Agenda: Battle Creek City Commission

Meeting Date: November 1, 2022- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

Title: Battle Creek City Hall - City Commission Chambers, 3rd Floor

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INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATIONS AWARDS

Proclamation for General Aviation Appreciation Month

PRESENTATIONS

Staff Presentation - Battle Creek Executive Airport - Phil Kroll, Aviation Director

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

PETITIONS COMMUNICATIONS REPORTS

INTRODUCTION OF ORDINANCES

13-2022 A proposed Ordinance to rezone 175 College Street (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

ADOPTION OF ORDINANCES

520 A Resolution seeking to adopt Ordinance 10-2022 to amend Section 02, Article (XVII) of Chapter 212, Rules of Procedure of the Commission, to distinguish Applicant comments and to impose a safety provision; and Section 05 of Chapter 212, to amend the meeting requirements of the Ethics and Meeting Rules Committee.

521 A Resolution seeking to adopt Ordinance 11-2022 to amend Chapters 833 Medical Marihuana Facilities, and 835 Adult Use Marihuana Establishments, to expand the hours of operation; update definitions and make additional clarifications.

522 A Resolution seeking to adopt Ordinance 12-2022 to amend Chapter 276 Downtown Development Authority in compliance with Public Act 57 of 2018, the Recodified Tax Increment Financing Act, to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority.

PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS

NOT ON CONSENT AGENDA

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

CONSENT AGENDA

Minutes:

Minutes for the October 18, 2022 City Commission Regular Meeting

Petitions, Communications, Reports:

Ambulance Report for September 2022

City Manager's Report for November 1, 2022

Resolutions:

523 A Resolution seeking authorization for the City Manager to execute a METRO Act Bilateral Right-of-Way Telecommunications Permit with Level 3 Communications, LLC.

524 A Resolution reappointing members to the Battle Creek Area Metropolitan Service Agency (AMSA)

525 A Resolution appointing a new member to the Economic Development Corporation.

526 A Resolution appointing / renewing 4 members to the North Central Neighborhood Planning Council (NPC # 2).

527 A Resolution appointing / renewing 2 members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

528 A Resolution seeking authorizing for the City Manager to accept a grant in the amount of $519,224 from the Office of Justice Programs (OJP) and to establish the appropriate budget.

529 A Resolution seeking to approve S15-2022, for a Special Use Permit for the continuance and alteration of a building located at 175 College Street parcel 9730-00-052-0, which houses an existing medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

GENERAL PUBLIC COMMENT

(Limited to three minutes per individual)

COMMISSION COMMENTS

ADJOURNMENT

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if

appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner

and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

(a) Becomes repetitive or speaks longer than the allotted time;

(b) Attempts to yield any unused portion of time to other speakers;

(c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;

(d) Uses obscene or profane language;

(e) Engages in slanderous or defamatory speech;

(f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or

(g) Engages in conduct that interrupts or disrupts the meeting.

General Detail NO.

Proclamation for General Aviation Appreciation Month

BATTLE CREEK, MICHIGAN - 11/1/2022

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Rebecca Forbes, Executive Assistant

Department: City Manager

SUMMARY

Proclamation for General Aviation Appreciation Month

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
Aviation_Appreciation_Month_2022.pdf	Aviation Appreciation Month - 2022

Proclamation

WHEREAS, The City of Battle Creek has a significant interest in the continued vitality of general aviation, aircraft manufacturing, aviation educational institutions, aviation organizations and community airports; and

WHEREAS, general aviation and the Battle Creek Executive Airport at Kellogg Field have an immense economic impact on the City of Battle Creek; and

WHEREAS, according to the 2017 Michigan Aviation System Plan, general aviation in Michigan generates an estimated $5.2 billion in business revenues to the state's economy each year and supports more than 33,000 jobs and a payroll of $1.4 billion annually; and

WHEREAS, Battle Creek Executive Airport at Kellogg Field is one of the busiest airports in the State of Michigan which is not widely known as there are no commercial flights landing or departing from this airfield. This airport is a gem and an asset to the City of Battle Creek. There is a true appreciation for the businesses and manufacturers which operator out of the Battle Creek Executive Airport and for their contribution to the continued development around the airfield; and

WHEREAS, general aviation not only supports Michigan's economy, it improves overall quality of life by supporting emergency medical and healthcare services, law enforcement, firefighting and disaster relief, investments in sustainable fuels and technologies, and investments in innovative experimental technology, and by transporting business travelers to their destinations quickly and safely; and

WHEREAS, general aviation has been deeply impacted by the COVID-19 pandemic, causing an impact on operations, jobs, dependent industries, sectors, and communities; and

WHEREAS, the Unites States faces a shortage of aviation professionals, leaders should invest in this critical infrastructure to ensure future economic growth and our next generation of aviation professionals and pilots; and

NOW, THEREFORE, I, Mark A. Behnke, Mayor of the City of Battle Creek, Michigan, do hereby proclaim ***the month of November 2022***, as

"GENERAL AVIATION APPRECIATION MONTH"

in the Greater Battle Creek Area and urge all the citizens of Battle Creek to recognize and support the Battle Creek Executive Airport and Kellogg Field and our aviation professionals.

IN WITNESS WHEREOF, We have hereunto set our hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 1st day of November.

Mark A. Behnke, Mayor

General Detail NO.

Staff Presentation - Battle Creek Executive Airport - Phil Kroll, Aviation Director

BATTLE CREEK, MICHIGAN - 11/1/2022

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Rebecca Forbes, Executive Assistant

Department: City Manager

SUMMARY

Staff Presentation - Battle Creek Executive Airport - Phil Kroll, Aviation Director

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
City_Commission_Report_11-1.pdf	Staff Presentation - Battle Creek Executive Airport - Phil Kroll, Aviation Director

Battle Creek City Commission Airport Report

Phil Kroll

Aviation Director

Airport Report

- Airport Inspection Transition
- Airport Snow Removal
- Q & A

Airport Inspection Transition

- Currently operating under Federal Aviation Regulation Part 139
  - Regulates airports that provide scheduled commercial air service
  - BTL currently does not have commercial air service
- Majority of general aviation airports do not follow Part 139
  - These airports follow state regulations and federal funding mandates
- BTL is having to meet additional requirements and maintain additional supplies to meet commercial service requirements

Airport Inspection Transition

- Staff believe it is in the best interest of the airport and the city to transition from FAR 139 regulations to state (MDOT) regulations
- Benefits of transitioning to State inspection
  - Remove chemicals containing PFAS
  - No impact to daily operations or current tenants
  - Airport will not be excluded from receiving state or federal funding
  - Staff will continue to operate and maintain airport safely and efficiently
  - Ability to utilize state resources currently not available to BTL
  - Allows for more flexible training and response models

Airport Snow Removal

- Airport Overview
  - Size, tenants, operations
- Airport Snow and Ice Control Plan
  - Goal, challenges airport snow removal
- Pre-Season Snow and Ice Control Committee Meeting
  - Purpose
- Airport Snow Removal Equipment

Airport Snow Removal

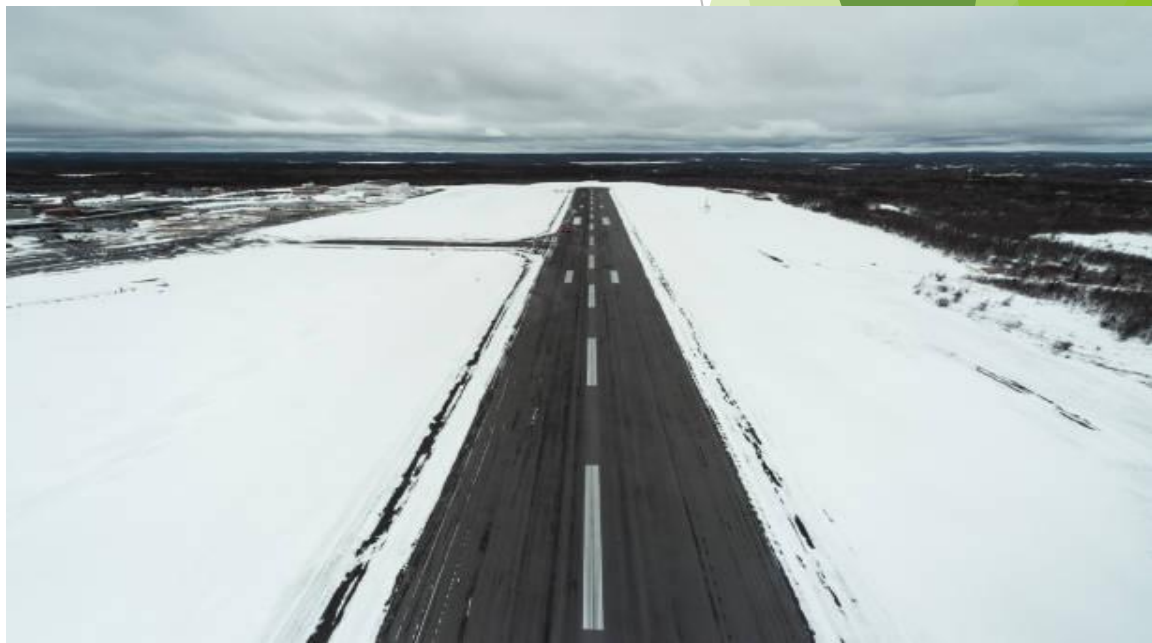
- BTL encompasses 1,260 acres
- 3 runways
  - 10,004’ primary, 4,100’ parallel, and 4,835’ crosswind
- Over 6 miles of taxiways
- Over 2.4 million sq. ft. of ramp space
- 94,659 operations in 2021

Airport Snow Removal

- Primary tenants include
  - Western Michigan University College of Aviation
  - Duncan Aviation
  - WACO Aircraft Company
  - 110th Wing Michigan Air National Guard
  - FAA Flight Inspection Field Office

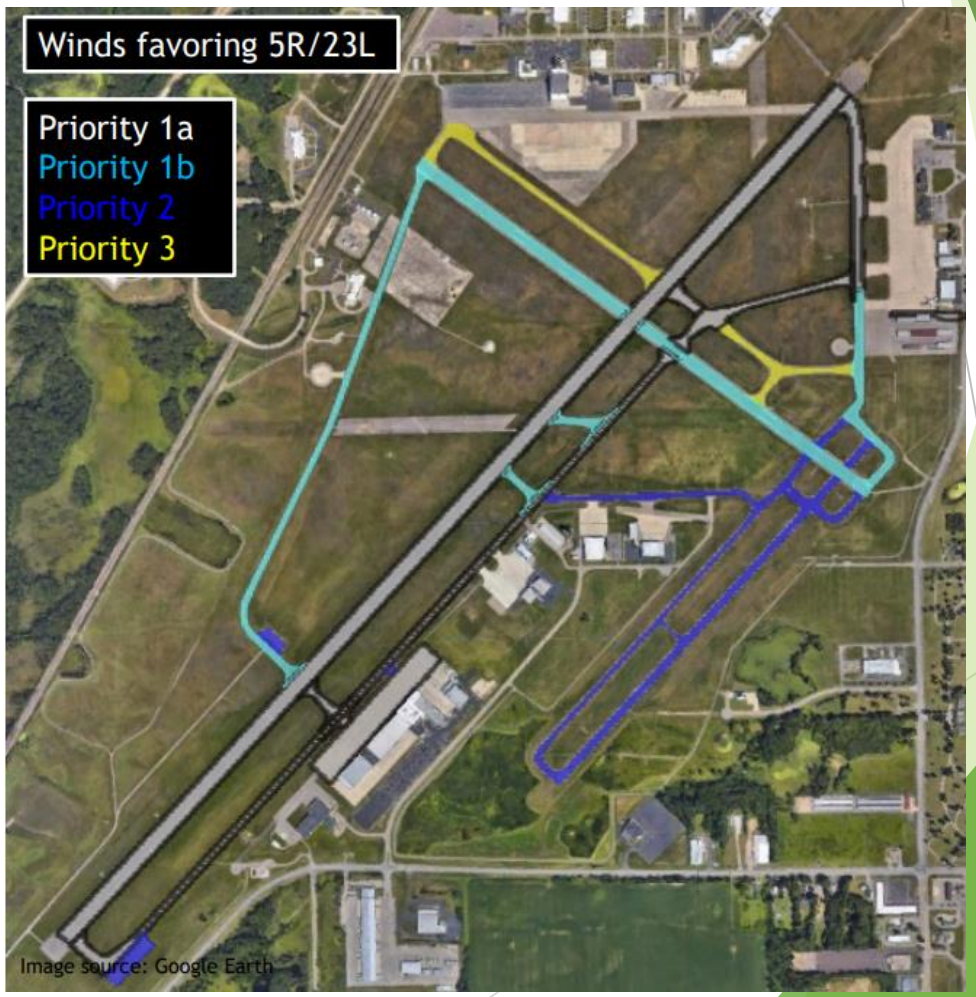
Airport Snow Removal

- Airport Snow and Ice Control Plan
  - FAA approved document that explains how the airport will remove snow and ice from runways, taxiways and ramps
  - Playbook for how the airport will remove snow
  - Challenges
    - Removing snow while operating the airport
    - Different types of snow and ice
    - Operating during snow and poor visibility



Pre-Season Snow and Ice Control Committee Meeting

- The airport met with tenants Tuesday October 26
- Explain current procedures any changes to the ASICP
- Winter weather forecast
- Discuss any problems from the previous season
- Answer any questions or concerns



Airport Snow Removal Equipment

Airport Snow Removal Equipment

Airport Snow Removal Equipment

Airport Snow Removal Equipment

BTL
BATTLE CREEK
EXECUTIVE AIRPORT
AT KELLOGG FIELD

CITY OF Battle Creek MICHIGAN

Ordinance NO. 13-2022

A proposed Ordinance to rezone 175 College Street (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

BATTLE CREEK, MICHIGAN - 11/1/2022

The City of Battle Creek Ordains:

Section 1. An ordinance to rezone the parcel listed below from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Address: 175 College Street:
Parcel #: 9730-00-052-0
Legal Description: WILLIS ADD LOTS 35 THRU 42, ALSO 8.25 FT OF VAC ALLEY ON W

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinance in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A proposed Ordinance to rezone 175 College Street (Parcel # 9730-00-052-0) from T-3 Neighborhood

Commercial District to T-4 Downtown Commercial District.

BUDGETARY CONSIDERATIONS

There would be no financial impact on the City budget.

HISTORY, BACKGROUND and DISCUSSION

The subject property of the proposed rezone (175 College St.) is situated along the west side of College Street approximately 220 feet to the south of the intersection of College Street and Emmett Street W. The property is currently zoned T-3 Neighborhood Commercial District, with the applicant seeking a rezoning of the property to T-4 Downtown Commercial.

The parcel is flanked to the east across College St. and to the south by T-3 Neighborhood Commercial, and to the west and north by MFR Multiple-Family Residential. This area of the City is fairly unique given the large diversity of zoning classifications within a relatively small geographic area. The area, while acting as a bit of a transition area from downtown commercial to single/two-family residential, houses a number of healthcare facilities, as well as those devoted to care for the aged.

The property is owned by the Calhoun County Mental Health Authority and is operated by Summit Pointe. The property features 528 feet of frontage along College Street, and is 140.25 feet deep, for a total lot area of 74,052 sq. ft. The property consists of a single two-story building with a basement, totaling 38,057 sq. ft. The building on the site was constructed in 1994.

Prior to the 2020 rewrite of the Zoning Ordinance and Map, the subject parcel was zoned O-1 Office District. The O-1 Office District allowed for general and professional offices, including medical offices, attorney's offices, engineers' offices, insurance agencies, architects' offices and similar uses. These uses under previous ordinances were not restricted in terms of the square footage of the use.

As a result of the 2020 Zoning Ordinance and Map rewrite, the parcel became zoned T-3 Neighborhood Commercial. While the T-3 district does allow for medical and dental clinics, such clinics are restricted to less than 5,000 sq. ft. as a permitted use by right, and less than 20,000 sq. ft. as a special use. As such, at the time of the Zoning Map update this property became a legal nonconformity, as the square footage of the building within which the use is conducted (38,057 sq. ft.) exceeds the maximum square footage by right (5,000 sq. ft.) and by special use permit (20,000 sq. ft.). Therefore, the building at 175 College Street is no longer permitted to be altered or expanded under its current zoning classification.

The owner of the property applied for a building permit during the month of September 2022 to add a 1,663 sq. ft. addition onto the north end of the building to accommodate a pharmacy for use by patients of the clinic. As the use on the property is nonconforming due to the square footage of the space it occupies, no expansion of or alteration to the building may be permitted without pursuing one of two options:

A. Seeking a use variance from the Zoning Board of Appeals.

B. Seeking a rezoning to a classification which allows for the continued use of the property as a medical clinic while meeting current zoning requirements, and thus operating in a legally conforming fashion. A legal-conforming use which proposes a building addition that meets all of the dimensional requirements of the underlying zoning district would be eligible to receive a building permit to alter or enlarge the structure.

The applicant elected to seek a rezoning of the property to a more appropriate classification (T-4 Downtown Commercial District), as a rezoning would both allow for the current proposed project to receive permits as well as allow for any future alterations to be permitted without the potential need for further variances or other approvals in the future.

DISCUSSION OF THE ISSUE

POSITIONS

The Planning Commission held a public hearing on October 26, 2022. The Planning Commission, with a vote of 8-0, recommends to the City Commission approval of the rezoning request with the following findings:

- The Land Use Plan map in the adopted 2018 Master Plan identifies the subject property as "Neighborhood Commercial," which corresponds with the current T-3 Neighborhood Commercial District zoning classification. However, in accordance with the provisions of Section 1281.01(D.1), conditions associated with the subject property and in the vicinity warrant a change in zoning classification to more accurately reflect the current (and likely future) use of the property. While conditions in the area have not changed since the adoption of the 2018 Master Plan per se, the proposed rezoning would help to remedy what may have been an oversight in the drafting of the 2018 Land Use Plan, and subsequently the 2020 rewrite of the Zoning Ordinance and Zoning Map. An amendment to the Land Use Plan is not necessary in relation to this proposed rezoning, as precedent exists within the City for a zoning classification of T-4 Downtown Commercial District in conjunction with the Land Use Plan designation of "Neighborhood Commercial."
- The subject property is and has been home to a medical clinic of greater than 20,000 sq. ft., both currently and prior to the 2020 rewrite of the Zoning Ordinance. Prior to the 2020 rewrite, the subject property held a zoning classification of O-1 Office, which allowed for medical practices without any size restrictions. The proposed rezoning from T-3 Neighborhood Commercial to T-4 Downtown Commercial would return the subject parcel to its previous legal conforming status, thus allowing for alteration and expansion of the building within the dimensional and use requirements of the T-4 district as needed.
- The proposed rezoning would not negatively impact those properties within the immediate vicinity of the subject property. Current uses in the area have long since been established, and a substantial buffer of T-3 Neighborhood Commercial District zoning exists between the subject property and the single-family neighborhood to the east. Surrounding uses included parking lots directly adjacent to the north and south, a sole single-family use across College Street to the east along with vacant properties and various commercial uses, and a large institutional multi-family use immediately adjacent to the west. The proposed rezoning would reinstate the subject property as legal-conforming, and would allow for the proposed 1663 sq. ft. addition to the north portion of the building to house a pharmacy intended to accommodate patients of the clinic. The proposed building addition will be addressed as part of a special use permit request, as a separate item.

ATTACHMENTS:

File Name	Description
1._175_College_St_Rezoning_Staff_Report.pdf	#Z-03-22 Staff Report Rezone 175 College Street
2._Rezoning_Application.pdf	Z-03-22 175 College Street Rezoning Application
175_College_St_Zoning_and_Land_Use_Maps.pdf	175 College St Zoning and Land Use Maps

Battle Creek City Planning Commission

Staff report for the October 26, 2022 regular meeting

To: Planning Commissioners

From: Travis Sullivan, Planner

Subject: Petition Z-03-22, request for rezoning of 175 College St. (Parcel # 9730-00-052-0) currently zoned as T-3 Neighborhood Commercial District to T-4 Downtown Commercial District pursuant to Sections 1240.14 and 1281.01 of the zoning code.

Summary

Petition from Summit Pointe requesting a rezoning of 175 College St. (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Background/Property Information

The subject property of the proposed rezone (175 College St.) is situated along the west side of College St. approximately 220 feet to the south of the intersection of College St. and Emmett St. W. The property is currently zoned T-3 Neighborhood Commercial District, with the applicant seeking a rezoning of the property to T-4 Downtown Commercial.

The property is owned by the Calhoun County Mental Health Authority and is operated by Summit Pointe. The property features 528 feet of frontage along College St., and is 140.25 feet deep, for a total lot area of 74,052 sq. ft. The property consists of a single two-story building with a basement, totaling 38,057 sq. ft. The building on the site was constructed in 1994.

Prior to the 2020 rewrite of the Zoning Ordinance and Map, the subject parcel was zoned O-1 Office District. The O-1 district allowed for general and professional offices, including medical offices, attorney's offices, engineers' offices, insurance agencies, architects' offices and similar uses. These uses under previous ordinances were not restricted in terms of the square footage of the use.

As a result of the 2020 Zoning Ordinance and Map rewrite, the parcel became zoned T-3 Neighborhood Commercial. While the T-3 district does allow for medical and dental clinics, such clinics are restricted to less than 5,000 sq. ft. as a permitted use by right, and less than 20,000 sq. ft. as a special use. As such, at the time of the Zoning Map update this property became a legal-nonconformity, as the square footage of the building within which the use is conducted (38,057 sq. ft.) exceeds the maximum square footage by right (5,000 sq. ft.) and by special use permit (20,000 sq. ft.).

The owner of the property applied for a building permit during the month of September 2022 to add a 1,663 sq. ft. addition onto the north end of the building to accommodate a pharmacy for use by patients of the clinic. As the use on the property is nonconforming due to the square footage of the space it occupies, no expansion of or alteration to the building may be permitted without pursuing one of two options:

A. Seeking a use variance from the Zoning Board of Appeals.

B. Seeking a rezoning to a classification which allows for the continued use of the property as a medical clinic while meeting current zoning requirements, and thus operating in a legally-conforming fashion. A legal-conforming use which proposes a building addition that meets all of the dimensional requirements of the underlying zoning district would be eligible to receive a building permit to alter or enlarge the structure.

The applicant has elected to seek a rezoning of the property to a more appropriate classification (T-4 Downtown Commercial District), as a rezoning would both allow for the current proposed project to receive permits as well as allow for any future alterations to be permitted without the potential need for further variances or other approvals in the future.

The following figures illustrate the previous zoning of property and surrounding area prior to the 2020 ordinance rewrite, as well as the adopted 2018 Land Use Plan (part of the adopted 2018 Master Plan), as well as the current zoning of the subject parcel and the surrounding area.

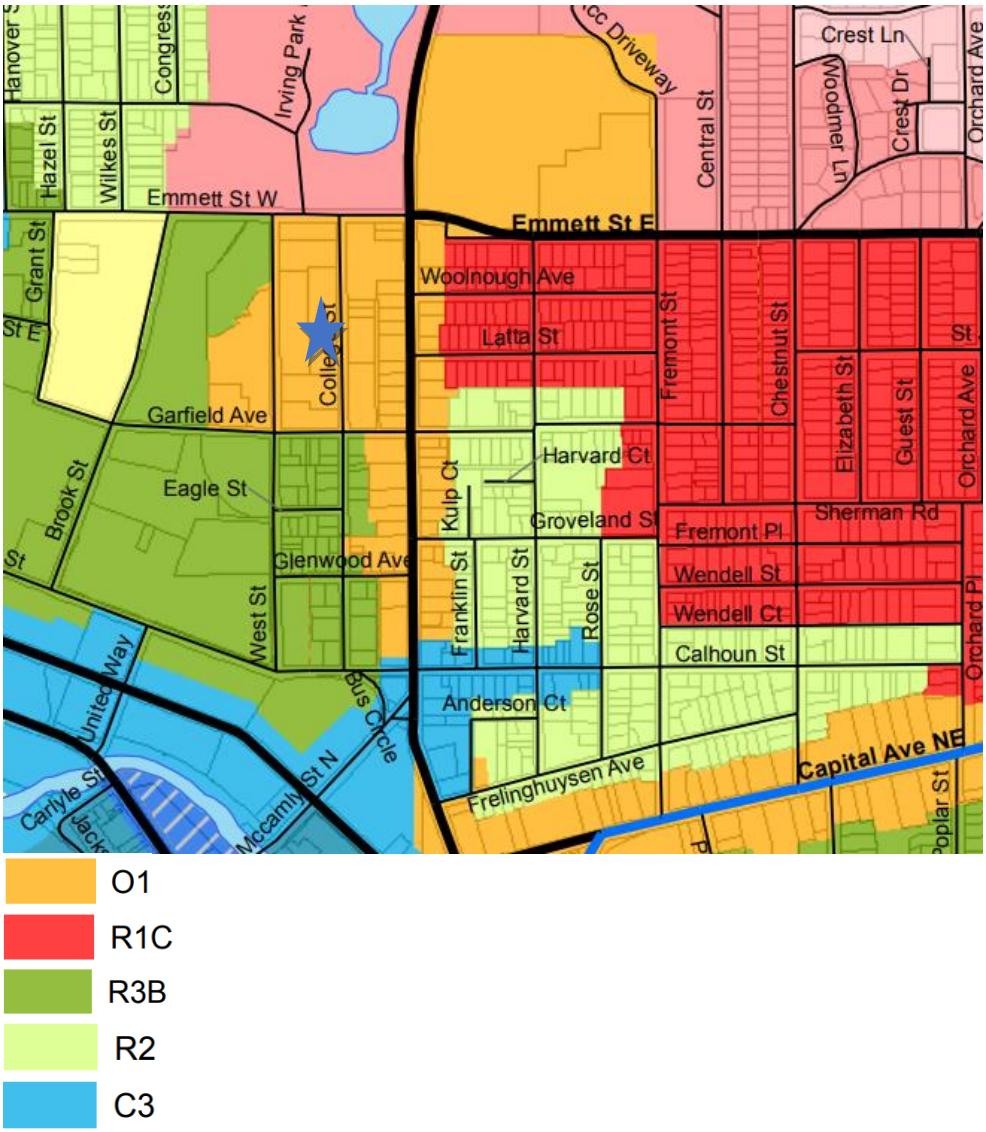


Figure 1: Previous zoning map effective until November 2020. Blue star indicates the location of the subject parcel.

Figure 2: Adopted Land Use Plan Map (2018 Master Plan). Subject property along College St. lies within the Neighborhood Commercial land use classification.

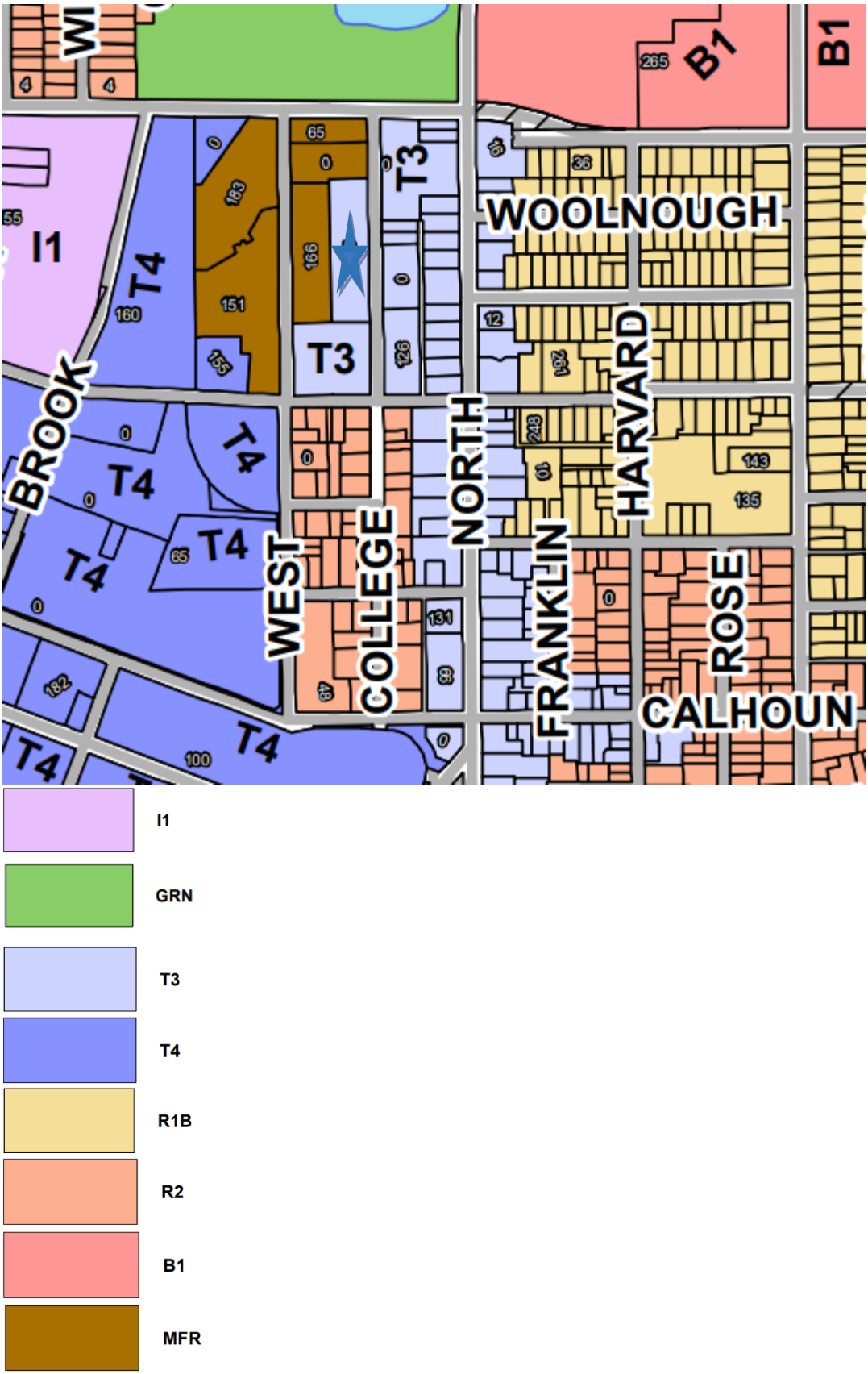


Figure 3: Current zoning map. Blue star indicates subject parcel proposed to be rezoned to T-4 Downtown Commercial.

Applicable Zoning Ordinance Provisions

The subject parcel is currently zoned T-3 Neighborhood Commercial District. The parcel is flanked to the east across College St. and to the south by T-3 Neighborhood Commercial, and to the west and north by MFR Multiple-Family Residential. This area of the City is fairly unique given the large diversity of zoning classifications within a relatively small geographic area. The area, while acting as a bit of a transition area from downtown commercial to single/two-family residential, houses a number of healthcare facilities, as well as those devoted to care for the aged.

As was discussed, the subject parcel's zoning as T-3 Neighborhood Commercial renders it legal-nonconforming, as the T-3 district contains a number of uses which are restricted by limits to the square footage of the use. To clarify, with regard to uses classified by square footage, Section 1240.02 states the following:

> *"When a use is classified by square footage, the square footage listed refers to the gross square footage of a building and not the square footage of an individual tenant unit."*

With this in mind, the building at 175 College St. is no longer permitted to be altered or expanded under its current zoning classification.

As staff reviewed this item in preparation for this report, it became clear that, while currently zoned T-3 Neighborhood Commercial, a rezoning to T-4 Downtown Commercial would likely be much more appropriate, given the size the subject parcel and its surrounding uses. Additionally, prior to the 2020 rewrite of the Zoning Ordinance, this property was zoned O-1 Office, and was NOT subjected to size limitations with regard to its use as a medical practice. When taking on a complete rewrite of the Zoning Ordinance and Zoning Map, it is difficult (if not impossible) to assess with 100% accuracy each property's size, building size and current use when attempting to assign zoning districts aligned with the adopted Land Use Plan.

It appears to current staff as though an effort was made to provide a bit of a buffer between the established single-family neighborhood to the east of North Ave. and more intense uses immediately to the west of the subject parcel. Under normal circumstances, the T-3 Neighborhood Commercial District may have been appropriate. The stated purpose of the T-3 district is as follows:

> *"The T-3 Neighborhood Commercial District is intended to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve."*

Typical uses accommodated by the T-3 district throughout the City include small dine-in and carryout restaurants, corner and grocery stores, personal service establishments, small professional offices and small medical and dental practices. The specific medical practice use employed at the subject property is very specific in nature, and requires more space to provide the necessary services to its patients. The property, given its size and proximity to other medical-type uses and to Bronson Hospital, is ideal for the use which it houses (Calhoun County Community Mental Health).

Given these factors, as well as the subject parcel's close proximity to the downtown area and other T-4 zoned properties to the west, it is staff's opinion that a rezone of the property from T-3 Neighborhood Commercial to T-4 Downtown Commercial may be appropriate to provide relief to the applicant from the size restrictions which were not in place prior to the 2020 Zoning Ordinance rewrite. A comparison of the uses permitted within the T-3 district and the T-4 district are displayed in Figure 4 as follows:

TABLE 2: ZONING DISTRICT **USE** COMPARISON **PERMITTED USES IN T-3 AND T-4**	
T-3 Neighborhood Commercial	**T-4 Downtown Commercial**
Banquet and Meeting Hall < 100 capacity	Banquet and Meeting Hall < 100 capacity
Bookstore	Bookstore
Carry-Out Restaurant	Carry-Out Restaurant
Catering Businesses	Catering Businesses
Essential Services	Essential Services
Financial Institutions	Financial Institutions
Full-Service Restaurant	Full-Service Restaurant
Government/Public Uses	Government/Public Uses
Indoor Recreation	Indoor Recreation
Limited Service Restaurant	Limited Service Restaurant
Medical or Dental Clinic < 5,000 sf	Medical or Dental Clinic < 20,000 sf
Multi-Family Dwelling Units	Multi-Family Dwelling Units
Office < 5,000 sf	Office < 5,000 sf
Outdoor Recreation / Public	Outdoor Recreation / Public
Personal Service Establishments	Personal Service Establishments
Public K-12 Schools	Public K-12 Schools
Religious Institutions	Religious Institutions
Retail Sales < 5,000 sf	Retail Sales < 5,000 sf
Single Family Dwelling Unit Attached	Single Family Dwelling Unit Attached
Single Family Dwelling Unit Detached	Single Family Dwelling Unit Detached
Two-Family Dwelling Units	Two-Family Dwelling Units
TABLE 2 (continued)	
ZONING DISTRICT USE COMPARISON: **SPECIAL USES T-3 / PERMITTED USES T-4**	
T-3 Neighborhood Commercial	**T-4 Downtown Commercial**
Artisan / Maker Space	Artisan / Maker Space
Bar, Tavern, or Saloon	Bar, Tavern, or Saloon
Brewpub	Brewpub
Convalescent Home, Nursing Home, or Home for the Aged	Convalescent Home, Nursing Home, or Home for the Aged
Distillery, Winery – w/ or w/o food	Distillery, Winery – w/ or w/o food
Hotel	Hotel
Marihuana Medical Provisioning	Marihuana Medical Provisioning
Marihuana Adult Use	Marihuana Adult Use
Medical or Dental < 20,000 sf	Medical or Dental 5,000-20,000 sf
Microbrewery	Microbrewery
Motel	Motel
Nightclub	Nightclub
Office 5,000 to 17,000 sf	Office 5,000 to 17,000 sf
Retail Sales 5,000-17,000 sf	Retail Sales 5,000-17,000 sf
ZONING DISTRICT USE COMPARISON: **SPECIAL USES BOTH T-3 AND T-4**	
Adaptive Reuse	Adaptive Reuse
Farmer's Market	Farmer's Market
Funeral Homes, Mortuaries, Crematoriums	Funeral Homes, Mortuaries, Crematoriums
Institutions of Higher Education	Institutions of Higher Education

Private K-12 Schools	Private K-12 Schools
Self-Storage Facilities	Self-Storage Facilities
State Licensed Child Care Group Home 7-12	State Licensed Child Care Group Home 7-12
ZONING DISTRICT USE COMPARISON: **USES NOT SHARED BY T-3 & T-4 (**SPECIAL or PERMIT.)	
Bed and Breakfast	Banquet and Meeting Hall > 100
Community Garden	Office > 17,000 sf
Personal-Scale Solar Energy Facility	Drive-In Restaurant
Personal-Scale Wind Energy Facility	Drive-Thru Restaurant
Cemetery	Hospital > 20,000 sq. ft.
Pawn Broker	Independent Senior Living w/ Services
Marihuana: Adult Use Microbusiness	Parking as a Principal Use
Marinas	Research and Development
	Retail Sales > 17,000 sf

Figure 4: T-3 and T-4 use comparison.

Figures 5 and 6 below display Sections 1240.13 and 1240.14 of the Zoning Ordinance (T-3 Neighborhood Commercial District and T-4 Downtown Commercial District).

SECTION 1240.13 T-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

A. PURPOSE

The T-3 Neighborhood Commercial District is intended to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.

B. PERMITTED USES

- Banquet and Meeting Hall < 100 capacity (*Section 1251.07*)
- Bed and Breakfast (*Section 1251.08*)
- Bookstore
- Carry-Out Restaurant
- Catering Businesses
- Community Garden
- Essential Services
- Financial Institutions
- Full-Service Restaurant
- Government/Public Uses (*Section 1251.15*)
- Indoor Recreation
- Limited Service Restaurant
- Multi-Family Dwelling Units (*Section 1251.32*)
- Office < 5,000 s.f.
- Outdoor Recreation/ Public (*Section 1251.35*)
- Personal-Scale Solar Energy Facility (*Section 1251.36*)
- Personal-Scale Wind Energy Facility (*Section 1251.49*)
- Personal Service Establishments (*Section 1251.38*)
- Public K-12 Schools
- Religious Institutions (*Section 1251.38*)
- Retail Sales < 5,000 s.f.
- Single Family Dwelling Unit Attached
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units

C. SPECIAL LAND USES

- Adaptive Reuse (*Section 1250.04 D*)
- Artisan/Maker Space
- Bar, Tavern, or Saloon
- Brewpub
- Cemetery
- Convalescent Home, Nursing Home, or Home for the Aged (*Section 1251.12*)
- Distillery, Winery - w/ or w/o food
- Farmers' Market (*Section 1251.14*)
- Funeral Homes, Mortuaries, and Crematoriums
- Hotel
- Institutions of Higher Education
- Pawn Broker
- Private K-12 Schools
- Marihuana: Medical Marihuana Provisioning Center (*Section 1251.23*) (*Section 1251.29*)
- Marihuana: Adult-Use Marihuana Retailers (*Section 1251.23*) (*Section 1251.24*)
- Marihuana: Adult-Use Marihuana Microbusiness (*Section 1251.23*) (*Section 1251.25*)
- Marinas
- Medical or Dental Clinic < 20,000 s.f.
- Microbrewery
- Motel (*Section 1251.19*)
- Nightclub
- Office 5,000 to 17,000 s.f.
- Retail Sales 5,000 to 17,000 s.f.
- Self-Storage Facilities (*Section 1251.42*)
- State Licensed Child Care Group Home, 7-12 Children (*Section 1251.44*)

Refer to *Section 1230.06* for definitions of uses and refer to *Chapter 1251* for development standards for specific uses. Refer to *Section 1250.04*, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

D. ACCESSORY USES

- Accessory Buildings (*Section 1260.01*)
- Accessory Dwelling Unit
- Farmers Market (*Section 1251.14*)
- State Licensed Child Care Family Home, 1-6 Children (*Section 1251.43*)

E. DIMENSION REGULATIONS

Lot Standards	***T-3***
Minimum Lot Area (sq. ft.)	2,900 *(D)*
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	40
Front Yard Setback (ft.)	30
Rear Yard Setback (ft.)	20 *H)*
Side Yard Setback (ft.)	*(G)*
Maximum Building Height	30 feet, 3 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

Figure 5: Section 1240.13 T-3 Neighborhood Commercial District

SECTION 1240.14 T-4 DOWNTOWN COMMERCIAL DISTRICT.

A. PURPOSE

The T-4 Downtown Commercial is established to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

B. PERMITTED USES

- Artisan/Maker Space
- Banquet and Meeting Hall < 100 capacity (*Section 1251.07*)
- Banquet and Meeting Hall > 100 capacity (*Section 1251.07*)
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- Carry-Out Restaurant
- Catering Businesses
- Convalescent Home, Nursing Home, or Home for the Aged (*Section 1251.12*)
- Distillery, Winery - w/ or w/o food
- Essential Services
- Financial Institutions
- Full-Service Restaurant
- Government/Public Uses (*Section 1251.15*)
- Hotel (*Section 1251.19*)
- Indoor Recreation
- Limited Service Restaurant
- Marihuana: Adult-Use Marihuana Retailers (*Section 1251.23*) (*Section 1251.24*)
- Marihuana: Medical Marihuana Provisioning Center (*Section 1251.23*) (*Section 1251.29*)
- Medical or Dental Clinic < 20,000 s.f.
- Microbrewery (*Section 1251.34*)
- Motel (*Section 1251.19*)
- Multi-Family Dwelling Units (*Section 1251.32*)
- Nightclub
- Office < 5,000 s.f.
- Office 5,000 to 17,000 s.f.
- Office > 17,000 s.f.
- Outdoor Recreation/ Public (*Section 1251.35*)
- Personal Service Establishments (*Section 1251.38*)
- Public K-12 Schools
- Religious Institutions (*Section 1251.38*)
- Retail Sales < 5,000 s.f.
- Retail Sales 5,000 to 17,000 s.f.
- Single Family Dwelling Unit Attached
- Two-Family Dwelling Units

C. SPECIAL LAND USES

- Adaptive Reuse (*Section 1250.04 D*)
- Drive-In Restaurant
- Drive-Thru Restaurant (*Section 1251.13*)
- Farmers' Market (*Section 1251.14*)
- Funeral Homes, Mortuaries, and Crematoriums
- Hospital > 20,000 s.f. (*Section 1251.18*)
- Independent Senior Living with Services (*Section 1251.20*)
- Institutions of Higher Education
- Private K-12 Schools
- Parking as a Principal Use
- Research and Development
- Retail Sales > 17,000 s.f.
- Self-Storage Facilities (*Section 1251.42*)
- State Licensed Child Care Group Home, 7-12 Children (*Section 1251.44*)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

D. EXISTING USES

- Single Family Dwelling Unit Detached

E. ACCESSORY USES

- Accessory Buildings (Section 1260.01)
- Accessory Dwelling Unit
- Farmers Market (Section 1251.14)
- State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)

F. DIMENSION REGULATIONS

Lot Standards	***T-4***
Minimum Lot Area (sq. ft.)	2,900 *(D)*
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	NL
Rear Yard Setback (ft.)	NL
Side Yard Setback (ft.)	NL
Maximum Building Height	NL

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

Figure 6: Section 1240.14 T-4 Downtown Commercial District

Of additional importance, the Planning Commission will want to note the existence of medical and dental clinics less than 20,000 sq. ft. as a permitted use by right in the T-4 Downtown Commercial District, but the absence of a special use allowing for these clinics greater than 20,000 sq. ft.

When looking at both the T-3 and T-4 use regulations, it is standard that when a use with size limitations is permitted by right within a district, that same use of a larger size is included under the list of special uses. The absence of the medical and dental clinic use of greater than 20,000 sq. ft. as a special use within the T-4 district seems unusual given this, as well as the fact that the district allows for hospitals of greater than 20,000 sq. ft. as a special use (hospitals being a generally more intensive use than a medical or dental clinic). As such, and in accordance with Section 1240.21(F), the Zoning Administrator has made a determination that medical and dental clinics be included as special uses within the T-4 Downtown Commercial District, as this section of the ordinance gives the Administrator the authority to "classify a use which is not specifically mentioned in the Zoning Code, along with a comparable permitted or prohibited use for the purpose of the use regulations in any district."

It is the position of the Zoning Administrator that the exclusion of a category for medical and dental clinics of greater than 20,000 sq. ft. as a special use within the T-4 Downtown Commercial District was likely an oversight, especially given the fact that a similar but more intense use (hospitals of greater than 20,000 sq. ft.) are an included special use.

Additionally, Section 1281.01(D) provides the standards for review regarding Zoning Ordinance and Zoning Map amendments. These standards are as follows:

D. Standards of Review for Amendments. In considering any petition for an amendment to the text of this Ordinance or to the Zoning Map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.

2) Consistency with the basic intent and purpose of this Zoning Ordinance.

3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

4) The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

5) That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.

6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

Master Plan

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will "guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare."

The master plan focuses on desired land use patterns for typically a twenty year time frame, and the enabling legislation and case law require that zoning be based upon this master plan. The City of

Battle Creek Master Plan was adopted in 2018, and includes a Land Use Plan map, which is intended to guide in decision making with regard to planning and future land use patterns in accordance with the goals and vision articulated in the Master Plan.

As was discussed previously (and is viewable in the previously addressed Figure 2), the subject parcel proposed for rezoning was included in the "Neighborhood Commercial" category of the adopted 2018 Land Use Plan. While the intent may have been to provide a buffer between the "Community Services" and "Industrial" categories to the west and the single-family neighborhood to the east, it is important to note that that a significant buffer already exists between College St. and North St., with the entire area being zoned T-3 Neighborhood Commercial. Additionally, it is possible that the Land Use Plan simply did not contemplate the size and nature of the building constructed upon the subject parcel, AND/OR did not contemplate the fact that the future T-3 Neighborhood Commercial District would include size restrictions upon a number of uses. With regard to either of these potential factors, it appears to staff as though this may be a case of a simple oversight in not taking into account the nature of the existing building, as well as the potential alternatives to a zoning designation as T-3 Neighborhood Commercial.

Of final note, staff would like to point out another portion of the City which was identified as "Neighborhood Commercial" on the Future Land Use map, but zoned T-4 Downtown Commercial during the 2020 Zoning Ordinance rewrite. The area is bounded by the Kalamazoo River to the north and to east, as well as S Washington Ave. to the east, the railroad to the south, and S Kendall St. to the west. This area includes a number of commercial uses more intense in nature (including LifeCare Ambulance, the Battle Creek Farm Bureau, RB Christian Ironworks and Tiger's Towing) than would be typical of the T-3 Neighborhood Commercial District. Staff finds that similar conditions are true of the subject site at 175 College St. and that precedent would exist for a rezoning of the site from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Figure 7 displays the Land Use Plan map for this area of the City, and Figure 8 displays the current zoning map.

Figure 7: Land Use Plan map for the area bounded by the Kalamazoo River to the north and east, S Washington Ave. to the east, the railroad to the south and S Kendall St. to the west.

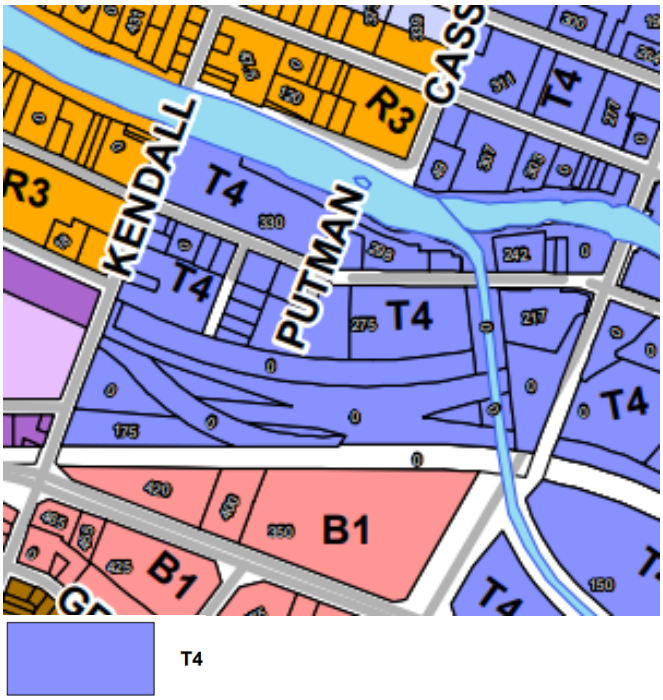


Figure 8: Current Zoning Map for the area bounded by the Kalamazoo River to the north and east, S Washington Ave. to the east, the railroad to the south and S Kendall St. to the west.

Request for Rezoning

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City. The subject parcel at 175 College St. previously enjoyed a zoning classification of O-1 Office, which did not include limitations on the size of their medical clinic use. As such, the building constructed in 1994 was legally-conforming, and could be altered or expanded in accordance with the dimensional and use regulations of the underlying zoning district.

When the property was rezoned to T-3 Neighborhood Commercial District during the 2020 rewrite of the Zoning Ordinance, the use of the property itself became a legal-nonconformity due to the size of the building the medical practice is operated in.

Precedent exists from a standpoint of the Land Use Plan in relation to the T-4 Downtown Commercial District to support this requested rezoning from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. Conditions on the property existing at the time of the 2020 Zoning Ordinance rewrite as well as the parcel's relationship to surrounding properties further supports such a rezoning, which would allow for unencumbered alterations and expansion to the building should a special use permit be approved in accordance with the T-4 Downtown Commercial District regulations.

Public Hearing and Notice Requirements

This request has been scheduled for the October 26, 2022 Planning Commission meeting, with notice of the hearing published in the October 6, 2022 edition of the Battle Creek Shopper. Appropriate

notices we also mailed to all property owners within a 300-foot radius of the subject parcels no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

Neighborhood Outreach

Neighborhood Planning Councils (NPCs) are currently in the process of reorganizing and establishing membership and regular meeting dates. As the NPCs are not currently fully functional, and due to the urgency to assist the Calhoun County Mental Health Authority in their pursuit of a special use permit to allow for expansion of the building, staff has not received any comments from the neighborhood.

Analysis and Recommendation

As this is a rezoning request, consideration should be given to the existing zoning district and the potential effect on the neighborhood, the proposed uses allowed by the new zoning as it relates to the surrounding zoning and land uses, existing infrastructure, and consistency with the Master Plan. Staff findings include the following:

- The Land Use Plan map in the adopted 2018 Master Plan identifies the subject property as "Neighborhood Commercial," which corresponds with the current T-3 Neighborhood Commercial District zoning classification. However, in accordance with the provisions of Section 1281.01(D.1), staff finds that conditions associated with the subject property and in the vicinity warrant a change in zoning classification to more accurately reflect the current (and likely future) use of the property. While conditions in the area have not changed since the adoption of the 2018 Master Plan per se, the proposed rezoning would help to remedy what may have been an oversight in the drafting of the 2018 Land Use Plan, and subsequently the 2020 rewrite of the Zoning Ordinance and Zoning Map. Staff does not feel that a corresponding amendment to the Land Use Plan is necessary in relation to this proposed rezoning, as precedent exists within the City for a zoning classification of T-4 Downtown Commercial District in conjunction with the Land Use Plan designation of "Neighborhood Commercial."
- The subject property is and has been home to a medical clinic of greater than 20,000 sq. ft., both currently and prior to the 2020 rewrite of the Zoning Ordinance. Prior to the 2020 rewrite, the subject property held a zoning classification of O-1 Office, which allowed for medical practices without any size restrictions. The proposed rezoning from T-3 Neighborhood Commercial to T-4 Downtown Commercial would return the subject parcel to its previous legal-conforming status, thus allowing for alteration and expansion of the building within the dimensional and use requirements of the T-4 district as needed.
- Staff does not find that the proposed rezoning would negatively impact those properties within the immediate vicinity of the subject property. Current uses in the area have long since been established, and a substantial buffer of T-3 Neighborhood Commercial District zoning exists between the subject property and the single-family neighborhood to the east. Surrounding uses included parking lots directly adjacent to the north and south, a sole single-family use across College St. to the east along with vacant properties and various commercial uses, and a large institutional multi-family use immediately adjacent to the west. The proposed rezoning would reinstate the subject property as legal-conforming, and would allow for the proposed 1663 sq. ft. addition to the north portion of the building to house a pharmacy intended to accommodate patients of the clinic. The proposed building addition will be addressed as part of a special use permit request, which is included as a separate item on this meeting agenda.

Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-03-22, a request for the rezoning of 175 College St. (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District pursuant to Sections 1240.14 and 1281.01 of the zoning code.

Support Material
Application for Rezoning

RECEIVED
SEP 29 2022
By CB

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

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

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

Petition No. S-16-22

Date Received: 9.29.22

APPLICANT

NAME: SUMMIT POINTE - JEANNIE GOODRICH

ADDRESS: 175 COLLEGE STREET, BATTLE CREEK, MICHIGAN 49037

PHONE: (269) 966-1460 FAX: _____

EMAIL: jgoodrich@summitpointe.org

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: _____

175 COLLEGE STREET, BATTLE CREEK, MICHIGAN 49037

Current use of the property: CURRENTLY BEING USED AS A 24-HOUR MENTAL HEALTH SERVICES URGENT CARE, OFFICES FOR SUMMIT POINTE STAFF, AND OUTPATIENT MENTAL HEALTH PRACTICE.

List existing structures on the property, size, and the approximate age of each. _____

2-STORY BUILDING WITH BASEMENT - TOTAL SQUARE FOOTAGE OF 38,057. 1994 BUILDING - 21,485 SQUARE FEET. 2007 BUILDING - 16,572 SQUARE FEET.

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. NONE KNOWN

FOR STRAIGHT REZONING REQUESTS ONLY:

Current Zoning of Property: T-3 NEIGHBORHOOD COMMERCIAL

Requested Zoning District: T-4 DOWNTOWN COMMERCIAL

Describe land uses surrounding the subject property and those in the vicinity: HIGH DENSITY RESIDENTIAL, T-3 TO EAST AND SOUTH, OFFICES, PARKING LOTS, AND TO NORTH IS A GREEN DISTRICT/PARK.

Would the rezoning place excess demands on public resources including roads, utilities, public safety, etc.? Explain: NO

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: ADD A 1663 SQUARE FOOT PHARMACY FOR THE EXISTING COMMUNITY MENTAL HEALTH USE THAT WILL OPERATE AS AN ACCESSORY TO THE MAIN OUTPATIENT MNTAL HEALTH PRACTICE (SUMMIT POINTE).

Please list all activities that will take place on the property if the request were approved? 24-HOUR MENTAL HEALTH SERVICE URGENT CARE, PHARMACY INSIDE A CMH, OFFICES FOR SUMMIT POINTE STAFF, AND OUTPATIENT MENTAL HEALTH PRACTICE.

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? APPROXIMATELY 100 FOR SUMMIT POINTE. 6-8 WILL BE ADDED FOR PHARMACY IF APPROVED.

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? CONSTRUCTION OF A 1663 SQUARE FOOT ADDITION TO HOUSE THE PHARMACY PER THE ATTACHED SITE PLAN. NO ADDITIONAL PARKING, FENCING, DRIVEWAYS, OR WATER SERVICE CHANGES ARE PROPOSED.

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: 24-HOURS FOR MENTAL HEALTH URGENT CARE. 8:30 AM TO 6:00 PM FOR PHARMACY, OFFICES, AND OUTPATIENT MENTAL HEALTH PRACTICE.

Explain the basis for which you feel this application should be approved. This change was requested by City Planning Staff in order to have the existing use and the planned additional on-site pharmacy (as an accessory use) more appropriately fit the City zoning ordinance.

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.

CALHOUN COUNTY MENTAL HEALTH AUTHORITY
d/b/a SUMMIT POINTE

Jean M Goodrich	JEAN M. GOODRICH, CEO	SEPTEMBER 29, 2022
(Signature) Name	**(Print Name)**	**Date**

LEGAL DESCRIPTION

175 College Street, Battle Creek, Michigan

Parcel 1:
Lots No. 43, 44, 47, 48 and the vacated alley adjacent thereto, also the North 16.5 feet of Lot No. 49 and the West 1/2 of the vacated alley adjoining on the East, of WILLIS ADDITION TO BATTLE CREEK, according to the Plat thereof recorded in Liber 1 of Plats, on page 15, in the Office of the Register of Deeds for Calhoun County, Michigan.

Parcel 2:
Land situated in the City of Battle Creek, County of Calhoun, State of MI described as:

Parcel 2-A:
The North 16-1/2 feet of Lot No. 38, and all of Lots No. 39, 40, 41, and 42, including The East half of vacated alley adjacent on the West of Willis' Addition, according to the Plat thereof as recorded in Liber 1 of Plats, Page 15, Calhoun County Records.

Parcel 2-B:
Lots 35, 36, the South 49.5 feet of Lot 38, and the South 24.75 feet of Lot 37 of Willis' Addition to Battle Creek, according to the Plat thereof as recorded in Liber 1 of Plats, Page 15, Calhoun County Records. Also including the East 8.25 feet of the vacated alley adjoining on the West.

Parcel 2-C:
The North 41.25 feet of Lot 37, of Willis' Addition to Battle Creek, according to the Plat thereof as recorded in Liber 1 of Plats, Page 15, Calhoun County Records. Also including the East 8.25 feet of the vacated alley adjoining on the West.

The property addresses and tax parcel numbers listed below are provided solely for informational purposes, without warranty as to accuracy or completeness. If the information listed below is inconsistent in any way with the legal descriptions listed above, the legal descriptions listed above shall control.

Property Addresses: College Street, Battle Creek, Michigan (Parcel 1); 175 College Street, Battle Creek, Michigan (Parcel 2)

Tax Parcel Nos.: 9730-00-055-0 (Parcel 1); 9730-00-052-0 (Parcel 2)

ABBOTT, THOMSON, MAULDIN, PARKER & BEER, PLC

018728

DATE : Sep/27/2022
CHE # : 018728
AMOUNT : $1,200.00
ACCOUNT: GENERAL - 3
PAID TO: City of Battle Creek

Re: Rezoning and Special Use Application Fees

CLIENT: 7908 - Summit Pointe
MATTER: 88227908-001

ABBOTT, THOMSON, MAULDIN, PARKER & BEER, PLC
EXPENSE ACCOUNT
405 SOUTH JACKSON STREET
JACKSON, MI 49201
(517) 787-8570

COUNTY NATIONAL BANK 74-269/724
Hillsdale, Michigan 49242

CHECK NO. 018728 018728

One Thousand Two Hundred ********** 00/100

DATE AMOUNT

PAY TO THE ORDER OF

Sep/27/2022 $1,200.00

City of Battle Creek

MP

Re: Rezoning and Special Use Application Fees

⑈018728⑈ ⑆072402694⑆ 5500⑈06073⑈5⑈

The following figures illustrate the previous zoning of property and surrounding area prior to the 2020 ordinance rewrite, as well as the adopted 2018 Land Use Plan (part of the adopted 2018 Master Plan), as well as the current zoning of the subject parcel and the surrounding area. Figure 1: Previous zoning map effective until November 2020. Blue star indicates the location of the subject parcel.

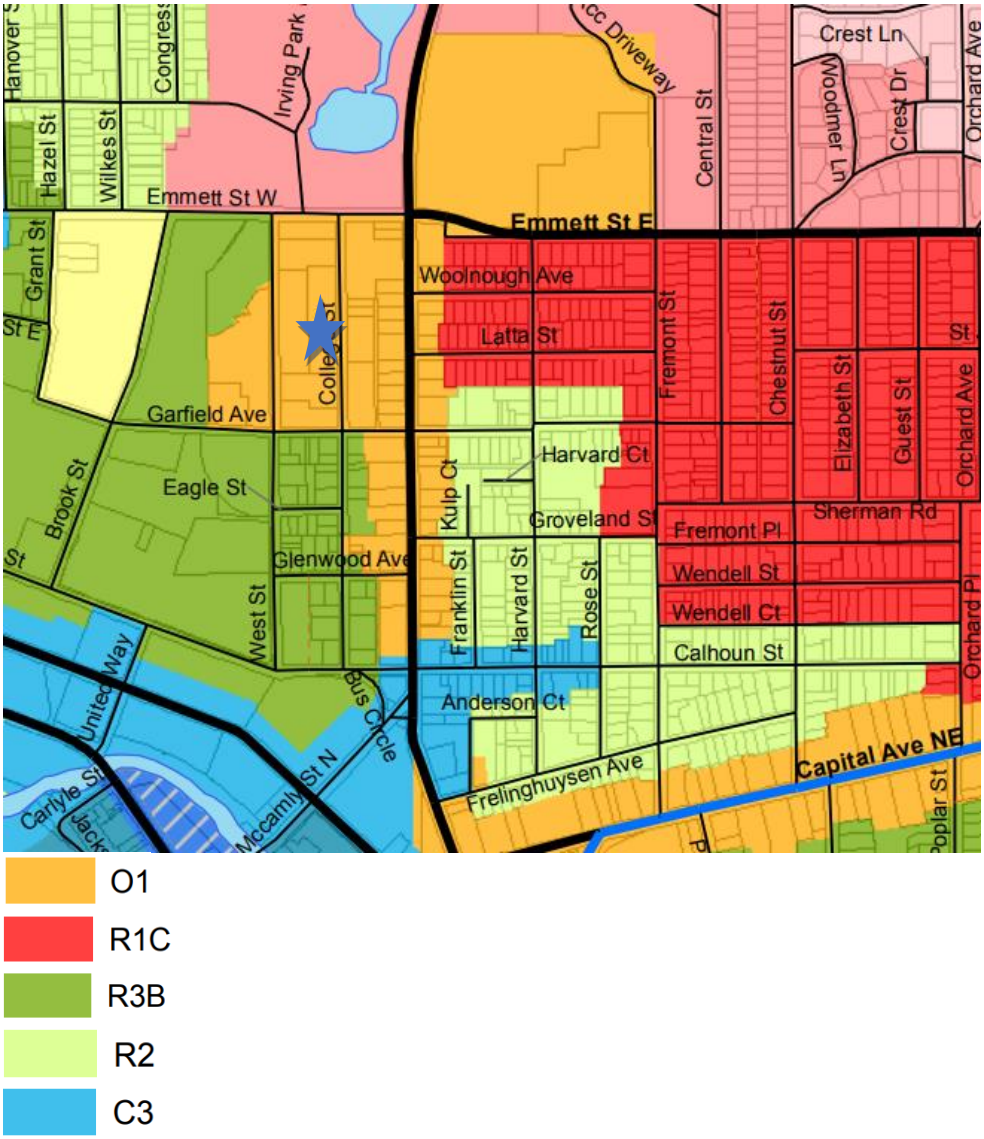


Figure 1: Previous zoning map effective until November 2020. Blue star indicates the location of the subject parcel.

Figure 2: Adopted Land Use Plan Map (2018 Master Plan). Subject property along College St. lies within the Neighborhood Commercial land use classification.

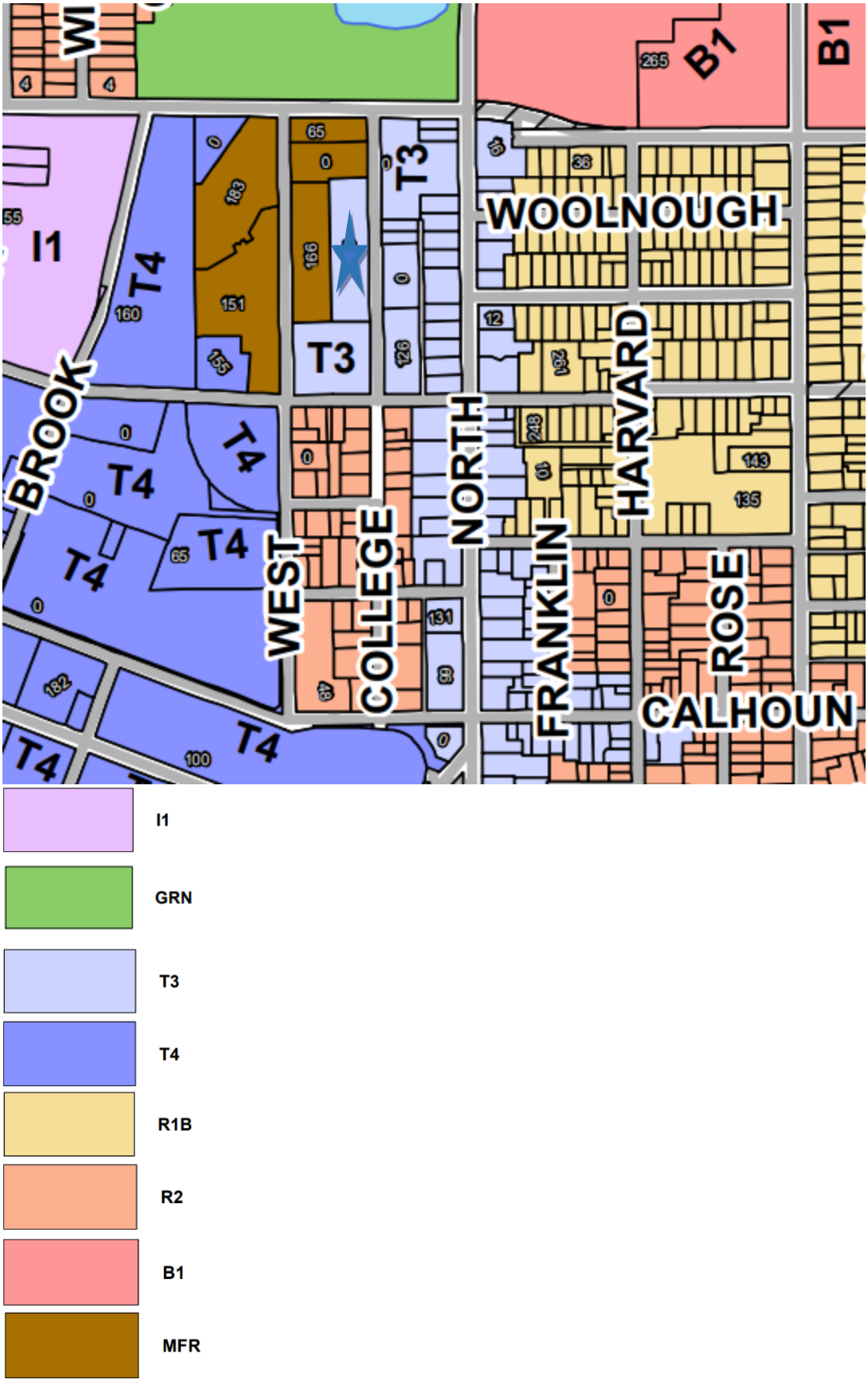


Figure 3: Current zoning map. Blue star indicates subject parcel proposed to be rezoned to T-4 Downtown Commercial.

CITY OF Battle Creek MICHIGAN

Resolution NO. 520

A Resolution seeking to adopt Ordinance 10-2022 to amend Section 02, Article (XVII) of Chapter 212, Rules of Procedure of the Commission, to distinguish Applicant comments and to impose a safety provision; and Section 05 of Chapter 212, to amend the meeting requirements of the Ethics and Meeting Rules Committee.

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That, the following sections are adopted:

Section 1. An Ordinance to amend Section 2(XVII) of Chapter 212, Rules of Procedure of the Commission, to clarify rules for Applicant comments in sub-section (1); to prohibit individuals from entering the well of commission chambers during a meeting without having been invited or being granted permission in added sub-section (5); and Section 5 of Chapter 212, subsection (b)(16)(C) to amend the minimum meeting requirements of the City Commission Ethics and Meeting Rules Committee as attached hereto and made a part hereof.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinances, in conflict with any of the provisions of this Ordinance, are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. This Ordinance shall take effect ten (10) days from the date of its adoption, in accordance with the provisions of Section 4.3(B) of Chapter 4 of the City Charter.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking to adopt Ordinance 10-2022 to amend Section 02, Article (XVII) of Chapter 212, Rules of Procedure of the Commission, to distinguish Applicant comments and to impose a safety provision; and Section 05 of Chapter 212, to amend the meeting requirements of the Ethics and Meeting Rules Committee.

BUDGETARY CONSIDERATIONS

There are none.

HISTORY, BACKGROUND and DISCUSSION

The current meeting rules do not distinguish between an individual making traditional public comment and an applicant who has a right to appeal a final decision of the City Commission. Applicants are traditionally not strictly limited to three minutes to present their case, but that rule has not been formalized in the ordinances. If passed, the proposed amendment to 212.02(XVII)(1) would add sub-section (f) to make that distinction. Applicants would still be obligated to comply with the other rules, including, but not limited to, not being repetitive and speaking on-topic.

The proposed amendment to 212.02(XVII) would add sub-section (5) as a safety measure to prohibit members of the public from stepping past the podium into the well of the chambers to prevent approaching the dais without having been invited by the Mayor (or whomever is presiding at the meeting) or requesting and being granted permission to approach. If passed, temporary stanchions could be placed at the openings of the wooden bar during meetings to remind citizens of the prohibition.

The proposed amendment to 212.05(b)(16)(C) would revise how frequently the Ethics and Meeting Rules Committee must meet. The current provision requires they meet annually, regardless of whether they have business to conduct and to meet by August, a time when many families are busy with vacations and preparing for the new school year. The committee decided more appropriate language would be to meet when necessary, but at least once per each two-year term of the City Commission. This proposed ordinance amendment was introduced at the October 18, 2022 City Commission meeting.

DISCUSSION OF THE ISSUE

POSITIONS

The City Commission Ethics and Meeting Rules Committee met October 7, 2022 and unanimously supported the proposed amendments. The Assistant City Manager also supports the proposed amendments.

ATTACHMENTS:

File Name	Description
DRAFT_revisions_for_Applicants_Rules_Review_and_Well_of_Chamber_Oct_2022.pdf	Ch 212 Meeting Rules amend and Ethics Committee meeting

212.02 RULES OF PROCEDURE OF THE COMMISSION.

* * *

XVII.

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speaker's remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the "Commission Comment" period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(f) Applicants or Appellants, as defined below, or an attorney retained to represent them, are not bound by the specific time limitations set out above but may have the amount of time deemed reasonably necessary by the Mayor or presiding official to present their case to the City Commission without violating the rules set out below in sub-section 4(a) through (g), with which they are obligated to comply.

(*i*) Applicant is defined an individual or business entity seeking a City Commission final decision on a matter for which the individual has made application to the City based upon a specific provision in a City Ordinance or state statute for permission to take a specific action;

(*ii*) Appellant is an individual appealing a decision of a City official or an inferior body based upon a specific provision in City ordinances entitling the individual to appeal the decision to the City Commission.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise their hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

(a) Becomes repetitive or speaks longer than the allotted time;

(b) Attempts to yield any unused portion of time to other speakers;

(c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;

(d) Uses obscene or profane language;

(e) Engages in slanderous or defamatory speech;

(f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or

(g) Engages in conduct that interrupts or disrupts the meeting.

(5) Individuals attending City Commission meetings or workshops, excluding City staff, shall not pass the commission chambers bar upon which the podium is affixed (and which divides the audience section from the well of the chambers) without having been invited to do so by the Mayor or official presiding over the meeting, or after requesting and explicitly being granted permission to do so. Any individual violating this sub-section will be ruled out-of-order by the Mayor or presiding official and the individual may be required to leave the meeting for a breach of the peace committed at the meeting as permitted by the OMA.

* * *

212.05 CODE OF ETHICS FOR CITY COMMISSIONERS.

* * *

(b) Code of Ethics.

* * *

(16) Implementation.

A. As an expression of the standards of conduct for City Commissioners expected by the public, this Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when City Commissioners are thoroughly familiar with it and embrace its provisions. In order to help ensure this familiarity, a biennial workshop shall be held after the general election in every even-numbered year, but not later than 60 days after the general election, for training to be provided by Michigan Municipal League (MML) and the City Attorney regarding the role and duties of a City Commissioner and the obligations set out in this Ethics Code and Model of Excellence. All Commissioners shall be obligated to attend this workshop, or a make-up session as soon as can be practicably scheduled if they are unable to attend the scheduled workshop. In addition, any Commissioners appointed to complete the vacated term of a previously elected Commissioner pursuant to Charter Section 2.6 shall also be obligated to attend a make-up session of the biennial workshop as provided for in this subsection within 60 days of their appointment.

B. Every organizational meeting during which the Mayor and Commissioners are sworn into office and elect the Vice Mayor, each City Commissioner shall sign a statement affirming that they have read and understand the Code of Ethics for Battle Creek City Commissioners. The statement signed by each Commissioner shall be collected and retained by the City Attorney Office.

C. The Ethics Policy and Rules of Procedure Review Committee shall meet as necessary, but in any case at least once during the two-year cycle of each new City Commission referred to in Section 2.9 of the City Charter~~, annually, no later than August,~~ to review the Meeting Rules and Code of Ethics for Battle Creek City Commissioners. It shall provide any amendment recommendations ~~for amendments~~ to the City Commission for consideration as an Ordinance amendment ~~no later than the second City Commission Meeting in September~~.

* * *

Resolution NO. 521

A Resolution seeking to adopt Ordinance 11-2022 to amend Chapters 833 Medical Marihuana Facilities, and 835 Adult Use Marihuana Establishments, to expand the hours of operation; update definitions and make additional clarifications.

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That, the following sections are adopted:

Section 1. An Ordinance to amend Chapters 833 "Medical Marihuana Facilities" and 835 "Adult Use Marihuana Establishments," to expand the permissible hours of operation, update definitions and references to administrative rules and various other updates as attached hereto and made a part hereof.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinances, in conflict with any of the provisions of this Ordinance, are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. This Ordinance shall take effect ten (10) days from the date of its adoption, in accordance with the provisions of Section 4.3(B) of Chapter 4 of the City Charter.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking to adopt Ordinance 11-2022 to amend Chapters 833 Medical Marihuana Facilities, and 835 Adult Use Marihuana Establishments, to expand the hours of operation; update definitions and make additional clarifications.

BUDGETARY CONSIDERATIONS

There are none.

HISTORY, BACKGROUND and DISCUSSION

Vice Mayor Reynolds, supported by Commissioners Gray and Herring, requested that Chapters 833 and 835 regulating Medical Marihuana and Adult Recreational Marihuana facilities be amended to expand the permissible hours of operation. The ordinance currently prohibits these facilities to operate between the hours of 9:00 p.m. and 7:00 a.m. This amendment, if approved, allows the businesses to operate until midnight. This particular change is found in 833.09(c) and 835.09(d).

Since each of these ordinances were passed, the state agency administrative regulations have been promulgated in the regular fashion rather than on an emergency basis. Thus, while the expanded hours of operation are being amended, it seemed the best time to work through each chapter and make necessary updates, such as references to administrative rules. In addition, the state legislature and the cannabis regulatory agency has changed various definitions, which are reflected in these amendments.

In addition, when each of these ordinances was enacted, the City Clerk was the individual who undertook most administrative review. Since that time, the City hired a Cannabis Coordinator, thus various amendments have been made to reflect that change. The zoning ordinance references have also changed since the marihuana chapters were enacted, thus those changes have been made.

Various clarifications have been made and typographical errors corrected. In addition, a problematic area that has arisen related to applicants obtaining a conditional permit, undertaking all work, including obtaining certificates of occupancy, while not taking the final step of obtaining a final permit, allowing conditional approvals to languish. That problem has been addressed to require that applicants move along in the process rather than essentially preserving a spot that is then unavailable to other potential applicants without actually commencing operations.

The City Attorney's office, the Cannabis Coordinator and the Community Services Director have collaborated on these amendments. Changes are reflected in colored font in the attached, and ellipsis are used to signify where unchanged sections of the ordinance have been omitted. These proposed ordinance amendments were introduced at the October 18, 2022 City Commission meeting.

DISCUSSION OF THE ISSUE

POSITIONS

The City's Cannabis Coordinator, the Community Services Director and the City Attorney recommend approval of the amendments. Vice Mayor Reynolds, Commissioner Gray and Commissioner Herring support the particular amendment expanding the hours of operation.

ATTACHMENTS:

File Name	Description
833_Red_line_revisions_JHS_10.12.pdf	Redline Ch 833 Revisions Oct 2022
835_Oct_20_2022_Update_Amendments.pdf	Redline Ch 835 Oct 2022 Update Amendments

CHAPTER 833
Medical Marihuana Facilities

* * *

833.01 FINDINGS AND PURPOSE.

The City intends to issue permits for and to regulate marihuana facilities to the extent they are permitted under the Michigan Medical Marihuana Facilities Licensing Act. The City does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with any law. By requiring a City MMF permit and compliance with the requirements of this chapter, the City intends to protect the public health, safety and welfare by:

(a) Promoting the safe, regulated manufacturing, production, and sale by state-licensed facilities of medical marihuana ~~to adults age twenty- one and over~~, and to ensure the safe access to medical marihuana to the City's patients;

* * *

833.02 DEFINITIONS.

(a) Words and phrases contained in the Medical Marihuana Facilities Licensing Act ("MMFLA"). This Chapter contains many words and phrases that are defined in the MMFLA. As used in this Chapter, they have the same meaning as provided in the MMFLA, except that if at any time the definition of a word or phrase set forth in this section conflicts with the definition in the MMFLA, then the definition in the MMFLA shall apply. The following words and phrases are, and mean, as follows:

(1) "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, ~~or~~ provisioning center, or another grower.

(2) "Licensee" means a person holding a state operating license.

(3) "Marihuana" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953~~7106 of the public health code, 1978 PA 368, M.C.L.A. 333.7106.~~

(4) "Marihuana facility" means a location at which a licensee ~~holder~~ is licensed to operate under the MMFLA.

(5) "Marihuana plant" means any plant of the species Cannabis sativa L. Marihuana plant does not include industrial hemp.

(6) "Marihuana-infused product" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953~~a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, M.C.L.A. 289.1101 to 289.8111~~.

(7) "Michigan medical marihuana act" means the Michigan Mmedical Mmarihuana Aact, 2008 IL 1, MCLM.C.L.A. 333.26421 to 333.26430.

* * *

(10) "Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.

(11) "Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this act.

(12) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, M.C.L.A. 24.201 to 24.328, by the department in consultation with the board to implement this act, which shall include but is not limited to Emergency Rules issued by the Marijuana Regulatory Agency to implement this act.

(13) "Safety compliance facility" means a licensee that is a commercial entity that takesreceives marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

* * *

(b) Other words and phrases. The words and phrases in this Chapter, as used in this Chapter, shall have the following meanings:

* * *

(6) “Competing MMF Permit Provisioning Center Applications” means two or more complete provisioning center license applications submitted for properties located less than 1,000 feet from each other when submitted during the same 24 hour period, defined as falling between 3:00 p.m., to 2:59 p.m. the following business day.

* * *

833.03 MARIHUANA FACILITIES AUTHORIZED.

Pursuant to the MMFLA, the City of Battle Creek authorizes the operation in the City of the following marihuana facilities, provided they possess a state operating license issued under the MMFLA and they comply with the additional requirements of this Chapter, Chapter 1251, Section 23, 26 through 31 related to 99 Medical Marihuana

(Zoning) and all other applicable zoning ordinances, laws, administrative rules, and ordinances:

(a) Grower, including Class A grower; Class B grower; and Class C grower.

(b) Processor.

(c) Provisioning center.

(d) Secure transporter.

(e) Safety compliance facility.

833.04 CITY MMF PERMIT REQUIRED.

* * *

(h) The term of the final MMF permit shall not exceed one year (except as provided below for permits issued in the month of December), and fees are not prorated. The permit year shall begin on January 1 in each year, or the date upon which the final MMF permit was approved, whichever occurs later, and shall terminate on December 31 unless earlier terminated as provided in Section 833.11. An annual permit issued between December 1 and December 31 of any year shall expire on December 31 of the next calend~~e~~ar year following issuance thereof, unless terminated sooner under Section 833.11. All permits issued pursuant to this chapter must be renewed on an annual basis. To renew an existing permit the licensee shall submit an application in the same manner as is required to apply for a new permit no sooner than 90 days before the expiration date and no later than 60 days before the expiration date. An application for a permit renewal received after November 1 of each year shall be considered late and will be subject to a late fee.

833.05 GENERAL PROVISIONS.

(a) An MMF permit issued under this Chapter is valid only for the location of the facility and type of facility that is listed on the MMF permit application and is valid only for the operation of the facility at that location by the MMF permit Applicant, providing the facility remains in compliance with all other requirements in this chapter and Chapter 129~~99~~51.

(b) An MMF permit issued under this chapter is valid only if the permit holder also holds a valid current state operating license, and a copy of the valid current State license has been provided to the City Cannabis Coordinator by the MMF permit holder.

* * *

(f) Acceptance of an MMF Permit from the city under this chapter constitutes consent by the permittee, owners, managers and employees to permit ~~the~~ City Administration or ~~or or~~ its designee to conduct inspections of the facility to ensure compliance with this chapter.

833.06 APPLICATION REQUIREMENTS FOR AND ISSUANCE OF A NEW CITY MMF PERMIT; CONDITIONAL APPROVAL.

(a) Application for new annual MMF Permit. An application for a new annual MMF permit for a marihuana facility shall be submitted in person by the Applicant or their State licensed attorney to the City ~~Clerk~~Cannabis Coordinator on a form provided by the City, which shall fulfill all of the requirements indicated on the form. An Applicant shall truthfully and fully provide all of information requested on the application, including but not limited to, the following:

(1) The name and address of the proposed facility and any other contact information requested on the application form.

* * *

(8) State of Michigan Department of Licensing and Regulatory Affairs document indicating approved prequalification status by the Cannabis Regulatory Agency~~Medical Marihuana Licensing Board~~ for the applicant or ~~applicants~~applicant's entity.

* * *

(12) If the license holder is not the On-site Operator, indicate name and contract information of the On-site Operator.

(b) Upon filing of the application for an MMF Permit, the City ~~Clerk~~Cannabis Coordinator shall review and evaluate the application, along with other necessary City departments. In determining whether an MMF Permit should be issued, the City shall evaluate whether the application is complete.

(c) The City ~~Clerk~~Cannabis Coordinator shall reject MMF permit Provisioning Center application(s) which selected fewer items in its Pick List than a Competing MMF permit Provisioning Center Application(s) where each were submitted and determined to be complete during the same 24 hour period, defined as falling between 3:00 p.m., and 2:59 p.m. the following business day.

* * *

(d) Conditional Approval Permit. Approval of the new annual MMF Permit application after review as set out in below Section 833.11 will result in the issuance of a 90 day Conditional Approval Permit, which authorizes the Applicant to apply for and seek site plan review approval, and building/trade permits. A Conditional Approval Permit does not authorize use of a Facility. Within 90 days of issuance of the Conditional Approval Permit, the Applicant shall submit proof of an approved City site plan review and building/trade permits to the City ~~Clerk~~Cannabis Coordinator.

(1) If application for site plan approval and local permits as outlined above were made but are not obtained within 90 days, the Conditional Approval Permit shall expire and a new permit application shall be submitted pursuant to Section 833.06. Extensions may be approved by the City ~~Clerk~~Cannabis Coordinator based on substantial work having been completed as determined by the City and at the request of the Applicant 30 days prior to the expiration of the Conditional Approval Permit.

(2) If no site plan or building plans have been submitted for permits within the 90 days, the Conditional Approval Permit expires, and an Applicant will be required to wait 30 days before submitting a new application.

(3) If local permits expire without the work having been completed, then the conditional approval permit shall expire. A new permit application may be submitted pursuant to Section 833.06.

(4) If local permits expire without the work having been completed and an extension was not timely applied for, or was denied, then the conditional approval permit shall expire. A new permit application shall be submitted pursuant to section 833.06.

(5) In the event that the facility does not obtain a Final MMF Permit within 90 days of issuance of a Certificate of Occupancy, the 90-Day Conditional Approval Permit shall expire. A new permit application may be submitted pursuant to Section 833.06. The City Cannabis Coordinator may grant one extension for up to 90 days to obtain a Final MMF Permit and commence operations upon the receipt of a written request, submitted not later than seven days prior to the expiration date, but only upon the condition that the Applicant submitted its Step Two Final application request to the Agency for a state license within thirty (30) days after having been granted a Certificate of Occupancy by the City, and the cause for delay rests solely with the Agency.

833.07 ISSUANCE OF FINAL MMF PERMIT AND AUTHORIZATION TO OPERATE FACILITY UNDER PERMIT.

(a) If the MMF permit Applicant has successfully demonstrated compliance with all requirements included within the Conditional Approval Permit for issuance of a Permit, including but not limited to, the location conforming to all standards of the zoning district in which it is located, then the City ~~Clerk~~Cannabis Coordinator shall issue a Final MMF permit to the Applicant, or grant renewal of an existing MMF permit.

* * *

(c) The issuance of a final MMF permit under this chapter authorizes operation of the facility only after the following additional requirements are met:

(1) The Applicant has provided the City ~~Clerk~~Cannabis Coordinator with copies of the Applicant's state operating license and the Certificate of Occupancy for the premises.

(2) The Applicant has provided the City ~~Clerk~~Cannabis Coordinator a copy of the State approved premises security plan. The said security measures on the premises are subject to inspection and must be approved by the Battle Creek Police Department and comply with the following:

(A) Fully operational security cameras shall monitor all areas of the premises as required by State Administrative Rules, including but not limited to Admin. Code R. 420.209.~~Emergency Rule 27.~~

* * *

(D) A monitored alarm system consistent with State Administrative Rules, including but not limited to Admin. Code R. 420.209.~~Emergency Rule 27.~~

(E) A storage room for overnight storage of any marihuana product and cash on the premises consistent with State Administrative Rules, including but not limited to Admin. Code R. 420.212.~~. The storage room shall have only one door for entry and no other potential means of entry, lawful or unlawful, such as a window or crawl space. The door shall be equipped with a locking mechanism that is different from other locks on any door within the facility~~.

(3) The Applicant has provided the City ~~Clerk~~Cannabis Coordinator proof that all City taxes and assessments owed by the applicant have been paid and any assessments, taxes, or liens on the real property to comprise the licensed premises and personal property located on the licensed premises are also paid.

(4) The Applicant has provided the City ~~Clerk~~Cannabis Coordinator proof that the applicant is not in violation of any City ordinances on any other property under the applicant's ownership or control located within the City.

(d) The Applicant shall provide the City with a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of the following types of insurance, as well as a copy of an endorsement placed on each policy requiring 10 days' notice by mail to the city before the insurer may cancel the policy for any reason:

* * *

An original certificate of insurance may be provided as an initial indication of the required insurance. Applicant shall be required to continue without interruption during the term of the MMF permit the above named insurance coverages. If any of the above coverages expire by their terms during the term of a permit, the Applicant shall deliver proof of renewal and/or new policies to the City's ~~Clerk~~Cannabis Coordinator at least 10 days prior to the expiration date. Insurance companies, named insured and policy forms shall be subject to the approval of the City Insurance Loss Control Specialist or designee, within 5 business days. Insurance policies shall not contain endorsements or policy conditions which reduce coverage required under the terms of the MMF permit.

833.08 RENEWALS, AMENDMENTS AND RESCISSIONS.

* * *

(b) Amendments.

(1) Amendment of MMF Application without Conditional or Final MMF Permit approval.

* * *

(3) Substantive changes to an approved Conditional or Final MMF Permits.

(A) Substantive changes to an approved Conditional or Ffinal MMF Ppermits. Substantive changes require the filing of a new application pursuant to Section 833.06. The following changes shall be considered "substantive," as intended by this subsection:

* * *

833.09 CONDUCT OF BUSINESS AT A MEDICAL MARIHUANA FACILITY.

(a) A medical marihuana facility shall be conducted in compliance with the MMFLA, the rules promulgated pursuant to the MMFLA, including but not limited to the Emergency Administrative Rules, the MMMA, and all other laws, rules, and regulations of the state of Michigan and the City of Battle Creek.

* * *

(c) Marihuana facilities shall be closed for business, and no sale or any distribution, delivery or receipt of marihuana in any form shall occur upon the premises between the hours of 912:00 ap.m. and 7:00 a.m.

(d) An authorized person shall consent to the entry into a marihuana facility by the Building Official and Zoning Inspectors or their designee for the purpose of inspection to determine compliance with this chapter and Ch. 125199, pursuant to a notice posted in a conspicuous place on the premises two or more days before the date of the inspection or sent by first class mail to the address of the premises four or more calendar days before the date of the inspection.

* * *

(j) MMF Permittees shall notify the agency and local law enforcement authorities within 24 hours of becoming aware of or within 24 hours of when the applicant should have been aware of the theft or loss of any marihuana product or criminal activity at the marihuana business.

833.10 PROHIBITED ACTS.

It shall be unlawful:

* * *

(c) For any person to produce, distribute or possess marihuana in violation of this chapter or any other applicable state or local law, including but not limited to applicable zoning ordinances, Chapter 1230 of these ordinances, and state administrative rules, including Emergency Rules.

* * *

(e) For any MMF permittee to advertise or market marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place.

* * *

833.11 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF MMF PERMIT; MMF PERMIT FORFEITURE; HEARING.

(a) Grounds for Denial.

(1) The City's ~~Clerk~~Cannabis Coordinator shall reject any application that does not meet the requirements of the MMFLA or this Chapter. The City's ~~Clerk~~ Cannabis Coordinator shall reject any application that contains any misrepresentation or omission of any material fact (materiality as determined by the City), or false or misleading information, or the Applicant has provided the C~~c~~ity with any other false or misleading information related to the facility.

(2) An Applicant is ineligible to receive a license under this Chapter if any of the following circumstances exist regarding the Applicant or an Applicant's Affiliate (as defined by the MMFLA):

(A) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten years or conviction of a controlled substance-related felony within the past ten years. This subsection does not apply to a felony for the manufacturer, processing, or distribution of marihuana, or possession with the intent to manufacturer, process, or distribute marihuana, unless the felony involved the distribution of marihuana to a minor.

(B) Within the past five years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state. This subsection does not apply to a misdemeanor or ordinance violation for the possession or use of marihuana.

* * *

~~(H) The Applicant, if an individual, has been a resident of this state for less than a continuous two-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.~~

~~(H!)~~ The Applicant fails to meet other criteria established by State-issued rule.

(3) In determining whether to grant MMF permit to an applicant, the City may also consider all of the following:

A. Whether the applicant or anyone who will have ownership in the marihuana establishment within the past 5 years has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.

B. Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food

safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

C. Whether the applicant meets the other standards in rules applicable to the state license category and standards, requirements in this chapter, as well as compliance with other applicable city ordinances.

(b) MMF Permit Forfeiture.

i. In the event that a medical marihuana facility does not commence operations within one year of issuance of a City MMF Permit, the MMF Permit shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

~~In the event that a medical marihuana facility does not commence operations within 90 days of issuance of a Certificate of Occupancy, the Fulfillment of the 90 Conditional Approval Permit will expire, the application is revoked and the applicant will need to reapply.~~

* * *

(d) Nonrenewal, suspension, or revocation of MMF Permit.

(1) The City's ~~Clerk~~Cannabis Coordinator may, after notice and hearing, suspend, revoke or refuse to renew an MMF Permit for any of the following reasons:

* * *

CHAPTER 835
Adult Use Marihuana Establishments

* * *

835.02 DEFINITIONS.

(a) Words and phrases contained in the Michigan Regulation and Taxation of Marihuana Act ("MRTMA"). This Chapter contains many words and phrases that are defined in the MRTMA. As used in this Chapter, they have the same meaning as provided in the MRTMA, except that if at any time the definition of a word or phrase set forth in this section conflicts with the definition in the MRTMA, then the definition in the MRTMA shall apply. The following words and phrases are, and mean, as follows:

(1) "Department" means the department of licensing and regulatory affairs.

(2) "Licensee" means a person holding a state license.

(3) "Marihuana" means any of the following:

(i) A plant of the genus Cannabis, whether growing or not.
(ii) A parts of the plant of the genus Ccannabis, whether growing or not.
(iii) ;-Tthe seeds of the plant of the genus Cannabis.;
(iv) Marihuana concentrate.
(v) A compound, manufacture, salt, derivative, mixture, extract, acid, isomer, salt of an isomer, or preparation of any of the following: A plant of the genus Cannabis; A part of a plant of the genus Cannabis; The seeds of a plant of the genus Cannabis; Marihuana concentrate.
(vi) A marihuana-infused product.
(vii) A product with a THC concentration of more than 0.3% on a dry-weight or per volume basis in the form in which it is intended for sale to a consumer.
(viii) A product that is intended for human or animal consumption and that contains, in the form in which it is intended for sale to a consumer, a total amount of THC that is greater than the limit established by the marijuana regulatory agency under section 8(1)(n) of MRTMA.

(3a) Except for marihuana concentrate extracted from any of the following, "marihuana" ~~the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this chapter, marihuana~~ does not include:

A. The mature stalks of a~~the~~ plant of the genus Cannabis;~~,~~ F~~f~~iber produced from the mature stalks of a plant of the genus Cannabis;~~,~~ O~~o~~il or cake made from the seeds of a~~the~~ plant of the genus Cannabis;~~,~~ A~~any other~~ compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks of a plant of the genus Cannabis~~, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination~~;

B. Industrial hemp; ~~or~~

C. An~~y other~~ ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products; or

D. A drug for which an application filed in accordance with 21 USC 355 is approved by the Food and Drug Administration.

(4) "Marihuana, Adult Use Establishment" or "Marihuana Establishment" means a marihuana grower, marihuana safety compliance facility~~marihuana establishment~~, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the cannabis~~marihuana~~ regulatory agency as authorized by the Michigan Regulation and Taxation of Marihuana Act (2018).

A. "Marihuana Grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

B. "Marihuana Microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one years of age or older or to a marihuana safety compliance facility~~marihuana establishment~~, but not to other marihuana establishments.

* * *

F. "Marihuana Safety Compliance Facility"~~Marihuana establishment~~ means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

* * *

(6) "Marijuana Regulatory Agency," "Cannabis Regulatory Agency," or "Agency" means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001, renamed as the Cannabis Regulatory Agency pursuant to Executive Reorganization Order (ERO) 2022-1 ~~.a Type I agency within the Department of Licensing and Regulatory Affairs (the "Department") with the powers as set out in MCL 333.27001, including but not limited to, all of the authorities, powers, duties, functions, and responsibilities of the Department, including its Bureau of Marihuana Regulation, under the MRTMA, 2018 IL 1, MCL 333.27951 to 333.27967.~~

* * *

(9) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, M.C.L.A. 24.201 to 24.328, by the department in consultation with the Agency to implement this act, which shall include, but is not limited to, the ~~Emergency~~ Rules issued ~~under the administrative procedures act on July 3, 2019.~~by the ~~Marijuana Regulatory~~ Agency under the authority conferred on the executive director of the ~~marijuana regulatory a~~Agency by section 206 of the MMFLA~~medical marihuana facilities licensing act~~, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the MRTMA~~ichigan Regulation and Taxation of Marihuana Act~~, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

* * *

(11) "State license" or, unless the context requires a different meaning, "license" means a license that is issued by the department under this act that allows the licensee to operate a marihuana establishment.

(b) Other words and phrases. The words and phrases in this chapter, as used in this chapter, shall have the following meanings:

(1) "Applicant" means a person who applies for a state operating license: For purposes of this definition, for purposes of ineligibility for a license under Sec. 402 of the Act, or for purposes of prior Marihuana Regulatory Agency approval of a transfer of interest under section 406 of the Act, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

A. For an individual or sole proprietorship: the proprietor and the proprietor's spouse.

B. For a partnership and limited liability partnership: all partners and their spouses.

* * *

H. For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and the~~ir~~ spouses of the individuals.

*** * ***

835.03 MARIHUANA ESTABLISHMENTS AUTHORIZED; SPECIAL LICENSES PROHIBITED.

(a) Marihuana Establishments Permitted. Pursuant to the MRTMA, the City of Battle Creek authorizes the operation in the City of the following marihuana adult use establishments, provided they possess a state operating license issued under the MRTMA and they comply with the additional requirements of this chapter, Chapter 1251, Sections 23 through 31~~99~~ related to Adult Use Marihuana Facilities and Establishments (Zoning), and all other applicable ordinances, laws, administrative rules, and ordinances:

*** * ***

835.05 GENERAL PROVISIONS.

(a) An AUME permit issued under this chapter is valid only for the location of the marihuana establishment and type of marihuana establishment that is listed on the AUME permit application, providing the marihuana establishment remains in compliance with all other requirements in this chapter and Chapter 1251~~99~~.

(b) An AUME permit issued under this chapter is valid only if the permit holder also holds a valid current state operating license, and a copy of the valid current state

license has been provided to the City of Battle Creek's Cannabis Coordinator~~City Clerk~~ by the AUME permit holder.

* * *

(f) Acceptance of an AUME permit from the city under this chapter constitutes consent by the permittee, owners, managers and employees to permit the City a~~A~~dministration or designee to conduct inspections of the marihuana establishment to ensure compliance with this chapter.

835.06 APPLICATION REQUIREMENTS FOR AND ISSUANCE OF A NEW CITY AUME PERMIT; CONDITIONAL APPROVAL.

(a) Application for New Annual AUME Permit. An application for a new annual AUME permit for a marihuana establishment shall be submitted in person by the applicant or their state licensed attorney to the City's ~~Clerk~~Cannabis Coordinator on a form provided by the City, which shall fulfill all of the requirements indicated on the form. An applicant shall truthfully and fully provide all of the information requested on the application, including but not limited to, the following:

* * *

(7) A City-issued zoning assurance letter, provided with the AUME permit application, signed by the applicant which affirms that the applicant has reviewed all applicable zoning ordinances relative to the proposed use, including Ch. 1251~~99~~ and all regulations addressing site development including, but not limited to parking, setbacks, and signage.

(8) State of Michigan Department of Licensing and Regulatory Affairs document indicating approved prequalification status by the Cannabis~~Marihuana~~ Regulatory Agency for the applicant or applicant's entity.

* * *

(12) If the license holder is not the on-site operator, indicate name and contract information of the on-site operator.

(b) Upon filing of the application for an AUME permit, the City's ~~Clerk~~Cannabis Coordinator shall review and evaluate the application, along with other necessary City departments. In determining whether an AUME permit should be issued, the City shall evaluate whether the application is complete.

(c) The City ~~of Battle Creek~~'s Cannabis Coordinator~~ity Clerk~~ shall reject AUME permit marihuana retailer and/or marihuana microbusiness application(s) which selected fewer items in its pick list than a competing AUME permit marihuana retailer and/or marihuana microbusiness application(s) where each was submitted and determined to be complete during the same 24-hour period, defined as falling between 3:00 p.m., and 2:59 p.m. the following business day.

* * *

(d) Conditional Approval Permit. Initial approval of the new annual AUME permit application after review as set out in below Section 835.11 will result in the issuance of a ninety-day conditional approval permit, which authorizes the applicant to apply for and seek site plan review approval, and building/trade permits. A conditional approval permit does not authorize use of a marihuana establishment. Within ninety days of issuance of the conditional approval permit, the applicant shall submit proof of an approved City site plan review and building/trade permits to the City's ~~Clerk~~Cannabis Coordinator.

(1) If application for site plan approval and local permits as outlined above were made but are not obtained within ninety days, then the conditional approval permit shall expire and a new permit application shall be submitted pursuant to Section 835.06. Extensions may be approved by the City's ~~Clerk~~Cannabis Coordinator based on substantial work having been completed as determined by the City and at the request of the applicant thirty days prior to the expiration of the conditional approval permit.

(2) If no site plan or building plans have been submitted for permits within the ninety days, then the conditional approval permit expires, and an applicant will be required to wait thirty days before submitting a new application.

(3) If ~~application for site plan approval and~~ local permits expire without the work having been completed, ~~as outlined above were obtained within ninety days, but the local permits expired without the work having been completed, .~~then the conditional approval permit shall expire. ~~and a~~A new permit application may~~shall~~ be submitted pursuant to Section 835.06.

(4) If ~~application for site plan approval and local permits as outlined above were obtained within ninety days, but if the~~ local permits expire without the work having been completed and an extension was not timely applied for, or was denied, then the conditional approval permit shall expire. ~~and a~~A new permit application shall be submitted pursuant to section 835.06.

(5) In the event that the facility does not obtain a Final AUME Permit within 90 days of issuance of a Certificate of Occupancy, the 90-Day Conditional Approval Permit shall expire. A new permit application may be submitted pursuant to Section 833.06. The City Cannabis Coordinator may grant one extention for up to 90 days to obtain a Final AUME Permit and commence operations upon the receipt of a written request, submitted not later than seven days prior to the expiration date, but only upon the condition that the Applicant submitted its Step Two Final application request to the Agency for a state license within thirty (30) days after having been granted a Certificate of Occupancy by the City, and the cause for delay rests solely with the Agency.

835.07 ISSUANCE OF FINAL AUME PERMIT AND AUTHORIZATION TO OPERATE MARIHUANA ESTABLISHMENT UNDER PERMIT.

(a) If the AUME permit applicant has successfully demonstrated compliance with all requirements included within the conditional approval permit for issuance of a permit, including but not limited to all requirements of below subsection (c) and, the location

conforming to all standards of the zoning district in which it is located, then the ~~City Clerk~~Cannabis Coordinator shall issue a final AUME permit to the applicant, or grant renewal of an existing AUME permit.

* * *

(c) The issuance of a final AUME permit under this chapter authorizes operation of the marihuana establishment only after the following additional requirements are met:

(1) The applicant has provided the ~~City Clerk~~Cannabis Coordinator with copies of the applicant's state operating license and the C~~c~~ertificate of O~~o~~ccupancy for the premises.

(2) The applicant has provided the ~~City Clerk~~Cannabis Coordinator a copy of the state approved premises security plan. The said security measures on the premises are subject to inspection and must be approved by the Battle Creek Police Department and comply with the following:

A. Fully operational security cameras shall monitor all areas of the premises as required by State Administrative Rules, including but not limited to ~~Emergency Rule 35.~~Admin. Code R. 420.209.

* * *

D. A monitored alarm system consistent with State Administrative Rules, including but not limited to ~~Emergency~~Admin. Code R. 420.209~~ule 35~~.

E. A storage room for overnight storage of any marihuana product and cash on the premises consistent with State Administrative Rules, including but not limited to ~~with~~ Admin. Code R. 420.212~~Emergency Rule 2738~~.

(3) The applicant has provided the ~~City Clerk~~Cannabis Coordinator proof that all City taxes and assessments owed by the applicant have been paid and any assessments, taxes, or liens on the real property to comprise the licensed premises and personal property located on the licensed premises are also paid.

(4) The applicant has provided the ~~City Clerk~~Cannabis Coordinator proof that the applicant is not in violation of any City ordinances on any other property under the applicant's ownership or control located within the City.

(d) Insurance.

(1) The applicant shall provide the City with proof of financial responsibility for liability for bodily injury in an amount not less than one hundred thousand dollars ($100,000), as well as a copy of an endorsement placed on each policy requiring ten days' notice by mail to the city before the insurer may cancel the policy for any reason:

A. Worker's compensation insurance in accordance with Michigan statutory limits ~~.~~and Employers Liability Insurance with a minimum limit of $100,000.00 for each accident for any employee.

B. A marihuana secure transporter shall show proof of auto insurance, vehicle registration, and registration as a commercial motor vehicle, as applicable, for any vehicles used to transport marihuana product as required by the Act.

(2) An original certificate of insurance may be provided as an initial indication of the required insurance. ~~applicant~~Applicant shall be required to continue without interruption during the term of the AUME permit the above named insurance coverages. If any of the above coverages expire by their terms during the term of a permit, the applicant shall deliver proof of renewal and/or new policies to the City Cannabis Coordinator~~ity Clerk~~ at least ten days prior to the expiration date. Insurance companies, named insured and policy forms shall be subject to the approval of the City Insurance Loss Control Specialist or designee, within five business days. Insurance policies shall not contain endorsements or policy conditions which reduce coverage required under the terms of the AUME permit.

835.08 RENEWALS, AMENDMENTS AND RESCISSIONS.

* * *

(b) Amendments.

* * *

(2) Non-substantive changes to approved conditional or final AUME permit:

A. After receiving an approved conditional or final AUME permit, and AUME application may be amended for any circumstance listed under subsection (b~~)~~() (1)A.2.

B. Prior to receiving an approved final AUME permit, any change which will not increase the project intensity, as solely determined by the Zoning Administrator, including but not limited to: building size, number of marihuana plants, hours of operation, and type of AUME use. The Zoning Administrator's decision as to whether the change shall be permitted as not increasing the project intensity shall be considered a final determination. If the Zoning Administrator determines that such change requires the submittal of a new or amended site plan application or building/trade permits, then these items shall be mandatory and enforceable.

* * *

(3) Substantive changes to an approved conditional or final AUME permits~~.~~ ~~Substantive changes~~ require the filing of a new application pursuant to Section 835.06. The following changes shall be considered "substantive," as intended by this subsection:

* * *

835.09 CONDUCT OF BUSINESS AT A MARIHUANA ESTABLISHMENT.

* * *

(d) Marihuana establishments shall be closed for business, and no sale or any distribution, delivery or receipt of marihuana in any form shall occur upon the premises between the hours of ~~9:00 p.m.~~12:00 a.m. and 7:00 a.m.

(e) An authorized person shall consent to the entry into a marihuana establishment by the Building Official and Zoning Inspectors or their designee for the purpose of inspection to determine compliance with this chapter and Ch. 125~~99~~, pursuant to a notice posted in a conspicuous place on the premises two or more days before the date of the inspection or sent by first class mail to the address of the premises four or more calendar days before the date of the inspection.

* * *

(h) Access to the marihuana establishment's restricted and limited access areas is restricted to the permittee; employees of the permittee, escorted visitors, City employees and police officers acting within the scope of their duty, and the Agency. A marihuana retailer or a marihuana microbusiness may grant access as provided in below subsection (~~i~~i) to customers to a dedicated point of sale area.

* * *

(l) Marihuana establishments shall not allow onsite or as part of the marihuana establishment the sale, consumption, or serving of food or alcohol. However, the establishment may allow the consumption of food by employees or visitors provided the marihuana establishment has a designated area for the consumption of food that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product ~~.~~as provided in ~~Emergency Rule 56.~~Admin. Code R. 420.203.

* * *

835.10 PROHIBITED ACTS.

It shall be unlawful:

* * *

(c) For any person to produce, distribute or possess marihuana in violation of this chapter or any other applicable state or local law, including but not limited to applicable zoning ordinances, Chapter 125~~99~~ of these ordinances, and state administrative rules.

* * *

(e) For any AUME permittee to advertise or market marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place unless the permittee has reliable evidence that no more than 30% of the audience or readership for the television program, radio program, internet web site, or print publication is reasonably expected to be under twenty-one years of age. Any marihuana product permitted to be advertised or marketed under this rule shall include the warnings listed in Admin. Code R. 420.505 and 420.507~~State Emergency Rule 49(1)() (k)~~.

* * *

(k) No marihuana retailer may sell or otherwise transfer marihuana that is not ~~contained~~ in ~~an opaque, resealable~~re-sealable~~, child-resistant package designed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995).~~a container that meets the requirements of Admin. Code R. 420.504.

* * *

835.11 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF AUME PERMIT; AUME PERMIT FORFEITURE; HEARING.

(a) Grounds for Denial.

(1) The City ~~Clerk~~Cannabis Coordinator shall reject any application that does not meet the requirements of the MRTMA or this chapter. The City ~~Clerk~~Cannabis Coordinator shall reject any application that contains any misrepresentation or omission of any material fact (materiality as determined by the City), or false or misleading information, or the applicant has provided the ~~city~~City with any other false or misleading information related to the marihuana establishment.

(2) An applicant is ineligible to receive a permit under this chapter if any of the following circumstances exist regarding the applicant or an applicant's affiliate (as defined by the MRTMA):

* * *

D. Is an employee, advisor, or consultant of the agency involved in the implementation, administration, or enforcement of the Act or the Rules~~, including emergency rules, pursuant to section 7 of the Act, MCL 333.27957~~.

* * *

(3) In determining whether to grant an AUME permit to an applicant, the City may also consider all of the following:

A. Whether the applicant or anyone who will have ownership in the marihuana establishment has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.

B. Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

C. Whether the applicant meets the other standards in rules applicable to the state license category and standards, requirements in this chapter, as well as compliance with other applicable city ordinances.

(b) AUME Permit Forfeiture.

In the event that a marihuana establishment does not commence operations within one year of issuance of a City AUME permit, the AUME permit shall be deemed forfeited; the business may not commence operations and the permit is not eligible for renewal.

~~In the event that a medical marihuana facility does not commence operations within 90 days of issuance of a Certificate of Occupancy, the Fulfillment of the 90 Conditional Approval Permit will expire, the application is revoked and the applicant will need to reapply.~~

(c) AUME Permit as Revocable Privilege. An AUME permit granted by this chapter is a revocable privilege granted by the City and is not a property right. Granting an AUME permit does not create or vest any right, title, or other property interest. Each AUME permit is exclusive to the permittee, and a permittee or any other person must apply for and receive the City's approval before a permit is transferred, sold, or purchased. An AUME permittee or any other person shall not lease, pledge, or borrow or loan money against an AUME permit. The attempted transfer, sale or other conveyance of an interest in a license without prior agency approval is grounds for suspension or revocation of the AUME permit or for other sanction considered appropriate by the City.

(d) Nonrenewal, Suspension, or Revocation of AUME Permit.

(1) The City ~~Clerk~~Cannabis Coordinator may, after notice and hearing, suspend, revoke or refuse to renew an AUME permit for any of the following reasons:

* * *

835.12 REVOCATION NOT EXCLUSIVE PENALTY.

Nothing in this chapter shall be deemed to prohibit the City ~~Administrator~~ administration or designee from imposing other penalties authorized by the City of Battle Creek ordinances or other ordinance of the city, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

* * *

CITY OF Battle Creek MICHIGAN

Resolution NO. 522

A Resolution seeking to adopt Ordinance 12-2022 to amend Chapter 276 Downtown Development Authority in compliance with Public Act 57 of 2018, the Recodified Tax Increment Financing Act, to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority.

BATTLE CREEK, MICHIGAN - 11/1/2022

WHEREAS, the City of Battle Creek (the "City"), pursuant to and in accordance with the provisions of Act 197 of the Public Acts of Michigan of 1975, as amended ("Act 197"), now Part 2 of Act 57 of the Public Acts of Michigan of 2018 ("Act 57"), adopted an ordinance on March 6, 1979 (the "Ordinance"), to establish the City of Battle Creek Downtown Development Authority (the "Authority") and designate the boundaries of the Authority's development area (the "Development Area"); and

WHEREAS, the Authority previously prepared, approved and recommended the Tax Increment Financing and Development Plan (the "Plan") to the City Commission; and

WHEREAS, the City subsequently approved the Plan in accordance with Act 197 by adoption of Ordinance No. 8-80 on April 8, 1980; and

WHEREAS, the Authority has previously approved and recommended to the City Commission, and the City Commission has previously approved amendments to the Plan; and

WHEREAS, pursuant to Part 2 of Act 57, the Authority prepared and reviewed, and by resolution adopted August 22, 2022, approved, recommended, and submitted an amendment to the Plan (the "Amendment") to the City Commission; and

WHEREAS, in accordance with Part 2 of Act 57, the City Commission established the Downtown Development Authority of the City of Battle Creek Development Area Citizens Council (the "Citizens Council"), appointed members to the Citizens Council, scheduled and published notices of meetings of the Citizens Council, all as required by Part 2 of Act 57; and

WHEREAS, the Citizens Council met, and reviewed and provided comments on the Amendment, all as received and on file with the Authority and the City Clerk; and

WHEREAS, the City Commission held a Public Hearing on October 4, 2022, to consider the Amendment, after the giving of public notice as required by Part 2 of Act 57, including notice by publication, in *The Battle Creek Enquirer* and *The Battle Creek Shopper News*, both newspapers of general circulation within the City, and also by first-class mail to all property taxpayers of record within the Development Area, by posting in at least 20 conspicuous and public places in the Development Area, and by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the Amendment is approved; and

WHEREAS, the notice contained a description of the Development Area, as well as a statement that maps, the Amendment and the method of relocating families and individuals who may be displaced from the area were available for public inspection at the City Hall, and that all aspects of the Amendment would be open

for discussion at the Public Hearing; and

WHEREAS, prior to the Public Hearing, the City Commission provided reasonable opportunity to the taxing jurisdictions levying taxes that would be subject to capture under the Amendment to meet with the City Commission, and it fully informed the taxing jurisdictions of the fiscal and economic implications of the Amendment; and

WHEREAS, the City Commission has provided the fullest opportunity for interested persons to be heard, whether in person or in writing, for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the Amendment. Now therefore,

Resolved by the Commission of the City of Battle Creek:

That, the following sections are adopted:

Section 1. An Ordinance to amend Chapter 276 "Downtown Development Authority" to update statutory references and to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority" as is attached hereto and made a part hereof.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinances, in conflict with any of the provisions of this Ordinance, are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. This Ordinance shall take effect ten (10) days from the date of its adoption, in accordance with the provisions of Section 4.3(B) of Chapter 4 of the City Charter.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking to adopt Ordinance 12-2022 to amend Chapter 276 Downtown Development Authority in compliance with Public Act 57 of 2018, the Recodified Tax Increment Financing Act,

to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority.

BUDGETARY CONSIDERATIONS

There are none.

HISTORY, BACKGROUND and DISCUSSION

The City adopted an ordinance on March 6, 1979 (the "Ordinance"), to establish the City of Battle Creek Downtown Development Authority (the "Authority") and designate the boundaries of the Authority's development area (the "Development Area").

The Plan has been amended several times over the years, including removing land from the boundaries.

Pursuant to Part 2 of Act 57, the Downtown Development Authority prepared and reviewed, and by resolution adopted August 22, 2022, approved, recommended, and submitted an amendment to the Plan (the "Amendment") to the City Commission in order to amend the projects it intends to undertake.

Since there are more than 100 residents living within the boundaries of the DDA, the City Commission established the Downtown Development Authority of the City of Battle Creek Development Area Citizens Council (the "Citizens Council"), as required by law, appointed members to the Citizens Council, scheduled and published notices of meetings of the Citizens Council.

The Citizens Council met, and reviewed and provided comments on the Amendment, all as received and on file with the Authority and the City Clerk. On October 4, 2022, the City Commission held a public hearing to consider the Amendment, after the giving of public notice as required by law in *The Battle Creek Enquirer* and *The Battle Creek Shopper News,* and also by first-class mail to all property taxpayers of record within the Development Area, by posting in at least 20 conspicuous and public places in the Development Area, and by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the Amendment is approved.

The Recodified Tax Increment Financing Act requires that the plan amendment take place in the form of an ordinance, which in this case is an ordinance amendment.

This proposed ordinance amendment was introduced at the October 18, 2022 City Commission meeting.

DISCUSSION OF THE ISSUE

POSITIONS

The Assistant City Manager and the Board of the Downtown Development Authority support approval of this Ordinance amendment introduction.

ATTACHMENTS:

File Name	Description
CHAPTER_276_Oct_2022_Amendment.pdf	Chapter 276 Oct 2022 DDA Plan Amendment

CHAPTER 276

Downtown Development Authority

* * *

276.01 Establishment; Approval of Amendment and Finding of Public Purpose.

276.02 Powers and duties.

276.03 Downtown district boundaries.

276.035 Removal of property from downtown district boundaries.

276.04 Taxing power.

276.05 Budget.

CROSS REFERENCES

Municipal bonds - see M.C.L.A. Secs. 117.4a, 117.4b, 117.4e, 117.4g, 117.5, 117.14a, 117.35a

Improvements in home rule cities - see M.C.L.A. Secs. 117.4d et seq.

Downtown Development Authority - see M.C.L.A. Secs. 125.~~1651~~4201 et seq.

Department of Planning - see ADM. Ch. 242

Community Development Department - see ADM. Ch. 254

Central Business District - see B.R. & T. Ch. 814

276.01 ESTABLISHMENT; APPROVAL OF AMENDMENT AND FINDING OF PUBLIC PURPOSE.

(a) Pursuant to the authority initially vesting~~ed in~~ the City Commission with authority to create a Downtown Development Authority by Act 197 of the Public Acts of 1975 of the State, which was recodified by Act 57 of 2018, as amended, a Downtown Development Authority is hereby created.

(b) **Approval of Amendment and Finding of Public Purpose**. In accordance with Part 2 of Act 57, the City Commission finds that the Amendment, as proposed at the October 4, 2022 Public Hearing, constitutes a public purpose and will be a benefit to the City and its residents, and accordingly, the City Commission hereby approves the Amendment.

(c) **Findings in Accordance with Part 2 of Act 57**. In approving the Amendment, the City Commission makes the following additional findings, in accordance with Section 219 of Part 2 of Act 57:

(1) The Amendment meets the requirements set forth in Section 217(2) of Part 2 of Act 57.

(2) The proposed method of financing the activities, projects and improvements proposed in the Amendment is feasible, and the Authority has the ability to arrange the financing.

(3) The activities, projects and improvements proposed in the Amendment are reasonable and necessary to carry out the purposes of Part 2 of Act 57.

(4) The acquisition of any land within the Development Area by the Authority, if accomplished in accordance with the Amendment, would be reasonably necessary to carry out the purposes of the Amendment and of Part 2 of Act 57 in an efficient and economically satisfactory manner.

(5) The activities, projects and improvements proposed in the Amendment are in accord with the City's Master Plan.

(6) Public services will be adequate to service the Development Area.

(7) All changes in zoning, streets, street levels, intersections and utilities proposed in the Amendment are reasonably necessary for the project and for the City.

(d) **Transmission of Tax Increment Revenues to the Authority**. The City Clerk is hereby authorized and directed to provide to the County Treasurer copies of all information necessary to enable the City, Township and County Treasurers to transmit tax increment revenues to the Authority in accordance with Section 215 of Part 2 of Act 57.

(e) **Severability**. In the event that any section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other articles, sections or provisions of this ordinance, except so far as the article, section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

(f) **Publication; Effective Date**. This Ordinance shall become effective upon its publication or upon the publication of a summary of its provisions in a local newspaper of general circulation in the City.

276.02 POWERS AND DUTIES.

Except as otherwise provided herein, the Downtown Development Authority shall exercise such powers and duties as are provided by and in accordance with the provisions of Act 57~~19~~7 of the Public Acts of 2018~~1975~~ of the State, being M~~.~~C~~.~~L~~.A.~~ 125.4201~~651~~ et seq. ~~and M.S.A. 5.3010(1) et seq.~~, including, but not limited to, the definition of a development area, the origination of a development plan and the implementation of a development program, as provided in such Act.

(Ord. 4-79. Passed 3-6-79.)

276.03 DOWNTOWN DISTRICT BOUNDARIES.

* * *

276.035 REMOVAL OF PROPERTY FROM DOWNTOWN DISTRICT BOUNDARIES.

* * *

276.04 BUDGET.

* * *

276.05 TAXING POWER.

The Downtown Development Authority is hereby prohibited from levying and collecting all or any part of the tax referred to in Section 212(1) of Act 57~~197~~ of the Public Acts of 2018~~1975~~ of the State.

General Detail NO.

Minutes for the October 18, 2022 City Commission Regular Meeting

BATTLE CREEK, MICHIGAN - 11/1/2022

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

Minutes for the October 18, 2022 City Commission Regular Meeting

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
Minutes_2022_10_18_Meeting(835).pdf	Minutes for the October 18, 2022 City Commission Regular Meeting

Agenda: Battle Creek City Commission

Meeting Date:	October 18, 2022- 7:00 PM
Location:	City Commission Chambers
Chair:	Mayor Mark A. Behnke
Title:	Battle Creek City Hall - City Commission Chambers, 3rd Floor

VIDEO

ATTENDANCE

Commissioners

Mayor Mark Behnke	Commissioner Kristin Blood
Commissioner Lynn Ward Gray	Commissioner Boonikka Herring
Commissioner Jim Lance	Commissioner Jenasia Morris
Vice Mayor Carla Reynolds	Commissioner Sherry Sofia
Commissioner Kathy Szenda Wilson	

City Staff

Rebecca Fleury, City Manager	Jill Steele, City Attorney
Ted Dearing, Assistant City Manager	Victoria Houser, City Clerk
Shannon Bagley, Deputy Police Chief	Jessica VanderKolk, Communications Managert
Ryan Stange, Network Architect	Eric McClure, Communications Specialist

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Comm. Lance.

ROLL CALL

PROCLAMATIONS AWARDS

Proclamation for Domestic Violence Awareness Month

Vice Mayor Reynolds, on behalf of Mayor Behnke, proclaimed the month of October 2022 as "Domestic Violence Awareness Month" in the greater Battle Creek area, urging all citizens of Battle Creek to do their part to end domestic violence in this country by working together and supporting

their communities' efforts to assist victims in finding the help they need and to ensure that no victims of domestic violence ever has to struggle alone.

Hadlee Robinson, Safe Place CEO, accepted the proclamation, expressing appreciation to everyone for their support.

Proclamation for Lung Cancer Awareness Month

Mayor Behnke proclaimed the month of November 2022 as "Lung Cancer Awareness Month" in the greater Battle Creek area, encouraging all citizens to learn about lung cancer and early detection through lung cancer screening and to pursue preventative health practices and early detection efforts throughout the year.

PRESENTATIONS

Staff Presentation - Communications - Jessica Vanderkolk

Jessica VanderKolk, Communications Manager, presented the monthly staff report.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

There were no added or deleted resolutions.

PETITIONS COMMUNICATIONS REPORTS

There were no petitions, communications or reports.

INTRODUCTION OF ORDINANCES

10-2022 A Proposed Ordinance to amend Section 02, Article (XVII) of Chapter 212, Rules of Procedure of the Commission, to distinguish Applicant comments and to impose a safety provision; and Section 05 of Chapter 212, to amend the meeting requirements of the Ethics and Meeting Rules Committee.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

John Kenefick asked if this ordinance amendment would prevent someone from serving the commission legal documents.

Comm. Blood expressed concern the proposed stanchions would appear to prevent the access to the commission, appearing unapproachable. Comm. Blood stated it is important the commission not feel more important than the residents they serve, stating it is important not to penalize all residents for a poor decision of one resident.

Ayes: GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING
Nays: BLOOD

MOTION PASSED

11-2022 A Proposed Ordinance, #11-2022, to amend Chapters 833 Medical Marihuana Facilities, and 835 Adult Use Marihuana Establishments, to expand the hours of operation; update definitions and make additional clarifications.

Motion to Approve

Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

John Kenefick expressed his opinion city ordinances control a lot of the business of the marihuana facilities.

Latasha Potter, owner of a marihuana business, expressed appreciation to the commission for this consideration.

Vice Mayor Reynolds stated the Battle Creek marihuana businesses loose business due to early closing hours, noting surrounding townships allow the marihuana businesses to operate until midnight.

Comm. Gray and Comm. Herring stated they shared the concerns expressed by Vice Mayor Reynolds.

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

12-2022 A Proposed Ordinance, #12-2022, to amend Chapter 276 Downtown Development Authority in compliance with Public Act 57 of 2018, the Recodified Tax Increment Financing Act, to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Comm. Gray requested Mr. Dearing to address some of the questions that were asked at a previous meeting.

Ted Dearing, Assistant City Manager, stated staff prepared a response to all of the questions, providing the responses to the City Commissioners and the group who attended and participated in the DACC meetings. As to mailings to residents, Mr. Dearing stated staff attempted to contact as many residents within the area, noting the US Post Office did not deliver the notices mailed to 115-225 Wa Wee Nork due to the way the unit numbers were formatted, stating staff used the Utility Billing data base to send a 2nd notice to the addresses on file.

Responding to Comm. Blood, Mr. Dearing confirmed that staff could put the response document on the city website so that it is available to all residents, noting the full plan is posted on the city website.

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA

Kathy Antaya commented on resolutions 513 and 514, expressing appreciation for the reinvigoration

of the local NPCs, stating some residents may not be in an NPC.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

Comm. Herring stated downtown residents were welcomed into the NPC 4 meetings, stating as the membership grew, downtown residents will establish their own NPC.

Comm. Blood applauded staff for bringing the NPCs back.

CONSENT AGENDA

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

Minutes for the October 4, 2022 City Commission Regular Meeting

City Manager's Report for October 18, 2022

CONSENT RESOLUTIONS

510 A Resolution reappointing a member to the Economic Development Corporation.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

511 A Resolution reappointing a member to the Dickman Road Business Improvement Board.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

512 A Resolution appointing a member to the Sustainable BC Committee.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

513 A Resolution appointing / renewal of 5 new members to the North East Neighborhood Planning Council (NPC # 4).

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

514 A Resolution appointing/renewing 21 members to the Urbandale Neighborhood Planning Council (NPC # 5).

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

515 A Resolution seeking authorization regarding a purchase order for replacement laptops from Access Interactive, LLC, in a not-to-exceed amount of $60,360.00.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

516 A Resolution proposing to comply with the provisions of Public Act 152 of 2011 by exercising the City's right to implement the 80/20 requirement of the Act for the plan year ending December 31, 2023.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

517 A Resolution proposing to authorize the City Manager to renew the City's Group Dental Plan with Delta Dental, the City's current provider for the 1/1/23 – 12/31/23 plan year at an estimated cost of $403,090.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

518 A Resolution proposing to authorize the City Manager to renew various self-funded, healthcare plans with Blue Cross Blue Shield of Michigan and Blue Care Network and related Administrative Services Contract for plan year 1/1/2023 to 12/31/2023. This amount is estimated to be $8,001,212 not including employee premium share.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

519 A Resolution seeking approval to amend the 2021-2022 Commission meeting schedule adopted in Resolution 248 on November 2, 2021 to allow time for certification of the 2022 election results.

Motion to Approve
Moved By: SHERRY SOFIA
Supported By: KATHY SZENDA WILSON

Ayes: BLOOD, GRAY, LANCE, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON, HERRING

MOTION PASSED

GENERAL PUBLIC COMMENT

Douglas Baker discussed some concerns he has had with Republic Waste services, stating they have been very unresponsive.

Jerry Steiner questioned residents' ability to vote after the Decennial Census redistricting earlier this year.

Victoria Houser, City Clerk, noted the redistricting completed earlier in the year was required by City Charter, to ensure the 5 City Wards were balanced within 10% of each, noting other precinct changes were done to better balance precincts and provide better service to voters. As an example, Clerk Houser noted that although precincts 4 and 10 were in the same ward and same polling location, historically, precinct 4 had less registered voters and lower voter turn-out, resulting in no lines or delays when voting. Clerk Houser noted that precinct 10 had more registered voters and higher voter turn-out, resulting in longer lines and delays when voting. Clerk Houser stated the rebalancing of these two precincts resulted in similar voter turn-out in the August election, better balancing the wait times for all voters at this polling location. Clerk Houser noted additional redistricting between precinct 1 and 18 along Jericho Street, and additonal changes in precincts 2, 3, 5, 8 and 9. Clerk Houser noted redistricting does not cancel any voter's registration, it simply changes precinct boundardies, possibly resulting in a different polling location.

Comm. Blood informed everyone that she served as a precinct inspector at the August election, and the voter lines were much better balanced, resutling in lower waiting times for voters. Comm. Blood also asked how voters could find out more information as to where they are to vote.

Clerk Houser noted residents could find out if they were registered to vote at michigan.gov/vote, or by visiting or calling the City Clerk's office. Clerk Houser noted voters could obtain more information at the Clerk's webpage: http://battlecreekmi.gov/509/Elections

Comm. Gray clarified that the Orchard Park area was along Coolidge Avenue, which is a boundary line between the City of Battle Creek to the south and Bedford Township to the north. Comm. Gray agreed it can be confusing for township residents as their mailing address inlcuded Battle Creek, MI.

John Kenefick commented on some documents recorded at the Calhoun County Register office for a

previous business owner and the Cereal City Development Corp.

Sam Gray announced a veteran's dinner on November 11th, from 2pm - 6pm at the SSG Michael A. Dickinson, II Post 257, at 7475 B Drive North, across from Harper Creek Schools. Mr. Gray also announced the NAACP Freedom Fund Banquet on October 28th at the Burma Center, beginning at 5:00 pm.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Comm. Szenda Wilson shared the connection between domestic violence and the health of children, encouraging all residents to do good by the children, and to reach out and support each other.

Comm. Gray welcomed the City Manager back, also thanking the Assistant City Manager for his leadership during her absence. Comm. Gray requested the City Attorney discuss the manner in which the mayor is elected and recent charter changes.

Jill Steele, City Attorney, noting Battle Creek is governed by the Home Rule City Act, which includes items that must be in the city charter, stated section 3 requires every city to provide for the election of the mayor, either by selection of the legislative body or elected by residents. Attorney Steele noted the City Charter was amended in 2020 to have the mayor elected by the voters of the City. Attorney Steele noted 37 other cities in Michigan elect their mayor by the legislative body, noting those mayors are no less historical or worthy than a mayor elected by the voters.

Comm. Herring announced October is National Disability Employment Awareness Month, declared in 1988 by the US Congress to raise awareness of employment needs and contributions of all individuals with all types of disabilities. Comm. Herring reminded everyone that disabilities are not always visible, encouraging everyone to be respectful of all people.

Comm. Blood complimented Comm. Morris, stating she is a brave young lady, dedicated to the city, and listens to her constituents and votes accordingly. Comm. Blood stated it has been honor to serve with her on the commission.

ADJOURNMENT

Mayor Behnke adjourned the meeting at 8:14 pm.

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate. Period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

(a) Becomes repetitive or speaks longer than the allotted time;

(b) Attempts to yield any unused portion of time to other speakers;

(c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out his or her public duties or office;

(d) Uses obscene or profane language;

(e) Engages in slanderous or defamatory speech;

(f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or

(g) Engages in conduct that interrupts or disrupts the meeting.

Resolution NO.

Ambulance Report for September 2022

BATTLE CREEK, MICHIGAN - 11/1/2022

AMBULANCE SERVICES
MONTHLY PERFORMANCE REPORT

Report for the month of September 2022

Life Care Ambulance Service

Life Care Ambulance Service is under Contract with the City of Battle Creek effective June 2, 1998.

Under the Contract, they are requested to meet the following criteria at a minimum of 90% of all calls per month:

Life-threatening emergency runs throughout the City -- 8 Minutes, 30 Seconds
Life-threatening emergency runs per Ward -- 9 Minutes, 30 Seconds
Priority 3 Responses -- 15 Minutes

Life-threatening Emergencies City-wide

Number of runs for the month 573. Percentage of runs accomplished within guidelines 74.0%

Life-threatening Emergencies per Ward

	Ward 1	**Ward 2**	**Ward 3**	**Ward 4**	**Ward 5**
Number of Runs	104	194	109	68	98
Percentage Achieved	73.1%	86.6%	82.6%	85.3%	69.4%

Priority 3 Responses

Number of runs for the month 375. Percentage of runs accomplished within guidelines 79.5%

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Shawna Beach - Records/Election Clerk

Department: City Clerk

SUMMARY

Ambulance Report for September 2022

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
No Attachments Available	

General Detail NO.

City Manager's Report for November 1, 2022

BATTLE CREEK, MICHIGAN - 11/1/2022

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Rebecca L. Fleury, City Manager

Department: City Manager

SUMMARY

City Manager's Report for November 1, 2022

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
City_Manager_Report_11012022.docx.pdf	City Manager's Report for November 1, 2022

MEMO

Date: 11/01/2022

To: Mayor and City Commission

From: Rebecca L. Fleury, City Manager

RE: City Manager's November 01, 2022, Agenda Report

13-2022 **A proposed Ordinance to rezone 175 College Street (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.**

The subject property of the proposed rezone (175 College St.) is situated along the west side of College Street approximately 220 feet to the south of the intersection of College Street and Emmett Street W. The property is currently zoned T-3 Neighborhood Commercial District, with the applicant seeking a rezoning of the property to T-4 Downtown Commercial.

This area of the City is fairly unique given the large diversity of zoning classifications within a relatively small geographic area.

This proposed Ordinance would rezone 175 College Street (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. **Introduction is Recommended**

520 **A Resolution seeking to adopt Ordinance 10-2022 to amend Section 02, Article (XVII) of Chapter 212, Rules of Procedure of the Commission, to distinguish Applicant comments and to impose a safety provision; and Section 05 of Chapter 212, to amend the meeting requirements of the Ethics and Meeting Rules Committee.**

The current meeting rules do not distinguish between an individual making traditional public comment and an applicant who has a right to appeal a final decision of the City Commission. Applicants are traditionally not strictly limited to three minutes to present their case, but that rule has not been formalized in the Ordinances. If passed, the proposed amendment would add sub-section (f) to make that distinction. Applicants would still be obligated to comply with the other rules, including, but not limited to, not being repetitive and speaking on-topic.

The proposed amendment would also add sub-section (5) as a safety measure to prohibit members of the public from stepping past the podium into the well of the chambers to prevent approaching the dais without having been invited by the Mayor (or whomever is presiding at the meeting) or requesting and being granted permission to approach.

Lastly, the proposed amendment would revise how frequently the Ethics and Meeting Rules Committee must meet.

This Resolution seeks to adopt Ordinance 10-2022 to amend Section 02, Article (XVII) of Chapter 212, Rules of Procedure of the Commission, to distinguish Applicant comments and to impose a safety provision; and Section 05 of Chapter 212, to amend the meeting requirements of the Ethics and Meeting Rules Committee. **Approval is Recommended**

521 **A Resolution seeking to adopt Ordinance 11-2022 to amend Chapters 833 Medical Marihuana Facilities, and 835 Adult Use Marihuana Establishments, to expand the hours of operation; update definitions and make additional clarifications.**

Vice Mayor Reynolds, supported by Commissioners Gray and Herring, requested that Chapters 833 and 835 regulating Medical Marihuana and Adult Recreational Marihuana facilities be amended to expand the permissible hours of operation. The ordinance currently prohibits these facilities to operate between the hours of 9:00 p.m. and 7:00 a.m. This amendment, if approved, allows the businesses to operate until midnight.

This Proposed Ordinance, 11-2022, would amend Chapters 833 Medical Marihuana Facilities, and 835 Adult Use Marihuana Establishments, to expand the hours of operation; update definitions and make additional clarifications. **Approval is Recommended**

522 **A Resolution seeking to adopt Ordinance 12-2022 to amend Chapter 276 Downtown Development Authority in compliance with Public Act 57 of 2018, the Recodified Tax Increment Financing Act, to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority.**

The City adopted an ordinance on March 6, 1979 to establish the City of Battle Creek Downtown Development Authority and designate the boundaries of the Authority's development area.

The Plan has been amended several times over the years, including removing land from the boundaries.

Pursuant to Part 2 of Act 57, the Downtown Development Authority prepared and reviewed, and by resolution adopted August 22, 2022, approved, recommended, and submitted an amendment to the Plan to the City Commission in order to amend the projects it intends to undertake.

This Proposed Ordinance, would amend Chapter 276 Downtown Development Authority in compliance with Public Act 57 of 2018, the Recodified Tax Increment Financing Act, to Approve Amendment to the Tax Increment Financing and Development Plan of the City of Battle Creek Downtown Development Authority. **Approval is Recommended**

528 **A Resolution seeking authorizing for the City Manager to accept a grant in the amount of $519,224 from the Office of Justice Programs (OJP) and to establish the appropriate budget.**

The City of Battle Creek has been awarded $519,224 from the Office of Justice Programs. The grant period begins 10-01-2022 and ends 09-30-2025.

The goal of this initiative is to expand BCPD's collaborative response and create a more comprehensive effort by law enforcement, the local mental health agency and social service organizations to connect individuals with mental health treatment and other services, therefore reducing the number of arrests that may involve a mental health issue as well as providing victim services.

This Resolution seeks authorizing for the City Manager to accept a grant in the amount of $519,224 from the Office of Justice Programs and to establish the appropriate budget. **Approval is Recommended**

529 **A Resolution seeking to approve S15-2022, for a Special Use Permit for the continuance and alteration of a building located at 175 College Street parcel 9730-00-052-0, which houses an existing medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.**

This petition requesting a Special Use Permit was received from Jeannie Goodrich of Summit Pointe, for property at 175 College St. to allow for the alteration of the building located at 175

College St., which houses a medical practice (Calhoun County Community Mental Health Authority).

This Resolution seeks to approve S15-2022, for a Special Use Permit for the continuance and alteration of a building located at 175 College Street parcel 9730-00-052-0, which houses an existing medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. **Approval is Recommended**

Resolution NO. 523

A Resolution seeking authorization for the City Manager to execute a METRO Act Bilateral Right-of-Way Telecommunications Permit with Level 3 Communications, LLC.

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That Level 3 Communications, LLC seeks to enter into a Right-of-Way Telecommunications Permit with the City of Battle Creek, under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Public Act 48 of 2002, as amended, being MCL 484.3101 et seq.

The City Manager is authorized to execute the attached METRO Act Bilateral Right-of-Way Telecommunications Permit with Level 3 Communications, LLC, or one with substantially similar terms approved by the City Attorney.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Marcel Stoetzel, Deputy City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking authorization for the City Manager to execute a METRO Act Bilateral Right-of-Way Telecommunications Permit with Level 3 Communications, LLC.

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

On March 14, 2002 three bills were signed into law to stimulate the availability of affordable high-speed Internet connections. Act 48 of the Public Acts of 2002 created a body called the Metropolitan Extension Telecommunication Rights-of-Way Oversight (METRO) Authority, whose purpose is to assist telecommunication providers cut through red tape and obtain permits without having to pay excessive fees

or endure unnecessary delays.

The METRO Authority is empowered to coordinate public right-of-way matters with municipalities, assess the fees required under the Act and have the exclusive power to assess fees on telecommunication providers owning telecommunication facilities in public rights-of-way within a municipality in a metropolitan area to recover the costs of using the rights-of-way by the provider. Under Act 50 of the Public Acts of 2002, tax credits are afforded to telecommunication providers that invest in new broadband infrastructure and, upon certification of the MPSC, for right-of-way fees paid. The providers submit route maps showing the location of telecommunication facilities to both the commission and the affected municipality.

Level 3 Communications, LLC seeks to enter into a Right-of-Way Telecommunications Permit with the City of Battle Creek, under the METRO Act. Attached to the permit as Exhibit A is Level 3 Communications, LLC's route map. Level 3 Communications, LLC's highway use bond, when received, will be attached as Exhibit B. Level 3 Communications, LLC will continue to comply with any updated insurance and performance bond requirements which the City reasonably deems necessary.

Level 3 Communications, LLC, a subsidiary of Lumen Technologies, provides telecommunication services. The company offers network management, data, voice, and video electronic telecommunication services. Level 3 Communications, LLC markets its services to businesses in health care, digital media, government, finance, wholesale, and other various markets throughout the world.

DISCUSSION OF THE ISSUE

POSITIONS

City Engineer Jarret Geering recommends approval.

ATTACHMENTS:

File Name	Description
Bilateral_Metro_Permit_with_Level_3_Communications_LLC.pdf	Bilateral METRO permit with Level 3 Communications LLC

METRO Act Permit
Bilateral Form
Revised 12/06/02

RIGHT-OF-WAY TELECOMMUNICATIONS PERMIT

TERMS AND CONDITIONS

1 Definitions

1.1 Company shall mean Level 3 Communications, LLC and its affiliates organized under the laws of the State of Delaware whose address is 1025 Eldorado Blvd, Broomfield, CO 80021.

1.2 Effective Date shall mean the date set forth in Part 13.

1.3 Manager shall mean Municipality's City Manager or his or her designee.

1.4 METRO Act shall mean the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended.

1.5 Municipality shall mean the City of Battle Creek, a Michigan municipal corporation.

1.6 Permit shall mean this document.

1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public right-of-way does not include a federal, state, or private right-of-way.

1.8 Telecommunication Facilities or Facilities shall mean the Company's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, 2-way communications device.

1.9 Term shall have the meaning set forth in Part 7.

2 Grant

2.1 Municipality hereby grants a permit under the METRO Act to Company for access to and ongoing use of the Public Right-of-Way to construct, install and maintain Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A on the terms set forth herein. Exhibit A contains a map of the general location of the Company's facilities located both on private property and Public Right-of-Way within Municipality.

2.1.1 Exhibit A may be modified by written request by Company and approval by Manager.

2.1.2 Manager shall not unreasonably condition or deny any request for a modification of Exhibit A. Any decision of Manager on a request for a modification may be appealed by Company to Municipality's legislative body.

2.2 Overlashing. Company shall not allow the wires or any other facilities of a third party to be overlashed to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.

2.3 Nonexclusive. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

3.1 Company Contacts. The names, addresses and the like for engineering and construction related information for Company and its Telecommunication Facilities are as follows:

3.1.1 The address, e-mail address, phone number and contact person (title or name) at Company's local office (in or near Municipality) is Scott Antone, OSP Engineer, 19675 W. 10 Mile Road, Southfield, MI 48075, Scott.Antone@CenturyLink.com, (248) 864-2905.

3.1.2 If Company's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office,

the location address, phone number and contact person (title or department) for them is ___see 3.1.1___.

3.1.3 The name, title, address, e-mail address and telephone numbers of Company's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is Scott Antone, OSP Engineer, 19675 W. 10 Mile Road, Southfield, MI 48075, Scott.Antone@CenturyLink.com, (248) 864-2905.

3.1.4 The address, phone number and contact person (title or department) at Company's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is Scott Antone, OSP Engineer, 19675 W. 10 Mile Road, Southfield, MI 48075, Scott.Antone@CenturyLink.com, (248) 864-2905.

3.1.5 Company shall at all times provide Manager with the phone number at which a live representative of Company (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency.

Level 3 Communications, LLC's 24 hour NOC: (877) 877-7758.

3.1.6 The preceding information is accurate as of the Effective Date. Company shall notify Municipality in writing as set forth in Part 12 of any changes in the preceding information.

3.2 Route Maps. Within ninety (90) days after the substantial completion of construction of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.3106(7).

3.3 As-Built Records. Company, without expense to Municipality, shall, upon five (5) business days notice, unless in the event of an emergency as determined by Municipality, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Company shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

4.1 No Burden on Public Right-of-Way. Company, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Company's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Company, at its sole expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Company shall do so within a reasonable time period. Municipality shall attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.

4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Company over any present or future permittees or parties having agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

4.3 Restoration of Property. Company, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Company's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Company's option, better) condition as that which existed prior to the disturbance. In the event that Company, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Company shall pay the costs Municipality incurred for such repair.

4.4 Marking. Company shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Company's lines on alternate poles which shall state Company's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Company's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Company's name and a toll-free

number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Company, shall be marked at its entrance into and exit from each manhole and handhole with Company's name and a toll-free telephone number.

4.5 Tree Trimming. Company may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Company shall dispose of all trimmed materials. Company shall minimize the trimming of trees to that essential to maintain the integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.

4.6 Installation and Maintenance. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his or her designee. Company shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Company's use, or the facilities of all users of the poles are required to go underground then Company shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Company may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Company shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.

4.7 Pavement Cut Coordination. Company shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").

4.7.1 The goals of such coordination shall be to encourage Company to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.

4.8 Compliance with Laws. Company shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or

which hereafter may be promulgated. Before any installation is commenced, Company shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Municipality shall not unreasonably delay or deny issuance of any such permits, licenses or approvals. Company shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Company shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended. This section does not constitute a waiver of Company's right to challenge laws, statutes, ordinances, rules or regulations now in force or established in the future.

4.9 Street Vacation. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of Company's Facilities in the vacated Public Right-of-Way, Company shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or a court of competent jurisdiction. Company shall relocate its Facilities to such alternate route as Municipality and Company mutually agree, applying reasonable engineering standards.

4.10 Relocation. If Municipality requests Company to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Company shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such alternate route as Municipality and Company mutually agree, applying reasonable engineering standards. The work shall be completed within a reasonable time period.

4.11 Public Emergency. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Company if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality shall attempt to provide notice to Company. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Company shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.

4.12 Miss Dig. If eligible to join, Company shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended, MCL § 460.721 et seq., and shall conduct its business

in conformance with the statutory provisions and regulations promulgated thereunder.

4.13 Underground Relocation. If Company has its Facilities on poles of Consumers Energy Company, or another electric or telecommunications provider and Consumers Energy Company, or such other electric or telecommunications provider relocates its system underground, then Company shall relocate its Facilities underground in the same location at Company's sole cost and expense.

4.14 Identification. All personnel of Company and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Company's name, their name and photograph. Company shall account for all identification cards at all times. Every service vehicle of Company and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Company's name and telephone number.

5 Indemnification

5.1 Indemnity. Company shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Company, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Company's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Company, its officers, agents, employees, contractors, successors and assigns.

5.2 Notice, Cooperation. Municipality shall notify Company promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality shall cooperate with Company in every reasonable way to facilitate the defense of any such claim. Municipality shall consult with Company respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.

5.3 Settlement. Municipality shall not settle any claim subject to indemnification under this Part 5 without the advance written consent of Company, which consent shall not be unreasonably withheld. Company shall have the right to defend or settle, at its own expense, any claim against Municipality for which Company is responsible hereunder.

6 Insurance

6.1 Coverage Required. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Company shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Company may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.

6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars ($5,000,000).

6.1.2 Liability insurance for sudden and accidental environmental contamination with minimum limits of Five Hundred Thousand Dollars ($500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.

6.1.3 Automobile liability insurance in an amount not less than One Million Dollars ($1,000,000).

6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.

6.1.5 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or (when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

6.2 Additional Insured. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Company shall annually provide Municipality with a certificate

of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.

6.3 Qualified Insurers. All insurance shall be issued by insurance carriers authorized to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.

6.4 Deductibles. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of $50,000, they shall be approved by Manager in advance in writing. Company shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.

6.5 Contractors. Company's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Company, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Company's policies).

6.6 Insurance Primary. Company's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Company's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 Term

7.1 Term. The term ("Term") of this Permit shall be until the earlier of:

7.1.1 Fifteen years (15) from the Effective Date; provided, however, that following such initial term there shall be three subsequent renewal terms of five (5) years. Each renewal term shall be automatic unless Municipality notifies Company in writing, at least twelve (12) months prior to the end of any term then in effect, that due to changed circumstances a need exists to negotiate the

subsequent renewal with Company. Municipality shall not unreasonably deny a renewal term; or

7.1.2 When the Telecommunication Facilities have not been used to provide telecommunications services for a period of one hundred and eighty (180) days by the Company or a successor of an assign of the Company; or

7.1.3 When Company, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or

7.1.4 Upon either Company or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or

7.1.5 Unless Manager grants a written extension, one year from the Effective Date if prior thereto Company has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Effective Date if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

8.1 Municipal Requirement. Municipality requires Company to post a Ten Thousand Dollar ($10,000) bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended, MCL § 484.3115(3).

9 Fees

9.1 Establishment; Reservation. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with the Public Right-of-Way.

10 Removal

10.1 Removal; Underground. As soon as practicable after the Term, Company or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Company shall not remove any underground cable or other portions of the Telecommunication Facilities which requires

trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Company's sole cost and expense.

10.1.1 For purposes of this Part 10, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

10.2 Removal; Above Ground. As soon as practicable after the Term, Company, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.

10.3 Schedule. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Company as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.

11 Assignment. Company may assign or transfer its rights under this Permit, or the persons or entities controlling Company may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the ownership or control of Company's business, or by other means, subject to the following:

11.1 No such transfer or assignment or change in the control of Company shall be effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Effective Date until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.

11.2 After the completion of such construction, Company must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,

11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Company's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Company shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.

11.3 Company may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

12.1 Notices. All notices under this Permit shall be given as follows:

12.1.1 If to Municipality, to:

City of Battle Creek
ATTN: City Engineer
Department of Public Works
150 Kendall Street
Battle Creek, MI 49037

with a copy to:

City of Battle Creek
ATTN: City Attorney
10 N. Division Street, Suite 207
Battle Creek, MI 49014

12.1.2 If to Company, to:

Level 3 Communications, LLC
NIS/ROW
1025 Eldorado Blvd.
Broomfield, CO 80021

with a copy to:

Level 3 Communications, LLC
General Counsel
1025 Eldorado Blvd.
Broomfield, CO 80021

12.2 Change of Address. Company and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

13.1 No Cable, OVS. This Permit does not authorize Company to provide commercial cable type services to the public, such as "cable service" or the services of an "open video system operator" (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).

13.2 Duties. Company shall faithfully perform all duties required by this Permit.

13.3 Effective Date. This Permit shall become effective when issued by Municipality and Company has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acceptance of the Permit.

13.4 Authority. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act, MCL 484.3105.

13.5 Amendment. Except as set forth in Section 2.1 this Permit may be amended by the written agreement of Municipality and Company.

13.6 Interpretation and Severability. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Company and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.

13.7 Governing Law. This Permit shall be governed by the laws of the State of Michigan.

City of Battle Creek

Attest:
By:_____

By: _____
Rebecca L. Fleury
Its: City Manager
Date: _____

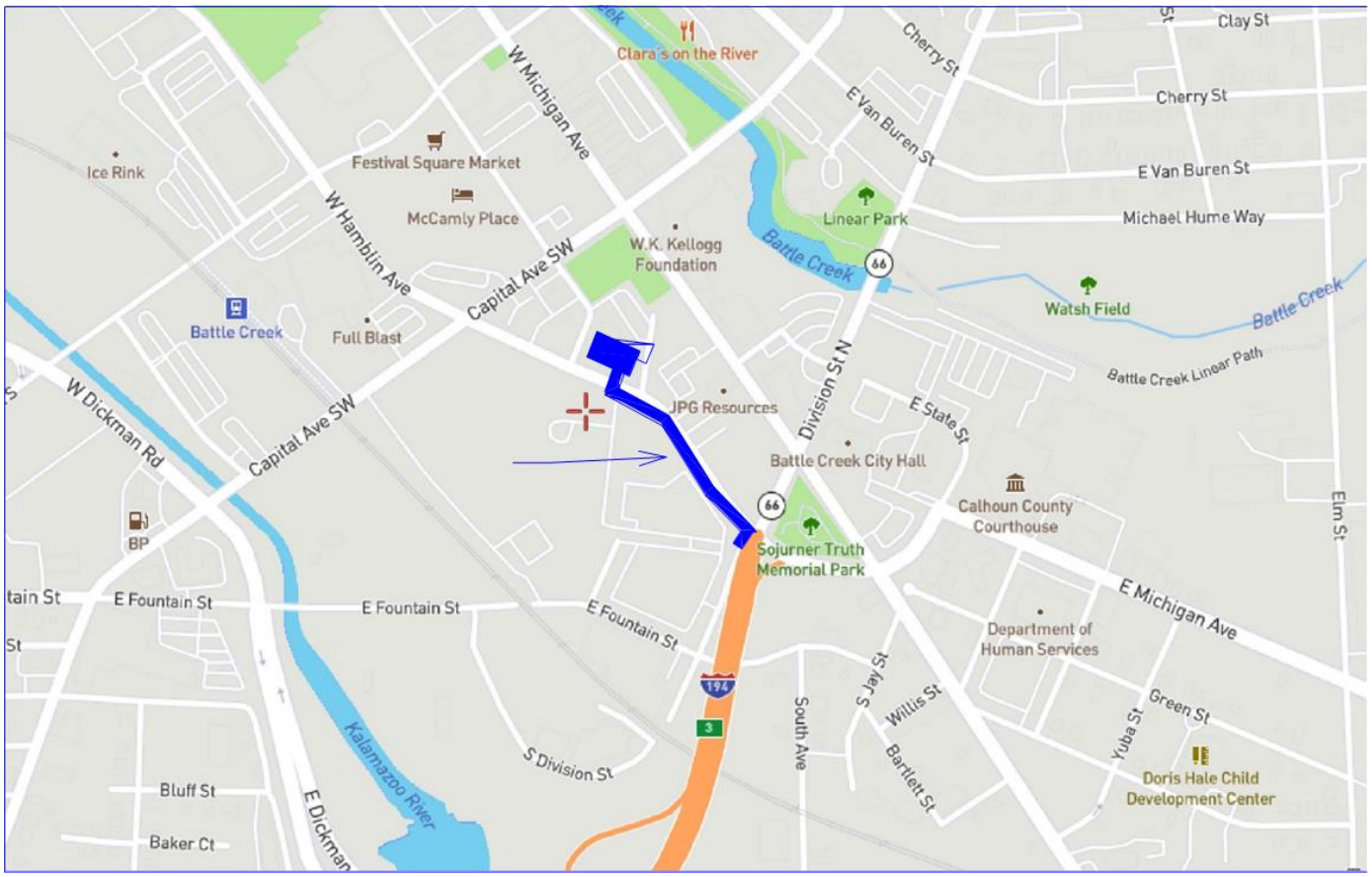
"Company accepts the Permit granted by Municipality upon the terms and conditions contained therein."

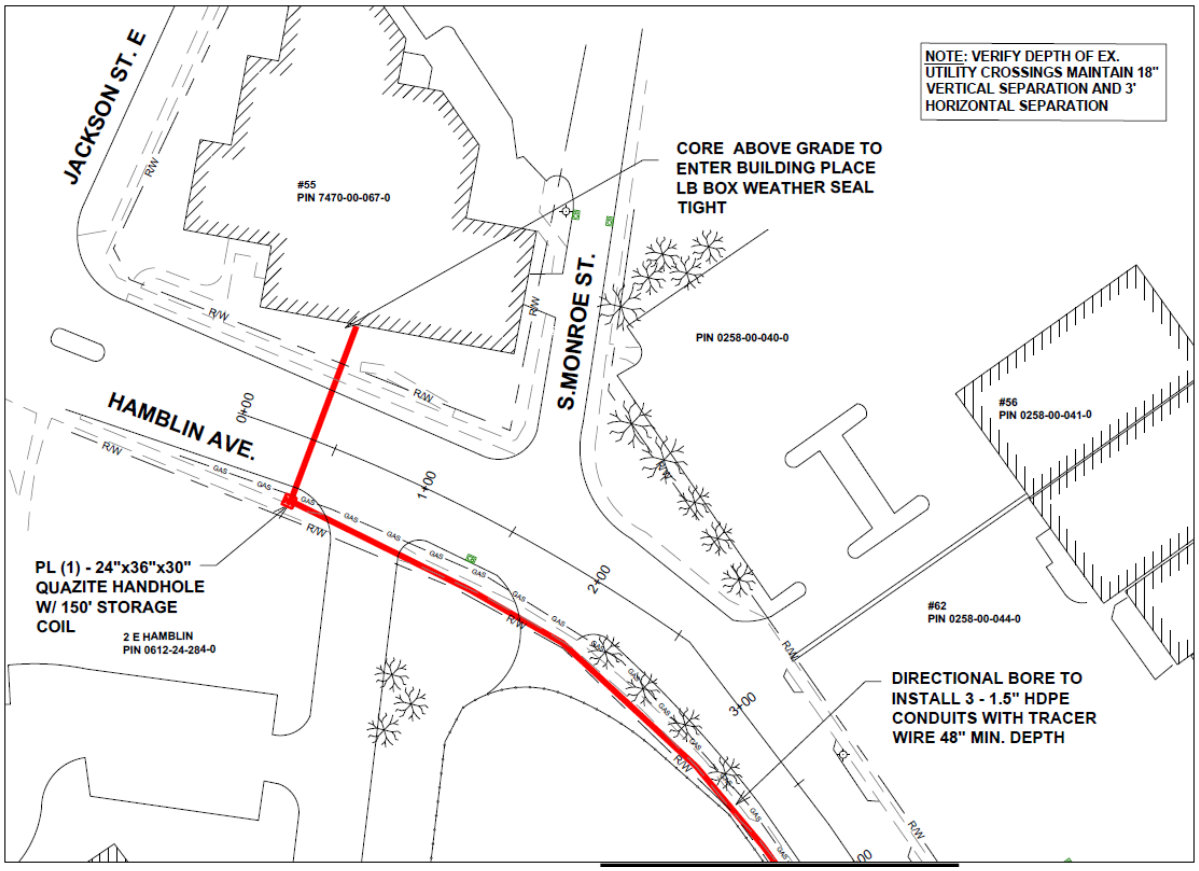
Level 3 Communications, LLC

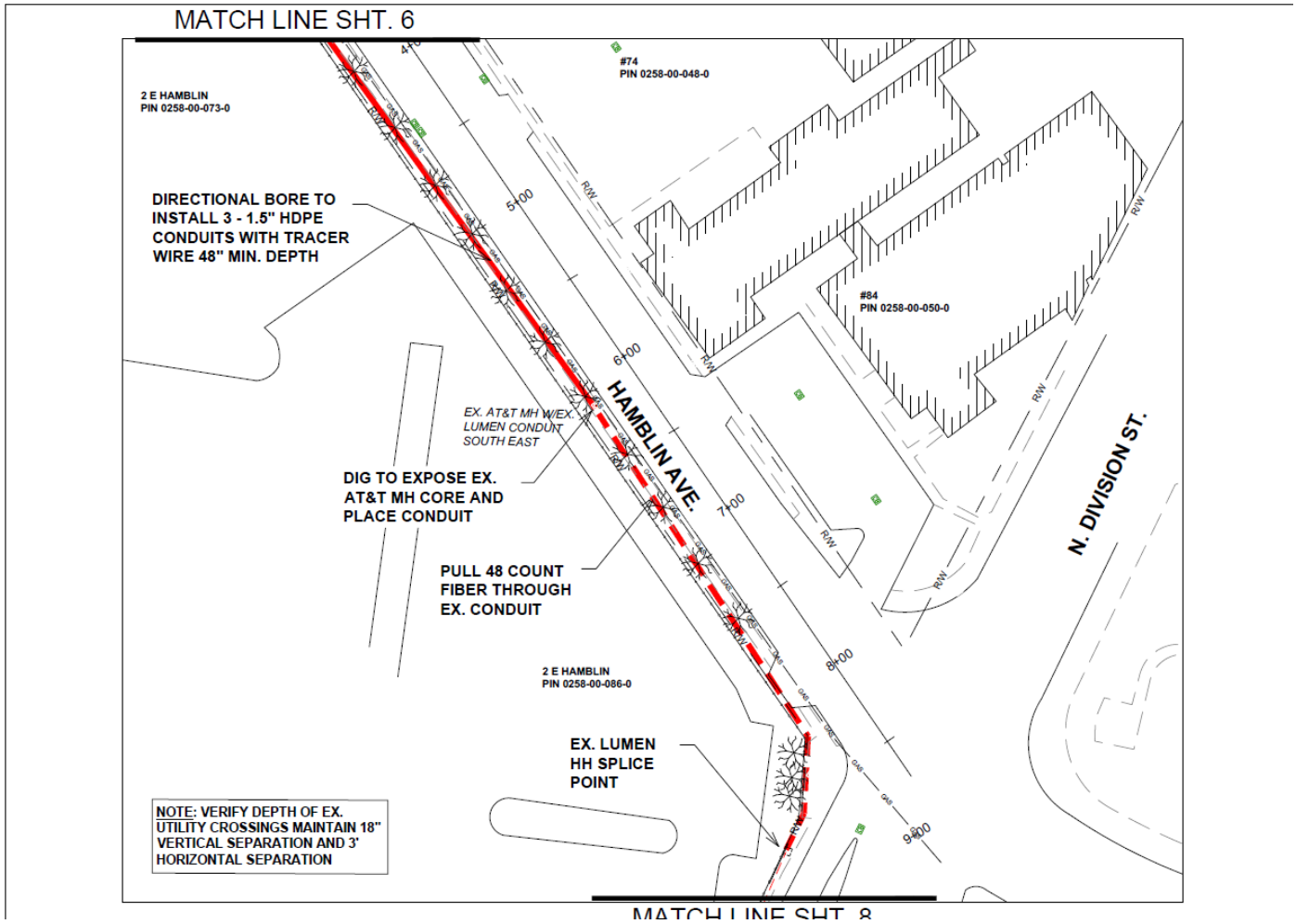
By: _____
Danett Kennedy
Its: Senior Manager, NIS
Date: _____

Exhibit A

Map - Public Right-of-Way to be Used by Level 3 Communications, LLC




JACKSON ST. E
R/W
#55
PIN 7470-00-067-0
S.MONROE ST.
CORE ABOVE GRADE TO ENTER BUILDING PLACE LB BOX WEATHER SEAL TIGHT
NOTE: VERIFY DEPTH OF EX. UTILITY CROSSINGS MAINTAIN 18" VERTICAL SEPARATION AND 3' HORIZONTAL SEPARATION
PIN 0258-00-040-0
#56
PIN 0258-00-041-0
HAMBLIN AVE.
0+00
1+00
2+00
3+00
GAS
PL (1) - 24"x36"x30" QUAZITE HANDHOLE W/ 150' STORAGE COIL
2 E HAMBLIN
PIN 0612-24-284-0
#62
PIN 0258-00-044-0
DIRECTIONAL BORE TO INSTALL 3 - 1.5" HDPE CONDUITS WITH TRACER WIRE 48" MIN. DEPTH


MATCH LINE SHT. 6
2 E HAMBLIN
PIN 0258-00-073-0
#74
PIN 0258-00-048-0
#84
PIN 0258-00-050-0
DIRECTIONAL BORE TO INSTALL 3 - 1.5" HDPE CONDUITS WITH TRACER WIRE 48" MIN. DEPTH
EX. AT&T MH W/EX. LUMEN CONDUIT SOUTH EAST
DIG TO EXPOSE EX. AT&T MH CORE AND PLACE CONDUIT
PULL 48 COUNT FIBER THROUGH EX. CONDUIT
HAMBLIN AVE.
N. DIVISION ST.
2 E HAMBLIN
PIN 0258-00-086-0
EX. LUMEN HH SPLICE POINT
NOTE: VERIFY DEPTH OF EX. UTILITY CROSSINGS MAINTAIN 18" VERTICAL SEPARATION AND 3' HORIZONTAL SEPARATION
4+00
5+00
6+00
7+00
8+00
9+00
R/W
MATCH LINE SHT. 8

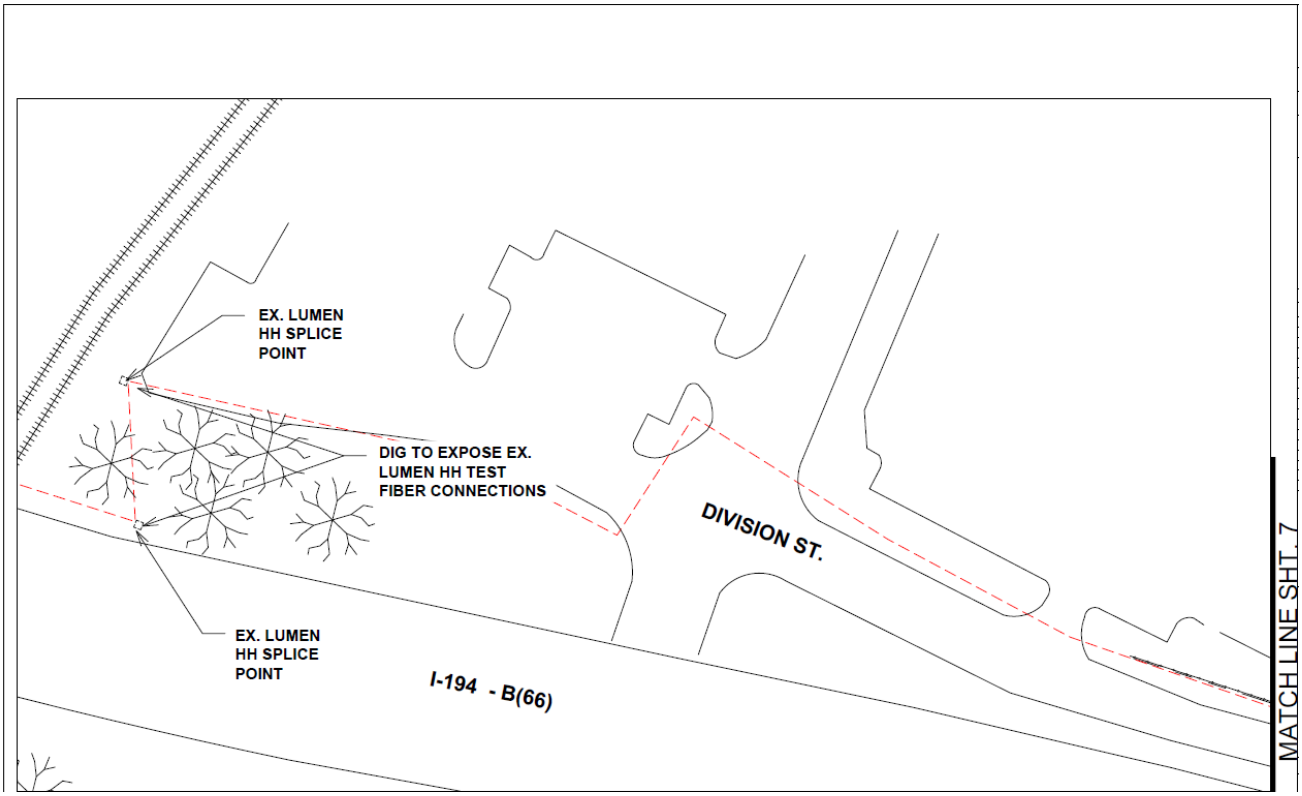

EX. LUMEN
HH SPLICE
POINT
DIG TO EXPOSE EX.
LUMEN HH TEST
FIBER CONNECTIONS
DIVISION ST.
EX. LUMEN
HH SPLICE
POINT
I-194 - B(66)
MATCH LINE SHT. 7

Exhibit B

Bond

Pending receipt from L3C, LLC.

Resolution NO. 524

A Resolution reappointing members to the Battle Creek Area Metropolitan Service Agency (AMSA)

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That this Resolution reappoints member to the Battle Creek Area Metropolitan Service Agency (AMSA).

That Rebecca Fleury of 10 N. Division Street be reappointed to the Battle Creek Area Metropolitan Service Agency (AMSA) with a term expiration date of November 10, 2024;

That Marcie Gillette of 10 N. Division Street be reappointed to the Battle Creek Area Metropolitan Service Agency (AMSA) with a term expiration date of November 10, 2024;

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution reappointing members to the Battle Creek Area Metropolitan Service Agency (AMSA)

BUDGETARY CONSIDERATIONS

None

HISTORY, BACKGROUND and DISCUSSION

The Interlocal Agreement for the Battle Creek Area Metropolitan Service Agency pursuant to provisions of Urban Cooperation Act of 1967, duly executed on July 2, 1973, as amended by First Amendments and approved by the Governor of the State of Michigan on September 25, 1973.

To develop the mechanisms and processes that will allow the member governments to participate cooperatively and voluntarily in providing needed goods and services to their respective governmental

units.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
No Attachments Available	

CITY OF Battle Creek MICHIGAN

Resolution NO. 525

A Resolution appointing a new member to the Economic Development Corporation.

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That Erick Stewart is reappointed to the Economic Development Corporation, with a term expiration date of 1/14/2028.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution appointing a new member to the Economic Development Corporation.

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

The Economic Development Corporations Act (Act 338 of 1974) allows municipalities to establish Economic Development Corporations ("EDCs") in order to alleviate and prevent conditions of unemployment and assist and retain local industrial and commercial enterprises. To strengthen and revitalize the economy of Battle Creek, the City established the Economic Development Corporation of Battle Creek in 1976. The EDC has not been active in recent years and the terms of almost all of the existing board members have expired.

Recently, it came to light that the EDC is needed to authorize the signing of documents clearing a couple of title issues for American Fitbrit/Hoover Universal, in the industrial park. The EDC is party to two mortgages and is needed to discharge the mortgages and possibly execute deeds. Finance Director Linda Morrison has indicated that there is no record of outstanding debt owed by American Fitbrit/Hoover

Universal to the Economic Development Corporation, clearing the way for the action.
In order to address the issue, the City is seeking to update the EDC membership. Once a new board is appointed they will be asked to address the mortgages. While no additional action is required of the board at this time, the city would also like to update the membership in anticipation of updating the EDC plan in the future. Doing so will allow the city to continue to utilize this important economic development tool as needed.

DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee is supportive of this appointment.

ATTACHMENTS:

File Name	Description
Economic_Development_Corporation.doc	Economic Development Corporation Membership Overview

ECONOMIC DEVELOPMENT CORPORATION

Authorization: Economic Development Corporation established under Act 338 of 1974 and pursuant to the Resolution adopting Ordinance dated May 11, 1976.

Appointing Authority: Mayor with consent of City Commission.

Purpose: To alleviate unemployment conditions and assist in industry retention and, in general, to promote the general welfare of the City of Battle Creek.

Membership: Nine-member Board of Directors, not more than three of whom shall be an officer or employee of the City of Battle Creek, and at least two of whom shall be representative of the neighborhood residents likely to be affected by the activities of the Corporation.

Term: Six (6) years. If a vacancy is created by resignation or death, a successor shall be appointed within 30 days for the remainder of the term.

Restrictions: A Director who has a direct interest in any matter before the Corporation shall disclose his interest prior to the Corporation taking any action with respect to the matter.

Members:

Name:	**Address:**	**Term Expires:**
John Gallagher	151 McQuiston Drive	1/14/2022
Brenda Whited	4950 W Dickman Rd. #1	1/14/2023
Mark Behnke/Mayor	10 N. Division Street	1/16/2024
Ted Dearing	10 N. Division Street	1/16/2024
Tom Beuchler	9807 Bellevue Road	1/16/2024
Anmar Atchu	70 W Michigan Ave Ste. 600	1/14/2025
Stacy Flathau	1 Kellogg Square	1/16/2025
Rebecca L. Fleury	10 North Division Street	1/07/2026
Joe Sobieralski	4950 W. Dickman Road	1/14/2028

Appointments are made of Project Area Representatives to the EDC, as necessary, when specific projects are being developed for industries.

CITY OF Battle Creek MICHIGAN

Resolution NO. 526

A Resolution appointing / renewing 4 members to the North Central Neighborhood Planning Council (NPC # 2).

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That the following are newly appointed/renewed members to the North Central Neighborhood Planning Council (NPC # 2).

Name	Address	Term Expires
Larz Martin-Bey	79 Jordan St.	12/04/2024
Bettie Robertson	125 East Northside Dr.	12/04/2024
Karen Todd	135 Irving Park Dr	12/04/2024
Monique French	153 Wood St	12/04/2024

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Michelle Salazar, Community Development Specialist

Department: Community Development

SUMMARY

A Resolution appointing / renewing 4 members to the North Central Neighborhood Planning Council (NPC # 2).

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

The City Commission is the appointing authority for Neighborhood Planning Council pursuant to Resolution #423, dated November 20, 1979; it appoints based on the recommendations of the individual Neighborhood Planning Council. Any person having demonstrable or substantial interest within the defined boundaries of the council area may be appointed upon recommendation by said council.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
NPC_#2_term_list.pdf	NPC 2 Term List

NPC 2 - North Central Neighborhood Planning Council

Name	Address	City	State	Zip	Term Expires
Lynn Ward Gray	245 Irving Park Dr	Battle Creek	MI	49037	12/4/2024
Samuel Gray	245 Irving Park Dr	Battle Creek	MI	49037	12/4/2024
Joe Hooper	382 North Washington	Battle Creek	MI	49037	12/4/2024
Whitney Wardell	143 Oneita St	Battle Creek	MI	49037	12/4/2024
Prentice J Thompson	35 W Goodale Ave	Battle Creek	MI	49037	12/4/2024
Ron Sweet	360 Champion St	Battle Creek	MI	49037	12/4/2024
Jeff Breedlove	99 Bryant St	Battle Creek	MI	49017	12/4/2024
Frank Drury	14 Spartan Dr	Battle Creek	MI	49037	12/4/2024
Larz Martin-Bey	79 Jordan St				12/4/2024
Bettie Robertson	125 East Northside Dr				12/4/2024
Karen Todd	135 Irving Park Dr	Battle Creek	MI	49037	12/4/2024
Monique French	153 Wood St	Battle Creek	MI	49037	12/4/2024

Updated 10/25/2022

Resolution NO. 527

A Resolution appointing / renewing 2 members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That the following are newly appointed/renewed members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

Name	Address	Term Expires
Andre Hoaglin-Jackson	37 Inn Rd	12/04/2024
Ryan Hoaglin-Jackson	37 Inn Rd	12/04/2024

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Michelle Salazar, Community Development Specialist

Department: Community Development

SUMMARY

A Resolution appointing / renewing 2 members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

The City Commission is the appointing authority for Neighborhood Planning Council pursuant to Resolution #423, dated November 20, 1979; it appoints based on the recommendations of the individual Neighborhood Planning Council. Any person having demonstrable or substantial

interest within the defined boundaries of the council area may be appointed upon recommendation by said council.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

	File Name	Description
🗋	NPC_#1_term_list.pdf	NPC #1 Term List

NPC 1 - Post Franklin Neighborhood Planning Council

Name	Address	City	State	Zip	Term Expires
John Cash	121 Academy St	Battle Creek	MI	49014	12/4/2023
LaMar Mingle	222 Cliff St	Battle Creek	MI	49014	12/4/2023
Yvonne Powell- Vice Chair	341 Main St	Battle Creek	MI	49014	12/4/2023
Cynthia Fritz- Secretary	451 Main St	Battle Creek	MI	49014	12/4/2024
James Moreno-Chair	451 Main St	Battle Creek	MI	49014	12/4/2024
Fay Washington	48 Hannah St	Battle Creek	MI	49014	12/4/2022
Pam Geleff	802 Michigan Ave E	Battle Creek	MI	49014	12/4/2022
Pat Shellenberger	39 Horton St	Battle Creek	MI	49014	12/4/2022
Pastor Kjersten Priddy	2055 E Columbia Ave	Battle Creek	MI	49014	12/4/2022
Ryan Hoaglin-Jackson	37 Inn Rd	Battle Creek	MI	49014	12/4/2024
Andre Hoaglin-Jackson	37 Inn Rd	Battle Creek	MI	49014	12/4/2024

Updated 10/25/2022

CITY OF Battle Creek MICHIGAN

Resolution NO. 528

A Resolution seeking authorizing for the City Manager to accept a grant in the amount of $519,224 from the Office of Justice Programs (OJP) and to establish the appropriate budget.

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That this Resolution establishes City Commission support of the funding received under application number GRANT13622028, 2022 BJA FY 22 Connect and Protect: Law Enforcement Behavioral Health Response Program solicitation and authorizes the City Manager to accept and sign the award document. After the grant has been accepted, an appropriate budget will be established and activity will be recorded in New World Systems.

The Office of Justice Programs, Bureau of Justice Assistance has approved funding to the City of Battle Creek under award number 15PBJA-22-GG-02990-MENT in the amount of $519,224.00 for the project performance period of 10-01-2022 through 09-30-2025.

Per the grant requirements, the City of Battle Creek has been established as the fiscal and program manager. The City of Battle Creek will be responsible to file the financial and program reports.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Jim Blocker, Chief of Police

Department: Police

SUMMARY

A Resolution seeking authorizing for the City Manager to accept a grant in the amount of $519,224 from the Office of Justice Programs (OJP) and to establish the appropriate budget.

BUDGETARY CONSIDERATIONS

$519,224 has been awarded to the City of Battle Creek under the 2022 BJA FY 22 Connect and Protect: Law Enforcement Behavioral Health Response Program, Award Number 15PBJA-22-GG-02990-MENT.

The City of Battle Creek will act as the applicant, and fiscal and program manager.

HISTORY, BACKGROUND and DISCUSSION

The City of Battle Creek has been awarded $519,224 from the Office of Justice Programs (OJP). The grant period begins 10-01-2022 and ends 09-30-2025.

The City of Battle Creek Police Department has received a previous JMHCP grant (2019-MO-BX-0039) for expansion of the CIT program county-wide. In coordination with the training of these officers, dispatchers, and correction officers CIT training, the Police Department requested $519,224 for 3 years for the expansion of the BCPD Community Fusion Center and to plan and effectively implement the department's First Mobile Crisis Response Team.

The goal of this initiative is to expand BCPD's collaborative response and create a more comprehensive effort by law enforcement, the local mental health agency and social service organizations to connect individuals with mental health treatment and other services, therefore reducing the number of arrests that may involve a mental health issue as well as providing victim services.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
15PBJA-22-GG-02990-MENT_Award_Letter.pdf	Award Letter
Project_Narrative.pdf	Project Narrative

Award Letter

September 29, 2022

Dear Jim Blocker,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by BATTLE CREEK, CITY OF for an award under the funding opportunity entitled 2022 BJA FY 22 Connect and Protect: Law Enforcement Behavioral Health Response Program. The approved award amount is $519,224.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

Maureen Henneberg
Deputy Assistant Attorney General

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the

Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Memorandum Regarding NEPA

NEPA Letter Type

OJP - Categorical Exclusion

NEPA Letter

None of the following activities will be conducted whether under the Office of Justice Programs federal action or a related third party action:

(1) New construction

(2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species

(3) A renovation that will change the basic prior use of a facility or significantly change its size

(4) Research and technology whose anticipated and future application could be expected to have an effect on the environment

(5) Implementation of a program involving the use of chemicals (including the identification, seizure, or closure of clandestine methamphetamine laboratories)

Additionally, the proposed action is neither a phase nor a segment of a project that when reviewed in its entirety would not meet the criteria for a categorical exclusion.

Consequently, the subject federal action meets the Office of Justice Programs' criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.

Questions about this determination may be directed to your grant manager or Orbin Terry, Environmental Coordinator for the Bureau of Justice Assistance.

NEPA Coordinator

First Name	Middle Name	Last Name
Orbin	——	Terry

Award Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Recipient Information

Recipient Name
BATTLE CREEK, CITY OF

UEI
DAZVMCPXKJT7

Street 1
10 N DIVISION ST

Street 2

City
BATTLE CREEK

State/U.S. Territory
Michigan

Zip/Postal Code
49014

Country
United States

County/Parish
——

Province
——

Award Details

Federal Award Date
9/29/22

Award Type
Initial

Award Number
15PBJA-22-GG-02990-MENT

Supplement Number
00

Federal Award Amount
$519,224.00

Funding Instrument Type
Grant

Assistance Listing Number	Assistance Listings Program Title
16.745	Criminal and Juvenile Justice and Mental Health Collaboration Program

Statutory Authority

Pub. L. No. 90-351, Title I, Sec. 2991 (codified at 34 U.S.C. 10651); Department of Justice Appropriations Act, 2022 (Pub. L. No. 117-103, 136 Stat. 49, 127)

☑ *I have read and understand the information presented in this section of the Federal Award Instrument.*

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title
2022 BJA FY 22 Connect and Protect: Law Enforcement Behavioral Health Response Program

Awarding Agency
OJP

Program Office
BJA

Application Number
GRANT13622028

Grant Manager Name **Phone Number**

Tammy Lovill 202-598-6565

E-mail Address

Tammy.L.Lovill@usdoj.gov

Project Title

Law Enforcement Behavioral Health Response Program

Performance Period Start Date	Performance Period End Date
10/01/2022	09/30/2025

Budget Period Start Date	Budget Period End Date
10/01/2022	09/30/2025

Project Description

The Battle Creek Police Department (BCPD) in partnership with Summit Pointe (Calhoun County Community Mental Health) is applying for this funding to support the first Mobile Crisis Response Team in the area. This will assist local law enforcement-behavioral health cross-system collaborations to improve public health, safety responses and outcomes for individuals with mental health disorders (MHD) and co-occurring mental health and substance use disorders (MHSUDs). The goal of this initiative is to promote effective strategies by BCPD to identify and reduce the risk of harm to individuals with MHDs or co-occurring MHSUDs who encounter BCPD and improve public safety as well as connect to community resources.

The population of the City of Battle Creek is 52,721, the ethnic composition is composed of 68.2% White, 17.3% Black, 0.6% American Indian & Alaska Native, 3.7% Asian, 0.0% Native Hawaiian & Other Pacific Islander, 8.1% two or more races, 2.1% other races. There are approximately 20,690 households in the city of which the number of persons per household is 2.40. The target population are households within the city. The poverty rate is 22.7% and we are seeking priority consideration. We will also be seeking priority consideration for advancing the department's priorities by advancing racial equity and support for underserved communities through the federal government. Pages 4-9 of the Project Narrative explain the urgency for priority consideration.

Calhoun County, of which the City of Battle Creek is the largest metropolitan area, ranks in the bottom 10% of Michigan counties for healthy behaviors/overall health outcomes. Residents report an average 4.5 days/month of poor mental health, higher than surrounding counties in Michigan and 1.45 times higher than top US counties (CountyHealthRankings.org). Bronson Hospital reports that psychoses hospitalization rates in Calhoun County (64.4 per 10,000) are 41% higher than other Michigan counties (Bronson, 2016). Suicide is a particular concern as suicide deaths, 17 deaths per 100,000 people, outpace the state and nation, both 13 deaths per 100,000 people (Bronson, 2016).

BCPD has received a previous JMHCP grant (2019-MO-BX-0039) for expansion of their CIT program county-wide. In coordination with the training of these officers, dispatchers, and correction officers CIT training, the BCPD is requesting $519,224 for 3 years to plan and effectively implement BCPD's First Mobile Crisis Response Team by CPS providing a case manager, Calhoun County to provide a probation officer, and Summit Pointe to provide (2) clinicians to target preliminarily qualified individuals with MHD's or MHSUD's.

☑ *I have read and understand the information presented in this section of the Federal Award Instrument.*

› Financial Information

⌄ Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

1

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2022)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2022, are set out at https://www.ojp.gov/funding/Explore/FY22AppropriationsRestrictions.htm, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

2

Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2022 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2022 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award

or a supplemental award) that are obligated on or after the acceptance date of this FY 2022 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at https://ojp.gov/funding/Part200UniformRequirements.htm.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3

Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

4

OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at https://www.ojp.gov/funding/implement/training-guiding-principles-grantees-and-subgrantees.

5

Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after October 15, 2020, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after January 1, 2020, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at https://www.ojp.gov/training/fmts.htm. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6

Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

7

Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

8

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and

subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at https://www.ecfr.gov/cgi-bin/ECFR?page=browse), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

9

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

10

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

11

Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

12

Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

13

Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

14

Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

15

Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at https://ojp.gov/funding/Explore/Interact-Minors.htm (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16

Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

17

Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at https://ojp.gov/financialguide/DOJ/index.htm), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

18

Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

19

Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

20

Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will

be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (https://www.e-verify.gov/) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

21

Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

22

Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

23

All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at https://ojp.gov/funding/Explore/SubawardAuthorization.htm (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

24

Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov/. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the

OJP web site at https://ojp.gov/funding/Explore/SAM.htm (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

25

Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26

Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $250,000)), and are incorporated by reference here.

27

Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

28

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

29

Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

30

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

31

Verification and updating of recipient contact information

The recipient must verify its Grant Award Administrator, Financial Manager, and Authorized Representative contact information in JustGrants, including telephone number and e-mail address. If any information is incorrect or has changed, the award recipient's Entity Administrator must make changes to contact information through DIAMD. Instructions on how to update contact information in JustGrants can be found at https://justicegrants.usdoj.gov/training/training-entity-management.

32

Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control,

are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

33

The recipient agrees that no funds under this grant award (including via subcontract or subaward, at any tier) may be used for unmanned aircraft systems (UAS), which includes unmanned aircraft vehicles (UAV), or for any accompanying accessories to support UAS.

34

The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

35

Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

36

Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements: "This project was supported by Grant No. <AWARD_NUMBER> awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities.

37

The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

38

FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of $30,000 or more and, in certain circumstances, to report the names and total compensation of the five most

highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at https://ojp.gov/funding/Explore/FFATA.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than $30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

39

Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of $650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

40

Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

41

The recipient shall submit semiannual performance reports. Performance reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted to the Office of Justice Programs, on-line through the Internet at https://justgrants.usdoj.gov

42

The recipient agrees that it will submit quarterly financial status reports (the SF 425 Federal Financial Report) to OJP in JustGrants, no later than the deadlines set out in the DOJ Financial Guide and the JustGrants guidance (typically 30 days after the end of each calendar quarter). Delinquent reports may lead to funds being frozen and other remedies.

43

Limit on use of grant funds for grantees' employees' salaries

With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this award is made.

44

Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any

threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards, and is listed on the NIJ Compliant Body Armor Model List. In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information and the NIJ Compliant Body Armor List may be found by following the links located on the NIJ Body Armor page: https://nij.ojp.gov/topics/equipment-and-technology/body-armor. In addition, if recipient uses funds under this award to purchase body armor, the recipient is strongly encouraged to have a "mandatory wear" policy in effect. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

45

Applicants must ensure that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.

46

To the extent that direct services will be provided to participants as a component of the JMHCP project, grant funds must be used to support a target population that includes adults or juveniles who: 1) have been diagnosed as having MI or CMISA or manifest obvious signs of MI or CMISA during arrest or confinement or before any court; 2) have been unanimously approved for participation in a program funded under this award by (as appropriate) the relevant prosecuting attorney, defense attorney, probation or corrections official, judge, and a representative from the relevant mental health agency, and having been determined by each of these relevant individuals to not pose a risk of violence to any person in the program, or the public; and 3) have not been charged with or convicted of any sex offense (as defined at 34 U.S.C. 20911) or any offense relating to the sexual exploitation of children, or murder or assault with intent to commit murder.

47

Recipient understands that significant project delays (over 90 days) may lead to increases in the required cost match, pursuant to 34 USC 10651(d), and agrees to cooperate with BJA on any budget revisions that may be necessary, particularly following such significant project delays. Recipient further understands that the required match set forth in the proposed budget and any budget revisions will be reviewed in accordance with statutory requirements, leading to a total match amount for which the recipient will be responsible.

48

JMHCP Planning Phase: The recipient may incur obligations, expend, and draw down funds in an amount not to exceed $100,000 for the sole purpose of completing the required planning phase during which it must develop a Planning and Implementation Guide. The grantee is not authorized to incur any additional obligations, make any additional expenditures, or drawdown any additional funds until BJA has reviewed and approved the grant recipient's completed Planning and Implementation Guide and has issued an Award Condition Modification (ACM) removing this condition.

49

Conditional Clearance

The recipient may not obligate, expend or draw down funds until the Office of the Chief Financial Officer (OCFO) has approved the budget and budget narrative and an Award Condition Modification (ACM) has been issued to remove this award condition.

50

Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at https://ojp.gov/funding/FAPIIS.htm (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

Load more

☑ *I have read and understand the information presented in this section of the Federal Award Instrument.*

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to

civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official	Name of Approving Official	Signed Date And Time
Deputy Assistant Attorney General	Maureen Henneberg	9/24/22 11:34 AM

Authorized Representative

☑ Declaration and Certification

Entity Acceptance

Title of Authorized Entity Official

Chief of Police

Name of Authorized Entity Official

Jim Blocker

Signed Date And Time

10/10/2022 11:17 AM

Project Narrative

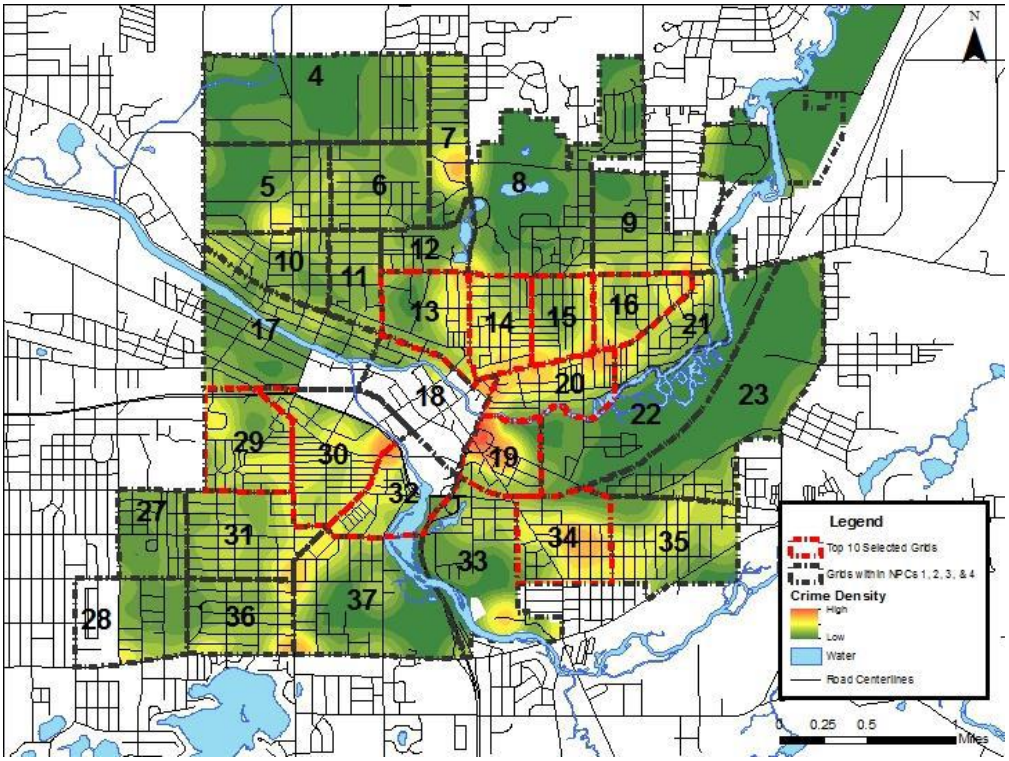
Description of the Issue or Statement of the Problem-Based on our knowledge of the "human terrain" in our most challenged neighborhoods, we understand that in large part, law enforcement is not and should not be the only resources and tool being exercised to address the broader issues. Such as, poverty, unemployment, lack of educational opportunities, addictions, abusive behaviors, access to quality food products, etc. A 911 response may be the first opportunity to recognize additional resources and specialists are needed to address the core issues within the incident.

The City of Battle Creek has a population is 51,093. The poverty rate of the city is 22.2%. Which means one out of every 4.4 residents of Battle Creek lives in poverty. That amounts to 11,387 of 50,093 Battle Creek residents reported income levels below the poverty line in the last year. In Battle Creek, one-third of all Black, Latino, Native American, and residents who identify as mixed or another race are economically insecure (at or below the federal poverty line). Residents' experience of poverty varies considerably depending upon where they live. While the city's overall poverty rate is 22 percent, poverty tends to be more concentrated in specific neighborhoods. Census tracts in the southern part of the city have a poverty rate of less than 10 percent while a few neighborhoods near downtown have a poverty rate of 33 percent or more. All of the neighborhoods where people of color make up 44 percent or more of the population have a poverty rate of 24 percent or higher.

Calhoun County, of which the City of Battle Creek is the largest metropolitan area, ranks in the bottom 10% of Michigan counties for healthy behaviors/overall health outcomes. Residents report an average 4.5 days/month of poor mental health, higher than surrounding counties in Michigan and 1.45 times higher than top US counties (CountyHealthRankings.org). Bronson Hospital reports that psychoses hospitalization rates in Calhoun County (64.4 per 10,000) are 41%

higher than other Michigan counties (Bronson, 2016). Suicide is a particular concern as suicide deaths, 17 deaths per 100,000 people, outpace the state and nation, both 13 deaths per 100,000 people (Bronson, 2016).

In addition, although BCPD is relatively small, it is challenged with Battle Creek being amongst the cities with the highest crime rate per 1000 people in the state of Michigan with a crime rate of 32; in Calhoun County the rate is 19 and the State of Michigan rate is 12. (Michigan Incident Crime Reporting). These crimes primarily are concentrated in hotspots in and around the urban core. The hotspots are indicated in red and yellow on the map below:



The commonality of these hotspots is that poverty and crime overlap in these areas. Although the proposed expansion of BCPD Community Fusion Center (BCPD CFC) and addition of a Mobile Crisis Response Team (MCRT) are for all households within the city, the focus is on areas that

suffer high crime rates, poverty and individuals that need additional resources due to trauma associated with violent acts.

Project Design and Implementation-In acknowledging law enforcement cannot combat violence alone, and that it takes the community to be involved in partnership to do so, the Battle Creek Police Department worked with community members in developing a community violence intervention strategy with multiple approaches. These approaches are Victim Advocacy, Street Outreach, Crisis Intervention Training (CIT) training of law enforcement, and the multidisciplinary team of the BCPD Community Fusion Center. The goal is to reduce violence. Secondarily, it is for BCPD to be responsive to victim needs and support people with needed community resources that have suffered trauma or may be experiencing a mental health issue. Additionally, to serve a diverse Battle Creek community in a culturally sensitive and trauma informed way.

The BCPD has dedicated the last 7 years in developing these programmatic approaches. First was the development of the BCPD Community Fusion Center which is housed in BCPD with multiple team members including but not limited to: law enforcement, probation, sexual assault services, a domestic violence advocate, the Michigan Department of Corrections, and an intelligence analyst. Concurrently, BCPD implemented a CIT program in collaboration with the county's mental health organization (Summit Pointe) to train officers in crisis intervention and de-escalation. Two years ago, a Victim Advocate was added to the team with the purpose of responding to victims of Part I crimes. Then in partnership with the Battle Creek Community Foundation, a plan for a Hospital-based Violence Intervention Program was developed and Violence Interventionists/Street Outreach individuals were employed. These violence interventionists are intricately involved with the BCPD and the Victim Advocate but are

community based. They are culturally responsive, provide mentoring and connect participants with services.

The work that the BCPD has completed with Summit Pointe to date has led to the Crisis Intervention Team (CIT) training of 34 BCPD officers. Last year, BCPD made 564 contacts/responses with a suspected mental health issue of which only 6% required use of force and only 5 individuals went to jail. The remainder of the individuals were linked to behavioral and mental health resources. Other examples of this work with Summit Pointe include Officer response to an individual wanting to jump from a building. Due to the relationship with the clinicians in the BCPD Community Fusion Center, Officers thought to consult and bring them along to the scene and that team provided a positive response to the person in crisis. In the past law enforcement and Summit Pointe clinicians have responded together for missing persons, child welfare cases as are relates to crime scenes and access to needed personal belongings and trauma informed services. Another benefit of the relationship between law enforcement and the mental health provider is shared CIT reports. These CIT reports assists Summit Pointe clinical staff on following up on cases that historically they did not have visibility to. Case holders did not have an awareness of police contacts unless the individual provided the information or if it was received in a jail list. The contacts and interventions by law enforcement are especially helpful in treatment for an individual with severe behavioral health disorders.

Child Protective Services (CPS) and its presence in the Fusion Center has seen much success. Most of this is because of the relationship and the response time for special cases that are provided to the Community Fusion Center or Detective Bureau. A barrier had been getting the cases to law enforcement and completing a thorough investigation in the required 30-day period. Because CPS is in the Community Fusion Center collaboration starts immediately on cases. This

immediate collaboration has made a significant difference in the time frame in which child safety is determined and/or arranged. Year to date (2021) there has been 198 CPS complaints that involved BCPD. This number does not include the cases that were not officially assigned to BCPD, but BCPD still assisted CPS in various ways.

The presence of the Juvenile Probation Officer (JPO) within the Fusion Center is also very effective. Typically, the JPO manages approximately 10 cases on their case load. These cases are higher priority cases that pose a threat. Most probation officers manage about 30 cases at a time. The JPO that works within the Community Fusion Center works with the team to respond and manage these cases and connects the individual to resources as well. This JPO also assists other JPO's not located in the Community Fusion Center with their cases whenever possible. The response of the embedded JPO, along with BCPD road officers, brought in a tip to the CFC. The tip was from the friends of two local girls, aged 14, who were being trafficked and were missing. The CFC immediately responded, utilizing all its core staff and partners to quickly locate the girls and remove them from harms' way. Within 9 hours the girls were safe and connected with resources. Within 48 hours, 5 individuals were in custody, and within 9 days there were federal indictments on those individuals. The work of the BCPD Community Fusion Center and its team including the JPO was recognized by Homeland Security and the JPO was later named the Juvenile Probation Officer of the Year.

Another example of the work of the BCPD Community Fusion Center is the work with the Michigan Department of Corrections which focuses on the success of the offender while ensuring community safety. The Embedded Agent position within the BCPD CFC was created in 2014 for just that purpose. The Embedded Agents role is to enhance community engagement while ensuring the safety of our citizens. The relationship with the CFC and the MDOC evolved

over time and has much success. In the first year the MDOC Embedded Agent and the CFC Team attempted to contact 141 offenders and of those attempts, contact was made with 72 offenders and 54 families/friends of the offender, making a total of 126 contacts in just one quarter of a year. During the (2nd Quarter April – June), there were a total of 16 arrests in the first 48 days. The following quarter (3rd Quarter July-September) saw a total of 24 arrests. By the last quarter (October-December) of that year, there were only 6 arrests. The decline in arrests is a testament to the work the Fusion Center does together as a team and how engaging the offender along with their family and friends, can help the offender be successful while on supervision.

Listed above are just a few examples of the success of the Fusion Center team and how collaboration of law enforcement with community services can prove to be very effective in reducing violence, solving crime, connecting people to resources, and improving relationships among community. The proposed project (Expansion of the Fusion Center and the addition of a Mobile Crisis Response Team) can advance this work by providing an entire team of highly specialized individuals that responds at a moment's notice to address the crisis at hand. Currently the social service organizations that reside in the CFC are less than part-time. The addition of full-time mental health clinicians, behaviorists as well as others, as part of the Fusion Center; forming a Mobile Crisis Response Team that would be available extended hours and on call, will assist in de-escalation of situations and provide services on demand and be more effective. This approach will assist in the reduction of the number of violent crimes, as well as for incidents that involve a mental health issue; deterring an arrest and provide much needed services to support the individual and their families.

The Battle Creek Police Department in partnership with Summit Pointe (Calhoun County Community Mental Health) is applying for this funding for the expansion of the BCPD

Community Fusion Center and the home of the first comprehensive Mobile Crisis Response Team with law enforcement in the community. The goal of this initiative is to expand BCPD's collaborative response and create a more comprehensive effort by law enforcement, the local mental health agency and social service organizations to connect individuals with mental health treatment and other services, therefore reducing the number of arrests that may involve a mental health issue as well as providing victim services.

To build on the BCPD Community Fusion Center concept, social service agency partners are required to participate. However, many of these agencies operate under business hours with limited funding and staffing resources. They currently do not have the capability to respond 24/7. To that end, this request is to build our partners human capacity as well as to continue to develop responding officers with the skills necessary to recognize a problem that goes beyond the criminal justice system and the capacity to react without an arrest-when able.

The plan to expand the BCPD Community Fusion Center includes 2 of 3 Phases. Phase I has been accomplished with law enforcement, intelligence analyst and victim advocate working full time, with probation, the Michigan Department of Corrections, and Homeland Security present half time. Summit Pointe, the counties behavioral and mental health organization, Child Protective Services and Sexual Assault Services is there in a limited capacity but on-call when needed. For the BCPD CFC to be most effective, a MCRT needs to be in place that is fully staffed and functional. Phase 2 includes the more detailed systematic planning of implementing a full functioning BCPD CFC with the MCRT. The initial concept and execution of the MCRT is dependent upon the type of call. A response team would be deployed and may have a different composition of professionals each time. This MCRT team would also be working with patrol officers that have been trained in CIT. The MCRT staff is particularly specialized and focused

on addressing mental health issues for both adults and children. They include but are not limited to clinicians from our partner Summit Pointe, probation officers from the Calhoun County judicial system and Child Protective Services. The finalization of this strategy and plan will be completed in the first six months of the grant. The second half of the year includes the placement of full-time clinician that would comprise the beginning of the MCRT within the CFC. All MCRT staffing will be receiving internal BCPD training on what to expect when going to a call or scene, officer safety training and security awareness. Staff will also be mandated to always wear a bullet proof vest and sign a confidentiality agreement. Full implementation and evaluation of the MCRT and its effectiveness will continue in year 2 of the grant. MCRT staffing will consist of a clinician, probation officer and CPS case manager. In year three of the grant, Phase 3 will be implemented with an additional clinician so that part of the MCRT can work an additional shift 7:30am to 4pm and 4pm to 11:30pm so that BCPD and the MCRT has close to a 24/7 response.

The OJP funding requested is to supplement current operations of the BCPD particularly those of partner organizations. Several critical positions, such as the Victim Advocate, Intelligence Analyst and Violence Interventionists/Street Outreach have been funded by state or foundation grants. The social service organizations do not have the funding capacity to provide full time staff without the assistance due to their limited budgets and the implications of the pandemic.

Capabilities and Competencies-BCPD has been awarded several state and federal grants for various aspects of their work and administered them successfully. Staffing includes the city of Battle Creek's finance and legal departments, as well as grant administration services of the Battle Creek Community Foundation. The Battle Creek Community Foundation also administers

grants for the Calhoun County Sheriff's office and is the fiscal agent for the OJP Project Safe Neighborhood grants with the Western District of Michigan U.S. Attorney's Office.

The Battle Creek Police Department's leadership is the Chief of Police, whose vision was the creation of the BCPD Community Fusion Center. He also was honored to receive the National CIT Police Chief of the Year award in 2019. The Chief of Police will have the ultimate oversight of the project. Among command staff is the Lieutenant in charge and the Sargent of the CFC that manages and directs the staff, coordinates with departments of the BCPD. The Sargent works closely with the Detective Sargent of the Detective Bureau and the Gang Suppression Unit, in addition to community agencies to coordinate services. The Lieutenant and Sargent will oversee the daily functions of the CFC. Key personnel that compose the CFC will also be provided by local organizations such as clinicians, probation officers, advocates, and CPS staff.

Plan for Collecting the Data Required for the Performance Measures-BCPD will contract with Michigan State University to collect and evaluate data to measure the outcomes of the project. MSU will work with BCPD data analyst and the goals and objectives of the project to determine methods for collecting data, measuring outcomes, analysis of data, and provide a final evaluation report with recommendations. MSU's data will also be used annually to internally evaluate the project and make any necessary adjustments. The Battle Creek Community Foundation will be providing grant reporting services and will work with BCPD data analyst, MSU and OJP's reporting platform in completing all performance measurement reporting. The City of Battle Creek's finance department is responsible for all financial reporting regarding this project and will be preparing and reporting all financial data using the OJP platform. The City of

Battle Creek's finance department works diligently with the Battle Creek Community Foundation in coordination of reports and determining the progress of the project/billing.

CITY OF Battle Creek MICHIGAN

Resolution NO. 529

A Resolution seeking to approve S15-2022, for a Special Use Permit for the continuance and alteration of a building located at 175 College Street parcel 9730-00-052-0, which houses an existing medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

BATTLE CREEK, MICHIGAN - 11/1/2022

Resolved by the Commission of the City of Battle Creek:

That the Planning Commission has reviewed the petition from Summit Pointe requesting a Special Use Permit for property located at 175 College Street (parcel # 9730-00-052-0) contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

The Planning Commission held a public hearing on this matter at its October 26, 2022 meeting, and after due consideration, recommend that the Battle Creek City Commission approve the petition for a Special Use Permit based upon the findings and considerations set forth in the attached report of the Planning Commission.

The Battle Creek City Commission, having given its considerations to all information presented to it relating to said petition, adopts the finding and recommendations as set out in the report and supplemented by findings set forth on the record of this date which will be attached hereto, and does by way of this resolution approve Special Use Permit S15-2022 for the continuance and alteration to the existing medical practice in excess of 20,000 sq. ft., finding beyond reasonable doubt that the general standards set forth in Zoning Code Section 1281.05 be satisfied by the completion and operation of the proposed development with the following conditions and/or restrictions:

1. The approval of this request is directly tied to the proposed use and elements of the proposed use as provided for by the applicant in the application. Any changes contrary to that which is included on the application would require review and approval by the Planning Commission and City Commission.

2. All necessary approvals, including site plan review and any required permits shall be obtained, and if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.

3. Pursuant to Section 1281.02, no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the City or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.

4. Pursuant to Section 1281.05 (A)(5), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission

may extend a special use permit for six months.

Battle Creek City Commission
11/1/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A Resolution seeking to approve S15-2022, for a Special Use Permit for the continuance and alteration of a building located at 175 College Street parcel 9730-00-052-0, which houses an existing medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

BUDGETARY CONSIDERATIONS

Costs of the development are the responsibility of the developer. No use of City funds is expected for this development; no financial impact on the City budget.

HISTORY, BACKGROUND and DISCUSSION

A petition from Jeannie Goodrich of Summit Pointe, 175 College St. requesting a Special Use Permit to allow for the alteration of the building located at 175 College St., which houses a medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

The property has since its inception and continues to operate as an outpatient medical practice providing mental health services to residents of Calhoun County. Activities taking place on the property include 24-hour mental health service urgent care, pharmacy (if approved), offices for the Summit Pointe staff, and an outpatient mental health practice.

The use, as currently constructed and operated, is a legal-nonconformity as the square footage of the building exceeds the permitted 20,000 sq. ft. as a use by right within the T-4 zoning district. In order for this property to become legally-conforming, a special use permit for the operation of a medical clinic in excess of 20,000 sq. ft. would need approval by City Commission.

The impetus for this request is that the applicant has applied for site plan review in order to construct a 1,663 sq. ft. addition onto the northernmost portion of the existing building to house a pharmacy in service of the facility's patients. Should the proposed special use permit application be approved, Summit Pointe would add an additional 6-8 employees to staff the new pharmacy. The pharmacy is proposing hours of operation between 8:30 a.m. and 6:00 p.m. in support of the 24-hour urgent care and outpatient mental

health practice.

At present, due to the property's legal-nonconforming status, the building may not be altered or expanded without the issuance of a use variance. Any potential future alterations to the building or use could require additional variances, placing an increased burden and uncertainty on the property owner. The approval of a special use permit would return the property to its legal-conforming status enjoyed under the previous Zoning Ordinance (pre2020 rewrite), wherein the property was zoned O-1 Office and was not subject to size restrictions with regard to its use a medical clinic.

In both the T-3 and T-4 use regulations, it is standard that when a use with size limitations is permitted by right within a district, that same use of a larger size is included under the list of special uses. The absence of the medical and dental clinic use of greater than 20,000 sq. ft. as a special use within the T-4 district seems unusual given this, as well as the fact that the district allows for hospitals of greater than 20,000 sq. ft. as a special use (hospitals being a generally more intensive use than a medical or dental clinic). As such, and in accordance with Section 1240.21(F), the Zoning Administrator has made a determination that medical and dental clinics be included as special uses within the T-4 Downtown Commercial District, as this section of the ordinance gives the Administrator the authority to "classify a use which is not specifically mentioned in the Zoning Code, along with a comparable permitted or prohibited use for the purpose of the use regulations in any district."

It is the position of the Zoning Administrator that the exclusion of a category for medical and dental clinics of greater than 20,000 sq. ft. as a special use within the T-4 Downtown Commercial District was likely an oversight, especially given the fact that a similar but more intense use (hospitals of greater than 20,000 sq. ft.) are an included special use.

The neighboring uses in the area include parking lots to the immediate north and south, a series of vacant lots, commercial uses and a sole single-family use across College St., and an institutional multifamily use immediately adjacent to the west of the property. The use as a medical clinic has existed since the building's construction in 1994, as the subject property's zoning of O-1 Office under the previous zoning ordinance did not include size restrictions with regard to medical clinics and offices. Should the proposed special use permit be approved (along with the related proposed rezoning), the property owner would be eligible to receive site plan approval and building permits to construct the 1,663 sq. ft. addition to the building to house a pharmacy for use by the clinic's patients.

DISCUSSION OF THE ISSUE

POSITIONS

The proposed pharmacy would serve as accessory to the established mental health services use, and would strengthen investment in the individual property itself (175 College St.) as well as the area more generally while requiring relatively minimal alterations to the existing facility (addition of 1,663 sq. ft. to an existing 38,057 sq. ft. facility positioned on a 74,052 sq. ft. lot). As the T-4 Downtown Commercial District does not have minimum setback requirements nor building height maximums, the proposed building addition would comply with all dimensional requirements of the T-4 district.

Ample parking is available to service the practice and pharmacy in lots immediately adjacent to the Calhoun County Community Mental Health building as well as in the parking lot immediately north of the building (also owned by Calhoun County Community Mental Health). As the use is existing and the proposed expansion minimal, staff does not anticipate increased demand of any consequence upon existing infrastructure in the area.

The proposed alteration of the building to construct a pharmacy would provide a needed service. The

Master Plans lists short and long term goals to address issues and improve various community elements. The following goals are applicable to the subject proposal.

Goal 1: Promote investment in the city core.

Goal 2. Reposition land use to reflect the anticipated needs of the community.

Goal 4. Revitalize commercial corridors as vibrant, successful business districts.

Goal 7: Improve the overall appearance of the community and inspire pride in Battle Creek.

The proposed special use permit would allow for the continued growth and unencumbered operation of a service (County Mental Health) that is vital to the community, as well as strengthens investment in a location on the periphery of the core downtown area which has the potential for continued development into a medical corridor linking the downtown area to the Bronson Hospital campus.

The Planning Commission held a Public Hearing on October 26, 2022. The Planning Commission reviewed the request under the Special Use Permit criteria outlined in the zoning code and with a vote of 8 - 0 recommends the approval of the request based on the following findings under the Special Use Permit criteria outlined in Section 1281.05 of the zoning code:

(a) The use will be harmonious with and in accordance with the general objectives of the Master Plan. The proposed use is already existing as a legal-nonconformity, and has been found to be generally harmonious with the surrounding area, as well as with Goals #1, #2, #4, and #7 as stated in the adopted 2018 Master Plan. Approval of a special use permit (conditioned upon successful rezoning of the property from T-3 to T-4) will allow for a critical service within the community to expand its reach and impact, while also meeting numerous goals of the Master Plan and strengthening investment in an area that appears primed to continue its growth into a vibrant healthcare corridor linking the Bronson Hospital campus to the core downtown area.

(b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood. The use will be designed, constructed, and operated so as to be harmonious and appropriate in appearance with the existing character of the neighborhood and the use will not change the essential character of the neighborhood. The only proposed change to the existing building is the addition of the 1,663 sq. ft. pharmacy along the north side of the existing building.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses. The use as a medical facility of greater than 20,000 sq. ft. will not be hazardous or disturbing to the existing or future neighboring uses because the entirety of the operation will be contained inside of an existing building. Further, use of the property as mental health clinic currently exists as a legal nonconformity, with no known complaints to staff regarding the facility's impact upon neighboring uses.

(d) The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole. The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole. Calhoun County Community Mental Health provides critical services to residents of the City of Battle Creek and of the county as a whole. The opportunity to expand its services and strengthen its investment in the area constitutes substantial improvement.

(e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services. The existing use is adequately served by

existing City water and sewer utilities in the area. Any increased traffic demand from the proposal will be accommodated by the existing street network. Local police, fire protection, and other emergency services are established within the City and can quickly reach the subject site.

(f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. The proposed addition to the existing medical practice of greater than 20,000 sq. ft. is not expected to result in high demands on City utilities, infrastructure (i.e. water, sewer, stormwater, and streets), or services. The proposed special use permit would bring the existing use into compliance with the underlying zoning requirements, thereby allowing for a small addition to the north side of the building to house a pharmacy. Therefore, the project will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. There will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. The only proposed change to the existing use is the addition of 1,663 sq. ft. to house a new pharmacy.

(h) The use will be consistent with the intent and purpose of this Zoning Code. With staff's recommended conditions of future approval, the proposed use will be consistent with the intent and purpose of this Zoning Code. Further, the project will not result in negatively impacting the general character of the area; not result in high demands on public services, infrastructure, or utilities; and not result in noxious elements such as noise, odors, or dust levels.

The Planning Commission approved Special Use Permit Petition S15-2022, as the request meets the general standards listed in Chapter 1281.05 as outlined above and recommends City Commission approval that would allow for the continuance and alteration to the existing medical practice in excess of 20,000 sq.ft. in T-4 Downtown Commercial District located at 175 College Street parcel 9730-00-052-0 with the following conditions:

1. The approval of this request shall be contingent upon the applicant receiving approval of a request to rezone the property from T-3 Neighborhood Commercial to T-4 Downtown Commercial.

2. The approval of this request is directly tied to the proposed use and elements of the proposed use as provided for by the applicant in the application. Any changes contrary to that which is included on the application would require review and approval by the Planning Commission and City Commission.

3. All necessary approvals, including site plan review and any required permits shall be obtained if required by ordinance, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.

4. Pursuant to Section 1281.02(a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with all provisions of the Zoning Code.

5. Pursuant to Section 1281.05(5), certificates of occupancy for special uses shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning

Commission may extend a special use permit for six months.

6. Continued use as a county mental health services facility shall comply with all local, state and federal ordinances, laws, and licensing requirements.

ATTACHMENTS:

File Name	Description
175_College_St_SUP_Staff_Report.pdf	175 College St SUP Staff Report
2._SUP_Application.pdf	175 College St SUP Application
3._Site_Plan.pdf	175 College St. SUP Site Plan

Battle Creek City Planning Commission

Staff report for the October 26, 2022 meeting

To: Planning Commissioners

From: Travis Sullivan, Planner

Date: October 20, 2022

Subject: Petition S15-2022, for a Special Use Permit for the continuance and alteration to the existing medical practice in excess of 20,000 sq. ft. in a T-4 Downtown Commercial District pursuant to Section 1240.14 and Section 1281.05 of the zoning code.

Summary

A petition from Jeannie Goodrich of Summit Pointe, 175 College St. requesting a Special Use Permit to allow for the alteration of the building located at 175 College St., which houses a medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

The use, as currently constructed and operated, is a legal-nonconformity as the square footage of the building exceeds the permitted 20,000 sq. ft. as a use by right within the T-4 zoning district. In order for this property to become legally-conforming, a special use permit for the operation of a medical clinic in excess of 20,000 sq. ft. would need to be approved by the City Commission.

The impetus for this request is the fact that the applicant has applied for site plan review in order to construct a 1,663 sq. ft. addition onto the northernmost portion of the existing building to house a pharmacy in service of the facility's patients. At present, due to the property's legal-nonconforming status, the building may not be altered or expanded without the issuance of a use variance. Any potential future alterations to the building or use could require additional variances, placing an increased burden and uncertainty on the property owner. The approval of a special use permit would return the property to its legal-conforming status enjoyed under the previous Zoning Ordinance (pre-2020 rewrite), wherein the property was zoned O-1 Office and was not subject to size restrictions with regard to its use a medical clinic.

The proposal has been reviewed in accordance with City of Battle Creek Section 1281.05 *Special Land Uses* pursuant to State of Michigan MCL Act 110 of 2006 Section 125.3502, to determine consistency with the City of Battle Creek Master Plan and Zoning Code, effects to public services, and impacts on the neighborhood. It is staff's opinion that the proposed use will be harmonious with the surrounding area and in accordance with the provisions of Section 1281.05 of the Zoning Ordinance.

Background/Property Description

The subject site is located at 175 College St. and is owned and maintained by Calhoun County Community Mental Health Authority (otherwise referred to as Summit Pointe). The site is located along the west side of College St. approximately 220 feet to the south of the intersection of College St. and Emmett St. W. The property is currently zoned T-3 Neighborhood Commercial District, with the applicant in the process of seeking a rezoning to T-4 Downtown Commercial District. Under the current zoning, medical and dental clinics are restricted to no more than 20,000 sq. ft. in area as a special use. The subject site includes a building totaling 38,057 sq. ft. In exceeding the 20,000 sq. ft. maximum, the property is currently considered a legal-nonconformity, and is thus not permitted to alter or expand the existing building or use without the issuance of a use variance for the property.

Should the site be successfully rezoned to the T-4 Downtown Commercial District (where medical and dental clinics in excess of 20,000 sq. ft. are permitted as a special use), the property would be eligible to receive approval of a special use permit for such use. With this in mind, any approval of the proposed special use permit would be contingent upon the property being successfully rezoned to T-4 Downtown Commercial.

The Planning Commission will want to note that in looking at both the T-3 and T-4 use regulations, it is standard that when a use with size limitations is permitted by right within a district, that same use of a larger size is included under the list of special uses. The absence of the medical and dental clinic use of greater than 20,000 sq. ft. as a special use within the T-4 district seems unusual given this, as well as the fact that the district allows for hospitals of greater than 20,000 sq. ft. as a special use (hospitals being a generally more intensive use than a medical or dental clinic). As such, and in accordance with Section 1240.21(F), the Zoning Administrator has made a determination that medical and dental clinics be included as special uses within the T-4 Downtown Commercial District, as this section of the ordinance gives the Administrator the authority to "classify a use which is not specifically mentioned in the Zoning Code, along with a comparable permitted or prohibited use for the purpose of the use regulations in any district."

It is the position of the Zoning Administrator that the exclusion of a category for medical and dental clinics of greater than 20,000 sq. ft. as a special use within the T-4 Downtown Commercial District was likely an oversight, especially given the fact that a similar but more intense use (hospitals of greater than 20,000 sq. ft.) are an included special use.

The neighboring uses in the area include parking lots to the immediate north and south, a series of vacant lots, commercial uses and a sole single-family use across College St., and an institutional multi-family use immediately adjacent to the west of the property. The use as a medical clinic has existed since the building's construction in 1994, as the subject property's zoning of O-1 Office under the previous zoning ordinance did not include size restrictions with regard to medical clinics and offices. Should the proposed special use permit be approved (along with the related proposed rezoning), the property owner would be eligible to receive site plan approval and building permits to construct the 1,663 sq. ft. addition to the building to house a pharmacy for use by the clinic's patients.

Figure 1. Subject site shown in red outline is located at 175 College St. Site is located 220 feet (approx.) south of the intersection of College St. and Emmett St. W. Aerial photograph provided by City staff, taken spring 2020 (approx.).

Project Description

The applicant has filed a special use permit application to construct an addition to the northernmost portion of the building of 1,663 sq. ft. in order to house a pharmacy intended to serve the facility's patients. A detailed site plan for the proposed project has been included in the meeting packet as an attachment to this staff report.

The property has since its inception and continues to operate as an outpatient medical practice providing mental health services to residents of Calhoun County. Activities taking place on the property include 24-hour mental health service urgent care, pharmacy (if approved), offices for the Summit Pointe staff, and an outpatient mental health practice.

Summit Pointe currently employs approximately 100 individuals. Should the proposed special use permit application be approved, Summit Pointe would add an additional 6-8 employees to staff the new pharmacy. The pharmacy is proposing hours of operation between 8:30 a.m. and 6:00 p.m. in support of the 24-hour urgent care and outpatient mental health practice.

Any proposed new signage or updating of existing signage will require the applicant to separately apply for the appropriate permits.

Applicable Ordinance Provisions

Through Section 1281.05 *Special Land Uses*, the City of Battle Creek establishes procedures to review unique development by requiring those uses to be reviewed through a Special Use Permit by the Planning Commission and City Commission. Approval of such permit is based upon meeting specific criteria, including consistency with the City's Master Plan and Zoning Code. These two documents are discussed below.

Master Plan, City of Battle Creek

The Michigan Planning Enabling Act (MCL 125.3881-3851) authorizes local governments to adopt a Master Plan to address physical development within its jurisdiction. The 2018 City of Battle Creek Master Plan serves as the City's official policy guide for land use and development over the next 10-20 years. It details a long-term vision and policy agenda for critical issues like land use, housing, parks, infrastructure, transportation, and more. To address those issues, the Plan sets forth goals and land use classifications to facilitate what Battle Creek should look like in the future.

The Master Plan's land use classification of the subject site is "Neighborhood Commercial," which generally supports lower intensity commercial uses (small restaurants, cafes, professional and specialized services, offices, etc.) in support of the neighborhoods in which they border or are imbedded in.

It is the opinion of staff that the Land Use Plan categorization as "Neighborhood Commercial" appears misaligned with the actual conditions of the subject site. The site sits along the west side of College St. between W. Emmett St. and Garfield Ave. within an area of the City that has become a healthcare services corridor, given the existence of multiple healthcare related facilities in the area, institutional multi-family housing serving the aged, as well as proximity to the Bronson Hospital campus. Further, this area was previously zoned O-1 Office prior to the 2020 rewrite of the Zoning Ordinance, which allowed for the subject property's current use by right, with no restrictions related to the size of the building housing the use. The proposed rezoning that is the subject of a separate item on this agenda (but who's approval is the contingency upon which the subject special use permit proposal rests) would more accurately align the property's historical and current use with the underlying zoning, allowing for the legal-conforming status that the property enjoyed prior to the 2020 rewrite of the Zoning Ordinance.

The Master Plan also lists short- and long-term goals to address issues and improve various community elements. The following goals are applicable to the subject proposal.

Goal 1: Promote investment in the city core.

Goal 2. Reposition land use to reflect the anticipated needs of the community.

Goal 4. Revitalize commercial corridors as vibrant, successful business districts.

Goal 7: Improve the overall appearance of the community and inspire pride in Battle Creek.

The proposed special use permit would allow for the continued growth and unencumbered operation of a service (County Mental Health) that is vital to the community, as well as strengthens investment in a location on the periphery of the core downtown area which has the potential for continued development into a medical corridor linking the downtown area to the Bronson Hospital campus.

Zoning Code, City of Battle Creek

Through the State of Michigan MCL Act 110 of 2006 Section 125.3502, local units of government may establish special land uses and associated permitting procedure and process to facilitate unique development that ensure consistency with the local Master Plan and zoning ordinance, and preserves neighborhood harmony. Further, conditions may be added to a project to ensure such consistencies and preservation. As stated earlier, Section 1281.05 *Special Land Uses* establishes procedures for review of unique development, and approval of such development is based upon meeting specific criteria.

Under Section 1230.02, the general purpose of the Zoning Code is to establish regulatory land use standards in accordance with objectives of the City's Master Plan; to promote the safety, health, and general welfare of community; preserve neighborhood harmony and property values; etc. Further, the Zoning Code designates zoning districts which generally establish the location, size, and use of buildings; provides maximum densities per acre of land; and generally, sets forth standards for new roads, utilities, and other infrastructure for new development.

The subject site is currently zoned T-3 Neighborhood Commercial. This zoning classification, in staff's opinion, appears misaligned with the historical and current use of the subject property. Additionally, the property borders on or is in the immediate vicinity of other medical service uses and housing and services for the aged. Should the applicant be successfully rezoned from T-3 Neighborhood Commercial to T-4 Downtown Commercial, issues with nonconforming uses on the subject site would be eliminated, and the underlying zoning of the site brought into closer alignment with the site's existing use, as well as uses and zoning districts within its immediate vicinity.

Due to the property's existing use a mental health services provider (medical clinic of greater than 20,000 sq. ft.) as well as the proposed pharmacy's intended use as accessory to its existing services, staff does not anticipate any disruption of or change to the character and harmony of the surrounding properties nor upon established City infrastructure.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Shopper on Thursday, October 6, 2022 and notices of the public hearing were also sent by regular mail to owners and occupants of properties located within 300 feet of the subject parcel.

To date, no correspondence related to the proposed medical practice of greater than 20,000 sq. ft. (and proposed pharmacy addition) has been received by the Community Services Department.

Neighborhood Outreach

Neighborhood Planning Councils (NPCs) are currently in the process of reorganizing and establishing membership and regular meeting dates. As the NPCs are not currently fully functional, and due to the urgency to assist the Calhoun County Mental Health Authority in their pursuit of a special use permit to allow for expansion of the building, staff has not received any comments from the neighborhood.

Analysis

The proposed special use permit, which would bring the existing use into compliance with the regulations of the proposed underlying zoning district (T-4 Downtown Commercial) would result in a 1,663 sq. ft. addition to the northernmost portion of the existing building to house a pharmacy intended to serve the patients of the facility. As has been discussed, the proposed expansion of the existing use would assist the City in meeting Goals #1, #2, #4, and #7 of the adopted 2018 Master Plan. Additionally, should the property be rezoned from T-3 Neighborhood Commercial to T-4 Downtown Commercial, a misalignment between the current zoning and current legal-nonconforming use on this property would be remedied, allowing for continued growth and expansion within the guidelines of the underlying zoning district without the potential need for future zoning variances.

The proposed pharmacy would serve as accessory to the established mental health services use, and would strengthen investment in the individual property itself (175 College St.) as well as the area more generally while requiring relatively minimal alterations to the existing facility (addition of 1,663 sq. ft. to an existing 38,057 sq. ft. facility positioned on a 74,052 sq. ft. lot). As the T-4 Downtown Commercial District does not have minimum setback requirements nor building height maximums, the proposed building addition would comply with all dimensional requirements of the T-4 district.

Ample parking is available to service the practice and pharmacy in lots immediately adjacent to the Calhoun County Community Mental Health building as well as in the parking lot immediately north of the building (also owned by Calhoun County Community Mental Health). As the use is existing and the proposed expansion minimal, staff does not anticipate increased demand of any consequence upon existing infrastructure in the area.

Section 1281.05 (C) Special Use Permit; Decision on Application; Basis For Determination

The Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan and impacts to the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Section 1281.05 (C)(2) Basis for Determination (for Special Use Permits):

(a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.

The proposed use is already existing as a legal-nonconformity, and has been found to be generally harmonious with the surrounding area, as well as with Goals #1, #2, #4, and #7 as stated in the adopted 2018 Master Plan. Approval of a special use permit (conditioned upon successful rezoning of the property from T-3 to T-4) will allow for a critical service within the community to expand its reach and impact, while also meeting numerous goals of the Master Plan and strengthening investment in an area that appears primed to continue its growth into a vibrant healthcare corridor linking the Bronson Hospital campus to the core downtown area.

(b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

The use will be designed, constructed, and operated so as to be harmonious and appropriate in appearance with the existing character of the neighborhood and the use will not change the essential character of the neighborhood. The only proposed change to the existing building is the addition of the 1,663 sq. ft. pharmacy along the north side of the existing building.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses.

The use as a medical facility of greater than 20,000 sq. ft. will not be hazardous or disturbing to the existing or future neighboring uses because the entirety of the operation will be contained inside of an existing building. Further, use of the property as mental health clinic currently exists as a legal-nonconformity, with no known complaints to staff regarding the facility's impact upon neighboring uses.

(d) The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole.

The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole. Calhoun County Community Mental Health provides critical services to residents of the City of Battle Creek and of the county as a whole. The opportunity to expand its services and strengthen its investment in the area constitutes substantial improvement.

(e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

The existing use is adequately served by existing City water and sewer utilities in the area. Any increased traffic demand from the proposal will be accommodated by the existing street network. Local police, fire protection, and other emergency services are established within the City and can quickly reach the subject site.

(f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

The proposed addition to the existing medical practice of greater than 20,000 sq. ft. is not expected to result in high demands on City utilities, infrastructure (i.e. water, sewer, stormwater, and streets), or services. The proposed special use permit would bring the existing use into compliance with the underlying zoning requirements, thereby allowing for a small addition to the north side of the building to house a pharmacy. Therefore, the project will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

There will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. The only proposed change to the existing use is the addition of 1,663 sq. ft. to house a new pharmacy.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

With staff's recommended conditions of future approval, the proposed use will be consistent with the intent and purpose of this Zoning Code. Further, the project will not result in negatively impacting the general character of the area; not result in high demands on public services, infrastructure, or utilities; and not result in noxious elements such as noise, odors, or dust levels.

Section 1281.05(D) Conditions.

Pursuant to Section 1281.05(D)(1), conditions may be placed on a special land use to generally ensure public facilities are not negatively impacted, natural environments are protected, promote the use of land in a socially/economically desirable manner, and is related to the valid exercise of the police powers. Conditions imposed shall meet all the following requirements:

a) Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

Staff's recommended conditions detailed within the recommendation section are intended to protect the health, safety, and welfare of those who will use the subject property and the overall community as a whole.

b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

The recommended conditions are a valid exercise of the police power and purposes of the City of Battle Creek authority to approve and enforce land use development standards.

c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

The intent and purpose of the zoning code and zoning districts are provided earlier in the subject memorandum. Staff's recommended conditions will ensure the project meets the standards of a typical special use request.

Recommendation

Staff has reviewed the application and finds that it generally meets the requirements for approval, with recommended conditions are as follows:

1. The approval of this request shall be contingent upon the applicant receiving approval of a request to rezone the property from T-3 Neighborhood Commercial to T-4 Downtown Commercial.
2. The approval of this request is directly tied to the proposed use and elements of the proposed use as provided for by the applicant in the application. Any changes contrary to that which is included on the application would require review and approval by the Planning Commission and City Commission.
3. All necessary approvals, including site plan review and any required permits shall be obtained if required by ordinance, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.
4. Pursuant to Section 1281.02(a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with all provisions of the Zoning Code.
5. Pursuant to Section 1281.05(5), certificates of occupancy for special uses shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.
6. Continued use as a county mental health services facility shall comply with all local, state and federal ordinances, laws, and licensing requirements.

Therefore, with the aforementioned conditions, staff recommends approval of the proposed medical practice of greater than 20,000 sq. ft., to be located within the entirety of the existing building and proposed addition at 175 College St. (Parcel #9730-00-052-0).

Attachments

The following information is attached and made part of this Staff report:

- Special Use Permit Petition Form (Petition #S06-2022)
- Site Plan For Proposed Addition

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

RECEIVED
SEP 29 2022
By CLB

SPECIAL USE PERMIT
Application

Petition No. S-15-22

Date Received: 9.29.22

APPLICANT

NAME: SUMMIT POINTE - JEANNIE GOODRICH

ADDRESS: 175 COLLEGE STREET, BATTLE CREEK, MICHIGAN 49037

PHONE: (269) 966-1460 FAX: _____

EMAIL: jgoodrich@summitpointe.org

OWNER (if different from applicant)

NAME: _____

ADDRESS: _____

PHONE: _____ FAX: _____

EMAIL: _____

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

EXISTING CONDITIONS

Address(es) of property for which the request is being sought:

175 COLLEGE STREET, BATTLE CREEK, MICHIGAN 49037

Current use of the property: CURRENTLY BEING USED AS A 24-HOUR MENTAL HEALTH SERVICES URGENT CARE, OFFICES FOR SUMMIT POINTE STAFF, AND OUTPATIENT MENTAL HEALTH PRACTICE.

List existing structures on the property and the approximate age of each.

2-STORY BUILDING WITH BASEMENT - TOTAL SQUARE FOOTAGE OF 38,057. 1994 BUILDING - 12,485 SQUARE FEET. 2007 BUILDING - 16,572 SQUARE FEET.

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.

NONE KNOWN

PROJECT DESCRIPTION

What is the proposed use of the property that warrants the special use permit? ADD A 1663 SQUARE FOOT PHARMACY FOR THE EXISTING COMMUNITY MENTAL HEALTH USE THAT WILL OPERATE AS AN ACCESSORY TO THE MAIN OUTPATIENT MENTAL HEALTH PRACTICE (SUMMIT POINTE).

Please list all activities that will take place on the property if the special use permit were approved? 24-HOUR MENTAL HEALTH SERVICE URGENT CARE, PHARMACY INSIDE A CMH, OFFICES FOR SUMMIT POINTE STAFF, AND OUTPATIENT MENTAL HEALTH PRACTICE.

How many employees currently work on the property? How many will be added if the special use permit is approved, and what days/times will they be onsite? APPROXIMATELY 100 FOR SUMMIT POINTE. 6-8 WILL BE ADDED FOR PHARMACY IF APPROVED.

Will the approval of the special land use necessitate changes to the property, i.e. building construction, additional parking, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the special use permit. CONSTRUCTION OF A 1663 SQUARE FOOT ADDITION TO HOUSE THE PHARMACY PER THE ATTACHED SITE PLAN. NO ADDITIONAL PARKING, FENCING, DRIVEWAYS, OR WATER SERVICE CHANGES ARE PROPOSED.

What are the proposed hours of operation for the special use? Please indicate if the special land use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable: 24-HOURS FOR MENTAL HEALTH URGENT CARE. 8:30 AM TO 6:00 PM FOR PHARMACY, OFFICES, AND OUTPATIENT MENTAL HEALTH PRACTICE.

STANDARDS FOR APPROVAL

Chapter 1290 Special Uses and Land Development lists standards that will be reviewed by the Planning Commission and City Commission and the request for special use permit will only be approved if these standards are met. Provide factual and supportive evidence that your application meets each of these standards. Additional sheets may be attached if necessary.

Will the special land use be designed, constructed, maintained, and/or operated in a manner harmonious with the character of adjacent properties and the surrounding area? ☑ Yes ☐ No

Will the special land use change the character of adjacent properties and the surrounding area?
☐ Yes ☑ No

Will the special land use be hazardous to adjacent properties or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or properties?
☐ Yes ☑ No

Will the special land use be a substantial improvement to property in the immediate vicinity and to the community as a whole? ☑ Yes ☐ No

Will the special land use place demands on public facilities or services in excess of current capacity?
☐ Yes ☑ No

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? ☐ Yes ☑ No

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 as outlined in "Special Use Permit, Information and Procedures".

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 special use permit have been submitted. Furthermore, the applicant confirms that they have thoroughly read "Special Use Permit, Information and Procedures" and agrees to comply with all requirements and procedures for special use permit.

CALHOUN COUNTY MENTAL HEALTH AUTHORITY
d/b/a SUMMIT POINTE

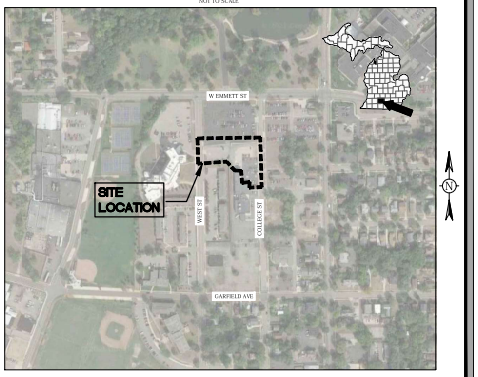
Jean M Goodrich

Name JEAN M. GOODRICH, CEO

SEPTEMBER 29, 2022
Date

LOCATION MAP

NOT TO SCALE

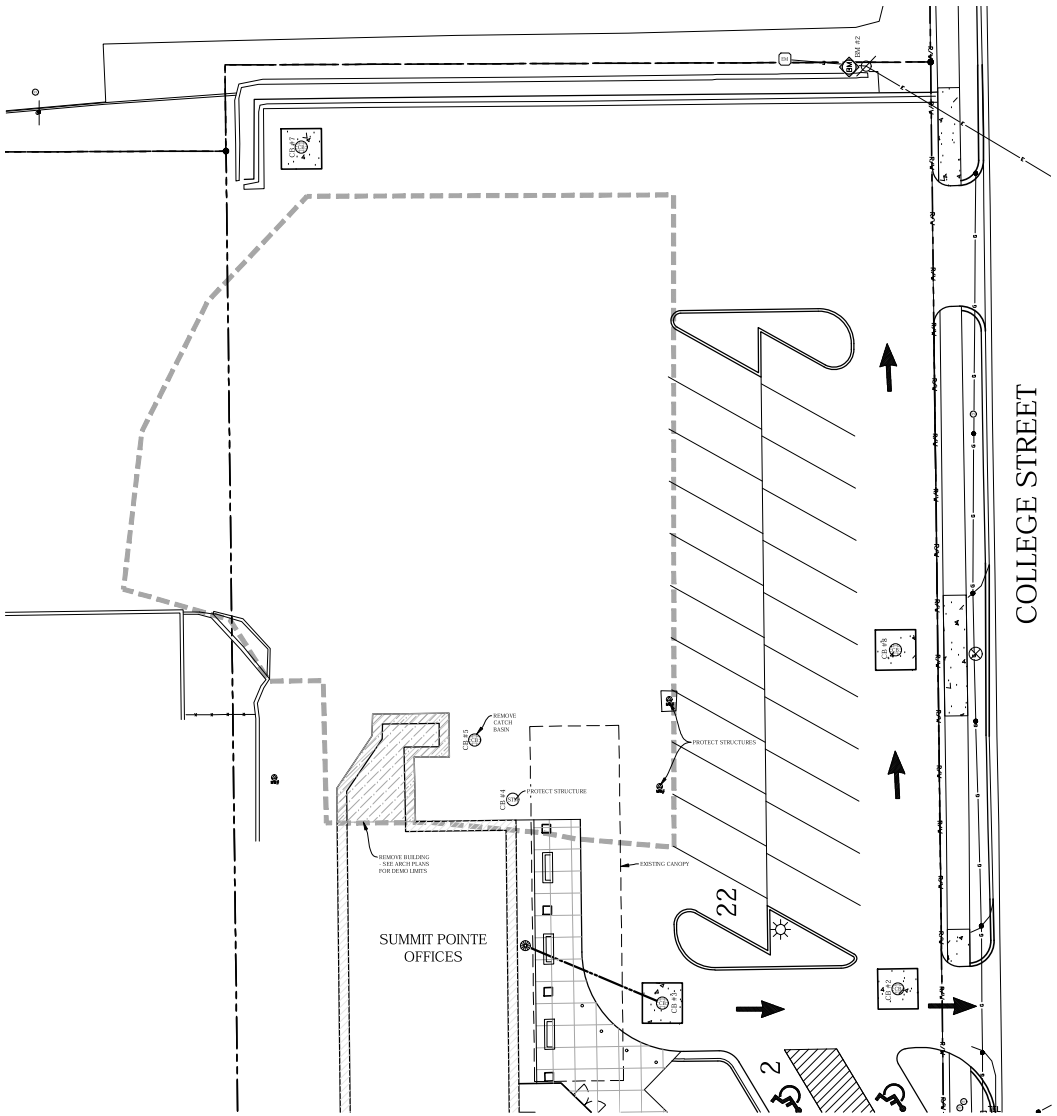


DEMOLITION NOTES

1. ALL WORK SHALL CONFORM TO ALL LOCAL, STATE AND FEDERAL LAWS, RULES AND REGULATIONS IN FORCE AT TIME OF CONSTRUCTION.
2. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS. PERMIT COSTS, TAP FEES, METER DEPOSITS, PERMANENT UTILITY APPLICATIONS, BONDS, AND OTHER FEES REQUIRED FOR PROPOSED WORK. THIS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO THOSE REQUIRED BY THE CITY OF BATTLE CREEK, MICHIGAN AND CALHOUN COUNTY.
10. CONTACT MISS DIG '811' FOR LOCATION OF UNDERGROUND UTILITIES A MINIMUM OF 48 HOURS BEFORE COMMENCING EXCAVATION WORK. THIS DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY OF NOTIFYING UTILITY OWNERS WHO ARE NOT PART OF THE 'MISS DIG' ALERT SYSTEM. THE CONTRACTOR SHALL CONDUCT HIS OPERATIONS IN A MANNER AS TO ENSURE THAT THOSE UTILITIES NOT REQUIRING RELOCATION WILL NOT BE DISTURBED.
11. DEMOLISH & REMOVE ALL EXISTING SITE FEATURES AS REQUIRED.
12. ALL SOIL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO DEMOLITION.
13. ALL EXCAVATION SHALL BE IN ACCORDANCE WITH THE TECHNICAL SPECIFICATIONS AND GEOTECHNICAL REPORT FOR THIS SITE BY
14. ALL EXISTING ELEVATIONS ARE TO BE VERIFIED AND ACCEPTED AS SHOWN PRIOR TO COMMENCEMENT OF WORK.
15. CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID TRACKING SOIL ONTO ADJACENT ROADWAYS. CONTRACTOR SHALL SWEEP IMMEDIATELY IF OCCURS.
16. ANY DISTURBED AREA WHICH WILL BE LEFT UNWORKED 15 DAYS OR LONGER MUST BE SEEDED TO ESTABLISH VEGETATION FOR TEMPORARY STABILIZATION. BASINS TO BE SEEDED AND MULCH BLANKETS APPLIED IMMEDIATELY TO PROVIDE A STABLE BASE AND AVOID EXCESSIVE EROSION.
17. REVIEW ALL THE REMOVALS AND PROTECTION WITH OWNER PRIOR TO COMMENCING CONSTRUCTION. INSTALL TEMPORARY SNOW FENCE AROUND ALL TREES REQUIRING PROTECTION. SNOW FENCE SHALL BE PLACED AT EDGE OF DRIP LINE.
18. SAWCUT ALL CURB, SIDEWALK, AND PAVEMENTS PRIOR TO REMOVAL. ADDITIONAL SAWCUT MAY BE NECESSARY PRIOR TO REPLACEMENT TO ENSURE CLEAN EDGE.
19. ALL REMOVALS SHALL BE TAKEN OFF-SITE AND DISPOSED OF PROPERLY. NO STOCKPILE OR BURNING OF DEBRIS IS ALLOWED.
20. ALL REMOVALS SHALL BE TO THE LIMITS INDICATED ABOVE UNLESS OTHERWISE DIRECTED BY THE ENGINEER. UNAUTHORIZED REMOVALS AND SUBSEQUENT REPLACEMENT SHALL BE AT THE CONTRACTOR'S EXPENSE.
21. REMOVE, STORE, AND RESET ANY EXISTING SIGNS AS DIRECTED BY THE ENGINEER/OWNER.
22. REMOVE ALL TREES TO THE CLEARING LIMITS AS SHOWN. REMOVE ALL EXISTING TREES, STUMPS AND BRUSH FROM THE SITE AS NECESSARY TO CONSTRUCT THE IMPROVEMENTS.
23. THE CONTRACTOR SHALL DEMOLISH AND REMOVE ANY ITEMS REMAINING FROM THE EXISTING BUILDING, IN ITS ENTIRETY, INCLUDING WALLS, FOUNDATIONS AND FOOTINGS. ALL BUILDING DRAINS AND UTILITY LEADS SHALL BE LOCATED AND PROPERLY PLUGGED. UTILITY LEAD WORK SHALL BE COORDINATED WITH THE APPROPRIATE UTILITY COMPANY.
24. BACKFILL EXCAVATED AREAS WITH CLEAN GRANULAR FILL COMPACTED TO 95% OF THE MATERIAL UNIT WEIGHT BY MODIFIED PROCTOR.
25. CONTROL SHALL BE MAINTAINED OVER THE SITE AND OPERATION TO ELIMINATE HAZARDS TO THE PUBLIC. NAILS OR OTHER TIRE PUNCTURING ITEMS SHALL NOT BE DROPPED ON STREETS, ALLEYS AND ADJACENT PROPERTY. PUBLIC STREETS, CURBS AND SIDEWALKS SHALL BE PROTECTED FROM DAMAGE. THE PERSON ENGAGED IN THE DEMOLITION WORK SHALL BE LIABLE FOR ANY AND ALL DAMAGE TO CURBS, STREETS, SIDEWALKS AND OTHER PUBLIC OR PRIVATE PROPERTY AND FOR ANY BODILY INJURY OCCURRING AS A RESULT OF THE DEMOLITION WORK.

LEGEND

- BUILDING REMOVAL
- PAVEMENT REMOVAL
- GRAVEL REMOVAL
- SAWCUT
- UTILITY LINE REMOVAL
- TREE REMOVAL
- (R) REMOVE
- (P) PROTECT
- LIMITS OF CONSTRUCTION
- CURB & GUTTER REMOVAL



1 inch = 10 ft.

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BENCHMARK INFORMATION

BM #1
ELEV = 843.15 (NAVD 88)
WEST RIM OF SANITARY MANHOLE

BM #2
ELEV = 842.64 (NAVD 88)
SPIKE IN FACE OF POWER POLE

BM #3
ELEV = 838.68
NW CORNER OF BOTTOM STEP

811 Know what's below. Call before you dig.

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PROPOSED ADDITION AT SUMMIT POINTE
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175 COLLEGE STREET
BATTLE CREEK, MI 49017

REVISIONS

ISSUED
2022.08.01

PROJECT NUMBER
21119.00

SHEET TITLE
EXISTING CONDITION - DEMOLITION PLAN

SHEET NUMBER
C1.0

CONSTRUCTION DOCUMENTS

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SITE MATERIALS & CONSTRUCTION NOTES:

1. SOILS EXPOSED IN THE BASE OF ALL SATISFACTORY FOUNDATION EXCAVATIONS SHOULD BE PROTECTED AGAINST ANY DETRIMENTAL CHANGES IN CONDITION SUCH AS FROM DISTURBANCE, RAIN AND FREEZING. SURFACE RUN-OFF WATER SHOULD BE DRAINED AWAY FROM THE EXCAVATION AND NOT ALLOWED TO POND. IF POSSIBLE, ALL FOOTING CONCRETE SHOULD BE POURED THE SAME DAY THE EXCAVATION IS MADE. IF THIS IS NOT PRACTICAL, THE FOOTING EXCAVATIONS SHOULD BE ADEQUATELY PROTECTED.
2. REMOVE ALL SUBGRADE GRADE MATERIAL THAT MAY BE SOFTENED BY RAINS, FREEZING, OR CONSTRUCTION TRAFFIC, ETC., AND REPLACE WITH COMPACTED GRANULAR FILL.
3. THE CONTRACTOR SHALL INSTALL A PEDESTRIAN FENCE AROUND ALL EXCAVATIONS TO BE LEFT OPEN OVERNIGHT AS REQUIRED.
4. EXTERIOR CONCRETE SHALL HAVE A COMPRESSIVE STRENGTH OF 4000 PSI AND SHALL HAVE LIMESTONE AGGREGATE AND SHALL HAVE 4 - 6 % AIR ENTRAINMENT WITH A BROOM FINISH.
5. EXPANSION JOINTS IN CONCRETE PAVEMENT AND WALLS SHALL BE 1/2" ASPHALT IMPREGNATED FULL DEPTH @ 40' O.C. MAXIMUM & AT SIDEWALK INTERSECTIONS, CRACK CONTROL SCORING AT SIDEWALK WIDTH DIMENSION AND @ 10'-0" O.C. IN DRIVES.

GENERAL NOTES

1. ALL WORK SHALL CONFORM TO ALL LOCAL, STATE AND FEDERAL LAWS, RULES AND REGULATIONS IN FORCE AT TIME OF CONSTRUCTION.
2. ELECTRICAL WORK SHALL BE PERFORMED BY A STATE OF MICHIGAN LICENSED ELECTRICIAN ACCORDING TO THE N.F.P.A. NATIONAL ELECTRICAL CODE AS MODIFIED BY THE STATE OF MICHIGAN. FURNISH AND INSTALL ALL MATERIALS AND LABOR TO PROVIDE A COMPLETE WORKING SYSTEM.
3. ALL MECHANICAL WORK SHALL BE PERFORMED ACCORDING TO THE INTERNATIONAL MECHANICAL CODE AS MODIFIED BY THE STATE OF MICHIGAN AND THE MICHIGAN ENERGY CODE. FURNISH AND INSTALL ALL MATERIALS AND LABOR TO PROVIDE A FULL WORKING SYSTEM.
4. ALL WORK SHALL CONFORM TO THE MICHIGAN HANDICAPPED ACCESSIBILITY CODE AND THE AMERICANS WITH DISABILITIES ACT.
5. ALL REGULATORY SIGNAGE (IF SPECIFIED) SHALL BE PER THE MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT).
6. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS, PERMIT COSTS, TAP FEES, METER DEPOSITS, PERMANENT UTILITY APPLICATIONS, BONDS, AND OTHER FEES REQUIRED FOR PROPOSED WORK.
7. CONTACT "MISS DIG" AT 1-800-482-7171 FOR LOCATION OF UNDERGROUND UTILITIES A MINIMUM OF 48 HOURS BEFORE COMMENCING EXCAVATION WORK. THIS DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY OF NOTIFYING UTILITY OWNERS WHO ARE NOT PART OF THE "MISS DIG" ALERT SYSTEM. THE CONTRACTOR SHALL CONDUCT HIS OPERATIONS IN A MANNER AS TO ENSURE THAT THOSE UTILITIES NOT REQUIRING RELOCATION WILL NOT BE DISTURBED.
8. ANY SANITARY SEWER, SANITARY SEWER SERVICE LEADS, WATER MAIN, WATER SERVICES, OR STORM SEWER WHICH IS DAMAGED BY THE CONTRACTOR DURING HIS OPERATIONS SHALL BE REPAIRED TO THE OWNERS SATISFACTION, AND AT THE CONTRACTORS EXPENSE. IF ANY ELEMENTS OF THE SANITARY SEWER SYSTEM ARE DAMAGED AND NEED REPAIRED, IT MUST MEET CITY OF BATTLE CREEK SPECIFICATIONS.
9. THE ELECTRICAL CONTRACTOR IS RESPONSIBLE FOR THE ELECTRICAL TRANSFORMER PAD PER THE UTILITY COMPANY SPECIFICATIONS.
10. REFER TO ELECTRICAL DRAWINGS FOR UNDERGROUND ELECTRICAL REQUIREMENTS FOR SITE LIGHTING & SITE DETAILS SHEETS FOR THE FIXTURE AND & POLE SPECIFICATIONS.
11. DESIGN, INSTALLATION AND SPECIFICATION FOR IMPROVEMENTS RELATED TO GAS, TELEPHONE, ELECTRIC AND CABLE TELEVISION SERVICES SHALL BE COORDINATED BY THE CONTRACTOR.
12. CONTRACTOR/OWNER SHALL OBTAIN UTILITY CONNECTION PERMITS AND SETTLE APPLICABLE UTILITY ASSESSMENTS PRIOR TO EXTENSION OF PUBLIC UTILITIES ONSITE.
13. MANHOLE AND CATCH BASIN STRUCTURES SHALL BE PRECAST AND HAVE A MAXIMUM OF 2 ADJUSTING RINGS FOR FINISH GRADE ADJUSTMENT. STORM STRUCTURES MUST ALL HAVE A SUMP OF TWO FEET.
14. DEMOLISH & REMOVE ALL EXISTING SITE FEATURES AS REQUIRED.
15. THE CONTRACTOR SHALL REVIEW THE GEOTECHNICAL REPORT.
16. DRIVEWAY LAYOUT AND CONNECTION TO COLLEGE ST. AND WEST ST. SHALL COMPLY WITH ALL ASPECTS OF THE MDOT AND CITY DRIVE PERMITS, RESPECTIVELY.

SITE DATA

1. PROPERTY INFORMATION:
   PARCEL #'s: 52-9730-00-032-0 & 52-9730-00-065-0

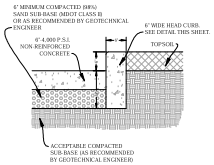
   SITE AREA: 74,052 SF (1.70 AC)

   OWNER: SUMMIT POINTE
   175 COLLEGE ST
   BATTLE CREEK, MI 49037
   (269) 966-1460

   DEVELOPER: DEREMA HAMANN
   612 SOUTH PARK STREET
   KALAMAZOO, MI 49117
   PHONE: (269) 373-1108

SITE PLAN NOTES

A. ASPHALT PAVEMENT (SEE DETAIL THIS SHEET).
B. 18'X18' (MIN.) CONCRETE DUMPSTER PAD (PROVIDE 18' X12' DUMPSTER ENCLOSURE. AREA FOR (2) STD DUMPSTERS.
C. INTEGRAL CURB/WALK (SEE DETAIL THIS SHEET).
D. BOLLARDS WITH IDEAL SHIELD.
E. ADA RAMP.



CONC. PAVEMENT AND CURB SECTION
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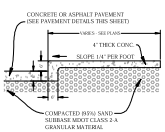

INTEGRAL CURB/ RAISED WALK SECTION
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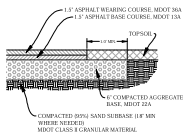

LIGHT DUTY ASPHALT SECTION
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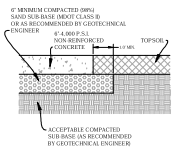

CONC. PAVEMENT SECTION
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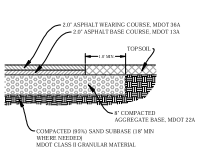


HEAVY DUTY ASPHALT SECTION
C2.0 - 030403 NOT TO SCALE

LEGEND

- HEAVY DUTY ASPHALT PAVEMENT (SEE DETAIL THIS SHEET)
- ASPHALT PAVEMENT (SEE DETAIL THIS SHEET)
- CONCRETE PAVEMENT AND SIDEWALK (SEE DETAIL THIS SHEET)

GENERAL NOTES

1. DIMENSIONS TAKE PRECEDENCE OVER SCALE. CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD.
2. IF ANY ERRORS, DISCREPANCIES, OR OMISSIONS BECOME APPARENT, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ ENGINEER PRIOR TO CONSTRUCTION OF ANYTHING AFFECTED SO THAT CLARIFICATION OR REDESIGN MAY OCCUR.
3. ALL CURB RADII AND DIMENSIONS ARE TO FACE OF CURB. CURB TO BE PROVIDED WHERE SHOWN AND INTEGRAL WITH SIDEWALK AT PAVING EDGE.
4. SLOPE GRADES UNIFORMLY BETWEEN ELEVATIONS SHOWN. NOMINAL GRADING. SLOPE SIDEWALKS AWAY FROM BUILDING AT 1/4" PER FOOT ON ENTRY WALK.

EXISTING STORM STRUCTURE DATA

MH #1
RIM = 846.27

~~MH #5~~
~~RIM = 846.23~~

CB #2
RIM = 843.80
12" N PVC = 837.88
12" S PVC = 837.85
12" W PVC = 838.18

CB #6
RIM = 841.09
8" NW METAL = 838.67

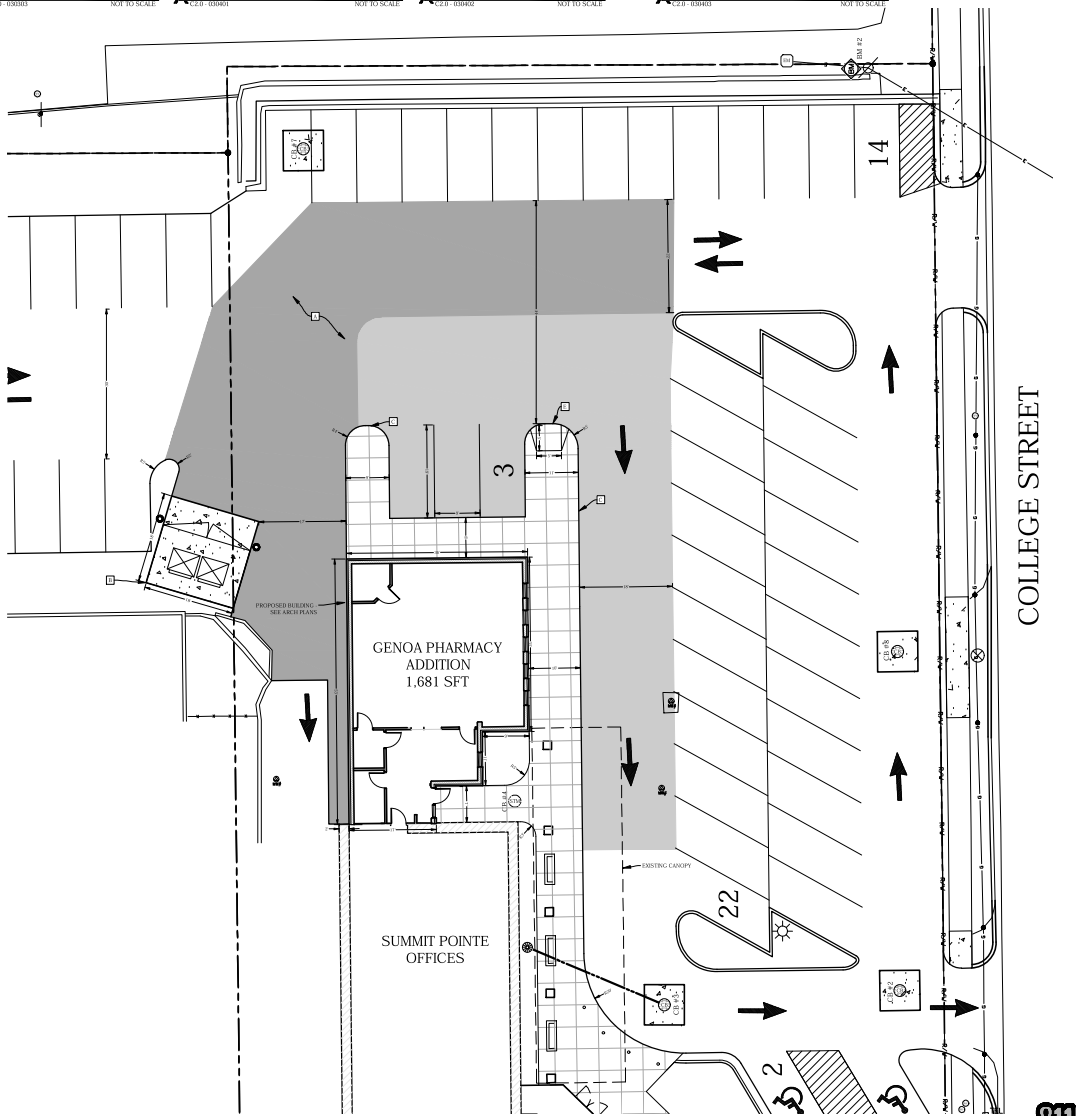
CB #7
RIM = 842.80

CB #3
RIM = 845.33
12" E PVC = 839.82
6" NW PVC = 840.08
8" N PVC = 839.93
12" N PVC = 840.18
PROP. 12" HDPE = 840.00

CB #8
RIM = 843.92

CB #9, 2' EJIW 6517 BEEHIVE
RIM = 846.01
12" HDPE I.E. = 840.08

CB #4
REPLACE COVER WITH EJIW 6517 BEEHIVE
RIM = 847.10



0 5 10 15 20
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N

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REVISIONS

ISSUED
2022.08.01

PROJECT NUMBER
21119.00

SHEET TITLE
SITE & UTILITY LAYOUT

SHEET NUMBER
C2.0

CONSTRUCTION DOCUMENTS

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SOIL EROSION & SEDIMENTATION CONTROL NOTES

1. ALL CONSTRUCTION METHODS SHALL BE DONE IN COMPLIANCE WITH MDOT MDEQ. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING A "SOIL EROSION PERMIT" FROM THE COUNTY AND A "PERMIT BY RULE/NOTICE OF COVERAGE" FROM MDEQ IF APPLICABLE, PRIOR TO START OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL REQUIREMENTS OF THE COUNTY "SOIL EROSION PERMIT" AND FOR ALL CERTIFIED STORM WATER INSPECTION SERVICE REQUIRED BY THE "PERMIT BY RULE." EROSION CONTROL MEASURES SHOWN ON THE PLANS ARE THE MINIMUM REQUIREMENTS AND SHALL NOT RELIEVE THE CONTRACTOR'S RESPONSIBILITY FOR PROVIDING ALL REQUIRED EROSION CONTROL MEASURES.
2. AVOID UNNECESSARY DISTURBING OR REMOVING OF EXISTING VEGETATED TOPSOIL OR EARTH COVER. THESE COVER AREAS ACT AS SEDIMENT FILTERS.
3. ALL TEMPORARY SOIL EROSION PROTECTION SHALL REMAIN IN PLACE UNTIL REMOVAL IS REQUIRED FOR FINAL CLEAN UP AND APPROVAL.
4. GEOTEXTILE SILT FENCE SHALL BE INSTALLED AS REQUIRED WHEN CROSSING CREEKS OR WHEN ADJACENT TO WETLANDS OR SURFACE WATER BODIES TO PREVENT SILTATION AND ELSEWHERE AS DIRECTED BY THE ENGINEER. SEEDING AND/OR SODDING SHALL BE INSTALLED ON CREEK BANKS IMMEDIATELY AFTER CONSTRUCTION TO PREVENT EROSION.
5. MAINTENANCE, CLEANING, AND REMOVAL OF THE VARIOUS SEDIMENT CONTROL MEASURES SHALL BE INCLUDED IN THE VARIOUS EROSION CONTROL ITEMS.

(#-P) NUMBER IN CIRCLE REFERS TO NUMBERED DETAILS ON MDOT STANDARD PLAN R-96-D. SOIL EROSION & SEDIMENTATION CONTROL MEASURES. "P" DENOTES PERMANENT MEASURE AND "T" DENOTES TEMPORARY MEASURE. SOIL EROSION CONTROL PLANS DENOTE MINIMUM EROSION MEASURES REQUIRED AS DESCRIBED BELOW.

(SEP) DENOTES PERMANENT SEEDING. ALL DISTURBED AREAS NOT PAVED OR GRAVELED SHALL BE RESTORED. PLACE TOPSOIL SURFACE, SALV, 3 INCH, MDOT SEEDING, MIXTURE TUF APPLIED AT A RATE OF 220 LB/ACRE. FERTILIZER, CHEMICAL NUTRIENT, CLA APPLIED AT A RATE OF 228 LB/ACRE, MULCH AT A RATE OF 2 TON/ACRE AND MULCH ANCHORING. (APPLIES TO ENTIRE PROJECT)

(RS) DENOTES TEMPORARY SEEDING. TEMPORARY SEEDING SHALL BE PLACED AT LOCATIONS DETERMINED BY THE ENGINEER IN THE FIELD AND SHALL INCLUDE CEREAL RYE SEED APPLIED AT A RATE OF 70 LB/ACRE AND MULCH.

(DC) DENOTES DUST CONTROL. DUST CONTROL MAY BE REQUIRED ON THE SUBGRADE CONSTRUCTION AND WILL INCLUDE APPLYING FRESH WATER TO BE INCLUDED IN THE ITEM OF EMBANKMENT. DUST CONTROL ON THE AGGREGATE BASE COURSE WILL BE ACCOMPLISHED BY APPLYING FRESH WATER (INCLUDED IN THE ITEM OF AGGREGATE BASE, 6 INCH) AND APPLYING DUST PALLIATIVE, APPLIED, $CaCl_2$ (TON) AS DIRECTED BY THE PROJECT ENGINEER.

(AP) DENOTES AGGREGATE COVER/PERMANENT PAVEMENT RESTORATION

(CE) DENOTES GRAVEL ACCESS APPROACH. APPROACH SHALL BE INSTALLED TO PROVIDE STABLE ACCESS TO ROADWAYS AND MINIMIZE DUST AND TRACKING OF MATERIALS ONTO PUBLIC STREETS AND HIGHWAYS. THE APPROACH SHALL BE A MINIMUM OF 12' WIDE, 8' DEEP, AND CONSIST OF 2"-4" AGGREGATE

(SFT) DENOTES TEMPORARY SILT FENCE. SILT FENCE SHALL BE INSTALLED AT CREEK CROSSINGS, ADJACENT TO ALL WETLANDS AND SURFACE WATERS, AND OTHER LOCATIONS AS DIRECTED BY THE ENGINEER. EACH SILT FENCE SHALL BE INSTALLED GENERALLY ALONG THE SAME CONTOUR ELEVATION.

(SDP) DENOTES INLET PROTECTION FABRIC DROP. SHALL BE INSTALLED AT EXISTING AND PROPOSED STORM SEWER INLETS TO PROVIDE SETTLING AND FILTERING OF SILT LADEN WATER PRIOR TO ENTRY INTO THE DRAINAGE SYSTEM.

(SCP) DENOTES MULCH BLANKET OR MATTING. SHALL BE NORTH AMERICAN GREEN DS150, OR APPROVED EQUAL. MULCH BLANKETS SHALL BE PLACED ON ALL 1:3 SLOPES OR GREATER, IN AND AROUND DITCH BOTTOMS WHERE THERE IS NO BIOSWALE BY CONTRACTOR RESPONSIBLE FOR RESTORING THAT AREA.

GRADING NOTES

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3. CONTACT "811" AT 1-800-482-7171 FOR LOCATION OF UNDERGROUND UTILITIES A MINIMUM OF 48 HOURS BEFORE COMMENCING EXCAVATION WORK. THIS DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY OF NOTIFYING UTILITY OWNERS WHO ARE NOT PART OF THE "811" ALERT SYSTEM. THE CONTRACTOR SHALL CONDUCT HIS OPERATIONS IN A MANNER AS TO ENSURE THAT THOSE UTILITIES NOT REQUIRING RELOCATION WILL NOT BE DISTURBED.
4. DEMOLISH & REMOVE ALL EXISTING SITE FEATURES AS REQUIRED.
5. MATCH EXISTING GRADES AROUND PERIMETER WITH SLOPES AS SHOWN.
6. ALL SPOT ELEVATIONS ARE TOP OF PAVEMENT GRADES AT EDGE OF METAL (EOM) UNLESS OTHERWISE NOTED.
7. ALL SOIL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO MASS GRADING.
8. ALL EXCAVATION SHALL BE IN ACCORDANCE WITH THE TECHNICAL SPECIFICATIONS AND GEOTECHNICAL REPORT.
9. ALL EXISTING ELEVATIONS ARE TO BE VERIFIED AND ACCEPTED AS SHOWN PRIOR TO COMMENCEMENT OF WORK.
10. CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID TRACKING SOIL ONTO ADJACENT ROADWAYS. CONTRACTOR SHALL SWEEP IMMEDIATELY IF OCCURS.
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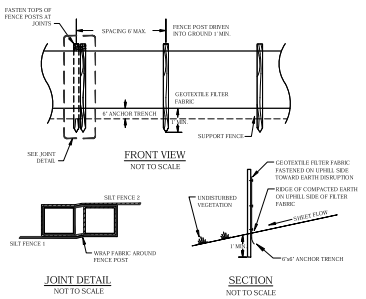
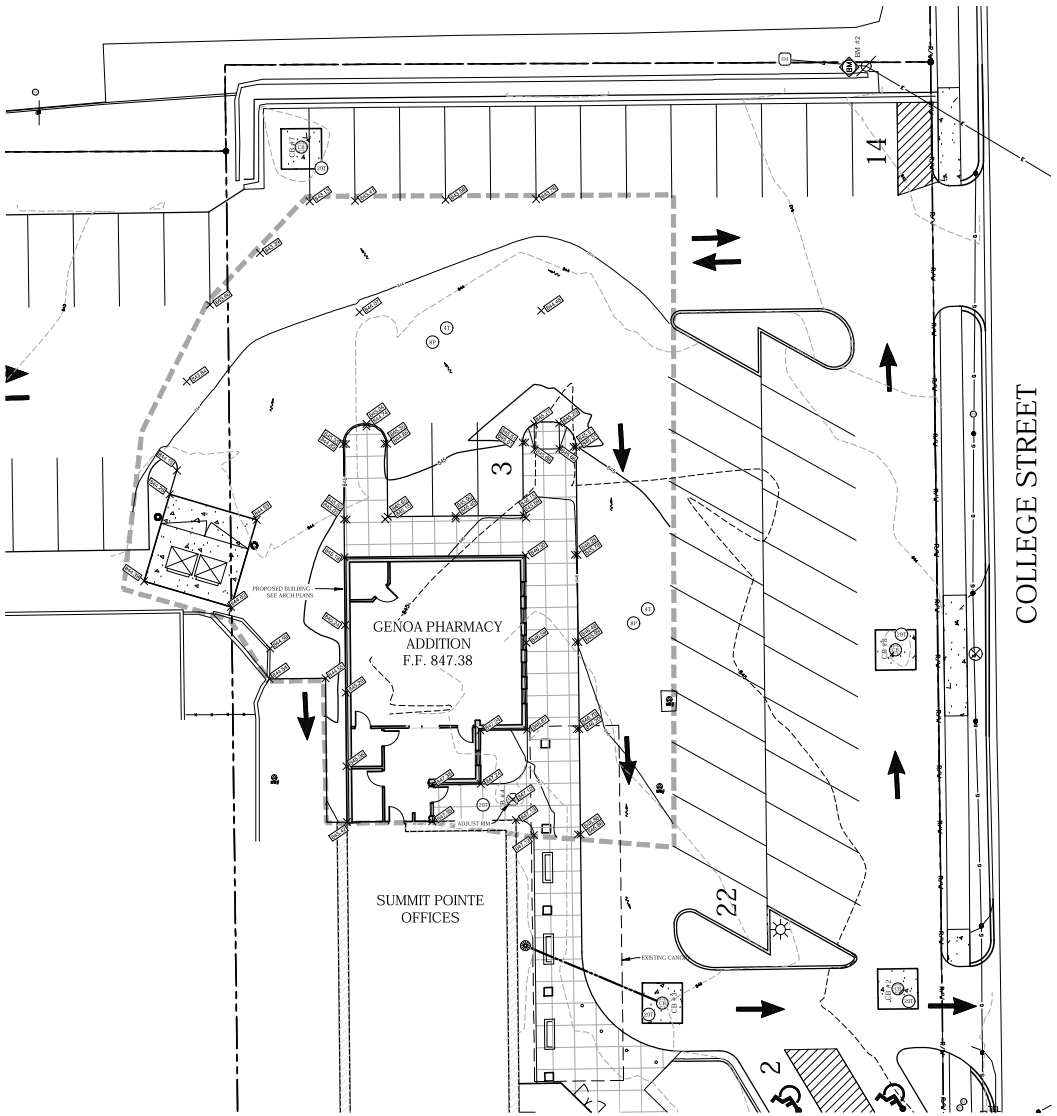


SILT FENCE DETAILS
NOT TO SCALE



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GRADING & SESC PLAN

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