parking lots, parking decks, alleys, landscape beds on city property, Woodward Avenue and other medians, street bulb out areas, gravel pathways, Downtown, Triangle District, Library, City Hall, Museum, Fire Stations, Golf Courses, Ice Arena and DPS. It is important to mention, and will be touched on later as well, we do not treat lawn areas with Glyphosate.

At the time of the July 2016 “ban”, we had made it through the most difficult time period for weed growth for 2016, the rainy, wet spring growing season. This made it a bit easier to transition, with areas having already been treated, so less of an impact on staff time. We began to research alternative methods, including other chemical methods and natural treatments.

August-October 2016: City staff tried 5% Vinegar mixed with salt and soap. We had very poor results. It took several applications and a drenching of the target weed. We explored the use of torching/burning the weeds in the limestone pathway at Barnum Park. We hired a contractor to perform weed control in an area along the railroad tracks using Imazapyr.

May 2017: City staff hand pulled, weed whipped, and scraped the weeds in the sidewalk areas in the downtown and parking lot areas, and landscape beds. We gave up on the 5% Vinegar solution. We struggled to keep up, and complaints from residents and businesses started coming in.

June-July 2017: More mechanical control by City staff. We just do not have enough people to pull weeds. We hired a contractor to perform invasive species control at Quarton Lake using Triclopyr, Garlon 3A. This works well for woody invasive plants, but not so well on the grasses and sedges that are found mixed in with other weeds in sidewalk cracks.
August 2017-Today: We came across another vinegar solution using a 30% Horticultural vinegar, Orange oil and soap. We tried it in select locations and it was successful. It burned the weed immediately, but requires more frequent applications as it is more of a contact burn, not systemic. The oil residue was hard on the spray equipment, clogging it, making it more labor intensive, with rinsing and washing required often. It is also very expensive. Staff continued using mechanical methods such as hand pulling in landscape beds.

More information on the alternative methods for control of weeds is outlined in the chart below. Glyphosate is also listed as a method for comparison purposes.

<table>
<thead>
<tr>
<th>Herbicide/ or other Control method</th>
<th>Target Weeds</th>
<th>Toxicity/ Breakdown in Soil</th>
<th>Results/ Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weed whipping/ Hand pulling</td>
<td>All</td>
<td>N/A</td>
<td>Immediate results, but does not last long, only takes off tops of weeds, leaving roots intact. Very Labor intensive.</td>
</tr>
<tr>
<td>Torching/Burning</td>
<td>Over time, if done properly and at the right time of year, can revive native plants in native plant beds, ultimately choking out invasive weeds. Cannot be done during the growing season, does not work well in path ways or sidewalks.</td>
<td>N/A</td>
<td>Poor results during the growing season, difficult to torch green grass and weeds. Works well just before Spring to revive native plants. Not a good regular method. Use as a supplemental treatment.</td>
</tr>
<tr>
<td>5% Vinegar/Salt/Soap</td>
<td>Broadleaf weeds</td>
<td>Salt in the soil/ runoff is not good for groundwater.</td>
<td>Burns somewhat, does not last long. The same weed treated may recover if not drenched enough. Need to reapply over and over again. Poor results, not effective long-term.</td>
</tr>
<tr>
<td>30% Vinegar/Orange Oil/Soap</td>
<td>Broadleaf weeds</td>
<td>Better option than the 5% Vinegar and Salt mixture.</td>
<td>Good Results. Burns immediately, but more frequent applications are necessary. Leaves strong vinegar odor. Orange Oil very gummy, hard to clean equipment. Found to clog equipment. Very expensive.</td>
</tr>
<tr>
<td>Herbicide/ or other Control method</td>
<td>Target Weeds</td>
<td>Toxicity/ Breakdown in Soil</td>
<td>Results/ Findings</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>--------------</td>
<td>-----------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td><strong>Imazapyr</strong>&lt;br&gt;Active ingredient for Trade name products Arsenal, Combined with Glyphosate in RoundUp® Extended Control</td>
<td>Broadleaf weeds such as dandelions &amp; Canada thistle All Grasses and sedges Small leaf weeds such as clover</td>
<td>Does not break down quickly, persists in the soil (can last a year or longer in the soil) and in addition, can move around in the soil, possibly resulting in damage to desirable plants and trees.</td>
<td>Danger to trees and other landscape plants nearby. Use with caution. Not recommended at all.</td>
</tr>
<tr>
<td><strong>Triclopyr</strong>&lt;br&gt;Trade names such as Turflon, Weed-B-Gon, Brush-B-Gon (Poison ivy Killer) Garlon 3A</td>
<td>Broadleaf weeds such as dandelions, thistle, and woody vines, however, leaves grasses unaffected.</td>
<td>Triclopyr breaks down in the soil between 30 and 90 days, and remains active in decaying vegetation for about 3 months.</td>
<td>Excellent on target weeds, however when addressing landscape beds and sidewalks downtown, there are many grasses that would be left untreated. Not a good solution.</td>
</tr>
<tr>
<td><strong>Glyphosate</strong>&lt;br&gt;Active ingredient in trade name products such as RoundUp®, Otho Kleen-Up, and Rodeo for aquatic areas</td>
<td>Broadleaf weeds such as dandelions &amp; Canada thistle All Grasses and sedges Small leaf weeds such as clover</td>
<td>Low toxicity to fish and wildlife according to MSU extension. Binds tightly to the soil, no runoff. Breaks down quickly in the soil by microbes. Average 4 weeks for biodegradation.</td>
<td>Excellent results. Addresses all types of weeds from grasses to broadleaf weeds.</td>
</tr>
</tbody>
</table>
The following pictures depict areas left untreated with glyphosate, which prior to July, 2016 would have a much lower weed count. Numerous complaints have been received in this time period from businesses and residents.
Downtown Birmingham
North Old Woodward Parking Structure, surface lot

Park Street Structure
N. Eton Bulb out

Kenning Park warning track for Field #4
What is Glyphosate? Glyphosate is a widely used herbicide that controls broadleaf weeds and grasses. It is found in products such as RoundUp® to control weeds in many places, including a wide variety of fruit, vegetable, and food crops, ornamental planting beds and along roadsides. Glyphosate has been used since the 1970’s. Products are sold in liquid, solid, and ready to use formulations, and applied using ground and even aerial equipment and small handheld containers. You can find it for sale on the shelf at your local hardware or lawn and garden supply. Most recently, in the agriculture industry, glyphosate has been mass-applied to control weeds in glyphosate-resistant crop varieties. The crop is genetically modified to be “RoundUp® or Glyphosate resistant” so that RoundUp® can be applied to the entire crop area, including the desirable plant. Today, there is 50 times more Glyphosate being used on corn crops then in 1996. Due to the agriculture mass application of glyphosate; this is what has increased the attention or concern to the use of this product in commercial or municipal settings.

How it works: Glyphosate is a non-selective herbicide, meaning it will kill most plants it comes in contact with. Because it is non-selective, it works really well to irradiate all types of weeds or undesirable plants in landscape areas, ranging from broadleaf weeds such as dandelions and thistle, to a wide variety of grasses, sedges, and small leaf weeds such as clover. It is used also to treat invasive plants that can choke out desirable native species. It is also why the City uses it very sparingly in City owned landscape beds, cracks in sidewalks or paved areas, tree wells, etc., just as a spot treatment. The goal is to keep the plant material that is purposely planted in landscape beds and to keep native plants thriving in natural areas. The City never applies it in lawn areas, unless we needed to remove an area of lawn. The City never mass-applies it, ever in any situation.

Glyphosate must be applied to actively growing plants. It is applied to the surface of the plant and is then translocated throughout the plant where it inhibits the enzymes involved in the synthesis of aromatic amino acids. As a result of treatment and disruption of biochemical processes, the plant begins to die. Annuals begin to show symptoms within 2 to 4 days, and perennials take 7 to 10 days. Cooler temps may result in a longer time period.

An important trait of glyphosate is that it binds very tightly to most soils and sediments in the environment and therefore is generally not available for uptake by roots of nearby plants. For the same reason, glyphosate residues are not likely to leach into groundwater.

Another important trait is that unbound glyphosate molecules are degraded at a steady and relatively rapid rate by soil microbes. Bound glyphosate molecules also are biologically degraded at a steady, but slower rate. The half-life of glyphosate in soil averages two months. This means you could spray a grassy area with glyphosate to eradicate the lawn, and turn around and plant a landscape bed with shrubs and flowers in the exact same spot in a relatively short period of time.

How you might be exposed to Glyphosate: Through skin, eyes, or if you breathe it in or ingest when you are using it. Applicators may ingest if they do not wash their hands before eating and smoking after using it. Applicators are required to post notification when this product is applied, until dry. Once dry, glyphosate is not a danger if someone comes in contact with it through the skin. Applicators have the greatest risk of exposure, by coming into contact with the chemical through the skin if they are not wearing the proper personal protection equipment.
In the past, there have been several studies on the toxicity levels of Glyphosate. According to the Extension Toxicology Network, a joint pesticide information project by Cornell University, Michigan State University, Oregon State University and University of California at Davis, and funded by US Department of Agriculture, glyphosate is non-volatile, minimizing exposure through inhalation, and undergoes little metabolism in the human body. Glyphosate is practically non-toxic to fish. However, Roundup was more toxic to fish than was glyphosate. An additive used in the Roundup formulation (modified tallow amine used as a surfactant) is apparently more toxic to fish than many common surfactants. For this reason, the formulation for use in aquatic situations (Rodeo) omits this ingredient. The surfactant is used to allow the compound to readily dissolve in solution and to keep the compound from bailing up on the leaf surface.

Who can use it? Like mentioned above, Glyphosate is the active ingredient in RoundUp®, available on the shelf at most hardware stores and places that sell landscape products. Although it is readily available for residential use, if an applicator is applying Glyphosate in a commercial way, they must be certified through the State of Michigan as a Certified Commercial Pesticide applicator, a requirement for Parks and Forestry full time staff. Any contractor hired to perform the application of Glyphosate must be certified through the State as well. Commercial Applicators are required by the State to post signs, “Pesticide Application, Keep off until dry”. Once dry, the signs can be removed.

How does the City use Glyphosate?:
Unlike crops for consumption, the City never mass applies this product. It is never applied to lawn areas, as it would kill the entire lawn.

City Staff that applies Glyphosate or any other chemical for weed control is certified through the State of Michigan as a Commercial Pesticide Applicator. This is a requirement for Full-Time Parks and Forestry and Golf Staff in the Department of Public Services.

As mentioned earlier, Glyphosate is applied as a spot treatment application only, typically only in areas where it dries very quickly, such as parking lots, sidewalk cracks or walking paths. Again, once dry this chemical poses no risk of harm through the skin. It is applied sometimes, but not as often, in landscape beds, again as a spot treatment application. It may be sprayed along fence lines, warning tracks for ball fields, or parking lot areas. Glyphosate is the most effective product for our uses in the City of Birmingham. The safety and risk factors are all based on its proper application and smart usage by the certified applicator. It is applied in the wee hours of the morning (4:00 AM) to avoid foot traffic in the busy downtown area and to reduce any exposure to the public. Staff typically mixes at a 4 oz. per gallon solution, and mixes 15 gallons at a time. If weeds are kept up on, the typical application for the entire downtown is approximately 30 gallons total, which equals 120 oz. of Glyphosate or about 15 cups. This means a minimal amount of chemical is required to achieve the optimal results.

Another very important use of Glyphosate is to treat invasive species that are taking over an area, ultimately threatening to destroy native trees and shrubs which results in the loss of insects including butterflies and bees, and habitat for many different types of animals as well. Because of the extensive root system of invasive plants such as Canada Thistle, Sow thistle, Bull Thistle, Queen Annes Lace, and Phragmites, among others, it is virtually impossible to hand pull or treat with anything other than Glyphosate. Glyphosate is not only the most effective way to
treat these invasive plants, but the safest. We have treated with Imazapyr in some cases, but only in areas that are far enough away from other trees and shrubs to avoid any contact with the desirable plants (refer to above chart). Typically, the invasive plants that have been found in the City of Birmingham include the woody areas along the trail system and Rouge River and other natural areas in the park system.

**Integrated Pest Management Practices**

It is important to emphasize that City staff is licensed and trained in all areas of “best management practices” for turf care, ornamental plant care and forestry practices. Whenever possible, techniques other than the spraying of chemicals are practiced. For instance, our lawn care program calls for a mowing height of 3.5”-4” because we want to avoid shorter cut lawns due to short lawns allow more sunlight near the ground which creates an environment that weeds thrive in. We would not use glyphosate to treat weeds in a lawn area, it would be a different chemical such as triclopyr, but this is just to illustrate a form of integrated pest management practices. Similar instances include hand pulling weeds that are too close to desirable plants to avoid contact with the chemical, and so on. All best methods are practiced based on the conditions of the day, circumstances and locations for treatment. Timing is everything and all efforts are made to manage this program as successfully and safely as possible.

DPS staff regularly attends seminars to keep up on current landscape standards and practices, to keep fresh on best practices and to maintain professional certification credits. DPS staff is also in communication with MSU extension as a resource and is very well capable of determining the best course of action to address various concerns of the landscape industry.

**What other Communities use Glyphosate?**

Examples include; Auburn Hills, Clawson, Rochester, Rochester Hills, Royal Oak and Troy. The usage above is all in similar applications as Birmingham has used in the past.

**Take Aways:**

30% Vinegar/Orange Oil/Soap solution is a great alternative to Glyphosate. It is very expensive, but used sparingly on areas in which are more likely to come in contact with people such as playgrounds is a great option and alternative to incorporate into our operations and practices. However, it doesn't last as long due to the immediate contact burn, the plant doesn't take up the vinegar systemically. This has proven to be too labor intensive and too repetitive of a process for use in the downtown area.

Cost of Glyphosate per 4 gallon tank: $9.00
Cost of 30% Vinegar solution per 4 gallon tank: $104.00

Glyphosate, which dries quickly, is no longer a risk by contact through skin. The likelihood of someone touching a weed that has been sprayed in a sidewalk crack is very low to none due to the timing of application and the nature of the location.

The carcinogen risk of glyphosate is linked to the eating of food that has been treated with glyphosate, not from uses by city personnel certified applicators treating very limited and specific locations.
The City in its practices are very mindful of best practices, being creative, being safe and effective, being willing to adapt and we will continue to strive to minimize and reduce any and all of the risks involved with any application of any chemical City wide; which includes all public properties, parks, golf courses, parking lots, right-of-way areas and downtown areas.

City Administration uses its professional discretion when determining the best treatment for weeds, invasive species, lawns, trees and shrubs and other landscape assets, depending on location, timing, weather and any other factor to make the best decisions. The Administration wishes to introduce glyphosate back into the City's program as a means of control for invasive plants, and for weed control in landscape beds, in parks where applicable, and sidewalk cracks and parking lots.

Whenever possible, we will use other methods of control, but prefer to retain the ability to use glyphosate when appropriate and under the most effective practices. The who, what, when, where and how methods will be observed and will ensure the best practices are met in the treatment of weeds for safe and effective removal through continued education to the public and best practices for the entire community. Only trained and certified applicators perform such functions as sparingly and smartly as possible in the right locations and at the right times.

We need the ability to have available the proper resources to maintain the aesthetic appearance level in the City of Birmingham, as this is very critical to our operation. Especially now and in the future, with the increase of landscape improvements citywide including streetscapes, roadways, street corners and medians this is even more critical to our service level. The ongoing improvements and community expectations will necessitate our use of a cost effective and efficient method to care for and treat landscape and concrete areas for weeds throughout the community.

SUGGESTED RESOLUTION:
To allow the use of glyphosate as a means of control for invasive plants, weeds, and other nuisance vegetation in limited areas by trained and certified applicators in accordance with regulated application standards.

OR

To continue the ban on the use of glyphosate as as a means of control for invasive plants, weeds, and other nuisance vegetation in the City.
DATE: October 12, 2017
TO: City Commission
FROM: Joseph A. Valentine, City Manager
SUBJECT: Request for Closed Session
Attorney-Client Privilege

It is requested that the city commission meet in closed session pursuant to Section 8(h) of the Open Meetings Act to discuss an attorney/client privilege communication.

SUGGESTED RESOLUTION:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

(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.)
Letter from South Poppleton Homeowners

Joe Valentine <jvalentine@bhamgov.org>
To: Dennis Hodges <dennis.hodges@yahoo.com>

Thu, Sep 28, 2017 at 4:15 PM

Mr. Hodges,

The City is in receipt of your letter and signature pages provided by your association concerning Adams Park. Given this information was received on the Friday before this week’s Commission meeting it will be included as a communication for their next meeting on October 16th. In recognition of your ongoing interest and support for seeking improvements to Adams Park, I appreciate your letter and desire to seek prioritization for this project.

As you have correctly noted, a conceptual plan for Adams Park was completed and accepted in October of 2016. This is the initial step in pursuing a physical improvement to the property. The next step is to have final construction documents developed, obtain revised costs estimates and budget based on funding availability in accordance with other project demands. Discussions are currently ongoing for evaluating our parks through the Parks Master Plan update. Once this process is completed a comprehensive, strategic vision will be established for the City’s parks for the next 5 year period. This process will also make the City’s projects eligible for grants and other funding opportunities. This will include conceptual plans for Adams Park, as well as, others in this process.

Should you have any further questions, please feel free in contacting me.

Best Regards,
Joe Valentine

On Sun, Sep 24, 2017 at 9:28 PM, Dennis Hodges <dennis.hodges@yahoo.com> wrote:

I turned in a letter with several signature pages from our association at the city clerks office on Friday. We are interested in seeing some action on Adams park. I would like to speak with you if possible about this.

Do you know if this will be brought up in the Monday session?

Thanks.

Dennis Hodges
(248)924-9521

Joseph A. Valentine
City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
jvalentine@bhamgov.org
Twitter: @JoeValentine151

To get the latest information regarding the City of Birmingham, please sign up for our communication tools by clicking here www.bit.ly/bhamnews.
Birmingham City Commission  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48009

Dear Commissioners,

As representatives of the South Poppleton Homeowners Association, we are writing to voice our displeasure at the inaction of the city commission in regard to the development of Adams Park. The S. Poppleton Neighborhood Association has been working with the city for 11 years, since the city purchased the property from The Roeper School and promised to develop it into a residential park. To this day, only conceptual work has been done for potential future development.

Development of Adams Park is not part of the recommended 2017-2018 budget, leaving the residents of the area to wonder whether there will ever be a plan to develop the facility. The idea of another master plan for development of all parks in the community as discussed in the budget review meeting forebodes another period of inaction.

The association is committed to working in a coordinated fashion with the city, The Roeper School, and other affected neighborhood associations to bring this matter to a successful conclusion. We respectfully request that the commissioners put this item at the top of the agenda.

Sincerely,

Cheryl Courretas  
947 Madison St.

Dennis Hodges  
987 Ridgedale Ave.  
dennis.hodges@yahoo.com

Pam Sarkistan  
931 Ridgedale Ave.  
President
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<td>Melissa &amp; Jeff Burkland</td>
<td>Burkland</td>
<td>815 Ridgedale Ave.</td>
</tr>
</tbody>
</table>
NOTICE OF INTENT ON TO APPOINT TO PLANNING BOARD

At the regular meeting of Monday, November 20, 2017, the Birmingham City Commission intends to appoint two alternate members to serve three-year terms to expire November 20, 2020. Members must consist of an architect duly registered in this state, a building owner in the Central Business or Shain Park Districts, and the remaining 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 must be residents of the City of Birmingham.

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, November 15, 2017. 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.

PLANNING BOARD DUTIES
The Planning Board consists of nine regular and two alternate members who serve three-year terms without compensation. The board meets at 7:30 P.M. on the second and fourth Wednesdays of each month to hear design reviews, zoning ordinance text amendments and any other matters which bear relation to the physical development or growth of the city.

Specifically, the duties of the Planning Board are as follows:
1. Long range planning
2. Zoning ordinance amendments
3. Recommend action to the city commission regarding special land use permits.
4. Site plan/design review for non-historic properties
5. Joint site plan/design review for non-residential historic properties
6. Rezoning requests.
7. Soil filling permit requests
8. Requests for opening, closing or altering a street or alley

<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>One (Architect) Design Professional.</td>
<td>11/15/17</td>
<td>11/20/17</td>
</tr>
<tr>
<td>Building owner in central business or Shain Park Historic district. Other 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. Resident of the City of Birmingham.</td>
<td>11/15/17</td>
<td>11/20/17</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.

R10A1
NOTICE OF INTENT TO INTERVIEW
FOR APPOINTMENT TO THE
BIRMINGHAM SHOPPING DISTRICT BOARD

At the regular meeting of Monday, November 20, 2017, the Birmingham City Commission intends to appoint three members to the Birmingham Shopping District Board to serve four-year terms to expire November 16, 2021.

The goal of the shopping district board shall be to promote economic activity in the principal shopping districts of the city by undertakings including, but not limited to, conducting market research and public relations campaigns, developing, coordinating and conducting retail and institutional promotions, and sponsoring special events and related activities. (Section 82-97(a)) The board may expend funds it determines reasonably necessary to achieve its goal, within the limits of those monies made available to it by the city commission from the financing methods specified in this article. (Section 82-97(b)).

The shopping district board shall consist of 12 members. One member shall be the City Manager, one shall be a resident of an area designated as a principal shopping district, and one shall be a resident of an adjacent residential area. A majority of the members shall be nominees of individual businesses located within a principal shopping district who have an interest in property located in the district. The remaining members shall be representatives of businesses located in the district.

The ordinance states that the City Manager will make the appointment with the concurrence of the City Commission.

Interested persons may submit an application available from 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, November 15, 2017. These documents will appear in the public agenda for the City Commission meeting.

<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>One member shall be a business operator or property owner.</td>
<td>11/15/17</td>
<td>11/20/17</td>
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<tr>
<td>Two members shall be business operators.</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.
NOTICE OF INTENTION TO APPOINT TO THE
AD HOC UNIMPROVED STREET STUDY COMMITTEE

At the regular meeting of Monday, December 4, 2017, the Birmingham City Commission intends to appoint seven members to the Ad Hoc Unimproved Street Study Committee to serve terms to expire December 31, 2018.

The scope of the Committee shall be to develop a long term plan on how to best proceed in addressing unimproved roads in the City in accordance with the following:
1. Review the history and evolution of the road system in the City.
2. Review and evaluate the types of streets in the City while considering road durability, maintenance cycles, drainage, Rights-of-Way usage, traffic speeds, parking, resident preference and aesthetics.
3. Review and evaluate policies from neighboring communities for addressing unimproved streets.
4. Review the policies and procedures attributed to each type of street construction and maintenance method used by the City.
5. Review conditions where small sections of unimproved streets exist within a predominately improved block and provide recommendations.
6. Review conditions where large areas of unimproved streets exist within a neighborhood and provide recommendations.
7. Review and evaluate cost and budget implications of any proposed recommendations and include strategic funding alternatives.
8. Compile the Committee’s findings and recommendations into a report to be presented at the end of the Committee’s term.

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, November 29, 2017. 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.

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<thead>
<tr>
<th>Criteria/Qualifications of Open Position</th>
<th>Date Applications Due (by noon)</th>
<th>Date of Interview (at 7:30 PM)</th>
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<tr>
<td>Two members of the City Commission.</td>
<td>11/29/17</td>
<td>12/04/17</td>
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<td>Three residents living on an unimproved street representing different areas of the City.</td>
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<td>One resident living on an improved street.</td>
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<td>One member with a background in road design and maintenance.</td>
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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.
Parking Full Status by Structure
September 2017 Business Days Only (M-Friday)

- Pierce St.: 0
- Peabody St.: 0
- Park St.: 0
- N.Old Woodward: 0
- Chester: 0

Total Occurrences by structure of being full 1-4 hrs

Rooftop valet utilized 8 days
Rooftop valet utilized 7 days

R10E1
2017 Combined Parking Structure Full Status

Number of business days/year - 251 x 4 structures = 1004

Total monthly occurrences of Chester, Park, Peabody and Pierce St. structures combined being full (1-4 hrs)
Park Street Structure
Valet Assist Data - January - September 2017

Days valet assisted to keep garage open
Business days valet open, Mon-Friday
N. Old Woodward Structure
Valet Assist Data - January - September 2017

NOTE: Jan-July, valet operated Tue-Thursday; Aug-Sept. valet operated Mon-Friday

Days valet assisted to keep garage open  Business days valet open, Mon-Friday
Structure Occupancy at 1 pm Tuesday-Thursday

- **Chester**: Tuesday 35, Wednesday 31, Thursday 61
- **N. Old Woodward**: Tuesday 33, Wednesday 19, Thursday 15
- **Park**: Tuesday 31, Wednesday 19, Thursday 31
- **Peabody**: Tuesday 29, Wednesday 28, Thursday 57
- **Pierce**: Tuesday 110, Wednesday 70, Thursday 83
Pierce Street Structure

Garage full list

Notes:
Structure did not fill.
# Schedule of Events

**Peabody Street Structure**

Garage full all.

**SEPTEMBER 2017**

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<td>Valet closed</td>
<td>Valet-21 cars</td>
<td>Valet-31 cars</td>
<td>Valet-41 cars</td>
<td>Valet-51 cars</td>
<td>Valet-61 cars</td>
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Notes:
September 20, 2017

Dear Friends,

Next had a great year and it’s because of you! As we completed our fiscal year-end wrap up, (July 1, 2016 – June 30, 2017) the data we collected told a very important story. What stood out most when reviewing our numbers was the generosity of our donors and the increase in member participation in all our programs. Great years do not happen without great members!

Please look at the enclosed one-page Year in Review. Note the top left corner that shows our growth in member engagement – more fitness, more art, more travel, more visits to Next! The top right corner illustrates the very immediate and positive impact your gift(s) make in the community. We want to be a leader in helping our residents stay in their home where it is familiar and comfortable. With your support and generous spirit, we were able to reach more people with transportation, hot meals delivered and outreach. Thank you! Thank you!

As you can see in the bottom right corner, we stretch every dollar donated to be sure we are reaching as many people as possible. Your donation(s) and involvement are integral as we create more opportunities to enrich lives and support independence.

Looking for more ways to support Next? It’s simple: introduce a friend to Next, become a volunteer, “like” us on Facebook, and spread the word about important events like the Health Expo September 26th and Boomer Summit on October 14th.

Thank you to all our members for making Next the exceptional organization it is!

Cris Braun – Executive Director

Greg Burry – President of the Next Board

2121 Midvale St., Birmingham, MI

www.BirminghamNext.org