

VIRTUAL MEETING OF THE BIRMINGHAM PLANNING BOARD
WEDNESDAY, JULY 22, 2020
7:30 PM

<https://zoom.us/j/111656967> or dial: 877-853-5247 Toll-Free, Meeting Code: 111656967

- A. Roll Call
- B. Review and Approval of the Minutes of the regular meeting of **July 8, 2020**
- C. Chairpersons' Comments
- D. Review of the Agenda

- E. Study Session Items
Rules of Procedure for Study Sessions: Site Plan and Design Review, Special Land Use Permit Review and other review decisions will not be made during study sessions; Each person (member of the public) will be allowed to speak at the end of the study session; Each person will be allowed to speak only once; The length of time for each person to speak will be decided by the Chairman at the beginning of the meeting; Board members may seek information from the public at any time during the meeting.
 - 1. **Glazing Requirements**
 - 2. **Solar Panel Review Process**

- F. Miscellaneous Business and Communications:
 - a. Communications
 - b. Administrative Approval Correspondence
 - c. Draft Agenda for the next Regular Planning Board Meeting (**August 12, 2020**)
 - d. Other Business

- G. Planning Division Action Items
 - a. Staff Report on Previous Requests
 - b. Additional Items from tonight's meeting

- H. Adjournment

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**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JULY 8, 2020**

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the City of Birmingham Planning Board held on July 8, 2020. Chairman Scott Clein convened the meeting at 7:32 p.m.

A. Roll Call

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

Absent: Student Representative June Lee

Administration: Jana Ecker, Planning Director
Eric Brunk, IT Manager
Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

F&V: Julie Kroll

07-78-20

B. Approval Of The Minutes Of The Regular Planning Board Meeting of June 24, 2020

Ms. Whipple-Boyce said she believed that it was her, and not Mr. Williams, that moved to approve the Preliminary Site Plan for 469-479 S. Old Woodward.

A check of the audio from the June 24, 2020 meeting showed Ms. Whipple-Boyce to be correct.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to approve the minutes of the Regular Planning Board Meeting of June 24, 2020 as amended.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

Abstain: Boyle

07-79-20

C. Chairperson's Comments

Chairman Clein welcomed everyone to the meeting and reminded everyone that the meeting was being held under the guidance of the City Attorney and City administration to ensure compliance

with Governor Whitmer's executive orders. Chairman Clein then reviewed procedures for the meeting.

07-80-20

D. Review Of The Agenda

There were no changes to the agenda.

07-81-20

E. Final Site Plan & Design Reviews

1. **545 W. Brown Street (Single Family Residence)** – Request for Design Review to allow an addition to the second floor of a single family home in an R8 zoning district.

City Planner Dupuis presented the item. He stated that the request received a letter of support from the neighbors to the south.

Janine Brycz, homeowner, was present as the applicant.

Following brief discussion, there was Board consensus that the Design Review application could be approved.

Motion by Mr. Williams

Seconded by Mr. Koseck to approve the Design Review application for 545 W. Brown with the understanding that the Planning Board found the design compatible with the neighborhood and with the following condition:

1. **The applicant must obtain a variance for the 16 ft. addition into the required rear setback.**

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

2. **34745 Woodward (JAX Car Wash)** – Request for Revised Final Site Plan & Design Review for site plan and design changes to Jax Car Wash.

Motion by Mr. Williams

Seconded by Mr. Share to formally accept for filing a letter from Fleis and Vandenbrink dated July 8, 2020 from Julie Kroll to Planning Director Ecker; a letter from Tim Currier, City Attorney, dated July 8, 2020; and a memorandum containing engineering comments dated July 8, 2020 from Assistant City Engineer Fletcher.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Planning Director Ecker reviewed the item. She explained that:

- MDOT would be willing to allow contraflow traffic in their right-of-way if the City indemnifies them for the practice.
- City Attorney Currier, in contrast, would like a letter from MDOT stating that they accept and approve of contraflow traffic in their right-of-way and that the City has no liability for the use.
- MDOT is the fee owner between the sidewalk and the curb on the east side.
- MDOT was likely not noticed as an adjacent property owner for the current review since there is no address associated with that property, and the Planning Department notices addresses within 300 feet of an application.

Chairman Clein stated that just because Jax has encouraged contraflow traffic for years does not mean that it is a wise or safe practice for the City to endorse. He continued that adding six detail stations to the front would likely increase the amount of contraflow traffic.

Mr. Share said:

- He had serious concerns about the accuracy of the memo submitted by Bradley Scobel, attorney for the project.
- The memo addressed a right-of-way that goes over a private property owner's property.
- In the classic situation, if a property owner owns property on a section line road, the state, by statute, has taken 32 feet on each side of the center line, or section line, for roadway purposes.
- The above is a different situation from the one that seems to exist in these plans, where the MDOT right-of-way does not permit MDOT to go over Jax's property; rather, MDOT is the property owner.
- The City would need City Attorney Currier to review the issue and comment since it bears on some of Mr. Scobel's points.
- If MDOT owns Woodward and part or all of the area that the contraflow is proposed to go into, then it would be in all parties' best interests to have a formal legal easement that delineates each party's rights.
- It would not be appropriate for the Board to approve site plans where one party proposes to build on another party's property without any formal indication that the latter has granted the former approval for that work.

Jason Milen, owner, Bryan Lawson, architect, Mr. Scobel, attorney, and Greg Roselli, general manager of the Birmingham Jax location were all present on behalf of the applicant.

Mr. Milen stated:

- The plans would double the existing on-site stacking available before vehicles go through the wash.

- In an effort to make the process safer, customers would exclusively drive their own vehicles at the Birmingham location. All interior vacuuming would be done by Jax employees.
- Any proposed landscaping could be modified to the City's satisfaction.
- His team only became aware of the content of the memos from the City Attorney, F&V, and City Engineering during the same day as the present meeting, and said they would be happy to address all issues raised.
- 65% of customers at the Birmingham location receive exterior-only services and those numbers would increase with the location's ability to process a larger number of exterior washes. Any customers that receive exterior-only services would not need to drive contraflow.
- His team has looked at every possible option for compliance with City ordinance. If vehicles turned out of the wash tunnel sooner then the site would not have as many spaces to do the vacuuming and interior cleaning. The conflicts with ordinance arise not from financial concerns, but from efforts to improve traffic flow, to improve safety, and to improve efficiency.
- Perhaps the safety of the sidewalk near the contraflow could be improved by painting that part of a sidewalk a different color, or by installing a different color brick, to better alert pedestrians.
- MDOT has never raised an issue with Jax over contraflow traffic in the right-of-way.

Mr. Jeffares said that even though removing one vacuum station would cause the site to lose one interior detailing space, it would be worthwhile to do so to allow the vehicles to turn sooner. He said this would eliminate the contraflow issue and make traffic on and around the site significantly safer.

Mr. Milen said that removing one interior detailing space would cause a loss of efficiency that could cause backups elsewhere on the site given current demand. Turning left out of the spot on the north side, before the sidewalk, would prevent them from being able to align the vehicles on the north side of the property. It would also require three-point turns which would likely be more dangerous than the wide-clearance turn that would otherwise occur.

In reply to Mr. Share, Mr. Lawson confirmed that the east property line as shown on the plans is correct.

Mr. Scobel stated that the portion of Jax's property that is encumbered by the right-of-way is not under the jurisdiction of MDOT. He said that while MDOT can prevent building on that right-of-way it could not control how it is used. He agreed with Mr. Share's supposition that if MDOT is the fee owner of the property in question that it would change Mr. Scobel's analysis. He reiterated the fact that the Jax team only received City Attorney Currier's memo earlier on July 8, 2020, and said he was not yet sure on what legal research City Attorney Currier based his opinion. Jax would need permission from MDOT to landscape in the right-of-way. There would be an absence of governmental liability through the Governmental Liability Act regarding contraflow traffic in the right-of-way. In addition, if Jax has the ability to use the right-of-way for contraflow traffic in a way that MDOT cannot regulate, then MDOT can also not be held liable for contraflow traffic in the right-of-way.

In reply to Mr. Boyle, Planning Director Ecker confirmed that vegetation screening is not required, and masonry screening would be an option along Brown.

Mr. Boyle said masonry screening would be a preferable option.

Mr. Milen stated that the vacuum tubes could be run underground instead of going over the building.

In reply to Chairman Clein, Mr. Milen said that it is more efficient to vacuum after a wash, instead of before.

Chairman Clein explained that Jax's presentation largely asked the Board to put the efficiency of the business before the interests of the public in terms of both safety and adherence to ordinances. Chairman Clein said that the concerns raised by Board members were rooted in their obligation to protect the public interest.

Mr. Jeffares concurred with Chairman Clein.

Mr. Milen said that doing the vacuuming second is an effort to decrease pedestrian activity on-site, which would increase safety. He also reiterated that the team would be more than willing to do something to the sidewalk to signify that vehicles were exiting from the Jax site at that location.

Chairman Clein shared his surprise that no one on the Jax team could fully answer the questions about ownership and property rights in regards to the east side. He said that if the Board reviews the plans again in the future he would need the applicants to return with a survey and clarification of that information.

In reply to Mr. Koseck, Mr. Milen confirmed that any landscaping on the site would be maintained to the highest standards.

Mr. Williams said he would want to see a more detailed survey, more legal clarification regarding ownership, a more detailed response from City Attorney Currier in reply to the project's legal position, and more clarity regarding MDOT's legal position before any action could be taken on this item. He said the Board should not recommend that the City Commission provide indemnification vis-a-vis the contraflow traffic since he was relatively confident they would not be willing to do that. He stated that he agreed with Mr. Boyle that masonry screening would be more appropriate. He said that while the proposal still needed work, he thought it would help get traffic off Brown which would increase safety and traffic efficiency.

Mr. Share concurred with Mr. Williams regarding the further information required.

Mr. Koseck said he was reluctantly concerned that the plans were not the best they could be, and said the Jax team should look for more creative solutions that could increase safety and adherence to ordinance. He said:

- He was unsure why the main entrance would be 35 feet wide if it was one-way, and why the one-way exit would be 23.9 feet wide.
- The brown canopy is not ideal in terms of site aesthetics.

- The escape lane may not be necessary.
- He would want to see effort to increase the safety of pedestrians using the sidewalk along the Woodward edge of the property.

Chairman Clein said that the added queuing off Brown would be a positive improvement, and noted that the applicant added additional screening where it was requested by the Board. Chairman Clein continued that he still had some fundamental concerns about the plans. He said there were too many vacuums proposed for the site, and that the traffic flow proposed for the site overall seemed unlikely to work well. He said that while he appreciated the challenges of the site he was concerned about how the plan implementation would negatively impact both vehicular and pedestrian safety. He said he was supportive of the aims of the applicant and said he wished they could find another way to achieve their goals while increasing safety and adhering to ordinance.

Ms. Whipple-Boyce stated that she went back through previous minutes regarding the site and said she believed that this was the Board's fifth time discussing Jax. She said that if a sixth review were scheduled for the end of August she would like some way of knowing that the applicant would return with the necessary and acceptable changes to the plan. She said the Board has asked for essentially the same changes at each one of their five reviews of this item and that there has been relatively little progress made towards those changes on the part of the applicant.

Mr. Milen replied that they looked into the MDOT issue and increased screening. He said he believed it was four reviews, and that if the Board compared the current plans to the original plans they would see a significant difference.

Mr. Jeffares said that while the proposed plans improve the safety and efficiency of the site there were probably options that would make the site even safer. He agreed with Mr. Koseck that the brown vinyl tent is unsightly and said the Board often does not approve tents that are significantly more attractive than that. Mr. Jeffares said that while a car wash is not the optimal activation of the street that the City seeks in its planning, it is activation just the same and helps keep the City looking lively. He said he would be in favor of giving the applicant one more chance to return with plans that sufficiently address the Board's concerns. He said he saw that there had been a number of small improvements, but said he would need to see significant changes to the plans to consider approval come August. He said that five vacuum stations would be one of the changes the applicant should seriously consider.

Motion by Mr. Share

Seconded by Mr. Williams to postpone the Final Site Plan and Design Review for 34745 Woodward – Jax Kar Wash – until the regular Planning Board meeting of August 26, 2020.

Ms. Whipple-Boyce said she would not support the motion because she did not believe a sixth review of the project would yield the necessary changes anymore than the previous five reviews had. She stated that the Board had been very clear about the requisite changes from the start, and that only small steps had been taken in that direction by the Jax team.

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Whipple-Boyce

07-82-20

F. Study Session Items

1. Planning Board Action List

Planning Director Ecker presented the item.

Mr. Jeffares said he had two suggestions for the list: reviewing the appropriate size of elevator vestibules on roofs, and seeing if there would be a way to remove the Board from consideration of changes to single-family homes in multi-family districts.

Ms. Whipple-Boyce said the Board would need more specific information from staff in order to explore item six. She also said that item sixteen could likely be broken down into smaller items, like window glazing, that the Board could review. She said she was unsure why further work on that item was predicated on the master plan and would like to see the Board work on some of those smaller related issues sooner.

Mr. Koseck said he would be ready to discuss glazing standards at the Board level soon. He said he would like to review mixed use requirements. Since LEED certification can be one way for a development to receive allowances for extra floors, he asked how LEED certification benefits Birmingham and why the City incentivizes it. He said that the City's energy codes are largely so stringent that buildings tend to get almost to LEED levels by default. Mr. Koseck said that instead of LEED certification, the City could offer developers the option to pay into a fund that could be used build a park in the neighborhood or to undertake some other neighborhood investment.

In reply to Mr. Williams, Planning Director Ecker explained that the Board made no recommendations regarding the lot combination process because it exists within the Subdivision Ordinance chapter of the City Code and not in the Zoning Ordinance.

Chairman Clein said it could be helpful to request further clarification from the Commission regarding items five and six. For item five, he said it would be helpful to know which variables the Commission would like the Board to explore, for example, whether the options should be short-term or long-term or whether they should be specific to a particular area of the City or more general. For item six, he said it would be helpful to know what the Commission would like the Board to consider since the lot combination process, being in the Subdivision Ordinance, is not within the Board's jurisdiction.

Mr. Williams said items five and six would require that the Board receive substantial information from experts and staff before they could even begin to consider potential

recommendations to the Commission. He noted that financial incentives, for instance, is an extensive topic within state law.

Chairman Clein agreed. He said it would be helpful to know the Commission's intent regarding the Board's role in discussions of land planning and/or public policy, since he said a number of items on the action list are public policy issues.

Mr. Williams agreed that most of the items on the action list are matters of public policy.

Ms. Whipple-Boyce said she agreed with an earlier comment from the Chairman that proposed one action list related to the master plan and one action list for items that can be dealt with outside of the master plan. She said the Board could likely wrap up a number of items on the latter list while also carrying on with the master plan discussions.

Mr. Jeffares noted that the City's largest land planning issue, Bates Street, was not on the Board's action list. He said it did not make sense to him to not have anyone in the City working on it. While he acknowledged a comment from Chairman Clein that the Board cannot resolve every land planning issue they would like to, Mr. Jeffares ventured that Bates Street would be one of the most important ones to resolve.

Mr. Share said he was in favor of the Chairman's suggestion for two action lists. He said that the economic stimulus question is one of municipal finance and not one of land planning. He said he agreed with Mr. Koseck that it would be a good idea for the Board to review what entitles a developer to extra stories on a building.

Chairman Clein said that in terms of economic stimulus, the Board could review some short-term, land planning related options. He cited temporarily closing some streets to vehicular traffic and expanding restaurants' outdoor seating as one option worth discussing.

Mr. Boyle said he agreed with Chairman Clein's suggestion, and that he would take it further. He said that economic stimulus discussions have been part and parcel of land planning for as long as land planning has existed, and that to imagine the Board has no part in that discussion would be a mistake. He said that while it is a topic grounded in taxation and municipal funding, any options pursued would have implications for land use. He said that the Board could perhaps narrow its consideration of the economic stimulus question for the action list, framing it as "What are the implications of Covid-19 for the City from a spatio-economic perspective?"

Mr. Boyle added that he would be in favor of reviewing the City's ordinances regarding mixed use as well.

Chairman Clein suggested that items one through six remain on the Board's action list, and that items seven through twelve either be removed from the Board's current considerations or moved to a checklist of items that are inextricably related to the master plan. He further recommended that item 13 stays on the action list and be moved up in priority; that item 14 be moved to the master plan checklist; that items 16 stays on the action list; that item 17 goes on the master plan checklist; and that item 18 remains on the action list.

Mr. Williams said he would be comfortable having item six remain on the list as long as the Commission is advised that the Board would be looking at it from the perspective of land use per Mr. Boyle's suggestion.

Mr. Koseck said that item 11 should be moved to the master plan checklist since it is a part of the master planning process.

The Board agreed that item 15 should be removed from their action list.

07-83-20

G. Miscellaneous Business and Communications:

a. Communications

b. Administrative Approval Correspondence

Planning Director Ecker reviewed a question regarding 600 Riverside Drive. She explained that the applicant proposed to add a significant amount of landscaping and a deck in the rear of the home on top of an existing retaining wall.

Ryan Youngblood, landscape architect for the project, was present on behalf of the application. He explained that these plans would have no building, excavation or walls in the flood plain.

In reply to the Chairman, Planning Director Ecker stated that nothing in the ordinance would prohibit the deck as proposed.

There was Board consensus that the project could be administratively approved.

c. Draft Agenda for the next Regular Planning Board Meeting (July 22, 2020)

Since there were no items scheduled for the July 22, 2020 meeting as of the July 8, 2020 meeting, the Board asked Planning Director Ecker to choose two to three smaller items from their action list to discuss at their next meeting.

d. Other Business

City Planner Dupuis explained he was working with a food and drink establishment in the O2 district that would be replacing a previous food and drink establishment at the same address. He explained that the space's legal non-conforming status was voided because the previous tenant was out of the space for more than six months. He explained that there would be no changes at all to the interior or exterior of the building with the exception of paint and a few minor touch-ups. Being in an O2 district, the restaurant would require a special land use permit (SLUP) even though no alcohol service is proposed. Since so few changes were proposed, he asked what the Board would want to see in the way of information from the applicant. He noted that the information required is up to the discretion of the Board according to Article 7. He explained that

he was hoping to make the process a little less onerous for the applicant since they were having to apply for a SLUP which, if not for the location, would not otherwise usually be required for this use.

Chairman Clein said he would be hard pressed to recommend that an applicant provide less information knowing that the ordinance does not allow food and drink establishments in the O2 district without a SLUP and knowing that the SLUP would have to be approved by the Commission as well.

Mr. Koseck said that if he saw unchanged before-and-after photographs, including aerial shots, that would likely be sufficient information for him. He said issues only usually arise when there is inaccurate or insufficient information presented for the Board's review.

The Board agreed with Mr. Koseck.

07-84-20

H. Planning Division Action Items

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

07-85-20

I. Adjournment

No further business being evident, the Chairman adjourned the meeting at 10:14 p.m.

Jana L. Ecker

Planning Director



MEMORANDUM

Planning Division

DATE: July 22nd, 2020

TO: Jana Ecker, Planning Director

FROM: Nicholas Dupuis, City Planner

SUBJECT: Window Glazing Standards – Study Session #3

On November 13th, 2019, the Planning Board discussed the potential for ordinance amendments encompassing the Window Standards outlined in Article 3, Section 3.04(E) and Article 4, Section 4.90 of the Zoning Ordinance. The Planning Board directed City Staff to (1) research any possible differences in the Visual Light Transmittance (VLT) figures between different manufacturers and (2), research other cities to determine what VLT figures are used.

Upon contacting representatives at Guardian Glass, Midwest Glass Fabricators, Michigan Glass Coating, and Service Glass, it was apparent that there is no noticeable difference in glass between manufacturers. That is, all else being equal, a pane of glass with a low-e coating at 68% Visual Light Transmittance from manufacturer X will look the same as the same pane of glass from manufacturer Y. The results may differ based on what type of glass is used in the construction, whether the glass is single pane, double pane or laminated, whether a film is used or not, etc.

Additionally, the research done into the transparency requirements in other communities was confirmed and/or updated. The table below summarizes the confirmed VLT figure present in other Michigan communities, as well as some new figures:

Grand Rapids, MI	70% VLT minimum
Ferndale, MI	60% VLT minimum, 20% Reflectance
Muskegon, MI	70% VLT minimum
West Bloomfield, MI	75% VLT minimum
Rochester Hills, MI	65% VLT minimum
Pontiac, MI	Non reflective, non-tinted
Detroit, MI	70% VLT minimum
Kalamazoo, MI	Clear, non reflective

On January 8th, 2020, the Planning Board discussed the glazing ordinance amendments again, and expressed interest in hearing from more professionals such as a mechanical engineer, a glass vendor or supplier, or a glass contractor or installer. At this time, the Planning Division has been unable to find and secure any additional professionals or glass experts to add any new information to the conversation other than the professionals that were already involved up to this point.

The following ordinance amendments have been updated to reflect the most recent research.

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 3, SECTION 3.04(E), ARCHITECTURAL STANDARDS, TO AMEND ARTICLE 4, SECTION 4.90(A), WINDOW STANDARDS, AND TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS TO REDFINE CLEAR GLAZING, AND TO ELIMINATE LIGHTLY TINTED GLAZING

Article 3, Section 3.04

- E. Architectural standards. All buildings shall be subject to the following physical requirements:
1. ...
 2. ...
 3. ...
 4. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70% of its portion of the facade, between one and eight feet from the ground. The wood or metal armature (structural elements to support canopies or signage) of such storefronts shall be painted, bronze, or powder-coated.
 5. Storefronts shall have mullion systems, with doorways and signage integrally designed. Mullion systems shall be painted, powder-coated, or stained.
 6. The glazed area of a facade above the first floor shall not exceed 35% of the total area, with each facade being calculated independently.
 7. Clear glazing is required on the first floor. ~~Lightly tinted glazing is permitted on upper floors only~~ **storefront facade**. Windows shall not be blocked with opaque materials or the back of shelving units or signs.

Article 4, Section 4.90 – Window Standards (WN)

- A. Storefront Windows: Ground floor facades shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:
1. No less than 70% of a storefront/ground floor façade between 1 and 8 feet above grade shall be clear glazing.
 2. Only Clear glazing is permitted on storefront facades ~~at the first floor. Lightly tinted glazing above the first floor may be permitted.~~ Mirrored glass is prohibited.
 3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
 4. Windows shall not be blocked with opaque materials or the back of shelving units or signs.
 5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.

Article 9, Section 9.02 – Definitions

Clear Glazing: Glass and other transparent elements of building facades with a minimum visible light transmittance of ~~80%~~. **66% and a reflectivity of 15% or less.**

~~Lightly Tinted Glazing: Glass and other transparent elements of building facades with a minimum visible light transmittance of 70%.~~



MEMORANDUM

Planning Division

DATE: January 3rd, 2020

TO: Jana Ecker, Planning Director

FROM: Nicholas Dupuis, City Planner

SUBJECT: Window Glazing Standards – Study Session

On November 13th, 2019, the Planning Board discussed the potential for ordinance amendments encompassing the Window Standards outlined in Article 3, Section 3.04(E) and Article 4, Section 4.90 of the Zoning Ordinance. The Planning Board directed City Staff to (1) research any possible differences in the Visual Light Transmittance (VLT) figures between different manufacturers and (2), research other cities to determine what VLT figures are used.

Upon contacting representatives at Guardian Glass, Midwest Glass Fabricators, Michigan Glass Coating, and Service Glass, it was apparent that there is no noticeable difference in glass between manufacturers. That is, all else being equal, a pane of glass with a low-e coating at 68% Visual Light Transmittance from manufacturer X will look the same as the same pane of glass from manufacturer Y. The results may differ based on what type of glass is used in the construction, whether the glass is single pane, double pane or laminated, whether a film is used or not, etc.

The transparency requirements in other communities was researched in 2016 when the subject of glazing was discussed for the second time. The table below summarizes the confirmed VLT figure present in other Michigan communities, as well as some new figures:

Grand Rapids, MI	70% VLT minimum
Ferndale, MI	60% VLT minimum, 20% Reflectance
Muskegon, MI	70% VLT minimum
West Bloomfield, MI	75% VLT minimum
Rochester Hills, MI	65% VLT minimum
Pontiac, MI	Non reflective, non-tinted
Detroit, MI	70% VLT minimum
Kalamazoo, MI	Clear, non reflective

At this time, the Planning Division would like to request specific direction as to how the Planning Board would like to proceed, and if any other research is sought after.



MEMORANDUM

Planning Division

DATE: November 8, 2019

TO: Planning Board Members

FROM: Nicholas Dupuis, City Planner
Brooks Cowan, City Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: Study Session – Window Glazing Standards

The City of Birmingham has engaged in designing ordinances to fulfill the goals of the Downtown Birmingham 2016 Master Plan with regards to encouraging walkability and a healthy retail setting to increase the pedestrian environment and economic vitality of the City. Included in the many ordinances adopted over time has been the recent adoption of ordinances regulating glazing on Birmingham's commercial buildings. Since adoption, City Staff have fielded inquiries from architects, developers, business owners and glass manufacturers about the standards, which have spilled over into several recent Planning Board Hearings (Lincoln Yard, Baldwin Library, Brooklyn Pizza). The purpose of this memorandum is to present the Planning Divisions findings based on current ordinance, meetings with glass professionals, research into the science behind light and windows, and the conflicts that arise based on different regulations.

The City of Birmingham currently regulates glazing in Article 4, Section 4.90 (A) of the Zoning Ordinance:

1. No less than 70% of a storefront/ground floor façade between 1 and 8 feet above grade shall be clear glazing.
2. Only Clear Glazing is permitted on storefront facades at the first floor. Lightly tinted glazing above the first floor may be permitted. Mirrored glass is prohibited.
3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
4. Windows shall not be blocked with opaque materials or the back of shelving units or signs.
5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.

On July 24th, 2017, in order to provide more clarity as to what determines "clear glazing", the City Commission approved the definition of Clear Glazing as follows:

- Glass and other transparent elements of building facades with a minimum visible light transmittance of 80%.

Before the adoption of the Clear Glazing definition, applicants were required to provide glass samples and specification sheets to the Planning Board at Site Plan Review to determine if the

type of glass proposed was considered clear to the point that it met the spirit and the intent of the Ordinance. Applicants are still required to provide samples and specification sheets, but the Clear Glazing definition leaves little variation in the types of glass available to utilize.

As alluded to, there has been some recent pushback by architects and developers citing the challenges they face meeting the energy standards as required by the Michigan Building Code while also meeting the City's Glazing Standards. Perhaps obviously, this is more of an issue for buildings being redeveloped or renovated as opposed to brand new buildings that are able to account for the 80% VLT glass as a part of an entire energy system strategy rather than working around existing conditions. This discussion gained prominence during the selection process for the glass at the Baldwin Library project, and has subsequently spilled over into several site plan reviews. To consider any changes to the current Window Standards, it is helpful to define several glass industry terms:

Visible Light Transmittance – The amount of light in the visible portion of the spectrum that passes through a glazing material.

U-Factor – A measure of thermal transmittance, through conduction, convection, and radiation; a measurement to quantify overall heat flow.

R-Value – The capacity of an insulating material to resist heat flow.

Solar Heat Gain Coefficient (SHGC) – The fraction of incident solar radiation admitted through a window, both directly transmitted and absorbed, and subsequently released inward.

Reflectivity – The reflecting of varying amounts of light and solar heat, away from a glazing unit/building.

Absorptance – Energy that is not transmitted through the glass or reflected off its surfaces.

Low-E Coatings – Coatings (sputtered or pyrolytic) that minimizes the amount of ultraviolet and infrared light that can pass through glass without compromising the amount of visible light that is transmitted.

Window Tinting – The process performed to glass for the purposes of absorbing a portion of the solar heat and blocking daylight for the purposes of reducing glare and the amount of solar energy transmitted through glass.

Insulated Glass – Glass manufactured with trapped air or gas between them, which provides cost saving benefits through controlling heat gain/loss and condensation.

Laminated Glass – Glass made of two or more layers of glass with one or more polymeric material layers bonded between the glass layers.

Safety Glass - A type of commercial glass specifically designed to withstand blunt force. It is covered with a film or laminate to help hold the glass together and prevent further

damage if it fractures, and the pane will break into many small “crumbs” instead of large shards.

The issue in Birmingham has generally revolved around the Visible Light Transmittance (VLT) value that is controlled through the Zoning Ordinance. As evident by the many different facets of building design and window manufacturing in modern times, the topic appears to be more complicated than simply controlling for VLT. In meeting with glass industry professionals, it became evident that Low-E Coatings (LEC) are very important in the approach to glazing, as LEC’s contribute to less heat flow and increasing the R-Value, especially in areas with significant glazing. Utilizing LEC’s can help building meet the required U-Factors in the Michigan Building Code.

Because the original intent of the glazing requirements in the Zoning Ordinance was to maintain storefronts that are active with the ability to see into buildings and the activity happening inside of them, the Ordinance was written to achieve those goals. However, according to research and glass professionals, there is another factor to consider when seeking clear glazing, which is reflectivity. Reflectivity becomes especially apparent during low light conditions. The surface on the brighter side acts like a mirror because the amount of light passing through the window from the darker side is less than the amount of light being reflected from the lighter side. This effect can be noticed from the outside during the day and from the inside during the night. This means that during a bright day outside, the reflectivity of a glazing unit may actually make the glass appear less clear. Special coatings, such as LEC’s, can reduce this effect.

The important correlation between the VLT, LEC and reflectivity of glass is that LEC’s reduce the VLT of a glazing unit, but also significantly reduce the reflectivity. In other words, although a LEC can make glass appear darker in reducing the VLT figure, adding the LEC reduces the reflectivity, which actually makes the glazing unit appear clearer. As described above, LEC’s also increase R-Values and Reduce the U-factor, so it would appear that allowing LEC’s (and subsequently lowering the VLT requirements) may prove beneficial towards both the energy and clarity issues that the City is concerned with. To quantify this concept, two glass samples were obtained by the Planning Division, and the properties are as follows:

	Visible Light Transmittance	Reflectance	U-Factor
Glass #1 (No LEC)	80%	15%	0.47
Glass #2 (LEC)	68%	11%	0.29

In applying the LEC, the glass sample’s reflectivity was reduced by 25%, while the u-factor was decreased by almost 40%. With this information, it became evident that the City may benefit from relaxing its VLT standards to allow for LEC’s, but in addition, adding regulations regarding the reflectivity of proposed glass. In regulating both, the City may be able to achieve the goals of clear glazing, while also having high performing buildings and reducing the environmental footprint of its developments. The City may also be able to take advantage of this information and readdress the concept of Window Tinting in the ordinance.

The following is an example of how the Ordinance language could read:

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 3, SECTION 3.04(E), ARCHITECTURAL STANDARDS, TO AMEND ARTICLE 4, SECTION 4.90(A), WINDOW STANDARDS, AND TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS TO REDFINE CLEAR GLAZING, AND TO ELIMINATE LIGHTLY TINTED GLAZING

Article 3, Section 3.04

- E. Architectural standards. All buildings shall be subject to the following physical requirements:
1. ...
 2. ...
 3. ...
 4. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70% of its portion of the facade, between one and eight feet from the ground. The wood or metal armature (structural elements to support canopies or signage) of such storefronts shall be painted, bronze, or powder-coated.
 5. Storefronts shall have mullion systems, with doorways and signage integrally designed. Mullion systems shall be painted, powder-coated, or stained.
 6. The glazed area of a facade above the first floor shall not exceed 35% of the total area, with each facade being calculated independently.
 7. Clear glazing is required on the first floor. ~~Lightly tinted glazing is permitted on upper floors only~~ **storefront facade**. Windows shall not be blocked with opaque materials or the back of shelving units or signs.

Article 4, Section 4.90 – Window Standards (WN)

- A. Storefront Windows: Ground floor facades shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:
1. No less than 70% of a storefront/ground floor façade between 1 and 8 feet above grade shall be clear glazing.
 2. Only Clear glazing is permitted on storefront facades ~~at the first floor. Lightly tinted glazing above the first floor may be permitted.~~ Mirrored glass is prohibited.
 3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
 4. Windows shall not be blocked with opaque materials or the back of shelving units or signs.
 5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.

Article 9, Section 9.02 – Definitions

Clear Glazing: Glass and other transparent elements of building facades with a minimum visible light transmittance of ~~80%~~. **60% and a reflectivity of 15% or less.**

~~Lightly Tinted Glazing: Glass and other transparent elements of building facades with a minimum visible light transmittance of 70%.~~

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JANUARY 8, 2020

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on January 8, 2020. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams (left 7:32 p.m.); Alternate Board Members Jason Emerine, Nasseem Ramin

Absent: Board Member Robin Boyle

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

01-01-20

B. Approval Of The Minutes Of The Regular Planning Board Meeting of December 11, 2019

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of December 11, 2019 as submitted.

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Abstain: Emerine, Ramin

01-02-20

C. Chairperson's Comments

Chairman Clein explained standard Planning Board meeting procedures and when the public would have opportunity to comment on items before the Board.

01-03-20

D. Approval Of The Agenda

There were no changes to the agenda.

01-04-20

E. Preliminary Site Plan Reviews

1. 770 S. Adams (existing office building) – Request for Preliminary Site Plan approval for construction of a new five story mixed use building in the MU3/MU5 zone of the Triangle District (Postponed from December 11, 2019).

Mr. Williams stated that his law firm, Dickinson Wright, represents MD Properties which owns the building immediately to the south of 770 S. Adams. He explained that in order to avoid any conflict of interest he would be recusing himself.

Mr. Williams departed the meeting at 7:32 p.m.

Planning Director Ecker presented the item.

In reply to Ms. Whipple-Boyce, Ross Hoekstra with McIntosh Poris Associates explained that they were not pursuing angled parking off of the alley per Ms. Kroll's recommendation because it takes up more space than the proposed parking design.

Ms. Whipple-Boyce noted angled parking could be a safety benefit by encouraging drivers to pull out and proceed in the correct direction down the one-way alley. She also noted that the plans as submitted provide for parking over the required amount, so that losing a few spaces in order to install angled parking should not necessarily present the applicant with an issue.

Michael Poris with McIntosh Poris Associates stated that angled parking would make those spaces inaccessible to cars entering the alley from N. Worth Street, since the alley is two-way until the last 40 feet closest to N. Adams Road.

Rick Rattner, attorney for the project, said he would like to be able to go before other City Boards with the Planning Board's opinion on the record regarding this project's alley-setback issue. He suggested that this alley should be treated as alleys are treated in the downtown district, with no sideyard setback required. Mr. Rattner asked that the required setback of the building be measured from the center of the alley instead. He explained that this project would greatly benefit the City in terms of helping develop the Triangle District, and that requiring the building to step back any further would be prohibitive to the building's development.

Seeing no further comment from the applicant team, Chairman Clein invited public comment.

Dr. Mitchell Shek spoke as one of the owners of Birmingham MD Properties, located at 800 S. Adams. He emphasized the importance of maintaining the parking lot's ingress, egress, and accessible parking for his practice's patients. He said he looked forward to working with the applicant team to make sure this is accomplished, and that he just wanted that information included in the public record.

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

Mr. Share said it would be helpful to know where the one-way ends in the alley in order to determine the best parking configuration for the project.

Chairman Clein commended the applicant team on the changes made since the previous review of the project. He said his only concerns were making the direction of traffic within the alley clear and making the parking layout beneficial for visitors to both 700 and 800 S. Adams. He said that angled parking, per Ms. Kroll's and Ms. Whipple-Boyce's suggestion, could be a good way to achieve those goals.

Mr. Emerine said that determining where the one-way begins in the alley, where it ends, and whether those aspects would be best designated by striping, signage or both would be a matter for the City's Engineering Department to determine. He agreed that the angled parking could be a good idea and would likely cause the applicant to lose two of the currently laid out retail parking spots.

Planning Director Ecker noted that the Engineering Department provided comments on the project indicating their opinion that the entirety of the alley is one-way, and that traffic flows from east to west.

Chairman Clein suggested that since this was a preliminary site plan, the plan could be approved with requirements to further consider angled parking, to work with the site's neighbors on mutually beneficial parking designs, and to conform with the Engineering and Police Department comments related to the alley.

Mr. Emerine noted that the furthest west parking spaces, closest to the wall, would be difficult to pull into even if the current parking design were maintained. He also said that if a vehicle were proceeding the wrong way down the alley, and another vehicle were to back out of one of those spaces, it would have a high likelihood of resulting in a collision. He said, as a result, that even if the current perpendicular parking design were maintained he would likely request that the applicant remove one or two of those furthest west parking spaces. That would mean that the applicant faces a loss of two parking spaces whether they maintain the current parking layout or switch to the recommended angled parking.

Mr. Koseck said the angled parking spaces would likely increase the safety of parking and driving in the alley.

Chairman Clein spoke to Mr. Rattner's earlier question about the alley setback. Chairman Clein explained that in his work in Detroit his projects use the middle of the alley for calculation of the correct setback. He said in this particular case he had no concerns with regard to the layout of the setback, that it is an example of fine urban planning, and that he would be pleased to see the project moved forward with that consideration.

Mr. Emerine echoed Chairman Clein's comments, saying that cities like Ferndale and Northville do the same thing for calculating setbacks on alleys, and that measuring from the middle is a pretty standard way of doing so.

Mr. Poris asserted that the ordinance says that frontage on a right-of-way determines a front yard which results in a different setback calculation than a side yard designation. He said the frontage on the alley in this case should result in a front yard setback.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to approve the Preliminary Site Plan Review for 770 S. Adams with the following conditions: 1. Revisions to the south side setbacks of the building or removal of windows within 10' of the property line, or obtain a variance from the Board of Zoning Appeals; 2. Correction of all site, landscape, elevations, streetscape and engineering plans showing consistency on all, and demonstrating that all zoning requirements have been met; 3. The addition/clarification of 43 bike racks on site; 4. A photometric plan and material samples and specifications will be required at Final Site Plan and Design Review; 5. Compliance with the requirements of all departments; and, 6. The conversion of parking spaces fronting on the alley to be angled so that the front of the vehicle would be facing northwest.

Mr. Share added that if the motion passes it should be clear that the Planning Board sees the project as worthwhile, and the minutes should accurately reflect that for the benefit of the Board of Zoning Appeals.

Motion carried, 7-0.

VOICE VOTE

Yeas: Share, Whipple-Boyce, Clein, Emerine, Jeffares, Koseck, Ramin

Nays: None

01-05-20

F. Study Session Items

1. 2019 Administrative Approval Report

Planning Director Ecker presented the item.

Chairman Clein invited the Planning Department to keep the Planning Board updated on any frequently appearing administrative approval matters that would be worth further Planning Board discussion.

Planning Director Ecker confirmed that, when they arise, frequently appearing matters are brought to the attention of the Planning Board for potential future discussion, such as the issue of solar panels which will be discussed by the Board later this evening.

2. Master Plan Review Process Update

Planning Director Ecker presented the item. She explained that the City Commission approved the proposal as submitted with the exception that the schedule would start in February 2020, and not January 2020. She stated that in December 2019 the City Commission approved the expenditure of up to \$28,600 for additional public engagement activities. That figure included the potential for two different round-table discussions, a drop-in clinic, and two additional short surveys. Should the Board want to pursue any of those options, they would make a recommendation to the City Manager who would disburse the requisite funds should he approve of the recommendation.

Planning Director Ecker said the scheduled Planning Board master plan discussions would be publicized on the City's website, the Master Plan website, and all City social media channels. Sarah Traxler, one of the local members of the Master Plan team, would likely be attending each meeting and giving a presentation of the evening's master planning topic. Those presentations would also be included in the Planning Board's agenda packets the Friday before their Wednesday meetings in order to afford both the public and the Board members time to review the topic. Robert Gibbs, another local member of the Master Plan team, would likely also be present at the meetings.

Planning Director Ecker said that between sessions she would collect any master plan comments submitted to the Planning Department and include them in the agenda packet for the next scheduled master plan meeting so that the Board would have an opportunity to review those as well.

3. Solar Panel Review Process

City Planner Dupuis presented the item.

Mr. Emerine noted that on page 620 of the Planning Board's agenda packet, 4.88 B said 'wind' when it should read 'solar'.

City Planner Dupuis agreed and said he would make the change. He further explained:

- Ancillary solar panel equipment is very small and would be mounted to the wall of whatever building is using it. He said it would be visually unobtrusive and that he had not come across any information on undue noise production by the equipment. He said he would bring the spec sheets for the ancillary equipment to a public hearing once scheduled which would provide both the Board and the public with more information on the items.
- He would clarify the suggested language to explain that the 40 square foot limit on a solar panel system counts all connected panels as part of one system. Since the average solar panel is three-and-a-half feet by five feet, he recommended the 40 square foot limit in order to allow two average-sized solar panels. City Planner Dupuis said he provided the 40 square feet to begin the conversation, and also proposed the number because he was unsure whether it would be appropriate in a residential setting to have more than 40 square feet of solar panels. He noted that some other cities restrict solar panels to occupying no more than a certain percentage of a given lot.

- Ground mounted solar panels could enable residents who do not want to mount panels on their roof to still have access to some solar power. Ground mounted solar panels would also allow businesses to use solar-powered trash compactors.

Ms. Whipple-Boyce said that she did not yet know enough about ground-mounted solar panels, but that if the City proceeded toward allowing them she would prefer that their allowable yard coverage be calculated by percentage and not by a set amount. She also told City Planner Dupuis that there had been a conversation regarding wind energy facilities about ten years hence, and that if he could find the minutes from that conversation it might help provide some useful information on the topic.

Mr. Koseck said the Board might want to consider not allowing solar panels at grade because it could encourage residents to do away with any greenery that could get in the way of the panels. He also said that 40 square feet of solar panels on the ground might not be enough to generate a worthwhile amount of energy. Mr. Koseck added that solar panels are impervious which would also raise ordinance issues in terms of ground cover. Since most people would likely rather not install solar panels at grade anyways, Mr. Koseck said he would just as soon prohibit it to avoid these issues since the potential environmental gain would likely not be significant in those cases.

Mr. Jeffares echoed Mr. Koseck's concerns about ground mounted solar panels and said he would prefer to continue studying that possibility and whether it would be worthwhile.

Ms. Ramin noted that on page 625, in section G, the phrase "If a wind energy facility has not been removed within 30 days a deadline specified by the City" would need to be clarified.

Mr. Share noted that on page 621, Item F, the word should be 'complemented', not 'complimented'. He agreed with Mr. Koseck and Mr. Jeffares that ground mounted solar panels were likely not necessary to pursue at this time.

Chairman Clein expressed agreement with Mr. Koseck, Mr. Jeffares, and Mr. Share regarding ground mounted solar panels.

In reply to Chairman Clein, City Planner Dupuis said he would do more research on the benefits and drawbacks of the anti-reflective coating some other cities' ordinances require for solar panels.

4. Glazing Standards

City Planner Dupuis presented the item.

Mr. Koseck said he had a list of two or three people he would be reaching out to soon who might be able to contribute meaningfully to the glazing standards conversation. He said that once he had done that he would loop City Planner Dupuis in as appropriate.

Chairman Clein explained that in February 2020 and April 2020 there will only be one Planning Board meeting per each month and that both of those meetings are dedicated to master plan discussion. He suggested that Board members look at their calendars to see if a special meeting could be scheduled to wrap up some of these other study session topics. He added that even if

the Board moved forward with a resolution on this item during the present meeting, due to noticing requirements the public hearing would not occur until the second meeting in March 2020. Chairman Clein recommended the Board take the time to do adequate research, as a result, before moving further forward on this.

Mr. Emerine suggested it might be worthwhile to speak with glass contractors in addition to glass vendors in order to get more insight.

Planning Director Ecker said she would recommend reaching out to a mechanical engineer, a glass vendor or supplier, and a glass contractor or installer.

City Planner Dupuis confirmed he would reach out to people who work with glass regularly in architectural settings and would return to the Board with further information.

01-06-20

G. Miscellaneous Business and Communications:

a. Communications

b. Administrative Approval Correspondence

c. Draft Agenda for the next Regular Planning Board Meeting (January 22, 2020)

- Whistle Stop Design Review
- 35001 Woodward - Amended CIS and Amended Preliminary Site Plan
- Fred Lavery Porsche SLUP
- Two small solar panel items

d. Other Business – Discuss amending Rules of Procedure for January 22, 2020 meeting

Motion by Ms. Whipple-Boyce

Seconded by Mr. Share to amend the Rules of Procedure for the Planning Board's January 22, 2020 meeting to allow for the review of the above items as described by Planning Director Ecker.

Motion carried, 7-0.

VOICE VOTE

Yeas: Whipple-Boyce, Share, Emerine, Clein, Jeffares, Ramin, Koseck

Nays: None

Abstain: Emerine, Ramin

01-07-20

H. Planning Division Action Items

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

01-08-20

I. Adjournment

No further business being evident, the Chairman adjourned the meeting at 9:11 p.m.

Jana L. Ecker

Planning Director

APPROVED

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, NOVEMBER 13, 2019

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on November 13, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

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

Absent: Alternate Board Member Jason Emerine; Student Representatives Sophia Trimble, John Utley

Present in Audience:

Alternate Board Member Nasseem Ramin

Administration: Jana Ecker, Planning Director
Brooks Cowan, City Planner
Laura Eichenhorn, Transcriptionist

11-161-19

B. Approval Of The Minutes Of The Regular Planning Board Meeting of October 23, 2019

Chairman Clein recommended that a typo found in the third paragraph on page nine be changed from "in residential" to "of residential."

Motion by Mr. Share

Seconded by Mr. Williams to approve the minutes of the Regular Planning Board Meeting of October 23, 2019 as amended.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Abstain: Koseck

11-162-19

C. Chairperson's Comments

Chairman Clein explained standard Planning Board meeting procedures including an explanation of when the public would have the opportunity to comment.

11-163-19

D. Approval Of The Agenda

There were no changes to the agenda.

11-164-19

E. Community Impact Study Review and Preliminary Site Plan Review

- 1. 469-479 S. Old Woodward (former Mountain King and Talmer Bank) –** Request for Community Impact Study acceptance for construction of a new five story mixed use building in the B4/D4 zone district (Postponed from October 23, 2019, Request from applicant to postpone to December 11, 2019).

Chairman Clein noted he had previously recused himself from this matter as his company had a business relationship with a property owner on the same block as the parcel in question. Since that business relationship has concluded, it is the opinion of both the City Attorney and the **based on a previous** Birmingham Ethics Board **determination** that Chairman Clein may participate in discussions regarding this parcel moving forward.

Mr. Williams said he would be more inclined to postpone the matter to a meeting in January 2020.

Seeing no additional comment from the Board, Chairman Clein invited comment from the public.

Jim Arpin noted that this matter has been repeatedly postponed, and asked whether the matter effectively has a permanent place on the Board's agenda.

Chairman Clein said he understood why it would seem that way, and said it was an issue the Board needed to discuss.

Mr. Arpin asked that the Board consider re-noticing the topic once a new date is selected, even though a postponement to a date certain does not require noticing according to City ordinance.

Chairman Clein returned discussion to the Board.

Mr. Share said he would be willing to provide the applicant with one last date certain as long as the applicant paid for the cost of postage for the item to be re-noticed.

Ms. Whipple-Boyce stated that the reason to postpone to a date certain is to avoid the need to re-notice. She opined that if the Board intended to re-notice the matter regardless, it should be postponed without a date certain to allow the applicant the flexibility of appearing on an agenda when they are certain they are ready.

Mr. Williams concurred with Ms. Whipple-Boyce, adding that it sets a bad precedent if items postponed to dates certain are re-noticed selectively.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to postpone the Community Impact Study Review and Preliminary Site Plan Review for 469-479 S. Old Woodward (former Mountain King and Talmer Bank).

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

2. 770 S. Adams (existing office building) – Request for Community Impact Study acceptance for construction of a new five story mixed use building in the MU3/MU5 zone of the Triangle District.

Planning Director Ecker presented the item.

John Shekerjian, attorney, and Michael Poris, architect, spoke on behalf of the applicant.

Chairman Clein noted that Form A submitted by the project's consultant included a description of a 'Right-In, Right-Out', which would restrict turns entering and exiting parking. He noted that description was not included elsewhere, and asked that the discrepancy be resolved in the next iteration of the plans.

Mr. Poris explained that the south vehicle entrance is adjacent to the building's lobby.

Chairman Clein asked that the project's consultant and the City consultant review northbound traffic wanting to turn left into the first floor because the current plans may detrimentally impact traffic trying to turn left onto Holland and may include less stacking space than necessary.

Mr. Williams noted that pedestrians will likely be crossing Adams to access the proposed retail, and asked that the project include a note of that in the community impact study (CIS) so the City can consider creating a pedestrian crosswalk in that area.

Mr. Boyle noted that the applicants will be spending an estimated additional \$2 million in order to allow occupants to park a second car. He also noted that the dominant land use for the project is parking. Mr. Boyle asserted that if the City seeks to provide more accessible housing, reducing the parking requirements as the master plan is likely to recommend will be a large step towards achieving that.

Mr. Jeffares expressed his approval for the attention the site plan paid to bicycle storage options on-site.

Motion by Mr. Share

Seconded by Mr. Williams to postpone review of the Community Impact Study to December 11, 2019 for the proposed development at 770 S. Adams pending receipt of the following: (1) Drainage plan; (2) Noise study; (3) Phase 1 Environmental Assessment; (4) Details on the location of transformers and providers of all utilities; (5) Traffic data requested by Fleis & VandenBrink; (6) Information on all life safety issues and Fire Dept. approval; and (7) Information on the proposed security system for approval by the Police Department.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Motion by Mr. Williams

Seconded by Mr. Share to postpone the Preliminary Site Plan Review to December 11, 2019 for the proposed development at 770 S. Adams.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

11-165-19

G. Study Session Items

1. D5 Study

Planning Director Ecker presented the item.

Mr. Williams observed that the area north of 411 S. Old Woodward is D4 and in the parking assessment district (PAD) while the area south is not, and said that difference may be one of the factors to consider in this discussion moving forward.

Chairman Clein said Mr. Williams' point was well-taken while clarifying that the evening's discussion was about D5 in general and was not regarding any individual parcels.

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

In reply to Mr. Arpin, Chairman Clein explained there is already a D5 ordinance in effect, and the goal of this review is to clarify the scope of that ordinance. He said the study was requested to determine whether good urban planning practices would support future rezoning requests for parcels in the area in question.

Planning Director Ecker told Mr. Arpin that the D5 study is available to the public in previous Planning Board agendas posted on the City's website.

In reply to a request by Mr. Arpin, Chairman Clein asked that the City Manager and City Commission consider whether it might be useful to provide the D5 study on thebirminghamplan.com website as well.

Mr. Arpin shared his gratitude for the Board's thoroughness when discussing a CIS, and expressed concern that, in his opinion, the Board was not proceeding as thoroughly when discussing potential zoning changes that would impact a three or four block area of the City.

Chairman Clein thanked Mr. Arpin for his comments.

Patrick Howe, attorney representing the Birmingham Place Condo Association, spoke. He reviewed the minutes from the February 13, 2017 City Commission meeting minutes in order to highlight the original intent of the D5 ordinance. Mr. Howe argued that the only piece of property that was both abutting and adjacent was the south strip next to the 555 Building. He noted that the entire transcript of the D5 portion of the February 13, 2017 City Commission meeting was 18 minutes long, and echoed Mr. Arpin's assertion that more discussion is merited before an amendment to the D5 ordinance is considered.

Motion by Mr. Share

Seconded by Mr. Williams to set a public hearing for December 11, 2019 for the two proposed ordinance amendments to Article 3, section 3.04 (A) and Article 9, Definitions, Section 9.02 as presented on pages 132 and 133 of the Board's November 13, 2019 agenda.

Duraid Markus, owner of 469-479 S. Old Woodward, asked whether an adjacent building's height would be calculated from the height of the closest point of a building, which could be five stories, for example, or from the highest part of a building as a whole, which could extend to nine stories on the far side of a building.

Planning Director Ecker confirmed for Mr. Markus and for Michele Prentiss that a building's height is calculated based off of a building's overall height, and not just the height of the closest part of the building.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

2. Glazing Standards

City Planner Dupuis presented the item.

Ms. Whipple-Boyce confirmed based on her research that the 80% VLT glass required in the City's ordinance causes much more heat loss and gain depending on the seasons, increases the cost of heating and cooling the building, could change the capacity of the HVAC to make up for that gain and loss, and that those facts will remain true as long as 80% VLT is required. She said that people in the industry she spoke with advised that if the VLT requirement is lowered to 68% those issues could be mitigated. She said determining how to accommodate low-e glass will have environmental benefits in addition to the benefits it would bring developers and builders.

Mr. Share and Ms. Whipple-Boyce both wondered about possible differences between one manufacturer's 68% VLT glass and another's.

City Planner Dupuis and Planning Director Ecker said they would return with more information on the topic for the Board's next meeting.

In reply to Mr. Boyle, City Planner Dupuis explained glass professionals advised staff that only the VLT and the reflectivity affect the transparency of glass, which is why the recommended wording only mentions those two criteria.

In reply to Chairman Clein, City Planner Dupuis said he could do further research on what other Michigan cities require for VLT since the table with VLT figures included in this item was produced sometime in 2017.

In reply to Chairman Clein, Planning Director Ecker said she would try to find someone who could provide the City with more insight into the various considerations at play in this discussion.

Ms. Whipple-Boyce stressed the environmental impact of this decision and said the decision should move towards the highest VLT glass that does not lead to negative environmental results.

3. Master Plan Review

Planning Director Ecker presented the item.

Chairman Clein thanked Planning Director for putting together the proposed schedule.

Subsequent to discussion, Board consensus was that they would schedule the master plan discussions for regular study session meetings beginning in January 2020 and running through May 2020. Notes would be provided to DPZ after each study session. The Board agreed to start those study session meetings at 7 p.m. instead of 7:30 p.m.

Planning Director Ecker noted that a member of the public could always provide their feedback on a previous meeting's topic as well.

Ms. Whipple-Boyce recommended creating an insert with the schedule of these meetings to mail out to all Birmingham residents in the City's 2020 calendar. She advocated for allowing staff to determine the most appropriate division of the master plan topics over the four or five study sessions.

Mr. Boyle also asked it be recommended to the Commission that the City publicize these master plan study sessions by every means available to the City's communications office.

Chairman Clein strongly concurred with Mr. Boyle's recommendation.

Ms. Whipple-Boyce noted that if a site plan meeting were particularly light one month the Board could address a smaller study session item like this evening's glazing discussion. She also ventured that as the Board provides feedback to DPZ on the master plan topics, DPZ will develop an increasingly clearer understanding of the Board's perspective and how to integrate it into the plan.

Mr. Williams stated that the Board's alternate members should be encouraged to attend and participate in the Board's master plan study sessions.

11-166-19

H. Miscellaneous Business and Communications:

a. Communications

b. Administrative Approval Correspondence

c. Draft Agenda for the next Regular Planning Board Meeting (December 11, 2019)

- Public Hearing to clarify the D5 Zone District Regulations
- CIS and Final Site Plan for 770 S. Adams
- 412-420 E. Frank

d. Other Business

11-169-19

J. Planning Division Action Items

a. Staff Report on Previous Requests

b. Additional Items from tonight's meeting

11-170-19

K. Adjournment

No further business being evident, the Chairman adjourned the meeting at 10:44 p.m.

Jana L. Ecker

Planning Director

City Glazing/Transparency Requirements

In the table shown below are the first floor facade transparency and tinting requirements (also referred to as “glazing”) for various Michigan municipalities as set forth in their respective zoning ordinances.

First Floor Transparency and Tinting Requirements by City		
Municipality	Transparency Requirement	Tinting Requirement
City Grand Rapids	Minimum of 60% transparency measured between 2 ft. and 8 ft. on storefront/ground floor facade	Minimum of 70% visible light transmission (VLT)
City of Traverse City	70-90% of total storefront/ground floor facade	Minimum of 70% VLT
City of Ferndale	50% of building facade at street level shall consist of windows	No tinting
City of Muskegon	60 – 80% transparency of first floor storefront/ground floor facade	Minimum of 70% VLT
West Bloomfield Township	N/A	Minimum of 75% VLT
Village of Douglas	Minimum of 60% transparency of storefront/ground level facade	Minimum of 70% VLT
City of Wyoming	60-80% transparency of storefront/ground level facade	Minimum of 70% VLT
City of Pontiac	50% minimum of storefront/ground level facade	No tinting



MEMORANDUM

Planning Division

DATE: August 12th, 2020

TO: Jana Ecker, Planning Director

FROM: Nicholas Dupuis, City Planner

SUBJECT: Solar Panel Requirements – Study Session #2

In 2009, the City Commission adopted ordinance language permitting solar panels on structure roofs in all zoning districts throughout the City. Since its adoption, there have been many solar panels installed across the City, and several in the process of being approved by the Planning Board and/or Planning Division.

On May 22nd, 2019, the Planning Board discussed the evolution of solar panels and their perception that aesthetics are no longer an issue that should require a full Design Review by the Planning Board. The Board members also revisited a suggestion that was discussed in 2009, which was to waive fees for solar panel applications to encourage alternative energy use and sustainability.

On June 17th, 2019, the Planning Board and City Commission discussed the potential for ordinance amendments to simplify the review process for solar panels. During the meeting, a consensus was reached that the City's solar ordinance was in need of an update.

On January 8th, 2020, the Planning Board reviewed revised ordinance language and directed staff to make a few minor revisions and clarifications which involved the removal of ground mounted solar facility standards and adding language for anti-reflective coatings.

As the Zoning Ordinance currently reads, roof-mounted solar electric systems are permitted in all Zoning Districts, with any proposals for front, street oriented systems required to come before the Planning Board or Historic District Commission for a Design Review. The attached language offers an update to this language based on the feedback of the Planning Board and City Commission eliminating the Design Review Requirement for *non-historic homes only*. In addition, it was important for City Staff (while the subject of solar panels is active) to address and update the entire section of ordinance to remove barriers to the use of alternative energy solutions and encourage viable sustainability efforts. The proposed updates add requirements for new and emerging technologies such as solar shingles and solar energy storage, as well as address different options and that were not included in the original language, such as ground-mounted solar electric systems.

Note: The decision was made to move the language for solar panels from the Essential Services section to the Alternative Energy section of the ordinance, as it is a much better fit. In order to edit the ordinance properly, it was easiest to “delete” all of the existing ordinance language in Section 4.88 and create an entirely “new” Section 4.88. The language for wind energy facilities in the “new” Section 4.88 is EXACTLY the same, it is merely organized in a slightly different way. Please be advised, however, of the changes made in **bold blue** that apply to the wind energy facility language, which are changes to the Zoning Districts in which Section 4.88 apply.

CITY OF BIRMINGHAM

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE SIGN ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.09, ESSENTIAL SERVICES, TO REMOVE ROOF-MOUNTED SOLAR ELECTRIC SYSTEMS

4.09 ES-01

This Essential Services Standards section applies to the following districts:

B1 B2 B2B B2C B3 B4 MX 01 02 P PP R1 R1A R2 R3 R4 R5 R6 R7 R8 TZ1 **TZ2** TZ3

The following essential services standard applies:

A. Essential Services: Essential services shall be permitted as authorized and regulated by law and other ordinances of the city and are exempt from the application of the Zoning Ordinance.

~~B. Roof Mounted Solar Electric Systems:~~

- ~~1. Roof mounted solar panels are permitted on buildings and structures in all zoning districts and may include integrated solar panels as the surface layer of the roof structure with no additional apparent change in relief or projection, or separate flush mounted solar panels attached to the roof;~~
- ~~2. Separate, non-integrated flush-mounted solar panels shall be located on a rear or side-facing roof, which do not front any street, unless such installation is proven to be ineffective or impractical. If installation is not practical on a rear or side-facing roof, any other placement in all zoning districts shall be subject to a Design Review by either the Planning Board (non-historic properties) or the Historic District Commission (historic properties);~~
- ~~3. Separate flush-mounted solar panels installed on a building or structure with a sloped roof surface shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof installation; and~~
- ~~4. No solar panels shall ever project higher than the permitted building height in any zoning district.~~

ORDAINED this _____ day of _____, 2020 to become effective upon publication.

Pierre Boutros, Mayor

Alexandria Bingham, City Clerk Designee

CITY OF BIRMINGHAM

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE SIGN ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.88, ALTERNATIVE ENERGY, TO ADD AMENDED SOLAR ENERGY SYSTEMS REQUIREMENTS

~~4.88 UT-01: Alternative Energy~~

~~This Utility Standards section applies to the following districts:~~

~~B1 B2 B2B B2C B3 B4 MX 01 02 P TZ3~~

~~The following utility standards applies:~~

~~A. Purpose and Intent: The purpose and intent of the city is to balance the need for clean and renewable energy resources with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large. The city shall allow as an accessory use, with review by the Planning Board and/or Historic District Commission, the construction and operation of wind energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources without significantly increasing the cost or decreasing the efficiency of such systems.~~

~~B. Applicability: This section applies to all on-site wind energy facilities. Any physical modification to existing wind energy facilities that materially alters the type, increases the size, or increases the adverse impact on surrounding properties, shall require a review by the Planning Board and/or Historic District Commission.~~

~~C. Planning Approval Required:~~

~~1. Wind energy facilities shall be limited to the average needs of the structure on the same parcel and shall be a permitted accessory use; subject to the required standards of this section provided they are incidental and secondary to a permitted principal use on the same parcel. The rated capacity of wind energy facilities must correlate with consumption.~~

~~2. Wind energy facilities may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility~~

~~company. If a parcel on which a system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with applicable state and federal law.~~

- ~~3. Wind monitoring (anemometer) towers are permitted in all non-residential zoning districts subject to the issuance of a temporary use permit and a building permit. Permanent anemometer towers shall be subject to review and approval in conjunction with wind energy facility.~~
- ~~4. No wind energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining approval from the Planning Board and/or Historic District Commission. The construction of a wind energy facility shall be permitted in non-residential zoning districts as an accessory use subject to the approval of the Planning Board and/or Historic District Commission and provided that the use complies with all requirements set forth in this section.~~

~~The Planning Board and/or the Historic District Commission have the discretion to deny plans based on aesthetics of the wind energy system. All such wind energy facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. No approval of any board or commission shall be granted unless it is found that:~~

- ~~a. The specific site is an appropriate location for such use;~~
- ~~b. The use is not expected to adversely affect the area;~~
- ~~c. There is not expected to be any serious hazard to people, property or animals from the use;~~
- ~~d. No nuisance is expected to be created by the use; and~~
- ~~e. Adequate and appropriate facilities will be provided for the proper operation of the use.~~

- ~~5. Approvals may also impose reasonable conditions, safeguards and limitations and require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind energy facility, should they occur.~~
- ~~6. Multiple wind energy facilities may be permitted provided they meet all requirements specified in the Zoning Ordinance and their number and placement is appropriate for the site and is architecturally and visually compatible with the surrounding area.~~

~~D. General Site Standards:~~

- ~~1. *Height.* No wind energy facility may exceed the maximum permitted or actual legal non-conforming building height by more than 20 ft. in any district~~

~~2.—*Noise:* Except during short term events including utility outages and severe wind storms, wind energy facilities shall be designed, installed and operated so that noise generated by the system shall be the lesser of 60 dB as measured at any closest inhabited dwelling or 55 dB at the boundary of any adjacent property line.~~

~~3.—*Location:*~~

~~a.—The center of a wind energy facility turbine tower shall be set back no less than 5 feet from all lot lines and rights of way or no less than one half the diameter of the rotor and blades, whichever is greater.~~

~~b.—The swept area of wind energy facilities must be set back at least 3 feet from any lot line.~~

~~c.—Wind energy facilities may not be located between the front lot line and the front wall of the principal use.~~

~~d.—No portion of any wind energy facility's exposed moving parts shall extend to within 20 feet of the ground, or to within 10 feet of any overhead utility lines, or as determined by a utility company.~~

~~4.—*Screening:* Screening of ground mounted mechanical equipment is required in accordance with Article 4, Section 4.54 SC-01 Screening of the Zoning Ordinance, in order to mitigate aesthetic impacts upon the neighborhood.~~

~~5.—*Shadow Flicker:* Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker on adjacent properties. The applicant has the burden of proving that this effect does not have significant adverse impacts on neighboring or adjacent uses through siting or mitigation.~~

~~6.—*Access and Safety:*~~

~~a.—Wind energy facilities shall be designed and installed so as to prevent unauthorized access to electrical and mechanical components and shall be secured or locked at all times when service personnel are not present.~~

~~b.—Climbing apparatus shall be located in a place that is in accordance with MIOSHA standards as to prevent climbing.~~

~~7.—*Removal:* Any wind energy facility that has not been used in 180 days, or has otherwise been determined abandoned, shall be removed by the owner and/or operator of the facility. If a wind energy facility has not been removed within 30 days a deadline specified by the City, the City of Birmingham may remove or secure the removal of the facility at the owner/operator's sole expense. All equipment associated with the facility shall be removed at the same time.~~

~~E.—Design Standards:~~

- ~~1. *Color and Finish:* The Planning Board shall have discretion over the turbine color, although a neutral, non reflective exterior color designed to blend with the surrounding environment is encouraged. If the site is located within a historic district, the Historic District Commission will have discretion over the turbine color.~~
- ~~2. *Lighting:* Wind Energy Facilities may be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind energy facility, or related structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. If lighting is necessary a photometric plan is required.~~
- ~~3. *Signage:* Signs on the wind energy facility shall comply with the requirements of the City of Birmingham's Sign Ordinance, and shall be limited to:~~

~~Wind energy facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.~~

- ~~a. Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger; and~~
- ~~b. Educational signs providing information about the facility and the benefits of renewable energy~~

- ~~4. *Utility Connections:* All utility connections for and from the wind energy facility shall be located under ground. Electrical transformers for utility interconnections may be above ground if required by utility provider but must be screened according to the Zoning Ordinance.~~
- ~~5. *Related Structures:* All related structures to wind energy facilities shall be subject to regulations concerning bulk and height of accessory structures as well as all other development standards. All related structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and adjacent buildings and shall be contained within the turbine tower whenever technically feasible. Structures shall only be used for housing equipment for this particular site.~~

~~F. Submittal Requirements:~~

- ~~1. Wind energy facilities are subject to Site Plan Review or Design Review by the Planning Board and/or the Historic District Commission.~~
- ~~2. All wind energy facilities shall obtain a building permit, along with any other permits required by federal, state and local agencies, prior to erecting a system.~~

~~3.—Proof of Liability Insurance: The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures should there be a failure of the wind energy facility.~~

~~4.—Site Control: At the time of application for a Site Plan Review, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean legal authority to prevent the use or construction of any structure for human habitation within the setback areas.~~

~~5.—Site Plan:~~

~~a. A site plan signed and sealed by a licensed engineer, of the subject property and all properties within 200 feet showing existing buildings and structures, utility lines and poles, landscaping and all other items which may effect the placement of the wind energy facility.~~

~~b. An elevation drawing of the proposed location of the wind energy facility.~~

~~c. Color photographs and an elevation drawing with the wind energy facility and all necessary equipment superimposed in the proposed location.~~

~~d. Specification sheets for all equipment, identifying all parts of the system, including, but not limited to, the manufacturer and model, turbine, tower height and type, rotor diameter, foundation, any accessory equipment, and the manufacturers electrical plans and specifications.~~

~~e. Any other information or evidence required by City Officials.~~

4.88 UT-01: Alternative Energy

This Utility Standards section applies to the following districts:

R1 R1A R2 R3 R4 R5 R6 R7 R8 B1 B2 B2B B2C B3 B4 MX 01 02 P TZ1 TZ2 TZ3

The following utility standards applies:

A. Purpose and Intent: The purpose and intent of the city is to balance the need for clean and renewable energy resources with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large.

B. Solar Energy Facilities: The city shall allow the construction and operation of solar energy facilities and to provide standards for the placement, design, construction, modification and removal of solar energy facilities that address public safety, minimize impacts on scenic, natural and historic resources without significantly increasing the cost or decreasing the efficiency of such systems.

1. Roof-Mounted Solar Electric Systems:

- a. Roof-mounted solar panels are permitted on buildings and structures in all zoning districts and may include integrated solar panels as the surface layer of the roof structure with no additional apparent change in relief or projection, separate flush mounted solar panels attached to the roof, associated electrical equipment such as meters, charge controllers, inverters, storage batteries, or similar ancillary equipment, or solar photovoltaic shingles;
- b. Separate, non-integrated flush-mounted solar panels shall be located on a rear- or side-facing roof, which do not front any street, unless such installation is proven to be ineffective or impractical. If installation is not practical on a rear- or side-facing roof, any other placement in all zoning districts shall be subject to review by the Planning Division;
- c. Any roof-mounted solar electric systems proposed on a historic building, or on a building or structure in an established historic district are subject to a Design Review by the Historic District Commission;
- d. Separate flush-mounted solar panels installed on a building or structure with a sloped roof surface shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof installation;
- e. No solar panels shall ever project higher than the permitted building height in any Zoning District;
- f. All solar electric systems proposed on the roof of a building shall be uniform in color and match or complement the color of the roof material. All frames (internal and external) shall match the color of the collector surface and all solar panels must have anti-reflective coatings to prevent glare; and

- g. All ancillary equipment installed in conjunction with roof-mounted solar electric systems is permitted on the side or rear building facades only. Storage batteries shall be installed in the interior of the building only.

2. Ground-Mounted Solar Electric Systems:

- a. Ground-mounted solar electric systems, including standard and pole mounted arrays, are not permitted.

4.89 UT-01: Alternative Energy

This Utility Standards section applies to the following districts:

R4 R5 R6 R7 R8 B1 B2 B2B B2C B3 B4 MX 01 02 P PP T22 TZ3

- A. **Purpose and Intent:** The purpose and intent of the city is to balance the need for clean and renewable energy resources with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large.
- B. **Wind Energy Facilities:** The city shall allow as an accessory use, with review by the Planning Board and/or Historic District Commission, the construction and operation of wind energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources without significantly increasing the cost or decreasing the efficiency of such systems.
 - 1. **Applicability:** This section applies to all on-site wind energy facilities. Any physical modification to existing wind energy facilities that materially alters the type, increases the size, or increases the adverse impact on surrounding properties, shall require a review by the Planning Board and/or Historic District Commission.
 - 2. **Planning Approval Required:**
 - a. Wind energy facilities shall be limited to the average needs of the structure on the same parcel and shall be a permitted accessory use; subject to the required standards of this section provided they are incidental and secondary to a permitted principal use on the same parcel. The rated capacity of wind energy facilities must correlate with consumption.

- b. Wind energy facilities may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. If a parcel on which a system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with applicable state and federal law.**
- c. Wind monitoring (anemometer) towers are permitted in all non-residential zoning districts subject to the issuance of a temporary use permit and a building permit. Permanent anemometer towers shall be subject to review and approval in conjunction with wind energy facility.**
- d. No wind energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining approval from the Planning Board and/or Historic District Commission. The construction of a wind energy facility shall be permitted in non-residential zoning districts as an accessory use subject to the approval of the Planning Board and/or Historic District Commission and provided that the use complies with all requirements set forth in this section.**

The Planning Board and/or the Historic District Commission have the discretion to deny plans based on aesthetics of the wind energy system.

All such wind energy facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. No approval of any board or commission shall be granted unless it is found that:

- i. The specific site is an appropriate location for such use;**
 - ii. The use is not expected to adversely affect the area;**
 - iii. There is not expected to be any serious hazard to people, property or animals from the use;**
 - iv. No nuisance is expected to be created by the use; and**
 - v. Adequate and appropriate facilities will be provided for the proper operation of the use.**
- e. Approvals may also impose reasonable conditions, safeguards and limitations and require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind energy facility, should they occur.**

- f. **Multiple wind energy facilities may be permitted provided they meet all requirements specified in the Zoning Ordinance and their number and placement is appropriate for the site and is architecturally and visually compatible with the surrounding area.**

3. General Site Standards:

- a. **Height: No wind energy facility may exceed the maximum permitted or actual legal non-conforming building height by more than 20 ft. in any district**
- b. **Noise: Except during short-term events including utility outages and severe wind storms, wind energy facilities shall be designed, installed and operated so that noise generated by the system shall be the lesser of 60 dB as measured at any closest inhabited dwelling or 55 dB at the boundary of any adjacent property line.**
- c. **Location:**
 - i. **The center of a wind energy facility turbine tower shall be set back no less than 5 feet from all lot lines and rights-of-way or no less than one-half the diameter of the rotor and blades, whichever is greater.**
 - ii. **The swept area of wind energy facilities must be set back at least 3 feet from any lot line.**
 - iii. **Wind energy facilities may not be located between the front lot line and the front wall of the principal use.**
 - iv. **No portion of any wind energy facility's exposed moving parts shall extend to within 20 feet of the ground, or to within 10 feet of any overhead utility lines, or as determined by a utility company.**
- d. **Screening: Screening of ground mounted mechanical equipment is required in accordance with Article 4, Section 4.54 SC-01 Screening of the Zoning Ordinance, in order to mitigate aesthetic impacts upon the neighborhood.**
- e. **Shadow Flicker: Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker on adjacent properties. The applicant has the burden of proving that this effect does not have significant adverse impacts on neighboring or adjacent uses through siting or mitigation.**
- f. **Access and Safety:**

- i. Wind energy facilities shall be designed and installed so as to prevent unauthorized access to electrical and mechanical components and shall be secured or locked at all times when service personnel are not present.
 - ii. Climbing apparatus shall be located in a place that is in accordance with MIOSHA standards as to prevent climbing.
- g. **Removal**: Any wind energy facility that has not been used in 180 days, or has otherwise been determined abandoned, shall be removed by the owner and/or operator of the facility. If a wind energy facility has not been removed within 30 days of a deadline specified by the City, the City of Birmingham may remove or secure the removal of the facility at the owner/operator's sole expense. All equipment associated with the facility shall be removed at the same time.

4. Design Standards:

- a. **Color and Finish**: The Planning Board shall have discretion over the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged. If the site is located within a historic district, the Historic District Commission will have discretion over the turbine color.
- b. **Lighting**: Wind Energy Facilities may be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind energy facility, or related structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. If lighting is necessary a photometric plan is required.
- c. **Signage**: Signs on the wind energy facility shall comply with the requirements of the City of Birmingham's Sign Ordinance, and shall be limited to:
 - i. Wind energy facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
 - ii. Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger; and
 - iii. Educational signs providing information about the facility and the benefits of renewable energy

- d. **Utility Connections:** All utility connections for and from the wind energy facility shall be located under- ground. Electrical transformers for utility interconnections may be above ground if required by utility provider but must be screened according to the Zoning Ordinance.
- e. **Related Structures:** All related structures to wind energy facilities shall be subject to regulations concerning bulk and height of accessory structures as well as all other development standards. All related structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and adjacent buildings and shall be contained within the turbine tower whenever technically feasible. Structures shall only be used for housing equipment for this particular site.

5. Submittal Requirements:

- a. Wind energy facilities are subject to Site Plan Review or Design Review by the Planning Board and/or the Historic District Commission.
- b. All wind energy facilities shall obtain a building permit, along with any other permits required by federal, state and local agencies, prior to erecting a system.
- c. **Proof of Liability Insurance:** The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures should there be a failure of the wind energy facility.
- d. **Site Control:** At the time of application for a Site Plan Review, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the pro- posed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean legal authority to prevent the use or construction of any structure for human habitation within the setback areas.
- e. **Site Plan:**
 - i. A site plan signed and sealed by a licensed engineer, of the subject property and all properties within 200 feet showing existing buildings and structures, utility lines and poles,

- landscaping and all other items which may effect the placement of the wind energy facility.
- ii. **An elevation drawing of the proposed location of the wind energy facility.**
 - iii. **Color photographs and an elevation drawing with the wind energy facility and all necessary equipment superimposed in the proposed location.**
 - iv. **Specification sheets for all equipment, identifying all parts of the system, including, but not limited to, the manufacturer and model, turbine, tower height and type, rotor diameter, foundation, any accessory equipment, and the manufacturers electrical plans and specifications.**
 - v. **Any other information or evidence required by City Officials.**

ORDAINED this _____ day of _____, 2020 to become effective upon publication.

Pierre Boutros, Mayor

Alexandria Bingham, City Clerk Designee

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JANUARY 8, 2020

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on January 8, 2020. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams (left 7:32 p.m.); Alternate Board Members Jason Emerine, Nasseem Ramin

Absent: Board Member Robin Boyle

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

01-01-20

B. Approval Of The Minutes Of The Regular Planning Board Meeting of December 11, 2019

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of December 11, 2019 as submitted.

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Abstain: Emerine, Ramin

01-02-20

C. Chairperson's Comments

Chairman Clein explained standard Planning Board meeting procedures and when the public would have opportunity to comment on items before the Board.

01-03-20

D. Approval Of The Agenda

There were no changes to the agenda.

01-04-20

E. Preliminary Site Plan Reviews

1. 770 S. Adams (existing office building) – Request for Preliminary Site Plan approval for construction of a new five story mixed use building in the MU3/MU5 zone of the Triangle District (Postponed from December 11, 2019).

Mr. Williams stated that his law firm, Dickinson Wright, represents MD Properties which owns the building immediately to the south of 770 S. Adams. He explained that in order to avoid any conflict of interest he would be recusing himself.

Mr. Williams departed the meeting at 7:32 p.m.

Planning Director Ecker presented the item.

In reply to Ms. Whipple-Boyce, Ross Hoekstra with McIntosh Poris Associates explained that they were not pursuing angled parking off of the alley per Ms. Kroll's recommendation because it takes up more space than the proposed parking design.

Ms. Whipple-Boyce noted angled parking could be a safety benefit by encouraging drivers to pull out and proceed in the correct direction down the one-way alley. She also noted that the plans as submitted provide for parking over the required amount, so that losing a few spaces in order to install angled parking should not necessarily present the applicant with an issue.

Michael Poris with McIntosh Poris Associates stated that angled parking would make those spaces inaccessible to cars entering the alley from N. Worth Street, since the alley is two-way until the last 40 feet closest to N. Adams Road.

Rick Rattner, attorney for the project, said he would like to be able to go before other City Boards with the Planning Board's opinion on the record regarding this project's alley-setback issue. He suggested that this alley should be treated as alleys are treated in the downtown district, with no sideyard setback required. Mr. Rattner asked that the required setback of the building be measured from the center of the alley instead. He explained that this project would greatly benefit the City in terms of helping develop the Triangle District, and that requiring the building to step back any further would be prohibitive to the building's development.

Seeing no further comment from the applicant team, Chairman Clein invited public comment.

Dr. Mitchell Shek spoke as one of the owners of Birmingham MD Properties, located at 800 S. Adams. He emphasized the importance of maintaining the parking lot's ingress, egress, and accessible parking for his practice's patients. He said he looked forward to working with the applicant team to make sure this is accomplished, and that he just wanted that information included in the public record.

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

Mr. Share said it would be helpful to know where the one-way ends in the alley in order to determine the best parking configuration for the project.

Chairman Clein commended the applicant team on the changes made since the previous review of the project. He said his only concerns were making the direction of traffic within the alley clear and making the parking layout beneficial for visitors to both 700 and 800 S. Adams. He said that angled parking, per Ms. Kroll's and Ms. Whipple-Boyce's suggestion, could be a good way to achieve those goals.

Mr. Emerine said that determining where the one-way begins in the alley, where it ends, and whether those aspects would be best designated by striping, signage or both would be a matter for the City's Engineering Department to determine. He agreed that the angled parking could be a good idea and would likely cause the applicant to lose two of the currently laid out retail parking spots.

Planning Director Ecker noted that the Engineering Department provided comments on the project indicating their opinion that the entirety of the alley is one-way, and that traffic flows from east to west.

Chairman Clein suggested that since this was a preliminary site plan, the plan could be approved with requirements to further consider angled parking, to work with the site's neighbors on mutually beneficial parking designs, and to conform with the Engineering and Police Department comments related to the alley.

Mr. Emerine noted that the furthest west parking spaces, closest to the wall, would be difficult to pull into even if the current parking design were maintained. He also said that if a vehicle were proceeding the wrong way down the alley, and another vehicle were to back out of one of those spaces, it would have a high likelihood of resulting in a collision. He said, as a result, that even if the current perpendicular parking design were maintained he would likely request that the applicant remove one or two of those furthest west parking spaces. That would mean that the applicant faces a loss of two parking spaces whether they maintain the current parking layout or switch to the recommended angled parking.

Mr. Koseck said the angled parking spaces would likely increase the safety of parking and driving in the alley.

Chairman Clein spoke to Mr. Rattner's earlier question about the alley setback. Chairman Clein explained that in his work in Detroit his projects use the middle of the alley for calculation of the correct setback. He said in this particular case he had no concerns with regard to the layout of the setback, that it is an example of fine urban planning, and that he would be pleased to see the project moved forward with that consideration.

Mr. Emerine echoed Chairman Clein's comments, saying that cities like Ferndale and Northville do the same thing for calculating setbacks on alleys, and that measuring from the middle is a pretty standard way of doing so.

Mr. Poris asserted that the ordinance says that frontage on a right-of-way determines a front yard which results in a different setback calculation than a side yard designation. He said the frontage on the alley in this case should result in a front yard setback.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to approve the Preliminary Site Plan Review for 770 S. Adams with the following conditions: 1. Revisions to the south side setbacks of the building or removal of windows within 10' of the property line, or obtain a variance from the Board of Zoning Appeals; 2. Correction of all site, landscape, elevations, streetscape and engineering plans showing consistency on all, and demonstrating that all zoning requirements have been met; 3. The addition/clarification of 43 bike racks on site; 4. A photometric plan and material samples and specifications will be required at Final Site Plan and Design Review; 5. Compliance with the requirements of all departments; and, 6. The conversion of parking spaces fronting on the alley to be angled so that the front of the vehicle would be facing northwest.

Mr. Share added that if the motion passes it should be clear that the Planning Board sees the project as worthwhile, and the minutes should accurately reflect that for the benefit of the Board of Zoning Appeals.

Motion carried, 7-0.

VOICE VOTE

Yeas: Share, Whipple-Boyce, Clein, Emerine, Jeffares, Koseck, Ramin

Nays: None

01-05-20

F. Study Session Items

1. 2019 Administrative Approval Report

Planning Director Ecker presented the item.

Chairman Clein invited the Planning Department to keep the Planning Board updated on any frequently appearing administrative approval matters that would be worth further Planning Board discussion.

Planning Director Ecker confirmed that, when they arise, frequently appearing matters are brought to the attention of the Planning Board for potential future discussion, such as the issue of solar panels which will be discussed by the Board later this evening.

2. Master Plan Review Process Update

Planning Director Ecker presented the item. She explained that the City Commission approved the proposal as submitted with the exception that the schedule would start in February 2020, and not January 2020. She stated that in December 2019 the City Commission approved the expenditure of up to \$28,600 for additional public engagement activities. That figure included the potential for two different round-table discussions, a drop-in clinic, and two additional short surveys. Should the Board want to pursue any of those options, they would make a recommendation to the City Manager who would disburse the requisite funds should he approve of the recommendation.

Planning Director Ecker said the scheduled Planning Board master plan discussions would be publicized on the City's website, the Master Plan website, and all City social media channels. Sarah Traxler, one of the local members of the Master Plan team, would likely be attending each meeting and giving a presentation of the evening's master planning topic. Those presentations would also be included in the Planning Board's agenda packets the Friday before their Wednesday meetings in order to afford both the public and the Board members time to review the topic. Robert Gibbs, another local member of the Master Plan team, would likely also be present at the meetings.

Planning Director Ecker said that between sessions she would collect any master plan comments submitted to the Planning Department and include them in the agenda packet for the next scheduled master plan meeting so that the Board would have an opportunity to review those as well.

3. Solar Panel Review Process

City Planner Dupuis presented the item.

Mr. Emerine noted that on page 620 of the Planning Board's agenda packet, 4.88 B said 'wind' when it should read 'solar'.

City Planner Dupuis agreed and said he would make the change. He further explained:

- Ancillary solar panel equipment is very small and would be mounted to the wall of whatever building is using it. He said it would be visually unobtrusive and that he had not come across any information on undue noise production by the equipment. He said he would bring the spec sheets for the ancillary equipment to a public hearing once scheduled which would provide both the Board and the public with more information on the items.
- He would clarify the suggested language to explain that the 40 square foot limit on a solar panel system counts all connected panels as part of one system. Since the average solar panel is three-and-a-half feet by five feet, he recommended the 40 square foot limit in order to allow two average-sized solar panels. City Planner Dupuis said he provided the 40 square feet to begin the conversation, and also proposed the number because he was unsure whether it would be appropriate in a residential setting to have more than 40 square feet of solar panels. He noted that some other cities restrict solar panels to occupying no more than a certain percentage of a given lot.

- Ground mounted solar panels could enable residents who do not want to mount panels on their roof to still have access to some solar power. Ground mounted solar panels would also allow businesses to use solar-powered trash compactors.

Ms. Whipple-Boyce said that she did not yet know enough about ground-mounted solar panels, but that if the City proceeded toward allowing them she would prefer that their allowable yard coverage be calculated by percentage and not by a set amount. She also told City Planner Dupuis that there had been a conversation regarding wind energy facilities about ten years hence, and that if he could find the minutes from that conversation it might help provide some useful information on the topic.

Mr. Koseck said the Board might want to consider not allowing solar panels at grade because it could encourage residents to do away with any greenery that could get in the way of the panels. He also said that 40 square feet of solar panels on the ground might not be enough to generate a worthwhile amount of energy. Mr. Koseck added that solar panels are impervious which would also raise ordinance issues in terms of ground cover. Since most people would likely rather not install solar panels at grade anyways, Mr. Koseck said he would just as soon prohibit it to avoid these issues since the potential environmental gain would likely not be significant in those cases.

Mr. Jeffares echoed Mr. Koseck's concerns about ground mounted solar panels and said he would prefer to continue studying that possibility and whether it would be worthwhile.

Ms. Ramin noted that on page 625, in section G, the phrase "If a wind energy facility has not been removed within 30 days a deadline specified by the City" would need to be clarified.

Mr. Share noted that on page 621, Item F, the word should be 'complemented', not 'complimented'. He agreed with Mr. Koseck and Mr. Jeffares that ground mounted solar panels were likely not necessary to pursue at this time.

Chairman Clein expressed agreement with Mr. Koseck, Mr. Jeffares, and Mr. Share regarding ground mounted solar panels.

In reply to Chairman Clein, City Planner Dupuis said he would do more research on the benefits and drawbacks of the anti-reflective coating some other cities' ordinances require for solar panels.

4. Glazing Standards

City Planner Dupuis presented the item.

Mr. Koseck said he had a list of two or three people he would be reaching out to soon who might be able to contribute meaningfully to the glazing standards conversation. He said that once he had done that he would loop City Planner Dupuis in as appropriate.

Chairman Clein explained that in February 2020 and April 2020 there will only be one Planning Board meeting per each month and that both of those meetings are dedicated to master plan discussion. He suggested that Board members look at their calendars to see if a special meeting could be scheduled to wrap up some of these other study session topics. He added that even if

the Board moved forward with a resolution on this item during the present meeting, due to noticing requirements the public hearing would not occur until the second meeting in March 2020. Chairman Clein recommended the Board take the time to do adequate research, as a result, before moving further forward on this.

Mr. Emerine suggested it might be worthwhile to speak with glass contractors in addition to glass vendors in order to get more insight.

Planning Director Ecker said she would recommend reaching out to a mechanical engineer, a glass vendor or supplier, and a glass contractor or installer.

City Planner Dupuis confirmed he would reach out to people who work with glass regularly in architectural settings and would return to the Board with further information.

01-06-20

G. Miscellaneous Business and Communications:

a. Communications

b. Administrative Approval Correspondence

c. Draft Agenda for the next Regular Planning Board Meeting (January 22, 2020)

- Whistle Stop Design Review
- 35001 Woodward - Amended CIS and Amended Preliminary Site Plan
- Fred Lavery Porsche SLUP
- Two small solar panel items

d. Other Business – Discuss amending Rules of Procedure for January 22, 2020 meeting

Motion by Ms. Whipple-Boyce

Seconded by Mr. Share to amend the Rules of Procedure for the Planning Board's January 22, 2020 meeting to allow for the review of the above items as described by Planning Director Ecker.

Motion carried, 7-0.

VOICE VOTE

Yeas: Whipple-Boyce, Share, Emerine, Clein, Jeffares, Ramin, Koseck

Nays: None

Abstain: Emerine, Ramin

01-07-20

H. Planning Division Action Items

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

01-08-20

I. Adjournment

No further business being evident, the Chairman adjourned the meeting at 9:11 p.m.

Jana L. Ecker

Planning Director

APPROVED

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MAY 22, 2019

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on May 22, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

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

Absent: None

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

05-073-19

B. Approval Of The Minutes Of The Regular Planning Board Meeting Of May 8, 2019

Mr. Jeffares noted that the awnings at Sidecar will be replaced, not "repainted" as was indicated on page 5.

Mr. Share asked that in the seventh paragraph, on page six, the information be updated to indicate that the applicant is not operating under the bistro ordinance. Mr. Share also noted a spelling correction on page eight, recommending "reproach" be changed to "re-approach".

Motion by Mr. Jeffares

Seconded by Mr. Share to approve the minutes of the Regular Planning Board Meeting of May 8, 2019 as submitted.

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Abstain: Clein, Koseck

05-074-19

C. Chairperson's Comments

Chairman Clein reviewed the evening's agenda.

05-075-19

D. Approval Of The Agenda

No changes.

05-076-19

E. Request for Preliminary Site Plan Review

1. 35001 Woodward – The Maple – Request for approval of a Preliminary Site Plan to permit the construction of a five story hotel building (Postponed from February 27, 2019).

Planning Director Ecker presented the item.

Planning Director Ecker confirmed:

- City Engineer O'Meara has said the applicant's proposed plans for Park Street would not interfere with the City's plans for Park Street.
- The applicant has amended their plans to make them consistent with the City's plans for Maple.
- The applicant is required to have three loading spaces based on use and square footage of building. The spaces are required to be 40 feet long, 12 feet wide, and 14 feet in height.
- The traffic consultant has reviewed the most current plans. The three parking spaces further to the north have also been removed so the hotel may stack cars there if necessary.

Mr. Williams noted that the three spaces to the north which were removed were in front of retail establishments.

Kevin Biddison, architect, told the PB that he had met with the City's Engineering and Planning Departments multiple times in the past month and that the project had undergone a number of adjustments in order to come further into alignment with the City's requirements. He continued:

- The double-banked loading zone would allow the applicant to stack up to 10 cars if needed. Such circumstances would only be likely to occur in the daytime hours.
- The garage door width will be reduced to 25 feet from 30 feet as required.
- The applicant would be more than willing to add the additional tree necessary if the arborist signs off on it. The applicant will also add the additional street lamp required.
- Additional lighting will be added around the building once the building is built and the first round of lighting is installed to illuminate any remaining darker areas.
- The vertical aluminum fins with LED lighting at Maple and Park and Maple and Woodward are being installed to provide visual interest and are cut back into the stone so they will not project into the right-of-way.

Mr. Williams suggested adding the operations plan with the City onto the list of conditions for preliminary. He also cited his previous 'No' vote on the CIS due to safety concerns, and commended the applicant for their efforts towards making the project safer through improved traffic flow and valet parking.

Mr. Koseck agreed with Mr. Williams, saying the applicant had come a long way in terms of improvements made to safety and traffic flow. He also said the hotel would likely need vestibules within the building, but that as long as they were interior it would not affect the site plan.

In reply to a query by Mr. Koseck, Mr. Biddison said the parking spaces on Hamilton are part of the conversation with the Hunter House Group. In addition, there are stairs on the Hamilton side of the building which would allow Hunter House patrons access to some of the additional spaces below grade.

Mr. Koseck said the retention of the 1½ foot wide curbed median on Park Street was a strange decision.

Mr. Biddison said the curb was being maintained at the request of City Engineer O'Meara in order to help drainage along the street. He said he anticipated the conversation with the Engineering Department regarding the curb would continue.

Mr. Boyle acknowledged that with all the competing interests on this site, nothing was going to be perfect but that the applicant's efforts had brought them much closer.

In response to Mr. Boyle, Mr. Biddison explained the rooftop would have seating and a rooftop bar.

Planning Director Ecker advised Mr. Biddison that within the overlay a commercial use could not be located above a residential use. She suggested the rooftop could be used by the residential occupants of the fifth floor of the building.

Mr. Biddison stated that both elevators would be available for resident use in the building. He confirmed a key system would be in use, allowing only residents to access residential floors.

Chairman Clein asked that the applicant confirm the width of the sidewalk in front of Greenleaf Trust and design their sidewalk to match that width.

Mr. Biddison said the five feet sidewalk proposed is what the Engineering Department instructed the applicant to provide.

Mr. Williams said the elevator usage should be reconsidered by the City from a security standpoint since residents may not know all their neighbors, and a non-resident could easily follow a resident out onto a residential floor.

Chairman Clein said he was not as concerned about a potential security issue, and advised that the applicant work the issue out within their own operations and with the City's Building Department. He continued:

- He appreciated the applicant's continued efforts to meet City requirements.
- Seven stacking spaces on Park Street seemed like too many to reserve for the purpose. It would require the City give up too much pedestrian and public space. He said he was not comfortable with it, and that while it might not yield a no vote from him this evening, he would advise the layout be reconsidered for the final.
- There is no reason one line of valet cars should be insufficient, especially with the three extra spaces being made available to the north.
- For the final review he would want to know that the applicant and the City's Engineering Department are creating good design for these conditions, and not just what works.
- This should look like a valet operation, which would take up little more space than parallel parking, instead of a double-stack for cars.

Mr. Williams said he agreed with Chairman Clein's concerns, but that he would also not want to see cars unable to move on Maple. He said the City might have to change some of its plans if it wants to allow reasonable development on this site.

Mr. Boyle recommended the applicant discuss the possibility of renting some of the space within the small parking lot near the hotel on Park Street, which would reduce some of the need to have extra street space for stacking cars.

Chairman Clein noted the applicant would have to speak to the City about its lease of the City's property, so it should also raise the question of renting that parking lot space per Mr. Boyle's recommendation.

Mr. Biddison said the applicant would be open to the conversation.

Mr. Koseck said he also believed it would be a good idea to explore with the City.

Chairman Clein recommended adding a letter dated May 20, 2019 from Kelly William Cobb, Vice-President of Hunter House Hamburgers to the official record. He summarized the letter as notifying the PB of the applicant's contractual obligations to Hunter House as related to the development. Noting that the issues raised by the letter were not in the PB's purview, Chairman Clein said it was still helpful to understand where the negotiations stand and extended his appreciation for the letter to Mr. Cobb.

Motion by Mr. Williams

Seconded by Mr. Share to receive and file the letter dated May 20, 2019 from Kelly William Cobb into the official record.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Mike Kopmeyer, 1351 Bennaville Ave, said he would like to see more green space in this plan. He said he would like to see some amount of the space set aside for a public park, and that in a perfect world Birmingham would not have a four or five story building on that lot. He said as a compromise it would be good if there could be areas shaded by trees which are public and allow for people to gather. He also said he endorsed Chairman Clein's concerns with the planned double-stacked space on Park Street.

Mr. Kopmeyer continued that the frontage along Woodward seemed cold and not conducive to pedestrian usage and activity. He suggested that awnings or more masonry or other options could make that frontage seem more human-scale and approachable.

Mr. Boyle commended the applicant and architect on all the work they have done. He said he would like the applicant to review the stacking plans on Park Street. He added that, along the lines of Mr. Kopmeyer's comments, Mr. Boyle was keen to see the proposed building materials at the final site plan.

Mr. Williams suggested it would be prudent for Chairman Clein to participate in some of the operation discussions between the applicant and the City since he could best represent the PB's concerns about traffic flow and parking. He noted that while Planning Director Ecker is a capable intermediary between the PB and the applicant, the PB's recommendations should be directly conveyed by Chairman Clein due to the specificity of the Board's concerns.

Mr. Share said he would also dislike the double-stacking if not for the extreme public safety risks that could result should traffic not be managed efficiently at this intersection. He noted that the hotel could handle up to 120 vehicles for events, and that a dangerous situation would likely compound very quickly if hotel traffic is not adequately controlled. He said he would be satisfied if the Engineering Department and the City's traffic consultant confirmed that high-volume hotel traffic could be managed with single-stacking and a healthy margin of safety. Otherwise, he said double-stacking is a reasonable, although not ideal, condition to accept.

Mr. Boyle recommended the applicant consider different options for signage as it moves towards its Final Site Plan Review, specifying that it should avoid the signage issue that the Greenleaf Trust building has.

Motion by Mr. Boyle

Seconded by Mr. Koseck to approve the Preliminary Site Plan for 35001 & 35075 Woodward – The Maple – with the following conditions: 1) The applicant must clarify which refuse areas the two proposed retail uses are permitted to use, and the accessibility of such; 2) Submit specification sheets for the proposed ground mounted and rooftop mechanical units to ensure full screening; 3) Add the correct number of street trees to each street frontage, or obtain a waiver from the Staff Arborist; 4) The applicant must provide the correct number of street lights and provide regular spacing of such by Final Site Plan Review. 5) Submit a photometric plan and specifications on all proposed lighting; 5) The applicant must reduce the width of the garage entry on the west elevation or obtain a variance from the Board of Zoning Appeals; 6) Submit material samples, colors, and specifications as well as details on

any proposed signage; 7) Applicant comply with the requests of all City Departments; 8) Applicant obtain approval of a lease agreement by the City Commission for all projections and /or encroachments on City property; 9) Applicant revise plan sheets as necessary to ensure all sheets are consistent and show the required property lines and clearly note all projections / encroachments across property lines; and 10) At Final Site Plan Review, the applicant must provide the Special Event Operations Plan for the said hotel.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

05-077-19

F. Request for Design Review

1. 1986 Northlawn – Private Residence – Request for design review and approval of the installation of eight solar panels on the front (street) facing portion of the roof of a private single family residence.

City Planner Dupuis presented the item.

Mr. Williams asked why the ordinance did not allow solar panels on the front of homes without Planning Board approval.

Planning Director Ecker said she was unsure as to the exact reason, but it is likely aesthetics.

Mr. Jeffares said that traditional solar panels can be aesthetically obtrusive, and noted that several manufacturers have recently started producing solar panels which resemble roofing shingles. While he stated that he was unsure if there were other reasons that the smaller solar panels could not be used, for instance cost or output, he said they are generally nicer to look at than traditional solar panels.

Ms. Whipple-Boyce reminded the PB that they granted a similar front-of-roof solar panel installation for a home on Lincoln a few years prior, and that it yielded a fine result.

Mr. Boyle asked how much the City charged for this review.

City Planner Dupuis said it was \$500 total.

Mr. Boyle said granting this resident request would be the easiest thing in the world to do to encourage ecological sustainability. He suggested that residents adding solar panels to their houses should incur no design review fee and a simple approval process.

Planning Director Ecker stated that the Planning Department could allow solar panel installations through administrative approval for \$100 if the Planning Board no longer wants to review the majority of such requests.

Chairman Clein said the Planning Board could ask the City Manager for permission to further consider the benefits of Mr. Boyle's proposal.

Ms. Whipple-Boyce assented to that idea.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to move to approve the design plan for 1986 Northlawn.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

05-078-19

G. Miscellaneous Business and Communications:

a. Communications

Planning Director Ecker stated that the City Commission stated a public hearing date in June 2019 for Rojo/Sidecar, trash enclosures, screening, and railings.

The Bates Street development is on the meeting agenda for the second meeting in June 2019. City Manager Valentine will provide the Board with more specific direction on its obligations.

Mr. Williams reiterated his request for an opinion from City Attorney Currier on the Board's obligations vis-a-vis the Bates Street development as well.

Perno will be back to the PB on June 12, 2019 for bistro consideration. Brooklyn Pizza has not yet submitted.

The Board decided to continue discussion of aging in place, with staff providing information on what other urban communities have done in order to inform the conversation.

b. Administrative Approval Correspondence

City Planner Dupuis explained that the Old Woodward reconstruction removed the outdoor dining space for Mad Hatter Bistro, which is required by ordinance to retain its bistro license. Randy Dickow of Mad Hatter Bistro has negotiated with the next door property owner to use 50% of his frontage, which is permitted by ordinance as long as the next door property is vacant. The remaining issue is that the proposed location of the outdoor dining would cause it to abut a City-

installed stone bench. For this reason, the Planning Department sought the Planning Board's advice as to whether an administrative approval should be granted.

Mr. Dickow suggested that the bench could look like it was enclosing the proposed outdoor dining space. He explained that the Old Woodward reconstruction had detrimental financial effects on the business, and that outdoor dining is a large source of the establishment's revenue for the year.

Board consensus was to allow the proposed outdoor dining plans even though they would abut the bench, because they would rather be supportive of the business and keep the street activated.

Ms. Whipple-Boyce said she thought the Board should revisit the topic of vinyl windows and other enclosures on balconies, decks, etc. similar to what has been done at Crosswinds.

Mr. Koseck and Mr. Williams agreed. The Board asked that it be added to their request list to City Manager Valentine, in addition to waiving the charge for installation of solar panels.

c. Draft Agenda for the next Regular Planning Board Meeting (June 12, 2019)

- Per Noi Bistro
- Public hearing for rooftop uses
- Update of Master Plan
- Aging in place

d. Other Business

Motion by Mr. Williams

Seconded by Mr. Koseck to suspend the Rules of Procedure to allow the Site Plan Review for Perno at the Planning Board's June 12, 2019 study session.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

05-079-19

H. Adjournment

No further business being evident, the Vice-Chairman adjourned the meeting at 9:08 p.m.

Jana L. Ecker

Planning Director

**BIRMINGHAM CITY COMMISSION /
PLANNING BOARD JOINT WORKSHOP SESSION
JUNE 17, 2019
DPS FACILITY, 851 SOUTH ETON
7:30 P.M.**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

Commission

ROLL CALL:

Present:

Mayor Bordman
Commissioner DeWeese
Commissioner Harris
Commissioner Hoff
Commissioner Nickita
Commissioner Sherman

Absent:

Mayor Pro Tem Boutros

Planning Board

ROLL CALL:

Present:

Chairman Scott Clein
Robin Boyle
Stuart Jeffares
Nasseem Ramin, alternate
Daniel Share
Janelle Whipple-Boyce
J. Bryan Williams

Absent:

Jason Emerine, alternate
Bert Koseck
Sophia Trimble, student representative
John Utley, student representative

Administration: City Manager Valentine, Deputy City Clerk Arft, Planning Director Ecker, Building Official Johnson, City Planner Cowan

III. ITEMS FOR DISCUSSION

City Manager Valentine said the objective tonight was to provide discussion items in order to clarify how the City should move forward on the following issues.

A. Current Issues:

1. Discussion on solar panel regulations

Planning Director Ecker reviewed the item. She emphasized that solar panel can now be integrated, so that aesthetics are not as big an issue. In reply to Commissioner Hoff, Planning Director Ecker stated that in the past six months there have been eight requests for solar panels. Residents have been paying a fee of \$400 for design review plus a sign bond of \$100 if the solar

panels are going to be installed on the front of their homes, and have been paying \$100 for an administrative review if the solar panels are to be installed on the back of their homes.

Planning Director Ecker confirmed for Commissioner DeWeese that comments from the public have been positive.

Commissioner Nickita stated his only concern would be obtrusive-looking solar panels, which he said would be caught by staff during administrative review. He suggested that those examples could be brought to the Planning Board for review, while the more subtle installations could be administratively approved.

Mr. Jeffares said solar panels are part of the future of ecologically-sustainable building, and that Birmingham should be doing whatever it can within reason to encourage their use. He also mentioned that currently the shingle model of solar panels are twice as expensive as the panel models and are one-third less effective. He said he anticipates the shingle model of solar panels will become more efficient over time.

Seeing no public comment, Mayor Bordman acknowledged consensus that the Planning Board should re-study the issue.

Chairman Clein asked whether the Planning Board should be studying the application process for solar panels or the design standards.

City Manager Valentine said the Commission would be formally amending the Planning Board action list in the near future to provide specific direction on any recommended study items from this meeting.

Mayor Bordman expressed appreciation for Chairman Clein's clarifying question, and said she would personally like to see both topics studied though the final study direction would come from the Commission as a whole.

2. Discussion on enclosing balconies, patios and terraces

Planning Director Ecker presented the item. She clarified for Commissioner Hoff that some of these situations are being enclosed as three-season rooms and some are not.

Commissioner Hoff observed that the changes being made to these buildings were reasonably significant as they resulted in a change of the building footprint.

In reply to Commissioner Harris, Planning Director Ecker stated the President of the Crosswinds association has called the Planning Department multiple times to express his displeasure with these enclosures. She noted that despite the President's displeasure the same association did vote to allow these enclosures on their building. She stated this has been the only contact the City has received from the public on the matter.

Commissioner Nickita said while these examples happen to be high-quality, if the City allows enclosures in general the results could also be of lower quality. He said the City must create appropriate design standards for these enclosures, must consider the footprint expansion these

enclosures can represent, and must consider the impact on the owners of neighboring condominiums as these enclosures would suddenly significantly impair their view.

Commissioner DeWeese said that any enclosures should be required to equal or improve upon the quality and aesthetic of the building they are being added to. He said that enclosures which add to the footprints of buildings, are prominent in some way, or are over public space should also be carefully reviewed. More minor changes could be administratively reviewed.

Planning Director Ecker confirmed that the City's process is to administratively review minor changes of these types and to receive Planning Board review for more significant changes.

Commissioner DeWeese reiterated that the quality of the enclosure and the size of impact should also be key considerations for whether a project is administratively reviewed or is sent to the Planning Board.

Commissioner Hoff emphasized the need to review the likely impact of enclosure installations on neighbors in multi-family buildings and the zoning impacts that could result from adding enclosures to balconies of single-family homes.

Mr. Share said it would also be necessary to consider whether these enclosures face courtyards or streets in terms of determining their potential impact.

Mayor Bordman observed the consensus to have the Planning Board study the issue.

3. Discussion on criteria for Administrative Approval process

Planning Director Ecker presented the item.

City Manager Valentine said this item stemmed from the perception that there should be more public input regarding what might be a minor or major change to a building.

Commissioner Nickita suggested the ordinance languages could be amended to ensure items which have a history of public engagement go through the Planning Board review process, while more minor items can continue to be administratively reviewed.

Commissioner Hoff noted the subjective nature of deciding what is a minor or major change. She stated her inclination would be to provide a way for neighbors to share their opinions.

In reply to Commissioner Hoff, Planning Director Ecker explained that if a change is not administratively approved a property owner would have the right to go to the Planning Board for a site plan review. She also explained that, while there was a situation regarding a development on Frank Street where there was a lot of dialogue between the neighbors and the developer, none of the neighbors ever attended the site plan review discussions. Because no neighbors attended the preliminary or the final site plan reviews, their interests were not presented to the City in the form of whatever possible tacit agreement the neighbors and the developer may have made.

In reply to Commissioner Harris, Planning Director Ecker stated that administratively approved changes are not listed by addresses in the Planning Board agendas, even though the documentation is included in the Planning Board agenda packets. She said including the addresses

that are being administratively approved as part of the Planning Board agendas would be worth considering.

Mr. Boyle said that these applications should be available to the public as a live portable document format (PDF) so that they could be filled out on the computer. He noted that receiving handwritten applications makes review of these items very challenging.

Mayor Bordman said Mr. Boyle's suggestion was a good one and hoped it would be easy for the City to implement. She stated the Planning Board should not have to waste its time trying to decipher handwriting on these documents.

Mayor Bordman continued, echoing Commissioner Hoff's observation that the difference between a minor and major change is subjective. The Mayor shared her confidence in staff's ability to differentiate between more mundane and more controversial changes, but she also noted that sometimes a seemingly mundane change could end up being controversial in a way staff could not anticipate. She asked the Commissioners whether this item should be further considered by the Commission or whether it should remain as-is for now.

Ms. Whipple-Boyce explained that in her 12 years as a Planning Board member, she had never seen an administrative approval inappropriately issued. She said staff solicits Planning Board input when an item is even remotely unusual. Besides for the occasional difficulty of deciphering handwriting, Ms. Whipple-Boyce said she had never seen an issue with the process as it stands, and was surprised to see the topic on the evening's agenda.

Mayor Bordman said her inclination was to leave the process as-is, as hundreds of administrative approvals are performed every year and only one has ever yielded public critique.

Commissioner Sherman said he would be inclined to agree with Mayor Bordman but there seemed to be a difference of opinion regarding what should be subject to design review. He suggested further study of this item could be combined with the discussion of enclosures to clarify what changes are substantial enough to receive design review.

4. Discussion on Master Plan charrette and draft of key proposals

Mayor Bordman asked all commenters to bear in mind that these proposals are still in draft form. There will be further opportunities for citizen input, including another upcoming master plan survey, which will be integrated into the final proposals the master planning team will make.

City Manager Valentine agreed with Mayor Bordman, emphasizing that this is a chance for the Commission and the Planning Board to discuss their observations regarding what they have heard from the master plan process so far.

Planning Director Ecker acknowledged representatives from the Master Plan team present at the meeting.

Chairman Clein said the Master Plan team was doing an excellent job so far. He observed that the master plan process is still in its early phases but has been producing useful information.

Mr. Jeffares told the meeting about a number of projects running in Traverse City, MI to increase its attainable housing stock. Traverse City defines attainable housing as housing appropriate for

people making 60% of the area median income. He explained one of their approaches is a program called PILOT, or Payment In Lieu of Taxes. In that program, a developer sets a lower rent for a certain number of their units and then pays a lump sum payment to Traverse City that is lower than paying property taxes on each unit. Another approach has been for residential developers to purchase a number of parking permits in the City's parking garages in order to provide residences with parking. Mr. Jeffares said he was encouraged by Traverse City's efforts, and said he is excited about Birmingham's continued efforts towards increasing attainable housing for its downtown.

Commissioner Nickita concurred with Chairman Clein, noting that both the charrettes and the master plan process have been well-publicized. He noted that proposed changes to Birmingham's residential parking requirements are being focused on in an attempt to increase Birmingham's attainable housing availability. Having spent the five days prior to this meeting in Louisville, KY with the Congress for New Urbanism (CNU), Commissioner Nickita explained many communities around the country are also attempting to diversify their housing stock. He noted many communities are also focusing on reducing their residential parking requirements in order to broaden the housing types available, and are doing so even more intensively than Birmingham has up to this point.

In response to the concern that developers would not develop residential housing without parking, Commissioner Nickita stated that many communities at CNU have experienced no problems in that area. Buffalo, NY, for instance, has seen great success in attracting new development since the City did away with all parking requirements, for residential and commercial uses, in 2017. While acknowledging that the Buffalo, NY changes are an extreme case, Commissioner Nickita emphasized the benefits Birmingham will likely see from considering new parking ordinance possibilities for the future.

Commissioner DeWeese said he would like to hear ways Birmingham could use other types of non-parking related zoning to incentivize increased development of residential housing stock in the downtown. For example, Commissioner DeWeese suggested a developer could be permitted to create an additional floor beyond the zoning allowances, while maintaining the overall building height, if every floor above the first was developed as residential. This would increase the density of the residences in the building, which would then decrease the costs of each residence.

Mr. Boyle summarized the national attention the Minneapolis 2040 city plan is getting, emphasizing that while their solutions cannot be Birmingham's solutions due to various differences between the municipalities, Minneapolis is grappling with similar goals of increasing both housing diversity and density. Mr. Boyle strongly recommended those present read "Americans Need More Neighbors", a piece by the New York Times editorial board from the June 15, 2019 issue, which explored the Minneapolis City Council's efforts to expand housing options. He concluded by saying he has been truly impressed by Birmingham's Master Plan team.

Mr. Share encouraged those present to be mindful of the Master Plan draft recommendation that Birmingham neighborhoods should be encouraged to each determine their own character, rather than having goals imposed on them by the City's government and committees. Secondly, Mr. Share noted that the Master Plan team found Birmingham had plenty of opportunity for increased residential density in the downtown without raising building heights. Given that, he drew attention to the issue of D5 zoning at Brown and S. Old Woodward, stating that if that area were to be rezoned, adjacent areas could also be rezoned, thus increasing building heights in the downtown

despite the draft finding that Birmingham building heights could remain as-is. He suggested that the Master Plan team could possibly look at that area and advise the City on how to proceed.

Mayor Bordman agreed, citing Mr. Duany's recommendation that Birmingham maintain its building height ordinances. She then invited public comment.

Lisa Brody explained that office space is often described as more plentiful than residential space in Birmingham. She suggested that it is not a surplus of office space causing the increase in people working in the City, but rather a change in office utilization resulting in the increase of the number of individuals usually sharing a single office. As an example, she explained that her office traditionally held three employees, where it now has nine employees working there at various times. She said she sees a similar trend in office usage across Birmingham's downtown.

Mayor Bordman thanked Ms. Brody for her comment.

5. Review of Planning Board Action List

Planning Director Ecker reviewed the item.

Commissioner Hoff said she would like to see the balconies and terraces made a higher priority on the action list.

Commissioner Sherman said a number of items from the evening's discussion were on hold pending the Master Plan. He said an interim action list would be appropriate to prepare.

Mayor Bordman agreed with Commissioner Sherman.

IV. PUBLIC COMMENT

There was no public comment.

V. ADJOURN

Mayor Bordman adjourned the meeting at 8:35 p.m.

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

Sec. 82-204. - **Solar energy systems.**

Solar energy systems include solar collector surfaces and ancillary electrical equipment that are either affixed to a permanent principal or accessory building, or as a freestanding structure. A solar energy system collects, stores, and/or distributes solar energy for heating or cooling, generating electricity, or heating water.

Solar energy systems are permitted in all districts as an accessory use subject to the following:

- (1) Ground mounted solar energy systems shall meet the location and setback requirements applicable to detached accessory buildings (see section 82-193).
- (2) Roof mounted solar energy equipment shall be permitted on principal and accessory buildings provided that the panels or solar collector surface does not increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.
- (3) Solar energy collectors shall be designed to either:
 - a. Faithfully replicate the appearance of standard roofing materials, or
 - b. Minimize glare and be uniform in color. Frames (internal and external) shall be the same color as the collector surface. All panels shall have an anti-reflective coating.

(Ord. of 7-14-2009, § 26-13.12; Ord. No. 428, § 1, 1-9-2018)

Sec. 24-183. - Accessory buildings, structures and uses.

Accessory buildings and structures shall be constructed in accordance with the following section. A permit from the community development department is required prior to construction.

- (1) *Residential uses.* Accessory buildings and structures within residential districts shall comply with the following requirements:
 - a. Accessory buildings or structures shall not be built upon a lot or parcel unless and until a principal building is erected.
 - b. Where a garage or carport is structurally attached to the principal building, it shall be built only in the rear or side yard and shall be considered part of the principal building for purposes of all setback regulations and building codes applicable to principal buildings.
 - c. Front facade attached garages shall be allowed if all of the following conditions are met:
 1. Any front facade garage will be set back a minimum of five feet from the building facade.
 2. Any single garage door will not exceed eight feet in width or eight feet in height.
 3. Any two garage doors will be separated by a minimum two-foot solid jamb.
 4. The garage opening on the building facade shall not exceed 50 percent of the total linear building frontage.
 - d. Detached accessory buildings or structures shall not be constructed within ten feet of any principal building located on the same lot or parcel.
 - e. One accessory building shall be permitted per lot unless the lot is of such dimension that a second structure can be built at least 25 feet from any other building or structure located on the same lot and a minimum of five feet from any property line or edge of an easement, or three feet in the side yard setback, if construction is fire-resistance rated according to the current Michigan Residential Code.
 - f. Detached accessory buildings and structures shall be located a minimum of five feet from any adjoining lot line or easement, or three feet in the side yard setback, if construction is fire-resistance rated according to the current Michigan Residential Code. On corner lots and alleys, detached accessory buildings and structures shall be located at least ten feet from the lot line adjacent to the side street or alley.
 - g. All accessory buildings and structures shall be located in the side or rear yard.
 - h. Accessory buildings and structures shall be included in lot coverage limitations.
 - i. The building height of an accessory building or structure shall not exceed 16 feet.
 - j. Detached carports shall not be constructed closer to the side or rear lot line than the permitted distance for a residential garage. Portions of the carport shall not extend into the required front yard area. Detached carport structures for multiple family residential dwellings shall be screened in accordance with applicable city ordinances.
 - k. Accessory buildings located on double frontage (through) lots shall observe front yard setback requirements on both streets.
 - l. Play structures for children shall not be considered accessory buildings, but shall comply with the provisions of subsections (1)a, d., f. and g., above.
 - m. Detached accessory buildings or structures shall not have a greater square footage than the principal building on the same lot.
- (2) *Non-residential uses.* Accessory buildings and structures within all other districts shall comply with the following requirements:

- a. Accessory buildings or structures shall not be built upon a lot or parcel unless and until a principal building
 - b. Accessory buildings and structures shall be subject to all of the same requirements as principal buildings in the district in which they are located.
 - c. Accessory buildings located on double frontage (through) lots shall observe front yard setback requirements on both streets.
- (3) **Energy uses.**
- a. *Wind energy conversion systems (WECS).* WECS designed to service the energy needs of the property where the structure is located shall be allowed as an accessory structure in all districts, subject to the following requirements:
 1. Only one WECS shall be permitted per lot.
 2. The height of the overall WECS with the blade in the vertical position shall not exceed 80 feet above ground level.
 3. All towers shall be set back a distance at least equal to the height of the overall WECS from all lot lines. The height shall be measured to the top of the blade at its highest point.
 4. Blade arcs created by a WECS shall not interfere with any structure, utilities or vegetation. The minimum blade or rotor clearance above ground level shall be at least 20 feet.
 5. All towers used to support the wind generating equipment shall be adequately anchored.
 6. The WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80 percent of design limits of the rotor.
 7. Noise emissions from the operation of a WECS shall not exceed 45 decibels on the DBA scale as measured at the nearest lot line or road.
 8. To prevent unauthorized climbing, the WECS must include an anti-climb device.
 9. Any WECS not used for one year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property by the owner of the WECS.
 - b. **Solar energy systems.** Solar energy systems designed to service the energy needs of the property where the structure is located shall be allowed as an accessory structure in all districts, subject to the following requirements:
 1. Solar energy systems shall meet the requirements of this section and all other applicable construction codes.
 2. The design of the solar energy system shall conform to applicable industry standards.
 3. Solar energy systems shall be screened per the discretion of the community development department.
 4. Solar energy systems shall meet height and setback requirements of the zoning district in which they are located.
 5. Solar energy systems shall be securely anchored to the ground or a permanent structure.
 6. A ground-mounted solar energy system shall comply with the accessory structure restrictions contained in the zoning district where it is located.
 7. All exterior electrical and/or plumbing lines must be buried below the surface of the ground in compliance with current code.
 8. Any solar energy system not used for one year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property by the owner of the solar energy system.
 9. Waiver. Upon request, the planning commission may grant waivers of the setback or height

requirements, provided that the waiver will not present any undue hardships on adjoining properties. The planning commission shall take into consideration the support or opposition of adjacent property owners in granting waivers of setback or height requirements.

(4) *Outdoor display, sales and storage.* Outdoor display, sales, or storage accessory to an approved principal use may be approved by the planning commission if deemed compatible with surrounding land uses and found to be compatible with the character of the area in accordance with the following:

a. *In general.*

1. Goods and materials shall not be piled or stacked higher than the height of the screening wall. Vehicles, truck trailers, implements, and recreational vehicles may exceed the height of the screening wall provided that they are set back from the screening wall a distance equal to their height.
2. The outdoor display, sales and storage of fertilizers, pesticides, and other hazardous materials is prohibited.
3. Soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties.
4. All areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
5. The applicant shall demonstrate there will be adequate parking for the existing uses as well as the proposed outdoor sales, display or storage.
6. The location shall not interfere with public passage or the otherwise normal flow of pedestrian or vehicular traffic.
7. Lighting for security purposes may be required as determined by the planning commission.
8. Temporary uses that occur for less than two weeks in any calendar year are exempt from these regulations.

b. *Display or sales.*

1. Outdoor display or sales is permitted in all mixed-use, commercial, and office districts.
2. Outdoor display or sales areas may occupy up to 15 percent of each front, side, and rear yard respectively, provided all setbacks are met.
3. Outdoor display or sales areas shall be screened from view by a masonry wall where the display area abuts a residential district.

c. *Storage.*

1. Outdoor storage is permitted in all industrial districts.
2. Screening of outdoor storage areas shall consist of any combination of fences, walls, berms and landscaping that are at least eight feet in height that in the opinion of the city provides a permanent, opaque, year-round screening around the entire perimeter of the outdoor storage area.
3. Outdoor storage shall not be located in the front yard.

(5) *Temporary construction uses.*

- a. Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste, or fuel facilities, related to construction activity on the same lot.
- b. The building or structure shall not be used for dwelling purposes.
- c. Temporary buildings and structures shall be removed from the lot within 30 days after an occupancy permit is issued by the community development department for the permanent structure on such lot, or

within 30 days after the expiration of a building permit issued for construction on such lot.

- (6) *Portable moving and storage containers.* A single portable moving and storage container may be placed on an occupied lot for the purpose of loading or unloading items to be transported to another location, subject to the following restrictions:
- a. The portable moving and storage container may be placed on an occupied lot for up to 30 days.
 - b. The container shall be located on a paved surface on the lot and shall not be located in the public right-of-way or a private road easement.
 - c. This section shall not apply to freight containers or truck trailers located in an industrial district in accordance with D above.
- (7) *Donation boxes and vending machines.*
- a. Outdoor donation boxes shall be permitted in the C-3, OS, M-1, M-2, and P-1 districts. They shall not be permitted in the front yard, or any landscape greenbelt and shall not be permitted in a location that would block parking spaces, or loading areas and shall not obstruct vehicular and pedestrian circulation, fire lanes, or sidewalks.
 - b. Outdoor vending machines shall be prohibited. This provision shall not apply to racks.

(Ord. No. 1087, § 9.03, 3-8-10; Ord. No. 1203, Pt. I, 1-8-18)

§ 770-54. Wind and solar energy systems. [Added 6-15-2009 by Ord. No. 2009-06]

- A. Purpose and intent. It is the general purpose and intent of the City to balance the need for clean, renewable and abundant energy resources that may reduce dependence upon scarce and nonrenewable fossil fuels, with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large. The City therefore finds these regulations are necessary in order to facilitate adequate provision of sites for wind and solar energy systems and ensure they are situated in appropriate locations and relationships to other land uses, structures and buildings, without significantly increasing the cost or decreasing the efficiency of such systems.
- B. Authorization.
- (1) Wind energy systems with a rated capacity of up to 20 kilowatts (20 kw) and solar energy systems shall be allowed as an accessory use in any zoning district, subject to the required standards of this section, provided that they are to be incidental and subordinate to a use on the same parcel and shall supply electrical power exclusively for on-site consumption, except as otherwise provided by this chapter.
 - (2) Wind and solar energy systems may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. If a parcel on which a system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with applicable state and federal law.
 - (3) Solar energy systems and wind energy systems with a rated capacity of more than 20 kilowatts (20 kw) that are intended to produce electricity for sale to a utility and/or other customers for off-site consumption shall be prohibited, except as a special land use in the General Industrial Zoning District under § 770-44 General Industrial, Subsection C, Special land uses, Subsection (2)(b), Electrical power manufacture. Wind or solar energy systems developed as a special land use in the General Industrial Zoning District shall be subject to the required standards of this section.
- C. Standards specific to wind energy systems.

- (1) Number of systems per lot. No more than one ground-mounted or freestanding wind energy system may be placed on any lot of record. Arrays of multiple-turbine roof-mounted wind energy systems may be allowed, provided that they are architecturally integrated with the building upon which they are attached as determined by the Zoning Administrator, and otherwise comply with the required standards of this section.
- (2) Height.
 - (a) The total system height of a ground-mounted or freestanding wind energy system shall not exceed twice the maximum permitted height for principal structures on a site within or adjacent to any residential or mixed-use zoning districts, or 100 feet on any other site that is not adjacent to any residential or mixed-use zoning district. The total system height shall include the height above grade of the fixed portion of the tower to the center of the rotor hub, including the turbine and the highest vertical extension of any blades and rotors.
 - (b) The height of roof-mounted wind energy systems are subject to the required standards in § 770-21, Application of Zoning District Regulations, Subsection D, Application of height regulations, Subsection (3), Exceptions.
- (3) Location and setbacks.
 - (a) Ground-mounted or freestanding wind energy systems shall not be located within a front yard in any residential or mixed-use zoning district and shall be set back from all lot lines and rights-of-way to the center of the tower base no less than a distance equal to 1/2 the diameter of the rotor and blades, or the minimum required front, side and rear yard setbacks for principal structures within a site's given zoning district, whichever is greater.
 - (b) No portion of any wind energy system's blades, rotor, or other exposed moving parts shall extend to within 20 feet of the ground, or to within 10 feet of any overhead utility lines.
 - (c) Roof-mounted wind energy systems shall be setback from the building edge a distance equal to 1/2 the diameter of its rotor and blades, or a distance as determined necessary by the Zoning Administrator. No portion of any roof-mounted wind energy system's blades, rotor or other

exposed moving part shall extend beyond the edge of the building to which it is attached, or to within 20 feet of any outdoor surfaces that are located directly below the system and intended for human occupancy, such as balconies or rooftop patios.

D. **Standards specific to solar energy systems.**

- (1) Number of systems per lot. No more than one ground-mounted or freestanding solar energy system may be placed on any lot of record, and its solar collector shall not exceed 800 square feet of surface area. Solar collectors shall not be counted towards lot coverage, but the area covered or enclosed by solar collectors may be counted as required open space. Arrays of multiple-collector roof-mounted, building-mounted, or facade-mounted solar energy systems may be allowed, provided that they are architecturally integrated with the building upon which they are attached as determined by the Zoning Administrator, and otherwise comply with the required standards of this section.
- (2) Height. Ground-mounted or freestanding solar collectors and any mounts shall not exceed a height of 20 feet when oriented at maximum tilt. Building-mounted or facade-mounted solar collectors shall not exceed the height of the building to which they are attached. Roof-mounted solar collectors and any mounts are subject to the standards in § 770-21, Application of zoning district regulations, Subsection D Application of height regulations, Subsection (3) Exceptions.
- (3) Location and setbacks.
 - (a) Ground-mounted or freestanding solar energy systems shall not be located within a front yard in any residential or mixed-use zoning district, and shall be set back from all lot lines and rights-of-way to any part of the system no less than the minimum required front, side and rear yard setbacks for accessory structures within a site's given zoning district.
 - (b) Roof-mounted solar energy systems shall be setback from the building edge a distance equal to its height or a distance as determined necessary by the Zoning Administrator.
 - (c) Building-mounted or facade-mounted solar energy systems shall not be attached to any front building facade

that directly faces and is visible from any right-of-way. Such systems may be located on any side or rear building facade, provided that they do not directly face and are not visible from any right-of-way, and provided that they are architecturally integrated with the building upon which they are attached, as determined by the Zoning Administrator.

- (d) Solar collectors shall be placed so as not to shade any existing solar collector or adjacent property to the north between the hours of 9:30 a.m. and 2:30 p.m. Eastern Standard Time on December 21 of each year any more than would a structure built to the maximum permitted bulk and area standards for a site's given zoning district.
- (4) Solar storage batteries. When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the City's building and electrical codes when in use and, when no longer used, shall be disposed of in accordance with all applicable City, state and federal laws and regulations.

E. General standards.

- (1) Screening. Landscape screening in accordance with § 770-90, Landscaping, greenbelts, buffers and screening, Subsection D, Screening between land uses, shall be provided along all property lines to mitigate aesthetic impacts upon the neighborhood if a ground-mounted or freestanding wind or solar energy system is located within or adjacent to any residential or mixed-use zoning districts, except when a principal structure is placed between the system and a property line. Roof-mounted wind or solar energy systems shall be effectively screened as determined necessary by the Zoning Administrator.
- (2) Access and safety. All wind or solar energy systems shall be designed and installed so as to prevent unauthorized access to electrical and mechanical components and shall be secured or locked at all times when service personnel are not present. All ground-mounted or freestanding wind or solar energy systems shall be adequately enclosed by a six-foot fence, or placed within a yard that is entirely enclosed by a six-foot fence, in accordance with the provisions of Chapter 323, Fences. All climbing apparatus shall be located at least 12

feet above ground, and any tower must be designed to prevent climbing within the first 12 feet.

- (3) Lighting. Exterior lighting from a direct source upon a wind or solar energy system shall be prohibited. No lights shall be installed on a tower or any other part of a wind or solar energy system, unless required to meet federal aviation regulations.
- (4) Controls. All wind energy systems shall be equipped with manual and automatic override brakes in order to limit the blade rotation speed to within its design limits, to prevent uncontrolled rotation and excessive pressure on the tower, rotors, blades and other components, and to shut down turbines in the event of an electrical outage.
- (5) Underground wiring. All wiring connected with a wind or solar energy system shall be underground, except for wiring that runs from the turbine to the base of the wind energy systems, and all wiring associated with roof-mounted wind energy systems, and roof-mounted, building-mounted, or facade-mounted solar energy systems.
- (6) Noise and electrical disturbance. All wind energy and solar systems shall comply with the required standards of § 770-94, Noise and vibrations, and § 770-95, Electrical disturbance, electromagnetic or radio frequency interference.
- (7) Signs. All signs on a wind or solar energy system visible from any right-of-way or adjacent property shall be prohibited, except for the manufacturer's or installer's identification on the nacelle or solar collector, appropriate warning signs, or the owner and/or operator's identification.

F. Access easements.

- (1) The enactment of this section does not constitute the granting of an easement by the City for access to wind or solar radiation. The owner and/or operator shall provide covenants, easements, or similar documentation to assure sufficient wind or solar radiation to operate a wind or solar energy system unless adequate accessibility to the wind or solar radiation is provided by the site.
- (2) Nothing within this section shall prevent any owner, occupant or other person in control of property from legally placing or planting any vegetation or trees, or legally constructing any structure that may cast a shadow on a solar energy system or

block wind from a wind energy system, provided that such vegetation, trees, or structures comply with the required standards of this chapter and all other applicable laws, codes and ordinances.

G. Removal.

- (1) An owner and/or operator shall remove any ground-mounted or freestanding wind or solar energy system when it has not been used for a period of 180 days or more or has otherwise been abandoned. For purposes of this section, the removal of rotors, blades, turbines, solar collectors, solar batteries, or other equipment from a wind or solar energy system, or the cessation of electrical power generation, shall be considered as the beginning of a period of nonuse or abandonment. Nonuse or abandonment may also be proven by reports from an interconnected utility.
- (2) Once a ground-mounted or freestanding wind or solar energy system has not been used for a period of 180 days or more or has otherwise been determined to be abandoned, the owner and/or operator shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition and removal, restoring the premises to an acceptable condition as reasonably determined by the Building Official and/or Zoning Administrator.
- (3) If the required removal of a wind or solar energy system has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice by the City Attorney, Building Official, and/or Zoning Administrator, the City may pursue legal action to remove or secure the removal of the system at the owner's and/or operator's sole expense.
- (4) The Zoning Administrator and/or Building Official may require that an application for a ground-mounted or freestanding wind or solar energy system include a security to be posted at the time of receiving a building permit to ensure its removal when it has been abandoned or is no longer in use, as provided in this section. The security may, at the election of the owner and/or operator, be in the form of cash; surety bond; letter of credit; or an agreement in a form approved by the City Attorney and recordable at the office of the Register of Deeds, establishing a promise of the owner and/or operator to timely remove the wind or solar energy

system as required under this section, with the further provision that the owner and/or operator shall be responsible for the payment of any costs and attorney's fees incurred by the City in securing removal. The City's actual costs and reasonable administrative charges to remove or secure the removal of a wind or solar energy system may be drawn or collected from such security.

H. Applications and permits. The owner and/or operator of any wind or solar energy system shall obtain a building permit, along with any other permits required by federal, state and local agencies, prior to erecting a system. Wind or solar energy systems shall comply with all applicable state and City construction and electrical codes and City building permit requirements, and also all requirements of the Federal Aviation Administration, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCLA § 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCLA § 259.481 et seq.), and all other applicable state and federal regulations.

(1) Wind energy systems. Applications for permits to install a wind energy system shall include a site plan prepared in accordance with § 770-12, Site plan review, along with the following additional information:

- (a) The location of all buildings within 200 feet of the property including exterior dimensions, height and uses.
- (b) The location and dimensions of any other natural or man-made features within 200 feet of the property, such as trees, overhead utility lines, utility poles and towers, streets and rights-of-way, wireless community devices, etc.
- (c) The plans and specifications identifying all parts of the system, including, but not limited to, the manufacturer and model, turbine, tower height and type, rotor diameter, foundation, any accessory equipment, and the manufacturer's electrical plans and specifications.
- (d) Certification from a licensed engineer or qualified professional that the manual and automatic override brakes have been designed for the proposed system.
- (e) Evidence that the applicant has notified the affected utility of the intent to install an interconnected customer-owned generator, and that the generator meets the

minimum requirements established by the affected utility, the Michigan Public Service Commission, the Federal Energy Regulatory Commission, and all other applicable state and federal standards. Off-grid systems shall be exempt from this requirement.

- (f) Evidence from a qualified professional that the site is feasible for a wind energy system, or that covenants, easements and other assurances to document sufficient wind to operate the wind energy system have been obtained.
 - (g) Evidence that the proposed wind energy system will comply with applicable federal aviation regulations, including any necessary approvals from the Federal Aviation Administration.
 - (h) A visual simulation that includes views from all rights-of-way within 500 feet.
 - (i) Any other evidence or information as required by the Zoning Administrator and/or Building Official.
- (2) Solar energy systems. Applications for permits to install a solar energy system shall include a site plan prepared in accordance with § 770-12, Site plan review, along with the following additional information:
- (a) The plans and specifications identifying all parts of the system, including, but not limited to, the manufacturer and model, solar collector or generator, mount height and type, foundation, solar batteries, any accessory equipment, and the manufacturer's electrical plans and specifications.
 - (b) Evidence that the applicant has notified the affected utility of the intent to install an interconnected customer-owned solar collector, and that the collector meets the minimum requirements established by the affected utility, the Michigan Public Service Commission, the Federal Energy Regulatory Commission, and all other applicable state and federal standards. Off-grid systems shall be exempt from this requirement.
 - (c) Evidence from a qualified professional that the site is feasible for a solar energy system, including between the hours of 9:30 a.m. and 2:30 p.m. Eastern Standard Time on December 21 of each year, or that covenants,

easements and other assurances to document sufficient solar radiation to operate the solar energy system have been obtained.

(d) Evidence that the proposed solar energy system will comply with applicable state and federal regulations.

(e) Any other evidence or information as required by the Zoning Administrator and/or Building Official.

I. Additional and accessory uses.

(1) The applicable standards and requirements of this section shall also apply to anemometer towers used to conduct wind site assessments for possible installation of wind energy systems.

(2) Co-location of wireless communication facilities on any wind or solar energy system shall be subject to the requirements of § 770-88, Wireless communication devices. Co-location of any equipment or facilities other than wireless communication facilities that are not used for wind or solar power purposes shall only be permitted if allowed elsewhere within this chapter.

Zoning Ordinance



Adoption Date: April 20, 2009

Revised Through: December 9, 2019

d. Anticipated manner in which the project will be decommissioned and the site restored.

- J. **Complaint Resolution.** The applicant shall develop a process to resolve any potential complaints from nearby residents concerning the construction and operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting upon a complaint. The process shall not preclude any governmental body from acting on a complaint. The applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

Section 138-10.401 **Solar Energy Systems**

A. Definitions

1. **Solar Energy System.** A solar photovoltaic cell, panel, or array that converts solar energy to usable thermal, mechanical, chemical, or electrical energy.
2. **Solar Storage Battery.** A device that stores energy from the sun and makes it available in an electrical form.

- B. **Rooftop Solar Energy Systems.** Rooftop and building mounted solar energy systems are permitted in all zoning districts, subject to the following regulations:

1. Roof mounted systems shall not extend more than 4 feet above the surface to which it is affixed.
2. No solar energy system may protrude beyond the edge of the roof.
3. A building permit shall be required for installation of rooftop and building mounted systems.

- C. **Ground Mounted Solar Energy Systems.** Ground mounted and freestanding solar energy systems are permitted in all zoning districts, subject to the following regulations:

1. **Location.** The solar energy system shall meet the required front yard setback requirement for the district in which it is located, and be set back a minimum of 5 feet from any side or rear property line.
2. **Height**
 - a. The height of the solar energy system and any mounts shall not exceed 10 feet when oriented at maximum tilt.
 - b. If the solar energy system is located in the front yard between the required front setback line and front building wall of the principal building, the maximum height for the system shall be 42 inches (3.5 feet). Evergreen landscaping that is sufficient to buffer the equipment from view from nearby dwelling units or streets but that will not obstruct the energy collecting surface from solar energy shall be provided.
3. **Building Permit.** A building permit shall be required for any ground mounted solar energy system.
4. **Area.** No more than 20% of the total lot area may be covered by a ground mounted solar energy system.

- D. **Batteries.** When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.

- E. **Removal.** If a solar energy system ceases to perform its intended function for more than 12 consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 days after the end of the 12 month period.

CHAPTER #45

CITY OF SOUTHFIELD ZONING CHAPTER

MAYOR

Kenson J. Siver

COUNCIL

Lloyd Crews, Council President
Linnie Taylor, Council President Pro Tem
Daniel Brightwell
Donald F. Fracassi
Myron Frasier
Michael A. Mandelbaum
Tawnya Morris

PLANNING COMMISSION

Donald Culpepper, Chairman
Steve Huntington, Vice Chairman
Latina Denson
Jeremy Griffis
Anthony Martin
Jacquetta Miah
Robert L. Willis

Section 5.60-B

SOLAR ENERGY SYSTEMS (Amended – Ordinance No. 1590 – 4/23/12)A. Purpose and Intent

The purpose of this Section is to establish guidelines for the siting of Solar Energy Systems. It is the further purpose and intent of this Section to:

1. To promote the safe, effective and efficient use of Solar Energy Systems in order to reduce the consumption of fossil fuels in producing electricity and decrease the air and water pollution that results from the use of conventional energy sources.
2. Preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse effects of Solar Energy Systems, including aesthetic impacts and risks to the property values of adjoining properties.
3. To establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of Solar Energy Systems shall be governed.

B. Definitions. The following definitions shall apply in this Section:

Solar Energy System: shall mean a solar photovoltaic cell, panel, or array that converts solar energy to useable thermal, mechanical, chemical, or electrical energy.

Solar Storage Battery: shall mean a device that stores energy from the sun and makes it available in an electrical form.

C. Applicability. This Section shall apply to all Solar Energy Systems proposed to be constructed after the effective date of this ordinance. All Solar Energy Systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; however, any physical modification to an existing Solar Energy System that alters the size, type, equipment or location shall require a permit under this ordinance.D. Roof-mounted Solar Energy Systems: Roof-mounted and building solar energy systems are permitted uses in all zoning districts, subject to the following regulations:

1. Siting and design requirements
 - (a.) Roof mounted systems shall not extend more than four (4') feet above the surface to which it is affixed.
 - (b.) No solar energy system may protrude beyond the edge of the roof.

- (c.) A building permit and electrical permit shall be required for installation of roof-mounted or building-mounted systems.

E. Ground- Mounted Solar Energy Systems: Ground-mounted and freestanding solar energy systems are permitted uses in all zoning districts subject to the follow regulations:

1. Siting and design requirements:

(a.) Location:

- (i.) The solar energy system shall not be allowed in the front yard between the property line and the front building wall. The solar energy system may be located in the side or rear yards and be set back a minimum of five (5') feet from any side or rear property line.

(b.) Height:

- (i.) The height of the solar energy system and any mounts shall not exceed ten (10') feet when oriented at maximum tilt.
- (ii.) If the solar energy system is located in a side yard, the maximum height for the system shall be forty-two (42") inches or three and one half (3 ½') feet. Evergreen landscaping that is sufficient to buffer the equipment from view from near-by dwelling units or streets but that will not obstruct the energy collecting surface from solar energy shall be provided.

(c.) Building Permit:

- (i.) A building permit and electrical permit shall be required for any ground-mounted solar energy system.

(d.) Area:

- (i.) No more than twenty (20%) percent of the total lot area may be covered by a ground-mounted solar energy system.

- M. Positive outlet for overflow must be provided a few inches from the top of the cistern.
- N. Observation risers must be at least 6" above grade for buried cisterns.
- O. Reuse may require pressurization. To add pressure, a pump, pressure tank and fine mesh filter can be used which adds to the cost of the system, but creates a more usable system.
- P. Rain barrels require a release mechanism in order to drain empty between storm events. Connect a soaker hose to slowly release stored water to a landscaped area.

BACK

FORWARD

Authority and
Administration

to installation, to the extent reasonably feasible.

- b. The demolition, removal and restoration of the WECS shall be completed within sixty (60) days after the end of the Non-Use Period.

Development
Regulations

SECTION 12.05 SOLAR STRUCTURES AND EASEMENTS

- A. Permitted. Active and passive solar energy devices, systems or structures shall be permitted in all zoning classifications by right, subject to administrative approval, except when such solar devices or architectural features project into required front or side yards, or are free-standing elements in a required front or side yard, in which case they are subject to site plan review in accordance with Article 8.
- B. Maximum Height of Structures. Passive solar energy structures, such as flat plate collectors, photovoltaic cells, etc., which are roof-mounted or integrated otherwise into the roof structure shall not be included in the calculation of maximum height. Active solar energy structures, when mounted on either freestanding structural elements or integrated architecturally with a principal or accessory building shall not exceed a height of forty (40) feet.
- C. Easements. A landowner may enter into an easement, covenant, condition or other property interest in any deed or other instrument, to protect the solar skyspace of an actual, proposed or designated solar energy structure at a described location by forbidding or limiting activities, land uses, structures and/or trees that interfere with access to solar energy. The solar skyspace must be described as the three (3) dimensional space in which obstruction is prohibited or limited. Any property owner may give or sell his right to access to sunlight. Such Solar Access Easements shall be recorded and copies shall be kept on file with the Troy Building Department.

Processes and
Procedures

Supplemental Design
Regulations

SECTION 12.06 ENVIRONMENTAL PERFORMANCE STANDARDS

- A. Intent. No use, unless otherwise allowed, shall be permitted within any district which does not conform to the following minimum requirements of use, occupancy, and operation.
- B. Airborne Emissions.
 - 1. Air Contaminants. All airborne emissions shall, at a minimum, comply with the applicable Federal and State standards.
 - 2. Smoke.
 - a. It shall be unlawful for any person, firm, or corporation to permit the emission of

Nonconformity,
Appeals, Amendments

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INFORMATION ONLY



MEMORANDUM

Engineering Department

DATE: July 8, 2020

TO: Jana Ecker, Planning Director

FROM: Austin W. Fletcher, Assistant City Engineer

SUBJECT: JAX Car Wash Renovations
34745 Woodward Avenue

The Engineering Department has reviewed the revised site plan dated June 4, 2020. The following comments are provided at this time:

1. There are numerous inconsistencies between the plan sheets in regards to property lines, types and number of plantings, etc... Also, depending on the actual location of the property line along Brown Street, a public access easement for the sidewalk may be required as some plan sheets appear to indicate the sidewalk will be on private property;
2. We have concerns with the proposed traffic patterns for this project (i.e. traffic flowing opposite direction of Woodward Avenue in the right-of-way, vehicle stacking extending across a public sidewalk, etc...). Also, see Flies & Vandenbrink Engineering's letter dated July 8, 2020;
3. The plan has proposed the installation of five new trees in the narrow Brown Street right-of-way in front of the site. There have never been City trees in this area, due to the lack of public right-of-way. The proposal as shown is physically impossible to construct, and will not receive a permit from the Engineering Department as shown. Note that when the City's standard tree grates are installed, an additional six inches minimum of concrete must be installed between the street curb and the tree grate to provide concrete in which steel anchors that support the tree grate can be poured. Therefore, the center of the new tree would be 2.5 ft. south of the back of the curb, and it is surrounded by a 12-inch open circle for future tree growth. Even if the design uses the metal tree grate as a part of the walking surface, the City sidewalk would be only 4.7 ft. wide, in violation of City policy. In order to introduce City trees in this area, the applicant should consider providing an easement to the City for sidewalk purposes, thereby allowing reconstruction of the sidewalk in such a way that there is sufficient room both for pedestrians and trees. Another option, since there is no parking on this section of Brown St., would be to remove 2.5 ft. wide sections of concrete immediately behind the curb, to provide room for perennial plants and mulch;
4. While not in conflict with City code, the Engineering Dept. also does not recommend the installation of evergreen trees on private property to the west of the new Brown St. exit driveway. Assuming the driveway will be used frequently during business hours, the trees will serve as a sight distance conflict between the drivers using this exit, as the trees will obscure the view of both pedestrians and bicyclists that may be using the adjacent City sidewalk. Lower growing plants would be more appropriate.

July 8, 2020

VIA EMAIL

Ms. Jana L. Ecker
Planning Director
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012

**RE: Jax Kar Wash
34745 Woodward Ave. Birmingham, MI
Site Plan Review**

Dear Ms. Ecker:

Fleis & VandenBrink (F&V) staff have completed our review of the proposed Jax Kar Wash (34745 Woodward Ave.) The updated site plan is dated June 4, 2020 and was received by F&V on July 1, 2020. Based on our review we have the following comments:

1. The proposed queueing area has been revised from the existing operations to an automated system with three separate lanes: 1) Cash & Detail Only, 2) FastLane, and 3) Unlimited Club. An analysis is recommended to determine the recommended vehicle queue length required for the site based on the proposed operations and the maximum service rate of the car wash. Based on the results of this analysis the site layout and circulation plan should be reviewed and revised, as necessary.
2. The MDOT Oakland TSC indicated in their review of this site access (via email 10/8/2019) that they did not have concerns about the counterflow site access onto Woodward Ave. However, MDOT did note there is a concern with the site utilizing the sidewalk adjacent to Woodward Ave. We agree with MDOT and the continued use of the sidewalk in this area to facilitate vehicle movements is not recommended. In addition, the proposed vehicle queueing for the vacuum area has the potential to further block the sidewalk during peak times, presenting an additional concern regarding ADA accessibility adjacent to the site. As shown in the Google Streetview from June 2019 and August 2018 the sidewalk is currently utilized for vehicle queuing without the proposed vacuum stations.



June 2019-Google Streetview

**27725 Stansbury Boulevard, Suite 195
Farmington Hills, MI 48334**
P: 248.536.0080
F: 248.536.0079
www.fveng.com



SUMMARY

- The applicant should provide ingress queuing calculations for the site based on the maximum service rate for the proposed operations. The site layout should be revised, as necessary, to accommodate the projected vehicle queuing calculated for the proposed operations.
- The egress movement of vehicles should be designed to reduce pedestrian vehicle conflicts, including the use of the sidewalk to facilitate vehicle queuing.

We hope that this report addresses the City's needs regarding this project. If you have any questions, please do not hesitate to contact us at your convenience.

Sincerely,

FLEIS & VANDENBRINK ENGINEERING, INC.

Julie M. Kroll, PE, PTOE
Traffic Engineering Services Manager

July 8, 2020

Jana Ecker, Planning Director
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: Jax Kar Wash Easement Right of Way Memoranda

Dear Ms. Ecker:

I have reviewed the June 25, 2020 Memorandum from Bradly F. Scobel regarding Jax Kar Wash and the Right of Way Easement, and his analysis of the rights and liabilities. My concerns with respect to this proposal, fall into two categories. One, we have had no official communication from MDOT as to whether this is permissible; and two, even if this is permissible under MDOT's legal review, is it operationally safe to allow such an operation to occur.

With respect to the first concern, I believe it is important that we receive some written communication from MDOT as to whether they will give permission for the use of the Right of Way in the manner as described in the memorandum prepared by Mr. Scobel. This is MDOT's property, not ours. MDOT should be making the determination as to the rights of access and usage.

If MDOT would permit this usage, the second concern must be looked at by the Planning Board as to whether both uses within our ordinances are a safe usage of the property in light of all the remaining rights of the public. In this regard, I want to refer you to the letter from Fleis & Vandenbrink dated July 7, 2020 expressing some concerns and request for additional information in order to look at this matter further. At the present time, as the City's traffic consultants, they "agree with MDOT and the continued use of the sidewalk in this area to facilitate vehicle movements is not recommended".

It is therefore our recommendation that if the two concerns are not answered satisfactorily with the Planning Board, this matter not be approved.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.



Timothy J. Currier
Birmingham City Attorney

TJC/jms

Birmingham Planning Board
151 Martin
Birmingham, MI 48009

May 25, 2020

Re: Comment for May 27, 2020 Meeting on Rezoning 469-479 S. Old Woodward to D5

Birmingham should not be giving developers zoning changes worth millions of dollars without getting any community benefits in return. The owner of this property knew it was zoned D4 when he bought it. The owner knew the economics involved in developing a property zoned D4 and paid a price associated with the D4 zoning.

Now the owner comes in front of this Planning Board, hat in hand, asking for a rezoning change worth millions of dollars but offering nothing in return.

- The City has a goal of adding affordable housing into the downtown area. Why is the owner not offering that say 50% of the residential units will be affordable based in Birmingham's median income of \$114,537?
- The owner is offering to build three underground parking decks – will this be enough capacity for the building? Will it add capacity to the already strained parking system? If the new parking adds to the system, another community benefit.
- Will the ground floor retail be locally owned businesses? Another community benefit.

Birmingham has some of the most desirable development property in the State and this parcel is prime real estate. Our City should insist on clearly defined community benefits from this developer before even considering the D5 rezoning approval.



Brad Coulter
498 Wibleton
Birmingham, MI

469-479 S Old Woodward rezoning proposal

1 message

LYNN GROTH <lgroth@comcast.net>
To: jecker@bhamgov.org

Sun, Jul 12, 2020 at 4:14 PM

To Whom it May Concern:

I am the Co- owner of the building at 444-494 S Old Woodward. We have tenants that pay a premium in their rent because they have dedicated parking for their customers. We are concerned that the change in usage, as in more tenants, for 400 South Old Woodward and 469-479 South Old Woodward could force people to look for offsite parking. We have a problem with the 555 South Old Woodward and 411 South Old Woodward building customers parking in our lot when they are not patronizing our businesses. Every week we have people looking to rent parking spaces. We can not handle more people looking for places to park because the building wasn't designed to accommodate it's tenants. Please consider the businesses that provide parking for their patrons when you contemplate usage changes to buildings on South Old Woodward.

Thank you,

Lynn Groth
Galyn Associates
248-642-8289

Birmingham City Commission
151 Martin
Birmingham, MI 48009

July 15, 2020

Re: Comment for July 20, 2020 Meeting on Rezoning 469-479 S. Old Woodward to D5

Birmingham should not be giving developers zoning changes worth millions of dollars without getting any community benefits in return. The owner of this property knew it was zoned D4 when he bought it. The owner knew the economics involved in developing a property zoned D4 and paid a price associated with the D4 zoning.

Now the owner comes in front of the City Commission, hat in hand, asking for an extremely valuable rezoning change but offering nothing in return.

- The City has a goal of adding affordable housing into the downtown area. Why is the owner not offering that say 50% of the residential units will be affordable based in Birmingham's median income of \$114,537?
- The owner is planning to build three underground parking decks – has this been agreed to in writing and will this parking add capacity to the already strained parking system? If the new parking adds to the system, another community benefit.
- Will the ground floor retail be locally owned businesses? Another community benefit.
- There is no guarantee the owner won't immediately flip the property for a profit after getting the rezoning approval. And if that happens, the owner benefits and Birmingham gets nothing.

Birmingham has some of the most desirable development property in the State and this parcel is prime real estate. **Our City should insist on clearly defined community benefits from this developer before even considering the D5 rezoning approval. Therefore, I believe this zoning change should not even be considered until specific community benefits have been defined for this property.**



Brad Coulter
498 Wimbleton
Birmingham, MI



280 N. Old Woodward
Suite 12
Birmingham, MI 48009

O 248.385.3112

C 248.835.2068

F 888.450.1682

jphowe@jphowe.com

www.jphowe.com

July 15, 2020

VIA EMAIL ONLY

Birmingham City Commission
c/o Ms. Cheryl Arft
Acting City Clerk
City of Birmingham
151 Martin St.
Birmingham, MI 48009

**Re: Second Protest Petition Regarding the Application to
Rezone 469-479 S. Old Woodward Ave.**

Dear Clerk Arft,

This firm represents Birmingham Place Residential Condominium Association and Birmingham Place Commercial Condominium Association (collectively the "Client"). In advance of the July 20, 2020 Public Hearing regarding the proposed rezoning of 469-479 S. Old Woodward Ave. from D4 to D5 Overlay Zone (the "Rezoning Application"), we hereby submit a second, updated, Protest Petition pursuant to Section 403(a) of the Michigan Zoning Enabling Act, and Section 7.02 of the Birmingham Zoning Ordinance (the "Second Protest Petition"). As you know, the Rezoning Application has been pending for many years. Our client previously filed a Protest Petition dated August 9, 2018 (the "Original Protest Petition"), a copy of which is attached as Exhibit B to the Second Protest Petition. We submit that the Original Protest Petition remains in full force and effect, and requires a $\frac{3}{4}$ vote by the Birmingham City Commission in order to approve the Rezoning Application. However, given the time that has passed since the Original Protest Petition was filed, we felt that it was appropriate to prepare and file the Second Protest Petition with the City so there was absolutely no question regarding the applicability or enforceability of the Original Protest Petition. Both the Original Protest Petition and Second Protest Petition contain the signatures of persons who own at least 20% of the land included within the area of land extending outward 100 ft. from any boundary of 467-479 S. Old Woodward Ave. Accordingly, a $\frac{3}{4}$ vote by the Birmingham City Commission is required in order to approve the Rezoning Application.

We respectfully request that you make both the Original Protest Petition and Second Protest Petition part of the record for the Rezoning Application, and direct the City Attorney, Tim Currier, to confirm with the undersigned in advance of the July 20, 2020

Birmingham City Commission
c/o Ms. Cheryl Arft
Acting City Clerk
City of Birmingham

July 15, 2020

Public Hearing, that a $\frac{3}{4}$ vote by the Birmingham City Commission is required in order to approve the Rezoning Application.

Thank you for your attention to this matter. We look forward to hearing from you.

Sincerely,

JPHOWE, PLLC


J. Patrick Howe

cc: Timothy J. Currier, City Attorney (via email)
Joseph A. Valentine, City Manager (via email)
Jana Ecker, City Planner (via email)
Birmingham Place Residential Condominium Association
Birmingham Place Commercial Condominium Association

SECOND PROTEST PETITION RE 469-479 S. OLD WOODWARD AVE.

We are the owners of condominium units located within one hundred (100) feet of the real estate located at 469-479 S. Old Woodward Ave., Birmingham, Michigan 48009 (the "Property"). For the reasons outlined in **Exhibit A** attached hereto, we are adamantly opposed to the proposed rezoning of the Property from D4 Overlay Zone to D5 Overlay Zone to permit a nine (9) story building to be built on this small 0.41 acre plot, and to any related Special Land Use Permit that may be required by the City of Birmingham to construct such a building.

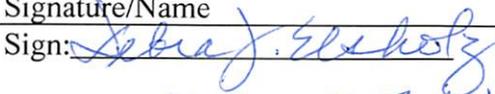
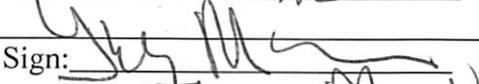
This Second Protest Petition is being submitted to the City of Birmingham pursuant to Section 7.02(A)(2) of the City of Birmingham Zoning Ordinance. Your records will reflect that we previously submitted a Protest Petition on August 8, 2018 objecting to the proposed rezoning of the Property from D4 Overlay Zone to D5 Overlay Zone prior to the City Commission's initial consideration of the rezoning of the Property (see **Exhibit B**). That Protest Petition was accepted and approved by the City. We submit that the original Protest Petition that was previously filed remains in full force and effect, as the application to rezone the Property has not changed since it was initially considered by the City Commission. However, given that: (i) nearly two (2) years have passed since the City Commission reviewed the application to rezone the Property, (ii) the composition of the City Commission has changed since the City Commission reviewed the application to rezone the Property, and (iii) certain provisions of the City's Zoning Ordinance have been amended since the City Commission reviewed the application to rezone the Property, we submit this Second Protest Petition to reaffirm our continued objections to the proposed rezoning of the Property from D4 Overlay Zone to D5 Overlay Zone, and ask that it be accepted and approved by the City of Birmingham prior to the hearing on the application to rezone the Property, which is currently scheduled for July 13, 2020.

Date	Signature/Name	Address
07/08/20	Sign: <u>[Signature]</u> Print Name: <u>NIKOU FINE</u>	411 S. Old Woodward Ave. Unit # <u>524</u> Birmingham, MI 48009
7/8/20	Sign: <u>[Signature]</u> Print Name: <u>Ann Cohen</u>	411 S. Old Woodward Ave. Unit # <u>1010</u> Birmingham, MI 48009
7/12/20	Sign: <u>[Signature]</u> Print Name: <u>BETTY BILLIG</u>	411 S. Old Woodward Ave. Unit # <u>918</u> Birmingham, MI 48009
7/13/20	Sign: <u>[Signature]</u> Print Name: <u>B. Seiger</u>	411 S. Old Woodward Ave. Unit # <u>1023</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

SECOND PROTEST PETITION RE 469-479 S. OLD WOODWARD AVE.

We are the owners of condominium units located within one hundred (100) feet of the real estate located at 469-479 S. Old Woodward Ave., Birmingham, Michigan 48009 (the "Property"). For the reasons outlined in **Exhibit A** attached hereto, we are adamantly opposed to the proposed rezoning of the Property from D4 Overlay Zone to D5 Overlay Zone to permit a nine (9) story building to be built on this small 0.41 acre plot, and to any related Special Land Use Permit that may be required by the City of Birmingham to construct such a building.

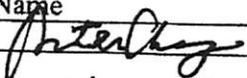
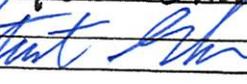
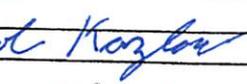
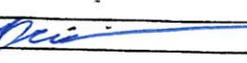
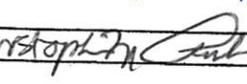
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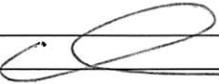
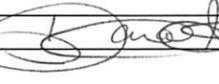
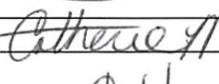
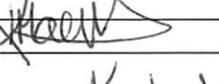
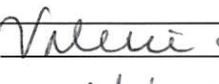
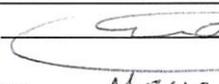
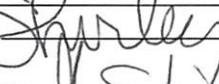
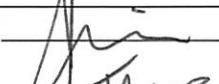
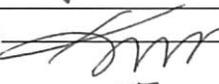
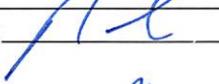
Date	Signature/Name	Address
6/25/20	Sign:  Print Name: <u>Debra J. Elsholz</u>	411 S. Old Woodward Ave. Unit # <u>703</u> Birmingham, MI 48009
6/25/20	Sign:  Print Name: <u>ELAINE GROFFSKY</u>	411 S. Old Woodward Ave. Unit # <u>524</u> Birmingham, MI 48009
6/25/20	Sign:  Print Name: <u>TERRY MANN</u>	411 S. Old Woodward Ave. Unit # <u>813</u> Birmingham, MI 48009
6/25/20	Sign:  Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009 <u>608</u>
6/25/20	Sign:  Print Name: <u>Chanel M Shab</u>	411 S. Old Woodward Ave. Unit # <u>513</u> Birmingham, MI 48009

SECOND PROTEST PETITION RE 469-479 S. OLD WOODWARD AVE.

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Date	Signature/Name	Address
6/28/20	Sign: <u></u> Print Name: <u>Peter Chang</u>	411 S. Old Woodward Ave. Unit # <u>711</u> Birmingham, MI 48009
6/29/20	Sign: <u></u> Print Name: <u>STUART GLASIER</u>	411 S. Old Woodward Ave. Unit # <u>603</u> Birmingham, MI 48009
6/29/20	Sign: <u></u> Print Name: <u>CAROL Kozlow</u>	411 S. Old Woodward Ave. Unit # <u>729</u> Birmingham, MI 48009
6/29/20	Sign: <u></u> Print Name: <u>Caroline Bodiya</u>	411 S. Old Woodward Ave. Unit # <u>600</u> Birmingham, MI 48009
6/29/20	Sign: <u></u> Print Name: <u>Christopher M. Ambrose</u>	411 S. Old Woodward Ave. Unit # <u>512</u> Birmingham, MI 48009

6/27/20	Sign:  Print Name: <u>ISAAC KALO</u>	411 S. Old Woodward Ave. Unit # <u>824</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Dina Abner</u>	411 S. Old Woodward Ave. Unit # <u>602</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Catherine Brock</u>	411 S. Old Woodward Ave. Unit # <u>1012</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Kate MacNevin</u>	411 S. Old Woodward Ave. Unit # <u>724/508</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Nisreen Murad</u>	411 S. Old Woodward Ave. Unit # <u>715</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Valerie Foley</u>	411 S. Old Woodward Ave. Unit # <u>508</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>MOUSSA HAXANI</u>	411 S. Old Woodward Ave. Unit # <u>1000</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Shirley Vangel</u>	411 S. Old Woodward Ave. Unit # <u>718</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>JAMES J. ARRIN</u>	411 S. Old Woodward Ave. Unit # <u>706</u> Birmingham, MI 48009
6/27/20	Sign:  Print Name: <u>Jin Kim</u>	411 S. Old Woodward Ave. Unit # <u>1024</u> Birmingham, MI 48009
6/29/20	Sign:  Print Name: <u>Michael Fizza</u>	411 S. Old Woodward Ave. Unit # <u>812</u> Birmingham, MI 48009

6/25/20	Sign: <u>Dennis Townsend</u> Print Name: DENNIS TOWNSEND	411 S. Old Woodward Ave. Unit # <u>722</u> Birmingham, MI 48009
6/25/20	Sign: <u>Rose M. Boyll</u> Print Name: ROSE M. BOYLL	411 S. Old Woodward Ave. Unit # <u>725</u> Birmingham, MI 48009
6/25/20	Sign: <u>Helen O. Kane</u> Print Name: HELEN O. KANE	411 S. Old Woodward Ave. Unit # <u>901</u> Birmingham, MI 48009
6/25/20	Sign: <u>Barb Amman</u> Print Name: BARB AMMAN	411 S. Old Woodward Ave. Unit # <u>1025</u> Birmingham, MI 48009
6/25/20	Sign: <u>Alex Paul</u> Print Name: ALEX PAUL	411 S. Old Woodward Ave. Unit # <u>606</u> Birmingham, MI 48009
6/25/20	Sign: <u>Europe Galperin</u> Print Name: EUROPE GALPERIN	411 S. Old Woodward Ave. Unit # <u>902</u> Birmingham, MI 48009
6/25/20	Sign: <u>Felicia Pshaw</u> Print Name: FELICIA PSRAW	411 S. Old Woodward Ave. Unit # <u>910</u> Birmingham, MI 48009
6/25/20	Sign: <u>Edwin B. Shaw</u> Print Name: EDWIN B. SHAW	411 S. Old Woodward Ave. Unit # <u>910</u> Birmingham, MI 48009
6/25/20	Sign: <u>Gloria Sall</u> Print Name: GLORIA SALL	411 S. Old Woodward Ave. Unit # <u>900</u> Birmingham, MI 48009
6/25/20	Sign: <u>Lori Arpin</u> Print Name: LORI ARPIN	411 S. Old Woodward Ave. Unit # <u>906</u> Birmingham, MI 48009
6/25/20	Sign: <u>Estelle Miller</u> Print Name: ESTELLE MILLER	411 S. Old Woodward Ave. Unit # <u>924</u> Birmingham, MI 48009

6/25/20	Sign: <u>Chanel Usnal</u> Print Name: <u>Chanel Usnal</u>	411 S. Old Woodward Ave. Unit # <u>913</u> Birmingham, MI 48009
06/25/20	Sign: <u>Maria U. U.</u> Print Name: <u>Maria Clemente</u>	411 S. Old Woodward Ave. Unit # <u>705</u> Birmingham, MI 48009
6/25/20	Sign: <u>HANA ASJOUR</u> Print Name: <u>HANA ASJOUR</u>	411 S. Old Woodward Ave. Unit # <u>906</u> Birmingham, MI 48009
6/25/20	Sign: <u>Toni Streit</u> Print Name: <u>Toni Streit</u>	411 S. Old Woodward Ave. Unit # <u>523</u> Birmingham, MI 48009
6/25/20	Sign: <u>Faouzi Khalil</u> Print Name: <u>Faouzi Khalil</u>	411 S. Old Woodward Ave. Unit # <u>529</u> Birmingham, MI 48009
6/25/20	Sign: <u>Brad Steel</u> Print Name: <u>Brad Steel</u>	411 S. Old Woodward Ave. Unit # <u>704</u> Birmingham, MI 48009
6/25/20	Sign: <u>Rachel Matz</u> Print Name: <u>Rachel Matz</u>	411 S. Old Woodward Ave. Unit # <u>801</u> Birmingham, MI 48009
6/25/20	Sign: <u>Donna Sternfeld</u> Print Name: <u>Donna Sternfeld</u>	411 S. Old Woodward Ave. Unit # <u>802</u> Birmingham, MI 48009
6/25/20	Sign: <u>Posalind Rockkirk</u> Print Name: <u>Posalind Rockkirk</u>	411 S. Old Woodward Ave. Unit # <u>710</u> Birmingham, MI 48009
6/25/20	Sign: <u>EUGENE WITTSJOCK</u> Print Name: <u>EUGENE WITTSJOCK</u>	411 S. Old Woodward Ave. Unit # <u>621</u> Birmingham, MI 48009
6/25/20	Sign: <u>SUSAN SOSNICK</u> Print Name: <u>SUSAN SOSNICK</u>	411 S. Old Woodward Ave. Unit # <u>810/811</u> Birmingham, MI 48009

6/26/20	Sign: <u>[Signature]</u> Print Name: <u>Julie Wolfe</u>	411 S. Old Woodward Ave. Unit # <u>1021</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>DANA BASSIRFAR</u>	411 S. Old Woodward Ave. Unit # <u>1014</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>Lewis P Burkhead</u>	411 S. Old Woodward Ave. Unit # <u>710</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>SUSAN KAPLAN</u>	411 S. Old Woodward Ave. Unit # <u>808</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>Chris Ammann</u>	411 S. Old Woodward Ave. Unit # <u>1025</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>FREDERICK A. FROMM</u>	411 S. Old Woodward Ave. Unit # <u>1006</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>Thomas Hans</u>	411 S. Old Woodward Ave. Unit # <u>829</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>VANDANA RAOFI</u>	411 S. Old Woodward Ave. Unit # <u>1010</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>Negar Farhi</u>	411 S. Old Woodward Ave. Unit # <u>1010</u> Birmingham, MI 48009
6/26/20	Sign: <u>[Signature]</u> Print Name: <u>Dan O'Brien</u>	411 S. Old Woodward Ave. Unit # <u>1004</u> Birmingham, MI 48009
6/27/20	Sign: <u>[Signature]</u> Print Name: <u>Georgianna Staudle</u>	411 S. Old Woodward Ave. Unit # <u>002</u> Birmingham, MI 48009

SECOND PROTEST PETITION RE 469-479 S. OLD WOODWARD AVE.

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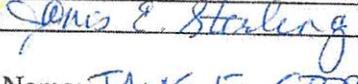
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Date	Signature/Name	Address
6/20/20	Sign: <u>Roshan Massoumi</u> Print Name: <u>Roshan Massoumi</u>	411 S. Old Woodward Ave. Unit # <u>728</u> Birmingham, MI 48009
6/30/20	Sign: <u>Alice Lezotte</u> Print Name: <u>Alice Lezotte</u>	411 S. Old Woodward Ave. Unit # <u>511</u> Birmingham, MI 48009
7/1/20	Sign: <u>Brenda Kuyatt</u> Print Name: <u>Brenda Kuyatt</u>	411 S. Old Woodward Ave. Unit # <u>1029</u> Birmingham, MI 48009
7/6/20	Sign: <u>D. Szczupak</u> Print Name: <u>D. SZCZUPAK</u>	411 S. Old Woodward Ave. Unit # <u>618</u> Birmingham, MI 48009
7/7/20	Sign: <u>Jane Engelhardt</u> Print Name: <u>Jane Engelhardt</u>	411 S. Old Woodward Ave. Unit # <u>904</u> Birmingham, MI 48009

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Date	Signature/Name	Address
6/27/20	Sign:  Print Name: ERIC J STERLING	411 S. Old Woodward Ave. Unit # 615 Birmingham, MI 48009
6/27/20	Sign:  Print Name: JANS E STERLING	411 S. Old Woodward Ave. Unit # 615 Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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Date	Signature/Name	Address
6/26/20	Sign: <u>Rosemary Sarafa</u> Print Name: <u>ROSEMARY SARAF</u>	411 S. Old Woodward Ave. Unit # <u>825</u> Birmingham, MI 48009
6/26/20	Sign: <u>Steve Hinton</u> Print Name: <u>Steve Hinton</u>	411 S. Old Woodward Ave. Unit # <u>501</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
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Date	Signature/Name	Address
6/30/20	Sign: <u>Carol Beeler</u> Print Name: <u>CAROL BEEER</u>	411 S. Old Woodward Ave. Unit # <u>702</u> Birmingham, MI 48009
6/30/20	Sign: <u>[Signature]</u> Print Name: <u>THOMAS BEEER</u>	411 S. Old Woodward Ave. Unit # <u>702</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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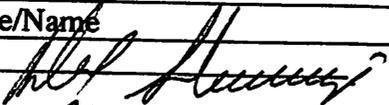
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Date	Signature/Name	Address
7/1/20	Sign: <u>Gerald F. Baker III</u> Print Name: <u>Gerald F. Baker III</u>	411 S. Old Woodward Ave. Unit # <u>629</u> Birmingham, MI 48009
7/1/20	Sign: <u>[Signature]</u> Print Name: <u>Cecilia Connack</u>	411 S. Old Woodward Ave. Unit # <u>629</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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Date	Signature/Name	Address
6/29/20	Sign:  Print Name: Alex Stoeney	411 S. Old Woodward Ave. Unit # 514 Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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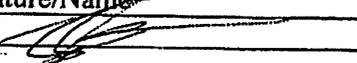
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Date	Signature/Name	Address
6/26/20	Sign: <u>Michael L. Schwartz</u> Print Name: <u>Michael L. Schwartz</u>	411 S. Old Woodward Ave. Unit # <u>1018</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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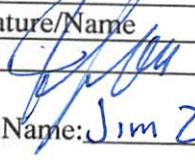
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Date	Signature/Name	Address
6/26/20	Sign:  Print Name: <u>Shane Spradlin</u>	411 S. Old Woodward Ave. Unit # <u>525</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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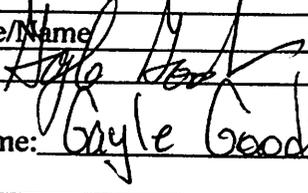
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Date	Signature/Name	Address
<u>6/26</u> /20	Sign:  Print Name: <u>Jim Zagoroli</u>	411 S. Old Woodward Ave. Unit # <u>707</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
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Date	Signature/Name	Address
6/26/20	Sign:  Print Name: <u>Gayle Goodman</u>	411 S. Old Woodward Ave. Unit # <u>912</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
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Date	Signature/Name	Address
07/01/20	Sign:  Print Name: PATRICK ROBERTS	411 S. Old Woodward Ave. Unit # 907 Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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Date	Signature/Name	Address
7/1/20	Sign: <u><i>Wilson Chwang</i></u> Print Name: <u>Wilson Chwang</u>	411 S. Old Woodward Ave. Unit # <u>712</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
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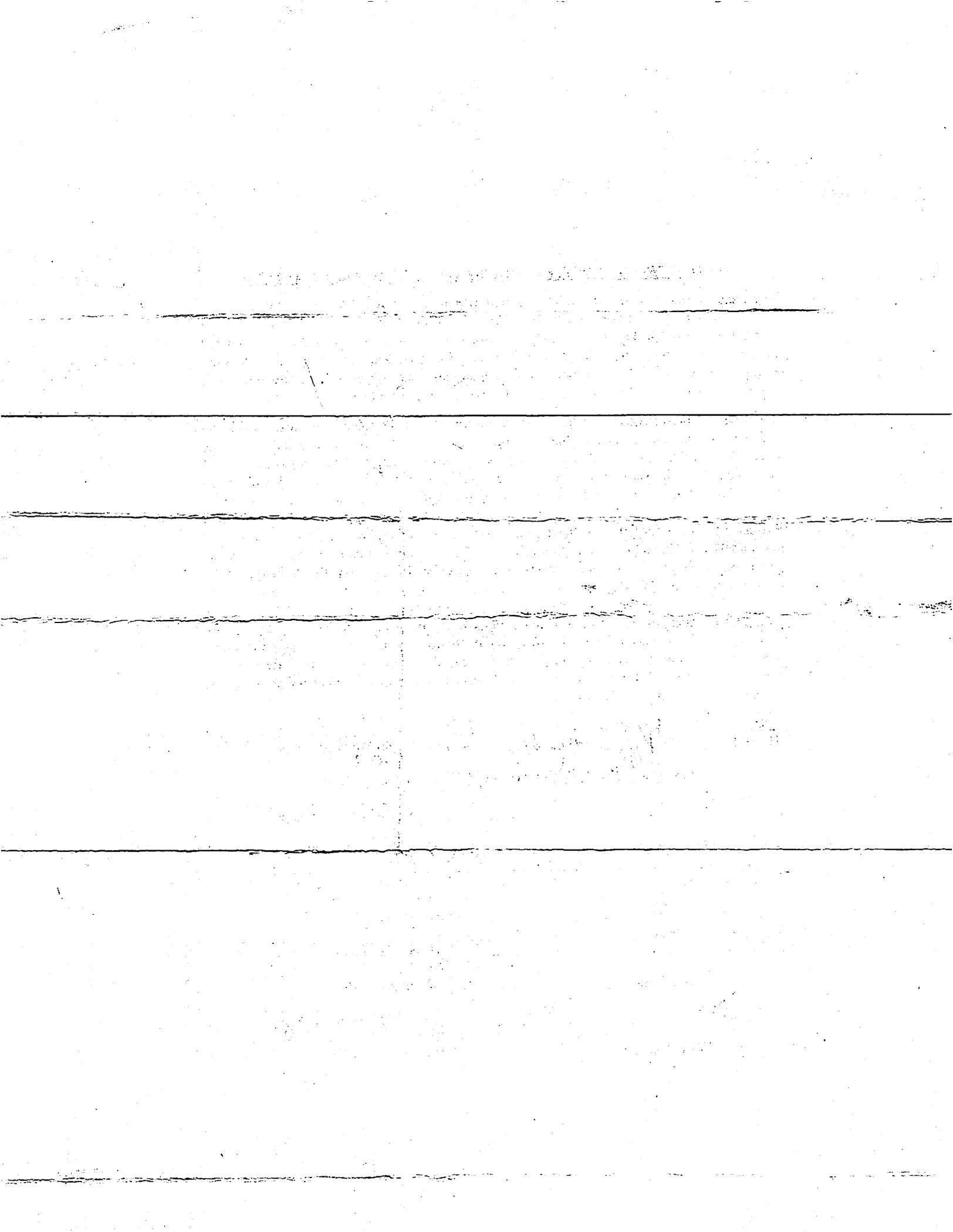
Date	Signature/Name	Address
07/02/20	Sign:  Print Name: CARLOS MARDAGAN	411 S. Old Woodward Ave. Unit # 1013 Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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Date	Signature/Name	Address
6/29/20	Sign: <u>Kyle A. Markley</u> Print Name: <u>Kyle A. Markley</u>	411 S. Old Woodward Ave. Unit # <u>603</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
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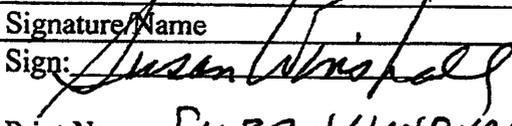
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Date	Signature/Name	Address
10/21/20	Sign: <u>Roshan Massoumi</u> Print Name: <u>Roshan Massoumi</u>	411 S. Old Woodward Ave. Unit # <u>228</u> Birmingham, MI 48009
6/30/20	Sign: <u>Alice Lecotte</u> Print Name: <u>Alice Lecotte</u>	411 S. Old Woodward Ave. Unit # <u>51</u> Birmingham, MI 48009
7/1/20	Sign: <u>Brenda</u> Print Name: <u>Brenda</u>	411 S. Old Woodward Ave. Unit # <u>1027</u> Birmingham, MI 48009
<u>7/16/20</u>	Sign: <u>James DeGema</u> Print Name: <u>James DeGema</u>	411 S. Old Woodward Ave. Unit # <u>1</u> Birmingham, MI 48009
<u>1/20</u>	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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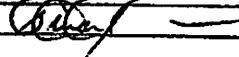
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Date	Signature/Name	Address
6/30/20	Sign:  Print Name: SUSAN WINSHALL	411 S. Old Woodward Ave. Unit # 828 Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

SECOND PROTEST PETITION RE 469-479 S. OLD WOODWARD AVE.

We are the owners of condominium units located within one hundred (100) feet of the real estate located at 469-479 S. Old Woodward Ave., Birmingham, Michigan 48009 (the "Property"). For the reasons outlined in Exhibit A attached hereto, we are adamantly opposed to the proposed rezoning of the Property from D4 Overlay Zone to D5 Overlay Zone to permit a nine (9) story building to be built on this small 0.41 acre plot, and to any related Special Land Use Permit that may be required by the City of Birmingham to construct such a building.

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Date	Signature/Name	Address
07/06/20	Sign:  Print Name: <u>STUART D. SHERR</u>	411 S. Old Woodward Ave. Unit # <u>1003</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

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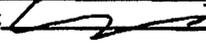
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Date	Signature Name	Address
7/10/20	<i>Charles Nalbandian</i> Print Name: CHARLES NALBANDIAN	411 S. Old Woodward Ave. Unit # 522 Birmingham, MI 48009
7/10/20	Sign _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
7/10/20	Sign _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
7/10/20	Sign _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
7/10/20	Sign _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

SECOND PROTEST PETITION RE 469-479 S. OLD WOODWARD AVE.

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Date	Signature/Name	Address
7/10/20	Sign:  Print Name: <u>Dennis Liu</u>	411 S. Old Woodward Ave. Unit # <u>631</u> Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009
___/___/20	Sign: _____ Print Name: _____	411 S. Old Woodward Ave. Unit # _____ Birmingham, MI 48009

AFFIDAVIT OF BONNIE LAYER

Bonnie Layer, being first duly sworn deposes and says:

1. My name is Bonnie Layer and I have personal knowledge of the matters stated in this affidavit.
2. I am the Assistant Property Manager of the Condominiums at Birmingham Place, which is located at 401-411 S. Old Woodward, Birmingham, MI 48009. My address is 401 S Old Woodward, Birmingham, MI 48009.
3. The Senior Property Manager, Michele Prentice, and I each collected and witnessed signatures on the attached protest petition.
4. I can attest that the signatures I obtained for the protest petition were the signatures of a Co-owner of the area of land as further described in the attached Memorandum prepared by the attorney for the Condominiums at Birmingham Place Association.

By: Bonnie Layer
Bonnie Layer

Subscribed and sworn before me
this 13th day of July

Paula M. LeBlanc

Notary Public; Oakland County

My commission expires: 10/29/2023

PAULA M. LEBLANC
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Oct 29, 2023
ACTING IN COUNTY OF Oakland

AFFIDAVIT OF MICHELE PRENTICE

Michele Prentice, being first duly sworn deposes and says:

1. My name is Michele Prentice and I have personal knowledge of the matters stated in this affidavit.
2. I am the Senior Property Manager of the Condominiums at Birmingham Place, which is located at 401-411 S. Old Woodward, Birmingham, MI 48009. My address is 401 S Old Woodward, Birmingham, MI 48009.
3. The Assistant Property Manager, Bonnie Layer, and I each collected and witnessed signatures on the attached protest petition.
4. I can attest that the signatures I obtained for the protest petition were the signatures of a Co-owner of the area of land as further described in the attached Memorandum prepared by the attorney for the Condominiums at Birmingham Place Association.

By: *Michele Prentice*
Michele Prentice

Subscribed and sworn before me
this 13th day of July

Paula M. LeBlanc

Notary Public; Oakland County

My commission expires: *10/29/2023*

PAULA M. LEBLANC
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Oct 29, 2023
ACTING IN COUNTY OF *Oakland*

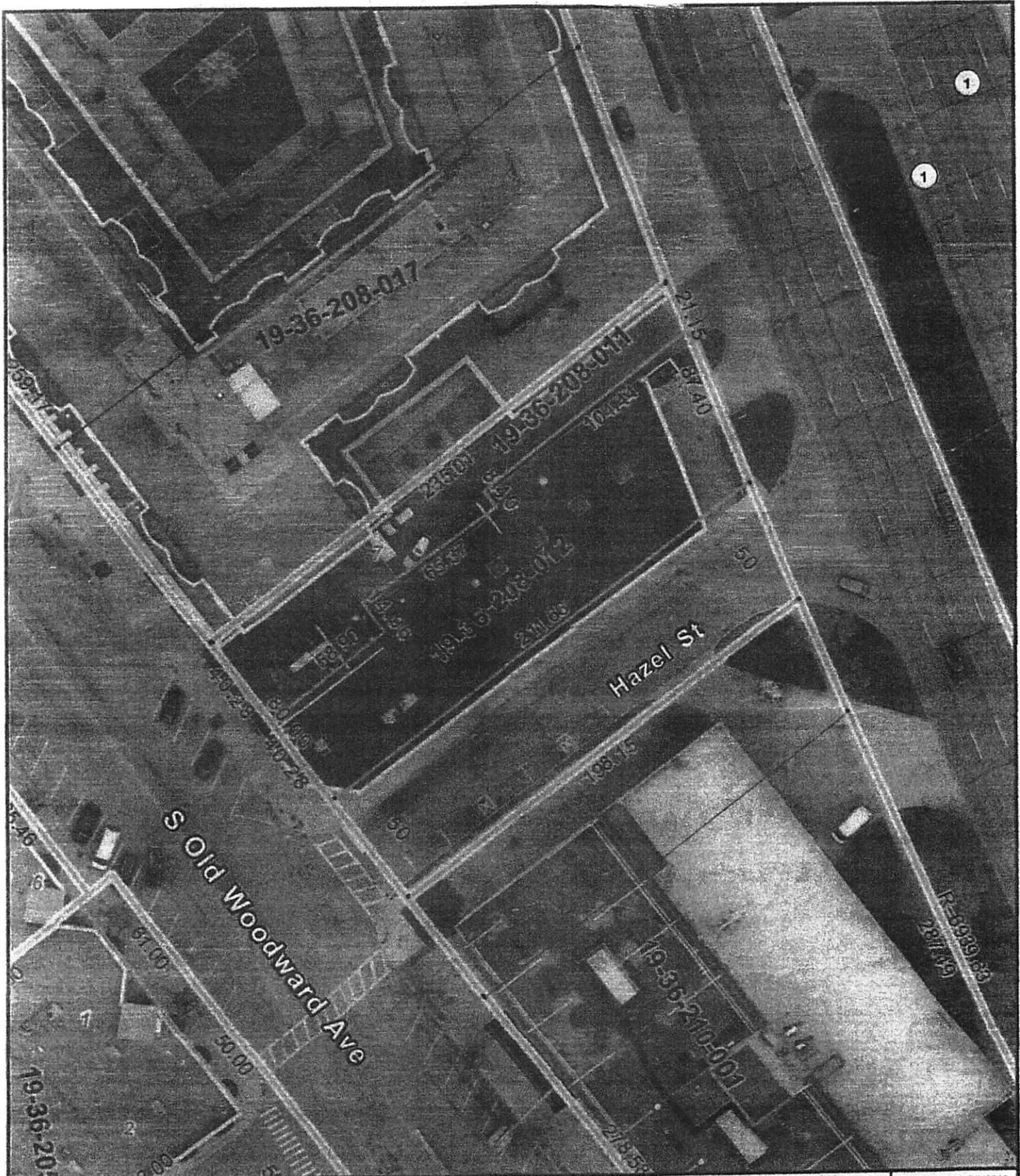
Petition Unit Square Footage

Owners of Units located at 411 S. Old Woodward, Birmingham MI 48009

Unit Address	Unit #	Square Feet	Date Petition Signed	Percent Ownership	
	500	28	1026	6/25/2020	0.4028%
	501	2	753	6/26/2020	0.2956%
	502	27	995	6/29/2020	0.3906%
	508	24	995	6/27/2020	0.3906%
	511	6	1,065	6/30/2020	0.4181%
	512	22	825	6/29/2020	0.3239%
	514	21	793	6/29/2020	0.3113%
	517	9	519	6/25/2020	0.2037%
	518	20	1,860	6/27/2020	0.7301%
	521	10	645	7/8/2020	0.2532%
	522	19	1,454	7/10/2020	0.5708%
	523	11	699	6/25/2020	0.2744%
	524	18	1,120	6/25/2020	0.4397%
	525	12	699	6/26/2020	0.2744%
	529	14	699	6/25/2020	0.2744%
	600	54	1,026	6/29/2020	0.4028%
	602	53	995	6/27/2020	0.3906%
	603	30	713	6/29/2020	0.2799%
	606	161	995	6/25/2020	0.3906%
	608	51	995	6/25/2020	0.3906%
	610	50	2,665	7/8/2020	1.0462%
	615	35	1,065	6/27/2020	0.4181%
	618	47	1,860	7/6/2020	0.7301%
	621	37	645	6/25/2020	0.2532%
	623	38	699	7/13/2020	0.2744%
	629	41	700	7/1/2020	0.2748%
	631	42	706	7/10/2020	0.2771%
	702	80	995	6/30/2020	0.3906%
	704	79	995	6/25/2020	0.3906%
	703	56	713	6/25/2020	0.2799%
	705	57	713	6/25/2020	0.2799%
	706	78	995	6/25/2020	0.3906%
	707	58	615	6/26/2020	0.2414%
	710	76	2,665	6/26/2020	1.0462%
	711	59	1,065	6/28/2020	0.4181%
	712	75	825	7/1/2020	0.3239%
	715	61	1,065	6/27/2020	0.4181%
	718	73	1,860	6/27/2020	0.7301%
	722	72	1,454	6/25/2020	0.5708%
	724	71	1,120	6/27/2020	0.4397%
	725	65	1,428	6/25/2020	0.5606%

728	70	1,120	6/26/2020	0.4397%
729	67	1,432	6/29/2020	0.5621%
801	82	753	6/25/2020	0.2956%
802	106	995	6/25/2020	0.3906%
808	104	995	6/26/2020	0.3906%
810	103	2,665	6/25/2020	1.0462%
811	86	519	6/25/2020	0.2037%
812	102	825	6/29/2020	0.3239%
813	87	519	6/25/2020	0.2037%
824	98	1,120	6/27/2020	0.4397%
825	92	1,428	6/26/2020	0.5606%
828	96	1,956	6/30/2020	0.7678%
829	94	1,432	6/26/2020	0.5621%
901	108	753	6/25/2020	0.2956%
902	133	995	6/25/2020	0.3906%
904	132	995	7/7/2020	0.3906%
906	131	995	6/25/2020	0.3906%
907	111	615	7/1/2020	0.2414%
910	129	2,665	6/25/2020	1.0462%
912	128	1,642	6/26/2020	0.6446%
913	113	519	6/25/2020	0.2037%
918	126	1,860	7/12/2020	0.7301%
924	124	1,120	6/25/2020	0.4397%
1000	160	1,025	6/27/2020	0.4024%
1003	136	714	7/6/2020	0.2803%
1004	158	994	6/26/2020	0.3902%
1006	163	995	6/26/2020	0.3906%
1010	156	2,665	6/26/2020	1.0462%
1012	155	826	6/27/2020	0.3242%
1013	140	519	7/2/2020	0.2037%
1014	154	793	6/26/2020	0.3113%
1018	153	1,860	6/26/2020	0.7301%
1021	143	1,373	6/26/2020	0.5390%
1024	151	1,120	6/29/2020	0.4397%
1025	145	1,428	6/26/2020	0.5606%
1028	150	1,949	7/8/2020	0.7651%
1029	147	1,432	7/1/2020	0.5621%
		<u>89,330</u>		<u>35.07%</u>

	Square Feet	Percentage of Value
Residential	148,542	35%
Office	106,201	42%
Total	<u>254,743</u>	<u>77%</u>



1

1

-  7 Foot Contours
-  5 Foot Contours
-  FEMA Base Flood Elevations
-  FEMA Cross Sections
-  100 yr - FEMA Floodplain
-  100 yr (detached) - FEMA Floodplain
-  300 yr - FEMA Floodplain
-  FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

OAKLAND
 ADVANTAGE
 L. Brooks Patterson
 Oakland County Executive

Date Created: 8/9/2018

 NORTH
 1 inch = 50 feet

Exhibit A
to Second Protest Petition

BIRMINGHAM PLACE

401 S. Old Woodward Avenue, Suite 100 • Birmingham, Michigan 48009 • 248.642.9000 Phone • 248.236.1490 Fax

May 12, 2020

RE: 469 – 479 South Old Woodward Rezone Application from D4 to D5

To: City of Birmingham, MI Planning Board & City Commission:

At the April 22, 2020 Planning Board meeting, Chairman Scott Clein requested that any interested parties that have comments or objections to the application to rezone 469-479 S. Old Woodward Ave. from D4 to D5 (the “D5 Rezoning Application”), submit written material prior to the May 27, 2020 Planning Board meeting wherein the D5 Rezoning Application will be considered. The residents and commercial tenants of the Condominiums of Birmingham Place object to the D5 Rezoning Application, and for the reasons outlined herein, respectfully request that: (i) the Planning Board recommend to the City Commission that the D5 Rezoning Application be denied, and (ii) the City Commission deny the D5 Rezoning Application.

It is our desire to assist the Planning Board and City Commission in their efforts to manage a productive Zoom Planning Board meeting on May 27, 2020, and any future virtual meetings held by the City Commission. Therefore, we are substituting our pre-meeting written comments below with signatures of individuals that agree with these points and would have been speaking at the Planning Board meeting if it were held in person. We respectfully request that: (i) the Planning Board members review our opposition points prior to the Zoom meeting, (ii) Chairman Clein acknowledge this submittal from the residents and commercial tenants of the Condominiums of Birmingham Place at the Zoom meeting, and (iii) this submittal be made part of the official record for the D5 Rezoning Application.

Resident & Commercial Tenants of Condominiums of Birmingham Place Opposition Points to 467-479 S. Old Woodward D4 to D5 Rezoning Request

1. **REZONING THE SUBJECT PROPERTY IS NOT NECESSARY.** The applicant has not demonstrated why it cannot develop the subject property under the current D4 zoning, nor has it demonstrated why rezoning the subject property to D5 is necessary. This is a required element for the City to approve a rezoning under the City Zoning Ordinance, which the applicant has simply not demonstrated.
2. **D4 ZONING FOR THE SUBJECT PROPERTY IS, AND CONTINUES TO BE APPROPRIATE:** The applicant has not demonstrated that the current D4 zoning is no longer appropriate, which is required under the City Zoning Ordinance to rezone a

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property. Mixed uses are permitted under D4 and D5 zoning. The only difference between D4 and D5 zoning is building height. Why is D4 building height no longer appropriate, after it has been applied to many buildings over many years (eg. Daxton Hotel, Greenleaf Trust, Balmoral, Brookside Residences, Varsity Shop redevelopment, Peabody redevelopment)? Why should the subject property be treated differently now? It shouldn't!

3. **THE DEVELOPMENT TREND IN THE CITY IS CLEARLY 5 STORY BUILDINGS:** The development trend in the City is 5 stories or less, not above 5 stories. To make the argument that this portion of the City has experienced a development trend above 5 stories ignores that fact that the zoning ordinance that allowed Birmingham Place and the 555 Building to be developed over 5 stories was rejected years ago, and the City has intentionally permitted and encouraged the development of 5 story buildings since then. To say that there is a "development trend" above 5 stories in the City of Birmingham is misleading and disingenuous.
4. **JUST BECAUSE THE LANGUAGE OF THE D5 ORDINANCE WAS RECENTLY UPDATED BY THE CITY, DOES NOT MEAN THAT IT SHOULD BE APPLIED TO THE SUBJECT PROPERTY:** The question before that Planning Board is whether the D5 zoning designation is appropriate for the subject property under the requirements of Section 7.02 of the City Zoning Ordinance. The fact that the subject property is adjacent to two formerly legal non-confirming buildings, does not mean that it should be developed to the same standards as those buildings. The D5 Ordinance was clearly created to address the non-conforming status of three existing buildings, and to address expansions or modifications to those three buildings....not to encourage new development above 5 stories on other properties that were not zoned D5 when the D5 ordinance was created.
5. **PROPOSED REZONING IS INCONSISTENT WITH THE INTENT OF THE D5 ORDINANCE:** The intent of the D5 Ordinance was to address the legal non-conforming status of three existing buildings, not to encourage new development above 5 stories on properties not zoned D5. The record is clear on this fact. Had the residents and commercial tenants of the Condominiums of Birmingham Place known that the subject property could be developed above 5 stories, many of them may have decided to pass on the purchase or lease, or assign a different purchase or rental value to certain condominium units.
6. **D4 ZONING ALLOWS FOR A DEVELOPMENT THAT IS CONSISTENT WITH THE MASTER PLAN AND 2016 PLAN:** The development of a mixed use building is permitted under both D4 and D5 zoning, and a 5 story building a consistent with the goals of the City Master Plan and the 2016 Plan. Neither of these Plans call for the City to raise building heights in downtown Birmingham above 5 stories.

BIRMINGHAM PLACE

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7. **DEVELOPMENT OVER 5 STORIES WAS REJECTED MANY YEARS AGO:** Rezoning the subject property to D5 is essentially allowing the owner to develop the property at a height that the City of Birmingham rejected many years ago, and has consistently prohibited. The residents and commercial tenants of the Condominiums of Birmingham Place had no reason to believe that the City would “turn back the clock” on them and allow a development over 5 stories on the subject property to proceed.
8. **PARKING AND CONGESTION WILL GO FROM BAD TO WORSE:** The subject property is not within the Parking Assessment District, and must provide its own on-site parking or shared parking within 100 ft. of the subject property. Given this constraint, why would the City allow this property to be developed in a way that requires far more parking than it would under the existing D4 zoning? This is not logical, and will exacerbate the parking problems in Birmingham.
9. **DEVELOPING THE SUBJECT PROPERTY ABOVE 5 STORIES WILL BE DETRIMENTAL TO SURROUNDING RESIDENTS:** Rezoning the subject property to D5 would be detrimental to the residents and commercial tenants of the Condominiums of Birmingham Place, which has been described in the many letters filed with the City and placed on the record at previous hearings on this rezoning request.
10. **D4 ZONING ALLOWS THE SUBJECT PROPERTY TO BE BUILT TALLER THAN THE ADJACENT SOUTHERN BUILDING:** The existing D4 zoning of the subject property would allow it to be built higher than the northern edge of the 555 Office Building. A 5 story building would make for a more harmonious transition from Birmingham Place to the 555 Building, as opposed to abutting a 9-story building that would tower over the northern edge of the 555 Building.
11. **A 9 STORY BUILDING ON THE SUBJECT PROPERTY WOULD DWARF MOST OF ITS NEIGHBORING BUILDINGS:** The proposed 9 story development of the subject property would dwarf almost all surrounding buildings except for the three (3) buildings that were constructed under a zoning ordinance that was rejected by the City many years ago. If the proposed development was compared to the vast majority of buildings in this neighborhood, one could only conclude that a 5-story development is more harmonious with the neighborhood than a 9-story development.
12. **A 9 STORY BUILDING WOULD NOT CREATE A STRONG IMAGE:** The proposed 9 story building on the subject property would not improve the frontages of S. Old Woodward, Hazel and Woodward. The proposed elevation drawings show a crowding of a narrow right of way on Hazel and S. Old Woodward, and a blank wall facing Woodward. This is not the type of welcoming strong image envisioned in the City Zoning Ordinance and Master Plan.

BIRMINGHAM PLACE

401 S. Old Woodward Avenue, Suite 100 • Birmingham, Michigan 48009 • 248.642.9000 Phone • 248.236.1490 Fax

13. **THE CITY SHOULD WAIT FOR THE BIRMINGHAM 2040 PLAN TO BE ADOPTED, AND LOOK TO THAT FOR GUIDANCE.** The City is well aware that we are in the midst of updating the City Master Plan, which will guide the development of the City for the next 20 years. Before taking drastic action to increase building heights above 5 stories in downtown Birmingham, we should wait for the updated City Master Plan to guide us and follow that. To do otherwise would undermine the thousands of hours that various City stakeholders have been put into updating the City Master Plan.
14. **THE APPLICANT HAS AN ECONOMIC PROBLEM NOT A ZONING PROBLEM:** The City should not rezone a property to meet a developer's economic requirements, unit counts, or hotel brand mandates. The applicant has admitted on the record at previous hearings that the economics and unit count are driving this rezoning request. The City should stick to the City Zoning Ordinance that has been in place for many years. Economics, financial return, and adding hotel room or residential unit count has no place in a rezoning decision. The wellbeing of the community and the existing residents should outweigh an applicant's own financial interests.

Jim & Kim Zagurski 928
Owner's Name Unit #

Joe & James Arpin 706
Owner's Name Unit #

James & Eric Sterling 615
Owner's Name Unit #

Ronald Hamilton 823
Owner's Name Unit #

Patrick Roberts 907
Owner's Name Unit #

Shane & Anna Spalding 525
Owner's Name Unit #

Cynthia Neal 612
Owner's Name Unit #

Chris & Barb Amman 1025

BIRMINGHAM PLACE

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Mickey Schwartz, MD 1018
Owner's Name Unit #

Toni Street 523
Owner's Name Unit #

Ganette & Francis Engelhart 904
Owner's Name Unit #

MM Investments Holdings LLC 1
Owner's Name Unit #

Frederick & Kathleen Fromm 1006
Owner's Name Unit #

Michelle Preater 100
Owner's Name Unit #

Charles Nalbandian 522
Owner's Name Unit #

Stuart Shoer 1003
Owner's Name Unit #

Steve & Virginia Keller 605
Owner's Name Unit #

Cynthia Ranzella 702
Owner's Name Unit #

Bowand Hamidi 814
Owner's Name Unit #

William Kolb 518
Owner's Name Unit #

Debra Elsholz 703
Owner's Name Unit #

Diana & Jane Szegupak 618
Owner's Name Unit #

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<u>Jin Kim</u>	<u>1029</u>
Owner's Name	Unit #
<u>Alex Shomeya</u>	<u>514</u>
Owner's Name	Unit #
<u>Karen & David Durrell</u>	<u>1008</u>
Owner's Name	Unit #
<u>Alexander & Claudia Plaw</u>	<u>611</u>
Owner's Name	Unit #
<u>Bradley Steel</u>	<u>704</u>
Owner's Name	Unit #
<u>Mark Banks</u>	<u>410</u>
Owner's Name	Unit #
<u>Raemay Sarafa</u>	<u>825</u>
Owner's Name	Unit #
<u>Andy Rappin</u>	<u>410</u>

old Woodward, Hazel and Woodward. The proposed elevation drawings show a crowding of a narrow right of way on Hazel and S. Old Woodward, and a blank wall facing Woodward. This is not the type of welcoming strong image envisioned in the City Zoning Ordinance and Master Plan.

13. **THE CITY SHOULD WAIT FOR THE BIRMINGHAM 2040 PLAN TO BE ADOPTED, AND LOOK TO THAT FOR GUIDANCE.** The City is well aware that we are in the midst of updating the City Master Plan, which will guide the development of the City for the next 20 years. Before taking drastic action to increase building heights above 5 stories in downtown Birmingham, we should wait for the updated City Master Plan to guide us and follow that. To do otherwise would undermine the thousands of hours that various City stakeholders have been put into updating the City Master Plan.
14. **THE APPLICANT HAS AN ECONOMIC PROBLEM NOT A ZONING PROBLEM:** The City should not rezone a property to meet a developer's economic requirements, unit counts, or hotel brand mandates. The applicant has admitted on the record at previous hearings that the economics and unit count are driving this rezoning request. The City should stick to the City Zoning Ordinance that has been in place for many years. Economics, financial return, and adding hotel room or residential unit count has no place in a rezoning decision. The wellbeing of the community and the existing residents should outweigh an applicant's own financial interests.

Peter Chang #711
Owner's Name Unit #

Karl G #711
Owner's Name Unit #

Owner's Name Unit #

Exhibit B
to Second Protest Petition



MEMORANDUM

To: The Birmingham City Clerk and City Commission

From: Susan K. Friedlaender on behalf of the Birmingham Place Residential Condominium Association and Condominium at Birmingham Place Condominium Association

Date: August 9, 2018

RE: Protest Petition regarding the proposed rezoning of 469-479 Old S. Woodward.

INTRODUCTION

Attached to this Memorandum as Exhibit 1 is a protest petition authorized under Section 403(1) (b) of the Michigan Zoning Enabling Act, MCL 125.3101, *et seq* ("MZEA") and Section 7.02 of the Birmingham Zoning Ordinance. The petition contains the signatures of persons who own residential condominium units and the supplemental petition contains the signature of the owner of Unit 1 or the commercial portion of the condominium project. Attached as Exhibit 2 and Exhibit 3 are the affidavits of the persons who collected the signatures. The signatories are protesting the rezoning request submitted for the property located at 469-479 S. Old Woodward from the D4 to the D5 Downtown Overlay Zone. The public hearing on the rezoning request is scheduled for Monday March 11, 2019 before the City Commission.

DISCUSSION

Under Section 403 of the MZEA, an amendment to a zoning ordinance, or a rezoning, by a city is subject to a protest petition which when filed requires a 2/3 vote of the City Commission or a larger vote, not to exceed a 3/4 vote if required by ordinance or charter to pass the rezoning or zoning amendment. Section 7.02 of the Birmingham Zoning Ordinance requires a 3/4 vote to pass an amendment for which a protest petition meeting the requires of the ordinance has been filed.

Requirements for Protest Petition

Under the Zoning Ordinance and MZEA, the protest petition must be presented to the City Commission before final action on the amendment and shall be signed, in relevant part, by

[t]he owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. For purposes of this Section, publicly owned land shall be excluded in calculating the 20 % land area requirement.

Facts Regarding Compliance with Ordinance and Statutory Requirements for Protest Petitions

As demonstrated below, the protest petition has been signed by the owners of at least 20% of the area of land included within the area of land extending outward 100 feet from any boundary of 469-479 Old S. Woodward.

- Attached as Exhibit 4 is a georeferenced and scaled map which shows the area of land extending outward 100 feet from any point on the boundary of 469-479 Old S. Woodward.

The relevant area contains 34,459.25 square feet computed as follows:

100 Feet From Northerly Boundary	100 feet from Easterly Boundary	100 feet from Southerly Boundary	100 feet from Westerly Boundary
24,755.50 square feet	0 square feet	9703.75 square feet	0 square feet
	The entire area is not counted because it is within the 200 foot public right of way of Woodward Ave.	The entire area contains 19,949 square feet minus 10245.25 sf for the Hazel Street 50 foot right of way.	The entire area is not counted because the area measured from the westerly boundary falls within the 100 foot S. Old Woodward public right of way.

- The attached petition contains the signatures of the owners of at least 20 % (6,891.85 sf) of the area of land included within the relevant area of land determined as follows:
- According to the Master Deed for the Condominiums at Birmingham Place, as Amended and Restated, the land area of the Condominium Project contains 70,573 square feet. The land is a General Common Element of the Condominium Project. As part of their

ownership rights in the Condominium Project, each Co-owner has exclusive rights to its unit and limited common elements appurtenant to the unit. They also own undivided and inseparable rights to share with other Co-owners the General Common Elements of the Condominium Project. All the Co-owners therefore together own the Condominium land area. Additionally, there is a percentage of value assigned to each unit which is determinative of each Co-owner's respective undivided and inseparable share of the General Common Elements. The percentage of value is computed from the square feet of the Co-owner's unit. The Condominium Project contains a commercial component which comprises 106,201 square feet and a residential component which comprises 148,542 square feet. The Unit 1 or commercial component Co-owners collectively own a 42% share of the land area and the Residential Co-owners collectively own a 58% share of the land area. The residential petition signatories collectively own 41% of Condominium land area and commercial or Unit 1 signatory owns the 42% of the land area, which includes the portion of land that is within the relevant protest petition area.

CONCLUSION

The petition therefore contains the signatures of persons who own at least 20% of the area of land included within the area of land extending outward 100 feet from any boundary of 469-479 Old S. Woodward.

EXHIBIT 1

PETITIONS

PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

We are the owners of condominium units located within one hundred (100) feet of the real estate located at 469-479 S. Old Woodward Avenue and are adamantly opposed to the proposed rezoning of that property from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story building to be built on this small 0.41 acre plot and to any related Special Land Use Permit.

We respectfully request that the City Commission heed the 5-to-2 decision of the Planning Board, that it not depart from the 2016 Master Plan without a full study of building heights in the Downtown Overlay District with meaningful public participation, and that it not make ad hoc decisions that would accord special treatment to this single property despite the short- and long-term detriment to the city and to those who live and work here.

<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>UNIT ADDRESS</u>
07/12/18	 Michael D. Umphrey	411 S. Old Woodward Avenue, Unit # 618 Birmingham, MI 48009
07/12/18	 Martha B. Umphrey	411 S. Old Woodward Avenue, Unit # 618 Birmingham, MI 48009
07/12/18	Sign: Print Name: JERRY MANN	411 S. Old Woodward Avenue, Unit # <u>813</u> Birmingham, MI 48009
07/12/18	Sign: Print Name: PHYLLIS TIMACK	411 S. Old Woodward Avenue, Unit # <u>812</u> Birmingham, MI 48009
07/12/18	Sign: Print Name: FARAH KHALIL	411 S. Old Woodward Avenue, Unit # <u>529</u> Birmingham, MI 48009
07/12/18	Sign: Print Name: ROSALIND ROCKKIND	411 S. Old Woodward Avenue, Unit # <u>710</u> Birmingham, MI 48009
07/12/18	Sign: Print Name: Nisreen Murad	411 S. Old Woodward Avenue, Unit # <u>715</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: LOUIS P. RUNKIN	411 S. Old Woodward Avenue, Unit # <u>710</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: EDWIN B. SHAW	411 S. Old Woodward Avenue, Unit # <u>910</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: ROLAND S. KNIGHT	411 S. Old Woodward Avenue, Unit # <u>518</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: TOM SCHWARTZ	411 S. Old Woodward Avenue, Unit # <u>1018</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: CATHERINE M. BOREK	411 S. Old Woodward Avenue, Unit # <u>1012</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: PJ JANKE	411 S. Old Woodward Avenue, Unit # <u>515</u> Birmingham, MI 48009
07/13/18	Sign: Print Name: V. RAOFI	411 S. Old Woodward Avenue, Unit # <u>1018</u> Birmingham, MI 48009

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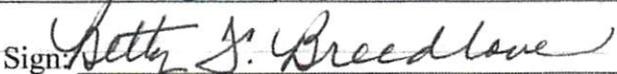
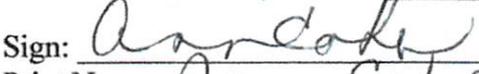
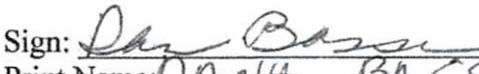
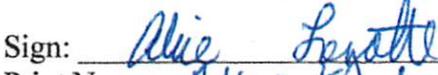
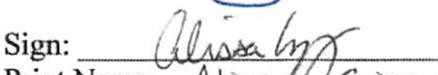
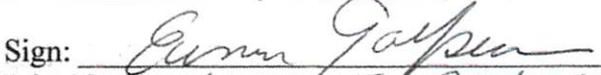
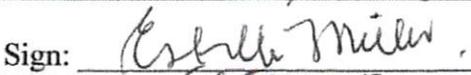
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<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
07/16/18	Sign: <u>[Signature]</u> Print Name: Pouyan Sardashti	411 S. Old Woodward Avenue, Unit # <u>806</u> Birmingham, MI 48009
07/16/18	Sign: <u>[Signature]</u> Print Name: Michel Schwabe	411 S. Old Woodward Avenue, Unit # <u>1018</u> Birmingham, MI 48009
07/19/18	Sign: <u>[Signature]</u> Print Name: Shanda Kumba	411 S. Old Woodward Avenue, Unit # <u>608</u> Birmingham, MI 48009
07/20/18	Sign: <u>[Signature]</u> Print Name: Alex Shorrock	411 S. Old Woodward Avenue, Unit # <u>514</u> Birmingham, MI 48009
07/21/18	Sign: <u>[Signature]</u> Print Name: Susan Sosnick	411 S. Old Woodward Avenue, Unit # <u>810</u> Birmingham, MI 48009
07/21/18	Sign: <u>[Signature]</u> Print Name: Chris Ambrose	411 S. Old Woodward Avenue, Unit # <u>512</u> Birmingham, MI 48009
07/21/18	Sign: <u>[Signature]</u> Print Name: Betty Bink	411 S. Old Woodward Avenue, Unit # <u>918</u> Birmingham, MI 48009
07/27/18	Sign: <u>[Signature]</u> Print Name: JARRIN	411 S. Old Woodward Avenue, Unit # <u>706</u> Birmingham, MI 48009
07/26/18	Sign: <u>[Signature]</u> Print Name: Susan Sosnick	411 S. Old Woodward Avenue, Unit # <u>811</u> Birmingham, MI 48009
07/26/18	Sign: <u>[Signature]</u> Print Name: Evelyn Chan	411 S. Old Woodward Avenue, Unit # <u>815</u> Birmingham, MI 48009
07/26/18	Sign: <u>[Signature]</u> Print Name: WILMA TELLMAN	411 S. Old Woodward Avenue, Unit # <u>606</u> Birmingham, MI 48009
07/26/18	Sign: <u>[Signature]</u> Print Name: DONNA A Roberts	411 S. Old Woodward Avenue, Unit # <u>818</u> Birmingham, MI 48009
07/26/18	Sign: <u>[Signature]</u> Print Name: ERIC STERUNG	411 S. Old Woodward Avenue, Unit # <u>605</u> Birmingham, MI 48009

PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

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<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
07/13/18	Sign:  Print Name: David Breedlove	411 S. Old Woodward Avenue, Unit # <u>1014</u> Birmingham, MI 48009
07/13/18	Sign:  Print Name: BETTY F. BREEDLOVE	411 S. Old Woodward Avenue, Unit # <u>1014</u> Birmingham, MI 48009
07/16/18	Sign:  Print Name: Pournia Sadek	411 S. Old Woodward Avenue, Unit # <u>1014</u> Birmingham, MI 48009
07/17/18	Sign:  Print Name: Ann Cohen	411 S. Old Woodward Avenue, Unit # <u>610</u> Birmingham, MI 48009
07/17/18	Sign:  Print Name: DANA BASSIRPOUR	411 S. Old Woodward Avenue, Unit # <u>913</u> Birmingham, MI 48009
07/26/18	Sign:  Print Name: Alice K. Lezotte	411 S. Old Woodward Avenue, Unit # <u>511</u> Birmingham, MI 48009
07/26/18	Sign:  Print Name: CYNTHIA NEAL	411 S. Old Woodward Avenue, Unit # <u>612</u> Birmingham, MI 48009
07/27/18	Sign:  Print Name: XXXXXXXXXXXXXXXXXXXX	411 S. Old Woodward Avenue, Unit # XXXX Birmingham, MI 48009
07/31/18	Sign:  Print Name: KIRTI PRASAD	411 S. Old Woodward Avenue, Unit # <u>622</u> Birmingham, MI 48009
07/31/18	Sign:  Print Name: Alissa Cizny	411 S. Old Woodward Avenue, Unit # <u>911</u> Birmingham, MI 48009
07/31/18	Sign:  Print Name: Julie Wolfe	411 S. Old Woodward Avenue, Unit # <u>1021</u> Birmingham, MI 48009
08/2/18	Sign:  Print Name: EUNICE GALPERIN	411 S. Old Woodward Avenue, Unit # <u>902</u> Birmingham, MI 48009
08/2/18	Sign:  Print Name: ESTELLE MILLER	411 S. Old Woodward Avenue, Unit # <u>924</u> Birmingham, MI 48009

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<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
08/ <u>1</u> /18	Sign: <u><i>Debra J. Elsholz</i></u> Print Name: <u>DEBRA J. ELSHOLZ</u>	411 S. Old Woodward Avenue, Unit # <u>703</u> Birmingham, MI 48009
08/ <u>1</u> /18	Sign: <u><i>Maac W. Poweroy</i></u> Print Name: <u>MAAC W. POWEROY</u>	411 S. Old Woodward Avenue, Unit # <u>503</u> Birmingham, MI 48009
08/ <u>1</u> /18	Sign: <u><i>Susan Winshall</i></u> Print Name: <u>SUSAN WINSHALL</u>	411 S. Old Woodward Avenue, Unit # <u>828</u> Birmingham, MI 48009
08/ <u>1</u> /18	Sign: <u><i>Farris Kalik</i></u> Print Name: <u>FARRIS KALIK</u>	411 S. Old Woodward Avenue, Unit # <u>529</u> Birmingham, MI 48009
08/ <u>1</u> /18	Sign: <u><i>Greg Harvey</i></u> Print Name: <u>GRAC HARVAY</u>	411 S. Old Woodward Avenue, Unit # <u>821</u> Birmingham, MI 48009
08/ <u>2</u> /18	Sign: <u><i>Janette A. Engelhorst</i></u> Print Name: <u>JANETTE A. ENGELHORST</u>	411 S. Old Woodward Avenue, Unit # <u>904</u> Birmingham, MI 48009
08/ <u>2</u> /18	Sign: <u><i>Stacie Leib</i></u> Print Name: <u>STACIE LEIB</u>	411 S. Old Woodward Avenue, Unit # <u>601</u> Birmingham, MI 48009
08/ <u>2</u> /18	Sign: <u><i>B. Geiger</i></u> Print Name: <u>BRIGITTE GEIGER</u>	411 S. Old Woodward Avenue, Unit # <u>623</u> Birmingham, MI 48009
08/ <u>2</u> /18	Sign: <u><i>Jill L. Dolik</i></u> Print Name: <u>JILL L. DOLIK</u>	411 S. Old Woodward Avenue, Unit # <u>829</u> Birmingham, MI 48009
08/ <u>2</u> /18	Sign: <u><i>Steven E. Keller</i></u> Print Name: <u>STEVEN E. KELLER</u>	411 S. Old Woodward Avenue, Unit # <u>605</u> Birmingham, MI 48009
08/ <u> </u> /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ <u> </u> /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ <u> </u> /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

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DATE	SIGNATURE/NAME	ADDRESS
08/01/18	Sign:  Print Name: PATRICK ROBERTS	411 S. Old Woodward Avenue, Unit # 907 Birmingham, MI 48009
08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

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DATE	SIGNATURE/NAME	ADDRESS
08/1/18	Sign:  Print Name: MELVIN C. STERNFELD	411 S. Old Woodward Avenue, Unit # 802 Birmingham, MI 48009
08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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08/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

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DATE	SIGNATURE/NAME	ADDRESS
08/ 2 /18	Sign:  Print Name: CHRISTOPHER Ammann	411 S. Old Woodward Avenue, Unit # <u>1025</u> Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

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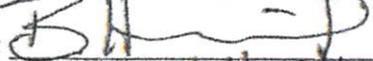
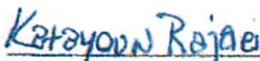
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DATE	SIGNATURE/NAME	ADDRESS
07/31/18	Sign: <u>Cynthia Vakharina</u> Print Name: <u>Cynthia Vakharina</u>	411 S. Old Woodward Avenue, Unit # <u>714</u> Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

We are the owners of condominium units located within one hundred (100) feet of the real estate located at 469-479 S. Old Woodward Avenue and are adamantly opposed to the proposed rezoning of that property from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story building to be built on this small 0.41 acre plot and to any related Special Land Use Permit.

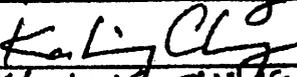
We respectfully request that the City Commission heed the 5-to-2 decision of the Planning Board, not depart from the 2016 Master Plan without a full study of building heights in the Downtown Overlay District with meaningful public participation, and not make ad hoc decisions that would accord special treatment to this single property despite the short- and long-term detriment to the city and those who live and work here.

DATE	SIGNATURE/NAME	ADDRESS
07/31/18	Sign:  Print Name: Bavand Hamidi	411 S. Old Woodward Avenue, Unit # 84 Birmingham, MI 48009
07/31/18	Sign:  Print Name: XXXXXXXXXX	411 S. Old Woodward Avenue, Unit # 84 Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

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DATE	SIGNATURE/NAME	ADDRESS
07/31/18	Sign: <u></u> Print Name: <u>Peter Chang</u>	411 S. Old Woodward Avenue, Unit # <u>711</u> Birmingham, MI 48009
07/31/18	Sign: <u></u> Print Name: <u>KA-LING CHANG</u>	411 S. Old Woodward Avenue, Unit # <u>711</u> Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

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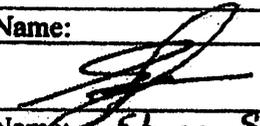
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DATE	SIGNATURE/NAME	ADDRESS
08/ <u>2</u> /18	Sign: <u><i>Nancy Ervin</i></u> Print Name: <u>Nancy Ervin</u>	411 S. Old Woodward Avenue, Unit # <u>629</u> Birmingham, MI 48009
08/ <u>2</u> /18	Sign: <u><i>Tom Ervin</i></u> Print Name: <u>Tom Ervin</u>	411 S. Old Woodward Avenue, Unit # <u>629</u> Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
08/ ___ /18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

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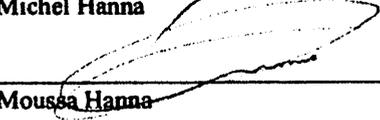
DATE	SIGNATURE/NAME	ADDRESS
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
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07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/31/18	Sign:  Print Name: <u>Shane Spradlin</u>	411 S. Old Woodward Avenue, Unit # <u>525</u> Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009
07/___/18	Sign: _____ Print Name: _____	411 S. Old Woodward Avenue, Unit # _____ Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

We are not residents of the City of Birmingham, but we own real estate in the Birmingham Place condominium building (the "Building") and in that capacity wish to express, in the strongest possible terms, our adamant opposition to the proposed rezoning of the property known as 469-479 S. Old Woodward Avenue (formerly Mountain King Restaurant and First Place Bank) from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story hotel-and-apartment mixed use building to be built on this small 0.41 acre plot.

The property does not meet the plain qualifications for inclusion in the special purpose D5 Overlay District, which was intended only to provide conforming status to existing buildings greater than five stories and not to permit new buildings over five stories other than for vacant land on the 555 S. Old Woodward site. The proposed rezoning also directly contravenes the city's 2016 Master Plan, poses serious risks to the integrity of and fire hazards to the Building, will increase already serious traffic problems and is esthetically out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plans for this beautiful city – it's just one building, some will say, but once on this slippery slope, the city will be pressured to give other property owners the right to build larger buildings than was ever intended.

We respectfully request that the City Commission not depart from the 2016 Master Plan, which has worked well to date, without following the proper procedure for any such radical change of the city's long held land use policies regarding building height in the Downtown Overlay District. That procedure and our due process rights require a full study of building heights in the Downtown Overlay District with meaningful public participation. It would be bad policy and unfair to residents for the city to engage in ad hoc and arbitrary zoning decisions that accord special treatment to a single property, allowing a developer to maximize its return despite the short- and long-term harm to the city and its residents.

<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>UNIT(S) OWNED</u>
07/12/18	 Doris Hanna	411 S. Old Woodward Ave., Units 804,805 and 624 Birmingham, MI 48009
07/12/18	 Michel Hanna	411 S. Old Woodward Ave., Unit 915 Birmingham, MI 48009
07/12/18	 Moussa Hanna	411 S. Old Woodward Ave., Unit 1000 Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

We, the undersigned residents of the City of Birmingham, wish to express, in the strongest possible terms, our adamant opposition to the proposed rezoning of the property known as 469-479 S. Old Woodward Avenue (formerly Mountain King Restaurant and adjacent bank) from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story hotel-and-apartment mixed use building to be built on this small 0.41 acre plot.

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DATE	SIGNATURE/NAME	ADDRESS
06/25/18	Sign: <u>VALERIE LAM</u> Print Name: <u>Valerie Lam</u>	Address: <u>411 S. OLD WOODWARD, #803</u> Birmingham, MI 48009
06/___/18	Sign: <u>Erik Rouse</u> Print Name: <u>ERIK ROUSE</u>	Address: <u>411 S. Old Woodward, #527</u> Birmingham, MI 48009
06/25/18	Sign: <u>Minnie White</u> Print Name: <u>MICHELLE WHITE</u>	Address: <u>411 S. Old Woodward, #505</u> Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: <u>Stephanie</u>	Address: <u>411 S. Old Woodward #1011</u> Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: <u>Patricia Sarotte</u>	Address: <u>515</u> Birmingham, MI 48009
06/26/18	Sign: <u>[Signature]</u> Print Name: <u>Ann Cohen</u>	Address: <u>411 S. Old Woodward</u> Birmingham, MI 48009 #610
06/26/18	Sign: <u>Martha Blumhrey</u> Print Name: <u>Martha Blumhrey</u>	Address: <u>411 S. Old Woodward apt 618</u> Birmingham, MI 48009
06/16/18	Sign: <u>[Signature]</u> Print Name: <u>STUART GLASIER</u>	Address: <u>603</u> Birmingham, MI 48009
06/___/18	Sign: <u>[Signature]</u> Print Name: <u>[Signature]</u>	Address: <u>411 S. Old Woodward #608</u> Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

We, the undersigned residents of the City of Birmingham, wish to express, in the strongest possible terms, our adamant opposition to the proposed rezoning of the property known as 469-479 S. Old Woodward Avenue (formerly Mountain King Restaurant and adjacent bank) from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story hotel-and-apartment mixed use building to be built on this small 0.41 acre plot.

The property does not meet the plain qualifications for inclusion in the special purpose D5 Overlay District, which was intended only to provide conforming status to existing buildings greater than five stories and not to permit new buildings over five stories other than for vacant land on the 555 S. Old Woodward site. The proposed rezoning also directly contravenes the city's 2016 Master Plan, poses serious risks to the integrity of and fire hazards to the building at 411 S. Old Woodward, will increase already serious traffic problems and is esthetically out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plans for our beautiful city – it's just one building, some will say, but once on this slippery slope, the city will be pressured to give other property owners the right to build larger buildings than was ever intended.

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<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
06/25/18	Sign: <u>[Signature]</u> Print Name: SMITH JUDITH	Address: 411 S. OLD WOODWARD Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: FELICIA PALAZZO SHAW	Address: 411 S. OLD WOODWARD #10 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: Roland S Knight	Address: 411 S Old Woodward #58 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: DEBRA J. ELSHOLZ	Address: 411 S ^{OLD} WOODWARD #703 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: Thelma H Engelhart	Address: 411 S. Old Woodward #904 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: Lewis P Runkel	Address: 411 S Old Woodward #111 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: ROBERT J. LEVENSAN	Address: 411 S. Old Woodward Ave # 901 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: ELAINE GROFFSKY	Address: 411 So Old Woodward #504 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: PRAKASHI RENDI	Address: 411 S OLD WOODWARD #100B Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

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<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
06/25/18	Sign: <u>[Signature]</u> Print Name: SUSAN SOSNICK	Address: <u>411 S. OLD WOODWARD #810</u> Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: TONI SCHWARTZ	Address: <u>411 S. Old Woodward</u> Birmingham, MI 48009 #1018
06/25/18	Sign: <u>[Signature]</u> Print Name: Dina Abner	Address: <u>411 S. Old Woodward #600</u> Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: Carol Kozlow	Address: <u>411 S. Old Woodward #729</u> Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: Susan Leib	Address: <u>411 S. Old Woodward #601</u> Birmingham, MI 48009
06/___/18	Sign: <u>[Signature]</u> Print Name:	Address: <u>411 S. Old Woodward</u> #622 Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: Edwin B Shaw	Address: <u>411 S Old Woodward #910</u> Birmingham, MI 48009
06/25/18	Sign: <u>[Signature]</u> Print Name: SUSAN KAPLAN	Address: <u>411 S. OLD WOODWARD #808</u> Birmingham, MI 48009
06/___/18	Sign: <u>[Signature]</u> Print Name: ERIN MELLIOTT	Address: <u>411 S Old Woodward #80</u> Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

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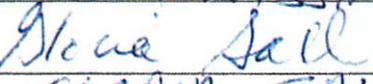
<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
06/22/18	Sign: <u>Rosalix Rockford</u> Print Name: Rosalix Rockford	Address: <u>411 S Old Woodward #710</u> Birmingham, MI 48009
06/22/18	Sign: <u>Shanda Rumba</u> Print Name: SHANDA RUMBA	Address: <u>608</u> Birmingham, MI 48009
06/22/18	Sign: <u>Claudia Perez</u> Print Name: Claudia Perez	Address: <u>411 S Old Woodward #611</u> Birmingham, MI 48009
06/22/18	Sign: <u>Alex Chan</u> Print Name: Alex Chan	Address: <u>411 S Old Woodward #611</u> Birmingham, MI 48009
06/22/18	Sign: <u>Alana Karbal</u> Print Name: Alana Karbal	Address: <u>411 S Old Woodward #923</u> Birmingham, MI 48009
06/22/18	Sign: <u>Caroline Boyer</u> Print Name: CAROLINE BOYER	Address: <u>600</u> Birmingham, MI 48009
06/22/18	Sign: <u>Daniel J. O'Brien</u> Print Name:	Address: <u>1004</u> Birmingham, MI 48009
06/27/18	Sign: <u>Euclid Gagnon</u> Print Name: Euclid Gagnon	Address: <u>411 S Old Woodward #903</u> Birmingham, MI 48009
06/___/18	Sign: <u>Gregory P. Lopez</u> Print Name: Gregory P. Lopez	Address: <u>411 S Old Woodward #903</u> Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

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The property does not meet the plain qualifications for inclusion in the special purpose D5 Overlay District, which was intended only to provide conforming status to existing buildings greater than five stories and not to permit new buildings over five stories other than for vacant land on the 555 S. Old Woodward site. The proposed rezoning also directly contravenes the city's 2016 Master Plan, poses serious risks to the integrity of and fire hazards to the building at 411 S. Old Woodward, will increase already serious traffic problems and is esthetically out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plans for our beautiful city – it's just one building, some will say, but once on this slippery slope, the city will be pressured to give other property owners the right to build larger buildings than was ever intended.

We respectfully request that the Planning Board (and the City Commission, should this matter be brought before it) not depart from the 2016 Master Plan, which has worked to well to date, without following the proper procedure for any such radical change of the city's long held land use policies regarding building height in the Downtown Overlay District. That procedure and our due process rights require a full study of building heights in the Downtown Overlay District with meaningful public participation. It is bad policy and unfair to residents for the city to engage in ad hoc and arbitrary zoning decisions that accord special treatment to a single property, allowing a developer to maximize its return despite the short- and long-term harm to the city and its residents.

<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
06/22/18	Sign:  Print Name: CAROLE CLAUDIA	Address: 411 S OLD WOODWARD AVE Birmingham, MI 48009
06/22/18	Sign:  Print Name: MOUSSA HANNA	Address: 1000 Birmingham, MI 48009
06/22/18	Sign:  Print Name: DINA BASSIPINA	Address: 411 South Old Woodward #913 Birmingham, MI 48009
06/22/18	Sign:  Print Name: GLORIA SALL	Address: 411 S Old Woodward, 500 Birmingham, MI 48009
06/22/18	Sign:  Print Name: Maria Cerecete	Address: 705 Birmingham, MI 48009
06/22/18	Sign:  Print Name: NIKOLE FINN	Address: 521 Birmingham, MI 48009
06/22/18	Sign:  Print Name: David Leutr	Address: 823 Birmingham, MI 48009
06/___/18	Sign:  Print Name: RYAN TRUMBLEY	Address: 714 Birmingham, MI 48009
06/22/18	Sign:  Print Name: WILMA FELLMAN	Address: 411 S. Old Woodward 606 Birmingham, MI 48009

**PROTEST PETITION IN OPPOSITION TO
REZONING 469-479 S. OLD WOODWARD AVENUE**

We, the undersigned residents of the City of Birmingham, wish to express, in the strongest possible terms, our adamant opposition to the proposed rezoning of the property known as 469-479 S. Old Woodward Avenue (formerly Mountain King Restaurant and adjacent bank) from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story hotel-and-apartment mixed use building to be built on this small 0.41 acre plot.

The property does not meet the plain qualifications for inclusion in the special purpose D5 Overlay District, which was intended only to provide conforming status to existing buildings greater than five stories and not to permit new buildings over five stories other than for vacant land on the 555 S. Old Woodward site. The proposed rezoning also directly contravenes the city's 2016 Master Plan, poses serious risks to the integrity of and fire hazards to the building at 411 S. Old Woodward, will increase already serious traffic problems and is esthetically out of place and inconsistent with the small town downtown concept we firmly believe is very important to maintaining the character and long-standing plans for our beautiful city – it's just one building, some will say, but once on this slippery slope, the city will be pressured to give other property owners the right to build larger buildings than was ever intended.

We respectfully request that the Planning Board (and the City Commission, should this matter be brought before it) not depart from the 2016 Master Plan, which has worked to well to date, without following the proper procedure for any such radical change of the city's long held land use policies regarding building height in the Downtown Overlay District. That procedure and our due process rights require a full study of building heights in the Downtown Overlay District with meaningful public participation. It is bad policy and unfair to residents for the city to engage in ad hoc and arbitrary zoning decisions that accord special treatment to a single property, allowing a developer to maximize its return despite the short- and long-term harm to the city and its residents.

DATE	SIGNATURE/NAME	ADDRESS
06/26/18	Sign: <u>Donna A Roberts</u> Print Name: DONNA A Roberts	Address: <u>411 S Old Woodward #818</u> Birmingham, MI 48009
06/26/18	Sign: <u>T. J. Elsholtz</u> Print Name: T. J. ELSHOLTZ	Address: <u>411 S. Old Woodward #800</u> Birmingham, MI 48009
06/26/18	Sign: <u>Estelle Miller</u> Print Name: Estelle Miller	Address: <u>417 S. Old Woodward</u> Birmingham, MI 48009 #921
06/26/18	Sign: <u>Barb Ammann</u> Print Name: Barb Ammann	Address: <u>411 S. Old Woodward #1025</u> Birmingham, MI 48009
06/___/18	Sign: <u>Michael L Schwabe</u> Print Name: Michael L Schwabe	Address: <u>411 S Old Woodward #1018</u> Birmingham, MI 48009
06/27/18	Sign: <u>John Vanderweert</u> Print Name: JOHN VANDERWEERT	Address: <u>170A HAZEL</u> Birmingham, MI 48009
06/27/18	Sign: <u>Chris Ammann</u> Print Name: CHRIS AMMAN	Address: <u>411 S Old Woodward</u> Birmingham, MI 48009 #1025
7/18	Sign: <u>Megrey Geiger</u> Print Name: Megrey Geiger	Address: <u>411 S Old Woodward</u> Birmingham, MI 48009
	Sign: _____ Print Name: _____	Address: _____ Birmingham, MI 48009

RESIDENTS' PETITION RE 469-479 S. OLD WOODWARD AVENUE

We are residents of the City of Birmingham living at the addresses shown below. As residents, we wish to express our opposition to the proposed rezoning of 469-479 S. Old Woodward Avenue from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story building to be built on this small 0.41 acre plot and to any related Special Land Use Permit.

We respectfully request that the City Commission heed the 5-to-2 decision of the Planning Board, that it not depart from the 2016 Master Plan without a full study of building heights in the Downtown Overlay District with meaningful public participation, and that it not make ad hoc decisions that would accord special treatment to this single property despite the short- and long-term detriment to the city and to those who live and work here.

<u>DATE</u>	<u>SIGNATURE/NAME</u>	<u>ADDRESS</u>
07/___/18	Sign: [Redacted] Print Name: [Redacted]	[Redacted] Birmingham, MI 48009
07/___/18	Sign: [Redacted] Print Name: [Redacted]	[Redacted] Birmingham, MI 48009
07/13/18	Sign: <u>Elaine Groffsky</u> Print Name: <u>ELAINE GROFFSKY</u>	<u>491 So Old Woodward #524</u> Birmingham, MI 48009
07/13/18	Sign: <u>John Van</u> Print Name: <u>JOHN VANDERVEER</u>	<u>1704 HAZE</u> Birmingham, MI 48009
07/13/18	Sign: <u>T.J. Elsholz</u> Print Name: <u>T.J. ELSHOLZ</u>	<u>2400 E LINCOLN APT 425</u> <u>BIRMINGHAM</u> Birmingham, MI 48009
07/13/18	Sign: <u>Daniel J. O'Brien</u> Print Name: <u>DAN/O'BRIEN</u>	<u>411 S. Old Woodward</u> Birmingham, MI 48009 #100
07/13/18	Sign: <u>Dan Gutfreund</u> Print Name: <u>DAN GUTFREUND</u>	<u>761 SOUTHFIELD RD, BHAM</u> Birmingham, MI 48009
07/17/18	Sign: <u>Carol Kozlow</u> Print Name: <u>Carol Kozlow</u>	<u>411 S. Old Woodward</u> <u>#729</u> Birmingham, MI 48009
07/___/18	Sign: [Redacted] Print Name: [Redacted]	[Redacted] Birmingham, MI 48009
07/14/18	Sign: <u>Donna A Roberts</u> Print Name: <u>DONNA A ROBERTS</u>	<u>411 S. Old Woodward</u> <u>#818</u> Birmingham, MI 48009
07/14/18	Sign: <u>Rose M. Boyle</u> Print Name: <u>ROSE M. BOYLE</u>	<u>411 S. Old Woodward</u> <u>#725</u> Birmingham, MI 48009
07/14/18	Sign: <u>Ralph G. Boyle</u> Print Name: <u>RALPH G. BOYLE</u>	<u>411 S. OLD WOODWARD</u> <u>#725</u> Birmingham, MI 48009
7/17/18	Sign: <u>Susan Winshall</u> Print Name: <u>SUSAN WINSHALL</u>	<u>411 S. Old Woodward</u> Birmingham, MI 48009 #828

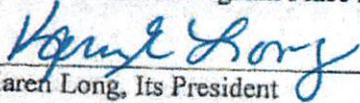
SUPPLEMENTAL PROTEST PETITION RE 469-479 S. OLD WOODWARD AVENUE

The undersigned the Presidents of the Condominium at Birmingham Place Association and the Birmingham Place Residential Condominium Association and the owner of Unit 1 at Birmingham Place, which represents 143 Condominium units located within one hundred (100) feet of the real estate located at 469-479 S. Old Woodward Avenue (the "Property") and are adamantly opposed to the proposed rezoning of the Property from the D4 Overlay District to the D5 Overlay District to permit a nine (9) story building to be built on this small 0.41 acre plot and to any related Special Land Use Permit.

This Supplemental Protest Petition is in support of and is intended to be a part of or supplement to the Protest Petition previously filed with the City of Birmingham signed by the owners of 96 residential units at Birmingham Place located within one hundred (100) feet of the property.

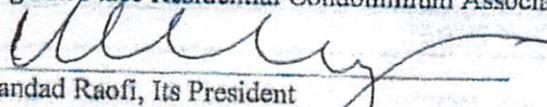
We respectfully request that the City Commission reject the 4 to 3 rehearing decision of the Planning Board recommending the rezoning to the D5 Overlay District. The decision departed from the 2016 Master Plan without the benefit of a full study of building heights in the Downtown Overlay District and without meaningful public participation. The Planning Board's ad hoc decision made without the benefit of comprehensive planning accorded special treatment to this single property despite the short- and long-term detriment to the city and to those who live and work here.

Condominium at Birmingham Place Association, a Michigan Non-Profit Corporation

By: 
Karen Long, Its President

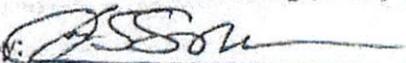
Dated February 7, 2019

Birmingham Place Residential Condominium Association, a Michigan Non-Profit Corporation

By: 
Vandad Raofi, Its President

Dated February 7, 2019

MTM Investments Holdings, LLC, Owning Unit 1, a Delaware limited liability company

By: 
Jeffrey S. Silverman, Its Authorized Agent

Dated February 7, 2019

EXHIBIT 2

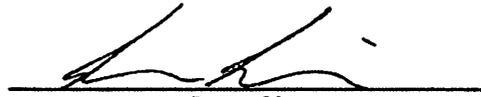
AFFIDAVIT

AFFIDAVIT OF SCOTT SIMS

Scott Sims, being first duly sworn deposes and says:

1. My name is Scott Sims and I have personal knowledge of the matters stated in this affidavit.
2. I am the Property Manager Assistant of the Condominiums at Birmingham Place, which is located at 401-411 S. Old Woodward, Birmingham, MI 48009. My address is 401 S. Old Woodward, Birmingham , MI 48009.
3. The Senior Property Manager, Michele Prentice, and I each collected and witnessed signatures on the attached protest petition.
4. I can attest that the signatures I obtained for the protest petition were the signatures of a Co-owner of the area of land as further described in the attached Memorandum prepared by the attorney for the Birmingham Place Residential Condominium Association.

By:



Scott Sims

Subscribed and sworn to before me
this 10th day of August



Notary Public, Oakland County

DIANA C. O'NEALL
Notary Public, State of Michigan
County of Oakland
My Commission Expires 08-14-2023
Acting in the County of Oakland

My Commission expires: 08/14/2023

EXHIBIT 3

AFFIDAVIT

AFFIDAVIT OF MICHELE PRENTICE

Michele Prentice, being first duly sworn deposes and says:

1. My name is Michele Prentice and I have personal knowledge of the matters stated in this affidavit.
2. I am the Senior Property Manager of the Condominiums at Birmingham Place, which is located at 401-411 S. Old Woodward, Birmingham, MI 48009. My address is 401 S. Old Woodward, Birmingham , MI 48009.
3. My colleague Scott Sims and I each collected and witnessed signatures on the attached protest petition.
4. I can attest that the signatures I obtained for the protest petition were the signatures of a Co-owner of the relevant area of land as further described in the attached Memorandum prepared by the attorney for the Birmingham Place Residential Condominium Association.

By: Michele Prentice
Michele Prentice

Subscribed and sworn to before me
this 10th day of August

Diana C. O'neall
Notary Public, Oakland County

DIANA C. O'NEALL
Notary Public, State of Michigan
County of Oakland
My Commission Expires 08-14-2023
Acting in the County of Oakland

My Commission expires: 08/14/2023

EXHIBIT 4

MAPS AND PERCENTAGES

Petition Unit Square Footage

Owners of Units located at 411 S. Old Woodward, Birmingham MI 48009

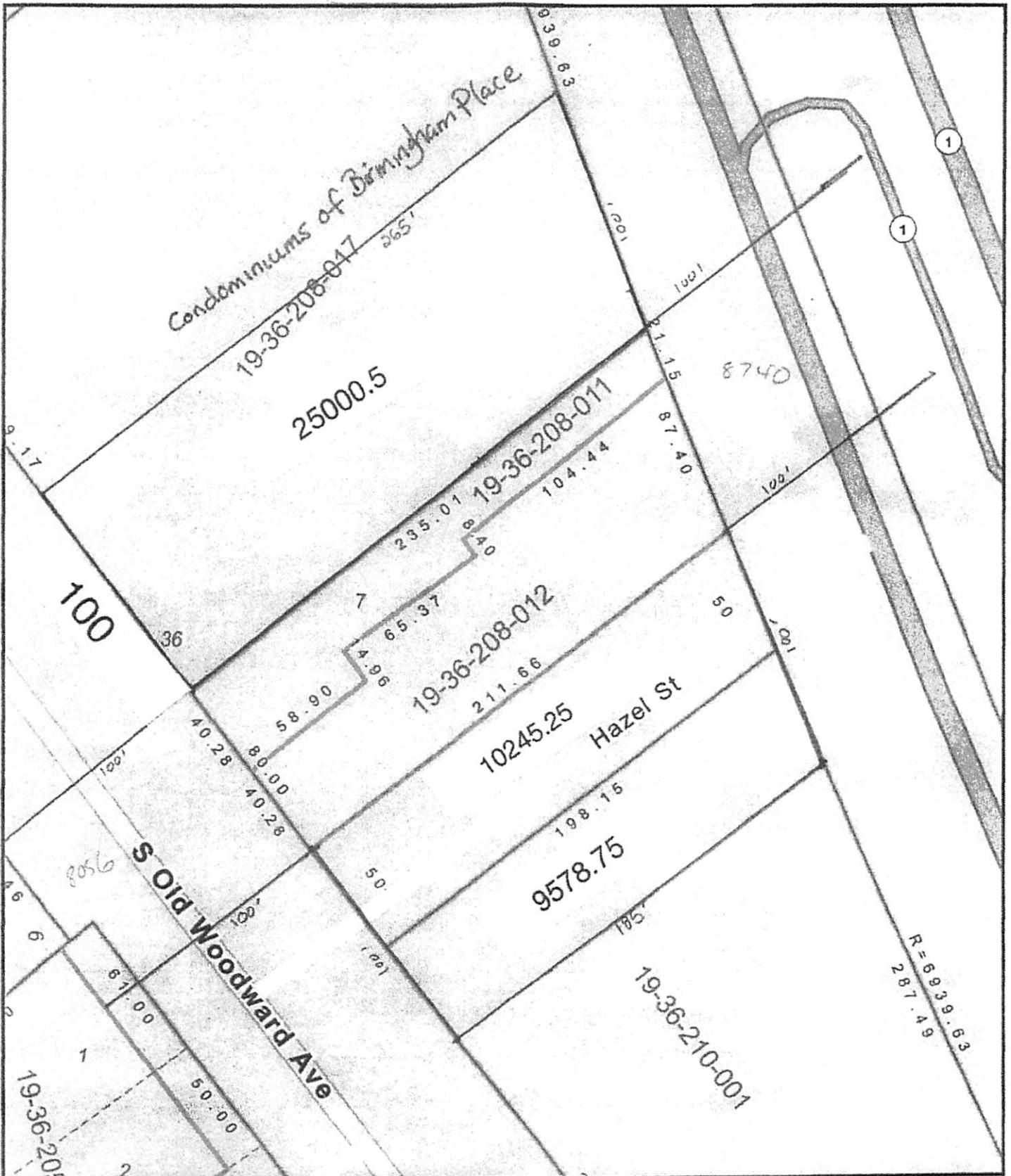
Unit Address	Unit #	Square Feet	Date Petition Signed	Percent Ownership
500	28	1026	8/3/2018	0.4028%
501	2	753	7/31/2018	0.2956%
503	3	713	8/1/2018	0.2799%
504	26	995	7/26/2018	0.3906%
505	4	713	7/19/2018	0.2799%
506	25	995	7/31/2018	0.3906%
508	24	995	7/26/2018	0.3906%
511	6	1,065	7/26/2018	0.4181%
512	22	825	7/27/2018	0.3239%
514	21	793	7/20/2018	0.3113%
515	8	519	7/13/2018	0.2037%
518	20	1,860	7/13/2018	0.7301%
521	10	645	7/26/2018	0.2532%
522	19	1,454	7/31/2018	0.5708%
524	18	1,120	7/13/2018	0.4397%
525	12	699	7/31/2018	0.2744%
527	13	699	7/19/2018	0.2744%
529	14	699	8/1/2018	0.2744%
531	15	702	8/3/2018	0.2756%
600	54	1,026	6/22/2018	0.4028%
601	29	753	8/2/2018	0.2956%
602	53	995	8/1/2008	0.3906%
603	30	713	7/31/2018	0.2799%
605	31	713	8/2/2018	0.2799%
606	161	995	7/26/2018	0.3906%
608	51	995	7/19/2018	0.3906%
610	50	2,665	7/17/2018	1.0462%
611	33	1,065	6/22/2018	0.4181%
612	49	825	7/26/2018	0.3239%
615	35	1,065	7/26/2018	0.4181%
618	47	1,860	7/12/2018	0.7301%
622	46	1,454	7/31/2018	0.5708%
623	38	699	8/2/2018	0.2744%
625	39	1,428	8/7/2018	0.5606%
629	41	700	8/2/2018	0.2748%
631	42	706	8/3/2018	0.2771%
702	80	995	8/1/2018	0.3906%
703	56	713	8/1/2018	0.2799%
705	57	713	6/22/2018	0.2799%
706	78	995	7/27/2018	0.3906%
710	76	2,665	7/12/2018	1.0462%

711	59	1,065	7/31/2018	0.4181%
712	75	825	7/31/2018	0.3239%
714	74	793	7/31/2018	0.3113%
715	61	1,065	7/12/2018	0.4181%
718	73	1,860	8/1/2018	0.7301%
725	65	1,428	7/14/2018	0.5606%
728	70	1,120	8/2/2018	0.4397%
729	67	1,432	7/17/2018	0.5621%
730	69	804	7/31/2018	0.3156%
801	82	753	8/3/2018	0.2956%
802	106	995	8/1/2018	0.3906%
803	83	713	7/26/2018	0.2799%
804	105	995	7/12/2018	0.3906%
805	84	713	7/12/2018	0.2799%
806	162	995	7/16/2018	0.3906%
808	104	995	6/25/2018	0.3906%
810	103	2,665	7/27/2018	1.0462%
811	86	519	7/26/2017	0.2037%
812	102	825	7/12/2018	0.3239%
813	87	519	7/12/2018	0.2037%
814	101	793	7/31/2018	0.3113%
815	88	519	7/26/2018	0.2037%
818	100	1,860	7/26/2018	0.7301%
821	90	645	8/1/2018	0.2532%
822	99	1,454	8/7/2018	0.5708%
823	91	699	6/22/2018	0.2744%
824	98	1,120	7/19/2018	0.4397%
825	92	1,428	8/3/2018	0.5606%
828	96	1,956	8/1/2018	0.7678%
829	94	1,432	8/2/2018	0.5621%
902	133	995	8/2/2018	0.3906%
904	132	995	8/2/2018	0.3906%
906	131	995	7/31/2018	0.3906%
907	111	615	8/1/2018	0.2414%
910	129	2,665	7/13/2018	1.0462%
911	112	519	7/31/2018	0.2037%
913	113	519	7/17/2018	0.2037%
915	114	1,065	7/12/2018	0.4181%
918	126	1,860	7/27/2018	0.7301%
924	124	1,120	8/2/2018	0.4397%
925	118	699	8/1/2018	0.2744%
927	119	699	8/1/2018	0.2744%
1000	160	1,025	7/12/2018	0.4024%
1004	158	994	7/13/2018	0.3902%
1010	156	2,665	7/13/2018	1.0462%
1012	155	826	7/13/2018	0.3242%
1013	140	519	7/31/2018	0.2037%

1014	154	793	7/13/2018	0.3113%
1018	153	1,860	7/16/2018	0.7301%
1021	143	1,373	7/31/2018	0.5390%
1022	152	1,454	7/31/2018	0.5708%
1024	151	1,120	8/1/2018	0.4397%
1025	145	1,428	8/2/2018	0.5606%
1028	150	1,949	7/19/2018	0.7651%
1029	147	1,432	7/12/2018	0.5621%
		105,177		41.29%

	Square Feet	Percentage of Value
Residential	148,542	58%
Office	106,201	42%
Total	254,743	100%

Protest Petition Exhibit 4



	2 Foot Contour		100 yr - FEMA Floodplain
	5 Foot Contour		300 yr (detached) - FEMA Floodplain
	FEMA Base Flood Elevation		500 yr - FEMA Floodplain
	FEMA Cross Section		FLOODWAY - FEMA Floodplain

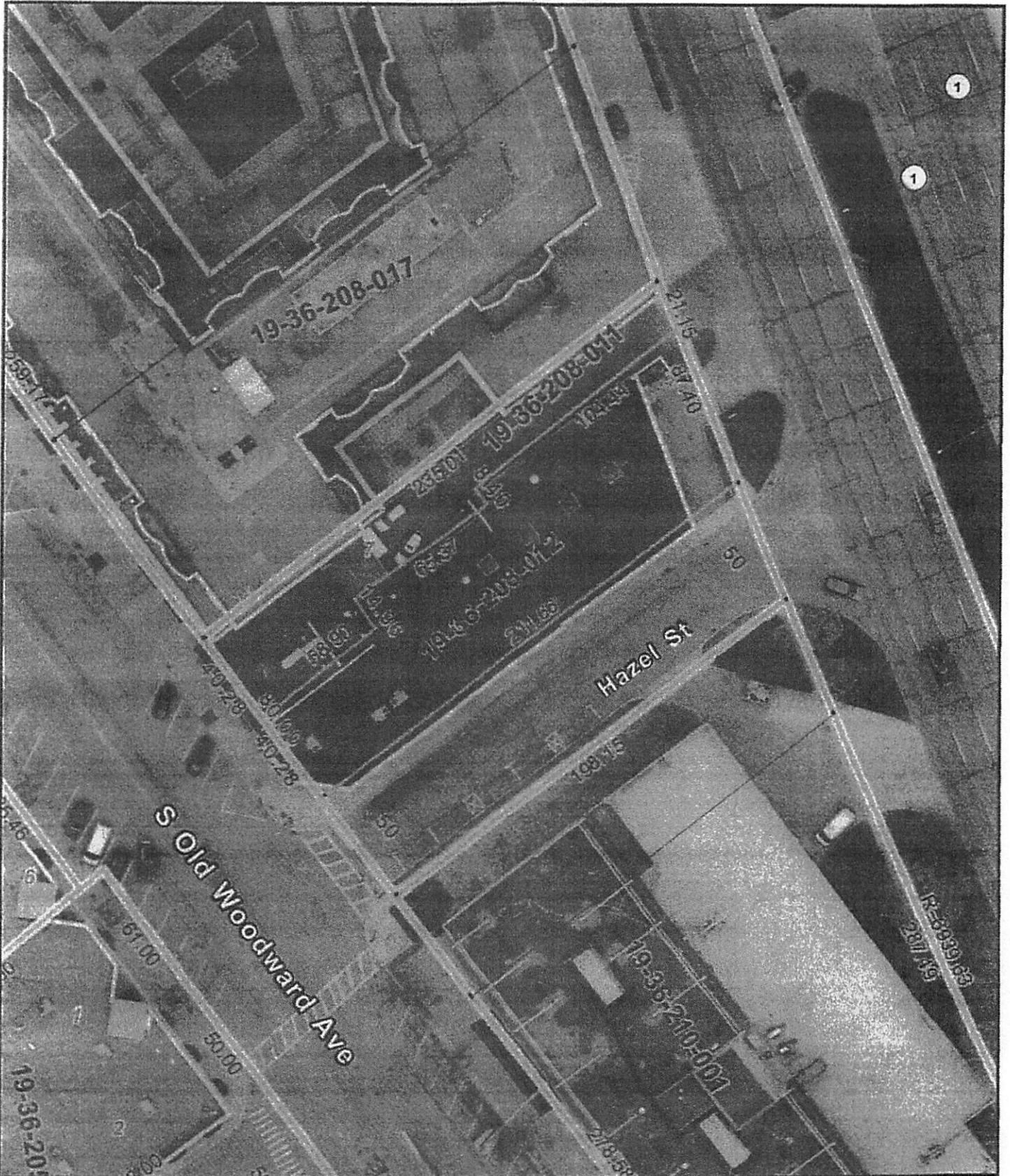
Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

OAKLAND COUNTY
 L. Brooks Patterson
 Oakland County Executive

Date Created: 8/9/2018

 NORTH
 1 inch = 50 feet

Protest Petition2



- 3 Foot Contours
- 5 Foot Contours
- FEMA Base Flood Elevations
- FEMA Close Sections
- 100 yr - FEMA Floodplain
- 300 yr (General) - FEMA Floodplain
- 200 yr - FEMA Floodplain
- FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

OAKLAND COUNTY
 L. Brooks Patterson
 Oakland County Executive

Date Created: 8/2/2018

 NORTH
 1 inch = 50 feet