



Battle Creek City Planning Commission

Staff report for the December 14, 2016 meeting

To: Planning Commissioners

From: Christine M. Zuzga, AICP, Planning Manager
Community Services, Planning

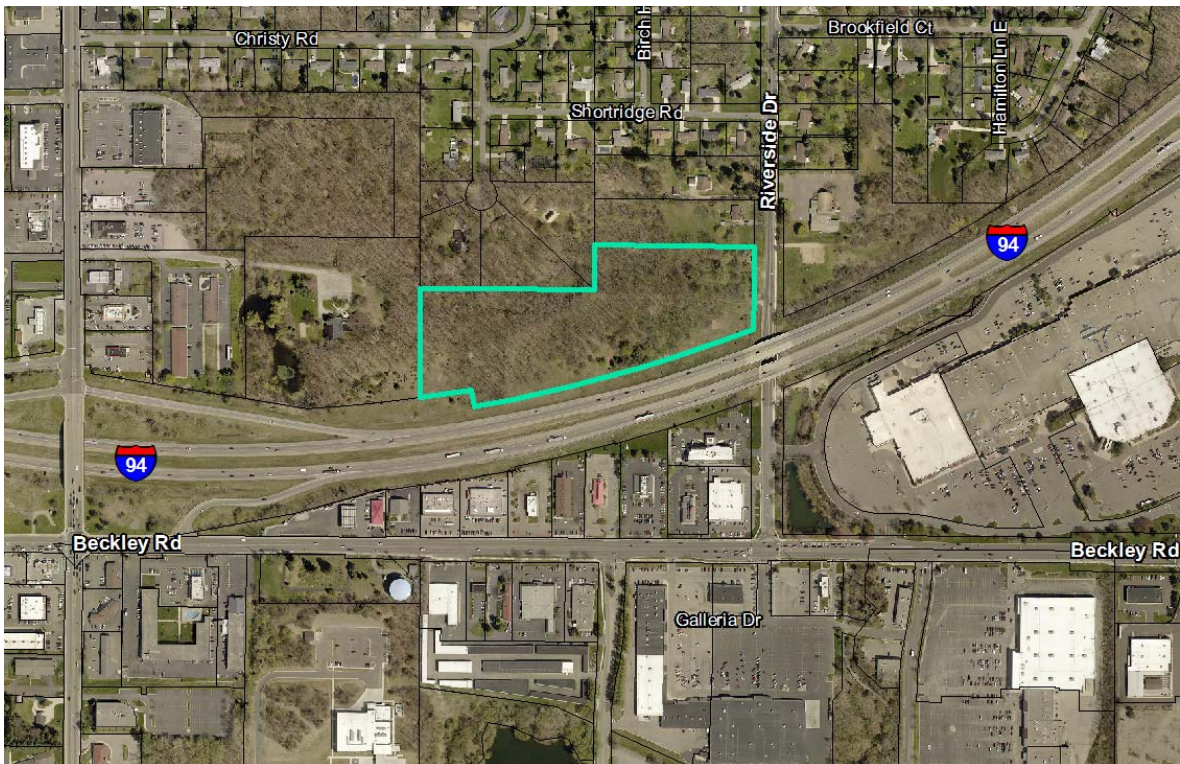
Subject: Petition Z-05-16, request to rezone vacant parcel #0625-38-258-0 at Riverside and I-94 from R-1B Single Family Residential to C-6 Major Highway Interchange Business District.

Summary

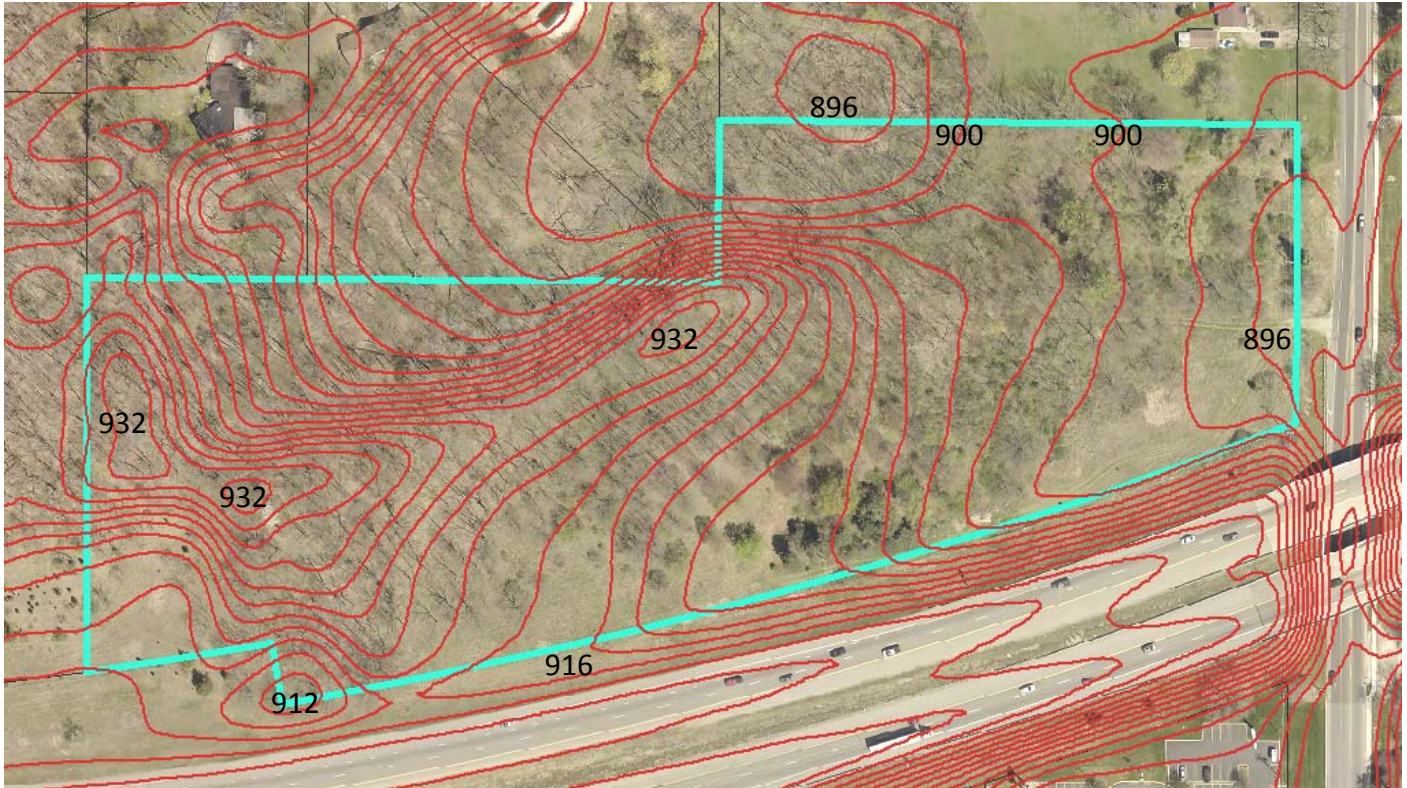
Petition from Land One, LLC, Mr. Michael G. Eyde, requesting a Zoning Reclassification from an “R-1B Single Family Residential District” to a “C-6 Major Highway Interchange Business District”, for property located at Riverside Drive, Parcel #0625-38-258-0.

Background/Property Information

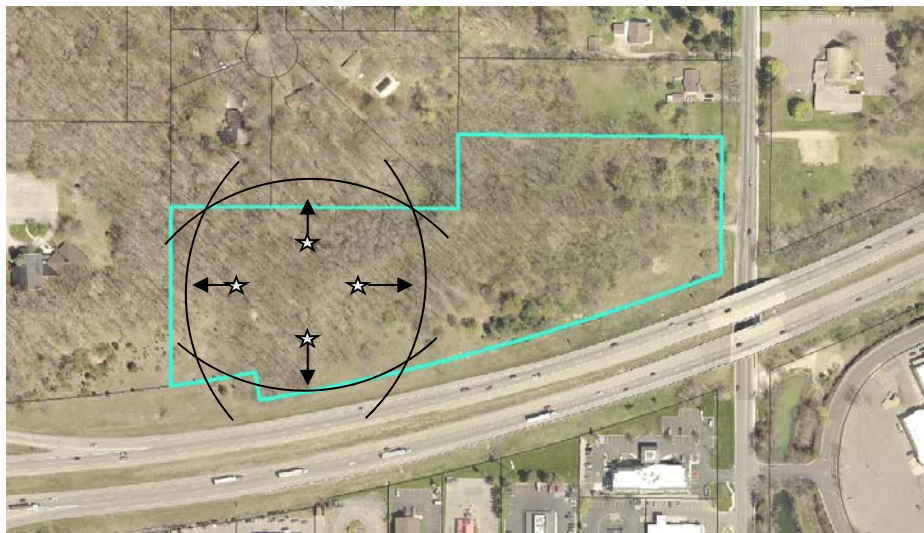
The subject property is 11.88 acres in size and located at the northwest corner of Riverside Drive and Interstate 94.



The property has varied topography with a ridge running parallel to the interstate at the western half of the property. There are no improvements on the property other than a two-track drive that runs through the middle of the property, and one along the south property line. The following map shows 2' elevation contours, with the high and low elevation points labeled.



The following photographs are panoramic viewsheds of the property taken from each direction as indicated on the aerial photo below.





Facing East—toward Riverside Drive



Facing North —toward residential neighborhood



Facing South—toward Beckley Road



Facing East—toward Capital S.W.

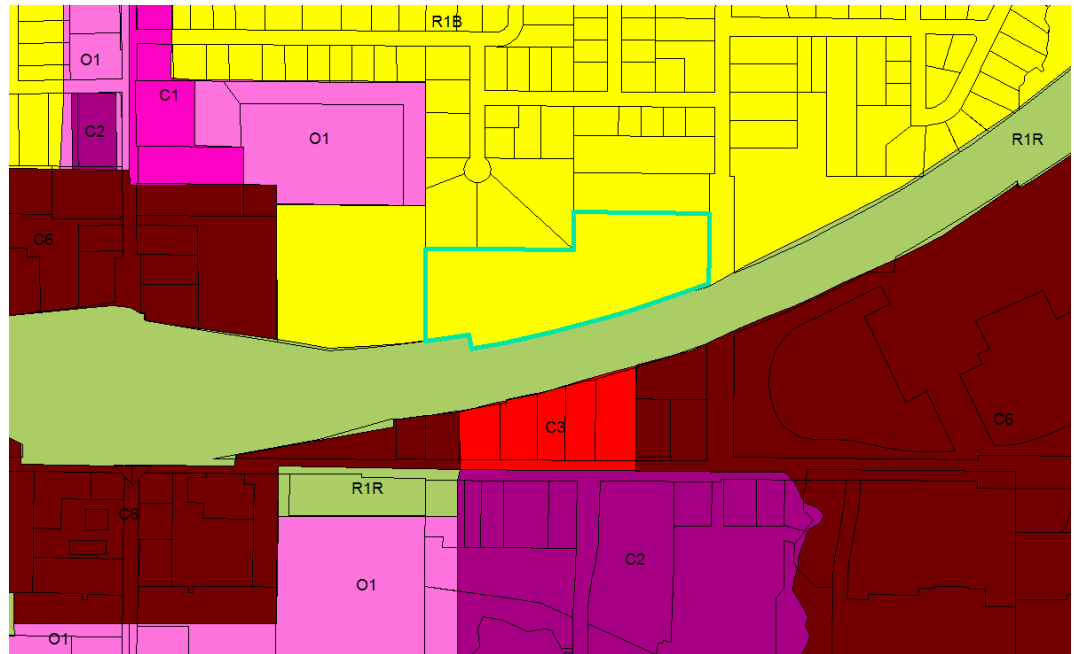
The property is currently zoned R-1B Single Family Residential. Surrounding properties are relatively consistent with the zoning districts shown on the following map, and include:

North –
Single Family
Residential;

South –
Commercial, Beckley
Road commercial
district;

Directly East and West
–Single Family
Residential, each
property contains
church facilities;

West –
Capital Avenue S.W.
commercial district.



This section of Riverside Drive is included as a major street on the Act 51 Major Street system, but is not part of the City truck route system. Per Greg Rickmar, City Traffic Engineer, 7,100 vehicles per day were counted between Beckley and the mall entrance on Riverside in 2015, and 7,300 vehicles per day at the I-94 overpass that same year. In that same year, the count was 6,600 vehicles per day further north on Riverside, 100' south of Minges.

Proposed Scope of Project

The petitioner of the rezoning request is the property owner. Mr. Eyde has owned the property since the late 1980's/early 1990's and is seeking approval of a zoning reclassification to C-6 Major Highway Interchange General Commercial district. At this time, Mr. Eyde has stated the intentions are to construct a hotel and potentially a restaurant, however no plans have been submitted at this time.

Even though the petitioner has provided this additional information, the request for a rezoning solely deals with the zoning of the property and subsequently the uses that would be permitted on the property. Because this is a straight rezoning request, as opposed to a conditional rezoning request, the planning enabling legislation does not allow for conditions to be placed on an approval; therefore, discussion regarding use should relate to any potential use that would be allowed by the new zoning district if it were approved. When considering a zoning reclassification request, best practice should be to plan for the most intensive land use allowed within the proposed zoning district because if approved, any permitted use in the zoning district would be allowed at this location.

Please note, that pending approval of the zoning reclassification, the petitioner will be required to submit a full set of site and building plans for administrative review and approval, and the development would be subject to all ordinances regulating development including site plan review/approval, grading, stormwater management, parking, landscaping, setbacks, etc. as well as additional development regulations for properties in this district.

Please be advised that this property was subject to a rezoning request in early 1984 and a special use permit in 1984. The rezoning request sought to rezone the property to commercial and was ultimately withdrawn by the applicant. The special use permit was to allow an office and health maintenance facility on the property, and was denied by the Planning Commission. Each of these requests were submitted by different applicants, and prior to Mr. Eyde's ownership of the property. While information surrounding these requests are helpful, it is necessary to remember that the property at that time was subject to Battle Creek Township zoning ordinances and master plan, and any decision relative to the current request at hand shall be made in accordance with the current master plan.

CHAPTER 1270

C-6 Major Highway Interchange Business Districts

1270.01 Applicable regulations.

1270.02 Purpose.

1270.03 Permitted uses.

1270.04 Site development requirements.

1270.01 APPLICABLE REGULATIONS.

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-6 Major Highway Interchange Business District.

1270.02 PURPOSE.

The C-6 Major Highway Interchange Business District is established to accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic. It is the purpose of these regulations to permit the establishment of a limited variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques as may develop, particularly where the use of motor vehicles is involved. In order to utilize the full potential effectiveness of this District, certain functions that would operate more effectively in other districts and that would interfere with the general business effectiveness of this District have been intentionally excluded. The uses permitted in this District shall be limited strictly to those uses mentioned in Section 1270.03.

1270.03 PERMITTED USES.

In a C-6 Major Highway Interchange Business District, the following uses are permitted. However, all must be conducted wholly in a permanent, fully enclosed building, unless otherwise stated:

- (a) Retail establishments selling principally (ninety percent of total sales measured in dollar volume) new merchandise;
- (b) Personal and business services, excluding processing of physical materials;
- (c) Passenger terminals;
- (d) Offices, banks and public buildings;
- (e) Restaurants and drive-in businesses, excluding drive-in theaters, where service may be in automobiles or outdoors;
- (f) Motels or hotels, subject to the following conditions:
 - (1) Minimum lot area. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.
 - (2) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

CONTINUED....

CHAPTER 1270

C-6 Major Highway Interchange Business Districts,

1270.03 PERMITTED USES, continued

(g) Essential services;

(h) Golf driving ranges and miniature golf courses under the following conditions:

(1) No lighting shall have a source of illumination visible outside of the boundaries of the lot from a residential area and no lighting shall shine directly on adjacent properties.

(2) Parking areas shall be screened from adjacent residences to prevent headlight glare.

(3) Access by motor vehicles to such lot by way of minor or residential streets is permitted, provided that such streets are paved with a bituminous or concrete surface meeting the specifications of the City Engineer.

(i) Indoor amusement and entertainment, including, but not limited to, movie theaters, roller skating rinks, bingo, soccer and hockey.

1270.04 SITE DEVELOPMENT REQUIREMENTS.

Developments permitted within the C-6 Major Highway Interchange District shall meet the following minimum site development requirements:

(a) Minimum Lot Area. The minimum lot area shall be not less than 25,000 square feet, unless otherwise specified.

(b) Minimum Lot Width. The minimum lot width shall be not less than 150 feet, unless otherwise specified.

(c) Yards. A yard adjacent to a street right of way shall provide a minimum building setback of thirty-five feet, except that south of 1-94 on lots fronting Beckley Road or Capital Avenue, S.W., such setback shall be a minimum of fifty feet, and the following:

(1) Safety strip. A strip of land at least ten feet wide along the street lot line shall be preserved with a berm or permanent natural plantings, neither of which shall exceed three feet in height. This ten-foot wide strip shall be referred to as the safety strip.

(2) Rear yard. No rear yard shall be required, but if any lot in this District abuts a residential use or a Residential District, a transition strip of at least fifty feet shall be provided. The inner thirty feet of the transition strip may be used for parking and there shall be erected along the boundary lines of any such lot abutting a Residential District a five-foot high landscaped berm or combination of natural plantings that total not less than eight feet high and act as a year round visual barrier. A masonry wall of at least five feet but not more than eight feet in height will also satisfy this requirement. The fence or wall shall be neat and harmonious in appearance with the character of the immediate residential area and shall be maintained in good condition at all times. The fence or berm shall be considered an integral part of the requirements for the use proposed.

(d) Compliance Requirements for New Businesses. For those sites that do not currently provide sufficient setbacks to ensure traffic safety along any public right of way, it shall be required that upon a site plan modification or a re-opening of a business closed for more than 120 days, a ten-foot wide safety strip shall be provided along the road frontage. No sign shall be permitted on or above the safety strip.

(e) Noise. Noise emanating from a use in this District shall not exceed the levels for ordinary conversation or normal traffic noise peaks at the boundaries of the lot. No physical vibration humanly perceptible at or beyond the lot boundaries shall be allowed.

(f) Signs. Signs shall comply with Chapter 1296.

(g) Off-Street Parking and Loading. Developments must comply with the off-street parking and loading requirements of Chapter 1284 unless otherwise specified.

(h) Site Plan Review. Developments must comply with the site plan review requirements of Chapter 1294.

Public Hearing and Notice Requirements

This request was initially submitted for the November Planning Commission meeting, but was postponed at the request of the applicant in order for him to attend the December 7th meeting of NPC 11. As such, the public hearing notice was published initially on October 27th in the Battle Creek Shopper's and notices mailed to twenty-seven property owners and occupants within 300 feet of the subject parcel. Once the request was postponed, a mailing of the postponement and the new public hearing date was sent to the same property owners, a public hearing notice was again published in the Battle Creek Shopper's Guide on November 24th.

City staff has received a few letters in opposition to the request, they are attached to this packet. Staff has also received a few phone calls in support of the request. A group of residents who live north of the property, Francis and Larry O'Neil, Joan Grieger, and Cheri Branch, have put together a binder to the Planning Commission outlining their concerns. This is included in your packets as well. It is my understanding they have drafted a petition that they will be submitting to the Planning Commission at the meeting.

Neighborhood Outreach

This parcel is located in Neighborhood Planning Council #11, and as such the applicant attended their December 7th meeting. It is my understanding that this meeting did not go well, and in the end the NPC voted to deny the request of a rezoning.

Analysis and Recommendation

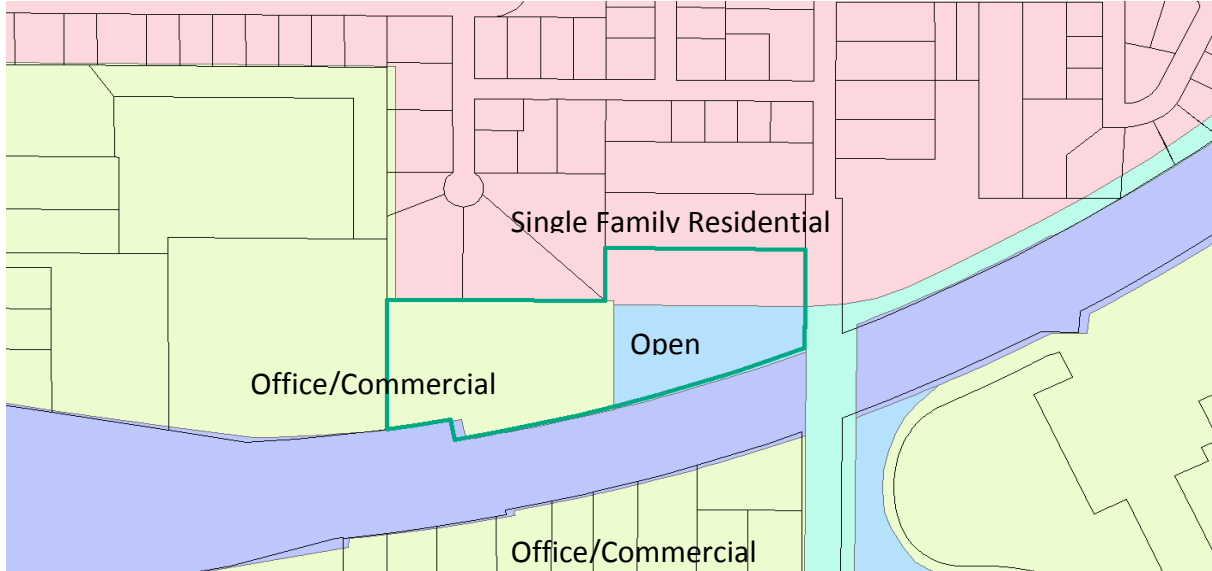
As this is a rezoning request, consideration should be given to the proposed use as it relates to the surrounding zoning and land uses, existing infrastructure, and most importantly consistency with the Comprehensive Plan.

Section 3 of the Master Plan, the Vision, in many places states that commercial growth, development, and expansion will have occurred as needed and as opportunity arises, and that the City will have accommodated new growth and development in various forms and locations throughout the City. Such development should be carefully staged to maximize the development potential of the land and to create well designed, convenient places, with both an urban density and open space character. The vision calls for proactive initiatives to attract people and business to the community. The vision calls for well planned growth and development to be encouraged, specifically in and along the Beckley corridor, providing it is thoughtfully integrated into the context of the surroundings.

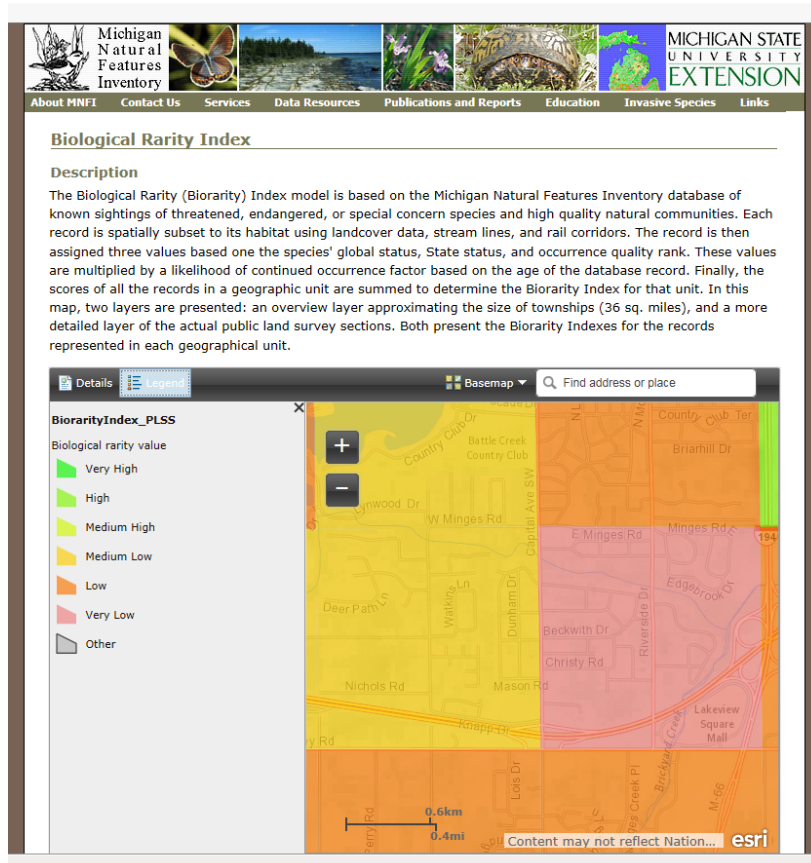
The goals and objectives of the master plan include encouraging retention and expansion of existing employers and the attraction of new companies; this message is spread throughout the plan. Goals and objectives also speak to encouraging density around key activity centers and along major transportation routes, while managing growth and sprawl at the edge of the developed areas. The intent is to encourage development in planned clusters rather than in a linear auto-centric fashion. The property location, adjacent to I-94 and between two major streets, is one of very few remaining vacant parcels in this area of the city that has development potential. With the continued expansion of Harper Village to the east of M-66, it is clear that there is market demand for our area, but without available space in the City limits, it will continue to occur in the neighboring Township. The master plan specifically states that proactive rezoning and land acquisition should occur for the encouragement of businesses in concentrated planned centers.

The master plan compiled and evaluated infrastructure, transportation, natural resources, existing land use, and market potential, as well as the vision and goals of the community, and created a future land

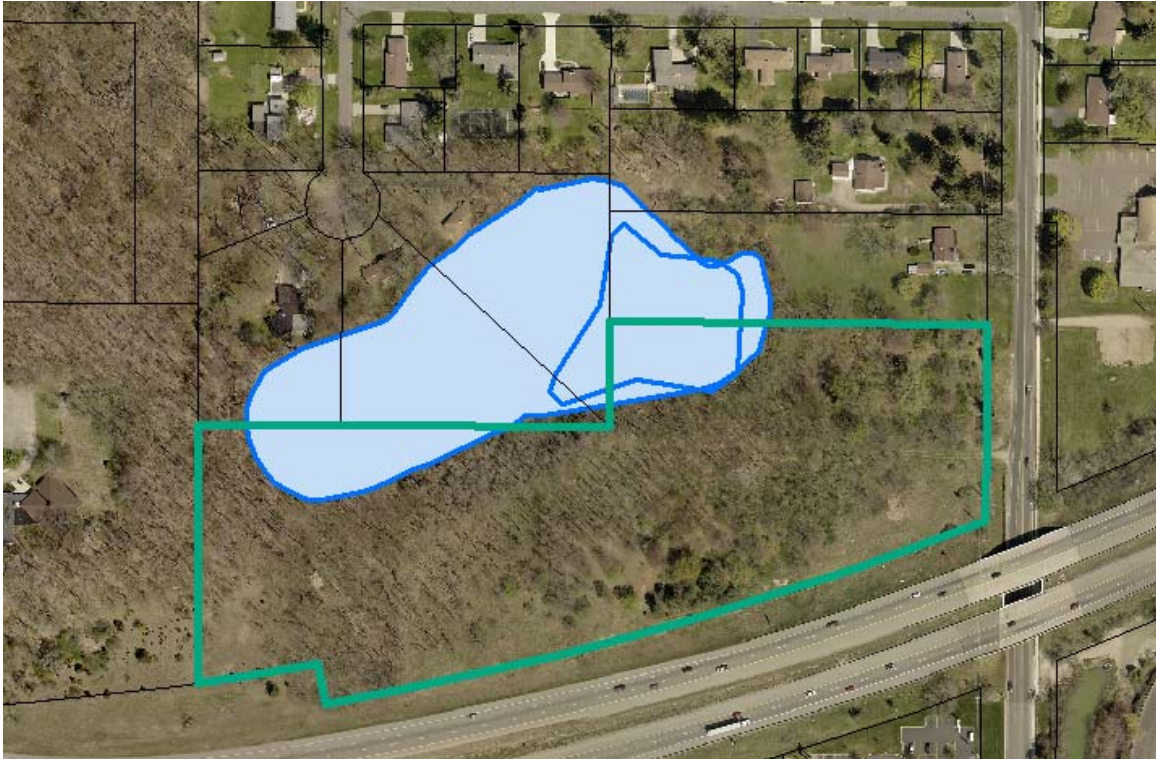
use map that plans for how land should be used that would meet the anticipated needs and desires of the community. The master plan very specifically states that any rezoning along I-94 for commercial uses should be prevented except where consistent with the master plan. The future land use map adopted with the master plan very specifically identifies that the western portion of this property is future land use of office/commercial, but shows the eastern portion as residential and open space.



The vision and goals/objectives do outline that protection should be provided to areas with environmentally sensitive natural and open space features. While this property is large, wooded, and very attractive, a review of the Michigan Natural Features Inventory has shown that the possibility of rare or endangered species occurring at this property is very low, with a score of 1.13 out of 350.



A review of the National Wetlands Inventory from 2005 shows a potential wetland in the area (small blue circle), most of which is located on adjacent parcels. The larger blue circle shows area of potential wetland soils. While in certain circumstances, the potential for wetland soils are an important factor in determining future use and potential for wetlands, the terrain of this property makes it unlikely that this larger area would be ever be wetland – essentially levels at which the water would be at this grade would have the entire neighborhood under water.



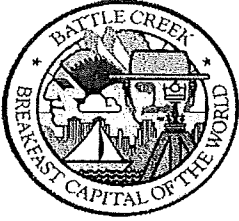
The master plan also encourages land owners/developers to dedicate natural resources as permanent open space, and while this can and should be encouraged as part of a larger development, the City does not have the authority or legal protection to require an owner/developer to maintain their property as open space.

In summary, the vision and goals/objectives of the City make very clear that growth and development should occur and the City needs to be proactive in this regard. The master plan and future land use map does envision development occurring in this general area and urges the City to allow for thoughtful and well planned development. However, the future land use shows only the western portion as office/commercial, and the master plan is very clear that development needs to be thoughtfully integrated and designed to complement existing land features, physical and visual integrity, and with appropriate buffers when adjacent to residential neighborhoods. Because this is a straight rezoning request, with any potential use in the C-6 district being allowed, and subject only to development restrictions that are adopted by the ordinance, there are no assurances that the development would be designed to complement the existing land features, or constructed in such a way that will not detract from the adjacent neighbors.

Therefore, citing the above findings, it is my recommendation that the Planning Commission recommend denial to the City Commission, unless the applicant can provide additional information that demonstrates the development would comply with provisions of the master plan that requires development that is thoughtfully integrated and designed to complement existing land features, physical and visual integrity, and with appropriate buffers when adjacent to residential neighborhoods.

Again, because this is a straight rezoning request, the Planning Commission nor City Commission can not make any conditions of approval. However, the applicant can, provide a list of conditions he would agree to adhere to with the development. These conditions could (but wouldn't have to) be included with a development site plan. It is my understanding that Mr. Eyde is working on a few site layout options, but these had not been submitted to my office at the time of this report.

If the applicant submitted conditions and/or site plans that address the manner of development that will satisfy the master plan goals and objectives of a context sensitive design that takes into account property features and the neighborhood, it is very likely that the amended request would meet all the statutory considerations and should be approved.

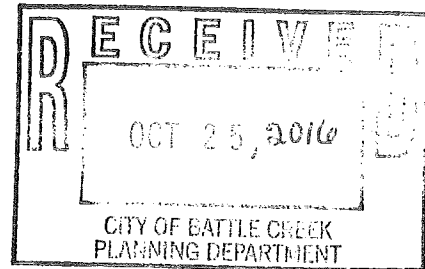


City of Battle Creek

Community Services - Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov



REZONING Application

☒ **Straight Rezoning**
(to new zoning district)

☐ **Conditional Rezoning**
(to allow specific use/development)

Petition No. Z-05-16

Date Received: 10/25/16

APPLICANT

NAME: Land One, LLC
ADDRESS: 3303 W. Saginaw St. C3 Lansing, Mi 48917
PHONE: 517-333-1600 FAX: 517-333-1602
EMAIL: mary@landone11c.com

OWNER (if different from applicant)

NAME: _____
ADDRESS: _____ CITY/STATE: _____ ZIP: _____
PHONE: _____ FAX: _____
EMAIL: _____

****If the applicant is not the property owner, a letter signed by the owner agreeing to the Rezoning must be included with the application.**

EXISTING CONDITIONS

Address(es) of property for which the request is being sought: Riverside Dr
0625-38-258-0

Current use of the property: vacant land

List existing structures on the property, size, and the approximate age of each. None

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the Planning Commission. No.

FOR STRAIGHT REZONING REQUESTS ONLY:

Current Zoning of Property: residential vacant

Requested Zoning District: C-3 1/4 per MUE cycle - request to C-6
not C-3 cmz

Describe land uses surrounding the subject property and those in the vicinity: Residential to the
North, Church & commercial to the West, Commercial to the South, Church to East

Would the rezoning place excess demands on public resources including roads, utilities, public safety, etc.?

Explain: No. The property is already located next to several commercial uses
and would not increase traffic to the North near residential uses

FOR CONDITIONAL REZONING REQUESTS ONLY (please attach extra pages if necessary):

What is the proposed use of the property that warrants the request? Provide specific details as to the use including square footage of each uses proposed for the property: _____

Please list all activities that will take place on the property if the request were approved?

How many employees currently work on the property? How many will be added if the request is approved, and what days/times will they be onsite? _____

Will the approval of the proposed use necessitate changes to the property, i.e. building construction, additional parking, landscaping, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the development and attach a site plan/building elevations showing existing and proposed improvements. What is the cost of investment proposed if the development were approved?

What are the proposed hours of operation? Please indicate if the proposed use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable: _____

Explain the basis for which you feel this application should be approved. _____


SUBMITTAL REQUIREMENTS

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

1. Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.
2. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.
3. Legal description of subject property and a list of all deed restrictions.
4. Property Site Plan, if site changes are proposed.
5. Building Elevations, if building elevation improvements are proposed.

APPLICANT SIGNATURE

By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a rezoning application have been submitted. Furthermore, the applicant understands that all any approval is based upon the contents of the submitted application and any future proposed change must be reviewed with the Planning Department and may be subject to approval of a revision of the rezoning by the Planning Commission and City Commission.


(Signature) Name

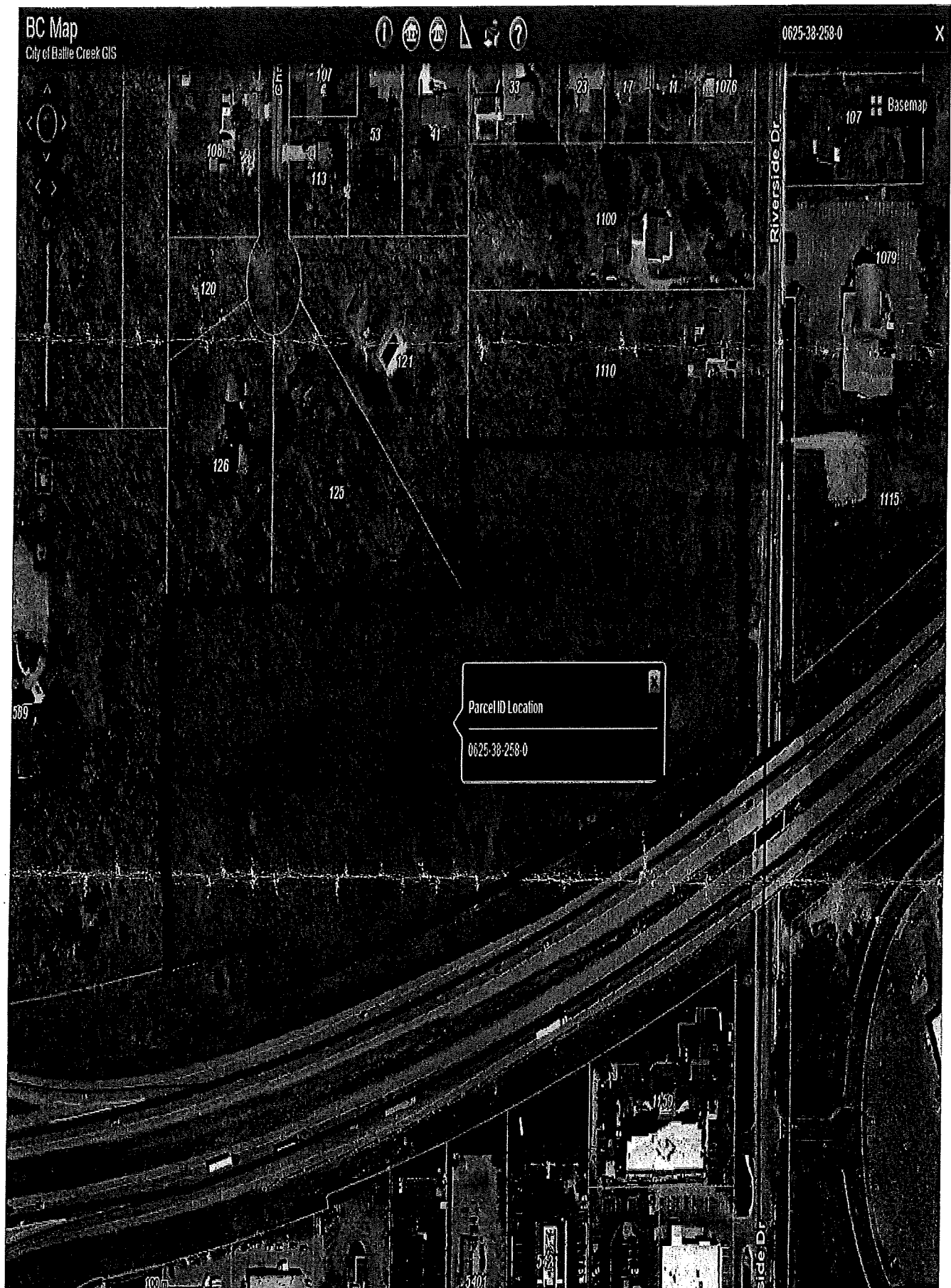
Michael G. Eyle
(Print Name)

10/14/16
Date

0625-38-258-0 – Riverside Drive, Battle Creek, MI 12.274 ac.

Legal Description

PART OF SE ¼ OF SW ¼ OF SEC 25 T2S R8W: COMM NE COR OF SE ¼ OF SW ¼ OF SD SEC 25 – S 00° 52' W ALG SD N & S ¼ LI DIST OF 176.9 FT TO TRUE POB – N 88° 57' W 662.28 FT – S 00° 42' W ALG ELY LI OF LOT 20 OF PLAT OF OAKSIDE PARK DIST OF 169.98 FT TO SE COR OF LOT 19 OF SD PLAT – N 88° 59' W 661.63 FT TO W LI OF SE ¼ OF SW ¼ OF SD SEC & SW COR OF LOT 18 OF SD PLAT – S 00° 32' W 415.70 FT TO NLY LI OF I-94 ROW – ALG SD NLY LI AS FOLLOWS: ALG ARC TO LT 193.77 FT (RAD 5539.65 FT; CHORD BRG N 81° 33' 53" E 193.77 FT) – S 09° 24' 55" E 65 FT – ALG SD NLY DIST OF 1165.85 FT (RAD 5604.65 FT; CHORD BRG N 74° 45' 20" E 1163.75) – NLY ALG N & S ¼ LI DIST OF 290 FT M/L TO POB, CONT 12.27 AC, SUBJ TO HWY EASE OVER ELY 55 FT FOR RIVERSIDE DR ((2015, RETIRE #0074-00-610-0 & -620-0 AND REPLACE WITH #0625-38-258-0))





ST. PETER LUTHERAN CHURCH

November 22, 2016

Honorable Members of the City Commission
Honorable Members of the Planning Commission

1079 Riverside Dr.

Battle Creek, MI

49015-4735

(269) 963-4170

stpeter_bc@att.net

www.saintpeterbc.org

Marked
with the
cross of
Christ
forever, we
are claimed,
gathered,
and sent for
the sake of
the world.

On behalf of the Church Council of St Peter Lutheran Church, I am submitting this letter to express our opposition to the rezoning of parcel #0625-38-258-0 from R1-B Single Family Residential District to C-6 Major Highway Interchange Business District, as requested by Land One LLC. We believe the City, as part of its Master Plan, has historically recognized the natural boundary that Interstate 94 has created to separate the residential neighborhoods to the north from the commercial activity to the south. That boundary allows the residential neighborhoods along and around Riverside Drive to enjoy the qualities many desire in life around their homes – an environment that provides less noise and traffic, and greater safety than commercial districts offer. We believe the requested rezoning, if approved, would be very detrimental, in terms of quality of life and property values, to the residential neighborhoods along and around Riverside Drive north of Interstate 94.

The City ordinance states that the purpose of the C-6 is to “accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic.” We agree with the City’s decision over many years as part of its master land planning process to take advantage of natural or existing man-made boundaries (such as the Interstate highway) to separate zoning districts, especially districts that are as distinctly different in characteristics as are the low density R1-B district and the highly intensive activity of commercial business districts such as the C-6 zoning allows. We believe the City should continue to provide residents with the confidence that their quality of life and property values will not be diminished by the arbitrary rezoning of parcels requested by land developers simply looking to maximize their profits. We are not opposed to property owners wanting to develop their land in a manner that provides them financial benefits; we simply don’t believe it should be done at the expense of the residents in nearby neighborhoods. We strongly believe that if the property owner desires to develop the property, it should do so in a manner consistent with the existing R1-B zoning.

The Church Council of St. Peter Lutheran Church strongly encourages the City of Battle Creek, its City Commission and Planning Commission to deny the request of Land One LLC to rezone parcel #0625-38-258-0 from R1-B Single Family Residential District to C-6 Major Highway Interchange Business District.

Respectfully,

Barbara J. Heffner, President
St. Peter Lutheran Church Council

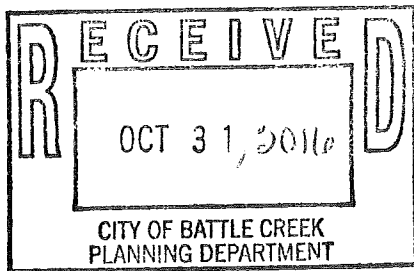
Battle Creek Planning Commission,

10/26/2016

This letter is concerning the zoning SUP #
reclassification # 2-05-16 / River Z-05-16
parcel # 0625-38-258-0

I/we would like the planning co. Put in BS&A
to deny the reclassification of this parcel.

All property between I-94 & Golden should
remain residential R-1B Single Family.



Thank you

Barbara Eyre
Marvin Eyre

203 Briarhill Dr.
Battle Creek, MI 49015