



Agenda: Battle Creek City Commission

Meeting Date: November 15, 2022- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

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

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

Presentation by Mike Yarger - Republic Services

Staff Presentation - Public Transit - Mallory Avis, Public Transit Director

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

PETITIONS COMMUNICATIONS REPORTS

Planning / Zoning Division 2019-2020 and 2021 Annual Reports

PUBLIC HEARING

A Public Hearing to consider removal of Planning Commission Member Ariel Laws for Nonfeasance due to chronic absenteeism.

INTRODUCTION OF ORDINANCES

14-2022 A proposed Ordinance to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

15-2022 A proposed Ordinance to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

ADOPTION OF ORDINANCES

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

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 November 1, 2022 City Commission Regular Meeting

Petitions, Communications, Reports:

City Manager's Report for November 15, 2022

Resolutions:

- 531 A Resolution authorizing the sale of a vacant, tax-reverted property, Parcel Number 7270-00-008-0.
- 532 A Resolution seeking authorization to issue payment for emergency lift station generator replacement from Shouldice Industrial Manufacturers and Contractors, Inc. in a not-to-exceed amount of \$76,066.00.
- 533 A Resolution reappointing a member to the Board of Review.
- 534 A Resolution appointing a member to the Battle Creek Transit Local Advisory Council.
- 535 A Resolution reappointing a member to the Civil Service Commission
- 536 A Resolution reappointing members to the Lakeview Downtown Development Authority Board
- 537 A Resolution reappointing and appointing a new member to the Zoning Board of Appeals
- 538 A Resolution appointing a member to the Historic District Commission.

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

- 539 A Resolution seeking removal of Commissioner Ariel Laws from the Planning Commission due to nonfeasance based upon chronic absenteeism.
- 540 A Resolution seeking authorization the City Manager to employ retiree Leona Parrish on a temporary basis under 296.09(c).
- 541 A Resolution seeking to approve S13-2022, a Special Use Permit to allow for a new Major Vehicle Repair Shop at 164 S. 24th Street (Parcel #0065-00-650-0) in a B-1 Corridor Commercial District pursuant to Section 1281.05 of the zoning code.
- 542 A Resolution seeking to approve S14-2022, a Special Use Permit to allow for an In-Home Group Child Care Home for up to twelve (12) children at 24 Golden Avenue (parcel #4690-08-506-0) in a R-1A Single Family Residential District pursuant to Section 1281.06 of the zoning code.
- 543 A Resolution seeking authorizing for the City Manager to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement for the amount of \$252,000.
- 544 A Resolution seeking to set a closed session on a labor matter for November 15, 2022.

GENERAL PUBLIC COMMENT

(Limited to three minutes per individual)

COMMISSION COMMENTS

RECESS

CLOSED SESSION

RETURN FROM RECESS

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.

Staff Presentation - Public Transit - Mallory Avis, Public Transit Director

BATTLE CREEK, MICHIGAN - 11/15/2022

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Rebecca Forbes, Executive Assistant

Department: City Manager

SUMMARY

Staff Presentation - Public Transit - Mallory Avis, Public Transit Director

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> Commission_Presentation_BCT_11-15-22.pdf	Commission Presentation BCT 11.15.22



Historic Funding Availability

- CARES
- ARPA
- 5339(b)
- CMAQ
- HIP
- STP
- Service Initiatives
- And more...

\$21,256,002

Staff Development




A National Stage for BCGo



The **BCGo** Effect

In 15 months of operation...

- **2,788 users**
 - 3% of users travel with a wheelchair
- **51,390 booking requests**
 - 11,387 completed trips (22%)
 - 12,400 passengers
- **55% of users are new public transportation users**



LOS ANGELES
ITS WORLD CONGRESS 2022

In Partnership With:
ITS AMERICA **ERTICO** **ITS** **IRX** In the business of building businesses



BCGo

12,500+

Trips completed since launch

500+

Trips completed by riders with
mobility assistance needs

~90%

On-time or early pickups and
drop-offs



Looking Ahead







Resolution NO.

Planning / Zoning Division 2019-2020 and 2021 Annual Reports

BATTLE CREEK, MICHIGAN - 11/15/2022

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

Planning / Zoning Division 2019-2020 and 2021 Annual Reports

BUDGETARY CONSIDERATIONS

None

HISTORY, BACKGROUND and DISCUSSION

An annual report of the activities and business of the City of Battle Creek Planning Commission, Zoning Board of Appeals, and the Historic District Commission, including departmental responsibilities relative to planning and zoning.

The Michigan Planning Enabling Act, PA 33 of 2008, as amended, requires that an annual report of Planning Commission activities be prepared for the legislative body that reflects the administration and enforcement of the master plan and zoning ordinance, including recommendations for amendments or supplements to the ordinance.

The Planning Department administers the activities and business for three boards/commissions, all of which are related to goals and objectives of the Master Plan. As such, this report was prepared to highlight the activities of all three boards/commissions, as well as departmental responsibilities and activities relative to planning and zoning.

DISCUSSION OF THE ISSUE

POSITIONS

The Planning Commission accepted receipt of the 2019 - 2020 Annual Report at the September 28, 2022 meeting and the 2021 Annual Report at the October 26, 2022 meeting.

The statute does not require approval of the annual report but simply that it is filed with the City Commission.

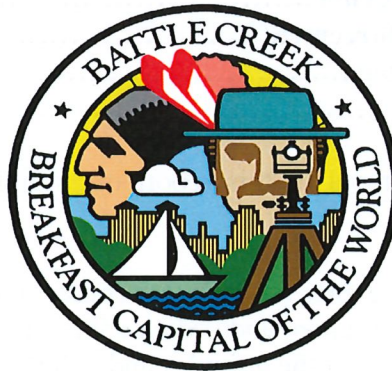
ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 2._2019-2020_Annual_Report.pdf	Planning/Zoning Division 2019-2020 Annual Report
<input type="checkbox"/> 2021_Annual_Report_complete.pdf	Planning/Zoning Division 2021 Annual Report

City of Battle Creek
Planning / Zoning Div.
ANNUAL REPORT

**2019
&
2020**

An annual report of the activities and business of the City of Battle Creek Planning Commission, Zoning Board of Appeals, and the Historic District Commission, including departmental responsibilities relative to planning and zoning.



Prepared By:
Marcie Gillette
Director, Community Services
City of Battle Creek
10 N. Division Street, Ste. 117
Battle Creek, MI 49014

To: Rebecca Fleury, City Manager
Ted Dearing, Assistant City Manager of Community and Economic Development
Jill Steele, City Attorney
Members of the City Commission
Members of the City Planning Commission
Members of the Zoning Board of Appeals
Members of the Historic District Commission

2019 & 2020 Annual Report of the Planning Department

The Michigan Planning Enabling Act, PA 33 of 2008, as amended, requires that an annual report of Planning Commission activities be prepared for the legislative body that reflects the administration and enforcement of the master plan and zoning ordinance, including recommendations for amendments or supplements to the ordinance.

The Planning Department administers the activities and business for three boards/commissions, all of which are related to goals and objectives in the Master Plan. As such, this report was prepared to highlight the activities of all three boards/commissions, as well as departmental responsibilities and activities relative to planning and zoning. The report includes the following information as follows:

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❖ Current and Ongoing Planning Initiatives	23
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○ Miscellaneous.....	26
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The statute does not require approval of this report but simply that it is filed with the City Commission.

With this report, we would like to express our sincere appreciation to the citizen volunteers who are an integral part of the City Government and dedicate their time without compensation to make Battle Creek's government reflective of the attitudes and beliefs of all of its residents.

Marcie Gillette
Community Services Director

INTRODUCTION

Long range planning for the physical development of the City of Battle Creek is the primary focus of the Planning Department. In addition to preparing and maintaining the Master Plan the department is responsible for the administration of the zoning ordinance and other tools that are implemented to attain the goals and objectives listed in the plan.

For 2019 & 2020, the Planning Department staff included a Manager, Two Senior Planners, and a Customer Service Representative II.

The information for 2019 & 2020 outlined herein is summarized in order of the appropriate board/commission and five-year historical data is included for each type of request. Additional activities and responsibilities that support the implementation of the goals and objectives of the master plan are included at the end of the report.

BOARDS/COMMISSIONS

❖ Planning Commission

The Planning Commission is a nine-member volunteer board appointed by the Mayor and approved by the City Commission. They are responsible for planning the future growth of the community and review of specific development projects including special use permits, zoning ordinance amendments, and property rezoning requests. The Planning Commission is also charged with the preparation and adoption of plans for the City including the Master Plan and Capital Improvement Plan.

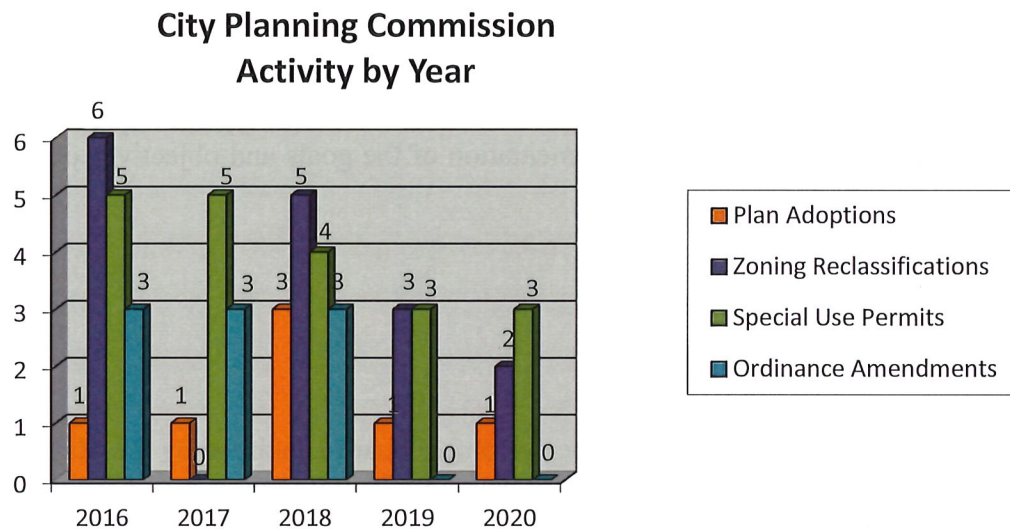
The Planning Commission serves in an advisory capacity to the City Commission by holding a public hearing on each request, deliberating on each around a set of standards, and providing a recommendation to the City Commission.

Planning enabling legislation outlines that the Commission should represent a broad spectrum of interests, including industry, transportation, commerce, education, agriculture, etc.; this same statute outlines that the Commission should represent the various geographic areas of the City. As provided for by statute, there are two City Commission members appointed to the Planning Commission each with voting rights and one member of the Planning Commission also serves on the Zoning Board of Appeals. The Manager of the Planning Department serves as the Executive Secretary for the Planning Commission and has no voting rights.

Members of the Planning Commission at the end of 2020 include:

<u>Name</u>	<u>Term Expires</u>
Cody Newman	1 – 01 – 2023
Joe Sobieralski	1 – 01 – 2023
John Godfrey	1 – 01 – 2023
Chip Spranger	1 – 01 – 2022
Dan Buscher	1 – 01 – 2022
Ariel Laws	1 – 01 – 2021
Lynn Ward Gray	1 – 01 – 2021
Boonikka Herring, Commissioner	11 – 2 – 2021
Kaytee Faris, Vice-Mayor	11 – 2 – 2021

The following chart summarizes the number and type of petitions received in 2019 & 2020, and compares them with data from the past five years. The spreadsheet on pages 6-10 details the activities of the Planning Commission in 2019 & 2020.



	2016	2017	2018	2019	2020
Plan Adoptions	1	1	3	1	1
Zoning Reclassifications	6	0	5	3	2
Special Use Permits	5	5	4	3	3
Ordinance Amendments	3	3	3	0	1
TOTAL	15	9	15	7	7

Overall, the previous five years have shown a decrease in the amount of requests coming through Planning Commission; however the number of projects and dollar value of investment occurring within the City has been increasing, demonstrating that projects are primarily occurring within the confines of local zoning regulations. This coincides with the department's and the City's efforts to help property and business owners, developers, realtors, and any other individuals seeking to make changes to a property get through process and procedure in an expeditious and efficient manner.

Increases in the total number of request in 2016 and 2018 are due to the amount of rezoning requests, particularly conditional rezoning requests, and ordinance amendments that were submitted to the Planning Commission.

While City efforts to assist property and business owners has likely led to an overall reduction in requests over the five year period represented in the chart, it also seems reasonable to deduce that a further reduction for the year 2020 was influenced by the onset of the Covid-19 pandemic.

Following is a summary of the various requests submitted to the Planning Commission in 2019 and 2020; a detailed list of these can be found on pages 6-10 of this document.

Special Use Permits

Each zoning district in the zoning ordinance outlines the land uses that are permitted by right in each district and do not need additional zoning approval. The zoning ordinance also lists special land uses that would be allowed in any district; these special land uses are those uses of land that are not necessarily incompatible with the uses permitted in each zoning district, but require review to ensure they would be compatible with surrounding land uses and additional oversight as to how they are implemented.

The specific special uses provided for by ordinance are subject to public hearing at the Planning Commission. Based on the local ordinance, the City Commission is authorized to make final determinations as to the approval, approval with conditions, or denial of special use permits. Each request is reviewed to ensure compliance with the eight standards outlined in the ordinance.

For the years 2019-2020, there were a total of six requests for special use permits for various uses including a group day care center, a behavioral health center, a tattoo parlor, and multiple storage unit developments.

Rezoning Requests

Rezoning requests are typically submitted by a property owner, though the City could initiate such a request. A rezoning request needs to be evaluated by looking at the highest and most intensive use of land that could be allowed under the proposed zoning district, zoning districts and land uses of the surrounding properties, and compliance with the master plan and future land use map.

A traditional rezoning approval cannot be made with conditions - the zoning district simply changes, and if the request is approved any land uses allowed in the new zoning classification would be allowed on the property. In 2006, legislation was approved to allow for conditional rezoning in Michigan communities. Conditional rezoning allows for conditions on a rezoning request but with strict limitations and tied to a specific development and operations plan submitted as part of the application. For the years 2019-2020 there were a total of five rezoning requests, three of which were conditional rezoning requests. This is a great tool that will help ensure properties are developed in accordance with best practice, yet provide some assurances to the neighbors and the City that the proposed use will be compatible with surrounding areas. Please note that one of the requests for a conditional rezoning, seeking to develop a property currently used as a religious establishment to a multifamily apartment facility was pulled from the agenda prior to the meeting. The item was not heard by the Planning Commission.

Ordinance Amendments

Proposed ordinance amendments can be initiated by the public, staff, or by the City Commission. Generally, the discussion is placed on the meeting agenda for initial review to determine the level of interest from the Planning Commission and/or City Commission and what type of parameters should be included in a draft ordinance. Providing there is support, a draft ordinance will later be submitted and a public hearing held.

In the years 2019-2020, there were two zoning ordinance amendments considered by the Planning Commission – recreational (adult-use) marijuana regulations and the update and reformatting of the Zoning Ordinance and associated Zoning Map.

Each ordinance amendment includes research of best practices, review of concerns in current ordinances, and analysis of local conditions to determine what revisions would be appropriate. Additionally, most often community engagement efforts are undertaken to determine community support or opposition, which allows for revisions up front that will help ensure proposed ordinances are in alignment with both professional recommendations and community perspective.

Methods of engagement are different depending on the nature of the amendments and reason for the revisions. For example, planning staff prepared visual displays of existing site plans that are in compliance with proposed parking, landscaping, and fencing ordinances, and solicited input from property and business owners regarding how the draft ordinances would affect their property. Because each parcel is different, a workshop or roundtable would not have been an effective method to discuss these topics. With urban agriculture issue, recognizing the high levels of both support and opposition, multiple roundtables, surveys, and commission workshops were held in order to craft an ordinance that allowed for the use of land, while attempting to address any concerns.

Staff maintains a list of ordinances that should be amended in the future. The bulk of these amendments are for clarification and consistency purposes. Based on the future Master Plan update, staff expects a significant number of amendments to the zoning ordinances will be required.

Capital Improvement Program

Planning enabling legislation requires the preparation and use of a Capital Improvement Plan (CIP) that attempts to determine and prioritize the anticipated needs of the City for a six year minimum time period. The approval of this document does not place any particular project into the budget but only serves as a guideline to determine future budgeting needs. Each year, the intent is to revise the plan to accommodate current or projected future needs.

Planning enabling legislation requires the Capital Improvement Plan to be reviewed by the Planning Commission to ensure projects are consistent with the goals and objectives of the master plan. The Planning Commission reviewed the 2020-2025 Capital Improvement Plan in the early part of 2019, and the 2021-2026 Capital Improvement Plan in the early part of 2020. The Planning Commission found that the proposed projects included in the plans were consistent with the City of Battle Creek Master Plan, and recommended to City Commission the approval of both plans, noting that the items contained in the plans were not actually placed in the budget.

Much work was done in the years 2019-2020 to ensure projects in the Capital Improvement Plan are tied to the Master Plan. Prior to presenting the proposed Capital Improvement Plan to the Planning Commission, City staff from various departments engage in series of meetings intended to evaluate

proposed project's compliance and relevance with the goals and objectives of the adopted Master Plan. While not directly tied to the budget, the group evaluates and each proposed project using a scoring matrix intended to accurately prioritize the most needed and relevant projects proposed, with the intent of presenting a document to the Planning Commission (and eventually the City Commission) that reflects accurately the City's most pressing needs which will best accomplish the goals and vision of the City as described in the adopted Master Plan.

Planning Commission - Summary Year 2019 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
Meeting: January 23, 2019 Members & Staff Present: Susan Baldwin, Dan Buscher, John Godfrey, Lynn Gray, Cody Newman, Joe Sobieralski, John Stetler, Robert Whitfield, Glenn Perian, Eric Feldt, Laura Rounds and Marcel Stoetzel	# Z-01-19 5740 Beckley Rd. Parcel 009-00-090-0	Conditional Rezoning phase II of self-storage facility. Pursuant to M.C.L. 125.3405	Amerco Real Estate-Holly Reading 2727 N. Central Ave., Suite 500	APPROVED APPROVED City Comm 02/19/19 RESO 02-2019	APPROVED City Comm 02/19/19 RESO 02-2019
	Election of Officers	Comm. Buscher, Chair and Comm Hopkins, Vice Chair		Voted	N/A
Meeting: February 27, 2019 Members & Staff Present: Susan Baldwin, Daniel Buscher, Lynn Gray, Jim Hopkins, Cody Newman, John Stetler, Joe Sobieralski, Christine Zuzga, Glenn Perian, Eric Feldt, Marcel Stoetzel, and Laura Rounds	# S-01-19 30 E. Columbia Ave. Parcel 0063-00-620-0	Special Use Permit is requested to allow self storage in a C2 General Business District. Pursuant to Chapter 1290.01(b)(21)	Battle Creek Services LLC, 2510 S. Telegraph Rd., Suite 298, Bloomfield Hills, MI 48302	WITHDRAWN BY APPLICANT	N/A
	DISCUSSION ONLY	Review of non-motorized transportation plan project.	City of Battle Creek Planning Dept.	DISCUSSION ITEM	
	DISCUSSION ONLY	Review of Zoning Ordinance and Map Amendment project.	City of Battle Creek Planning Dept.	DISCUSSION ITEM	
Meeting: March 28, 2019 Members & Staff Present: Daniel Buscher, Joe Sobieralski, Robert Whitfield, Cody Newman, John Stetler, Lynn Ward Gray, Glenn Perian, Eric Feldt, and Michele K. Jayakar	CIP 2020-2025	Discussion	N/A	APPROVED	APPROVED
Meeting: April 24, 2019 Members & Staff Present: Daniel Buscher, Joe Sobieralski, Robert Whitfield, Jim Hopkins, Cody Newman, John Stetler, Lynn Ward Gray, Susan Baldwin, Christine Zuzga, Marcel Stoetzel, Glenn Perian, Eric Feldt, Michele K. Jayakar	# Z-03-19 400 North Ave. Parcel #3170-00-084-0	Petition from Bronson B.C. Hospital request for zoning from R1B, single family, to O-1 office for the address known as 400 North Ave., Battle Creek, MI 49017	Bronson Battle Creek Hospital, 601 John Street, Box 9, Kalamazoo, MI 49007	APPROVED APPROVED	APPROVED City Comm 05/07/19 Ordinance 07-2019 RESO 134
	DISCUSSION	Buren/McCamly Infill Feasibility Study		Discussion only	
Meeting: May 22, 2019 Members & Staff Present:	CANCELED				

Planning Commission - Summary Year 2019 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
Meeting: June 26, 2019 Members & Staff Present:	CANCELED				
Meeting: July 24, 2019 Members & Staff Present: John Godfrey, Robert Whitfield, John Stetler, Susan Baldwin, Joe Sobieralski Christine Zuzga, Marcel Stotzel, Glenn Perian, Eric Feldt, Michele K. Jayakar	# Z-02-19 1525 W. Michigan Ave. Parcel #1840-00-047-0	Mr. Jeffrey Bean, Urbandale LLC, property owner Urbandale Plaza, 1525 W. Michigan, Battle Creek, requesting a rezoning from the C- 5 Planned Shopping District to the C-3 Intensive Business District	Mr. Jeffrey Bean, Urbandale LLC, 6675 N. Whiteville Road, Rosebush, MI 48878	APPROVED	APPROVED City Comm 8/6/19 Ordinance 12-2019 City Comm 8/20/19 RESO #208
Meeting: August 28, 2019 Members & Staff Present: Jim Hopkins, John Stetler, Cody Newman, Lynn Ward Gray, Susan Baldwin Daniel Buscher, Christine Zuzga, Marcel Stotzel, Glenn Perian, Eric Feldt & Michele K. Jayakar	# A-01-19 Ordinance Amendment	Adult Use (Recreational) Marihuana Facilities: Review and adoption of a package of zoning ordinance amendments that will permit by right the following Adult Use Marihuana establishments. Grower and Processor, Secure Transporter, Safety Compliance Facility, Retailer and Microbusinesses. Relative to 1299.06(a)	City of Battle Creek, Planning Dept., 10 N. Division St., Battle Creek, MI 49014	APPROVED	APPROVED City Comm 10/15/19 RESO 248
Meeting: September 25, 2019 Members & Staff Present:	CANCELED				
Meeting: October 23, 2019 Members & Staff Present:	CANCELED				
Meeting: November 20, 2019 Members & Staff Present: Jim Hopkins, John Stetler, John Godfrey, Daniel Buscher, Robert Whitfield, Joe Sobieralski, Cody Newman, Christine Zuzga, Marcel Stotzel, Glenn Perian, Eric Feldt & Michele K. Jayakar	# S-02-19 1950 W. Columbia Ave. Parcel 9960-32-191-0	1950 W. Columbia Ave. Suite F, Special Use Permit application by John M. Sullivan, 1640 S. Parma Rd., Parma, MI (Owner Harpel Singh) to allow a tattoo and piercing company per chapter 1290, Section 1290.01(a)(28)	John Sullivan, 1640 S. Parma Rd., Parma, MI 49269	APPROVED 7-0	APPROVED City Comm 3/19/19 RESO#15
	# S-03-19 174 Buckley Ln. Parcel 3360-07-215-0	Special Use Permit application by Karen Wallace of 174 Buckley Ln. to allow a licensed group day care allowing up to 12 children unrelated from the applicant per Chapter 1290.04	Karin Wallace, 174 Buckley Ln., Battle Creek, MI 49015	APPROVED 7-0	APPROVED RESO #16 City Comm. 12/3/19
	# A-02-19 Ordinance Amendment	Review options and staff recommendation relative to 1299.06(a) Marihuana Facilities and Establishments that provide alternative development standards for marihuana growing facilities and establishments.	City of Battle Creek, Planning Dept. 10 N. Division St., Battle Creek, MI 49014	Discussion item	
		Approval of 2020 Planning Commission Meeting Dates		APPROVED	
Meeting: December 18, 2019 Members & Staff Present:	REGULAR MTG. POSTPONED to January 2020				

Planning Commission - Summary Year 2020 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
<p>Meeting: January 7, 2020 Special Meeting</p> <p><u>Members & Staff Present:</u> Jim Hopkins, John Stetler, John Godfrey, Daniel Buscher, Robert Whitfield, Joe Soberalski, Cody Newman, Lynn Ward Gray, Christine Zuga, Marcel Stoetzel, Glenn Perian, Ericc Feldt, Michele K. Jayakar</p>	<p># Z-03-19</p> <p>85 W. Bidwell Parcel 8260-00-059-0</p> <p>86 W. Bidwell Parcel 8260-00-079-0</p> <p>94 W. Bidwell Parcel 8260-00-083-0</p> <p>former 7779 Bidwell Parcel 8260-00-061-0</p> <p>former 93 W. Bidwell Parcel 8260-00-057-0</p>	<p>Special Use Permit request for rezoning of parcels at the intersection of Bidwell and Foster Streets from C-3 Intensive Business District to R-1C Single Family Residential.</p>	<p>City of Battle Creek, 10 N. Division, Battle Creek, MI 49014</p>	<p>APPROVED</p>	<p>APPROVED 7-1 Ordinance 01-2020 City Comm 2/4/20 RESO # 41</p>
<p>Meeting: January 22, 2020</p>				CANCELED	
<p>Meeting: February 26, 2020</p> <p><u>Members & Staff Present:</u></p>				CANCELED	
<p>Meeting: March 25, 2020</p> <p><u>Members & Staff Present:</u></p>				CANCELED	
<p>Meeting: April 22, 2020</p> <p><u>Members & Staff Present:</u></p>				CANCELED	
<p>Meeting: May 27, 2020</p> <p><u>Members & Staff Present:</u></p>				CANCELED	
<p>Meeting: June 24, 2020</p> <p><u>Members & Staff Present:</u></p>				CANCELED	
<p>Meeting: July 22, 2020</p> <p><u>Members & Staff Present:</u> Susan Baldwin, Robert Whitfield, John Stetler, Joe Sobieralski, John Godfrey, Cody Newman, Daniel Buscher, Lynn Ward Gray, Chip Spranger, Christine Zuga, Marcel Stoetzel, Marcie Gillette, Sarah VanWormer</p>	<p># Z-01-20</p> <p>Huntington Hills PURD</p>	<p>Petition from Stetler Homes requesting to allow increased density in lots 34-46 of Huntington Hills from PURD Residential and Agricultural to MDMF Medium Density Multiple Family zone on vacant land in Huntington Hills</p>	<p>Stetler Homes, John and Annie Stetler, 291 N. 20th St., Springfield, MI 49037</p>	<p>POSTPONED UNTIL DEC. 16, 2020 PC MEETING</p>	<p>APPROVED</p>
<p>Meeting: August 26, 2020</p> <p><u>Members & Staff Present:</u></p>	<p>ELECTION OF OFFICERS</p>	<p>Dan Buscher- chair, Lynn Ward Gray, Vice-chair</p>		<p>APPROVED</p>	<p>APPROVED</p>

Planning Commission - Summary Year 2020 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
Susan Baldwin, Lynn Ward Gray, John Stetler, Joe Sobieralski, John Godfrey, Cody Newman, Daniel Buscher, Chip Spranger, Christine Zuzga, Marcel Stotzel, Glenn Perian, Chad Frein	ZOMA WORKSHOP	Presentation to the PC on the Zoning Ordinance and Map Amendment.	City of Battle Creek Planning Staff	WORKSHOP ONLY	WORKSHOP ONLY
Meeting: September 23, 2020 Members & Staff Present: Susan Baldwin, Daniel Buscher, John Godfrey, Lynn Ward Gray, Cody Newman, Joe Sobieralski, Chip Spranger, John Stetler, Robert Whitfield, Christine Zuzga, Glenn Perian, Marcel Stotzel, Ted Dearing, Carl Fedders, Sarah Van Wormer	WORKSHOP	Not an official meeting, discussion about prior ZOOM meeting and the meeting ID that was published incorrectly.		WORKSHOP ONLY	WORKSHOP ONLY
Meeting: October 28, 2020 Members & Staff Present: Susan Baldwin, John Godfrey, Chip Spranger, Daniel Buscher, John Stetler, Robert Whitfield, Joe Sobieralski, Cody Newman, Lynn Ward Gray, Christine Zuzga, Marcel Stotzel, Ted Dearing, Glenn Perian, Eric Feldt, Michelle Culp	# S-01-20 Vacant Parcel 0086-01-830-0	Request by Bronson B.C. Hospital to allow a 96 bed behavioral health center. Offering inpatient/outpatient. Parcel 0086-01-530-0 located at the sw corner of M66 and Glenn Cross pursuant to CH. 1290.01(b)9	Bronson Battle Creek Hospital, 601 John Street, Box 9, Kalamazoo, MI 49007	APPROVED 9-0	APPROVED by City Comm 11/10/20 RESO #225
	# S-02-20 5725 Beckley Rd. Parcel 0075-00-720-0	Request by Star B.C. LLC to allow a self storage facility at 5725 Beckley Rd. Parcel 0075-00-720-0, pursuant to Planning and Zoning Code Ch. 121901.01b(20)	Star Battle Creek, L.L.C., 900 Linden Ave., Rochester, New York 14625	APPROVED 9-0	APPROVED by City Comm 11/10/20 RESO #226
	# A-01-20	A public hearing to consider the adoption of an updated and reformatted Zoning Ordinance and Map (ZOMA) for the City of Battle Creek	City of Battle Creek Planning Department	APPROVED 9-0	APPROVED Ordinance 10-2020 City Comm 11/24/20 RESO #2
Meeting: November 18, 2020 (ALT DATE) Members & Staff Present:	CANCELED				
Meeting: December 16, 2020 (ALT DATE) Members & Staff Present: Chip Spranger, Daniel Buscher, John Godfrey III, Cody Newman, Joe Sobieralski, Kaytee Faris, Boonikka Herring, Christine Zuzga, Marcel Stotzel, Sarah VanWormer, Glenn Perian, Eric Feldt, and Michele Sutherland	# S-03-20 Parcels 0077-00-500-0 0077-00-046-0	Special Use Permit application by Jim Austin for a self storage facility on Parcels #0077-00-500-00 and 0077-00-460-0, located along Helmer Rd. and Watkins pursuant to Planning and Zoning Code Ch. 1290.01(b)(20) and new Zoning Code Section Ch. 1240.12-C	Jim Austin, 120 Brentwood Drive, Jima700@comcast	Approved 4-2-1 Spranger Abstained	Approved with 9 conditions outlined in staff report and additional condition of a required fence around the detention pond

Planning Commission - Summary Year 2020 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
	# Z-01-20 Huntington Hills PURD	Petition from Stetler Homes requesting to allow increased density in lots 34-46 of Huntington Hills from PURD Residential and Agricultural to MDMF Medium Density Multiple Family zone on vacant land in Huntington Hills	Stetler Homes, John and Annie Stetler, 291 N. 20th St., Springfield, MI 49037	Approved 7-0 Approve with condition that ownership can be approved or verified.	DENIED by City Comm on 1/5/21

❖ Zoning Board of Appeals

The Zoning Board of Appeals consists of seven members appointed by the Mayor and approved by the City Commission, for three-year, staggered terms. They review and consider all petitions for appeals or variances to the requirements of the zoning ordinance. Variance requests include dimensional variances, such as requests for signage in excess of that which is permitted, reductions in parking or setback requirements, and buildings in excess of the size permitted by the ordinance. The other type of variance request is for a use variance, when one is asking for approval to use the property for something not otherwise permitted by right.

A dimensional variance can be approved by a simple majority of the members of the Zoning Board of Appeals, but a use variance requires a two-thirds approval vote from its members. Based on State statute and subsequent case law, persons applying for variances must be able to prove to the Zoning Board of Appeals that a “*practical difficulty*” exists if they are compelled to follow the ordinance as it relates to dimensional variances and that an “*unnecessary hardship*” exists in order to qualify for a use variance. The Zoning Board of Appeals is also authorized to review appeals from an aggrieved party regarding a decision of the Zoning Administrator’s to determine if an interpretation or ruling was sufficient. Under state law, an individual’s appeal of a decision of the Zoning Board of Appeals must be filed in Circuit Court.

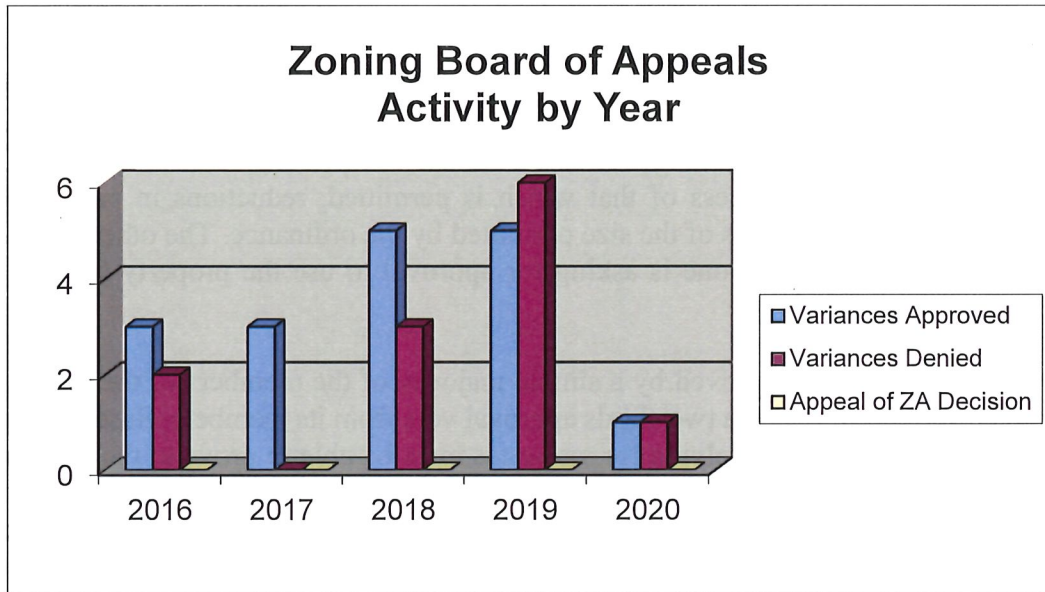
The Michigan Zoning Enabling Act of 2006, as amended, allows for one regular member of the Zoning Board of Appeals to also be a member of the Planning Commission. State zoning legislation also provides for the opportunity to appoint two additional “alternate” members.

Members of the Zoning Board of Appeals at the end of 2020 included:

<u>Name</u>	<u>Term Expires</u>
Carlyle Sims	1 – 01 – 2022
Deland Davis	1 – 10 – 2022
Michael Delaware	1 – 01 – 2021
John Stetler	1 – 01 – 2021 (<i>Planning Commission Representative</i>)
James Moreno	1 – 01 – 2023
Noris Lindsey	1 – 01 – 2021
Bill Hanner	1 – 01 – 2023

The following charts summarize the number and type of petitions received in 2019 & 2020 and compares them with information from the past five years. There has been a small increase in the amount of variance applications submitted to the Zoning Board of Appeals most likely due to an increase in the amount of activity and improvements property owners have undertaken this past year.

The spreadsheet on pages 13-15 documents the activities of the Zoning Board of Appeals in 2019 & 2020.



Year	2016	2017	2018	2019	2020
Variances Approved	3	3	5	5	1
Variances Denied	2	0	3	6	1
Appeal of ZA Decision	0	0	0	0	0

ZONING BOARD OF APPEALS

Summary Year 2019

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	REQUEST	ACTION
Meeting: January 8, 2019 Members / Staff Present: Deland Davis, Bill Hanner, John Steller, Mark Jones, James Moreno, Michael Delaware, Marcel Stoetzel, Glenn Perian, Eric Feldt, Laura Rounds					
	Z-01-19	664 S.W. Capital Avenue Parcel# 3030-06-534-0	Timothy & Kerena Bruneel, 900 Upton Ave, Springfield, MI 49037	Requesting a Use Variance to operate a Tattoo and Piercing Parlor to operate in a C2 General Business District. Section 1234.04(b)(2)	DENIED (motion to approve 4-2; (need 5 for use variance approval)
	Z-02-19	5740 Beckley Rd Parcel# 0095-00-080-0	AMERCO Real Estate 2727 N. Central Ave., Suite 500 Phoenix, AZ 85004	Requesting a Dimensional Variance to allow Self Storage Units within the 35' setback in a C6 Major Highway Interchange Business. Chapter 1278.01	APPROVED 6-0
	Z-03-19	32 W. Michigan Ave. Parcel# 0020-15-043-6	Tara Hampton, 5610 N Red Pine Circle, Portage, MI 49009	Request is made for a Dimensional Variance to allow a sign larger than the 18" allowed by the ordinance to be installed. Chapter 1296.07	POSTPONED
		Election of Officers 2020	James Moreno-Chair and Bill Hanner-Vice Chair		
Meeting: February 12, 2019 Members / Staff Present: Deland Davis, Michael Delaware, Bill Hanner, Mark Jones, Jim Moreno, Marcel Stoetzel, Glenn Perian, Eric Feldt, Laura Rounds					
	Z-03-19	32 W. Michigan Ave. Parcel# 0020-15-043-6	Tara Hampton, 5610 N Red Pine Circle, Portage, MI 49009	Request is made for a Dimensional Variance to allow a sign larger than the 18" allowed by the ordinance to be installed. Chapter 1296.07	APPROVED 4-1
Meeting: March 12, 2019 Members / Staff Present: Deland Davis, Bill Hanner, James Moreno, Barbara Hibiske, Mark Jones, John Steller, Marcel Stoetzel, Glenn Perian, Eric Feldt & Michele K. Jayakar					
	Z-04-19	81 N Lavista Blvd. Parcel# 8340-18-236	Raymond Bisel, 81 N. LaVista Blvd., Battle Creek, MI 49015	Request is made for a Dimensional Variance to allow a seven or eight foot vinyl privacy fence. Ch. 1298.06(b)	DENIED 2-4
	Z-05-19	1021 N. Raymond Rd. Parcel# 0155-00-026-0	GLR Advanced Recycling, 30835 Grossebeck Hwy., Roseville, MI 48066	Request is made for a Dimensional Variance to allow structure within 15' of the property line. The structure, a 75x50x10 pad with 10' walls with metal and fabric overhang, was previously erected without a permit. Chapter 1278.01	DENIED 0-6
Meeting: April 9, 2019 Members / Staff Present: Deland Davis, Bill Hanner, James Moreno, Barbara Hibiske, Mark Jones, Michael Delaware, Marcel Stoetzel, Glenn Perian, Eric Feldt & Michele K. Jayakar					
	Z-06-19	103 Grove St. Parcel# 8630-16-004-0	Carlos Fiol and 103 Grove Holding LLC, 103 Grove St., Battle Creek, MI 49037	Request for use variance to allow a Medical Marijuana Grow/Processing facility in an I-2 Heavy Industrial zone, 300 ft from an R1C single family residential where 1,000 sq ft is required. Chapter 1272.03(s)	DENIED (motion to approve 6-0)
	Z-07-19	56 E. Michigan Ave. Parcel# 0258-00-041-0	Brandon Dabish, MEDfarms, 418 N. Main St., 2nd Floor, Royal Oak, MI 48067	Request for dimensional variance to allow a Medical Marijuana Provisioning Center within the required 1000' buffer zone from a library pursuant to Chapter 1266.02. Property is zoned C4 Central Business District. Property is 984 feet from Willard Library. Request to reduce buffer by 16 feet. Code, Chapter 1271.04(a)(40)	DENIED (motion to approve 3-3)
		1021 Raymond Rd. Parcel# 0155-00-026-0	GLR Advanced Recycling, 30835 Grossebeck Hwy., Roseville, MI 48066	Enforcement zoning for building constructed without permit. Make sure it is removed.	Enforcement
Meeting: May 14, 2019 Members / Staff Present: Deland Davis, Carlyle Sims, James Moreno, Mark Jones, Bill Hanner, Barbara Hibiske, Michael Delaware, Marcel Stoetzel, Glenn Perian & Eric Feldt					
	Z-08-19	83 Hickory Ln. Parcel# 0073-00-045-0	Mike & Hollie Oursler, 83 Hickory Ln, Battle Creek, MI 49015	Request for variance to allow construction of a 40' by 32' detached garage in the front yard, contrary to 1286.01(b).	APPROVED 7-0
Meeting: June 11, 2019					

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	REQUEST	ACTION
Members / Staff Present: James Moreno, John Steller, Bill Hanner, Carlye Sims, Mike Delaware, Norris Lindsey, Glenn Perian & Michele K. Jayakar	Z-09-19	321 E. Emmett St. Parcel# 3270-00-001-0	Jon and Ben Davis of Davis Oil, 1265 E. Columbia Ave., Battle Creek, MI 49014	Request for dimensional variance from the landscaping/buffering requirements between parking and driving aisles between residentially zoned property and street right-of-ways on commercially zoned property at 321 E. Emmett St., Battle Creek, MI. Chapter 1285 and 1284.03(c)	APPROVED 6-0
Meeting: July 9, 2019 Members / Staff Present:	CANCELED				
Meeting: August 13, 2019 Members / Staff Present: John Steller, Deland Davis, Carlye Sims, Bill Hanner, Mark Jones, Michael Delaware, Marcel Stotzel, Glenn Perian & Michele K. Jayakar	Z-10-19	614 Jennings Landing	Dr. Mehmet Ismailoglu	Petition for a dimensional variance to permit the construction of a detached accessory building in a water front yard, 8' from a side lot line and approximately 5' from the water property line on Goguwac lake at 614 Jennings Landing, in an R1B zoning district. Ch. 1286.05	APPROVED 6-1
Meeting: September 10, 2019 Members / Staff Present:	CANCELED				
Meeting: October 8, 2019 Members / Staff Present:	CANCELED				
Meeting: November 12, 2019 Members / Staff Present:	CANCELED				
Meeting: December 10, 2019 Members / Staff Present: Deland Davis, James Moreno, John Steller, Bill Hanner, Mark Jones, Norris Lindsey, Michael Delaware, Marcel Stotzel, Glenn Perian, Eric Feldt & Michele K. Jayakar	Z-11-19	859 Capital Ave.S.W. Parcel #0063-00-540-0	Fast Signs, Fadi Gulla, 1615 Telegraph Rd. West Bloomfield, Michigan 42302	Petition to allow 2 wall signs off of Capital Ave., elevations and 2 additional wall signs on the south and east elevations. Keep the 2 existing pole signs that state "BETTER" face ID in the cabinets. Which is in conflict with Chapter 1299.06(6) of the ordinance.	POSTPONED 7-0
	Z-12-19	1525 W. Michigan Suite 11 & 13 Parcel #1840-00-047-0	Battle Spring LLC, 1525 W. Michigan Suite 11 & 13, Victor Kattoula	Petition from Battle Spring, LLC to add its business name to a pylon sign for the plaza, and keeping it's main business sign, which faces the road. Which is in conflict with Chapter 1299.06(6) of the ordinance.	DENIED (motion to approve 2-5)
	Z-13-19	2245 W Columbia Ave Parcel # 0066-00-550-0	Battle Spring LLC, 1525 W. Michigan Suite 11 & 13, Victor Kattoula	Request for variance from Ch. 1299.06(6) to allow 2 signs, one wall and one on the pylon, where only one is permitted for the business	PULLED BY APPLICANT

ZONING BOARD OF APPEALS
Summary Year 2020

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	REQUEST	ACTION
Meeting: January 14, 2020 Members / Staff Present: Michael Delaware, Bill Hanner, Mark Jones, James Moreno, John Stetler, Glenn Perian, Eric Feldt, Marcel Stoezel, Michele Jayakar	Z-11-19	859 Capital Ave.S.W. Parcel #0063-00-540-0	Fast Signs, Fadi Gulla, 1615 Telegraph Rd. West Bloomfield, Michigan 42302	Petition to allow 2 wall signs of Capital Ave. elevations and 2 additional wall signs on the south and east elevations. Keeping the 2 existing pole signs that state "BETTER". Which is in conflict with Ch. 1290.06(6) of the ordinance.	DENIED (motion to approve 0-5)
Election of 2021 Officers: Chair - James Moreno & Vice-Chair Bill Hanner					
Meeting: February 11, 2020 Members / Staff Present:	CANCELED				APPROVED (motion to approve 0-5)
Meeting: March 10, 2020 Members / Staff Present:	CANCELED				
Meeting: April 14, 2020 Members / Staff Present:	CANCELED				
Meeting: May 12, 2020 Members / Staff Present:	CANCELED				
Meeting: June 9, 2020 Members / Staff Present:	CANCELED				
Meeting: July 14, 2020 Members / Staff Present:	CANCELED				
Meeting: August 11, 2020 Members / Staff Present:	CANCELED				
Meeting: September 15, 2020 Members / Staff Present:	CANCELED				
Meeting: October 13, 2020 Members / Staff Present: Deland Davis, Michael Delaware, Bill Hanner, Mark Jones, James Moreno, John Stetler, Glenn Perian, Eric Feldt, Christine Zuga, Marcel Stetzel, Ted Dearing	Z-02-20	10 Parkway Drive Parcel# 1250-03-215-1	Samuel and Jeanne Cody, 10 Parkway Dr., Battle Creek, MI 49015	Petition by Samuel and Jeanne Cody, 10 Parkway Drive, requesting a 1' variance from Ch. 1298.06(b) of the Battle Creek zoning Ordinance to allow a 5' fence in their secondary front yard along Langle Rd.	APPROVED 6-0
Meeting: November 10, 2020 Members / Staff Present:	CANCELED				
Meeting: December 15, 2020 Members / Staff Present:	CANCELED				

❖ Historic District Commission

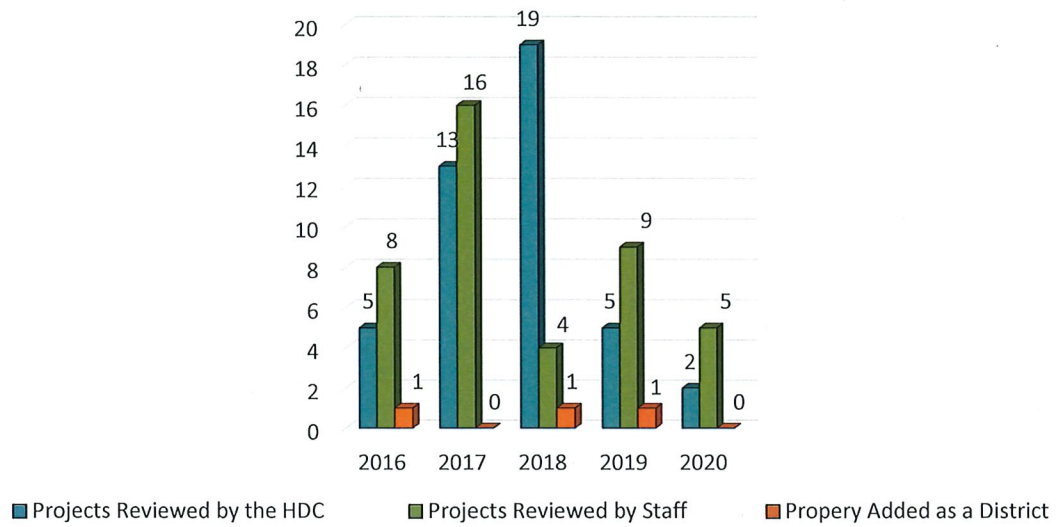
The Historic District Commission consists of seven members appointed by the Mayor and approved by the City Commission for three-year, staggered terms. The primary responsibility of the Historic District Commission is to review applications and plans for the construction, alteration, repair, moving or demolition affecting the exterior appearance of an historic or non-historic resource within any of the five Local Historic Districts. They may also propose to create or modify existing historic districts, and can create a Study Committee to analyze requests for historic designation of specific properties within or outside of historic districts.

State law and local ordinance reflect some specific membership qualifications for the Historic District Commission, including for example that one member, if available, shall be a graduate of an accredited school of architecture, have at least two years of architectural experience, or be an architect registered in the state. One City Commissioner has typically served on the Historic District Commission as a liaison but has no voting rights. Members of the Historic District Commission at the end of 2020 included:

<u>Name:</u>	<u>Term Expires</u>
Adam Reid	1-1-2021
Geradyne Drozdowski	1-1-2021
Cody Newman	1-1-2022
Ross Simpson	1-1-2022
Deborah Sallee	1-1-2023
Trey White	1-1-2023
Commissioner Kaytee Faris, Ex-Officio	

In late 2010 the HDC passed a resolution authorizing staff approval of minor classes of work in order to expedite approval times for certain types of projects; 14 projects were approved administratively in 2019 & 2020. The following charts summarize the number and type of petitions reviewed by the Historic District Commission in 2019 & 2020, and compares them with information from the past five years. The spreadsheet on pages 18-22 documents the activities of the Historic District Commission in 2019 & 2020.

Historic District Commission Activity by Year



	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Projects Reviewed by HDC	5	13	19	5	2
Projects Reviewed by Staff	8	16	4	9	5
New Properties Added	1	0	1	1	0

HISTORIC DISTRICT COMMISSION INDEX REPORT SUMMARY - YEAR 2019

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	ACTION
Meeting: January 14, 2019 Members / Staff Present: Charlie Fulbright, Kim Tuck, Jim Hopkins, Cody Newman, Mike Troutman, John Paul Wilson, Amber Straub, Glenn Perian, Eric Feldt & Laura Rounds	H-1-19	312 Capital Ave. N.E. Parcel 3870-00-023-0 Notice to Proceed to demolish an old garage.	Charlie Fulbright, 312 Capital Ave., N.E., Battle Creek, MI 49014	APPROVED
	H-2-19	32 W. Michigan Ave. Parcel 0252-00-045-0 Request for a Certificate of Appropriateness for new signs for the two new commercial businesses, Salon K and Social Café.	Tara Hampton, 5601 N. Red Pine Circle, Portage, MI 49009	APPROVED
	H-3-19	80 W. Michigan Ave. Suite B Parcel 0253-00-029-0 Request for a Certificate of Appropriateness for a new sign to be installed on the façade 9'9" x 3' backlit aluminum sign.	John Hart, Small Business Dev. Fund, Cereal City Development/on behalf of City of Battle Creek	APPROVED
Meeting: February 12, 2019 Members / Staff Present:	CANCELLED			
Meeting: March 12, 2019 Members / Staff Present: Charlie Fulbright, Jim Hopkins, Cody Newman, Mike Troutman, Kim Tuck, John Paul Wilson, Kaytee Faris, Marcel Stoetzel, Christine Zuzga	DISCUSSION ITEM			
Meeting: April 9, 2019 Members / Staff Present: Charlie Fulbright, Cody Newman, Kim Tuck, Mike Troutman, John Paul Wilson, Marcel Stoetzel, Glenn Perian, Eric Feldt, Michele K. Jayakar		15 Carlyle Street Parcel 0253-00-048-0 Proposed nomination of the building known as The Record Box to the National Registry of Historic Places.	Cody Newman, Restore 269 LLC., 11 Carlyle St., Battle Creek, MI 49017	Approved
		Add small, temporary accessory building to the HDC "minor class of work" list.	City of Battle Creek, Planning Department	Approved
Meeting: May 14, 2019 Members / Staff Present:	CANCELLED			
Meeting: June 11, 2019 Members / Staff Present:	CANCELLED			
Meeting: July 9, 2019 Members / Staff Present:				

HISTORIC DISTRICT COMMISSION INDEX REPORT SUMMARY - YEAR 2019

MONTHLY MEETING	APPEAL#	LOCATION	APPLICANT	ACTION
Jim Hopkins, Cody Newman, Mike Troutman, John Paul Wilson, Kim Tuck, Ross Simpson, Charlie Fulbright, Eric Feldt, Glenn Perian, Marcel Stotzel & Michele K. Jayakar	H-4-19	The Record Box 15 Carlyle St. Parcel 0253-00-048-0 Certificate of appropriateness for new signs at 15 Carlyle. 68/78 Frelinghuysen Ave. Parcel 5370-00-205-0 & 5370-00-205-0 Certificate of appropriateness for exterior renovations at 68/70 Frelinghuysen Avenue.	Caitlynn Newman, Restore 269 LLC., 11 Carlyle St., Battle Creek, MI 49017 Amy Rose, Calhoun Co. Land Bank Authority	APPROVED APPROVED
Meeting: August 13, 2019 Members / Staff Present: Jim Hopkins, Cody Newman, Mike Troutman, John Paul Wilson, Kim Tuck, Ross Simpson, Charlie Fulbright, Marcel Stotzel, Glenn Perian, Eric Feldt & Michele K. Jayakar	H-6-19	225 W. Michigan Ave. Parcel 5020-00-175-0 Build a reflection park on vacant land 172 W. Manchester St. Parcel 3550-00-015-0 whole house rehab/siding/door/windows	Battle Creek Community Foundation, 32 W. Michigan Ave., Suite 1, Battle Creek, MI 49014 John Brian J. Marais, 410 W. Washington, Augusta, MI 49012	APPROVED APPROVED
Meeting: September 10, 2019 Members / Staff Present:	CANCELLED			
Meeting: October 8, 2019 Members / Staff Present: Jim Hopkins, Charlie Fulbright, Kim Tuck, Mike Troutman, John Paul Wilson, Amber L. Straub, Eric Feldt, Michele K. Jayakar	H-10-19	62. E. Michigan Ave. Parcel 0258-00-044-0 Certificate of Appropriateness for 2-18'x6' panels at the front and rear entrances of the building. Ch. 1470.09 Review of Applications and CH. 1470.17 Preservation of Historic Features and Sec. of Interior's Standards.	Robb Perin of Burkett Signs Inc., 15886 E. Michigan Ave., Climax, MI 49034	APPROVED w/ condition that signs must consist of a matte finish
	H-11-19	2 W. Michigan Ave. Parcel 0252-00-037-0 Certificate of Appropriateness for 2 proposed signs for Grand Valley State University, one wall sign at 25.53 sq ft within the existing sign band on the front elevation and one banner at 12.44 sq ft mounted over the rear entry of the building. Chapter 1470.09 Review of Applications and 1470.17 Preservation of Historic Features, Sec of Interior Standards	Valley View sign, 5009 West River Dr., Comstock Park, MI 49321	APPROVED
	H-12-19	36 E. Michigan Ave Suite 40 0258-00-038-0 Certificate of Appropriateness for multiple signs for Edward Jones consisting of one wall mounted along façade and several windows and signs at ground floor façade. Ch. 1470 Historic Preservation, Sec of Interior Standards	Edward Jones, 40 Michigan Ave. E. Suite 40	APPROVED

HISTORIC DISTRICT COMMISSION INDEX REPORT SUMMARY - YEAR 2019

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	ACTION
Meeting: November 5, 2019 (Alt. Date) Members / Staff Present:				
CANCELLED				
Meeting: December 9, 2019 Members / Staff Present: <i>Jim Hopkins, Kim Tuck, Cody Newman, Ross Simpson, Ross Simpson, Charlie Fulbright, John Paul Wilson, Kaytee Faris, Marcel Stotzel, Glenn Perlan, Michele K. Jayakar</i>				
	H-13-19	25 W. Michigan Ave. Parcel 0252-00-059-0 Certificate of Appropriateness for Valley View Sign, Valley View Sign, 5009 West River Dr., Comstock Park, MI 49321 Certificate of Appropriateness for a new wall sign of 27.7 sq. ft. to be mounted to the fascia of the canopy over the main entrance to the building. The sign will feature backlit illumination.		APPROVED
	H-14-19	34 E. Michigan Ave. Parcel 0258-00-036-0 City of Battle Creek Notice to Proceed for partial demolition of the tower portion of the property.	City of Battle Creek, 10 N. Division, Battle Creek, MI 49014	DENIED

Year 2020	Appeal #	Address / Request	Applicant	Action
Meeting: January 13, 2020 Members / Staff Present: Jim Hopkins, Cody Newman, Mike Troutman, John Paul Wilson, Kim Tuck, Ross Simpson, Trey White, Kaytee Faris, Marcel Stotzel, Jill Steele, Christine Zuzga, Glenn Perian, Eric Feldt, Michele K. Jayakar	H-13-19	34 E. Michigan Ave. Parcel 0258-00-036-0 Notice to proceed for partial demolition of the tower wall.	City of Battle Creek, 10 N. Division, Battle Creek, MI 49014	DENIED
Meeting: February 10, 2020 Members / Staff Present: Cody Newman, Stanley Chubinski, Geri Drozdowski, Ross Simpson, Trey White, Kaytee Faris, Marcel Stotzel, Glenn Perian, Eric Feldt, Michele Jayakar	H-1-20 H-2-20	25 W. Michigan Parcel 0252-00-059-0 Certificate of appropriateness for several new signs, one wall mounted, two window clings 215 W. Michigan Ave. Parcel 0254-00-068-14 Umami Ramen, Certificate of appropriateness for exterior renovations to Umami Ramen.	Stephen Kerr, Valley View Signs, 5009 West River Dr., Comstock Park, MI 4932 Peeson and Lance Allen, 78 Calhoun St., Battle Creek, MI 49014	Approved w/condition Approved w/condition
Meeting: March 9, 2020 Members / Staff Present: C. Newman, S. Chubinski, T. White, G. Drozdowski, A. Reid, K. Faris, LATE: R. Simpson, D. Salle, Eric Feldt, Glenn Perian, Christine Zuzga, Richard Bolek, Marcel Stotzel, Michele K. Jayakar	 H-03-20 H-04-20	2020 Election of Officers 62 E. Michigan Ave. Parcel 9999-00-232-0 Certificate of Appropriateness for two new signs, one '18'x8' panel at rear entrance, one internally illuminated sign cabinet on back of building of Café Rica. 34 E. Michigan Ave. Parcel 0258-00-036-0 Notice to Proceed for the partial demolition of the tower portion of the Binder Building.	Cody Newman/Chair and Ross Simpson/Vice Chair Robb Perrin of Burkett Signs Inc., 15886 E. Michigan Ave., Climax, MI 49034 City of Battle Creek, 10 N. Division St., Battle Creek, MI 49014	Voted Approved Approved
Meeting: April 13, 2020 Members/Staff Present	CANCELLED			
Meeting: May 11, 2020 Members/Staff Present	CANCELLED			
Meeting: June 8, 2020 Members / Staff Present:	CANCELLED			
Meeting: July 13, 2020 Members / Staff Present:	CANCELLED			
Meeting: August 10, 2020 Members / Staff Present: C. Newman, T. White, R. Simpson, D. Salle, G. Drozdowski, A. Reid, K. Faris, Marcel Stotzel, Christine Zuzga & Glenn Perian	H-05-20	46 N. Wood Street & 233 W. Manchester Parcels 5020-00016-0 & 5020-00-177-0 Historic Adventist Village Notice to Proceed for demolition of 46 Wood and 233 W. Manchester Chapter 1470.09e Review of applications	Adventist Historic Properties, Inc., Randy Case, Don Scherence, 411 Champion St. B.C. MI 49016	Approved
Meeting: September 14, 2020 Members / Staff Present:	CANCELLED			

Meeting: October 12, 2020 Members / Staff Present:	CANCELLED		
Meeting: November 9, 2020 Members / Staff Present:			
C. Newman, K. Faris, S. Chubinski, G. Drozdowski, R. Simpson, A. Reid, Marcel Stoetzel, Christine Zuzga, Glenn Perian & Eric Feldt	H-06-20	55 Merwood Parcel 5390-00-027-0 Certificate of Appropriateness for a cedar privacy fence in back yard 229 N. Washington Ave. Parcel 3560-00-045-0 Certificate of Appropriateness for the replacement of a window on front façade.	Michael Vincent and Victoria Vink, 55 Merwood Drive, Battle Creek, MI
	H-07-20	2021 HDC Meeting Dates 2021 Election of Officers	Gabriela Fernandez, 30 E. Columbia Ave., Suite F1, Battle Creek, MI 49015 Comm. Simpson/Comm Chubinski support Chair- Newman, Vice- Chair, Simpson
Meeting: December 14, 2020 Members / Staff Present:	<div>Approved</div> <div>Denied</div> <div>Approved</div> <div>Approved</div>		
	CANCELLED		

OTHER DEPARTMENT ACTIVITIES

❖ Current and Ongoing Planning Initiatives

Redevelopment Ready Communities (RRC)

Redevelopment Ready Communities (RRC) is a certification program that promotes communities that are competitive and ready for redevelopment. The process and eventual certification ensures that a community is transparent, predictable, and efficient in their daily development practices, which includes having a streamlined development review process. In March of 2018, the City of Battle Creek received its certification as a Redevelopment Ready Community.

Staff continues to work to ensure that the goals, objectives and benchmarks of the program are met by the City, keeping the City on track for future recertification as a Redevelopment Ready Community.

❖ Ordinance Implementation/Enforcement

Site Plan Review

The zoning ordinance requires that a sealed site plan be submitted and approved for all development or redevelopment of multi-family, commercial, and industrial structures and/or off-street parking lots (new or expansions). The primary intent of the review is to ensure that the proposed development complies with regulations in the zoning ordinance as well as to insure proper infrastructure is in place to support the project and that appropriate pedestrian, vehicular traffic flow, and stormwater management is provided. Site plans are submitted to the Planning Department and reviewed by this department as well as the Inspections Department and Department of Public Works. A site plan is a legally binding document, and therefore, both Inspections and Planning inspect the property throughout construction to ensure compliance with the approved site plan.

The following chart shows the 34 projects that were been submitted for site plan review in 2019-2020, many of which exhibit a significant investment in our community.

2019-2020 Site Plan Approvals			
Permit No.	Business Name	Address	Description
PSPR19-0001	Nexthermal Corp.	1045 Harts Lake Rd. Parcel #0608-11-156-0	23' x 100" addition to the west side of the existing facility.
PSPR19-0003	Denso	4909 Wayne Rd. Parcel #3020-01-067-0	Removal of existing gravel loading area and replacing with heavy duty pavement design. Upgrade storm sewer to comply with City standards.
PSPR19-0004	50 Knapp, LLC	50 Knapp Dr. Parcel #0061-00-170-0	Alterations required for change of use to a Medical Marijuana Provisioning Center.
PSPR19-0005	Battle Dog, LLC	64 W Michigan Ave. Parcel #0252-00-052-0	New Holland Brewing outdoor dining area.

PSPR19-0007	WMU College of Aviation	209 N Helmer Rd. Parcel #0060-00-200-0	Renovation of the Aviation Education Center at the WMU College of Aviation campus.
PSPR19-0010	AMERCO Real Estate Company	5740 Beckley Rd. Parcel #0095-00-080-0	Repurposing of the existing building to a U-Haul Moving and Storage Store.
PSPR19-0011	Calhoun County	34 Green St. 8040-00-018-0	New parking lot on south end of property. Remove existing asphalt drive, remove two trees at the west side of entry drive. Install six foot high chain link fence around parking lot and drive.
PSPR19-0012	Pharmaco, Inc.	314 Emmett St. 3250-00-042-0	Provisioning center.
PSPR19-0014	Acreage Michigan 1, LLC	2825 SW Capital Ave. 0086-00-980-0	Medical Marihuana Facility.
PSPR19-0016	370 Watkins Rd., LLC	370 Watkins Rd. Parcel #0080-00-880-0	No work commenced. Site plan application expired and was closed.
PSPR19-0017	327 Capital SW, LLC	327 SW Capital Ave 1/2 Parcel #1530-00-059-0	Alterations for a change of use to a medical marihuana provisioning center.
PSPR19-0018	306 W Columbia LLC	306 W Columbia Ave. Parcel #6460-11-416-0	Alterations required for a change of use to medical marihuana provisioning center.
PSPR19-0020	1382 W Michigan, LLC	1382 W Michigan Ave. Parcel #8610-00-014-0	Alterations required for a change of use to a medical marihuana provisioning center.
PSPR19-0021	G2SE, LLC	1140 Harmonia Rd. Parcel #0133-00-002-0	12,000 sq. ft. state licenses commercial medical facility.
PSPR19-0022	190 N 20 th , LLC	190 N 20 th St. Parcel #9790-25-401-0	Medical marihuana provisioning center.
PSPR19-0023	477 W Michigan Ave., LLC	477 W Michigan Ave. Parcel #5620-00-003-0	Alterations required to change use to a medical marihuana provisioning center.
PSPR19-0024	695 W Michigan Ave., LLC	695 W Michigan Ave. Parcel #4360-00-012-0	Medical marihuana provisioning center.
PSPR19-0025	492 SW Capital, LLC.	492 SW Capital Ave. Parcel #7260-00-006-0	Alterations required for a medical marihuana provisioning center.
PSPR19-0028	4421 W Columbia LLC	4421 W Columbia Ave. Parcel #0069-00-220-0	Demo existing building, new building and parking lot to be constructed for a medical marihuana provisioning center.

PSPR19-0029	Shaeena Holdings, LLC	92 Upton Ave. Parcel #3660-00-045-0	Renovation of existing 1,898 sq. ft. apartment building to be repurposed as a marihuana provisioning center.
PSPR19-0030	449 Capital Ave. NE, LLC	449 NE Capital Ave. Parcel #0706-44-116-0	Medical marihuana facility.
PSPR19-0031	Eden Empire Battle Creek RE, LLC	1775 E Columbia Ave. Parcel #1060-00-012-0	Medical marihuana facility.
PSPR19-0032	Bud Brothers Provisioning Battle Creek	537 W Columbia Ave. Parcel #6460-11-489-0	Site plan associated with PBC19-00310 Building Permit. Neither permit moved forward. Both closed.
PSPR19-0033	Katz Davis Oil Company, LLC	321 E Emmett St. Parcel #3270-00-001-0	Redevelopment of Davis Oil gas station.
PSPR20-0001	West Michigan Land Holding Company	85 W Michigan Ave. Parcel #0253-00-040-0	New seven-story mixed use development.
PSPR20-0002	J-Lee Investments, LLC	1135 W Dickman Rd. Parcel #0052-00-029-0	Medical marihuana provisioning center.
PSPR20-0003	GTU Auto Service, LLC	5401 Beckley Rd. Parcel #0075-00-535-0	Demolition of Pizza Hut and construction of new automatic car wash facility.
PSPR20-0006	Alro Steel Corporation	801 N 20 th St. Parcel #0134-00-039-0	Addition of office space and modification of parking lots.
PSPR20-0007	KPM Properties and Management Company	371 E Michigan Ave. Parcel #3830-00-001-0	Pole building construction.
PSPR20-0008	GTU Auto Service, LLC	210 E Columbia Ave. Parcel #7610-15-257-0	Demo existing restaurant. New car wash.
PSPR20-0010	Redwood Battle Creek, Glen Cross Rd.	Glen Cross Rd. Parcel #0636-37-867-0	Construction of Redwood Living Center development.

Zoning Enforcement

The Planning Department is responsible for implementation and enforcement of zoning ordinance regulations. Enforcement action is a result of complaints received as well as proactive efforts in the community. In 2019 and 2020 there were 395 zoning complaints/enforcements recorded, down from 598 in 2017 and 2018. The majority of violations requiring at least two inspections, one to verify the violation and another to ensure compliance. Following is a summary (and number in parenthesis) of zoning enforcements this department addressed in 2019 & 2020:

Rental Registration Permit Application Review (128)

Upon receipt of a rental permit application, this department verifies that the number of units registered at a property is allowed in that zoning district. If not, a legal nonconforming investigation is performed (see below). This number has steadily decreased as rental properties enter into the system and maintain their licensing thereby reducing the need for additional zoning review.

Non-Conforming Investigations (1) and Illegal Use Investigations (34)

The Planning Department receives a number of inquiries as to the legal use of a property. There are many situations where the current use of a property is not permitted by the current zoning district, and in these instances, an investigation into the historical use and zoning of the property is needed in order to determine if the current use can be considered legal nonconforming. These investigations are very time intensive as each requires a thorough investigation into all historical records the City maintains on a property, as well as a review of historical zoning maps and ordinances since 1924 when the City first adopted a zoning ordinance. With these documents, staff analyzes the historic use of a property in comparison to uses allowed by the historical zoning maps/ordinances to determine if the use has existed lawfully. If so, although not allowed by the current zoning regulations, this use would be allowed to continue as a legal nonconforming use.

In the instance where the current use of a property is not allowed by the zoning, and the use was never lawfully created at the property, the department will proceed with enforcement if necessary to ensure the structure complies with the current zoning regulations.

The greatest number of these requests arises from rental registration permit applications where the applicant is seeking multiple units when the current zoning may only allow one or two units. There are also frequent inquiries from appraisers and realtors inquiring as to the appropriate use of a property. There is currently no fee for this investigation as we want to encourage property owners and other parties to actively seek the legal use of a property.

Additionally, there were 34 complaints regarding the potential illegal use of a property. These are recorded in a different manner than the above investigations because a nonconforming investigation had already been performed, or because it is clear that the alleged use would not be allowed on the property, i.e. car repair at a residential property.

Miscellaneous Enforcement (232)

Typical violations include, but are not limited to, parking (36), improperly placed recreation vehicle (27), and fencing (89).

Miscellaneous

Building permit application review

Effective November 2009, the Planning Department has reviewed all submitted building, demolition, signage, and fencing permits to ensure compliance with zoning regulations. Each request is reviewed based on the submitted facts included on the permit application as well as how the existing and proposed structures are situated on the property. In 2019 and 2020, 5,390 permits were reviewed by the Planning Department. Where applications were not compliant with zoning regulations, contact was made with the applicant to assist them with changes necessary for the project to be in compliance and approved.

City Business License Application Review (249)

The Planning Department reviews each license request for liquor licenses (new and renewal), used car sales, secondhand good/junk facilities, and donation drop boxes for compliance with the zoning ordinance as well as general code compliance. This review ensures the request is compliant with the zoning district in which the property is located, but also a review of existing conditions at the property to ensure there are no open zoning violations of any nature.

SUMMARY

The amount of requests coming into the department has been relatively consistent with previous years, though there is a decline in the types of projects requiring additional approvals from any of the appropriate boards and commissions. This may be due in part to the assistance provided to applicants from the outset of a project to help it be successful in the most expeditious and efficient manner. Additionally, it is critical to remember the impact that the Covid crisis of 2020 may have had on development patterns during the majority of the year 2020.

The department will continue to look at ways regulations can be amended to ensure that property improvements can be reviewed and approved promptly, while being conscientious of surrounding property owners and land uses to ensure their well-being and property values are protected. These efforts are a balancing act to ensure all concerns are treated equitably and the outcome is for the overall benefit of the community.

A priority project list is maintained by the Planning Department to ensure ongoing projects meet the goals of the Planning Commission, City Commission and the community as a whole.

City of Battle Creek Planning / Zoning Div. ANNUAL REPORT

2021

An annual report of the activities and business of the City of Battle Creek Planning Commission, Zoning Board of Appeals, and the Historic District Commission, including departmental responsibilities relative to planning and zoning.



To: Rebecca Fleury, City Manager
Ted Dearing, Assistant City Manager of Community and Economic Development
Jill Steele, City Attorney
Members of the City Commission
Members of the City Planning Commission
Members of the Zoning Board of Appeals
Members of the Historic District Commission

2021 Annual Report of the Planning Department

The Michigan Planning Enabling Act, PA 33 of 2008, as amended, requires that an annual report of Planning Commission activities be prepared for the legislative body that reflects the administration and enforcement of the master plan and zoning ordinance, including recommendations for amendments or supplements to the ordinance.

The Planning Department administers the activities and business for three boards/commissions, all of which are related to goals and objectives in the Master Plan. As such, this report was prepared to highlight the activities of all three boards/commissions, as well as departmental responsibilities and activities relative to planning and zoning. The report includes the following information as follows:

Introduction.....	1
Boards/Commissions.....	1
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❖ Current and Ongoing Planning Initiatives	19
❖ Ordinance Implementation/Enforcement	19
○ Site Plan Review.....	19
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The statute does not require approval of this report but simply that it is filed with the City Commission.

With this report, we would like to express our sincere appreciation to the citizen volunteers who are an integral part of the City Government and dedicate their time without compensation to make Battle Creek's government reflective of the attitudes and beliefs of all of its residents.

Marcie Gillette
Community Services Director

INTRODUCTION

Long range planning for the physical development of the City of Battle Creek is the primary focus of the Planning Department. In addition to preparing and maintaining the Master Plan the department is responsible for the administration of the zoning ordinance, sub-area plans and carrying out many of the objectives of the adopted 2018 Master Plan. The Planning Department is also now responsible for conducting medical and adult use marihuana reviews for appropriate location and fulfillment of site plan requirements.

For 2021, the Planning Department staff included a Senior Planner, Planning Consultant and an Administrative Assistant the first half of the year, and a Planning and Zoning Administrator, Planning Consultant and a Customer Service Representative II for the second half of the year. In addition, another new Planner was hired in November.

The information for 2021 outlined herein is summarized in order of the appropriate board/commission and five-year historical data is included for each type of request. Additional activities and responsibilities that support the implementation of the goals and objectives of the 2018 Master Plan are included at the end of the report.

BOARDS/COMMISSIONS

❖ Planning Commission

The Planning Commission is a nine-member volunteer board appointed by the Mayor and approved by the City Commission. They are responsible for planning the future growth of the community and review of specific development projects including special use permits, zoning ordinance amendments, and property rezoning requests. The Planning Commission is also charged with the preparation and adoption of plans for the City including the Master Plan and Capital Improvement Plan.

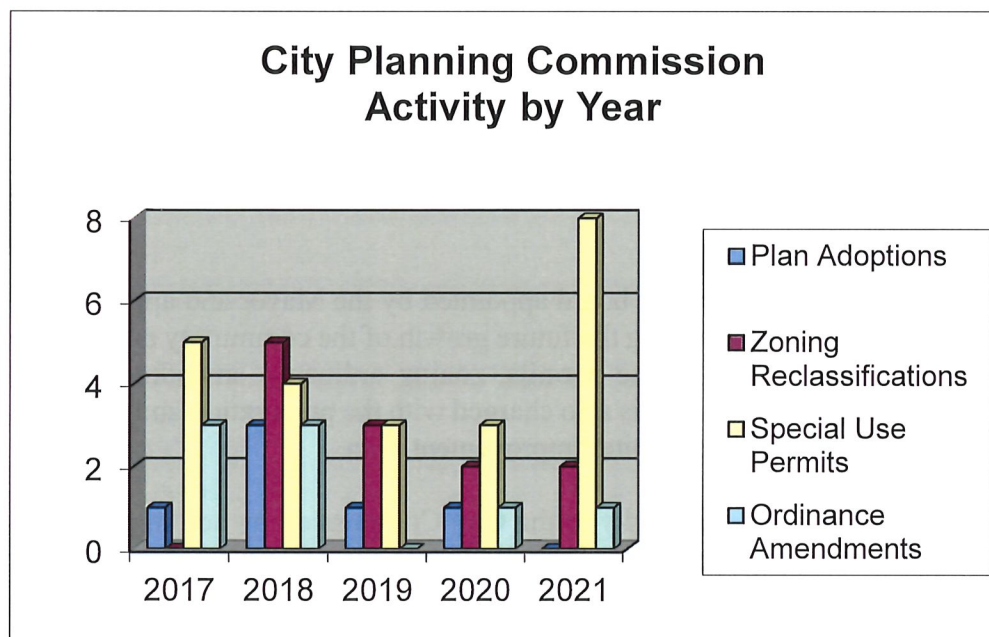
The Planning Commission serves in an advisory capacity to the City Commission by holding a public hearing on each request, deliberating on each around a set of standards, and providing a recommendation to the City Commission.

Planning enabling legislation outlines that the Commission should represent a broad spectrum of interests, including industry, transportation, commerce, education, agriculture, etc.; this same statute outlines that the Commission should represent the various geographic areas of the City. As provided for by statute, there are two City Commission members appointed to the Planning Commission each with voting rights and one member of the Planning Commission can also serves on the Zoning Board of Appeals, though currently this is not the case. The Manager of the Planning Department serves as the Executive Secretary for the Planning Commission and has no voting rights.

Members of the Planning Commission at the end of 2021 included:

<u>Name</u>	<u>Term Expires</u>
Ariel Laws	1 – 01 – 2025
Lynn Ward Gray	1 – 01 – 2024
Cody Newman	1 – 01 – 2023
Joe Sobieralski	1 – 01 – 2023
John Godfrey	1 – 01 – 2023
Chip Spranger	1 – 01 – 2022
Dan Buscher	1 – 01 – 2022
Kaytee Faris, Vice-Mayor	11 – 2 – 2021
Boonikka Herring, Commissioner	11 – 2 – 2021

The following chart summarizes the number and type of petitions received in 2021, and compares them with data from the past five years. The spreadsheet on pages 5-7 details the activities of the Planning Commission in 2021.



	2017	2018	2019	2020	2021
Plan Adoptions	1	3	1	1	0
Zoning Reclassifications	0	5	3	2	2
Special Use Permits	5	4	3	3	8
Ordinance Amendments	3	3	0	1	1
TOTAL	9	15	7	7	11

Whereas there was a decrease for a few years in the amount of request coming through Planning Commission; that trend reversed in 2021. The number of special use permit requests nearly tripled. Staff is currently reviewing the Zoning Ordinance to determine whether some of these use approvals could be by right or by right with specific conditions, instead of by special use permit.

It also seems reasonable to deduce that the reduction for the years 2019 and 2020 were influenced by the onset of the Covid-19 pandemic and reduced staff levels.

Following is a summary of the various requests submitted to the Planning Commission in 2021; a detailed list of these can be found on pages 5-7 of this document.

Special Use Permits

Each zoning district in the zoning ordinance outlines the land uses that are permitted by right in each district and do not need additional zoning approval. The zoning ordinance also lists special land uses that would be allowed in any district; these special land uses are those uses of land that are not necessarily incompatible with the uses permitted in each zoning district, but require review to ensure they would be compatible with surrounding land uses and additional oversight as to how they are implemented.

The specific special uses provided for by ordinance are subject to public hearing at the Planning Commission. Based on the local ordinance, the City Commission is authorized to make final determinations as to the approval, approval with conditions, or denial of special use permits. Each request is reviewed to ensure compliance with the eight standards outlined in the ordinance.

For the year 2021, there were a total of eight requests for special use permits for various uses including two group day care centers and two storage units.

Rezoning Requests

Rezoning requests are typically submitted by a property owner, though the City could initiate such a request. A rezoning request needs to be evaluated by looking at the highest and most intensive use of land that could be allowed under the proposed zoning district, zoning districts and land uses of the surrounding properties, and compliance with the master plan and future land use map.

A traditional rezoning approval cannot be made with conditions - the zoning district simply changes, and if the request is approved any land uses allowed in the new zoning classification would be allowed on the property. In 2006, legislation was approved to allow for conditional rezoning in Michigan communities. Conditional rezoning allows for conditions on a rezoning request but with strict limitations and tied to a specific development and operations plan submitted as part of the application. For the year 2021 there were a total of two rezoning requests, both conditional rezoning requests.

Ordinance Amendments

Proposed ordinance amendments can be initiated by the public, staff, or by the City Commission. Generally, the discussion is placed on the meeting agenda for initial review to determine the level of interest from the Planning Commission and/or City Commission and what type of parameters should be

included in a draft ordinance. Providing there is support, a draft ordinance will later be submitted and a public hearing held.

In the spring of 2021, there was a group of housekeeping map amendments and text amendments to the new Zoning Ordinance.

Each ordinance amendment includes research of best practices, review of concerns in current ordinances, and analysis of local conditions to determine what revisions would be appropriate. Additionally, most often community engagement efforts are undertaken to determine community support or opposition, which allows for revisions up front that will help ensure proposed ordinances are in alignment with both professional recommendations and community perspective.

Staff maintains a list of ordinances that should be amended in the future. The bulk of these amendments are for clarification and consistency purposes. Based on the future Master Plan update, staff expects a significant number of amendments to the zoning ordinances will be required.

Capital Improvement Program

Planning enabling legislation requires the preparation and use of a Capital Improvement Plan (CIP) that attempts to determine and prioritize the anticipated needs of the City for a six year minimum time period. The approval of this document does not place any particular project into the budget but only serves as a guideline to determine future budgeting needs. Each year, the intent is to revise the plan to accommodate current or projected future needs.

Planning enabling legislation requires the Capital Improvement Plan to be reviewed by the Planning Commission to ensure projects are consistent with the goals and objectives of the master plan. The Planning Commission reviewed the 2021/2022 to 2026/2027 Capital Improvement Plan in the early part of 2021, and. The Planning Commission found that the proposed projects included in the plans were consistent with the City of Battle Creek Master Plan, and recommended to City Commission the approval of both plans, noting that the items contained in the plans were not actually placed in the budget.

Much work was done in 2021 to ensure projects in the Capital Improvement Plan were tied to the Master Plan. Prior to presenting the proposed Capital Improvement Plan to the Planning Commission, City staff from various departments engage in series of meetings intended to evaluate proposed project's compliance and relevance with the goals and objectives of the adopted Master Plan. While not directly tied to the budget, the group evaluates and each proposed project using a scoring matrix intended to accurately prioritize the most needed and relevant projects proposed, with the intent of presenting a document to the Planning Commission (and eventually the City Commission) the reflects accurately reflects the City's most pressing needs which will best accomplish the goals and vision of the City as described in the adopted Master Plan.

Planning Commission - Summary Year 2021 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
CANCELLED					
Meeting: January 27, 2021 Members & Staff Present:					
Meeting: February 24, 2021 Members & Staff Present:					
Eric Feldt, Michele Sutherland, Marcel Stoetzel, Marcie Gillette, Comm. Newman, Comm. Buscher, Comm. Sobieralski, Comm. Godfrey III, Comm. Gray, Comm. Spranger, Comm. Faris, Comm. Herring, Sarah VanWormer, IT and Jessica Vanderkolk	# Z-01-21	306 Stringham Rd. Parcel 7010-00-010-0 Conditional rezoning application to allow a 10,000 sq. ft. recreational marihuana cultivation facility in a Green Zone. Pursuant to Sections 1251.26 and 1251.27 of the zoning code.	SC Distribution, LLC, 21605 Van Dyke Ave. Warren, MI 48089	APPROVED	APPROVED
	# A-01-21	Amendments to Zoning Map and various sections of the Zoning Code	City of Battle Creek, 10 N. Division, Battle Creek, MI 49014	APPROVED	APPROVED
Approval of 2021 Meeting Dates					
Meeting: March 24, 2021 Members & Staff Present:					
Eric Feldt, Michele Sutherland, Marcie Gillette, Marcel Stoetzel, C. Newman, D. Buscher, J. Sobieralski, J. Godfrey III, L. Gray, C. Spranger, K. Faris and B. Herring	# S-01-21	449 Capital Ave. N.E. Parcel 0706-44-116-0 Special Use Permit to allow a medical marihuana and adult use provisioning center in a T-3 district. Pursuant to Section 1281.05 of 49017 the zoning code.	HOS Investments LLC 449 Capital Ave. N.E., Battle Creek, MI 49017	APPROVED	APPROVED
	# S-02-21	4542 Beckley Rd. Parcel 0980-02-201-0 Special Use Permit for the construction of a dental office in a T-3, Neighborhood Commercial District. Pursuant to Section 1281.05 of the zoning code.	James Dally- MAXCON, 1919 Kilgore Service Rd. Kalamazoo, MI 49001	APPROVED	APPROVED City Comm 4/6/21 RESO # _____
Approval of 2021 Meeting Dates					
ELECTION OF 2021 OFFICERS					
		Chair, D. Buscher, Vice Chair, L. Gray		APPROVED	N/A
WORKSHOP MEETING HELD	CIP	Workshop only for Capital Improvement Plan	City of Battle Creek	WORKSHOP	N/A
Meeting: April 28, 2021 Members & Staff Present:					
C. Newman, J. Godfrey III, L. Gray, K. Faris and B. Herring, Eric Feldt, Michele Sutherland, Marcel Stoetzel, Marcie Gillette, Sarah VanWormer, Jessica Vanderkolk	# S-03-21	110 Knapp Drive Parcel 0076-00-820-0 The addition of additional storage units will be added to a vacant parking lot behind an existing fence to increase the total number of storage units. Pursuant to Section 1281.05 of the zoning code.	Cody Newman Driven Design 117 West Michigan Ave. Battle Creek, MI 49014	APPROVED	APPROVED, w/conditions City Comm 4/28/21 RESO # _____

Planning Commission - Summary Year 2021 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
Meeting: May 26, 2021 Members & Staff Present: C. Newman, D. Buscher, J. Sobieralski, J. Godfrey III, L. Gray, K. Faris and B. Herring and A. Laws, Eric Feldt, Michele Sutherland, Marcie Gillette, Marcel Stoetzel, Sarah VanWormer and Jessica Vanderkolk					
	# Z-02-21	625 Hamblin Avenue Parcel 9280-00-042-0 For use of a cold storage use. Pursuant to Section 1240.09 of the zoning code.	Calhoun Land Bank Authority (CCLBA) 315 Green St. West Marshall, MI 49068	APPROVED	APPROVED City Comm 7/26/21 RESO #177
Meeting: June 23, 2021 Members & Staff Present: C. Newman, D. Buscher, J. Sobieralski, J. Godfrey III, L. Gray, C. Spranger K. Faris and B. Herring and A. Laws, Eric Feldt, Michele Sutherland, Marcie Gillette, Marcel Stoetzel					
	# S-04-21	5801 Beckley Rd. Parcel #0075-00-730-0 Outdoor sales of nursery items	KDH Properties (Horrocks Farm Market Inc) Daniel Dunn, 7420 West Saginaw Lansing, MI 48917	PULLED	PULLED
	# S-05-21	49 S. Cass Street Parcel #0255-00-076-0 Child Care Center	Lindsey A. Potter 49 S. Cass St.	APPROVED	
Meeting: August 25, 2021 Members & Staff Present: C. Newman, D. Buscher, J. Sobieralski, J. Godfrey III, L. Gray, C. Spranger K. Faris, Marcie Gillette, Marcel Stoetzel, Lynne Well, Leona Parrish, Susan Crorander					
	# S-06-21	301 W. Michigan Avenue Parcel #0601-34-338-0 Special Use Permit to allow an On-line Auction Co. Warehouse for items in an 17,000 sq. ft. building.	Roger Case 1329 Beadle Lake Rd., Battle Creek, MI 49014	APPROVED	APPROVED City Comm 10/19/21 RESO #239
	# S-07-21	11 E. Goodale Avenue Parcel #3490-00-053-0 Special Use Permit to allow a Childcare Center for 7-12 Children.	Kimberly K. Spivey 11. E. Goodale Avenue, Battle Creek, MI 49037	APPROVED	APPROVED City Comm 10/19/21 RESO #240
Meeting: October 27, 2021 Members & Staff Present: C. Newman, D. Buscher, J. Sobieralski, J. Godfrey III, L. Gray, C. Spranger K. Faris, Marcie Gillette, Marcel Stoetzel, Lynne Well, Leona Parrish, Susan Crorander					

Planning Commission - Summary Year 2021 Index Report

MONTHLY MEETING	APPEAL#	REQUEST	APPLICANT	PC ACTION	CC ACTION
Meeting: November 17, 2021 (ALT DATE)					
CANCELLED- no quorum					
Members & Staff Present: C. Newman, D. Buscher, J. Godfrey III, Marcie Gillette, Marcel Stoetzel, Lynee Well, Susan Crorander, Vanessa Hernandez	#S-08-21	5725 Beckley Rd. Parcel #0075-00-720-0 Special Use Permit Ammdement: The request is conditioned on the approval of the subdivision application by GK Real Estate; the subdivision will reduce our parking lot size from our previously granted Special Use Permit	Star Battle Creek, LLC, Matt Parrinello, General Counsel 900 Linden Ave., Rochester, NY 14625	APPROVED	moved to next month meeting
Excused: Gray, Spranger Resigned: Herring NCNS: Sobieralski, Faris, Laws	#S-09-21	535 Emmett Parcel# 5760-00-073-0. Special Use Permit Ammdement: Self Storage Facility, for an existing building.	Richard Munger 535 E. Emmett Street	APPROVED	
Meeting: December 15, 2021 (ALT DATE)					
Members & Staff Present: C. Newman, D. Buscher, J. Godfrey III, Sobieralski, L. Gray, Spranger, Kaytee Faris, Ariel Laws, Marcie Gillette, Marcel Stoetzel, Lynee Well, Susan Crorander, Travis Sullivan, Vanessa Hernandez	#S-08-21	5725 Beckley Rd. Parcel #0075-00-720-0 Special Use Permit Ammdement: The request is conditioned on the approval of the subdivision application by GK Real Estate; the subdivision will reduce our parking lot size from our previously granted Special Use Permit	Star Battle Creek, LLC, Matt Parrinello, General Counsel 900 Linden Ave., Rochester, NY 14625	APPROVED	APPROVED
	#S-09-21	535 Emmett Parcel# 5760-00-073-0. Special Use Permit Ammdement: Self Storage Facility, for an existing building.	Richard Munger 535 E. Emmett Street	APPROVED	APPROVED
Approval of 2022 Planning Commission Meeting Dates					

❖ Zoning Board of Appeals

The Zoning Board of Appeals consists of seven members appointed by the Mayor and approved by the City Commission, for three-year, staggered terms. They review and consider all petitions for appeals or variances to the requirements of the zoning ordinance. Variance requests include dimensional variances, such as requests for signage in excess of that which is permitted, reductions in parking or setback requirements, and buildings in excess of the size permitted by the ordinance. The other type of variance request is for a use variance, when one is asking for approval to use the property for something not otherwise permitted by right.

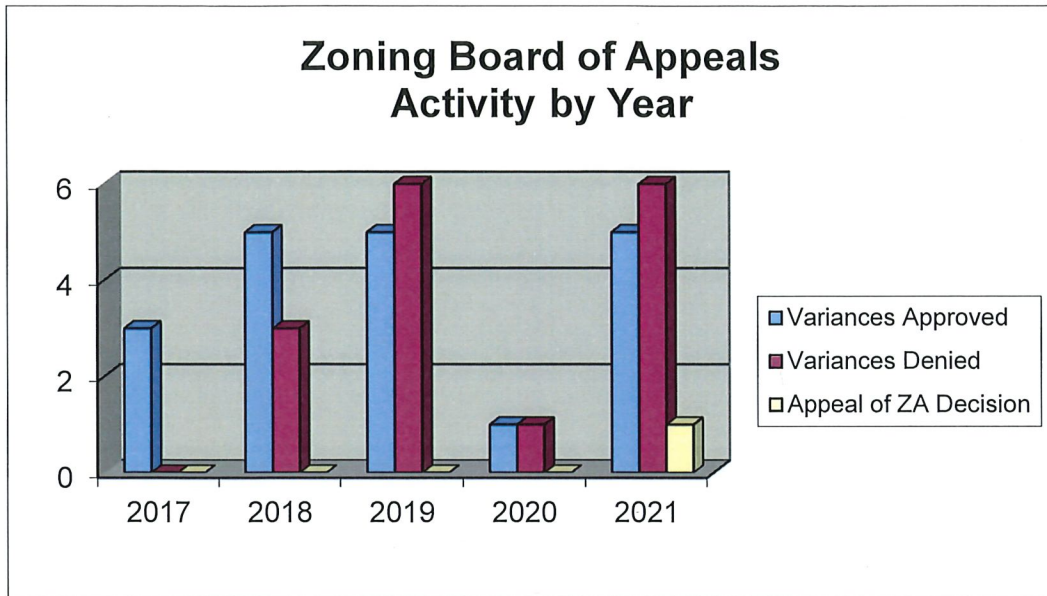
A dimensional variance can be approved by a simple majority of the members of the Zoning Board of Appeals, but a use variance requires a two-thirds approval vote from its members. Based on State statute and subsequent case law, persons applying for variances must be able to prove to the Zoning Board of Appeals that a “*practical difficulty*” exists if they are compelled to follow the ordinance as it relates to dimensional variances and that an “*unnecessary hardship*” exists in order to qualify for a use variance. The Zoning Board of Appeals is also authorized to review appeals from an aggrieved party regarding a decision of the Zoning Administrator’s to determine if an interpretation or ruling was sufficient. Under state law, an individual’s appeal of a decision of the Zoning Board of Appeals must be filed in Circuit Court.

The Michigan Zoning Enabling Act of 2006, as amended, allows for one regular member of the Zoning Board of Appeals to also be a member of the Planning Commission. State zoning legislation also provides for the opportunity to appoint two additional “alternate” members.

Members of the Zoning Board of Appeals at the end of 2021 included:

<u>Name</u>	<u>Term Expires</u>
Aubrey Kipp	1 – 01 – 2022
Deland Davis	1 – 10 – 2022
Bill Hanner	1 – 01 – 2023
Mark Jones	1 – 01 – 2023
James Moreno	1 – 01 – 2023
Noris Lindsey	1 – 01 – 2024
Michael Delaware	1 – 01 – 2024

The following charts summarize the number and type of petitions received in 2021 and compares them with information from the past five years. There was an increase in the amount of variance applications submitted to the Zoning Board of Appeals in 2021 compared to 2020; but the number was very similar to 2019.



Year	2017	2018	2019	2020	2021
Variances Approved	3	5	5	1	5
Variances Denied	0	3	6	1	6
Appeal of ZA Decision	0	0	0	0	1

The spreadsheet on pages 10-12 documents the activities of the Zoning Board of Appeals in 2021.

ZONING BOARD OF APPEALS
Summary Year 2021

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	REQUEST	ACTION
Meeting: January 12, 2021 Members / Staff Present: Sarah VanWormer IT, Marcel Stoetzel Deputy City Attorney, Marcie Gillette, Community Services Manager, Eric Feldt, Planning Coordinator, Michele Sutherland, CSR II, Jessica Vanderkolk, Communications Manager, Norris Lindsey, Mark Jones, James Moreno	Z-01-21	223 Chestnut St. Parcel #9640-00-075-0	Michael and Noelle Pelton, 1134 Hunter Ridge, Battle Creek, MI 49017	Requesting a variance to allow a 6 ft. solid fence in the front yard at 223 Chestnut St., Battle Creek Section 1260.02	DENIED 3-3
	Z-02-21	24 Arthur St. Parcel # 1530-00-067-0	Victory Life Church, 6892 D. Drive N Battle Creek, MI 49014	Requesting a variance to allow less than a 50 ft. front yard requirement for the purposes of a Group Living Facility at 24 Arthur St. Pursuant to 1240.07(d) and 1251.46	PULLED AT MEETING, WILL HAVE LESS THAN 5 PERSONS, NO NEED FOR VARIANCE
	Election of New Officers: Chair - James Moreno & Vice-Chair Bill Hanner Request to approve Zoning Board - 2021 Yearly Meeting Dates.				APPROVED APPROVED
Meeting: February 9, 2021 Members / Staff Present:	CANCELED				
Meeting: March 9, 2021 Members / Staff Present: D. Davis, M. Delaware, B. Hanner, J. Moreno, Aubrey Kipp and Norris Lindsey (arrived late) Eric Feldt, Michele Sutherland, Marcie Gillette, Marcel Stoetzel, Michelle Culp and Jessica Vanderkolk	Z-03-21	1672 Capital Ave. S.W. Parcel #0623-47-867-0	Travis and Sarah Beuchler, 364 S. Hills Dr., Battle Creek, MI 49015	Requesting a variance to allow a 6 ft solid fence in the front yard of 1672 Capital Ave. S.W. Chapter 1280.03(D)(2) and 1260.02	DENIED
Meeting: April 13, 2021 Members / Staff Present: Meeting Canceled - Application Pulled	Z-04-21	1981 Watkins Rd. Parcel #0629-29-918-0	Michael Barr 177 Deer Path Lane, Battle Creek, MI 49015	Requesting a variance to connect 3 existing pole barn structures into one continuous structure.	PULLED
Meeting: May 11, 2021 Members / Staff Present: D. Davis, M. Delaware, B. Hanner, J. Moreno, A. Kipp, N. Lindsey, M. Jones, Eric Feldt, Michele Sutherland, Marcie Gillette, Marcel Stoetzel, Sarah VanWormer and Jessica Vanderkolk	Z-05-21	800 S. 24th St. Parcel #0615-42-367-0	Pastor Steve Armaro Assembly of God Battle Creek 800 S. 24th St. Battle Creek, MI 49015	Requesting a variance to have 2 signs to mark both entrances and allow the Church to utilize the annexed property to erect the sign not in compliance with the ROW right-of-way zoning code. Section 1263.08	DENIED
	Z-06-21	800 S. 24th St. Parcel #0615-42-367-0	Pastor Steve Armaro Assembly of God Battle Creek 800 S. 24th St. Battle Creek, MI 49015	Requesting to allow larger lettering or icon to mark the Church's building than the allowed 8 sq ft. in the zoning code. Section 1263.08	APPROVED
	Z-07-21	48 Main St./ Jay St. Parcel #0707-15-533-0	Spartan Partner Properties 888 W. Big Beaver Rd. Suite 870 Troy, MI 33880.	Requesting a variance to exceed the maximum allowed parking spaces under Chapter 1261 to allow the expansion of an existing parking lot related to a marihuana retail facility at 48 Main St.	DENIED

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	REQUEST	ACTION
Meeting: June 8, 2021 Members / Staff Present: D. Davis, B. Hanner, N. Lindsey, M. Jones, J. Moreno, A. Kipp, Eric Feldt, Michele Sutherland, Marcie Gillette, Marcel Stoetzel, Sarah VanWormer		150 S. McCamly St. Parcel #0390-00-125-0	Paul A. Albaran Varnum Bridgewater Place P.O. Box 352 Grand Rapids, MI 49501-0352	Pursuant to Chapter 1280.03, an appeal of the zoning administrator's decision to allow for a marihuana growing and processing facility to be considered a continuation of a legal nonconforming use of manufacturing at 150 S. McCamly St. in the T-4 district.	WITHDRAWN- NOT WITHIN THE 15 DAYS ALLOWED TO APPEAL
	Z-08-21	1111 Capital Ave. S.W. Parcel #0074-00-270-0	Timothy Bardeen 1111 Capital Ave. S.W. Battle Creek, MI 49015	Requesting a variance to exceed the height of the roof. Pursuant to Section 1260.01 of the zoning code.	DENIED
	A-09-21	150 S. McCamly Place Parcel #0390-00-125-0	McCamly Battle Creek LLC 150 S. McCamly Place Battle Creek, MI	Requesting an appeal to the Zoning Administrator's denial for a marihuana facility as a nonconforming use. Pursuant to the Zoning Code.	DENIED
Meeting: July 13, 2021 Members / Staff Present: D. Davis, M. Delaware, B. Hanner, A. Kipp, J. Moreno, N. Lindsey and M. Jones		800 S. 24th St. Parcel #0615-42-367-0	Pastor Steve Armaro Journey Church Battle Creek 800 S. 24th St. Battle Creek, MI 49015	Variance to allow a sign to be placed within 1 foot of the right of way. Pursuant to Section 1263 of the zoning code.	APPROVED
	Z-11-21	800 S. 24th St. Parcel #0615-42-367-0	Pastor Steve Armaro Journey Church Battle Creek 800 S. 24th St. Battle Creek, MI 49015	Variance to allow a sign to be placed within 1 foot of the right of way. Pursuant to Section 1263 of the zoning code.	APPROVED
	Z-12-21	384 S. Minges S. Parcel #6700-12-210-0	Robert Noel 384 Minges Rd. S Battle Creek, MI	Variance to exceed the height of a proposed accessory building. Pursuant to Section 1260.01 of the zoning code.	DENIED
Meeting: August 10, 2021- Rescheduled to August 24, 2021 Members / Staff Present:		318 Country Club Drive Parcel #0073-00-200-1	Steve Pyatte 318 Country Club Drive Battle Creek, MI	Variance to add a roof to an existing patio to provide shade and protect the existing structure from further weathering	DENIED
Meeting: September 14, 2021 Members / Staff Present:		211 Watkins Rd Parcel #0630-18-694-0	Jon Kuisel, Crossroads Outdoor 200 N. Washington Sq., Lansing, MI	Variance to allow a billboard to exceed the height and size allowed by the ordinance	APPROVED
Meeting: October 12, 2021 Members / Staff Present:					CANCELED
Meeting: November 9, 2021 Members / Staff Present:					CANCELED

MONTHLY MEETING	APPEAL #	LOCATION	APPLICANT	REQUEST	ACTION
Meeting: December 14, 2021					
Members / Staff Present:					
	A-10-21	1775 E. Columbia Ave Parcel #1060-00-012-0	Gerry Trapasso on behalf of Eden Empire Michigan, LLC, 601 22nd Ave., Vancouver, BC, Canada V5Z 1Z5	To request to reverse the decision of the Zoning Administrator to deny Eden Empire Michigan LLC's MMF, provisioning center to be within 1,000 feet of a MM of a marihuana retailer in Emmett Township. Pursuant to section 1281.06 and 1280.03.	TABLED UNTIL 1/11/22
	Z-15-21	1775 E. Columbia Ave Parcel #1060-00-012-0	Gerry Trapasso on behalf of Eden Empire Michigan, LLC, 601 22nd Ave., Vancouver, BC, Canada V5Z 1Z5	Requesting a dimensional variance to allow Eden Empire Michigan LLC's MMF property at -1775 E Columbia Avenue to be used as a medical marihuana provisioning center, despite it being within 1,000 feet of a marihuana retailer in Emmett Township	TABLED UNTIL 1/11/22

❖ Historic District Commission

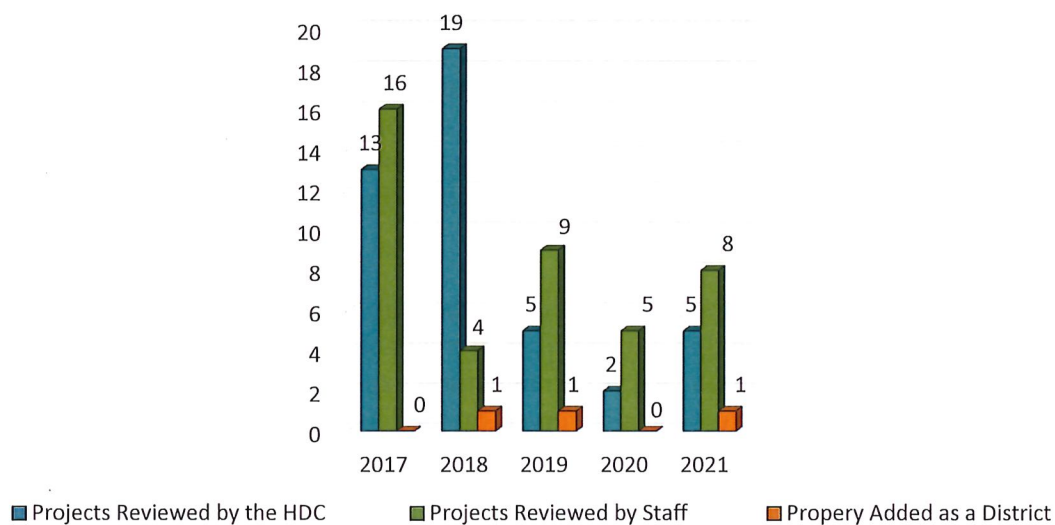
The Historic District Commission consists of seven members appointed by the Mayor and approved by the City Commission for three-year, staggered terms. The primary responsibility of the Historic District Commission is to review applications and plans for the construction, alteration, repair, moving or demolition affecting the exterior appearance of an historic or non-historic resource within any of the five Local Historic Districts. They may also propose to create or modify existing historic districts, and can create a Study Committee to analyze requests for historic designation of specific properties within or outside of historic districts.

State law and local ordinance reflect some specific membership qualifications for the Historic District Commission, including for example that one member, if available, shall be a graduate of an accredited school of architecture, have at least two years of architectural experience, or be an architect registered in the state. One City Commissioner has typically served on the Historic District Commission as a liaison but has no voting rights. Members of the Historic District Commission at the end of 2021 included:

<u>Name:</u>	<u>Term Expires</u>
Adam Reid	1-1-2021
Geradyne Drozdowski	1-1-2021
Cody Newman	1-1-2022
Ross Simpson	1-1-2022
Deborah Sallee	1-1-2023
Scott Durham	1-1-2023
Commissioner Kaytee Faris, Ex-Officio	

In late 2010 the HDC passed a resolution authorizing staff approval of minor classes of work in order to expedite approval times for certain types of projects; 12 projects were approved administratively in 2021. The following charts summarize the number and type of petitions reviewed by the Historic District Commission in 2021, and compares them with information from the past five years. The spreadsheet on pages 15-18 documents the activities of the Historic District Commission in 2021.

Historic District Commission Activity by Year



	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Projects Reviewed by HDC	13	19	5	2	2
Projects Reviewed by Staff	16	14	9	5	5
New Properties Added	0	1	1	0	0

HISTORIC DISTRICT COMMISSION INDEX REPORT SUMMARY - YEAR 2021

MONTHLY MEETING	APPEAL #	ADDRESS/REQUEST	APPLICANT	ACTION
Meeting: January 11, 2021				
Members / Staff Present: C. Newman, K. Faris., S. Chubinski, G. Drozdowski, R. Simpson, A. Reid, Marcel Stotzel, Eric Feldt, Michele Sutherland, Sarah Van Wormer, Ted Dearing & Jessica Vanderkolk				
	H-01-21	62 E. Michigan Parcel 9999-00-232-0 Certificate of Appropriateness for a new sign in front of the building. A 42'x32' non-illuminated round projecting sign.	Robb Perrin of Burkett Signs Inc., 15886 E. Michigan Ave., Climax, MI 49034	APPROVED
	H-02-21	32 E. Michigan Parcel 0258-00-036-0 Notice to Proceed with the south and western walls	City of Battle Creek, 10 N. Division St., Battle Creek, MI 49015	PULLED
		2021 Election of Officers	Comm Newman-Chair, Comm. Chubinski-Vice Chair	APPROVED
Meeting: February 8, 2021				
Members / Staff Present: C. Newman, S. Chubinski, R. Simpson, D. Sallee, A. Reid, G. Drozdowski, K. Faris, Eric Feldt, Michele Sutherland, Marcel Stotzel, Marcie Gillette, Ted Dearing, Richard Bolek & Jessica Vanderkolk,				
	H-02-21	32 E. Michigan Ave. Parcel 0258-00-036-0 Notice to Proceed with repair and building of south/western wall	City of Battle Creek, 10 N. Division St., Battle Creek, MI 49014	APPROVED
	H-03-21	25 W. Michigan Parcel 0252-00-059-0 Certificate of Appropriateness for a wall sign for Raymond James mounted in the sign band along Michigan Ave.	Stephen Kerr of Valley View Sign, 5009 West River Dr., Comstock Park, MI 49321	APPROVED
	H-04-21	47 N. Washington Ave. Parcel 5020-00-059-0 Certificate of Appropriateness for a sign by the new entrance off Champion St. The sign will be held up by a bracket with stationary mounted bars so the sign does not swing. The bracket will be held up with cement screws. The sign will be professionally installed by a contractor for Signs and Designs.	Neighborhoods Inc., Battle Creek, 47 N. Washington Ave., Battle Creek, MI 49015	APPROVED
Meeting: March 8, 2021				
Members / Staff Present: C. Newman, K. Faris, S. Chubinski, G. Drozdowski, R. Simpson, A. Reid, D. Sallee, Eric Feldt, Michele Sutherland, Marcel Stotzel, Marcie Gillette, Ted Dearing, Sarah VanWormer & Jessica Vanderkolk				
	H-05-21	337 Champion St. Parcel 5020-00-039-0 Certificate of Appropriateness for an internally illuminated 10 sq ft, 6 ft tall ground sign to identify apartment building.	Midwest Sign Company, 7381 Ardith Ct. S.W., Suite D, Byron Center, MI 49315	APPROVED
	H-06-21	80 W. Michigan Ave. Suite C, D and E	City of Battle Creek requesting approval to replace the secondary entrance, on the east end of the dining area, with a roll up/garage type door. The existing door and adjacent windows, tops and sides, will be removed. The rough opening will remain the same. The new roll up garage door will utilize the existing opening. The materials will be glass and aluminum to match existing.	APPROVED

HISTORIC DISTRICT COMMISSION INDEX REPORT SUMMARY - YEAR 2021

MONTHLY MEETING	APPEAL #	ADDRESS/REQUEST	APPLICANT	ACTION
Meeting: April 12, 2021 Members / Staff Present:				
	PULLED	16 Ann Ave. Parcel 3560-00-0425-0 Certificate of Appropriateness and Notice to Proceed for work in a historic district	Clara Hernandez, 16 Ann Ave., repair and bring house up to date.	PULLED
	H-07-21	24th Street Commemorative designation as Honorary Mayor Maude Bristol-Perry Way.	City of Battle Creek, Carl Fedders, DPW	APPROVED
Meeting: May 10, 2021 CANCELLED				
Meeting: June 14, 2021 Members / Staff Present: <i>C. Newman, R. Simpson, A. Reid, G. Drozdowski, E. Blonde, K. Faris, Marcie Gillette, Michele Sutherland, Marcel Stotzel, Jessica Vanderkolk</i>				
	H-08-21	165 Ann Avenue 3550-00-090-0 Certificate of Appropriateness for a 24x25x7 carport	Keith McDonald Sr, 165 Ann Avenue, Battle Creek, MI 49037	APPROVED
	H-09-21	80 W. Michigan, Suite C, D and E 9999-00-720-0 Certificate of Appropriateness for two signs	Postema Sign & Graphics, 7475 S. Division Ave., Grand Rapids, MI 49548	APPROVED
Meeting: July 12, 2021 Members / Staff Present: <i>C. Newman, G. Drozdowski, D. Sallee, Eric Feldt, Marcie Gillette, Michele Sutherland and Marcel Stotzel</i>				
	H-10-21	238 Capital Ave. S.W. Parcel 3870-00-008-0 Certificate of Appropriateness for repair/replacement of roof, windows, siding, repair chain link fence and interior repairs	AEDEN CO LLC, Donald McClellan, 128 Park Place, Battle Creek, 40917	POSTPONED- NO QUORUM
	H-11-21	Parcel # 0254-00-068-1 Certificate of Appropriateness for renovations to existing patio to allow for outdoor seating. The outdoor seating area is to be enclosed with fencing. In addition to fencing a canopy and backdrop is being added to the south end.	Cody Newman, Driven Design, 117 W. Michigan Ave., Battle Creek, MI 49014	POSTPONED-NO QUORUM
SPECIAL MEETING July 19, 2021 Members / Staff Present: <i>C. Newman, R. Simpson, A. Reid, G. Drozdowski, E. Blonde, Eric Feldt, Marcie Gillette, Michele Sutherland and Marcel Stotzel</i>				
	H-10-21	238 Capital Ave. S.W. Parcel 3870-00-008-0 Certificate of Appropriateness for repair/replacement of roof, windows, siding, repair chain link fence and interior repairs	AEDEN CO LLC, Donald McClellan, 128 Park Place, Battle Creek, 40917	APPROVED

**HISTORIC DISTRICT COMMISSION
INDEX REPORT SUMMARY - YEAR 2021**

MONTHLY MEETING	APPEAL #	ADDRESS/REQUEST	APPLICANT	ACTION
Meeting: August 9, 2021 Members / Staff Present: <i>C. Newman, R. Simpson, A. Reid, G. Drozdowski, D. Sallee, Eric Feldt, Marie Gillette, Michele Sutherland and Marcel Stoetzel</i>	H-11-21	Parcel # 0254-00-068-1 Certificate of Appropriateness for renovations to existing patio to allow for outdoor seating. The outdoor seating area is to be enclosed with fencing. In addition to fencing a canopy and backdrop is being added to the south end.	Cody Newman, Driven Design, 117 W. Michigan Ave., Battle Creek, MI 49014	APPROVED
	H-12-21	28 Hanover St. Parcel #0660-00-024-0 Certificate of Appropriateness for a roof mounted solar array.	Climax Solar, 1604 W. Milham Ave., Portage, MI 49015	APPROVED
	H-13-21	181 Emmett St. West Parcel #0601-25-385-0 Grace Health Certificate of Appropriateness for new roof	X-tream Roofing LLC, 371 Upton Ave., Battle Creek, MI 49037	APPROVED
	H-14-21	68770 Frelinghuysen Parcel #5370-00-205-0 Notice to Proceed for demo/removal of the collapsed front porch and roof of a duplex	Calhoun County Land Bank Authority	APPROVED
	H-15-21	25 Howland St. Parcel #5020-00-094-0 Certificate of Appropriateness for a roof mounted solar array.	William Crawford, Climax Solar, 1604 W. Milham Ave. Portage, MI 49024 On behalf of owner Ms. Roberta Plotz.	APPROVED WITH CONDITIONS (Not to be installed on the East facing panels on the North & South Dormer Roof)
Meeting: September 13, 2021 Members / Staff Present: <i>C. Newman, D. Sallee, A. Reid, G. Drozdowski, K. Faris, (Staff) M. Gillette, M. Stoetzel, L. Wells, S. Cronander, L. Parrish, and S. VanWormer</i>	H-16-21	11 Wilkes Parcel #7270-00-018-0 Certificate of Appropriateness for a wheelchair ramp in a historic district.	Senior Services, Mark Premer, 918 Jasper St. On behalf of property owner Ms. Catherine King.	APPROVED
	H-17-21	56 Ann Avenue Parcel #3560-00-034-0 Minor Class of Work (Admin. Approval)	Eric D. McLane, 56 Ann Ave, Request to construct < than 199 sq. ft. a deck in the rear of house.	STAFF APPROVED
	H-18-21	3 W. VanBuren Street Parcel #0252-00-010-0 Minor Class of Work (Admin. Approval)	Elite Companies, LLC, Mr. Ryan Long 5630 South 1 St. Street Kalamazoo, MI 49009	STAFF APPROVED
	H-19-21	77 Capital Avenue N.E. Parcel #5370-00-220-0 Minor Class of Work (Admin. Approval)	Elite Companies, LLC, Mr. Ryan Long 5630 South 1 St. Street Kalamazoo, MI 49009	STAFF APPROVED
	CANCELLED H-20-21	245 W Michigan Ave Parcel #0254-00-083-1 Minor Class of Work (Admin. Approval)	Daniel Manson 527 S Ave A Athens, MI 49011	STAFF APPROVED
Meeting: October 11, 2021 Members / Staff Present:				

HISTORIC DISTRICT COMMISSION INDEX REPORT SUMMARY - YEAR 2021

MONTHLY MEETING	APPEAL #	ADDRESS/REQUEST	APPLICANT	ACTION
Meeting: November 8, 2021				
Members / Staff Present:	CANCELLED			
Meeting: December 13, 2021				
Members / Staff Present:	CANCELLED	10 N Division St. Parcel #2620-01-001-0 Minor Class of Work (Admin. Approval)	Katie Norton 10 Division St. N Battle Creek, MI 49017	STAFF APPROVED

OTHER DEPARTMENT ACTIVITIES

❖ Current and Ongoing Planning Initiatives

Redevelopment Ready Communities (RRC)

Redevelopment Ready Communities (RRC) is a certification program that promotes communities that are competitive and ready for redevelopment. The process and eventual certification ensures that a community is transparent, predictable, and efficient in their daily development practices, which includes having a streamlined development review process. In March of 2018, the City of Battle Creek received its certification as a Redevelopment Ready Community.

Staff continues to work to ensure that the goals, objectives and benchmarks of the program are met by the City, keeping the City on track for future recertification as a Redevelopment Ready Community.

❖ Ordinance Implementation/Enforcement

Site Plan Review

The zoning ordinance requires that a sealed site plan be submitted and approved for all development or redevelopment of multi-family, commercial, and industrial structures and/or off-street parking lots (new or expansions). The primary intent of the review is to ensure that the proposed development complies with regulations in the zoning ordinance as well as to insure proper infrastructure is in place to support the project and that appropriate pedestrian, vehicular traffic flow, and storm water management is provided. Site plans are submitted to the Planning Department and reviewed by this department as well as the Inspections Department and Department of Public Works. A site plan is a legally binding document, and therefore, both Inspections and Planning inspect the property throughout construction to ensure compliance with the approved site plan.

The following chart shows the 23 projects that were been submitted for site plan review in 2021, many of which exhibit a significant investment in our community.

08/24/22

2021 Site Plan Approvals

PSPR21-0001	17 W MICHIGAN AVE	Hollander Development Corp.	(616) 349 8428	\$0
PN#	Issue date: 04/09/20	Building redevelopment at 17	3614 LAKE ST	Expires: 04/09/2021
PSPR21-0002	1401 SHIGA DR	JAMES WARE CONSTRUCTI	(269) 651 4747	\$0
PN#	Issue date: 03/31/21	Construction of a 73,760 squa	903 N Clay St Ste A	Expires: 07/06/2022
PSPR21-0003	4542 BECKLEY RD	HALONEN,TODD R	(269) 381 0776	\$0
PN#	Issue date:	For the construction of a new	9110 Portage Rd	Expires:
PSPR21-0004	250 BRIGDEN DR	CITY OF BATTLE CREEK	(616) 481 1285	\$0
PN#	Issue date: 03/10/21	Erection of a 120 feet by 60 f	601 Fifth St NW	Expires: 03/10/2022
PSPR21-0005	1414 W MICHIGAN AVE	Carl Helton	(810) 746 9928	\$0
PN#	Issue date: 03/09/21	AutoZone auto parts store	2583 Pine Bluffs Court	Expires: 03/09/2022
PSPR21-0006	1008 WATKINS RD	PARAGON GROWERS, LLC		\$0
PN#	Issue date: 04/23/21	Renovation of a 12,000 sq ft.		Expires: 04/23/2022
PSPR21-0007	1545 W MICHIGAN AVE	Charles Solano	(269) 224 3182	\$0
PN#	Issue date: 03/10/21	Construction of a b-squared, d	68 E. Michigan Avenue	Expires: 03/10/2022
PSPR21-0008	2593 SW CAPITAL AVE	FRANCHIES REALTY INTER		\$0
PN#	Issue date: 04/27/21	construction of a landscape isl		Expires: 04/27/2022
PSPR21-0009	295 W DICKMAN RD	Vince Pavone	(269) 746 5600	\$0
PN#	Issue date:	New car dealership, 45,245 sq	600 E Michigan Ave	Expires:
PSPR21-0010	201 FRITZ KEIPER BLVD	Glas Associates Inc	(269) 353 7737	\$0
PN#	Issue date: 06/25/21	redo and expand current parki	6339 Stadium Drive	Expires: 08/01/2022
PSPR21-0011	110 KNAPP DR	STORAGE CAP BATTLE CRE		\$0
PN#	Issue date: 05/21/21	outdoor storage units being ad		Expires: 05/21/2022
PSPR21-0012	1021 N RAYMOND RD	Baker Concrete & Excavation	(269) 962 4058	\$0
PN#	Issue date: 05/20/21	Installing foundation to erect	1008 Raymond Rd	Expires: 05/20/2022
PSPR21-0013	492 SW CAPITAL AVE	492 CAPITAL LLC	(248) 882 9911	\$0
PN#	Issue date: 06/30/21	alterations on building require	4830 Fairway Ridge South	Expires: 06/30/2022
PSPR21-0014	4651 HURON TRL	Jim Bloomfield	(269) 209 1233	\$0
PN#	Issue date: 06/28/21	new warehouse storage	354 SW Capital Ave	Expires: 06/28/2022
PSPR21-0015	2191 COLUMBIA AVE	MEIJER INC		\$0
PN#	Issue date: 06/28/21	A bump out to the North East		Expires: 06/28/2022
PSPR21-0016	177 ANGELL ST	WESTROCK CP LLC	(616) 675 7060	\$0
PN#	Issue date: 07/14/21	Installation of recycle hopper	13479 Mason Dr S	Expires: 07/14/2022
PSPR21-0017	306 STRINGHAM RD	SC DISTRIBUTION LLC		\$0

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08/24/22

2021 Site Plan Approvals

PN#	Issue date:	08/23/21	Construction of a 10,000 sq. f	Expires:	08/23/2022	
PSPR21-0018		GLENN CROSS RD	BRONSON BATTLE CREEK			\$0
PN#	Issue date:		Construction of a one story, a	Expires:		
PSPR21-0019		5801 BECKLEY RD	CODY NEWMAN	(269) 753 8040		\$0
PN#	Issue date:	08/30/21	Existing Mercantile clothing s	11 Carlyle St	Expires:	12/31/2022
PSPR21-0020		1045 HARTS LAKE RD	jeff wheeler			\$0
PN#	Issue date:		Resurfacing all parking spots	Expires:		
PSPR21-0021		4600 W DICKMAN RD	DICKMAN ROAD ASSOCIAT			\$0
PN#	Issue date:		Sept. 24, 2021 Site Plan App	Expires:		
PSPR21-0022		1 SAMPLE 1	LISA SILKWORTH			\$0
PN#	Issue date:			Expires:		
PSPR21-0023		1405 SHIGA DR	TBD			\$0
PN#	Issue date:		Future home of Viking Cives	Expires:		
Total Fees: \$		4,250.00	Construction Value Total: \$	0	Total Rec.	23

Zoning Enforcement

The Planning Department is responsible for implementation and enforcement of zoning ordinance regulations. Enforcement action is a result of complaints received as well as proactive efforts in the community. In 2021, there were 221 zoning complaints/enforcements recorded, which slightly higher than the average for 2019-2020; but still down from 598 in 2017 and 2018. The majority of violations require at least two inspections, one to verify the violation and another to ensure compliance. Following is a summary (and number in parenthesis) of zoning enforcements this department addressed in 2021.

Rental Registration Permit Application Review (200)

Upon receipt of a rental permit application, this department verifies that the number of units registered at a property is allowed in that zoning district. If not, a legal nonconforming investigation is performed (see below). This number increased from the previous two years, probably due to catching up with field inspections post-Covid quarantine.

Non-Conforming Investigations (1) and Illegal Use Investigations (20)

The Planning Department receives a number of inquiries as to the legal use of a property. There are many situations where the current use of a property is not permitted by the current zoning district, and in these instances, an investigation into the historical use and zoning of the property is needed in order to determine if the current use can be considered legal nonconforming. These investigations are very time intensive as each requires a thorough investigation into all historical records the City maintains on a property, as well as a review of historical zoning maps and ordinances since 1924 when the City first adopted a zoning ordinance. With these documents, staff analyzes the historic use of a property in comparison to uses allowed by the historical zoning maps/ordinances to determine if the use has existed lawfully. If so, although not allowed by the current zoning regulations, this use would be allowed to continue as a legal nonconforming use.

In the instance where the current use of a property is not allowed by the zoning, and the use was never lawfully created at the property, the department will proceed with enforcement if necessary to ensure the structure complies with the current zoning regulations.

The greatest number of these requests arises from rental registration permit applications where the applicant is seeking multiple units when the current zoning may only allow one or two units. There are also frequent inquiries from appraisers and realtors inquiring as to the appropriate use of a property. There is currently no fee for this investigation as we want to encourage property owners and other parties to actively seek the legal use of a property.

Miscellaneous Enforcement (100)

Typical violations include, but are not limited to, parking (29) – this number includes improperly placed recreation vehicles, and fencing (71).

Miscellaneous

Building permit application review

Effective November 2009, the Planning Department has reviewed all submitted building, demolition, signage, and fencing permits to ensure compliance with zoning regulations. Each request is reviewed based on the submitted facts included on the permit application as well as how the existing and proposed structures are situated on the property. In 2021, 1,501 permits were reviewed by the Planning Department, which was down from 2019-2020. Where applications were not compliant with zoning regulations, contact was made with the applicant to assist them with changes necessary for the project to be in compliance and approved. The breakdown of permits reviewed were: residential (908), commercial (244), fence (237), sign (72), and demolition (40.)

City Business License Application Review (92)

The Planning Department reviews each license request for liquor licenses (new and renewal), used car sales, secondhand good/junk facilities, and donation drop boxes for compliance with the zoning ordinance as well as general code compliance. This review ensures the request is compliant with the zoning district in which the property is located, but also a review of existing conditions at the property to ensure there are no open zoning violations of any nature. In addition, the Planning Department also started reviewing medical marihuana license renewals. The breakdown of licenses reviewed were: liquor (26), used car sales (11), second hand good/junk facilities and donation drop boxes (20), and medical marihuana facilities (35.)

SUMMARY

The amount of requests coming into the department has fluctuated from the previous couple of years. Covid quarantines and concomitant fluctuation in levels of Planning staff contributed to the review patterns during the majority of the year 2021.

The department will continue to look at ways regulations can be amended to ensure that property improvements can be reviewed and approved promptly, while being conscientious of surrounding property owners and land uses to ensure their well-being and property values are protected. These efforts are a balancing act to ensure all concerns are treated equitably and the outcome is for the overall benefit of the community.

A priority project list is maintained by the Planning Department to ensure ongoing projects meet the goals of the Planning Commission, City Commission and the community as a whole.



General Detail

NO.

A Public Hearing to consider removal of Planning Commission Member Ariel Laws for Nonfeasance due to chronic absenteeism.

BATTLE CREEK, MICHIGAN - 11/15/2022

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Public Hearing to consider removal of Planning Commission Member Ariel Laws for Nonfeasance due to chronic absenteeism.

BUDGETARY CONSIDERATIONS

There are none.

HISTORY, BACKGROUND and DISCUSSION

Section 15 of the Michigan Planning Enabling Act, MCL 125.3815(9), provides, in pertinent part as follows:

“(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.”

Battle Creek City Ordinance 1280.02(c)(1) , provides as follows:

(1) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Battle Creek Planning Commission Bylaws, Article II, Section 2, provides as follows, in pertinent part:

“Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four

(4) meetings during one year of his or her term.” (See attached.)

Planning Commission member Ariel Laws was appointed to the Planning Commission on March 16, 2021 pursuant to Resolution 93 to complete an unexpired term ending January 1, 2022. Commissioner Ariel Laws was reappointed to the Planning Commission on January 4, 2022 pursuant to Resolution 279 with a term expiring January 1, 2025.

From the time of his initial appointment through the end of calendar year 2021, Commissioner Laws attended 3 of the 5 scheduled Planning Commission meetings that took place. He was absent from the September and November, 2021 meetings. He had a 60% attendance rate.

In calendar year 2022 to November 10, 2022, Commissioner Laws has had a 14% attendance rate. The only Planning Commission meeting he attended this year was February 23, 2022. [Note that the January, May, June and July Planning Commission meetings were cancelled.]

Commissioner Laws was absent from the following Planning Commission meetings in calendar year 2022:

March 23, 2022;
April 27, 2022;
August 24, 2022;
September 7, 2022;
September 28, 2022;
and October 26, 2022.

CHARGE: Commissioner Laws has demonstrated nonfeasance based upon chronic absenteeism from the Planning Commission, having missed 6 of the 7 meetings that have taken place in calendar year 2022.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
❑ Planning_Commission_Bylaws_Rev_2011.pdf	Planning Commission Bylaws
❑ Written_Charges_Ariel_Laws.pdf	Written Charges against Commissioner Laws

BY-LAWS OF THE CITY PLANNING COMMISSION OF THE CITY OF BATTLE CREEK

ARTICLE I POWERS AND DUTIES

The powers and duties of the City Planning Commission of the City of Battle Creek are those set forth in Act 33 of the Public Acts of 2008, as amended, together with those powers and duties delegated to it by Section 1.55 of the 1975 Compiled ordinances of the City of Battle Creek as approved, adopted pursuant to and in accordance with Act 285 of the Public Acts of 1931, as continued and amended by Act 33 of the Public Acts of 2008.

ARTICLE II MEMBERS

Section 1. Membership. The Planning Commission shall consist of nine (9) members appointed by the Mayor, subject to the approval by a majority vote of the members of the City Commission elected and serving. Members may include the City Manager or a person designated by the City Manager, if any, the Mayor and one or more members of the City Commission, or any combination thereof, as ex officio members; however, not more than one-third of the members of the Planning Commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the Planning Commission. [MCL 125.3815 (1), (2) and (5).]

Members of a Planning Commission shall be qualified electors of the local unit, except that one Planning Commission member may be an individual who is not a qualified elector of the City. [MCL 125.3815 (4)(c).]

One member of the zoning board of appeals may be a member of the Planning Commission [MCL 125.3601 (4)]; however that member shall not participate in a public hearing on or vote on the same matter that they voted on as a member of the other board/commission. However the member may consider and vote on other unrelated matters involving the same property. [MCL 125.3601 (13)]

Members of the Planning Commission shall serve without compensation.

The term of each appointed member shall be three years or until his or her successor takes office. The terms of ex officio members shall correspond to their respective official tenures.

Section 2. Removal. The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term. Nonfeasance may also include abstaining from voting where either the City Attorney's Office has issued an opinion (verbal or written), or there has been a majority vote of the remaining members of the

Planning Commission as set out in below Art. V, §9(c), that no conflict of interest exists. [MCL 125.3815 (9).]

Section 3. Vacancies. Any vacancy occurring in the membership of the Planning Commission shall be filled for the remainder of the unexpired term in the same manner provided for original appointments as set out in above Article II, Section 1.

ARTICLE III

OFFICERS AND THEIR DUTIES

Section 1. Selection. At the regularly scheduled meeting in January of each year, which shall be held on the fourth Wednesday of the month, the Planning Commission shall select from its membership a Chairperson, Vice-Chairperson and Secretary. All officers are eligible for re-election.

Section 2. Tenure. The Chairperson, Vice-Chairperson, and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

Section 3. Chairperson. The Chairperson shall be elected from among the appointed members of the City Planning Commission. An ex officio member of the planning commission is not eligible to serve as chairperson. He or she shall preside at all meetings and hearings of said Commission and shall have and perform the duties usually incident to the office of the Chairperson. He or she shall decide, subject to these by-laws, all questions of order and procedure, unless otherwise directed by a majority of said Commission in session at the time, and shall have the privilege of discussing all matters before said Commission and of voting thereon.

Section 4. Vice-Chairperson. The Vice-Chairperson shall be elected from among the appointed members of the City Planning Commission, and shall act for the Chairperson in his or her absence. An ex officio member of the planning commission is not eligible to serve as vice-chairperson.

Section 5. Secretary. The Secretary shall be elected from among the members of the City Planning Commission. [MCL 125.3817 (1).]

Section 6. Other Duties. Other duties of the Chairperson, Vice-Chairperson, and Secretary shall be such as the City Planning Commission shall from time to time prescribe by formal action.

Section 7. Executive Secretary. The Director of Planning shall serve as the Executive Secretary to the Planning Commission. He or she shall keep a record of the resolutions, transactions, findings and determinations of said Commission, which record shall be a public record; shall prepare, under supervision of the Chairperson, the agenda for all regular and special meetings of said Commission; shall provide notice of all meetings of said Commission; and shall have and perform such other duties as are usually incident to the office of secretary.

All communications, petitions and reports shall be addressed to the Planning Commission and delivered or mailed to the Executive Secretary.

The Executive Secretary of the Planning Commission shall not be a member of said Commission, and shall have no voting privileges.

ARTICLE IV

NOMINATION AND ELECTION OF OFFICERS

Section 1. Term of Office. A candidate receiving a majority vote of the entire membership of said Commission shall be declared elected, and shall hold office for one (1) year, or until his or her successor shall take office, with eligibility for re-election.

Section 2. Vacancies. Vacancies in office shall be filled for the unexpired term by regular election procedure at the next regular meeting following such vacancy, or at a special meeting called for that purpose.

ARTICLE V

MEETINGS

Section 1. Open Meetings Act. All meetings of the City Planning Commission shall conform to the requirements of Public Act 267 of 1967, as amended, that being the Open Meetings Act.

Section 2. Number of Required Annual Meetings. The City Planning Commission shall hold not less than four (4) regular meetings each year. [MCL 125.3821 (1).]

Section 3. Regular Meeting Date. Regular meetings of said Commission shall be held on the fourth Wednesday in each month, at 4:00 p.m., in Room 301 of the City Hall, or at a designated place duly noticed. The Commission may also, by majority vote, deviate from the fourth Wednesday of the month in order to accommodate observed holiday periods or traditional vacation periods when annually approving the meeting calendar dates.

Section 4. Voting Requirements. A majority, or five (5) members of said Commission, shall be necessary to constitute a quorum, and must be present before business may be transacted. Provided, however, that an affirmative vote of at least six (6) members of the Commission shall be necessary for the adoption or amendment of the master plan.

Section 5. Special meetings. Special meetings of the Commission shall be held at any time upon call of the Chairperson, and shall be called by him or her upon written request of at least three (3) members of said Commission. All special meetings shall conform to the requirements of the Open Meetings Act. (P.A. 267 of 1976, as amended.)

Section 6. Notice. Written notice of the time, place and purpose of any special meeting shall be given to each member by the Secretary, not less than forty-eight (48) hours in advance of such meeting. [MCL 125.3821 (1).]

Section 7. Business Conducted Restricted. The business considered or transacted at any special meeting shall be restricted to that stated in the notice or call, unless by consent of at least five (5) members present at such meeting.

Section 8. Majority for Voting Purposes. Except as herein otherwise provided, when a quorum is present, a majority vote shall be sufficient to pass any motion or resolution at any meeting of said Commission.

Section 9. Conflict of Interest. A conflict of interest exists when a member of a public body has an economic, personal, or family connection to a matter before them which may prevent, or appear to prevent, an objective vote. The following shall apply in determining: whether a conflict of interest in fact exists; the obligations of a member with a conflict of interest, or a potential conflict of interest; and the consequences of failing to disclose a potential conflict, or abstaining from voting where there is no conflict of interest.

- (a) "Conflict of interest" shall be defined as a material financial interest, or where a member has a legal or fiduciary duty to another organization or entity, or personal relationship that may give the appearance of a conflict of interest in a matter presented for action. For purposes of this section, a "material financial interest" shall be defined as one in which the member will directly benefit in an amount exceeding \$250.00, or receive a benefit exceeding a fair market value of \$250.00 in a matter presented for action. [MCL 125.3815 (9).]
- (b) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. If a conflict of interest in fact exists, then the member is disqualified from discussion or voting on that matter in his or her capacity as a Commission member.
- (c) Even if the member does not disqualify himself or herself based upon a conflict of interest, the member may be disqualified from discussion or voting on that matter in his or her capacity as a Commission member by a majority vote of the remaining members of the Planning Commission.
- (d) Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.
- (e) Abstaining from voting where either the City Attorney's Office has issued an opinion (verbal or written), or there has been a majority vote of the remaining members of the Planning Commission as set out in above subsection (c), that no conflict of interest exists, constitutes nonfeasance in office.

Section 10. Robert's Rules of Order Govern. Parliamentary practice at the meetings of said Commission shall be governed, where applicable, by Roberts Rules of Order, except where in conflict with the laws of the State of Michigan, the Charter or ordinances or the City of Battle Creek, or these by-laws.

ARTICLE VI

ORDER OF BUSINESS

The order of business at all regular meetings of the City Planning Commission, as far as practicable, shall be as follows:

1. Call to order.
2. Roll call.
3. Correction and approval of minutes of previous meeting.
4. Correspondence.
5. Additions to the Agenda.
6. Public Hearings.
7. Old Business.
8. New Business.
9. Comments by the Public.
10. Comments by the Members.
11. Adjournment.

This order of business may be changed at any time upon consent of a majority of members present.

ARTICLE VII

COMMISSION BUSINESS

Section 1. Planning Commission Matters. The following matters shall be presented for consideration in a meeting of the City Planning Commission:

- (a) Preparation and adoption of a master plan for the physical development of the City, including any areas outside of its boundaries which, in said Commission's judgment, bear relations to the planning of the City, or the adoption of any part or extension thereof, or amendment or addition thereto. Any resolution adopting or revising the master plan shall refer expressly to the maps and narrative and other matter intended by said Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and narrative matter by the identifying signature of the Executive Secretary of said Commission. An attested copy of the plan or part thereof shall be certified to the City Commission and to the County Register of Deeds.
- (b) Petitions and staff proposals for changes in the Zoning Ordinance and for Special Use Permits.
- (c) Preliminary plans and reports for the physical development of the City, including the general location, character and extent of streets, viaducts, bridges, parks and open spaces, the general location of public buildings and other public property, the general location and extent of public utilities and terminals.

- (d) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, open spaces, buildings, or properties.
- (e) The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
- (f) Land subdivision plans.
- (g) All planning reports and plans for publications.
- (h) All capital improvement programs for the City.
- (i) The annual written report to the City Commission concerning its operations and the status of planning activities, including recommendations regarding actions by the City Commission related to planning and development. [MCL 125.3817 and 125.3819.]
- (j) Such matters as the Executive Secretary shall find advisable or essential to receive consideration by the Planning Commission.

Section 2. Commission Business Not Limited By Section 1. Section One of this Article shall in no way limit the business of the Commission.

ARTICLE VIII **EMPLOYEES**

The City Commission may appoint such employees as it may deem necessary for the Planning Commission's work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of the law as govern other corresponding civil employees of the City of Battle Creek. The City Commission may also contract with City planners, engineers, architects, and other consultants for such services as it may require. The expenditures of said Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Commission, which shall provide the funds, equipment, and accommodations necessary for the Commission's work. [MCL 125.3825 (1).]

ARTICLE IX **PUBLIC HEARINGS**

Section 1. Public Hearings; Notice. The Planning Commission shall hold a public hearing in the following instances:

1. Adoption or amendment of the master plan or any part thereof.
2. Considerations of Special Use Permits.
3. Consideration of Zoning Code Amendments.

Notice of the time and place of the hearing shall be given, according to Michigan statute.

Section 2. Other Public Hearings. In addition to those public hearings required by law, the City Planning Commission may, in its discretion, hold public hearings when it deems such hearings to be in the best interest of the public.

Section 3. Notice. Notice of such hearings shall be published in the official newspaper of the City, or in a newspaper of general circulation, at least fifteen (15) days prior to such hearing.

Section 4. Presentations Before Planning Commission. Matters of business before the City Planning Commission shall be presented in summary by the Chairperson, or by a member of said Commission, as designated by the Chairperson. Any interested spokesperson may address the Commission, consistent with Robert's Rules of Order.

ARTICLE X

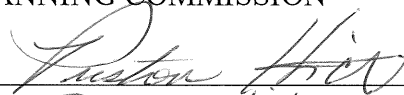
AMENDMENTS

These by-laws may be altered or amended by a two-thirds vote of the entire membership of the City Planning Commission, notice of hearing having been given in writing of the proposed alteration or amendment at a previous meeting of said Commission.

Approved and Adopted on this date:

BATTLE CREEK
PLANNING COMMISSION

October 26, 2011, 2011


By: Preston Hicks
Its: Chairperson

**PUBLIC HEARING TO CONSIDER REMOVAL OF PLANNING COMMISSION
MEMBER ARIEL LAWS FOR NONFEASANCE IN OFFICE
BASED UPON CHRONIC ABSENTEEISM.**

Section 15 of the Michigan Planning Enabling Act, MCL 125.3815(9), provides, in pertinent part as follows:

“(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.”

Battle Creek City Ordinance 1280.02(c)(1) , provides as follows:

(1) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Battle Creek Planning Commission Bylaws, Article II, Section 2, provides as follows, in pertinent part: “Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term.”

WRITTEN CHARGE:

Planning Commission member Ariel Laws was appointed to the Planning Commission on March 16, 2021 pursuant to Resolution 93.

From the time of his appointment through the end of calendar year 2021, Commissioner Laws attended 3 of the 5 scheduled Planning Commission meetings that took place. He was absent from the September and November meetings. He had a 60% attendance rate.

In calendar year 2022 to November 10, 2022, Commissioner Laws has had a 14% attendance rate. The only Planning Commission meeting he attended was February 23, 2022. [Note that the January, May, June and July Planning Commission meetings were cancelled.]

Commissioner Laws was absent from the following Planning Commission meetings in calendar year 2022:

March 23, 2022

April 27, 2022

August 24, 2022

September 7, 2022

September 28, 2022

October 26, 2022.

Commissioner Laws has demonstrated nonfeasance based upon chronic absenteeism from the Planning Commission, having missed 6 of the 7 meetings that have taken place in calendar year 2022.



Ordinance

NO. 14-2022

A proposed Ordinance to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

BATTLE CREEK, MICHIGAN - 11/15/2022

The City of Battle Creek Ordains:

Section 1. An ordinance to rezone parcels listed below from I-2 Heavy Industrial District to R-1A Single Family Residential District.

Street Address	Parcel ID#
4421 W Columbia Ave.	0069-00-220-0
140 Newtown Ave.	0069-00-230-0
4421 W Columbia Ave.	0069-00-235-0
160 Newtown Ave.	0069-00-210-0
4503 W Columbia Ave.	5720-10-230-0
178 Newtown Ave.	5720-10-231-0
184 Newtown Ave.	5720-10-232-0
4521 W Columbia Ave.	5720-10-227-0
174 Independence Ave.	0619-40-967-0
W Columbia Ave.	5720-10-226-0
4563 W Columbia Ave.	5720-10-224-0
W Columbia Ave.	5720-10-223-0
242 Newtown Ave.	5720-10-238-0
250 Newtown Ave.	5720-10-239-0
256 Newtown Ave.	0619-41-353-0
266 Newtown Ave.	5720-10-241-0
280 Newtown Ave.	5720-10-242-0
326 Newtown Ave.	5720-10-248-0
332 Newtown Ave.	5720-10-249-0
338 Newtown Ave.	5720-10-250-0
W Columbia Ave.	5720-10-201-0
446 Newtown Ave.	5720-10-201-1
458 Newtown Ave.	5740-10-451-0
W Columbia Ave.	5740-10-460-0
464 Newtown Ave.	5740-10-452-0
472 Newtown Ave.	5740-10-453-0
480 Newtown Ave.	5740-10-454-0
Newtown Ave.	5740-10-455-0
112 Robertson Ave.	5740-10-434-0
110 Robertson Ave.	5740-10-433-0
4701 W Columbia Ave.	5740-10-432-0
4733 W Columbia Ave.	5740-10-431-0
4739 W Columbia Ave.	5749-10-430-0

W Columbia Ave. 5740-10-425-0
415 Robertson Ave. 5740-10-424-0
409 Robertson Ave. 5740-10-423-0
361 Robertson Ave. 5740-10-421-0
355 Robertson Ave. 5740-10-420-0
349 Robertson Ave. 5740-10-419-0
343 Robertson Ave. 5740-10-417-0
325 Robertson Ave. 5740-10-415-0
311 Robertson Ave. 5740-10-413-0
245 Robertson Ave. 5740-10-411-0
Robertson Ave. 5740-10-410-0
227 Robertson Ave. 5740-10-409-0
223 Robertson Ave. 5740-10-407-0
215 Robertson Ave. 5740-10-406-0
206 Robertson Ave. 5740-10-435-0
226 Robertson Ave. 5740-10-437-0
316 Robertson Ave. 5740-10-439-0
324 Robertson Ave. 5740-10-440-0
330 Robertson Ave. 5740-10-441-0
338 Robertson Ave. 5740-10-442-0
346 Robertson Ave. 5740-10-443-0
549 Robertson Ave. 5740-10-444-0
414 Robertson Ave. 5740-10-445-0
471 Newtown Ave. 5740-10-403-0
457 Newtown Ave. 5740-10-401-0
361 Newtown Ave. 0619-45-193-0
355 Newtown Ave. 5720-10-256-0
347 Newtown Ave. 0619-45-339-0
319 Newtown Ave. 5720-10-260-0
313 Newtown Ave. 5720-10-262-0
285 Newtown Ave. 5720-10-263-0
279 Newtown Ave. 0619-41-971-0
265 Newtown Ave. 5720-10-267-0
259 Newtown Ave. 5720-10-268-0
251 Newtown Ave. 5720-10-269-0
241 Newtown Ave. 5720-10-271-0
221 Newtown Ave. 5720-10-273-0
205 Newtown Ave. 5720-10-275-0
185 Newtown Ave. 5720-10-277-0
177 Newtown Ave. 5720-10-278-0
169 Newtown Ave. 5720-10-279-0
161 Newtown Ave. 5720-10-280-0
159 Newtown Ave. 5720-10-281-0
4353 Songbird Ln. 0069-00-250-0
4347 Songbird Ln. 0069-00-260-0
4341 Songbird Ln. 0069-00-270-0
4335 Songbird Ln. 0069-00-280-0

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

11/15/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A proposed Ordinance to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

BUDGETARY CONSIDERATIONS

There would be no financial impact on the City of Battle Creek.

HISTORY, BACKGROUND and DISCUSSION

The subject parcels are currently zoned I-2 Heavy Industrial. The parcels are surrounded to the east and south by the I-2 Heavy Industrial District, with the G Green District immediately across Columbia Ave. W to the north.

When the City re-codified the Zoning Ordinance and Zoning Map in 2020, the subject parcels were zoned I-2 Heavy Industrial, in accordance with the adopted Land Use Plan. The purpose of the I-2 Heavy Industrial District is as follows:

Section 1240.17 PURPOSE

The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road an/or railroad and public and utility services.

With the exception of a handful of commercial and larger properties (not included in this proposed rezone), this area is a firmly established single-family neighborhood with dwelling units primarily along Newtown Ave. and Robertson Ave., but also along Songbird Ln., Independence Ave. and W Columbia Ave. as well.

While there is some variation in the size of the parcels in this area occupied by single-family uses, the

properties generally meet the area requirements of the R-1A Single-Family Residential District, which is intended to support single-family residential properties of a semi-suburban to suburban, low-density character, usually serviced by City water and sewer. Critical to this proposed rezoning is the historical zoning of the properties included within this request.

Properties to the southeast of Newtown Ave. along Newtown Ave. and Robertson Ave. were zoned R-1B under the previous Zoning Ordinance (effective until November 2020). Properties to the northwest of Newtown Ave. along Newtown Ave., W Columbia Ave., Robertson Ave. and Songbird Ln. were zoned either C-2 General Business District or C-3 Intensive Business District.

While neither the C-2 nor the C-3 districts allowed for single-family uses, numerous single-family uses (part of the subject of this request) existed as they do today. The properties included within this request are either currently being used for single-family residential purposes, or are vacant but of such a size and condition which would make them conducive to single-family uses in the future, but likely not industrial uses (as they are currently zoned). A rezoning of these properties currently used for single-family residential purposes would be relieved of their legal-nonconforming status, allowing for assurances of the ability to rebuild in the event of catastrophic loss and thus likely reopening these properties to financing from lending institutions. Properties which are currently vacant but of such a size and condition as to be conducive to single-family uses (but likely not industrial uses) would be allowed to establish single-family uses, thus returning value and the potential for practical use to properties that, at this point, would not be permitted to establish a new single-family use.

This request was prompted by the discovery of property owners in the area and the local real estate community that homeowners were having difficulty completing sales of their properties as lending institutions by and large are not providing financing to purchase properties committed to legally-nonconforming uses.

It is important to note that within the I-2 Heavy Industrial District, single-family detached dwelling units are not a permitted use. They do, however, fall under a separate category (Section 1240.17.D) as “Existing Uses.” In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

DISCUSSION OF THE ISSUE

POSITIONS

The Planning Commission held a Public Hearing on October 26, 2022. The Planning Commission reviewed the list of conditions for consideration when requesting an amendment to the Zoning Map. Section 1281.01D. Zoning Ordinance and Map Amendments- Standards of Review for Amendments, lists twelve (12) criteria that shall be considered in making findings, recommendations and a decision. The Planning Commission finds that the proposed rezoning meets all twelve (12) criteria and 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 properties as “Production and Employment Center,” which corresponds with the current I-2 Heavy Industrial District zoning classification. However, in accordance with the provisions of Section 1281.01(D.1), staff finds that conditions within the subject area warrant a change in zoning classification to more accurately reflect current (and likely future) uses within the subject area. While conditions in the area have not changed since the adoption of the 2108 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 intends at a later date to pursue a Master Plan amendment which would align the adopted Land Use Plan with the

proposed rezoning that is the subject of this report.

- The subject area along Newtown Ave., Robertson Ave., Columbia Ave. W, Independence Ave. and Songbird Ln. is primarily an established single-family neighborhood, with the majority of homes having been constructed during the 1940's. No changes in use are anticipated as a result of the proposed rezoning. Staff anticipates that the existing infrastructure in the area is sufficient to support the proposed rezoning and the continuation of the current land uses within the subject area.
- The proposed rezoning would not negatively impact those properties within the subject area which would maintain their current I-2 Heavy Industrial classification. While a handful of properties within the subject area would remain zoned I-2 Heavy Industrial, this is not viewed as significant isolation within the single-family neighborhood as multiple I-2 properties would still exist. Additionally, the surrounding area to the south and east of the subject area remains zoned I-2. The proposed rezoning simply seeks to align the zoning map with current (and likely future) uses of the properties within the subject area in order to relieve homeowners of their legal-nonconforming status.

ATTACHMENTS:

File Name	Description
1._Robertson-Newtown_Rezoning_Staff_Report.pdf	Rezoning 202-2022 Staff Report
PC_10.26.22_Meeting_Minutes_DRAFT.pdf	PC 10.26.22 Meeting Minutes DRAFT



Battle Creek City Planning Commission

Staff report for the October 26, 2022 regular meeting

To: Planning Commissioners

From: Travis Sullivan, Planner

Subject: Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as "I-2 Heavy Industrial District." Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as "R-1A Single-Family Residential District" pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Summary

Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current "I-2 Heavy Industrial District" zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

Background/Property Information

The subject area of the proposed rezone includes a total of 80 properties. Properties included in the proposed rezone consist of the following:

Street Address	Parcel ID#
4421 W Columbia Ave.	0069-00-220-0
140 Newtown Ave.	0069-00-230-0
4421 W Columbia Ave.	0069-00-235-0
160 Newtown Ave.	0069-00-210-0
4503 W Columbia Ave.	5720-10-230-0
178 Newtown Ave.	5720-10-231-0
184 Newtown Ave.	5720-10-232-0
4521 W Columbia Ave.	5720-10-227-0
174 Independence Ave.	0619-40-967-0
W Columbia Ave.	5720-10-226-0
4563 W Columbia Ave.	5720-10-224-0
W Columbia Ave.	5720-10-223-0
242 Newtown Ave.	5720-10-238-0
250 Newtown Ave.	5720-10-239-0
256 Newtown Ave.	0619-41-353-0

266 Newtown Ave.	5720-10-241-0
280 Newtown Ave.	5720-10-242-0
326 Newtown Ave.	5720-10-248-0
332 Newtown Ave.	5720-10-249-0
338 Newtown Ave.	5720-10-250-0
W Columbia Ave.	5720-10-201-0
446 Newtown Ave.	5720-10-201-1
458 Newtown Ave.	5740-10-451-0
W Columbia Ave.	5740-10-460-0
464 Newtown Ave.	5740-10-452-0
472 Newtown Ave.	5740-10-453-0
480 Newtown Ave.	5740-10-454-0
Newtown Ave.	5740-10-455-0
112 Robertson Ave.	5740-10-434-0
110 Robertson Ave.	5740-10-433-0
4701 W Columbia Ave.	5740-10-432-0
4733 W Columbia Ave.	5740-10-431-0
4739 W Columbia Ave.	5749-10-430-0
W Columbia Ave.	5740-10-425-0
415 Robertson Ave.	5740-10-424-0
409 Robertson Ave.	5740-10-423-0
361 Robertson Ave.	5740-10-421-0
355 Robertson Ave.	5740-10-420-0
349 Robertson Ave.	5740-10-419-0
343 Robertson Ave.	5740-10-417-0
325 Robertson Ave.	5740-10-415-0
311 Robertson Ave.	5740-10-413-0
245 Robertson Ave.	5740-10-411-0
Robertson Ave.	5740-10-410-0
227 Robertson Ave.	5740-10-409-0
223 Robertson Ave.	5740-10-407-0
215 Robertson Ave.	5740-10-406-0
206 Robertson Ave.	5740-10-435-0
226 Robertson Ave.	5740-10-437-0
316 Robertson Ave.	5740-10-439-0
324 Robertson Ave.	5740-10-440-0
330 Robertson Ave.	5740-10-441-0
338 Robertson Ave.	5740-10-442-0
346 Robertson Ave.	5740-10-443-0
549 Robertson Ave.	5740-10-444-0
414 Robertson Ave.	5740-10-445-0
471 Newtown Ave.	5740-10-403-0
457 Newtown Ave.	5740-10-401-0

361 Newtown Ave.	0619-45-193-0
355 Newtown Ave.	5720-10-256-0
347 Newtown Ave.	0619-45-339-0
319 Newtown Ave.	5720-10-260-0
313 Newtown Ave.	5720-10-262-0
285 Newtown Ave.	5720-10-263-0
279 Newtown Ave.	0619-41-971-0
265 Newtown Ave.	5720-10-267-0
259 Newtown Ave.	5720-10-268-0
251 Newtown Ave.	5720-10-269-0
241 Newtown Ave.	5720-10-271-0
221 Newtown Ave.	5720-10-273-0
205 Newtown Ave.	5720-10-275-0
185 Newtown Ave.	5720-10-277-0
177 Newtown Ave.	5720-10-278-0
169 Newtown Ave.	5720-10-279-0
161 Newtown Ave.	5720-10-280-0
159 Newtown Ave.	5720-10-281-0
4353 Songbird Ln.	0069-00-250-0
4347 Songbird Ln.	0069-00-260-0
4341 Songbird Ln.	0069-00-270-0
4335 Songbird Ln.	0069-00-280-0

With the exception of a handful of commercial and larger properties (not included in this list), this area is a firmly established single-family neighborhood with dwelling units primarily along Newtown Ave. and Robertson Ave., but also along Songbird Ln., Independence Ave. and W Columbia Ave. as well.

While there is some variation in the size of the parcels in this area occupied by single-family uses, the properties generally meet the area requirements of the R-1A Single-Family Residential District, which is intended to support single-family residential properties of a semi-suburban to suburban, low-density character, usually serviced by City water and sewer.

Critical to this proposed rezoning is the historical zoning of the properties included within this request. Properties to the southeast of Newtown Ave. along Newtown Ave. and Robertson Ave. were zoned R-1B under the previous Zoning Ordinance (effective until November 2020). Properties to the northwest of Newtown Ave. along Newtown Ave., W Columbia Ave., Robertson Ave. and Songbird Ln. were zoned either C-2 General Business District or C-3 Intensive Business District. While neither the C-2 nor the C-3 districts allowed for single-family uses, numerous single-family uses (part of the subject of this request) existed as they do today. As such, those properties have also been included for Commission consideration with regard to this rezoning request.

The properties included within this request are either currently being used for single-family residential purposes, or are vacant but of such a size and condition which would make them conducive to single-family uses in the future, but likely not industrial uses (as they are currently zoned). Should the Planning Commission recommend the rezoning of these properties from I-2 Heavy Industrial to R-1A Single-Family, and should the City Commission approve such a rezoning, properties currently used for single-family residential purposes would be relieved of their legal-nonconforming status, allowing for assurances of the ability to rebuild in the event of catastrophic loss and thus likely reopening these

properties to financing from lending institutions. Properties which are currently vacant but of such a size and condition as to be conducive to single-family uses (but likely not industrial uses) would be allowed to establish single-family uses, thus returning value and the potential for practical use to properties that, at this point, would not be permitted to establish a new single-family use.

Commissioners will want to note that this request was prompted by the discovery of property owners in the area and the local real estate community that homeowners were having difficulty completing sales of their properties as lending institutions by and large are not providing financing to purchase properties committed to legally-nonconforming uses. It is important to note that within the I-2 Heavy Industrial District, single-family detached dwelling units are not a permitted use. They do, however, fall under a separate category (Section 1240.17.D) as “Existing Uses.”

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

At present, both the Land Use Plan as adopted with the 2018 Master Plan as well as the current zoning of the area appears to be misaligned with the current character and use of the area. Further, in City staff’s view and in speaking with staff from BCU, there appears little to no feasible path toward the eventual conversion of this area from its historically residential use toward heavy industrial uses.

In accordance with the Land Use Plan, the Zoning Ordinance was updated in 2020 to more closely reflect the Plan’s vision. As a consequence of the misalignment between the Land Use Plan (and now the zoning map itself) and the current uses, parcels which have historically enjoyed and been used for residential purposes were rezoned as I-2 Heavy Industrial, where single-family uses are not permitted. This rezoning has essentially painted single-family property owners in the area into a corner, whereby real estate sales are proving problematic due to the reluctance of lending institutions to make loans for these legally-nonconforming residential properties. A shift back to a single-family residential zoning district would provide relief to property owners in this area by returning them to legally-conforming status. Additionally, while the properties to the north and west of Newtown Ave. were zoned commercial under the previous ordinance, a shift to single-family residential zoning would likewise eliminate the hardship created by their legal-nonconforming status, allowing once again for the uninhibited alteration and addition to single-family residential uses, as well as allowing for the establishment of new single-family residential uses upon parcels which are currently vacant (but sized and positioned in such a way as to support a residential zoning classification over an industrial classification).

Figure 1 below displays the previous zoning of the subject area, effective until the adoption of the 2020 Zoning Ordinance and map rewrite. Figure 2 displays the current zoning of the area. Figure 3 highlights the set of parcels proposed to be rezoned from I-2 Heavy Industrial to R-1A Single-Family Residential.



Figure 1: Previous zoning map effective until November 2020.

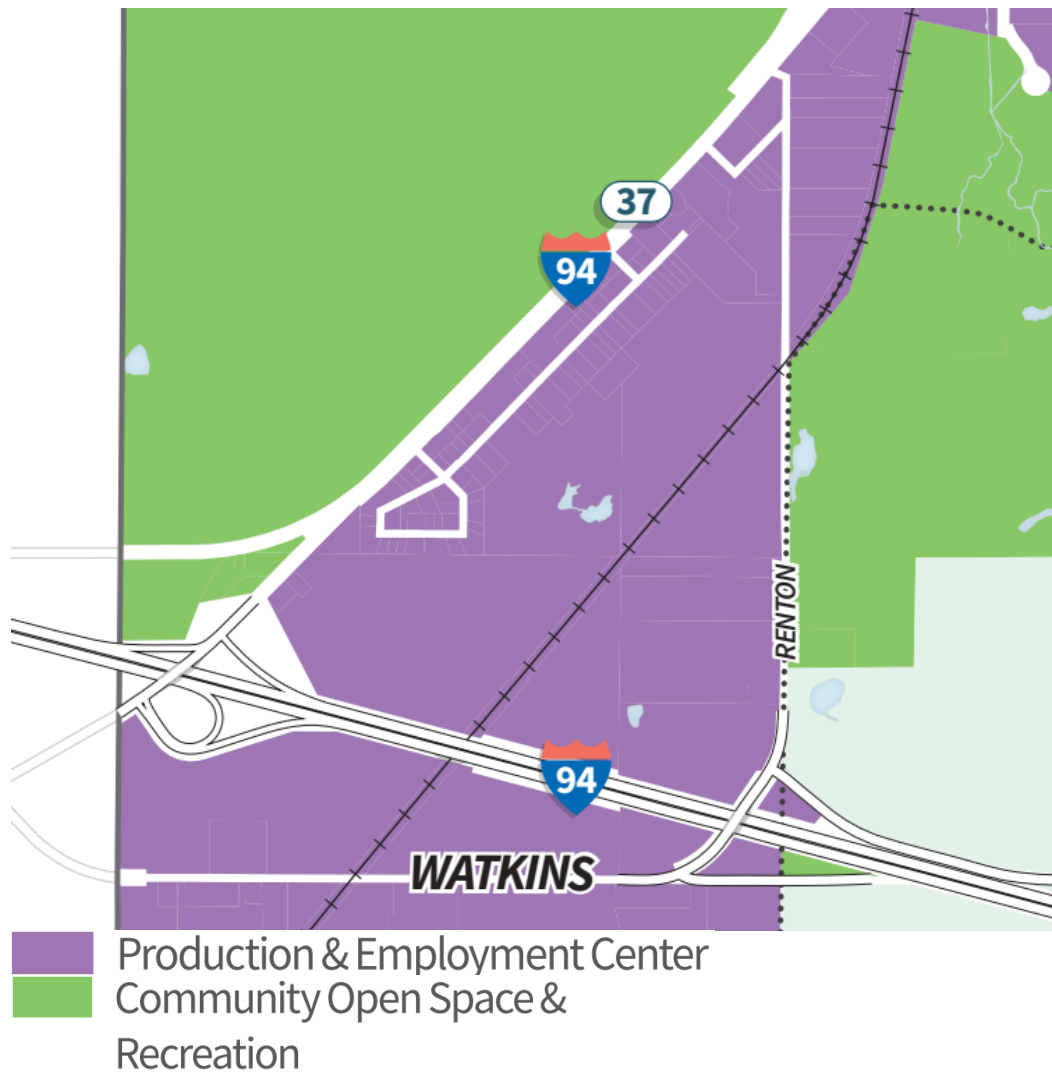


Figure 2: Adopted Land Use Plan Map (2018 Master Plan)

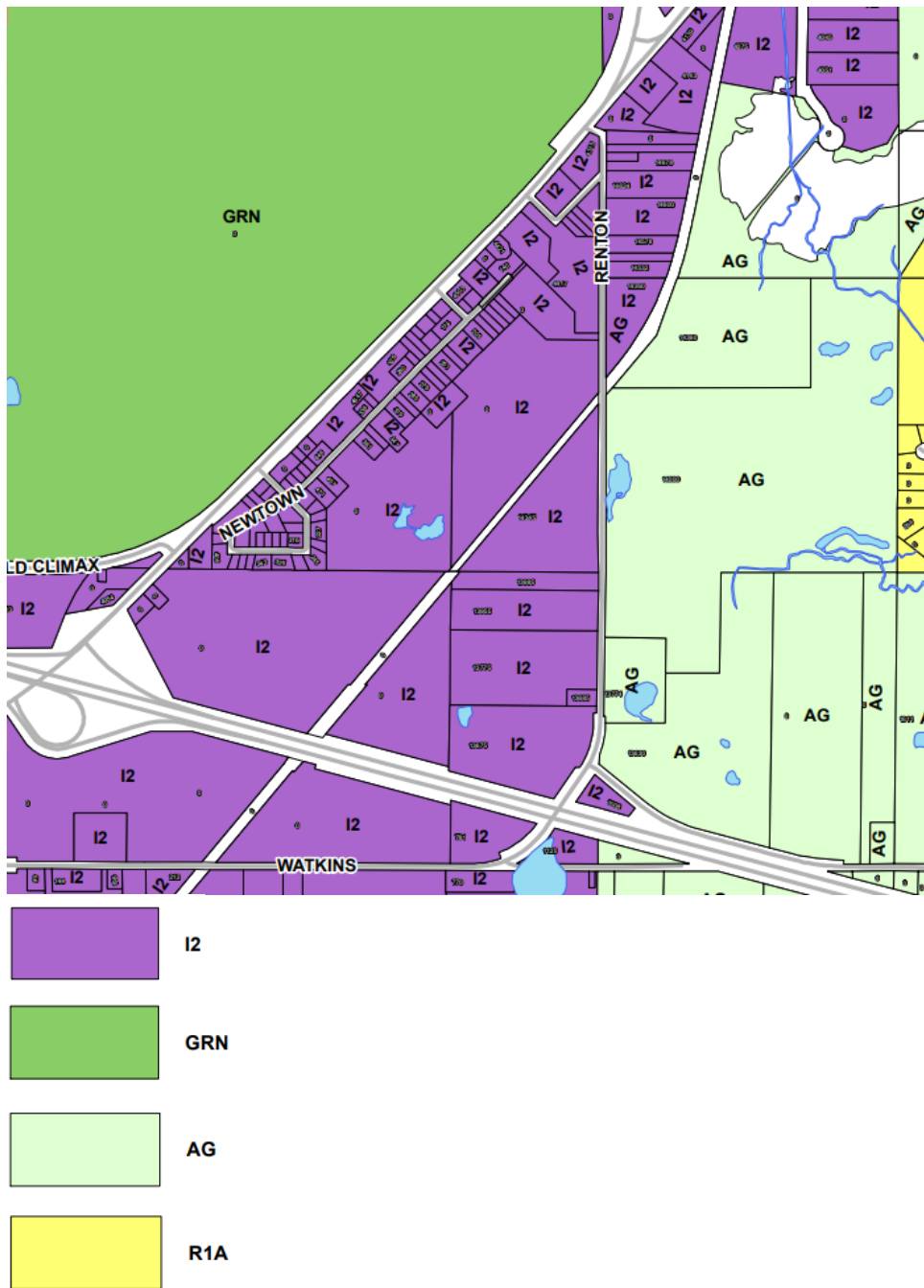


Figure 3: Current zoning map

Blue Outline – Area proposed for rezoning from I-2 Heavy Industrial to R-1A Single-Family Residential
Red Fill – Parcels NOT included in the proposed rezoning (to remain I-2 Heavy Industrial)

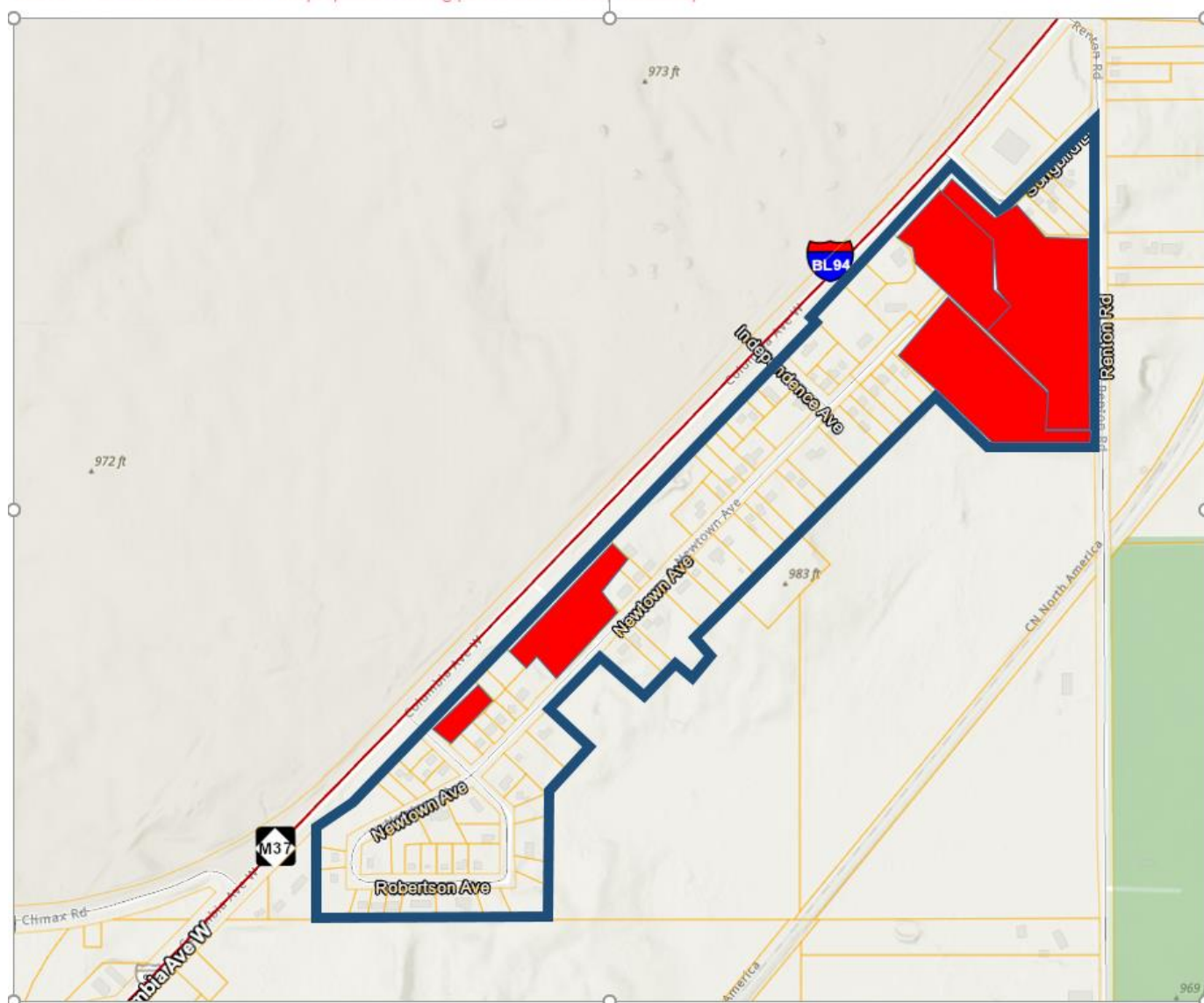


Figure 4: Parcels proposed to be rezoned from I-2 Heavy Industrial to R-1A Single-Family Residential

Applicable Zoning Ordinance Provisions

The subject parcels are currently zoned I-2 Heavy Industrial. The parcels are surrounded to the east and south by the I-2 Heavy Industrial District, with the G Green District immediately across Columbia Ave. W to the north.

When the City re-codified the Zoning Ordinance and Zoning Map in 2020, the subject parcels were zoned I-2 Heavy Industrial, in accordance with the adopted Land Use Plan. The purpose of the I-2 Heavy Industrial District is as follows:

Section 1240.17 PURPOSE

The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road an/or railroad and public and utility services.

The following is the list of Permitted Uses, Special Land Uses, and Existing Uses in the I-2 Heavy Industrial District:

SECTION 1240.17 I-2 HEAVY INDUSTRIAL DISTRICT.

A. PURPOSE	
The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road and/or railroad and public and utility services.	
B. PERMITTED USES	C. SPECIAL LAND USES
<ul style="list-style-type: none"> • Artisan/Maker Space • Automobile Repair (Section 1251.04) • Automobile Service Station (Section 1251.05) • Brewpub • Carry-Out Restaurant • Distillery, Winery - w/ or w/o food • Drive-In Restaurant • Drive-Thru Restaurant (Section 1251.13) • Essential Services • Farm Implements and Heavy Machinery Sales • Financial Institutions • Full-Service Restaurant • Kennels (Section 1251.22) • Limited Service Restaurant • Manufacturing • Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.23) (Section 1251.25) • Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24) • Marihuana: Medical and Adult Use Marihuana Grow Operation (Section 1251.23) (Section 1251.27) • Marihuana: Medical and Adult Use Marihuana Processing Facility (Section 1251.23) (Section 1251.28) • Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29) • Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility (Section 1251.23) (Section 1251.30) • Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.23) (Section 1251.31) • Microbrewery (Section 1251.34) • Outdoor Recreation/ Public (Section 1251.35) • Religious Institutions (Section 1251.38) • Research and Development • Transportation and Logistics • Utility-Scale Solar Energy Facility (Section 1251.48) • Vehicle Repair, Major (Section 1251.50) • Warehouse • Wholesale 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1250.04 D) • Adult Business (Section 1251.01) • Automobile Car Wash Establishment (Section 1251.03) • Bar, Tavern, or Saloon • Cemetery (Section 1251.10) • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12) • Hospital > 20,000 s.f. (Section 1251.18) • Institutions of Higher Education • Junk or Salvage Yard (Section 1251.21) • Nightclub • Parking as a Principal Use • Retail Sales < 5,000 s.f. • Retail Sales 5,000 to 17,000 s.f. • Retail Sales > 17,000 s.f. • Self-Storage Facilities (Section 1251.42) • Utility-Scale Wind Energy Facility (Section 1251.49)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

D. EXISTING USES	
<ul style="list-style-type: none"> Single Family Dwelling Unit Detached 	
E. ACCESSORY USES	
<ul style="list-style-type: none"> Accessory Buildings (Section 1260.01) Bar, Tavern, or Saloon Carry-Out Restaurant Nightclub Office < 5,000 s.f. Office 5,000 to 17,000 s.f. Office > 17,000 s.f. State Licensed Child Care Family Home, 1-6 Children (Section 1251.43), with SLU approval State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval 	
F. DIMENSION REGULATIONS	
<i>Lot Standards</i>	<i>I-2</i>
<i>Minimum Lot Area (sq. ft.)</i>	2,900
<i>Minimum Lot Width (ft.)</i>	60
<i>Maximum Percent of Building Coverage</i>	NL
<i>Front Yard Setback (ft.)</i>	25
<i>Rear Yard Setback (ft.)</i>	25 (<i>H</i>)
<i>Side Yard Setback (ft.)</i>	(<i>G</i>)
<i>Maximum Building Height</i>	NL
<i>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.</i>	

As was discussed, while single-family detached dwellings are permitted as an “Existing Use” within the district, the ordinance provides no definition for this category, nor includes any baselines or parameters for rebuilds in the case of a natural or man-made disaster or catastrophic loss. Determining when a use “ceases to exist” becomes of principal importance. However, again, the Zoning Ordinance is silent as to any sort of definition or standard relating to a use’s “cessation.” Therefore, uses included under the “Existing Uses” category by default must be treated as legal-nonconformities, and therefore are subject to the standards of Section 1270.02 (Damaged Buildings), which reads as follows:

SECTION 1270.02 DAMAGED BUILDINGS.

Except for as provided herein, no building that has been damaged by fire, explosion, act of God or the public enemy, shall be restored, except in conformity with this Zoning Code.

- A. Restoration can occur if the replacement or repair costs do not exceed the current year’s assessed value contained in the City of Battle Creek assessing records.
- B. In situations where a legal nonconforming residential building has not intentionally been damaged or destroyed to an extent exceeding the current year’s assessed value and the damaged residential building is within a 300 foot radius comprised of at least 50% of other nonconforming residential properties, the residential unit may be repaired, rebuilt or replaced within 12 months of such damage or destruction, provided that such repairs or rebuilding or replacement does not expand more than 25% of the original ground floor area of the residential use or building so long as the expansion meets all other zoning requirements and the following standards:
 - 1) The change will maintain the building in safe repair
 - 2) The change will protect public health, safety, and welfare
 - 3) The change will lead to increased compliance with the specified zoning district
 - 4) The change will produce an accessory dwelling unit or building that is incidental to the existing building.

Section 1270.02(B) allows for reconstruction of legal-nonconforming buildings which are damaged to an extent exceeding the current year's assessed value IF additional criteria are met. Therefore, while at a certain point in time a legal-nonconformity may be defined as "having the ability to rebuild," the conditions which provide for the ability to rebuild can change may not hold true into the future. In limiting the ability to rebuild to damages not exceeding the current year's assessed value without meeting additional criteria means that, potentially, a house completely destroyed by fire, weather event, etc. would likely not have the opportunity to be reconstructed.

Rezoning these residentially used parcels to the R-1A Single-Family Residential District would subject the properties to the following regulations:

SECTION 1240.06 R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT.

A. PURPOSE

The R-1A district is intended for areas of primarily single-family detached residential properties of a semi-suburban to suburban, low-density character, usually served by City water and sewer.

B. PERMITTED USES

- Community Garden ([Section 1251.11](#))
- Essential Services
- Outdoor Recreation/ Public ([Section 1251.35](#))
- Public K-12 Schools
- Single Family Dwelling Unit Detached

C. SPECIAL LAND USES

- Adaptive Reuse ([Section 1250.04 D](#))
- Bed and Breakfast ([Section 1251.08](#))
- Campground ([Section 1251.09](#))
- Cemetery ([Section 1251.10](#))
- Institutions of Higher Education
- Private K-12 Schools
- Personal-Scale Wind Energy Facility ([Section 1251.37](#))
- Religious Institutions ([Section 1251.38](#))

Refer to [Section 1230.06](#) for definitions of uses and refer to [Chapter 1251](#) for development standards for specific uses.

D. ACCESSORY USES

- Accessory Buildings ([Section 1260.01](#))
- Accessory Dwelling Unit, with SLU approval
- Home Occupation ([Section 1251.17](#))
- Personal-Scale Solar Energy Facility ([Section 1251.36](#))
- State Licensed Child Care Family Home, 1-6 Children ([Section 1251.43](#))
- State Licensed Child Care Group Home, 7-12 Children ([Section 1251.44](#)), with SLU approval
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons ([Section 1251.45](#))
- State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons ([Section 1251.46](#)), with SLU approval
- State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons ([Section 1251.46](#)), with SLU approval

E. DIMENSION REGULATIONS

<i>Lot Standards</i>	<i>R-1A</i>
<i>Minimum Lot Area (sq. ft.)</i>	7,500
<i>Minimum Lot Width (ft.)</i>	60
<i>Maximum Percent of Building Coverage</i>	30
<i>Front Yard Setback (ft.)</i>	30
<i>Rear Yard Setback (ft.)</i>	35
<i>Side Yard Setback (ft.)</i>	8
<i>Maximum Building Height</i>	35 feet, 2.5 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.

As detached single-family dwelling units are a permitted use by right, the homeowners in this area would no longer be considered “legal-nonconforming,” and thus would be able to freely rebuild (or build and establish a new single-family use upon a vacant lot). Under these conditions, lenders would likely be satisfied with conditions permitting the future reconstruction of all or a portion of a single-family detached use, thereby relieving homeowners of the burden that comes with potential buyers not being able to secure financing for the homes.

Section 1281.01 addresses Zoning Ordinance / Map Amendments. Specifically, Section 1281.01(D) provides the following standards for review of amendments to the Ordinance or to the Zoning Map:

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 (and is viewable in the previously addressed Figure 2), the properties proposed for rezoning were included in the “Production and Employment Center” category of the adopted 2018 Land Use Plan. While this may have made sense given the subject parcels’ location with relation to I-94, the airport, and along a major rail route, as well as the parcels’ relatively rural location outside of the Urban Growth Boundary.

While categorization as a “Production and Employment Center” may have made sense at the time strictly from a planning perspective, the reality on the ground starkly differs given the historically established single-family neighborhood which continues to thrive in this area. The reality is that the parcels in this area are relatively small when considered from an industrial perspective, and the prospects for a single owner acquiring enough properties for use as a legitimate industrial purpose seem remote. In the instance a single owner were able to acquire sufficient land area, the impact of an additional industrial use upon an established neighborhood of approximately 72 single-family detached dwelling units must also be taken into consideration. Finally, the impact of the current categorization as a “Production and Employment Center” has led to a zoning classification of I-2 Heavy Industrial, which has placed homeowners in the area in jeopardy with regard to legal-nonconforming status and its consequences on the ability to rebuild in the event of a disaster, as well as upon prospective buyers’ ability to secure financing.

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. Approximately half of the subject properties previously enjoyed a single-family residential zoning classification (generally those properties along and to the southeast of Newtown Ave. and along Robertson Ave.). While the subject properties to the northwest of Newtown Ave. along Newtown Ave., Columbia Ave. W, and portions of Songbird Ave. and Robertson Ave. were previously zoned either C-2 General Business District or C-3 Intensive Business District, staff finds it reasonable to consider the smaller properties and those with established single-family residential uses for rezoning to single-family residential as well.

Importantly, the following parcels (larger properties and those used for industrial or commercial purposes, as well as those under the control of the Battle Creek TIFA) are NOT included within this request, and are recommended to maintain their current I-2 Heavy Industrial District classification:

Street Address	Parcel ID#
4417 W Columbia Ave.	0069-00-196-0
4407 W Columbia Ave.	0069-00-200-0

Newtown Ave.	0069-00-240-0
4647 W Columbia Ave.	0619-41-738-0
W Columbia Ave.	5740-10-456-0

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 homeowners in this area, staff has not received any comments from the neighborhood.

Commissioners will want to note that following the publication and mailing of notices, staff has answered a handful of questions from property owners within the area of the proposed rezone. At the time of the writing of this report, staff believes all outstanding concerns and questions have been addressed.

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 properties as “Production and Employment Center,” which corresponds with the current I-2 Heavy Industrial District zoning classification. However, in accordance with the provisions of Section 1281.01(D.1), staff finds that conditions within the subject area warrant a change in zoning classification to more accurately reflect current (and likely future) uses within the subject area. While conditions in the area have not changed since the adoption of the 2108 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 intends at a later date to pursue a Master Plan amendment which would align the adopted Land Use Plan with the proposed rezoning that is the subject of this report.
- The subject area along Newtown Ave., Robertson Ave., Columbia Ave. W, Independence Ave. and Songbird Ln. is primarily an established single-family neighborhood, with the majority of homes having been constructed during the 1940’s. No changes in use are anticipated as a result of the proposed rezoning. Staff anticipates that the existing infrastructure in the area is sufficient to support the proposed rezoning and the continuation of the current land uses within the subject area.
- Staff does not find that the proposed rezoning would negatively impact those properties within the subject area which would maintain their current I-2 Heavy Industrial classification. While a handful of properties within the subject area would remain zoned I-2 Heavy Industrial, staff does not view this as significant isolation within the single-family neighborhood as multiple I-2 properties would still exist. Additionally, the surrounding area to the south and east of the subject area remains zoned I-2. The proposed rezoning simply seeks to align the zoning map

with current (and likely future) uses of the properties within the subject area in order to relieve homeowners of their legal-nonconforming status.

Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Support Material

Correspondence Regarding Proposed Rezoning
Section 1281.01 (Zoning Ordinance / Map Amendments)
Map of Proposed Rezoning Location

**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for Wednesday, October 26, 2022**

MEETING CALLED TO ORDER:

By Chairperson Godfrey at 4:01 p.m. This meeting was held in person.

ATTENDANCE: Chairperson Godfrey asked for a roll call attendance.

Commission Members Present:

Comm. Newman, present, in Battle Creek
Comm. Spranger, present, in Battle Creek
Comm. Godfrey III present, in Battle Creek
Comm. Gray, present, in Battle Creek

Mayor Behnke, present, in Battle Creek
Comm. Morris, present, in Battle Creek
Vice Mayor Reynolds, present, in Battle Creek

Commissioners Absent: Comm. Laws

Commissioners Excused: Mayor Behnke (@ 5:28PM)

Staff Present: Travis Sullivan, Planner, Susan Cronander, Planning Administrator, Marcie Gillette, Community Services Director, Crystal Bax, Customer Service Representative, Marcel and Stoetzel, Deputy City Attorney.

APPROVAL OF MINUTES: Previous meeting minutes submitted for approval for September 28, 2022.

MOTION MADE BY COMM. NEWMAN TO APPROVE THE SEPTEMBER 28, 2022 MEETING MINUTES AS PRESENTED. SECONDED BY VICE MAYOR REYNOLDS.

ROLL VOTE: Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: 2 e-mail correspondence were provided to the board by staff.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

CHAIRPERSON GODFREY asked to open the public hearing for item 6A (#S-14-22) on the agenda.

- A. SPECIAL USE PERMIT #S-14-22:** Petition from Kelly Gast, requesting a Special Use Permit for property located at 24 Golden Avenue. Battle Creek, MI 49015. The request is for an In-Home Group Child Care Home for up to 7-14 children. Property is zoned “R-1A Single Family Residential District” pursuant to Section 1240.06 of the zoning code. PARCEL # 4690-08-506-0

Staff Presentation: Susan Cronander, Planning Administrator, gave the staff report presentation. The applicant is seeking a special use permit to operate a group child care home based business out of the home at 24 Golden Avenue. The proposed capacity of the daycare related to this request is for up to 14 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6:00am and 6:00pm each day,

Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements. Petition No.S-14-22 24 Golden Avenue, Parcel #4690-08-506-0

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other facets of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

Staff finds the request consistent with the general special use standards listed in 1281.05.

Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Day Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:

- 1. All necessary approvals and any required permits shall be obtained, 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 Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of fourteen (14) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- 3. Pursuant to Chapter 1281.02, 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.**

And one additional request by Planning Commission is that a fence needs to be put in place for safety measures.

COMMISSIONER DISCUSSION:

Chairperson Godfrey III asked the planning administrator if they would have to come before the board for additional approval

Susan C. Cronander, Planning and Zoning Administrator stated that according to the city attorney they would not need to come before the board for additional approval.

Deputy City Attorney Marcel Stoetzel confirmed this to be the case. But the zoning code would need to amend by the board to allow for the same regulations in regards to the number of children as the state.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #S-14-22 was present to speak.

Applicant: Kelly Gast, petitioner for Special Use Permit #S-14-22 (24 Golden Avenue) gave some of her background information about her current daycare and group home business at her current residence in the Upper Peninsula. She stated she is looking forward to being a part of the community and providing a great need to that particular area and gave statistical knowledge of the need for daycare in that area and surrounding areas in the City of Battle Creek. Kelly Gast offered her support of any questions the board may have.

Public Comments:

Janine Reichardt of 261 S Leland Dr, asked the board to consider putting together a Children at Play in the area.

Talia Champlin of 116 S Lincoln Blvd, realtor representing the seller, stated that the seller collected signatures of the surrounding properties stating that the neighbors were okay with the proposed use of the property, and gave information in regards to waiting lists for young children in the area.

John Shwark of 250 Martha Drive, stated that he felt the area was being slowly squeezed inward by businesses and commercial properties due to the uses allowed in their zoning district, and would rather see the area remain single family residential.

Kelly Gast, applicant addressed the safety concerns and explained how she can circumvent that issue with fencing and stroller systems for walks to the park.

MOTION MADE BY COMM. NEWMAN AND SECONDED BY COMM. MORRIS TO APPROVE #S-14-22 SPECIAL USE PERMIT FOR AN IN-HOME GROUP CHILD CARE HOME FOR UP TO 7-14 CHILDREN PURSUANT TO SECTION 1240.06 OF THE ZONING CODE. PARCEL # 4690-08-506-0 WHERE IN-HOME GROUP CHILD CARE HOME CAN BE ALLOWED AS A SPECIAL USE IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF AND THE PLANNING COMMISSION.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6B (#Z-02-22) on the agenda.

- B. REZONING REQUEST #Z-02-22:** Petition from the City of Battle Creek to rezone properties located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to the inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as “R-1A Single Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current “I-2 Heavy Industrial District” zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings

are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-02-22 was present to speak.

Applicant: The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

Public Comments:

Wayne Edmunds of 4521 W Columbia, asked of what properties were not included on the list of those to be rezoned, and whether property values will change for those that are being rezoned.

Commissioner Comments:

JOHN HUGHES asked to be recused from the passing of the motion due to potential conflict of interest.

MOTION MADE BY MAYOR BEHNKE AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE REZONING REQUEST #Z-02-22 TO REZONE PROPERTIES LOCATED ALONG ROBERTSON AVE., NEWTOWN AVE., W COLUMBIA AVE., INDEPENDENCE AVE. AND SONGBIRD LN. TO “R-1A SINGLE FAMILY RESIDENTIAL DISTRICT” PURSUANT TO SECTIONS 1240.06 AND 1281.01 OF THE ZONING CODE.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6C (#Z-03-22) on the agenda.

- C. REZONING REQUEST #Z-03-22: Petition from Summit Pointe requesting the rezoning of property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting to be rezoned as “T-4 Downtown Commercial District” pursuant to Section 1281.01 of the zoning code. PARCEL #: 9730-00-052-0

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. 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. 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.

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 non-conformity, 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.

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.

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.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-03-22 was present to speak.

Applicant: Richard Lindsey, outside council for summit pointe, explained that the rezoning is effort to allow for a pharmacy expansion

Public Comments: None. Public Hearing closed.

MOTION MADE BY MAYOR BEHNKE AND SECONDED BY COMM. NEWMAN TO APPROVE REZONING REQUEST #Z-03-22 TO REZONE 175 COLLEGE ST. TO “T-4 DOWNTOWN COMMERCIAL DISTRICT” PURSUANT TO SECTIONS 1240.14 AND SECTION 1281.05 OF THE ZONING CODE.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6D (#S-15-22) on the agenda.

D. SPECIAL USE PERMIT #S-15-22: Petition from Summit Pointe requesting a Special Use permit for property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting a Special Use Permit for an addition of a 1663sqft P a g e | 2 Agenda, cont. 10.26.22 PC M:\Planning Files\Planning Dept\1. Planning Commission\1.Agendas\Year 2022\PC Mtg. Agenda 10.26.22.docx 10 N. DIVISION ST. P.O. BOX 1717 BATTLE CREEK MICHIGAN 49016-1717 PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV pharmacy for the existing community mental health use that will

operate as an accessory to the main outpatient mental health practice (summit Pointe). Pursuant to Section 1260.01. PARCEL#: 9730-00-052-0

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. 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 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. 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.). Petition No. S15-2022 Parcels: 9730-00-052-0 175 College Street Page 4 of 9

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.

Applicant: Richard Lindsey, wanted to point out that to location of the site would be very beneficial to the patients to allow to be seen and pick their prescriptions up in the same place as well as for the use of the public and it will allow for all employees to be housed in the same building rather than a separate building.

Public Comments: None. Public Hearing Closed.

MOTION MADE BY COMM. NEWMAN AND SECONDED BY MAYOR BEHNKE TO APPROVE #S-15-22 SPECIAL USE PERMIT FOR THE CONTINUANCE AND ALTERATION TO THE EXISTING MEDICAL PRACTICE IN EXCESS OF 20,000 SQ. FT. PURSUANT TO SECTION 1240.14 AND SECTION 1281.05 OF THE ZONING CODE. PARCEL #9730-00-052-0 IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6E (#Z-04-22) on the agenda.

- E. REZONING REQUEST #Z-04-22:** Petition from the City of Battle Creek requesting the rezoning of properties located along S Kendall St. and Lafayette St. The properties are currently zoned "R-3 Multiple Family Residential District" with the petitioner requesting to be rezoned as "S Spark District" pursuant to Sections 1281.01 and 1240.18 of the zoning code. Parcels proposed to be rezoned are as follows: 2400-00-002-0, 2400-00-001-0 and 0601-32-144-0.

Staff Presentation: Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the owners of the above three parcels requesting a rezoning from R-3 Multiple Family Residential to S Spark District. The three subject parcels currently have functioning nonresidential businesses located on the parcels, and wish to revert back to a zoning district that include uses similar to their existing retail and storage uses. In 2019 (see Figure 6) these parcels were zoned I1 Light Industrial. Battle Creek's adopted 2018 Master Plan identifies this area including the subject parcels as one of the City's "Development Opportunity Centers" overlain on the Multi-Unit Residential category (see Figure 7.)

Because the parcels are within a “Development Opportunity Center” and the underlying category is a residential category, staff believes that the S Spark District is the best fit, since two other Multi-Unit Residential sections in the City that are also “Development Opportunity Centers” have been zoned to S Spark District without amending the 2018 Master Plan.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-04-22, request for rezoning of the three (3) parcels that are the subject of this petition and are identified in Table 1: “List Of The Three (3) Subject Parcels, Addresses And Uses”.

Applicant: The City of Battle Creek City staff had no additional comments.

Public Comments: Brian Smith owner of US Lumber at 100 S Kendall Rd, is a subject of the rezoning stated that his facility also is a state licensed firearms dealer and has plans for light assembly of weapons. Along with that they also manufacture trusses, door frames, and wall panels and in the future would like to manufacture steel roofing and was concerned that the rezoning of this area would affect his ability to allow for light assembly and manufacturing with the proposed district rezoning.

John Hart, small business development, stated that there are others included in this rezoning request and he was there to speak on their behalf, and they their wishes are similar to US Lumber.

MOTION MADE BY COMM. MORRIS AND SECONDED BY COMM. SPRANGER TO POSTPONE #Z-04-22 REQUEST FOR REZONING OF THE THREE (3) PARCELS 0601-32-144-0, 2400-00-002-0, 2400-00-001-0 for 90 days.

Commissioner Comments: Comm. Newman asked that if they were able to come forward sooner, if that would be allowed.

Comm. Morris and Chairperson Godfrey III agreed with Comm. Newman.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6F (#Z-05-22) on the agenda.

- F. REZONING REQUEST #Z-05-22:** Petition from the City of Battle Creek to rezone properties located along Dickman Road currently zoned as “T-3 Neighborhood Commercial District.” Due to inconsistency with the Land Use Plan, the City is requesting a rezoning of the area to “T-4 Downtown Commercial District” pursuant to Sections 1240.13, 1240.14 and 1281.01 of the zoning code.

Staff Presentation: Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road.

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.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the

2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels

The purpose of the T-3 Neighborhood Commercial District is 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. The purpose of the T-4 Downtown Commercial is 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.

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-05-22 was present to speak.

Applicant: The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

Public Comments:

Marvin Day 16 Enwood St. stated he frequently bikes through downtown as that is his main form of transportation, and he mentioned how some of the areas through the proposed rezoning location have narrow bike lanes and narrow shoulders that have made it very difficult to navigate through, and that he appreciates the city’s effort to address this area as it is dangerous and he looks forward to potential redevelopments that have been proposed through this particular strip of Dickman Road.

MOTION MADE BY COMM. GRAY AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE #Z-05-22 REQUEST FOR REZONING FROM T-3 NEIGHBORHOOD COMMERCIAL TO T-4 DOWNTOWN COMMERCIAL OF SIXTEEN (16) PARCELS LOCATED ALONG DICKMAN ROAD FROM MCCAMLY ST. S. TO 80 RIVERSIDE DR. / DICKMAN ROAD AT GOGUAC ST. E. AS PRESENTED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

.....
OLD BUSINESS: None

NEW BUSINESS:

2021 Planning and Zoning Annual Report

Marcie Gillette, Community Services Director, gave the report to summarize 2021.

In 2021 for planning commission there were a total of 11 items that came before the board. In previous years the numbers were lower and it seems that in 2021 there was a swinging back to a pre-covid era in numbers. In spring of 2021 there were a group of map amendments and texts amendments made to the zoning ordinance due to an oversight.

With regard to Zoning Board of Appeals there were a total of 12 items that came before the body 5 of which were approved and 6 denials and there was a noticeable trend upward to the pre-covid era again with that as well.

For Historic District Commission there were a couple of items that came before the body and there were also 5 items that were reviewed by staff and were administratively approved for minor classes of work.

In 2021 we still continued our work with the redevelopment ready and being a certified community in 2021 there were 23 project site plan reviews.

There were a total of 221 zoning enforcements in 2021 which is down a little bit from the pre-covid period of time 200 of those were rental registrations, 1 non-conforming investigation, and 20 illegal use investigations, and 100 miscellaneous enforcements such as parking, recreational vehicles, fencing etc.

There were 1,501 permits that were reviewed by the planning division as part of the application and approval process, 908 of those were residential, 244 commercial, 237 fences, 72 sign, and 40 property demolition.

COMM. NEWMAN MADE A MOTION TO RECEIVE THIS REPORT AS PRESENTED, COMM. GRAY SECONDED.

ALL IN FAVOR, NONE APPOSED.

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM COMMISSION MEMBERS AND STAFF: None

ADJOURNMENT:

Chairman Godfrey adjourned the meeting at 5:55 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning



Ordinance

NO. 15-2022

A proposed Ordinance to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

BATTLE CREEK, MICHIGAN - 11/15/2022

The City of Battle Creek Ordains:

Section 1. An ordinance to rezone sixteen (16) parcels listed below from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Parcel: 8630-11-005-0 Address: 200 SW Capital Ave
Parcel: 8630-11-001-0 Address: 170 SW Capital Ave
Parcel: 8630-10-001-0 Address: N/A
Parcel: 8630-10-002-0 Address: 185 SW Capital Ave
Parcel: 8630-10-003-0 Address: 199 SW Capital Ave
Parcel: 8630-10-004-0 Address: N/A
Parcel: 9250-00-003-0 Address: N/A
Parcel: 9250-00-001-0 Address: 235 SW Capital Ave
Parcel: 9250-00-002-0 Address: N/A
Parcel: 9250-00-020-0 Address: 45 Cleveland St
Parcel: 9250-00-018-0 Address: N/A
Parcel: 9250-00-019-0 Address: N/A
Parcel: 9250-00-017-0 Address: N/A
Parcel: 1530-00-150-0 Address: 80 Riverside Dr.
Parcel: 1530-00-156-0 Address: N/A
Parcel: 1530-00-155-0 Address: N/A

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

11/15/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A proposed Ordinance to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. 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 sites include sixteen (16) parcels located along Dickman Road from McCamly southeast to Riverside Dr. at Guguac and Dickman Road. Most of these parcels are vacant or have vacant buildings. Aside from the small parcels that line the larger parcels or border the roads, the main vacant parcels identified by this petition range in size from one to ten acres, with Reliable Refrigeration and the parcel east of it being exceptions. These parcels have previously hosted or are currently hosting commercial uses, and in the case of the parcel along Guguac, an apartment complex.

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. Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial.

When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the 2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels.

The parcels directly north of McCamly along Dickman Road are currently zoned B-1 Corridor Commercial. It is apparent that the adopted Master Plan envisioned a more intense use for the properties along Dickman Road; it is also apparent from the 2018 Downtown Plan that the Plan noted that this area containing the subject parcels needed revitalization.

The Downtown Plan considered the subject properties as potential connections to a future riverfront, a bridge between the adjacent neighborhood to the west and the downtown. Staff determined that a rezoning of the sixteen (16) properties to a T-4 Downtown Commercial District would be more appropriate than the wholly auto-oriented B-1 district or the properties’ current T-3 Neighborhood zoning due to the fact that it would fit the 2018 Master Plan Corridor Commercial category and be more likely to encourage development for these mostly vacant parcels along/near Dickman Road.

The parcels proposed for rezoning also lie along or near non-motorized routes and due to being located along the Dickman Road corridor, have direct access into Fort Custer Industrial Park, a major employment center for the City of Battle Creek.

The purpose of the T-3 Neighborhood Commercial District is 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.

The purpose of the T-4 Downtown Commercial is 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.

DISCUSSION OF THE ISSUE

POSITIONS

The Planning Commission held a Public Hearing on October 26, 2022. The Planning Commission reviewed the list of conditions for consideration when requesting an amendment to the Zoning Map. Section 1281.01D. Zoning Ordinance and Map Amendments- Standards of Review for Amendments, lists twelve (12) criteria that shall be considered in making findings, recommendations and a decision. The Planning Commission recommends to the City Commission approval of the rezoning request with the following findings:

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.

The Master Plan already identifies a more intense use – Corridor Commercial - for the subject parcels than Neighborhood Commercial, which makes the T-4 more appropriate to begin with than the T-3. Second, rezoning the sixteen (16) parcels that are the subject of this petition from T-3 Neighborhood Commercial to T-4 Downtown Commercial is consistent with the 2018 City of Battle Creek Master Plan, especially Goals 1, 4 and 5 which focus on investment in the city core, revitalizing commercial corridors and elevating the downtown by allowing more density, mixed use and flexibility without sacrificing the walkable form based guidelines compatible with downtown and the adjacent neighborhood. This rezoning request also furthers Master Plan Goals 8 & 9 which encourage transit and incentivizing workers to live in the core areas of the City – both of which rely on density, walkability and mixed uses. In addition, the 2018 Downtown Battle Creek Plan directly identifies the subject parcels as part of the core area of the City and a focus of reinvestment. Finally, since the Master Plan was adopted, construction costs have risen dramatically, and the T-4 offers the most flexibility without sacrificing the urban form that attracts residents and acts as a link between the core downtown and adjacent neighborhoods.

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

Rezoning would be consistent with the intent and purpose of this Zoning Ordinance, as the purpose of the Zoning Ordinance is to be in accord with the Master Plan as well as generally promote the safety, health, morale, convenience and general welfare of the public and community, and the proposed rezoning would further the intent of the 2018 Master Plan as shown on the Master Plan’s Land Use Map.

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

Dickman Road is classified as an “Other Principal Arterial” on the National Functional Classification Map.

Capital Avenue is classified as a “Minor Arterial”. Upton, McCamly and Goguac are “Major Collectors”. There is plenty of street system capacity to support future development.

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.

The City’s Utilities Viewer shows plenty of water and sanitary sewer lines in the proposed rezoning area. The parcels proposed for rezoning are also not in a designated flood zone.

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

It is not known if these parcels were zoned T-3 in error; however, the T-4 designation definitely more closely matches the Corridor Commercial designation of the Land Use Plan map in the 2018 adopted City of Battle Creek Master Plan.

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

The amendment does not result in exclusionary or spot zoning. If anything, T-4 is a bit more inclusionary than the T-3 as it potentially allows more density, and sixteen parcels rezoned to T-4 across the road from more T-4 zoned parcels does not constitute 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.

The sixteen subject properties are vacant urban parcels that were former developed sites. The parcels are not located in a flood zone, wetland, well head protection area or any other type of protected area.

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.

As can be seen in a zoning district comparison, forty-two (42) of the fifty one (51) uses are the same. Exceptions are: senior living, drive-through restaurants, hospitals, banquet halls, research and development, and office and retail over 17,000 sq. ft. Except for banquet halls, all of the other uses just previously mentioned are special uses that would have to meet special use criteria to be approved – and conditions could also be required. If any of these uses conflicted with the stated form-based goals in the T-4, the 2018 Master Plan goals, and the 2018 Downtown Plan goals for this area and adjacent neighborhood, they could face heavy conditions or perhaps even denial, depending on each individual situation.

In addition, hospitals generally need more acreage than is being offered on these sixteen parcels, with a minimum requirement of five (5) acres and an additional requirement for a 100 foot setback from all property lines. A drive-through restaurant also requires a fair amount of land due to the fact that a by-pass lane is required that is separate from the drive through lane(s). Also, just like the current zoning of T-3 on the sixteen (16) parcels, any new development on T-4 zoned property is subject to the City Zoning Ordinance’s form-based guidelines.

Finally, the proposed rezoning area lies adjacent to T-3, Green, B-1, and multiple family zoning districts thereby providing a compatible transition district into the core downtown. The mostly sixteen (16) vacant properties with the added flexibility and density of the T-4 district could become more attractive to

developers, thereby transforming several acres of sometimes persistently vacant, empty land into a walkable, form-based lively environment which could then encourage investment in the neighborhood to the west.

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.

The boundaries follow the designated “Corridor Commercial” land use category already outlined on the 2018 Master Plan map.

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.

Because of the “Corridor Commercial” designation on the 2018 Master Plan Land Use Map, and the fact that the area that surrounds these sixteen (16) properties is identified as one of the gateways to the core downtown and a link between the neighborhood to the west the core downtown, the T-4 Downtown Commercial District is definitely the most appropriate, as the T-4 allows more density and is more flexible, yet is still required to follow the same form-based guidelines that the current T-3 zoning district requires.

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.

The majority of the use are already similar. The dimensional flexibility, and perhaps the density of the T-4 as opposed to the T-3 zoning is hopefully, what holds more attraction for investment on these parcels. Changing the dimensions or the density in the T-3 district would only serve to make the T-3 the same district as the T-4.

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

The sixteen (16) subject parcels are all adjacent, and also lie across Dickman Road and the Kalamazoo River from a T-4 zoning district, therefore the result of this rezoning petition would not be an isolated zoning district.

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> Dickman_Road_Rezonings_102022_staff_report.pdf	Z05-2022 Rezone (Along Dickman Road) Staff Report
<input type="checkbox"/> PC_10.26.22_Meeting_Minutes_DRAFT.pdf	PC 10.26/22 Draft Meeting Minutes



Battle Creek City Planning Commission Staff Report for the October 26, 2022 Regular Meeting

To: Planning Commissioners

From: Susan C. Cronander, Planning and Zoning Administrator

Subject: Petition Z-05-22, request for rezoning from T-3 Neighborhood Commercial to T-4 Downtown Commercial of sixteen (16) parcels located along Dickman Road from McCamly St. S. to 80 Riverside Dr. / Dickman Road at Goguac St. E. (For a full list of parcels, please see **Table 1.**)

Summary

This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road. The rezoning petition emanated from the 2018 adopted City of Battle Creek 2018 Master Plan's Future Land Use Plan map which shows the subject parcels as "Corridor Commercial" (see **Figure 4.**) Battle Creek's adopted 2018 Downtown Plan also identifies this area along Dickman and roads leading into the core downtown area as a potential catalyst for redevelopment and connecting the adjoining neighborhood to a naturalized Kalamazoo River and the core downtown of Battle Creek.

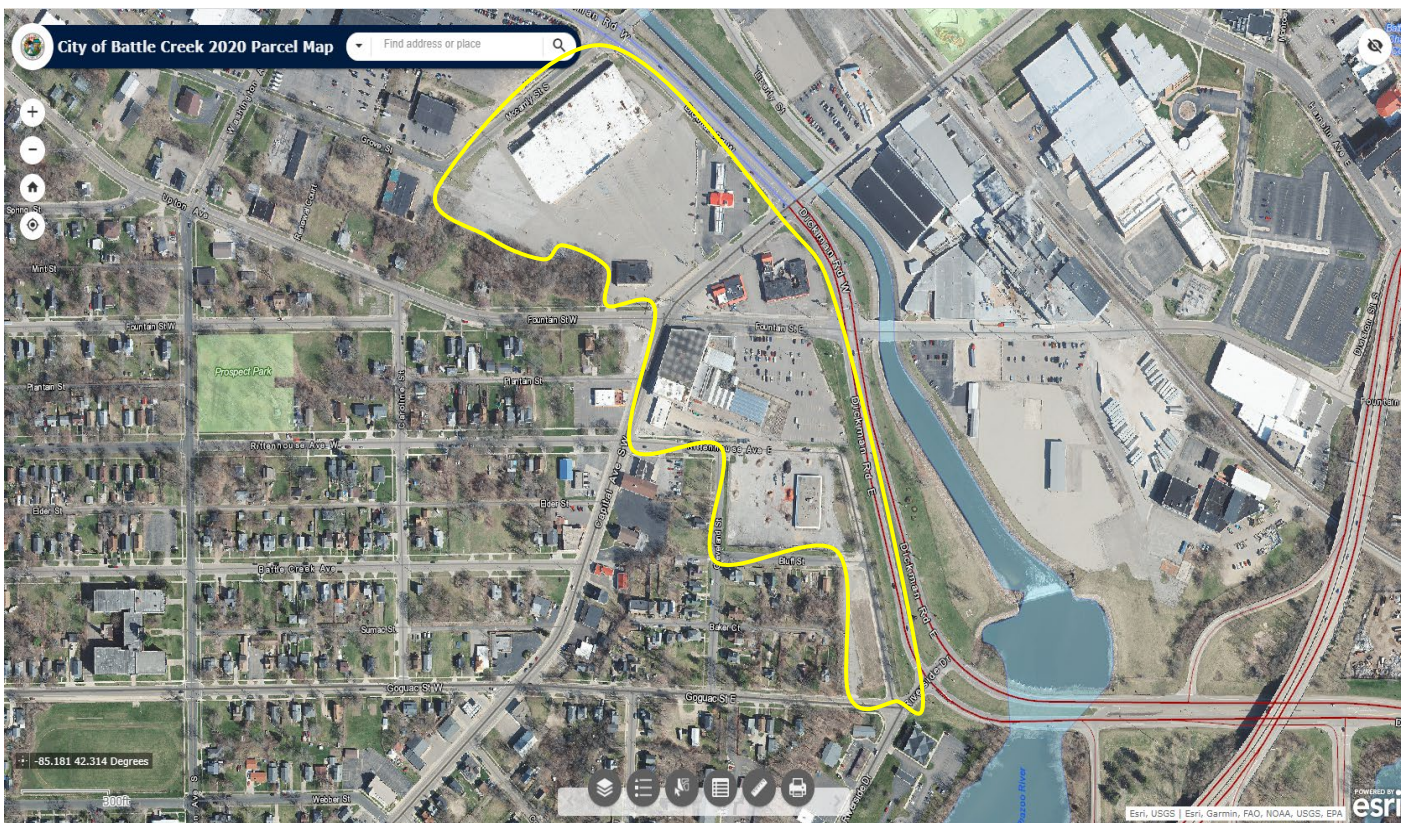


Figure 1: Aerial of the Sixteen (16) Subject Properties Along Dickman And Riverside Roads.

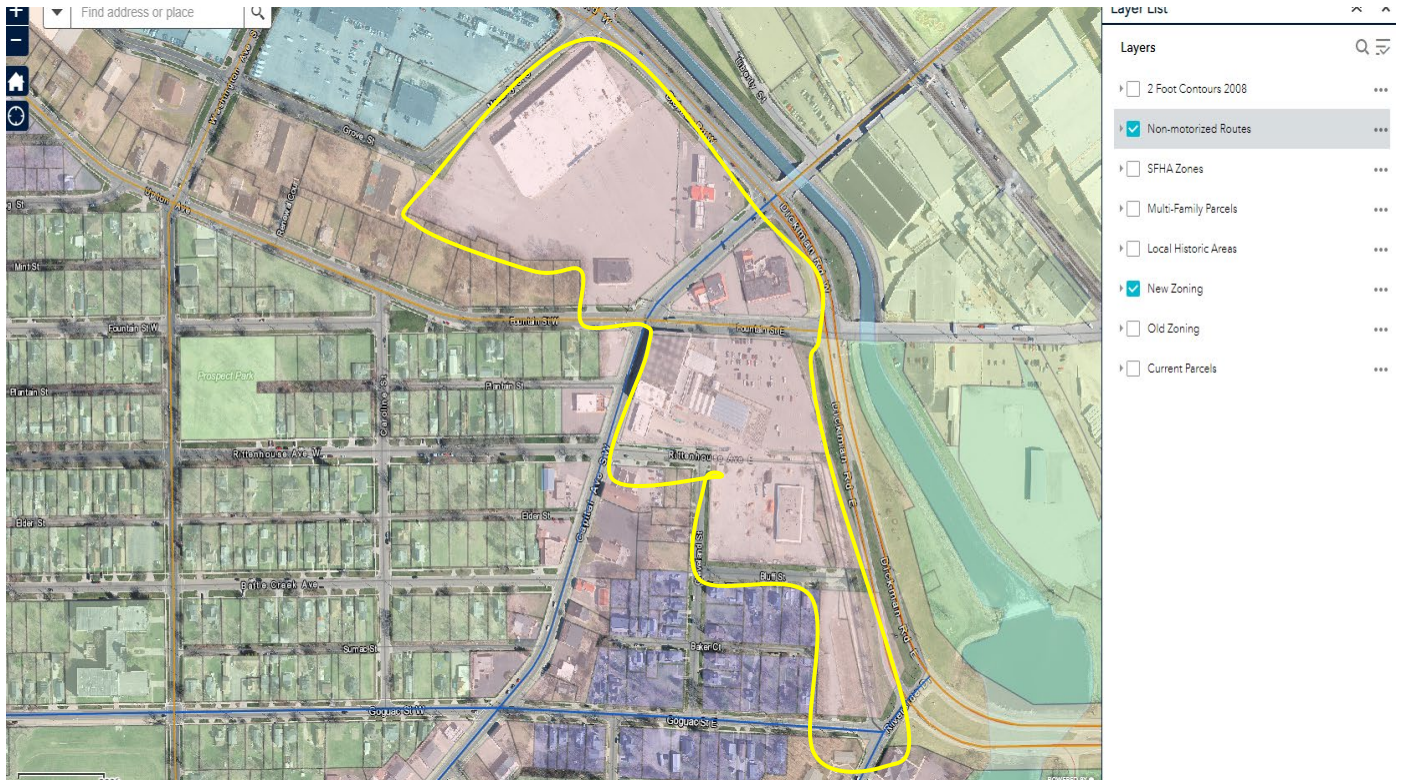


Figure 2: Zoning Overlay on Aerial of the Sixteen (16) Subject Properties.

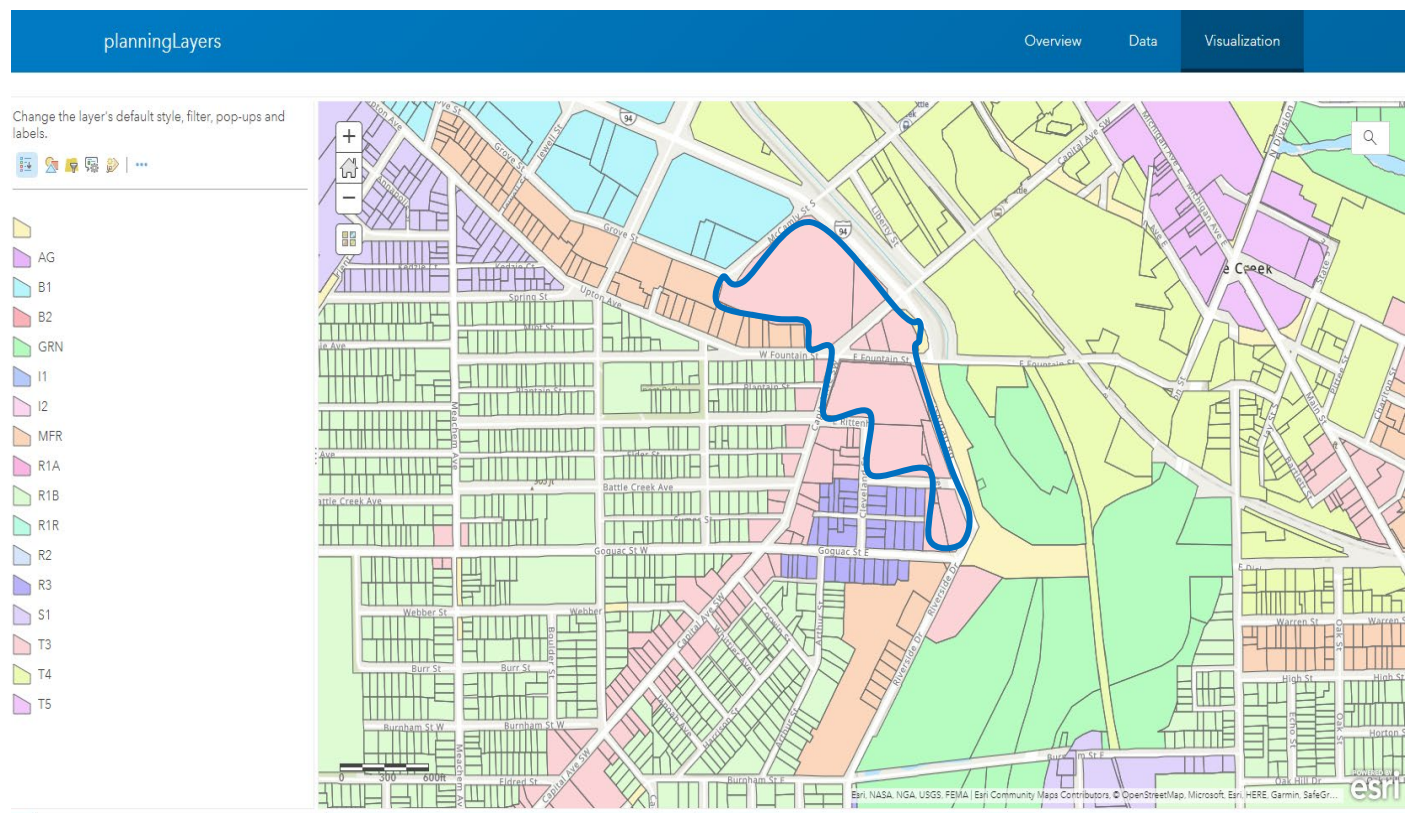


Figure 3: The Sixteen (16) Subject Properties' Current Zoning. Note all of the Current T-3 Zoned Properties Along Capital Avenue West of the Subject Properties, and the Green and T-4 to the East, B-1 and MFR to the Northwest and R-3 Along with T-3 to the South.



Photo 1: Former Kmart site, now vacant, looking south from McCamly to Horrocks on Capital Avenue SW.



Photo 2: Former Kmart site at the Corner of McCamly and Dickman Road.



Photo 3: Dickman Road approaching Capital Ave.



Photo 4: Dickman Road looking at the BP gas station, corner of Capital Ave and Dickman Ave.



Photo 5: View from Dickman of vacant property and refrigeration business on the south side of Capital Ave.



Photo 6: Looking west toward Horrocks parking lot and landscaping center from Dickman Rd.



Photo 7: Proceeding further south along Horrocks toward Rittenhouse Ave S.



Photo 8: Looking southwest from Dickman toward the vacant building on Bluff St.



Photo 9: The vacant building and site on Bluff St. and Riverside Dr. – which runs parallel with Dickman Road.



Photo 10: The vacant building on Bluff St. and the multiple family zone to the south.



Photo 11: Approaching the vacant parcel at Riverside Dr. and Goguac St E.



Photo 12: Vacant parcel at Riverside Dr. and Goguac St. E.

Background/Property Information

The subject sites include sixteen (16) parcels located along Dickman Road from McCamly southeast to Riverside Dr. at Goguac and Dickman Road. As can be seen in the twelve (12) photos above, most of these parcels are vacant or have vacant buildings. Aside from the small parcels that line the larger parcels or border the roads, the main vacant parcels identified by this petition range in size from one to ten acres, with Reliable Refrigeration and the parcel east of it being exceptions. These parcels have previously hosted or are currently hosting commercial uses, and in the case of the parcel along Goguac, an apartment complex.

Details regarding the current use of each parcel are listed from the northwest to southeast in the following Table.

Table 1: List of the Sixteen (16) Subject Parcels, Addresses and Uses

Parcel ID	Address	Parcel Size (sq. ft.)	Historical Use	Current Use
8630-11-005-0	200 SW Capital Ave	434,031.84	Kmart	Vacant
8630-11-001-0	170 SW Capital Ave	55,800.36	Gas Station (acc to BSA)	Gas Station/ Convenience Store
8630-10-001-0	No address	46,522.08	Comm/Office	Vacant
8630-10-002-0	185 SW Capital Ave	18,948.6	Commercial	Vacant building
8630-10-003-0	199 SW Capital Ave (Reliable Refrigeration)	6,098.4	Commercial	Commercial
8630-10-004-0	No address	15,071.76	Mich State Highway Commission	Parkway / Dickman Road
9250-00-003-0	No address	7,753.68	City of Battle Creek	City of Battle Creek
9250-00-001-0	235 SW Capital Ave (Horrocks)	204,732	Commercial	Commercial
9250-00-002-0	No address (Horrocks)	11,456.28	Parking area / grass	Parking area / grass
9250-00-020-0	45 Cleveland St (45 Cleveland LLC)	114,519.24	Commercial	Vacant building
9250-00-018-0	No address (45 Cleveland LLC)	4,791.6	Parking area / grass	Parking area / grass
9250-00-019-0	No address (45 Cleveland LLC)	1,785.96	Parking area / grass	Parking area / grass
9250-00-017-0	No address (MDOT)	29,185.2	Riverside Dr. / Parkway	Riverside Dr. / Parkway
1530-00-150-0	80 Riverside Dr. (CC Land Bank)	48,177.36	Commercial	Vacant storage building
1530-00-156-0	No address (City of Batte Creek)	1,524.6	Parking area	Parking area
1530-00-155-0	No address (MDOT)	50,224.68	Riverside Dr. / Parkway	Riverside Dr. / Parkway

Applicable Zoning Ordinance Sections

Applicable Zoning Ordinance Sections are as follows:

1. Section 1240.13 T-3 Neighborhood Commercial District,
2. Section 1240.14 T-4 Downtown Commercial District, and
3. Section 1281.01 Zoning Ordinance / Map Amendments.

2018 City of Battle Creek Master Plan and the 2018 Battle Creek Downtown 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.

On the following page (**Figure 4**) is a portion of the Land Use Plan map depicting the subject properties, the Southern Gateway Recommendations Map from the 2018 Downtown Battle Creek Plan, and the relevant page of the Downtown Battle Creek Plan that lists recommended objectives for the area depicted on the map.

Land Use Classifications

 Agricultural & Rural Residential	 Production & Employment Center
 Traditional Neighborhood	 Community Open Space & Recreation
 Suburban Residential	 Transitioning Neighborhood
 Multi-Unit Residential	 Challenged Neighborhood
 Neighborhood Commercial	 Development Opportunity Centers
 Corridor Commercial	 Community Services
 Regional Commercial	 Urban Growth Boundary
 Downtown Commercial	

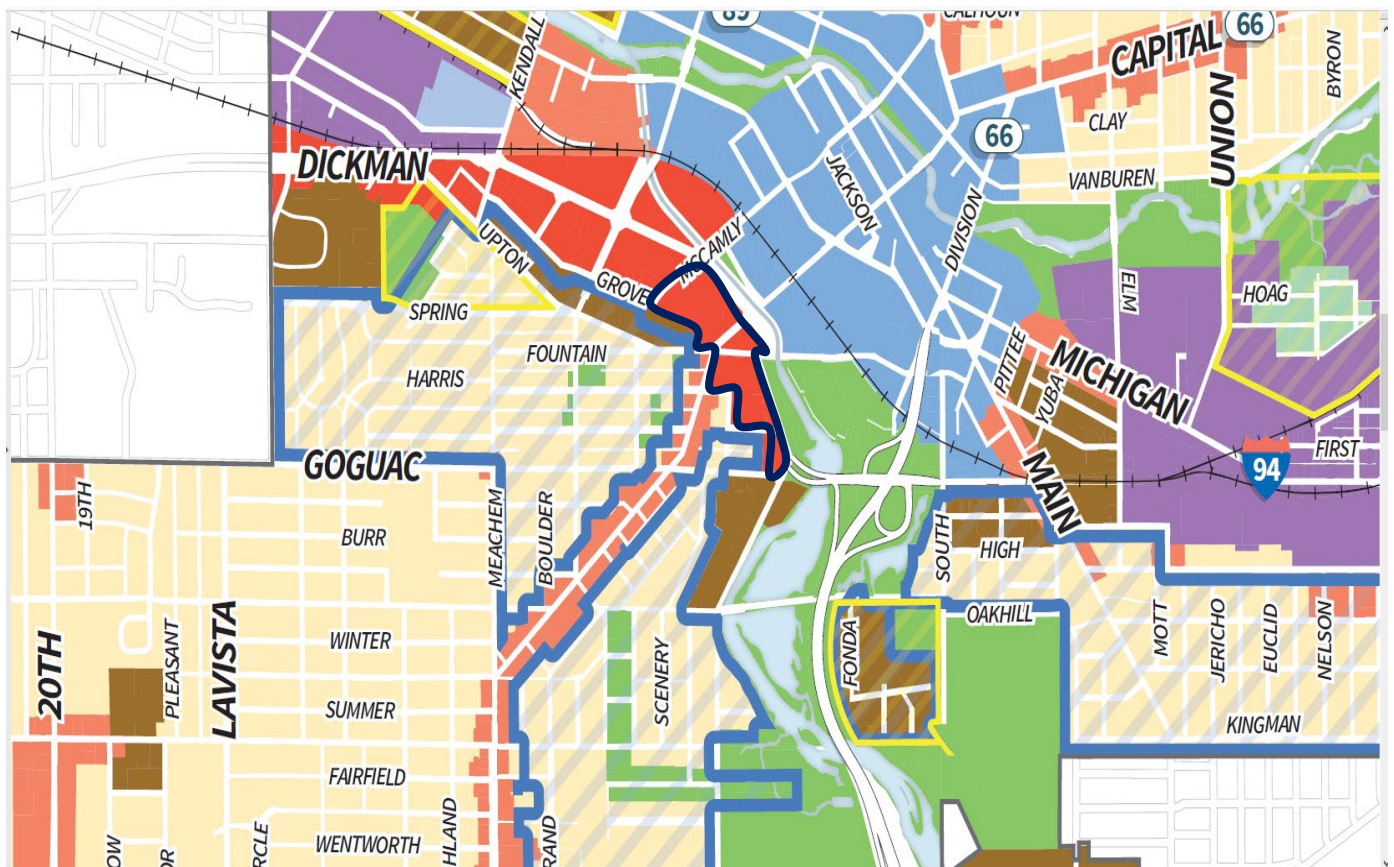


Figure 4: Future Land Use map, 2018 Battle Creek Master Plan. Subject Area Outlined in Black.

SOUTHERN GATEWAY RIVERFRONT RECOMMENDATIONS



Figure 5: 2018 Downtown Battle Creek Plan Map Illustrating Importance of the Subject Properties as a Gateway into Downtown and a link between the Neighborhood, River and Downtown.

CATALYTIC SITE - SOUTHERN GATEWAY RIVERFRONT

Restoring the Kalamazoo River's banks to their natural state was identified as an opportunity to encourage additional development and an improved anchor for the southern end of downtown. Mixed-use infill, enhanced signage and active and passive recreation uses were all identified during stakeholder meetings as components of site redevelopment.

CHALLENGES:

- Low activity + high visibility between active industrial uses— an “eyesore” at key gateway to downtown
- Truck thru route creates conflict with pedestrian uses
- Underutilized riverfront property
- Connections to adjacent neighborhoods
- Aging street and flood control infrastructure

OPPORTUNITIES:

- Support current whitewater planning efforts
- Enhanced aesthetics, signage for visitors into downtown
- Better balance between existing industry and passive recreation uses
- Feasibility for mixed-use infill
- Preserve flood control while enhancing environmental quality and access to water for recreation purposes

The Southern Gateway Riverfront was selected as an opportunity site for Downtown Battle Creek because of its proximity to the Downtown core, the declining of industrial uses, the possibility of an amenity-rich riverfront, and the ambitious re-naturalization plans brought forward by the community for the Kalamazoo River. The redevelopment of this section of the city allows for an opportunity to create a southern gateway from M-66 onto Dickman Road, and to better connect the neighborhoods to the north and southwest. The property is large and can be reimagined as new mixed use development, open area and greenspace, and as recreational gem on the river.

- Riverfront properties should be seen as assets and their revitalization should be made a priority for the City of Battle Creek
- The creation of a gateway treatment and roadway improvements for pedestrians and cyclists on Dickman coming into the downtown area from M-66 would help to make this area feel like an extension of the downtown
- Need to connect the neighborhoods across Dickman to downtown through streetscaping and better pedestrian and bicycle access in order

to make the Kalamazoo Riverfront feel like a part of the greater downtown area

- The Riverfront property should be predominately used for park space and waterfront mixed use development that extends movement and activity to this part of downtown
- Parks should offer a mix of passive and active uses to give neighborhood residents a reason to walk there
- Environmental cleanup efforts should be directed at making the land useable for development and park space
- The planning efforts towards the re-naturalization of the riverfront should be consulted and used when master planning the area
- Attendees of the design workshop expressed a desired to have this riverfront park dedicated to “The Bottoms”; an historically African American community that was removed for the predominantly industrial uses existing today
- The vacation of Liberty Street should be considered to add additional area for a catalytic development
- A pedestrian bridge and pathway connecting Lower Mill Pond to the Kalamazoo Riverfront should be considered to add additional access to the areas natural features



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Figure 6: Recommendations from the 2018 Battle Creek Downtown Plan Emphasizing Revitalization of the Area Including the Properties that are the Subject of this Petition.

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.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the 2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels. The parcels directly north of McCamly along Dickman Road are currently zoned B-1 Corridor Commercial. It is apparent that the adopted Master Plan envisioned a more intense use for the properties along Dickman Road; it is also apparent from the 2018 Downtown Plan that the Plan noted that this area containing the subject parcels needed revitalization. The

Downtown Plan considered the subject properties as potential connections to a future riverfront, a bridge between the adjacent neighborhood to the west and the downtown. Therefore, staff determined that a rezoning of the sixteen (16) properties to a T-4 Downtown Commercial District would be more appropriate than the wholly auto-oriented B-1 district or the properties' current T-3 Neighborhood zoning due to the fact that it would fit the 2018 Master Plan Corridor Commercial category and be more likely to encourage development for these mostly vacant parcels along/near Dickman Road.

The parcels proposed for rezoning also lie along or near non-motorized routes and due to being located along the Dickman Road corridor, have direct access into Fort Custer Industrial Park, a major employment center for the City of Battle Creek.

The purpose of the T-3 Neighborhood Commercial District is 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. The purpose of the T-4 Downtown Commercial is 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.

Tables 2 and 3 below and on the following page compare the uses and dimensional requirements between the T-3 Neighborhood Commercial and T-4 Downtown Commercial Districts. **Both the T-3 and T-4 have to follow Section 1250.04 Form-Based Development Standards for the T-3, T-4, and T-5 Districts.**

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 < 5,000sf	Medical or Dental Clinic < 5,000sf
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

Both the T-3 and T-4 Districts allow the same **accessory uses**, except for the fact that the **T-3 allows Transitional and Supportive Homes** as accessory uses.

The following **Table 3** presents a comparison of the dimensions in both districts. As can be seen, the largest difference is that the T-4 does not require setbacks or have a maximum building height. There is also no minimum amount of parking spaces required for the T-4 and T-5 zoning districts, though they can provide parking onsite, and if so, the parking still has to meet all requirements including landscaping and lighting. The T-4 does not have a density limit; while the density limit is 20 units to the acre in the T-3.

TABLE 3: ZONING DISTRICT <u>DIMENSIONS</u> COMPARISON		
<i>Lot Standards</i>	T-3 Neighborhood Commercial	T-4 Downtown Commercial
Min Lot Area	2,900	2,900
Min Lot Width	60	60
Max Bldg Coverage	40	NL
Front Yard Setback	30	NL
Rear Yard Setback	20	NL
Side Yard Setback	10	NL
Max Bldg Height	36 feet, 3 stories	NL

Public Hearing and Notice Requirements

Notice of the hearing was published in the Thursday, October 6th edition of the Battle Creek Shopper, and notices of the hearing were also mailed to all property owners with 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

This parcel is located in Neighborhood Planning Council 3. Planning Councils are in the process of resuming and will start accepting new business in the near future.

Analysis and Recommendation

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

The City of Battle Creek's Zoning Ordinance lists conditions for consideration when requesting an amendment to the Zoning Map. Section 1281.01 D. Zoning Ordinance and Map Amendments - Standards of Review for Amendments, lists twelve (12) criteria that Planning Commission and City Commission shall consider 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. Unlike a conditional rezoning, however, conditions cannot be attached to a regular rezoning.

- 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.

First of all, the Master Plan already identifies a more intense use – Corridor Commercial - for the subject parcels than Neighborhood Commercial, which makes the T-4 more appropriate to begin with than the T-3. Second, rezoning the sixteen (16) parcels that are the subject of this

petition from T-3 Neighborhood Commercial to T-4 Downtown Commercial is consistent with the 2018 City of Battle Creek Master Plan, especially Goals 1, 4 and 5 which focus on investment in the city core, revitalizing commercial corridors and elevating the downtown by allowing more density, mixed use and flexibility without sacrificing the walkable form based guidelines compatible with downtown and the adjacent neighborhood. This rezoning request also furthers Master Plan Goals 8 & 9 which encourage transit and incentivizing workers to live in the core areas of the City – both of which rely on density, walkability and mixed uses. In addition, the 2018 Downtown Battle Creek Plan directly identifies the subject parcels as part of the core area of the City and a focus of reinvestment. Finally, since the Master Plan was adopted, construction costs have risen dramatically, and the T-4 offers the most flexibility without sacrificing the urban form that attracts residents and acts as a link between the core downtown and adjacent neighborhoods.

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

Rezoning would be consistent with the intent and purpose of this Zoning Ordinance, as the purpose of the Zoning Ordinance is to be in accord with the Master Plan as well as generally promote the safety, health, morale, convenience and general welfare of the public and community, and the proposed rezoning would further the intent of the 2018 Master Plan as shown on the Master Plan's Land Use Map.

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

Dickman Road is classified as an "Other Principal Arterial" on the National Functional Classification Map. Capital Avenue is classified as a "Minor Arterial". Upton, McCamly and Goguac are "Major Collectors". There is plenty of street system capacity to support future development.

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.

The City's Utilities Viewer shows plenty of water and sanitary sewer lines in the proposed rezoning area. The parcels proposed for rezoning are also not in a designated flood zone.

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

It is not known if these parcels were zoned T-3 in error; however, the T-4 designation definitely more closely matches the Corridor Commercial designation of the Land Use Plan map in the 2018 adopted City of Battle Creek Master Plan.

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

The amendment does not result in exclusionary or spot zoning. If anything, T-4 is a bit more inclusionary than the T-3 as it potentially allows more density, and sixteen parcels rezoned to T-4 across the road from more T-4 zoned parcels does not constitute 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.

The sixteen subject properties are vacant urban parcels that were former developed sites. The parcels are not located in a flood zone, wetland, well head protection area or any other type of protected area.

- 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.

As can be seen in **Tables 2 and 3**, forty-two (42) of the fifty one (51) uses are the same. Exceptions are: senior living, drive through restaurants, hospitals, banquet halls, research and development, and office and retail over 17,000 sq. ft. Except for banquet halls, all of the other uses just previously mentioned are special uses that would have to meet special use criteria to be approved – and conditions could also be required. If any of these uses conflicted with the stated form-based goals in the T-4, the 2018 Master Plan goals, and the 2018 Downtown Plan goals for this area and adjacent neighborhood, they could face heavy conditions or perhaps even denial, depending on each individual situation.

In addition, hospitals generally need more acreage than is being offered on these sixteen parcels, with a minimum requirement of five (5) acres and an additional requirement for a 100 foot setback from all property lines. A drive thru restaurant also requires a fair amount of land due to the fact that a by-pass lane is required that is separate from the drive thru lane(s).

Also, just like the current zoning of T-3 on the sixteen (16) parcels, any new development on T-4 zoned property is subject to the City Zoning Ordinance's form-based guidelines.

Finally, the proposed rezoning area lies adjacent to T-3, Green, B-1, and multiple family zoning districts thereby providing a compatible transition district into the core downtown. The mostly sixteen (16) vacant properties with the added flexibility and density of the T-4 district could become more attractive to developers, thereby transforming several acres of sometimes persistently vacant, empty land into a walkable, form-based lively environment which could then encourage investment in the neighborhood to the west.

- 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.

The boundaries follow the designated "Corridor Commercial" land use category already outlined on the 2018 Master Plan map.

- 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.

Because of the "Corridor Commercial" designation on the 2018 Master Plan Land Use Map, and the fact that the area that surrounds these sixteen (16) properties is identified as one of the gateways to the core downtown and a link between the neighborhood to the west the core downtown, the T-4 Downtown Commercial District is definitely the most appropriate, as the T-4 allows more density and is more flexible, yet is still required to follow the same form-based guidelines that the current T-3 zoning district requires.

- 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.

The majority of the use are already similar. The dimensional flexibility, and perhaps the density of the T-4 as opposed to the T-3 zoning is hopefully, what holds more attraction for investment on these parcels. Changing the dimensions or the density in the T-3 district would only serve to make the T-3 the same district as the T-4.

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

The sixteen (16) subject parcels are all adjacent, and also lie across Dickman Road and the Kalamazoo River from a T-4 zoning district, therefore the result of this rezoning petition would not be an isolated zoning district.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.

**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for Wednesday, October 26, 2022**

MEETING CALLED TO ORDER:

By Chairperson Godfrey at 4:01 p.m. This meeting was held in person.

ATTENDANCE: Chairperson Godfrey asked for a roll call attendance.

Commission Members Present:

Comm. Newman, present, in Battle Creek
Comm. Spranger, present, in Battle Creek
Comm. Godfrey III present, in Battle Creek
Comm. Gray, present, in Battle Creek

Mayor Behnke, present, in Battle Creek
Comm. Morris, present, in Battle Creek
Vice Mayor Reynolds, present, in Battle Creek

Commissioners Absent: Comm. Laws

Commissioners Excused: Mayor Behnke (@ 5:28PM)

Staff Present: Travis Sullivan, Planner, Susan Cronander, Planning Administrator, Marcie Gillette, Community Services Director, Crystal Bax, Customer Service Representative, Marcel and Stoetzel, Deputy City Attorney.

APPROVAL OF MINUTES: Previous meeting minutes submitted for approval for September 28, 2022.

MOTION MADE BY COMM. NEWMAN TO APPROVE THE SEPTEMBER 28, 2022 MEETING MINUTES AS PRESENTED. SECONDED BY VICE MAYOR REYNOLDS.

ROLL VOTE: Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: 2 e-mail correspondence were provided to the board by staff.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

CHAIRPERSON GODFREY asked to open the public hearing for item 6A (#S-14-22) on the agenda.

- A. SPECIAL USE PERMIT #S-14-22:** Petition from Kelly Gast, requesting a Special Use Permit for property located at 24 Golden Avenue. Battle Creek, MI 49015. The request is for an In-Home Group Child Care Home for up to 7-14 children. Property is zoned “R-1A Single Family Residential District” pursuant to Section 1240.06 of the zoning code. PARCEL # 4690-08-506-0

Staff Presentation: Susan Cronander, Planning Administrator, gave the staff report presentation. The applicant is seeking a special use permit to operate a group child care home based business out of the home at 24 Golden Avenue. The proposed capacity of the daycare related to this request is for up to 14 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6:00am and 6:00pm each day,

Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements. Petition No.S-14-22 24 Golden Avenue, Parcel #4690-08-506-0

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other facets of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

Staff finds the request consistent with the general special use standards listed in 1281.05.

Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Day Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:

- 1. All necessary approvals and any required permits shall be obtained, 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 Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of fourteen (14) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- 3. Pursuant to Chapter 1281.02, 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.**

And one additional request by Planning Commission is that a fence needs to be put in place for safety measures.

COMMISSIONER DISCUSSION:

Chairperson Godfrey III asked the planning administrator if they would have to come before the board for additional approval

Susan C. Cronander, Planning and Zoning Administrator stated that according to the city attorney they would not need to come before the board for additional approval.

Deputy City Attorney Marcel Stoetzel confirmed this to be the case. But the zoning code would need to amend by the board to allow for the same regulations in regards to the number of children as the state.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #S-14-22 was present to speak.

Applicant: Kelly Gast, petitioner for Special Use Permit #S-14-22 (24 Golden Avenue) gave some of her background information about her current daycare and group home business at her current residence in the Upper Peninsula. She stated she is looking forward to being a part of the community and providing a great need to that particular area and gave statistical knowledge of the need for daycare in that area and surrounding areas in the City of Battle Creek. Kelly Gast offered her support of any questions the board may have.

Public Comments:

Janine Reichardt of 261 S Leland Dr, asked the board to consider putting together a Children at Play in the area.

Talia Champlin of 116 S Lincoln Blvd, realtor representing the seller, stated that the seller collected signatures of the surrounding properties stating that the neighbors were okay with the proposed use of the property, and gave information in regards to waiting lists for young children in the area.

John Shwark of 250 Martha Drive, stated that he felt the area was being slowly squeezed inward by businesses and commercial properties due to the uses allowed in their zoning district, and would rather see the area remain single family residential.

Kelly Gast, applicant addressed the safety concerns and explained how she can circumvent that issue with fencing and stroller systems for walks to the park.

MOTION MADE BY COMM. NEWMAN AND SECONDED BY COMM. MORRIS TO APPROVE #S-14-22 SPECIAL USE PERMIT FOR AN IN-HOME GROUP CHILD CARE HOME FOR UP TO 7-14 CHILDREN PURSUANT TO SECTION 1240.06 OF THE ZONING CODE. PARCEL # 4690-08-506-0 WHERE IN-HOME GROUP CHILD CARE HOME CAN BE ALLOWED AS A SPECIAL USE IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF AND THE PLANNING COMMISSION.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6B (#Z-02-22) on the agenda.

- B. REZONING REQUEST #Z-02-22:** Petition from the City of Battle Creek to rezone properties located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to the inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as “R-1A Single Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current “I-2 Heavy Industrial District” zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings

are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-02-22 was present to speak.

Applicant: The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

Public Comments:

Wayne Edmunds of 4521 W Columbia, asked of what properties were not included on the list of those to be rezoned, and whether property values will change for those that are being rezoned.

Commissioner Comments:

JOHN HUGHES asked to be recused from the passing of the motion due to potential conflict of interest.

MOTION MADE BY MAYOR BEHNKE AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE REZONING REQUEST #Z-02-22 TO REZONE PROPERTIES LOCATED ALONG ROBERTSON AVE., NEWTOWN AVE., W COLUMBIA AVE., INDEPENDENCE AVE. AND SONGBIRD LN. TO “R-1A SINGLE FAMILY RESIDENTIAL DISTRICT” PURSUANT TO SECTIONS 1240.06 AND 1281.01 OF THE ZONING CODE.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6C (#Z-03-22) on the agenda.

- C. REZONING REQUEST #Z-03-22: Petition from Summit Pointe requesting the rezoning of property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting to be rezoned as “T-4 Downtown Commercial District” pursuant to Section 1281.01 of the zoning code. PARCEL #: 9730-00-052-0

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. 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. 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.

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 non-conformity, 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.

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.

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.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-03-22 was present to speak.

Applicant: Richard Lindsey, outside council for summit pointe, explained that the rezoning is effort to allow for a pharmacy expansion

Public Comments: None. Public Hearing closed.

MOTION MADE BY MAYOR BEHNKE AND SECONDED BY COMM. NEWMAN TO APPROVE REZONING REQUEST #Z-03-22 TO REZONE 175 COLLEGE ST. TO “T-4 DOWNTOWN COMMERCIAL DISTRICT” PURSUANT TO SECTIONS 1240.14 AND SECTION 1281.05 OF THE ZONING CODE.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6D (#S-15-22) on the agenda.

D. SPECIAL USE PERMIT #S-15-22: Petition from Summit Pointe requesting a Special Use permit for property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting a Special Use Permit for an addition of a 1663sqft P a g e | 2 Agenda, cont. 10.26.22 PC M:\Planning Files\Planning Dept\1. Planning Commission\1.Agendas\Year 2022\PC Mtg. Agenda 10.26.22.docx 10 N. DIVISION ST. P.O. BOX 1717 BATTLE CREEK MICHIGAN 49016-1717 PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV pharmacy for the existing community mental health use that will

operate as an accessory to the main outpatient mental health practice (summit Pointe). Pursuant to Section 1260.01. PARCEL#: 9730-00-052-0

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. 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 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. 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.). Petition No. S15-2022 Parcels: 9730-00-052-0 175 College Street Page 4 of 9

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.

Applicant: Richard Lindsey, wanted to point out that to location of the site would be very beneficial to the patients to allow to be seen and pick their prescriptions up in the same place as well as for the use of the public and it will allow for all employees to be housed in the same building rather than a separate building.

Public Comments: None. Public Hearing Closed.

MOTION MADE BY COMM. NEWMAN AND SECONDED BY MAYOR BEHNKE TO APPROVE #S-15-22 SPECIAL USE PERMIT FOR THE CONTINUANCE AND ALTERATION TO THE EXISTING MEDICAL PRACTICE IN EXCESS OF 20,000 SQ. FT. PURSUANT TO SECTION 1240.14 AND SECTION 1281.05 OF THE ZONING CODE. PARCEL #9730-00-052-0 IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6E (#Z-04-22) on the agenda.

- E. REZONING REQUEST #Z-04-22:** Petition from the City of Battle Creek requesting the rezoning of properties located along S Kendall St. and Lafayette St. The properties are currently zoned "R-3 Multiple Family Residential District" with the petitioner requesting to be rezoned as "S Spark District" pursuant to Sections 1281.01 and 1240.18 of the zoning code. Parcels proposed to be rezoned are as follows: 2400-00-002-0, 2400-00-001-0 and 0601-32-144-0.

Staff Presentation: Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the owners of the above three parcels requesting a rezoning from R-3 Multiple Family Residential to S Spark District. The three subject parcels currently have functioning nonresidential businesses located on the parcels, and wish to revert back to a zoning district that include uses similar to their existing retail and storage uses. In 2019 (see Figure 6) these parcels were zoned I1 Light Industrial. Battle Creek's adopted 2018 Master Plan identifies this area including the subject parcels as one of the City's "Development Opportunity Centers" overlain on the Multi-Unit Residential category (see Figure 7.)

Because the parcels are within a “Development Opportunity Center” and the underlying category is a residential category, staff believes that the S Spark District is the best fit, since two other Multi-Unit Residential sections in the City that are also “Development Opportunity Centers” have been zoned to S Spark District without amending the 2018 Master Plan.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-04-22, request for rezoning of the three (3) parcels that are the subject of this petition and are identified in Table 1: “List Of The Three (3) Subject Parcels, Addresses And Uses”.

Applicant: The City of Battle Creek City staff had no additional comments.

Public Comments: Brian Smith owner of US Lumber at 100 S Kendall Rd, is a subject of the rezoning stated that his facility also is a state licensed firearms dealer and has plans for light assembly of weapons. Along with that they also manufacture trusses, door frames, and wall panels and in the future would like to manufacture steel roofing and was concerned that the rezoning of this area would affect his ability to allow for light assembly and manufacturing with the proposed district rezoning.

John Hart, small business development, stated that there are others included in this rezoning request and he was there to speak on their behalf, and they their wishes are similar to US Lumber.

MOTION MADE BY COMM. MORRIS AND SECONDED BY COMM. SPRANGER TO POSTPONE #Z-04-22 REQUEST FOR REZONING OF THE THREE (3) PARCELS 0601-32-144-0, 2400-00-002-0, 2400-00-001-0 for 90 days.

Commissioner Comments: Comm. Newman asked that if they were able to come forward sooner, if that would be allowed.

Comm. Morris and Chairperson Godfrey III agreed with Comm. Newman.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6F (#Z-05-22) on the agenda.

- F. REZONING REQUEST #Z-05-22:** Petition from the City of Battle Creek to rezone properties located along Dickman Road currently zoned as “T-3 Neighborhood Commercial District.” Due to inconsistency with the Land Use Plan, the City is requesting a rezoning of the area to “T-4 Downtown Commercial District” pursuant to Sections 1240.13, 1240.14 and 1281.01 of the zoning code.

Staff Presentation: Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road.

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.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the

2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels

The purpose of the T-3 Neighborhood Commercial District is 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. The purpose of the T-4 Downtown Commercial is 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.

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-05-22 was present to speak.

Applicant: The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

Public Comments:

Marvin Day 16 Enwood St. stated he frequently bikes through downtown as that is his main form of transportation, and he mentioned how some of the areas through the proposed rezoning location have narrow bike lanes and narrow shoulders that have made it very difficult to navigate through, and that he appreciates the city’s effort to address this area as it is dangerous and he looks forward to potential redevelopments that have been proposed through this particular strip of Dickman Road.

MOTION MADE BY COMM. GRAY AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE #Z-05-22 REQUEST FOR REZONING FROM T-3 NEIGHBORHOOD COMMERCIAL TO T-4 DOWNTOWN COMMERCIAL OF SIXTEEN (16) PARCELS LOCATED ALONG DICKMAN ROAD FROM MCCAMLY ST. S. TO 80 RIVERSIDE DR. / DICKMAN ROAD AT GOGUAC ST. E. AS PRESENTED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

.....
OLD BUSINESS: None

NEW BUSINESS:

2021 Planning and Zoning Annual Report

Marcie Gillette, Community Services Director, gave the report to summarize 2021.

In 2021 for planning commission there were a total of 11 items that came before the board. In previous years the numbers were lower and it seems that in 2021 there was a swinging back to a pre-covid era in numbers. In spring of 2021 there were a group of map amendments and texts amendments made to the zoning ordinance due to an oversight.

With regard to Zoning Board of Appeals there were a total of 12 items that came before the body 5 of which were approved and 6 denials and there was a noticeable trend upward to the pre-covid era again with that as well.

For Historic District Commission there were a couple of items that came before the body and there were also 5 items that were reviewed by staff and were administratively approved for minor classes of work.

In 2021 we still continued our work with the redevelopment ready and being a certified community in 2021 there were 23 project site plan reviews.

There were a total of 221 zoning enforcements in 2021 which is down a little bit from the pre-covid period of time 200 of those were rental registrations, 1 non-conforming investigation, and 20 illegal use investigations, and 100 miscellaneous enforcements such as parking, recreational vehicles, fencing etc.

There were 1,501 permits that were reviewed by the planning division as part of the application and approval process, 908 of those were residential, 244 commercial, 237 fences, 72 sign, and 40 property demolition.

COMM. NEWMAN MADE A MOTION TO RECEIVE THIS REPORT AS PRESENTED, COMM. GRAY SECONDED.

ALL IN FAVOR, NONE APPOSED.

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM COMMISSION MEMBERS AND STAFF: None

ADJOURNMENT:

Chairman Godfrey adjourned the meeting at 5:55 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning



Resolution

NO. 530

A Resolution adopting Ordinance 13-2022 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 - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That the following sections of Ordinance 13-2022 are adopted:

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

11/15/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A Resolution adopting Ordinance 13-2022 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.

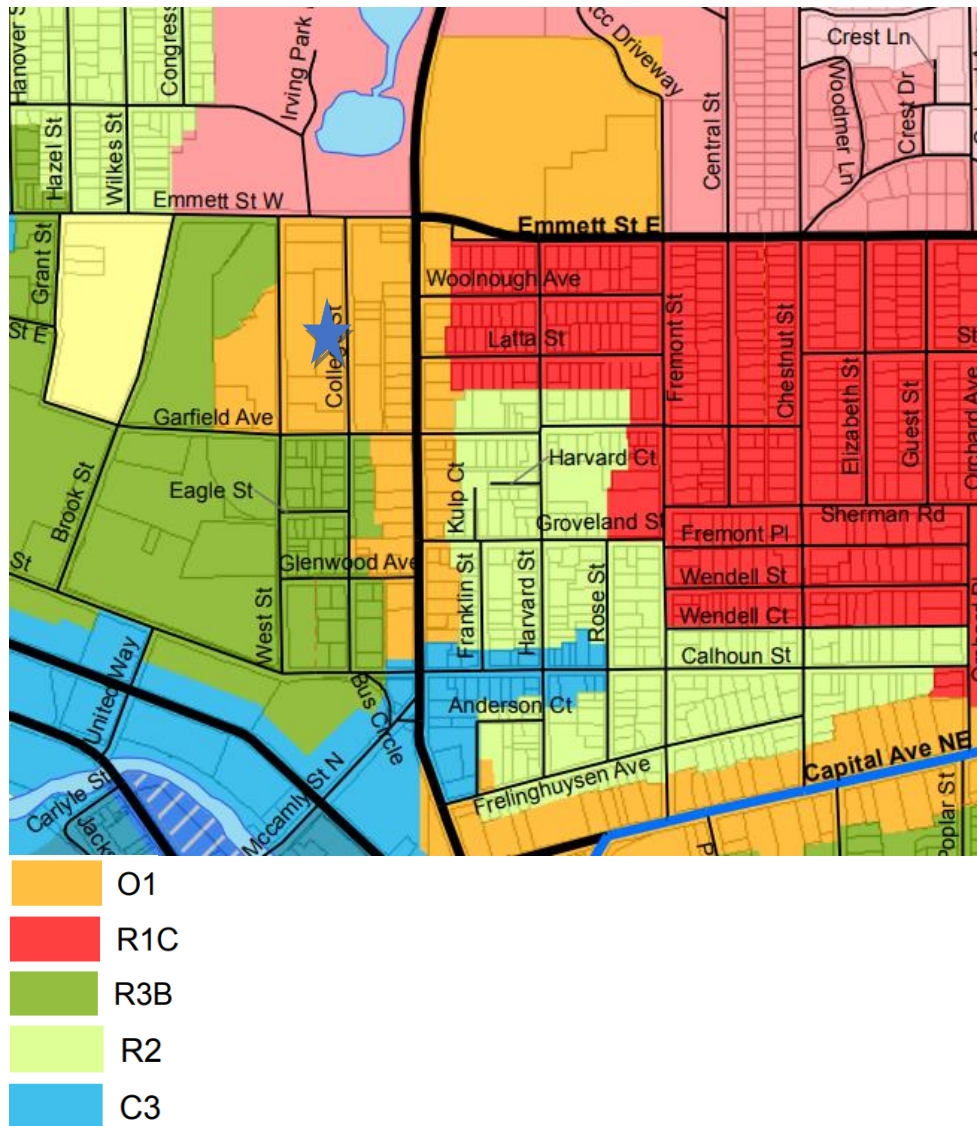


Figure 1: Previous zoning map effective until November 2020. Blue star indicates the location of the subject parcel.

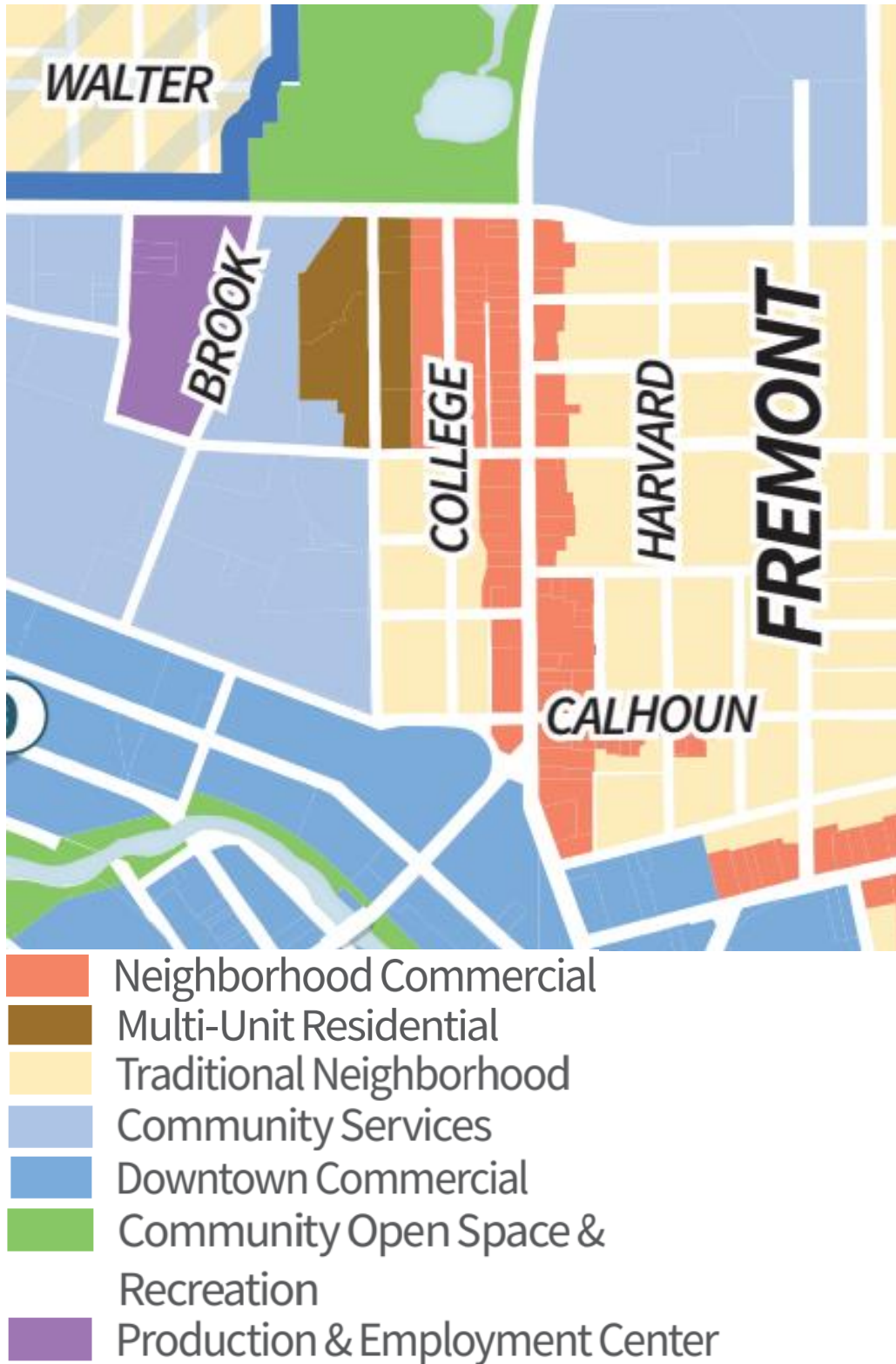


Figure 2: Adopted Land Use Plan Map (2018 Master Plan). Subject property along College St. lies within the Neighborhood Commercial land use classification.

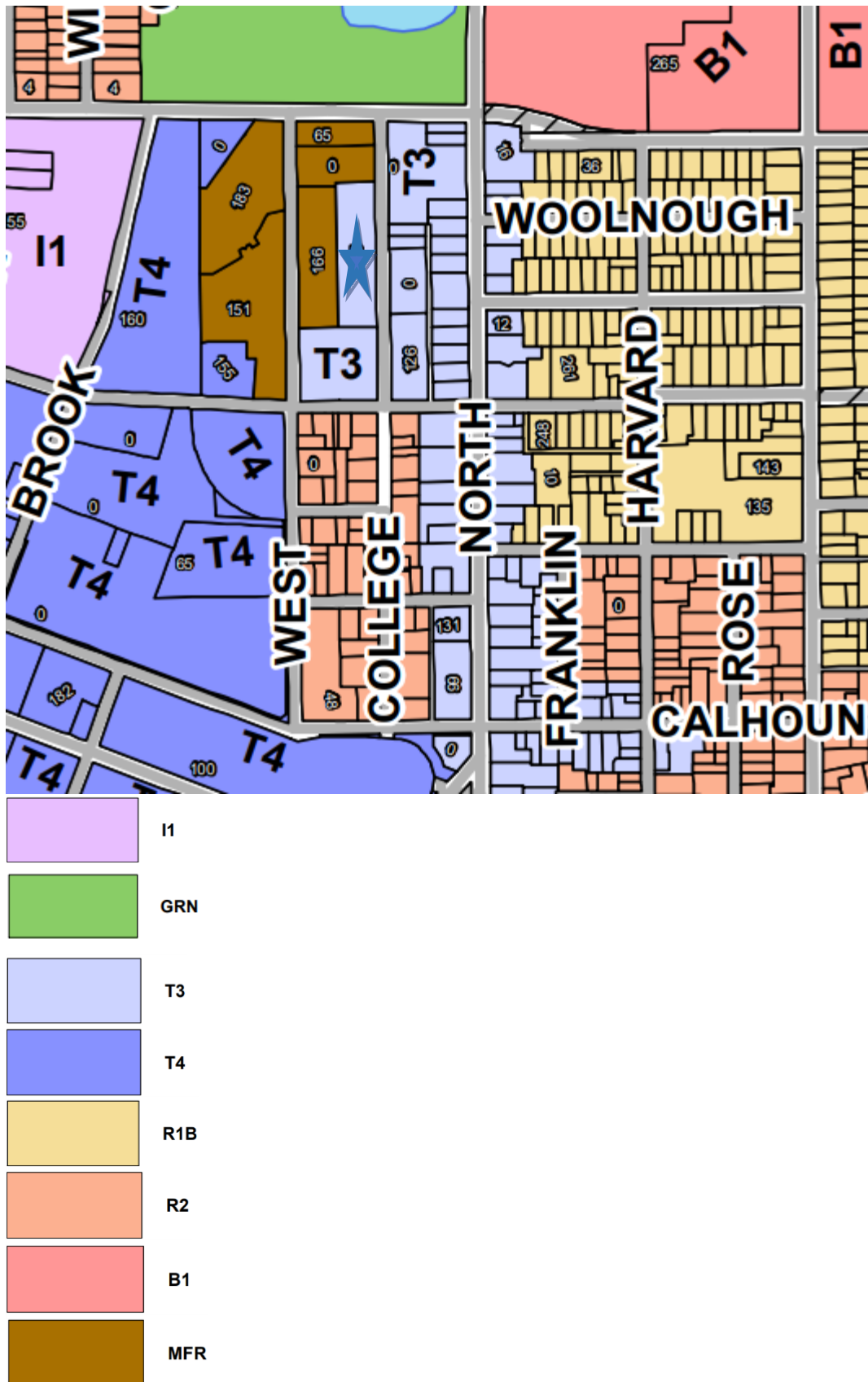


Figure 3: Current zoning map. Blue star indicates subject parcel proposed to be rezoned to T-4 Downtown Commercial.

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 <u>USE</u> 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

<i>Lot Standards</i>	T-3
<i>Minimum Lot Area (sq. ft.)</i>	2,900 (<i>D</i>)
<i>Minimum Lot Width (ft.)</i>	60
<i>Maximum Percent of Building Coverage</i>	40
<i>Front Yard Setback (ft.)</i>	30
<i>Rear Yard Setback (ft.)</i>	20 (<i>H</i>)
<i>Side Yard Setback (ft.)</i>	(<i>G</i>)
<i>Maximum Building Height</i>	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	
<ul style="list-style-type: none"> Single Family Dwelling Unit Detached 	
E. ACCESSORY USES	
<ul style="list-style-type: none"> 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	
<i>Lot Standards</i>	T-4
<i>Minimum Lot Area (sq. ft.)</i>	2,900 (D)
<i>Minimum Lot Width (ft.)</i>	60
<i>Maximum Percent of Building Coverage</i>	NL
<i>Front Yard Setback (ft.)</i>	NL
<i>Rear Yard Setback (ft.)</i>	NL
<i>Side Yard Setback (ft.)</i>	NL
<i>Maximum Building Height</i>	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.

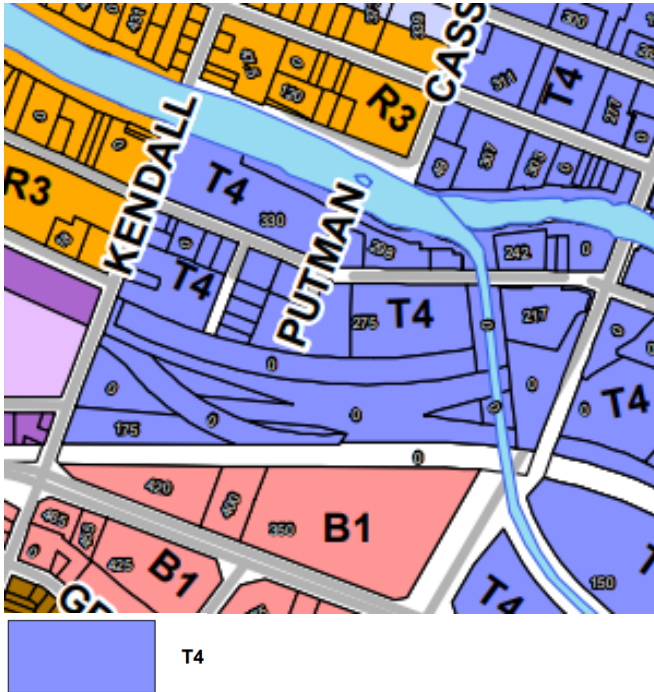


Figure 8: Current Zoning Map for the area bounded by the Kalamazoo River to the north and east, S Washington Ave. to the east, the railroad to the south and S Kendall St. to the west.

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



City of Battle Creek

Community Services - Planning and Zoning Division

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

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



REZONING Application

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

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

Petition No. 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 MENTAL 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.

This change was requested by City Planning Staff

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

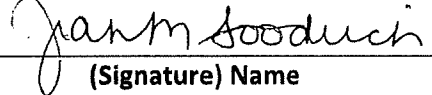
Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

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


(Signature) Name

JEAN M. GOODRICH, CEO
(Print Name)

SEPTEMBER 29, 2022
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)

018728

ABBOTT, THOMSON, MAULDIN, PARKER & BEER, PLC

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

018728

ABBOTT, THOMSON, MAULDIN,
PARKER & BEER, PLC

EXPENSE ACCOUNT
405 SOUTH JACKSON STREET
JACKSON, MI 49201
(517) 787-8570

COUNTY NATIONAL BANK
Hillsdale, Michigan 49242

74-269/724

CHECK NO.

One Thousand Two Hundred ***** 00/100
PAY TO THE ORDER OF

DATE

Sep/27/2022

\$1,200.00

City of Battle Creek

Sten

Re: Rezoning and Special Use Application Fees

018728 1072402694 5500006073 51

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.

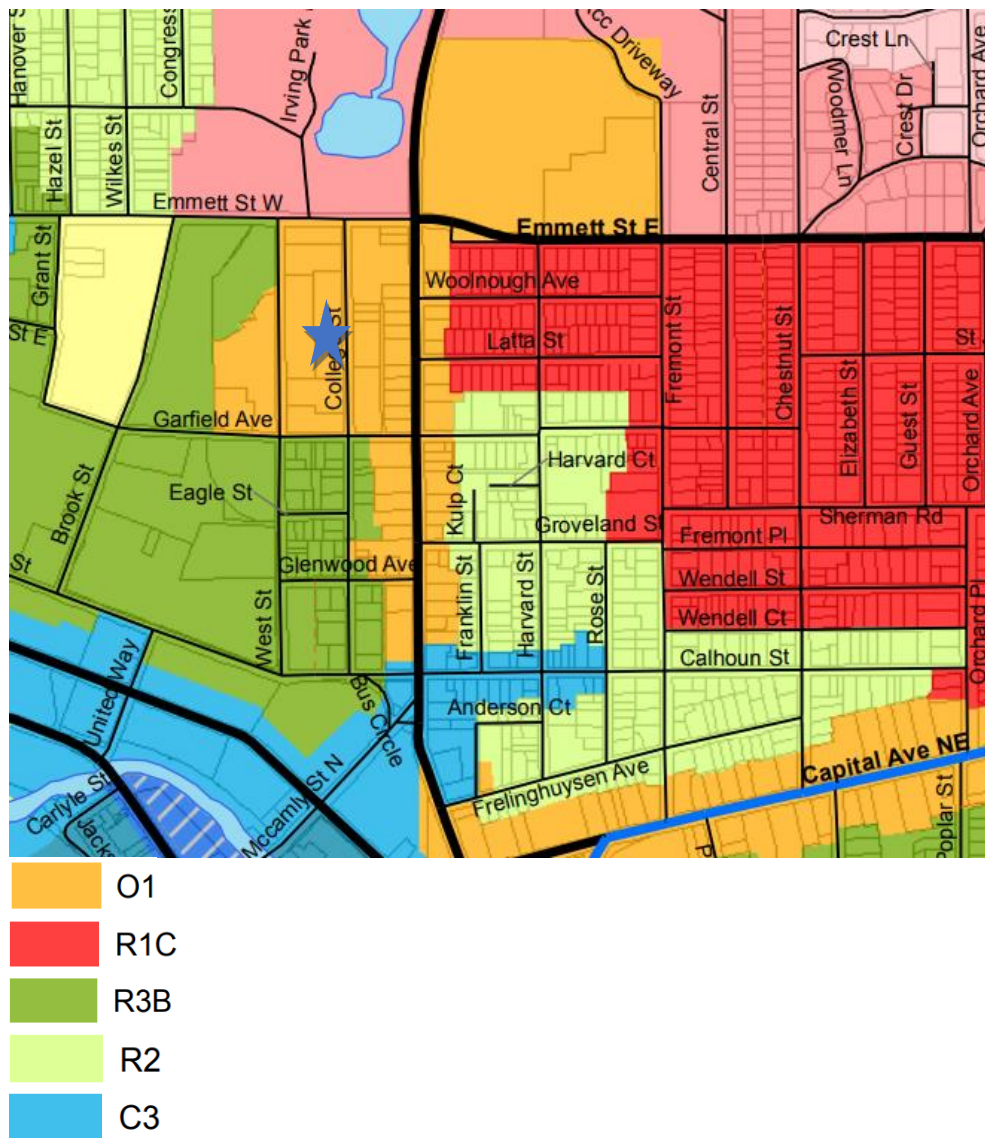
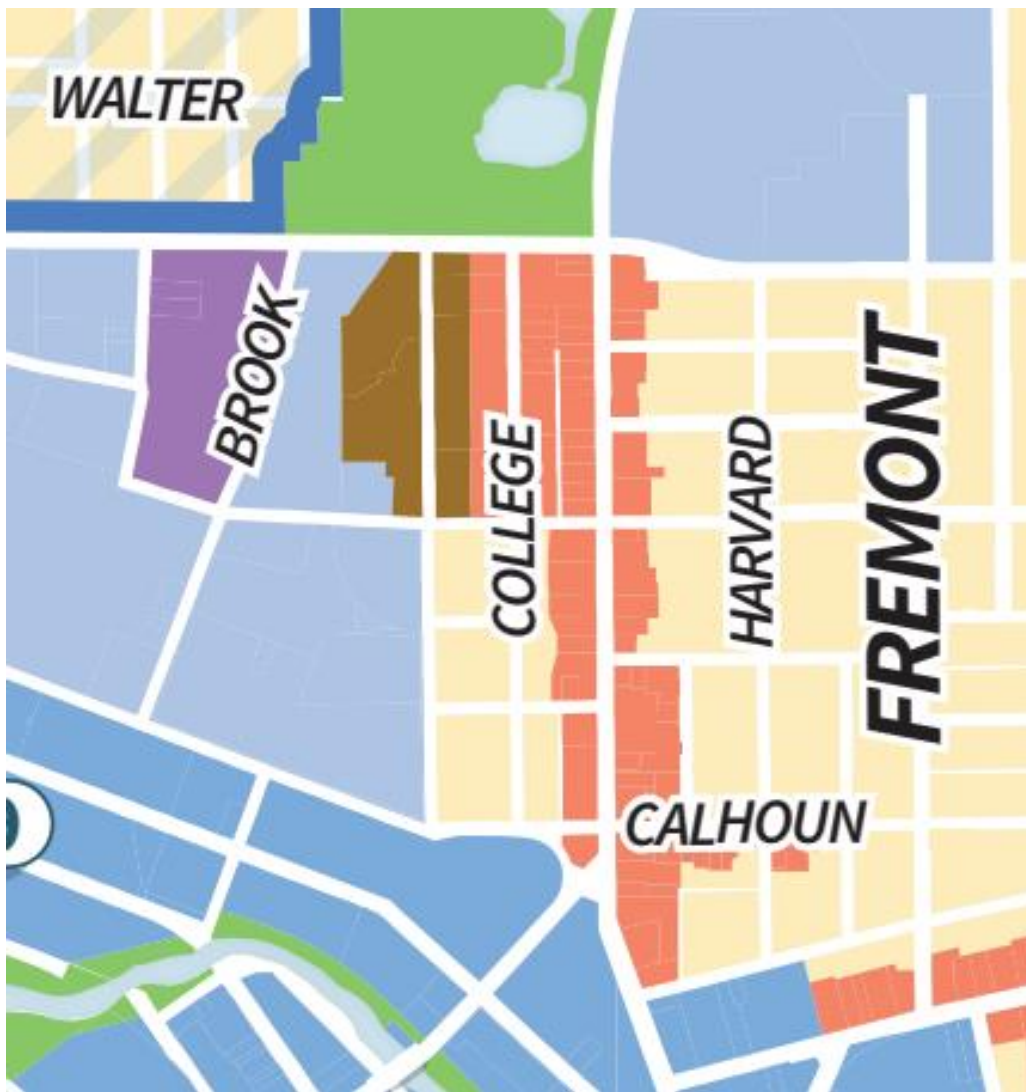


Figure 1: Previous zoning map effective until November 2020. Blue star indicates the location of the subject parcel.



- Neighborhood Commercial
- Multi-Unit Residential
- Traditional Neighborhood
- Community Services
- Downtown Commercial
- Community Open Space & Recreation
- Production & Employment Center

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

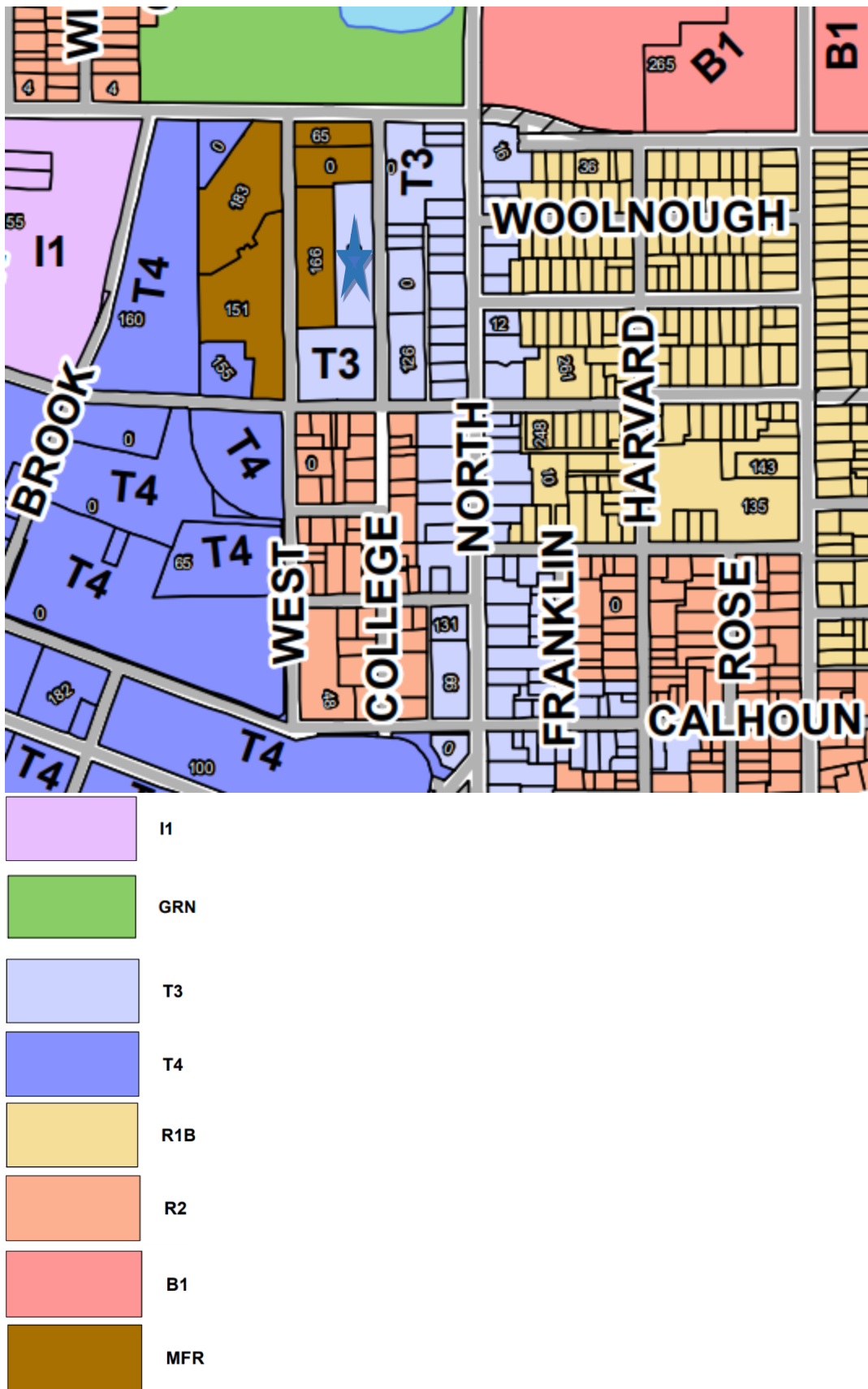


Figure 3: Current zoning map. Blue star indicates subject parcel proposed to be rezoned to T-4 Downtown Commercial.



General Detail

NO.

Minutes for the November 1, 2022 City Commission Regular Meeting

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

Minutes for the November 1, 2022 City Commission Regular Meeting

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name

Description

☐ Minutes_2022_11_1_Meeting(836).pdf

Minutes for the November 1, 2022 City Commission Regular Meeting



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

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 (7:15 pm)

Commissioner Sherry Sofia

Commissioner Kathy Szenda Wilson

City Staff

Ted Dearing, Assistant City Manager

Jill Steele, City Attorney

Jim Blocker, Police Chief

Victoria Houser, City Clerk

Miles Weaver, Assistant Airport Director

Phil Kroll, Airport Director

Marcie Gillette, Community Services
Director

Travis Sullivan, Planner
Stacy Fate, Service Desk Technician

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Comm. Sofia.

ROLL CALL

PROCLAMATIONS AWARDS

Proclamation for General Aviation Appreciation Month

Mayor Behnke proclaimed the month of November 2022 as "General Aviation Appreciation Month" in the greater Battle Creek area, urging all citizens of Battle Creek to recognize and support the Battle Creek Executive Airport and Kellogg Field and our aviation professionals.

Phil Kroll, Aviation Director, accepted the proclamation on behalf of the airport staff.

PRESENTATIONS

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

Phillip Kroll, Aviation Director, 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

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.

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

Richard Lindsey, attorney representing Summit Pointe, discussed the applicant's rezone request, noting they would be expanding the facility to include a pharmacy and administrative offices.

Ted Dearing, Assistant City Manager, provided information on the different zoning district classifications, noting both T-3 and T-4 were commercial districts, often in transitional areas near residential, also noting it is not unusual to have T-4 zoning in areas outside of downtown.

Autumn Smith asked if this will change the foot print of zoning, or if some requirements will be grandfathered in.

Mr. Lindsey noted the 1,300 sq. ft. addition to the existing building would have been non-conforming under the T-3 Zoning, but with the change to T-4, the addition will be conforming. Mr. Lindsey also noted a variance was still needed for the building addition.

John Kenefick commented on possible code census tracts, stating they are not normally changed.

Comm. Blood asked if T-3 and T-4 has to do with type of use of building, not necessarily downtown.

Responding to Comm. Blood, Marcie Gillette, Community Services Director, noted both were appropriate for the use of the building, providing additional information on the T-3 and T-4 zoning areas.

Mr. Lindsey stated the expansion and addition of a pharmacy will have an incredible impact on the clients of Summit Pointe, noting everything will be available in one location, allowing Summit Pointe to provide care the clients need instead of seeking outside providers.

Comm. Szenda Wilson applauded Summit Pointe for their service to the community.

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

MOTION PASSED

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.

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

Kathy Antaya expressed disappointment the 3 items to be amended were bundled in one resolution, expressing disagreement with limiting public access to the commissioners.

Autumn Smith agreed the proposed ordinance would create a barrier to the residents and community, preventing access to public officials.

Arneice Montgomery expressed agreement that the public officials must be accessible to the public, not create barriers.

John Kenefick stated public meetings provided a perfect opportunity to serve subpoenas to the commissioners.

Adam Heikkila also disagreed with the proposed ordinance, stating this would prevent the public from accessing the commissioners.

Comm. Szenda Wilson stated she understood the ordinance amendment was to prevent disruption of a public meeting, stating it is not unreasonable to expect safety during the course of a business meeting. Comm. Szenda Wilson noted commissioners are available during non-business hours, stating the intent of the ordinance amendment was to ensure the business of the commission goes smoothly.

Comm. Blood stated she was not supportive of the ordinance amendment, as it would create barriers between the public and the commission, also stating her preference the amendment be separated into 3 items. Comm. Blood stated she would like the meeting rules to allow more discussion between the commissioners, staff and the public during the meetings.

Comm. Morris expressed agreement with Comm. Blood.

Jill Steele, City Attorney, stated the stanchions are not part of the ordinance, but in the background information, simply as an example. Attorney Steele also stated the meeting rules amendments would not prevent the public from interacting with the commissioners before or after the meeting.

Comm. Sofia confirmed the prohibition was only during the meeting.

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

Nays: BLOOD, MORRIS

MOTION PASSED

- 521 A Resolution seeking to adopt Ordinance 11-2022 to amend Chapters 833 Medical Marijuana Facilities, and 835 Adult Use Marijuana Establishments, to expand the hours of operation;

update definitions and make additional clarifications.

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

Adam Heikkila commented on the taxes imposed on marihuana businesses, asking how much revenue the city has received and how the money is used.

Franklin Ballard asked for clarification of the business hours and the number of marihuana businesses in the city.

John Kenefick commented on the tax revenue the city receives from marihuana businesses.

Comm. Szenda Wilson noted this amendment to the ordinance was requested by some local businesses, stating the commission wants to be pro-business, stating she was excited local businesses can expand their hours.

Vice Mayor Reynolds agreed this amendment is to allow city businesses to compete with neighboring municipal businesses who are open until midnight.

Comm. Blood also expressed agreement, encouraging staff and commissioners to provide more resources to the public regarding the impact the marihuana businesses have on the city.

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

MOTION PASSED

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.

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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 expressed support of the Special Use Permit for Summit Pointe, stating the pharmacy is critical to their clients.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

CONSENT AGENDA

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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

MOTION PASSED

Minutes for the October 18, 2022 City Commission Regular Meeting

Ambulance Report for September 2022

City Manager's Report for November 1, 2022

CONSENT 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.

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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

MOTION PASSED

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

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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

MOTION PASSED

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

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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

MOTION PASSED

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

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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

MOTION PASSED

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

Motion to Approve

Moved By: LYNN GRAY

Supported By: KRISTIN BLOOD

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

MOTION PASSED

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.

Motion to Approve

Moved By: LYNN GRAY
Supported By: KRISTIN BLOOD

Responding to Comm. Blood, Jim Blocker, Police Chief, summarized the narrative, stating mental health continues to be a national challenge, proving difficult to resolve. Chief Blocker stated the grant allows staff to partner in a more aggressive plan with Summit Pointe, filling the gaps for mental health access. Chief Blocker noted the current default location for mental health patients is the local jails, stating the grant would allow BCPD to partner directly with providers.

Comm. Szenda Wilson expressed hope this would lead to a more empathetic approach to residents with mental health issues, agreeing it was important to develop partnership.

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

MOTION PASSED

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.

Motion to Approve
Moved By: LYNN GRAY
Supported By: KRISTIN BLOOD

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

MOTION PASSED

GENERAL PUBLIC COMMENT

Richard Linsey recognized Chief Blocker's commitment and support for Summit Point and the residents of Battle Creek.

Autumn Smith questioned if the calls to the crisis line would be attended to by a licensed professional. Ms. Smith also commented on the ordinance amendment regarding access to the commission.

Pastor Monique French expressed appreciation to the commission, specifically for the Neighborhood Planning Commissions.

John Kenefick commented on a candidate's flyer, and fees approved by the commission.

Adam Heikkila expressed dissatisfaction with the resolutions approved by the commission.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Comm. Szenda Wilson read a statement about anti-Jewish hate crimes in the United States.

Comm. Gray expressed appreciation for the work Summit Pointe is doing in our community, noting over 9,000 clients assisted, which is helpful to those individuals and those connected to them.

Comm. Morris stated the Commission does have more work to do on transparency.

ADJOURNMENT

Mayor Behnke adjourned the meeting at 8:49 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.

(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.

City Manager's Report for November 15, 2022

BATTLE CREEK, MICHIGAN - 11/15/2022

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Rebecca L. Fleury, City Manager

Department: City Manager

SUMMARY

City Manager's Report for November 15, 2022

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
City_Manager_Report_11152022.pdf	City Manager's Report for November 15, 2022

MEMO

Date: 11/15/2022

To: Mayor and City Commission

From: Rebecca L. Fleury, City Manager

RE: City Manager's November 15, 2022, Agenda Report

A Public Hearing to consider removal of Planning Commission Member Ariel Laws for Nonfeasance due to chronic absenteeism.

This is a Public Hearing to consider removal of Planning Commission Member Ariel Laws for absenteeism.

14-2022

A proposed Ordinance to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

The subject parcels are currently zoned I-2 Heavy Industrial. The parcels are surrounded to the east and south by the I-2 Heavy Industrial District, with the G Green District immediately across Columbia Ave. W to the north.

When the City re-codified the Zoning Ordinance and Zoning Map in 2020, the subject parcels were zoned I-2 Heavy Industrial, in accordance with the adopted Land Use Plan.

This proposed Ordinance would rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District. **Introduction is Recommended**

15-2022

A proposed Ordinance to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

The subject sites include sixteen (16) parcels located along Dickman Road from McCamly southeast to Riverside Dr. at Guguac and Dickman Road. Most of these parcels are vacant or have vacant buildings. Aside from the small parcels that line the larger parcels or border the roads, the main vacant parcels identified by this petition range in size from one to ten acres, with Reliable Refrigeration and the parcel east of it being exceptions. These parcels have previously hosted or are currently hosting commercial uses, and in the case of the parcel along Guguac, an apartment complex.

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. Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial.

This proposed Ordinance would rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. **Introduction is Recommended**

530

A Resolution adopting Ordinance 13-2022 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 Resolution would adopt Ordinance 13-2022 to rezone 175 College Street from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. **Adoption is Recommended**

539

A Resolution seeking removal of Commissioner Ariel Laws from the Planning Commission due to nonfeasance based upon chronic absenteeism.

Section 15 of the Michigan Planning Enabling Act, MCL 125.3815(9), provides, in pertinent part as follows: "(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing."

Battle Creek City Ordinance 1280.02(c)(1) , provides as follows:

(1) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Battle Creek Planning Commission Bylaws, Article II, Section 2, provides as follows, in pertinent part: "Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term."

Commissioner Ariel Laws was provided notice by email and regular mail on November 10, 2022 with a written charge that he has committed nonfeasance as a Planning Commission member for chronic absenteeism by missing more than four meetings in calendar year 2022 and that a public hearing would be held at the November 15, 2022 City Commission meeting seeking removal.

540

A Resolution seeking authorization the City Manager to employ retiree Leona Parrish on a temporary basis under 296.09(c).

Pursuant to Employment Provision 296.09 " (c) No person shall be employed by the City, or paid with City funds, who has retired under the provisions of . . . the Michigan Municipal Employees' Retirement System . . . The City Manager may make exceptions to this provision, with the approval of the City Commission, when . . . "she" feels the interests of the City would be served thereby."

Leona Parrish retired from the Community Services Department as an Administrative Assistant in the Planning Division. The department is requesting the ability to allow Leona to temporarily return in order to assist with training a new city employee.

This Resolution would authorize the City Manager to employ retiree Leona Parrish on a temporary basis under 296.09(c). **Approval is Recommended**

541

A Resolution seeking to approve S13-2022, a Special Use Permit to allow for a new Major Vehicle Repair Shop at 164 S. 24th Street (Parcel #0065-00-650-0) in a B-1 Corridor Commercial District pursuant to Section 1281.05 of the zoning code.

The subject site is located along the west side of S 24th St. approximately 217 feet south of Columbia Ave. W. The subject parcel currently includes a single legally nonconforming building at the northeast corner of the property, for which no alteration is proposed.

Mitten State Engineering is in the process of obtaining site plan approval for a Minor Vehicle Repair / Automobile Repair operation to service diesel vehicles at the site, with the special use permit which is required for the owner to offer Major Vehicle Repair services that includes the service of semi-trucks.

This Resolution seeks to approve S13-2022, a Special Use Permit to allow for a new Major Vehicle Repair Shop at 164 S. 24th Street in a B-1 Corridor Commercial District pursuant to Section 1281.05 of the zoning code. **Approval is Recommended**

542

A Resolution seeking to approve S14-2022, a Special Use Permit to allow for an In-Home Group Child Care Home for up to twelve (12) children at 24 Golden Avenue (parcel #4690-08-506-0) in a R-1A Single Family Residential District pursuant to Section 1281.06 of the zoning code.

The subject site is a total of 22,781.88 square feet (.523 of an acre) with a 1,688 square foot home constructed in 1964, and a 528 square foot garage. The Applicant is proposing to have an accessory use of a Group Child Care Home of up to twelve (12) children.

Recognizing that there is generally a shortage of child care for working people in the State of Michigan, the Legislature this past June increased the maximum number of children for a state licensed child care family home (an accessory use by right in the R-1A District) from six (6) to seven (7), and the maximum number of children for a child care group home from twelve (12) to fourteen (14). At this time, local ordinance remains a maximum of twelve (12) children.

This Resolution seeks to approve S14-2022, a Special Use Permit to allow for an In-Home Group Child Care Home for up to twelve (12) children at 24 Golden Avenue in a R-1A Single Family Residential District pursuant to Section 1281.06 of the zoning code. **Approval is Recommended**

543

A Resolution seeking authorizing for the City Manager to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement for the amount of \$252,000.

On September 21, 2021 the U.S Department of Housing and Urban Development (HUD) awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan (HOME-ARP) Program funds.

The City of Battle Creek prepared a HOME-ARP Allocation Plan in accordance with HUD guidelines published on September 13, 2021 titled: Requirements for the Use of Funds in the HOME-American Rescue Plan Program. As part of the preparation of the allocation plan City staff issued a request for proposals from the community. Nine proposals were received totaling roughly four million dollars. Six proposals were recommended for \$959,090 of HOME-ARP funding. The allocation plan was adopted by the City Commission during its August 8, 2022 meeting, setting aside funding for programs that provide supportive services and the development of permanent supportive housing units.

The agreement with the Haven of Rest Ministries will provide Case Managers for two years to provide recovery services to individuals and assist them with finding safe and affordable housing, as well as providing other referrals to providers and resources within the community as needed.

This Resolution seeks to authorize the City Manager to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement for the amount of \$252,000. **Approval is Recommended**

544

A Resolution seeking to set a closed session on a labor matter for November 15, 2022.

As permitted under the Michigan Open Meetings Act, a public body, upon a majority vote, may meet in closed session for strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing, and the City has requested that closed session; and that, Rebecca L. Fleury, City Manager, is hereby appointed as the designated secretary to record and prepare appropriate Minutes of this Closed Session.

This Resolution seeks to set a closed session on a labor matter for November 15, 2022. **Approval is Recommended**



Resolution NO. 531

A Resolution authorizing the sale of a vacant, tax-reverted property, Parcel Number 7270-00-008-0.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That the City Manager is authorized to execute quit claim deeds to vacant, City-owned, tax reverted properties in accordance with the following schedule:

Parcel Number: 7270-00-008-0

Legal Description: RICE & WESTONS ADD LOT 3

Purchaser: JOYCE HUBBARD

Sale Price: \$230.00

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Crystal Bax, Customer Service Representative II

Department: Planning

SUMMARY

A Resolution authorizing the sale of a vacant, tax-reverted property, Parcel Number 7270-00-008-0.

BUDGETARY CONSIDERATIONS

The sale of city-owned properties will put currently exempt parcels back on the property tax rolls. The sale typically only covers staff time in handling of the sale and deed recording fees.

HISTORY, BACKGROUND and DISCUSSION

The Community Services Department Planning Division is charged with managing the sale of vacant, city-owned, tax-reverted properties. This is accomplished both by periodic solicitation of interest through mailings to adjacent property owners, or unsolicited contacts, generally from the adjacent property owners. It is always preference to sell these parcels to the adjacent property owners.

By the way of Resolution No. 308, approved by the City Commission on August 8, 2000, the procedures for the sale of tax-reverted properties were provided to staff in the "**Administrative Policy on the Acquisition, Disposition and Inventory of City of Battle Creek Owned Real Property.**" These procedures provided the sale price and terms of the sale for these properties. A residentially-zoned vacant lot is offered for \$200.00 plus the cost of recording the deed with the Calhoun County Register of Deeds (Currently \$30.00).

Prior to our presenting any proposed sale, as per Resolution 308; we check to insure that the purchaser has no outstanding property tax issues, and no outstanding code violations on any property that they own within the City of Battle Creek.

Vacant parcel 7270-00-008-0 was offered to the following four (4) adjacent property owners.

120 WALTER AVE., Daniel Siefke (No reply) ; 114 and 118 WALTER AVE (both owned by Michael King). Mr. King replied that he was no longer interested; and 26 WILKES ST, Joyce Hubbard. Ms. Hubbard paid to bring their property taxes current and decided to purchase the vacant parcel.

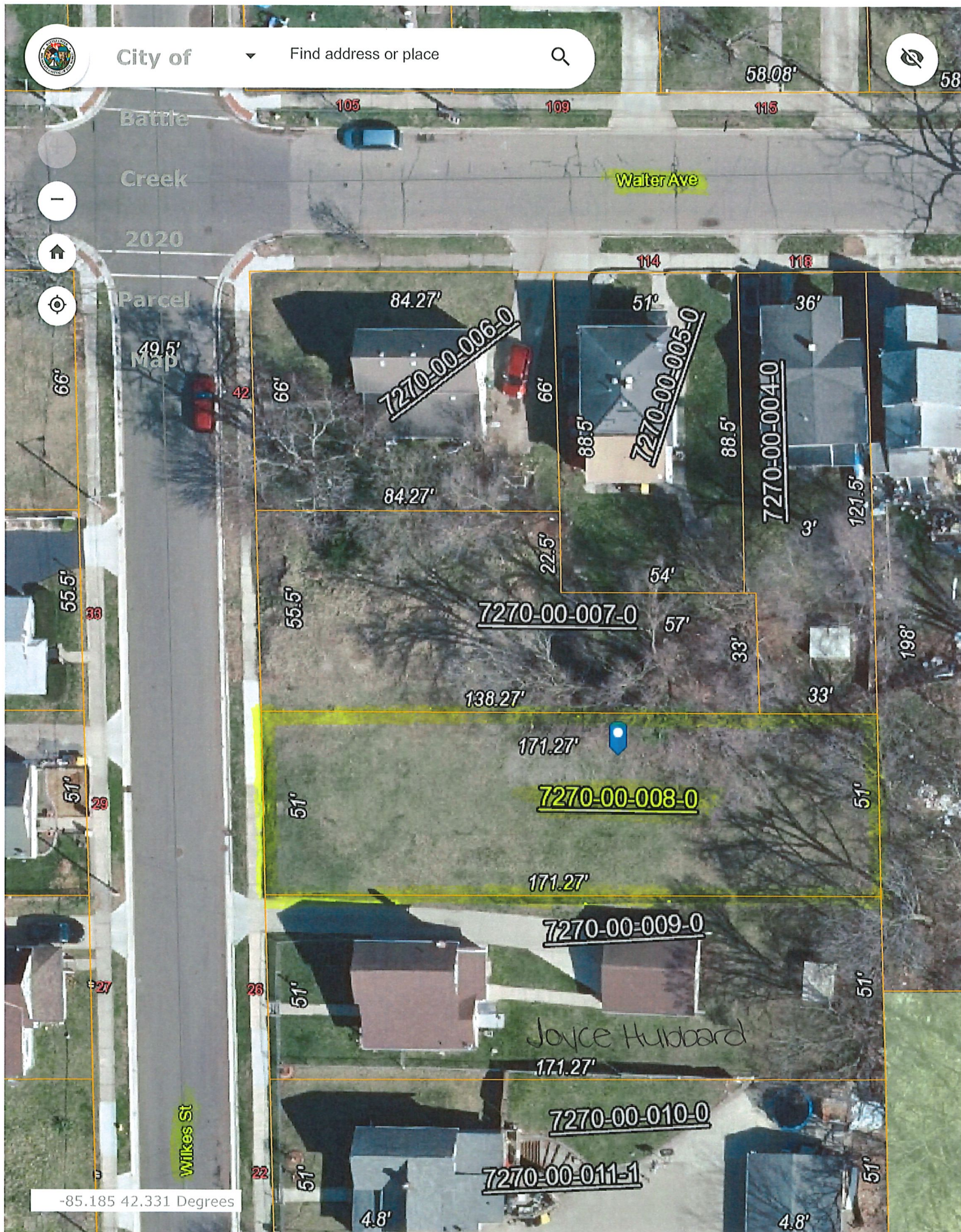
DISCUSSION OF THE ISSUE

POSITIONS

The Community Services Department staff recommends approval of this Resolution.

ATTACHMENTS:

File Name	Description
 Vacant_Parcel_Map_7270-00-008-0.pdf	Vacant Parcel Map 7270-00-008-0





Resolution

NO. 532

A Resolution seeking authorization to issue payment for emergency lift station generator replacement from Shouldice Industrial Manufacturers and Contractors, Inc. in a not-to-exceed amount of \$76,066.00.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

The City Manager or her designee is authorized to issue payment for an emergency lift station generator replacement from Shouldice Industrial Manufacturers and Contractors, Inc. Quote # CH102522 dated October 25, 2022, in a not-to-exceed amount of \$76,066.00 which will be paid from GL Account # 590.24.5480.967.010 - Contributing Jurisdictions Expense Offset.

The City Manager or her designee is also authorized to execute City-initiated and pre-approved change orders up to 10% in aggregate for unknown field conditions.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Nils Vos, Senior Buyer

Department: Purchasing

SUMMARY

A Resolution seeking authorization to issue payment for emergency lift station generator replacement from Shouldice Industrial Manufacturers and Contractors, Inc. in a not-to-exceed amount of \$76,066.00.

BUDGETARY CONSIDERATIONS

Emmett Township will reimburse to the City of Battle Creek.

HISTORY, BACKGROUND and DISCUSSION

The current on-site 125 KW Diesel Generator generator at lift station X-38 in Emmett Township has failed. The generator is over 40 years old and is leaking diesel fuel. The generator is past the point of repairs and needs to be replaced.

A backup generator is critical for the wastewater system operation in times of power outages. The replacement generator will be a 130 KW natural gas generator supplied by Shouldice Industrial Manufacturers and Contractors, Inc. at the cost of \$76,066.00. See the attached quote from Shouldice and recommendation letter from Carl Fedders, DPW Director.

The department will use the NEMA 3 transfer switch included in the base bid, and not take up the option for the \$3118 upgrade, due to cost.

Until the generator is replaced (lead time 12-16 weeks), the City of Battle Creek will supply a portable stand-by generator at the cost of \$3,000.00 a month.

Shouldice Industrial Manufacturers and Contractors, Inc. was selected to do this work because of their responsiveness, availability, and satisfactory work history with the City. Other vendors were contacted to quote this emergency work but did not respond.

The City's Administrative Code allows exceptions for purchases outside of the competitive sealed bidding process in case of emergency repairs or replacements and when such procedures are deemed unnecessary and burdensome and not in the best interests of the City by the City Manager. This is such a case; however, City Commission approval is required on purchases that exceed \$50,000.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
□ Memo.docx	Carl Fedders Memo
□ BC-1075_e_mich_ave._lift_station_generator.pdf	Shouldice Quote



CITY OF BATTLE CREEK

DEPARTMENT OF PUBLIC WORKS – ENGINEERING DIVISION

MEMORANDUM

To: Nils Vos, Senior Buyer
From: Carl Fedders, DPW Director
Date: November 4, 2022
Subject: Emergency Lift Station Generator Replacement

The current on-site 125 KW Diesel Generator generator at lift station X-38 in Emmett Township has failed. The generator is over 40 years old and is leaking diesel fuel. The generator is past the point of repairs and needs to be replaced.

A backup generator is critical for the wastewater system operation in times of power outages. The replacement generator will be a 130 KW Natural Gas Generator supplied by Shouldice Industrial Manufacturers and Contractors, Inc at the cost of \$76,066.00. See the attached quote.

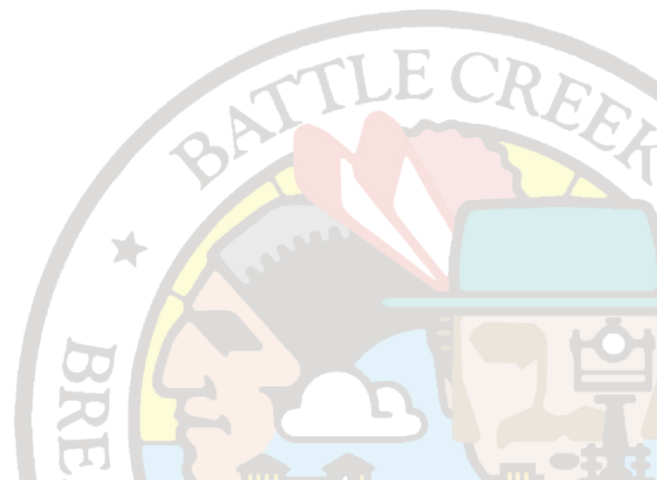
Until the generator is replaced (lead time 12-16 weeks), the City of Battle Creek will supply a portable stand-by generator at the cost of \$3,000.00 a month.

Shouldice Industrial Manufacturers and Contractors, Inc.. was selected to do this work because of their responsiveness, availability, and satisfactory work history with the City. Other vendors were contacted to quote this emergency work but did not respond.

The GL for this project is 590.24.5480.967.010 - Contributing Jurisdictions Expense Offset. Emmett Township will reimburse The City of Battle Creek for this purchase.

Your assistance with this project has been greatly appreciated.

Do not hesitate to ask any questions or provide comments to me.



182 Elm Street
Battle Creek, Michigan 49014
Phone: (269) 962-5579
Fax: (269) 962-8114
www.shouldicebrothers.com



Sheet Metal Services
Millwright Services
Ironwork Services
Electrical Services
Piping Services
General Trades

10/25/2022

RFQ#: CH102522

City of Battle Creek
10 N. Division St.
Battle Creek, MI 49014

RE: Generator Replacement—1075 E. Michigan Ave.—Lift Station

Chris:

We are pleased to provide a quote for providing and installing a new 130kw Generac generator with transfer switch on any existing lift station. This proposal is based on the information that was provided via email, and also site walk-through with your maintenance personnel. The following is a general scope of work included in this quotation.

- Provide and install new 130kw liquid cooled Generac generator, and 200amp 480/277v Nema 3 transfer switch. (see attached)
- To include gas meter install from Semco Energy
- Provide and install natural gas service from new gas meter to generator via licensed mechanical contractor.
- Provide conduit and wiring from generator to transfer switch location.
- Provide and install cold weather kit on generator unit (block and battery heater, battery charger)
- Provide and install concrete pad, dowel and pin existing pad, and form and pour 18" cap on existing pad.
- Disposal of old diesel unit included.
- Start-up and customer training included.
- To include all applicable permits.
- Underground trenching not responsible for items not identified by Miss Dig.
- Work to be completed during normal hours, and installed in a workman like manner.

LUMP SUM COST: \$74,482.00

Aluminum enclosure, ADD: \$1,584.00

NEMA 4 X Transfer Switch, ADD: \$3,118.00

Please note: Due to market volatility, material pricing is only guaranteed for 24 hours, price is subject to change. Also lead times on special order equipment cannot be guaranteed. An estimated shipping can be calculated upon issuance of purchase order.

Thank you for the opportunity to quote this project. Please do not hesitate to contact our office should you have any questions or require additional information.

Sincerely,

SHOULDICE INDUSTRIAL MANUFACTURERS AND CONTRACTORS, INC.

Chad S. Heuer

Electrical Division Project Manager/Estimator

Email: c_heuer@shouldicebrothers.com

Cell: (269) 209-8451



Resolution

NO. 533

A Resolution reappointing a member to the Board of Review.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That Peter Pontoni is reappointed to the Board of Review with a term to expire on January 1, 2027.

That the term date to expire for Robert Sharkey who was newly appointed to the Board of Review by Resolution 473 has been adjusted to January 1, 2027.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution reappointing a member to the Board of Review.

BUDGETARY CONSIDERATIONS

Members receive \$60 for each day they meet pursuant to Resolution No. 93, adopted January 20, 1998.

HISTORY, BACKGROUND and DISCUSSION

Section 8.3 of the Battle Creek City Charter states as follows: "Five resident electors who are freeholders, appointed by the City Commission for five-year staggered terms, shall constitute the Board of Review of the City. One shall be appointed each year to a term commencing the following January 1. The present members thereof shall continue their present terms. One of the Board members to be chosen annually by a majority of the Board shall act as Chairman. The City Assessor shall act as Secretary to the Board but shall not be entitled to vote, and shall be responsible for keeping a record of all proceedings, which shall be preserved for five years. Three members shall constitute a quorum. Their compensation shall be fixed by the City Commission. The Board shall meet at City Hall on the second day in March each year and continue in session at least five days and until its work is completed as required by law."

DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee met on November 9, 2022, and approved of this reappointment.

ATTACHMENTS:

File Name	Description
📎 BOARD_OF_REVIEW_3-16-2022.pdf	BOARD OF REVIEW
📎 Sharkey_03102022.pdf	Robert Sharkey Application
📎 Peter_Pontoni_-_2022.pdf	Peter Pontoni - 2022

BOARD OF REVIEW

<u>Authorization:</u>	Section 8.3 of the City Charter.
<u>Appointing Authority:</u>	City Commission.
<u>Members:</u>	Five (5.) Set by Charter and cannot be expanded.
<u>Term:</u> Five (5) years.	<u>Special Requirements:</u> Resident/property owner.
<u>Compensation:</u>	Set by Resolution No. 93, dated 1-20-98 (\$60/day)

<u>Name</u>	<u>Address</u>	<u>Term Expires</u>
Peter Pontoni	301 Wahwahtaysee Way	1-1-2023
Jim Eldridge	128 Althea Avenue	1-1-2024
Karen Roebuck	544 Lakeview Avenue	1-1-2025
Ariel Laws	176 N. Union St.	1-1-2026
Genetasia Tatum	106 Euclid Street	1-1-2027

The **City Assessor acts as Secretary to the Board**, but was eliminated as a voting member of the Board by vote of the people in April, 1970.

3-16-2022/mkc



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt)

- | | |
|---|--|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Historic District Commission |
| <input type="checkbox"/> AMSA Construction Board of Appeals | <input type="checkbox"/> Human Relations Board |
| <input type="checkbox"/> Battle Creek Downtown Development Authority | <input type="checkbox"/> Income Tax Board of Appeals |
| <input type="checkbox"/> Battle Creek Housing Commission | <input type="checkbox"/> International Relations Committee |
| <input type="checkbox"/> Battle Creek Transit Local Advisory Council | <input type="checkbox"/> Lakeview Downtown Development Authority |
| <input type="checkbox"/> Battle Creek Transit Local Coordinating Committee | <input type="checkbox"/> License Review Board |
| <input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority | <input type="checkbox"/> Local Development Financing Authority |
| <input type="checkbox"/> Bicycle Advisory Committee | <input type="checkbox"/> Local Officers' Compensation Commission |
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Planning Commission |
| <input checked="" type="checkbox"/> Board of Review (Assessing) | <input type="checkbox"/> Police/Fire Retiree Health Care Insurance Board |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Special Assessment Review Board |
| <input type="checkbox"/> Columbia Avenue Business Improvement District | <input type="checkbox"/> Sustainable BC Committee |
| <input type="checkbox"/> Dangerous Building Hearings Officer | <input type="checkbox"/> Technical Review Committee |
| <input type="checkbox"/> Dickman Road Business Improvement District | <input type="checkbox"/> Tree Advisory Council |
| <input type="checkbox"/> Downtown Parking System Advisory Committee | <input type="checkbox"/> Water System Advisory Council |
| <input type="checkbox"/> Economic Development Corporation | <input type="checkbox"/> Youth Advisory Board |
| <input type="checkbox"/> Goguac Lake Board | <input type="checkbox"/> Zoning Board of Appeals |

Name SHARKEY ROBERT J
Last First M.I.
Home Address: 124 GUILA CT BATTLE CREEK MI 49015 E-mail rsharkey51@gmail.com
Telephone: Home _____ Work _____ Cell 269-961-0809

Are you at least 18 years of age? Yes ☒ No ☐

Current occupation (students, list school activities) RETIRED

Employer/work address (students, list school) _____

Educational background/degrees (students, list year in school) JURIS DOCTOR (DETROIT COLLEGE OF LAW)

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service BC DOWNTOWN DEV AUTH 1986-2019; PARKING SYSTEM ADV COMM 1986-2019; US SELECTIVE SERVICE SYSTEM 1980-2000

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations) _____

AMERICAN BAR ASSOCIATION 1975-2019; CALHOUN COUNTY BAR ASSOCIATION 1978-PRESENT

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary). MICHIGAN TAX TRIBUNAL HEARING OFFICER - APPEALS OF RESIDENTIAL ASSESSMENTS, SPECIAL ASSESSMENTS MID-1990S

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature Robert Sharkey Date 3/9/2022

RETURN APPLICATION TO: City Manager's Office, 10 N. Division Street,
Room 206, Battle Creek, MI 49014

Demographics

We request the following Affirmative Action and Equal Opportunity information to help determine whether application information for city boards and commissioners is reaching all parts of the community. Providing the following information is optional, and if you wish to leave this section blank or incomplete, it will not affect your potential membership.

Race and Hispanic Origin (Select all that apply)

☐ American Indian and Alaska Native

☐ Asian

☐ Black or African American

☐ Native Hawaiian and Other Pacific Islander

☒ White

☐ Two or More Races

☐ Hispanic or Latinx

☐ Not Hispanic or Latinx

Sexual Orientation

☒ Straight/Heterosexual

☐ Gay or Lesbian

☐ Bisexual

☐ Prefer to self-describe

☐ Prefer not to say

Gender

☒ Man

☐ Woman

☐ Non-binary or third gender

☐ Prefer to self-describe

☐ Prefer not to say

Do you have a disability?

☐ Yes

☒ No

☐ Prefer not to respond



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt)

<input checked="" type="checkbox"/> Airport Advisory Board	<input type="checkbox"/> Historic District Commission
<input type="checkbox"/> AMSA Construction Board of Appeals	<input type="checkbox"/> Human Relations Board
<input type="checkbox"/> Battle Creek Downtown Development Authority	<input type="checkbox"/> Income Tax Board of Appeals
<input type="checkbox"/> Battle Creek Housing Commission	<input type="checkbox"/> International Relations Committee
<input type="checkbox"/> Battle Creek Transit Local Advisory Council	<input type="checkbox"/> Lakeview Downtown Development Authority
<input type="checkbox"/> Battle Creek Transit Local Coordinating Committee	<input type="checkbox"/> License Review Board
<input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority	<input type="checkbox"/> Local Development Financing Authority
<input type="checkbox"/> Bicycle Advisory Committee	<input type="checkbox"/> Local Officers' Compensation Commission
<input checked="" type="checkbox"/> Board of Appeals	<input type="checkbox"/> Planning Commission
<input checked="" type="checkbox"/> Board of Review (Assessing)	<input type="checkbox"/> Police/Fire Retiree Health Care Insurance Board
<input type="checkbox"/> Civil Service Commission	<input type="checkbox"/> Special Assessment Review Board
<input type="checkbox"/> Columbia Avenue Business Improvement District	<input type="checkbox"/> Sustainable BC Committee
<input type="checkbox"/> Dangerous Building Hearings Officer	<input type="checkbox"/> Technical Review Committee
<input type="checkbox"/> Dickman Road Business Improvement District	<input type="checkbox"/> Tree Advisory Council
<input type="checkbox"/> Downtown Parking System Advisory Committee	<input type="checkbox"/> Water System Advisory Council
<input type="checkbox"/> Economic Development Corporation	<input type="checkbox"/> Youth Advisory Board
<input type="checkbox"/> Goguac Lake Board	<input type="checkbox"/> Zoning Board of Appeals

CODE BOARD OF APPEALS

Name Pontani Peter D

Last First M.I.

Home Address: 301 Wahwahtay See Way BC MI 49015 E-mail: peterpontani@skglobal.net

Telephone: Home Work Cell 769-275-1119

Are you at least 18 years of age? Yes X No

Current occupation (students, list school activities) Real Estate Broker

Employer/work address (students, list school) SELF

Educational background/degrees (students, list year in school) High School

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service

Tax Board of Review 4 years Residential Code Board 4 years

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations)

BCAAR

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary). Civic duty

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature Peter Pontani Date 2-4-22

RETURN APPLICATION TO: City Manager's Office, 10 N. Division Street,
Room 206, Battle Creek, MI 49014



Resolution

NO. 534

A Resolution appointing a member to the Battle Creek Transit Local Advisory Council.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That Paulette Porter of Carewell Services is appointed to the Battle Creek Transit Local Advisory Council, replacing Lynn Moss, with a term to expire on September 01, 2025.

Battle Creek City Commission

11/15/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution appointing a member to the Battle Creek Transit Local Advisory Council.

BUDGETARY CONSIDERATIONS

None

HISTORY, BACKGROUND and DISCUSSION

A Local Advisory Council is required under Public Act 51 of 1951. Its legal function is that of reviewing and commenting on the Vehicle Accessibility Plan and updates to the Vehicle Accessibility Plan.

Submission of this Plan is a requirement for Battle Creek Transit to be able to receive various funding from the State and Federal Governments.

DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee is supportive of this appointment.

ATTACHMENTS:

File Name	Description
📎 Porter__Paulette_-_2022.pdf	Porter, Paulette - 2022
📎 Battle_Creek_Transit_Local_Advisory_Council.doc	Battle Creek Transit Local Advisory Council

Heather Robinson

From: noreply@civicplus.com
Sent: Thursday, October 13, 2022 1:15 PM
To: Michelle K. Culp; Rebecca D. Forbes; Heather Robinson
Subject: Online Form Submittal: *New* City of Battle Creek Boards and Commissions Application

Email sent from outside of the City of Battle Creek. Use caution before clicking links/attachments.

New City of Battle Creek Boards and Commissions Application

City of Battle Creek Board and Commission Application

Please select the **top 3** board(s) or commission(s) on which would like to serve.
This application will remain active for one year from the date we receive it and will be posted on the City's website. Thank you for applying!

Name	Paulette Porter
Are you 18 years or older?	Yes
Home address	200 W. Michigan Ave., Battle Creek, 49017
City	Battle Creek
State	MI
Zip code	49017
Email address	pporter@carewellservices.org
Home phone	Field not completed.
Work phone	2699687342
Cell phone	Field not completed.
Current occupation (students, list school activities)	Chief Operating Officer
Employer and work address (students, list school)	Region 3B Area Agency on Aging dba, CareWell Services SW, address above
Educational background/degrees	BA/Urban Policy, MSU

(students, list current year
in school)

List any appointed
positions, boards,
commissions, or
committees on which you
have served, and years of
service

Field not completed.

List any organizations to
which you belong
(professional, technical,
community, nonprofit;
students, list school
organizations)

Field not completed.

Briefly explain your
interest, experience,
and/or qualifications for
the boards for which you
are applying

Representing interests of aging population and the disabled.

Attach additional
information

Field not completed.

Electronic Signature
Agreement

I agree.

*By signing this form, you acknowledge that any or all information on this form may
be verified, and consent to the release of this information for publicity purposes.*

Electronic Signature

Paulette Porter

Date

10/13/2022

(Section Break)

Demographic Information

We request the following Affirmative Action and Equal Opportunity information to
help determine whether application information for city boards and commissions is
reaching all parts of the community. **Providing the following information is
optional, and if you wish to leave this section blank or incomplete, it will not
affect your potential membership.**

Race/Hispanic Origin

White

Sexual Orientation

Straight/heterosexual

Gender Woman

Do you have a disability? No

(Section Break)

Boards, Councils, and Commissions Interest

Please rank your first, second, and third choices for boards on which you would like to serve. Please check the boxes to indicate your experience and/or credentials for each of your three choices. Thank you!

Airport Advisory Board

Makes policy recommendations to support continued airport development and community economic growth; acts as advocate for current and potential economic value of the airport.

Rank *Field not completed.*

Experience *Field not completed.*

AMSA Construction Board of Appeals

Hears appeals on building permit denials, and from any other related decision pursuant or related to.

Rank *Field not completed.*

Experience *Field not completed.*

BC Downtown Development Authority

Provides for a variety of funding options, including tax increment financing mechanism, which can be used to fund public improvements in the downtown district.

Rank *Field not completed.*

Experience *Field not completed.*

BC Housing Commission

Manages all public housing facilities and rental voucher (Section 8) programs in the city. Public housing facilities include scattered site rental housing, home purchase programs and senior residential developments.

Rank	<i>Field not completed.</i>
Experience	<i>Field not completed.</i>
BC Transit Local Advisory Council	
Advises the City in areas relating to planning, delivery, and operation of public transportation in the community and to provide recommendations and input regarding accessibility including the annual approval of Battle Creek Transit's Vehicle Accessibility Plan.	
Rank	1
Experience	Public transportation
BC Transit Local Coordinating Committee	
Determines annually how the Specialized Services funds will be allocated among the various sub-recipients, related to transportation services for the elderly and those with disabilities.	
Rank	<i>Field not completed.</i>
Experience	<i>Field not completed.</i>
BC TIFA/Brownfield Redevelopment Authority	
BC Tax Increment Finance Authority. Works to halt a decline of property values, increase property tax valuation, eliminate causes of decline in value, and promote growth in the Fort Custer Industrial Park.	
Rank	<i>Field not completed.</i>
Experience	<i>Field not completed.</i>
Bicycle Advisory Committee	
League of American Bicyclists has created a framework for communities to use to become Bicycle Friendly Communities, which includes the creation and maintenance of a bicycle advisory committee to assist the city by providing research, community outreach, and policy recommendations to city commission and staff.	
Rank	<i>Field not completed.</i>
Experience	<i>Field not completed.</i>

Board of Appeals

Hears and decides on appeals concerning application or interpretation of the provisions and standards of the Building Code, the International Property Maintenance Code and Chapter 842 of these Codified Ordinances, and to hear appeals of decisions of the Dangerous Buildings Hearing Officer.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Board of Review (Assessing)

Members serve for five years, and must be city electors and property owners. Members may correct/amend assessment rolls, and increase or decrease taxable property assessment or valuation.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Civil Service Commission

Establishes rules applicable to all regular and full-time Fire Department personnel, excluding civilian employees. Members must reside in the city limits for one year, reside within the county for three years, and hold no other government office. There may be no more than two members of the same political party.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Columbia Avenue Business Improvement District

Promotes economic activity in the BID along Columbia Avenue; and provides or contracts for the administration, security, and operation of the District, to include physical improvements, and joint marketing.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Dangerous Buildings Hearing Officer

Identifies structures in the city considered to be a public nuisance; serves written notice of a hearing to the owner or party of interest at the address shown on the tax records; and shows cause why the structure(s) should not be ordered demolished, otherwise made safe, or properly maintained. Must have expertise in housing

matters, including, but not limited to: engineer, architect, building contractor, building inspector, or member of a community housing organization.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Development Area Citizen's Council

An advisory body to a development authority and, ultimately, the City Commission, related to updates to the authority's development plan.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Dickman Road Business Improvement District

Promotes economic activity in the BID along Dickman Road, and provides or contracts for the administration, security, and operation of the district, to include physical improvements and joint marketing.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Downtown Parking System Advisory Committee

Advises city staff and the city's parking administrator on issues related to the city-owned and operated parking system.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Economic Development Corporation

Alleviates unemployment conditions, assists in industry retention and promotes the general welfare of Battle Creek.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Goguac Lake Board

Formed to protect the public health, safety and welfare, and conserve the natural resources and preserve property values around Goguac Lake.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Historic District Commission

Reviews plans for exterior modifications or demolition of buildings within the federal, state, or local historic districts.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Human Relations Board

To increase constructive communication among all people regardless of actual or perceived race, ethnicity, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or socioeconomic status. To increase constructive communication between community members, public officials, and community organizations, thereby promoting harmonious and productive relationships within the community, and equitable access to community resources for all. Board shall be representative of management and labor, various religions, various races, and others who have an interest in human relations.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Income Tax Board of Appeals

Attempts to settle city income tax disputes.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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International Relations Committee

To foster cultural promotion of the city, and provide a positive environment toward foreign industrialists and their families

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Lakeview Downtown Development Authority

The definition of a development area; the origination of a development plan; and the implementation of a development program

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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License Review Board

Provides an opportunity to appeal when an application to operate as a vendor within the city limits is denied or a current Vendor's License becomes subject to suspension or revocation.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Local Development Financing Authority

To govern the affairs of the I-94 Business Park and Certified Technology Park (SmartZone) established by the City of Battle Creek, pursuant to an Agreement (The Battle Creek Aviation and E-Learning SmartZone Agreement) with the Michigan Economic Development Corporation.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Local Officers Compensation Commission

Determine salaries of elected officials. Shall meet for at least one, and not more than 15, session days in each odd-numbered year. "Session day" is a calendar day on which the commission meets and for which a quorum is present.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Planning Commission

Adopts plans for the city. Also considers requests for zoning classifications and special use permits, and makes recommendations to the City Commission on amendments to the planning and zoning code.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Sustainable BC Committee

Increase the city's efforts to incorporate environmentally-responsible policies in the management of its facilities and services, including initiatives outlined in the Climate Protection Act Policy, adopted in August 2006, and the 15 percent by '15 renewable energy policy goal, adopted in March 2007. Will review and recommend environmental/conservation policy for the city, including recommendations for action to the City Commission.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Technical Review Committee

Provides review, input, and recommendations to the city and the City Commission regarding various aspects of the wastewater treatment system and rates.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Tree Advisory Council

Helps develop the annual Tree Work Plan, and issue rules and regulations supplementary to the city's tree ordinance. Establishment meets a Tree City USA criterion.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Water System Advisory Council

Advises and assists with creation of materials and plans to educate the community about the dangers of lead in drinking water, assist with development of public awareness campaign materials, advise and consult on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded, advise and consult on efforts to replace private lead service lines, assist in promoting transparency of data and documents related to

lead in drinking water, and collaborate with local community groups to ensure those living in the city have the opportunity to be involved in efforts to educate the community about lead in drinking water.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Youth Advisory Board

To involve area youth in local government policy development and administrative procedures that will improve the leadership development of the community's youth.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Zoning Board of Appeals

Considers requests for variances to the requirement of the planning and zoning code. Typical variance requests include yard setback reductions and the size of commercial signage.

Rank	<i>Field not completed.</i>
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Experience	<i>Field not completed.</i>
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Email not displaying correctly? [View it in your browser.](#)

BATTLE CREEK TRANSIT LOCAL ADVISORY COUNCIL

<u>Authorization:</u>	Public Act 51, as amended.
<u>Appointing Authority:</u>	City Commission.
<u>Liaison:</u>	Mallory Avis - mravis@battlecreekmi.gov
<u>Purpose:</u>	To advise the City in areas relating to planning, delivery, and operation of public transportation in the community and to provide recommendations and input regarding accessibility including the annual approval of Battle Creek Transit's Vehicle Accessibility Plan.
<u>Membership:</u>	Minimum of three (3), but not more than eight (8), members.
<u>Terms:</u>	Two (2) years.
<u>Special Requirements:</u>	No member shall be a staff or board member of the applicant agency. Agencies that receive 5310 and Specialized Services funding cannot be members. The membership shall be comprised of the following: 50% must represent persons who are 65 years of age or older and persons who have disabilities within the service area; two people included who have diverse disabilities and the elderly who are users of public transportation; and one member, or 12% of the membership, approved jointly with the area agency on aging.
<u>Compensation:</u>	None.

Members:

Name:	Organization/Affiliation:	Email/Contact Info:	Term Expires:
Jerry Sigourney	Users of Public Transportation	(269)339-6788	9/1/2023
Lynn Moss	Persons age 65 or Older	lynn.moss.mi@gmail.com	9/1/2023
Mark Woodford	Persons 65 or Older	(269)660-8433	9/1/2023
Paul Ecklund	Persons with Disabilities	ecklundp@dnswm.org	9/1/2023



Resolution

NO. 535

A Resolution reappointing a member to the Civil Service Commission

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That Chris Dopp, is reappointed to the Civil Service Commission as the City Representative with a term ending December 31, 2028.

Battle Creek City Commission

11/15/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution reappointing a member to the Civil Service Commission

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

Pursuant to Act 78, Section 38.502(2): "The Civil Service Commission shall consist of 3 members, 1 of whom shall be appointed by the principal elected officer of the city, village, or municipality with the approval of the legislative body; and he shall serve for a period of 6 years from the date of his appointment. ... Thereafter all appointments shall be made for a period of 6 years each; each commissioner to serve until his successor is appointed and qualified by the appointing power hereinbefore designated." Appointees must be a United States citizen, live within the city for 1 year, and live in the county for a period of at least 3 years preceding such appointment.

DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee is supportive of this appointment.

ATTACHMENTS:

File Name	Description
📎 Civil_Service_Commission.doc	Civil Service Commission
📎 Dopp__Chris_-_2022.pdf	Dopp, Chris - 2022

CIVIL SERVICE COMMISSION

Authorization: State Act #78 of 1935, was adopted by the voters on November 6, 1962.

Appointing Authority: City Commission One (1) member;
Fire Department One (1) member
(does not have to go to Commission)
Two members appoint a third member.

Membership: Three (3)

Terms: Six (6) years.

Compensation: None

Special Requirements: City resident for one (1) year;
County resident for three (3) years;
Hold no other government office;
No more than two of the same political party.

Members:

Name:	Address:	Term Expires:
Chris Dopp (City)	313 W. Hamilton Ln.	12/31/2022
Calvin Hardin (Fire)		04/21/2028
Chris McCoy	29 Woodmer Ln.	05/23/2028



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt and will be posted on the City website.)

<input type="checkbox"/> Airport Advisory Board	<input type="checkbox"/> Gogiac Lake Board
<input type="checkbox"/> AMSA Construction Board of Appeals	<input type="checkbox"/> Historic District Commission
<input type="checkbox"/> Battle Creek Downtown Development Authority	<input type="checkbox"/> Human Relations Board
<input type="checkbox"/> Battle Creek Housing Commission	<input type="checkbox"/> Income Tax Board of Appeals
<input type="checkbox"/> Battle Creek Transit Local Advisory Council	<input type="checkbox"/> International Relations Committee
<input type="checkbox"/> Battle Creek Transit Local Coordinating Committee	<input type="checkbox"/> Lakeview Downtown Development Authority
<input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority	<input type="checkbox"/> License Review Board
<input type="checkbox"/> Bicycle Advisory Committee	<input type="checkbox"/> Local Development Financing Authority
<input type="checkbox"/> Board of Appeals	<input type="checkbox"/> Local Officers' Compensation Commission
<input type="checkbox"/> Board of Review (Assessing)	<input type="checkbox"/> Planning Commission
<input checked="" type="checkbox"/> Civil Service Commission	<input type="checkbox"/> Sustainable BC Committee
<input type="checkbox"/> Columbia Avenue Business Improvement District	<input type="checkbox"/> Technical Review Committee
<input type="checkbox"/> Dangerous Building Hearings Officer	<input type="checkbox"/> Tree Advisory Council
<input type="checkbox"/> Development Area Citizen's Council	<input type="checkbox"/> Water System Advisory Council
<input type="checkbox"/> Dickman Road Business Improvement District	<input type="checkbox"/> Youth Advisory Board
<input type="checkbox"/> Downtown Parking System Advisory Committee	<input type="checkbox"/> Zoning Board of Appeals
<input type="checkbox"/> Economic Development Corporation	

Name DOFF CHRIS J.
Last First M.I.
Home Address: 302 PINE KNOLL DR. RT. 3A MI. CITIDOPPEOUTLOOK.COM
E-mail
Telephone: Home _____ Work _____ Cell 269-268-9627

Are you at least 18 years of age? Yes X No _____

Current occupation (students, list school activities) CIVIL ENGINEER

Employer/work address (students, list school) EMMETT TOWNSHIP

Educational background/degrees (students, list year in school) BS.

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service

BCATS (20+ YEARS) CHAIR

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations)

APWA

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary. WORKED 31 YEARS FOR CITY OF BC.

AS CITY ENGINEER AND DPW

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature _____ Date 10-25-22

RETURN APPLICATION TO: City Manager's Office, 10 N. Division Street,
Room 206, Battle Creek, MI 49014

Demographics

We request the following Affirmative Action and Equal Opportunity information to help determine whether application information for city boards and commissioners is reaching all parts of the community. Providing the following information is optional, and if you wish to leave this section blank or incomplete, it will not affect your potential membership.

Race and Hispanic Origin (Select all that apply)

- ☐ American Indian and Alaska Native ☐ Asian
- ☐ Black or African American ☐ Native Hawaiian and Other Pacific Islander
- ☒ White ☐ Two or More Races
- ☐ Hispanic or Latinx ☐ Not Hispanic or Latinx

Sexual Orientation

- ☒ Straight/Heterosexual ☐ Gay or Lesbian
- ☐ Bisexual ☐ Prefer to self-describe
- ☐ Prefer not to say

Gender

- ☒ Man ☐ Woman ☐ Non-binary or third gender ☐ Prefer to self-describe ☐ Prefer not to say

Do you have a disability?

- ☐ Yes ☒ No ☐ Prefer not to respond

City of Battle Creek Boards, Commissions and Committees – Descriptions

PLEASE CHECK EXPERIENCE FOR THE (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

Airport Advisory Board – Appointing authority: Mayor and Commission.

The committee makes policy recommendations regarding airport matters in order to support the continued development of the airport and economic growth of the community, and acts as an advocate for the current and potential future economic value of the airport. Meets quarterly.

Contact: Battle Creek Executive Airport at Kellogg Field, 269-966-3470

Experience: ☐ Airport Operations ☐ Economic Development ☐ Live in city limits

AMSA Construction Board of Appeals – Appointing authority: Proposed by AMSA committee, appointed by the Mayor.

This committee hears appeals on building permit denials and from any other decision pursuant or related to. Meets as needed.

Contact: City Clerk, 269-966-3348

Experience: ☐ Architecture ☐ Building Construction ☐ Engineering ☐ Real Estate/Development/Law

Battle Creek Downtown Development Authority – Appointing authority: City Manager, with Commission approval.

The Downtown Development Authority, Public Act 57 of 2018, is designed to be a catalyst in the development of the city's downtown district. The DDA provides for a variety of funding options including a tax increment financing mechanism, which can be used to fund public improvements in the downtown district. Meets quarterly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Property Owner ☐ Business Representative ☐ Live in city limits

Battle Creek Housing Commission – Appointing authority: Mayor and Commission.

Manages all public housing facilities and rental voucher (Section 8) programs in the city. Public housing facilities include scattered site rental housing, home purchase programs and senior residential developments. Meets monthly.

Contact: Community Services Director, 269-966-3387

Experience: ☐ Public Housing ☐ Live in city limits

Battle Creek Transit Local Advisory Council – Appointing authority: Mayor and Commission.

Public Act 51 of 1951, as amended, required there to be a Local Advisory Council whose legal function is to review and comment on the applicant Vehicle Accessibility Plan and annual updates to that plan. Meets annually, with special meetings scheduled if necessary.

Contact: Battle Creek Transit, 269-966-3374

Experience: ☐ Public Transportation ☐ Live in city limits

Battle Creek Transit Local Coordinating Committee – Appointing authority: Mayor and Commission.

Public Act 51 of 1951, as amended, required there to be a local coordination of transportation services to the elderly and disabled. Because of this requirement, the Michigan Department of Transportation directed that each transit agency have a "local coordinating committee" whose legal function is to determine annually how the Specialized Services funds will be allocated among the various sub-recipients. Meets Quarterly.

Contact: Battle Creek Transit, 269-966-3474

Experience: ☐ Public Transportation ☐ Live in city limits

Battle Creek TIFA/Brownfield Redevelopment Authority – Appointing authority: City Manager, with Commission approval.

To halt a decline of property values, increase property tax valuation, eliminate causes of decline in value, and promote growth in the Fort Custer Industrial Park. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Property Owner ☐ Business Owner ☐ Live in city limits

Bicycle Advisory Committee – Appointing authority: City Manager for city staff members; Mayor and Commission for remaining members.

The League of American Bicyclists has created a framework for communities to use to become Bicycle Friendly Communities, which includes the creation and maintenance of a bicycle advisory committee to assist the city by providing research, community outreach, and policy recommendations to the Commission and city staff. Meets monthly.
Contact: Recreation Department, 269-966-3431; Engineering Division, 269-966-3343
Experience: __ Business Representative __ Live in city limits

Board of Appeals – Appointing authority: Mayor, with Commission approval.

Board members hear and decide on appeals concerning the application or interpretation of the provisions and standards of the Building Code, the International Property Maintenance Code and Chapter 842 of these Codified Ordinances, and to hear appeals of decisions of the Dangerous Buildings Hearing Officer. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: __ Building Construction/Engineering __ Zoning __ Real Estate/Development/Law __ Live in city limits

Board of Review (Assessing) – Appointing authority: Mayor and Commission.

Members serve for five years and must be city electors and property owners. Members may correct/amend assessment rolls and increase or decrease taxable property assessment or valuation. Meets for a minimum of five days in March; one day in July; and one day in December.

Contact: City Assessor, 269-966-3369

Experience: __ Banking/Finance __ Property Appraisal/Assessing __ Real Estate/Development/Law __ Live in city limits

City Commission – Appointing authority: Elected by City of Battle Creek voters.

City Commissioners serve two-year terms.

City voters elect the mayor as a separate office to serve a two-year term. After an election, the vice mayor is selected by their fellow commissioners to serve a two-year term. The commission is comprised of five ward commissioners, representing geographic wards within the city, and four at-large commissioners.

All interested City Commission candidates must collect signatures, and submit nominating petitions. See more information about commissioner candidate requirements at battlecreekmi.gov/elections. In the case of a position vacancy, the commission will follow a special process, about which information will be released separately.

Contact: City Clerk, 269-966-3348

Civil Service Commission – Appointing authority: Mayor and Commission appoint one member, Fire Department appoints one member, and those two members appoint a third member.

Establishes rules applicable to all regular and full-time Fire Department personnel, excluding civilian employees.

Members must reside in the city limits for one year, reside within the county for three years, and hold no other government office. There may be no more than two members of the same political party. Meets monthly.

Contact: City Clerk, 269-966-3348

Experience: __ Live in city limits

Columbia Avenue Business Improvement District – Appointing authority: Mayor and City Commission

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Columbia Avenue and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: __ Business Representative __ Live in city limits

Dangerous Building Hearings Officer – Appointing authority: Mayor, with Commission approval.

Identifies those structures within the city confines that are considered to be a public nuisance; serves written notice of a hearing to the owner or party of interest at the address shown on the tax records; and shows cause why the structure(s) should not be ordered demolished, otherwise made safe, or properly maintained. Must have expertise in housing matters, including, but not limited to: an engineer, architect, building contractor, building inspector, or member of a community housing organization. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: __ Building Construction/Engineering __ Real Estate/Development/Law __ Housing

Development Area Citizen's Council – Appointing authority: City CommissionAn advisory body to a development authority and, ultimately, the City Commission, related to updates to the authority's development plan. Contact: City Manager, 269-966-3378Experience: __ Lives within authority boundaries

Dickman Road Business Improvement District – Appointing authority: City Manager, with Commission approval; City of Springfield

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Dickman Road and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: __ Non-automotive Business Representative __ Automotive Business Representative

Downtown Parking System Advisory Committee – Appointing authority: Mayor appoints commissioners; City Manager appoints owners and members at large with Commission approval.

Advise city staff and the city's parking administrator on issues related to the municipally-owned and operated parking system. Meets as needed.

Contact: Public Works Director, 269-966-3490

Experience: __ Downtown Business/Property Owner __ Live in city limits

Economic Development Corporation – Appointing authority: Mayor, with Commission approval.

Alleviates unemployment conditions, assists in industry retention and promotes the general welfare of Battle Creek. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: __ Economic Development __ Live in city limits

Goguac Lake Board – Appointing authority: Two representatives and a Goguac Lake property owner by the Mayor and City Commission; a county commissioner by the Calhoun County Board of Commissioners chairperson; the county drain commissioner; a representative of the Michigan Department of Environment, Great Lakes, and Energy.

Pursuant to Public Act 451 of 1994, as amended by Public Act 59 of 1995, formed to protect the public health, safety and welfare, and conserve the natural resources and preserve property values around Goguac Lake. Meets quarterly.

Contact: Utility Administrator, 269-966-3343

Experience: __ Own property on Goguac Lake

Historic District Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law and local ordinance with reviewing plans for exterior modifications or demolition of buildings within the federal, state or local historic districts. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: __ Construction/Building Trades __ History __ Architecture __ Live in city limits

Human Relations Board – Appointing authority: Mayor, with Commission approval.

To increase constructive communication among all people regardless of actual or perceived race, ethnicity, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or socioeconomic status. To also increase constructive communication between community members, public officials, and community organizations, thereby promoting harmonious and productive relationships

within the community, and equitable access to community resources for all. Board shall be representative of management and labor, various religions, various races, and others who have an interest in human relations. Meets monthly.

Contact: City Manager's Office, 269-966-3378
Experience: __ Live in the metropolitan area

Income Tax Board of Appeals – Appointing authority: Mayor, with Commission approval.

Pursuant to State Act 284 of 1964, attempts to settle city income tax disputes. Meets as needed.

Contact: Income Tax Division, 269-966-3345

Experience: __ Income Tax/Accounting __ Live in city limits

International Relations Committee – Appointing authority: Mayor, with Commission approval.

To foster cultural promotion of the city and provide a positive environment toward foreign industrialists and their families. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: __ Live in city limits

Lakeview Downtown Development Authority – Appointing authority: City Manager, with Commission approval.

The LDDA's activities shall include, but are 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 Act 197 of PA 1975. Meets bi-annually.

Contact: City Manager, 269-966-3378

Experience: __ District Property Owner/Business Representative __ Live in city limits

License Review Board – Appointing authority: Mayor, with Commission approval.

Provides an opportunity to appeal when an application to operate as a vendor within the city limits is denied or a current Vendor's License becomes subject to suspension or revocation. Meets as needed.

Contact: City Clerk, 269-966-3348

Experience: __ Live in city limits

Local Development Financing Authority – Appointing authority: City Manager, with Commission approval.

To conduct those activities authorized under Act 281, Public Acts of 1986, and as amended from time to time (MCLA Section 125.2151 et seq.; MSA Section 3.540 (351) et seq.), and to otherwise govern the affairs of the I-94 Business Park and Certified Technology Park (SmartZone) established by the City of Battle Creek, Michigan, pursuant to an Agreement (The Battle Creek Aviation and E-Learning SmartZone Agreement) with the Michigan Economic Development Corporation. Meets as needed.

Contact: City Manager, 269-966-3378

Experience: __ Live in city limits __ Calhoun County Commission/KCC/MEDC appointment

Local Officers' Compensation Commission – Appointing authority: Mayor, with Commission approval.

Determine salaries of elected officials. Shall meet for at least one, and not more than 15, session days in each odd-numbered year. "Session day" is a calendar day on which the commission meets and for which a quorum is present.

Contact: City Clerk, 269-966-3348

Experience: __ Live in city limits

Planning Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law with the adoption of plans for the city. Also considers requests for zoning classifications and special use permits, and makes recommendations to the City Commission on amendments to the planning and zoning code. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: __ Civil/Engineering/Landscape Architecture __ Land Use Planning __ Real Estate/Development __ Law

Sustainable BC Committee – Appointing authority: City staff by City Manager; remaining members by Mayor, with Commission approval.

Increase the city's efforts to incorporate environmentally-responsible policies in the management of its facilities and services, including initiatives outlined in the Climate Protection Act Policy, adopted in August 2006, and the 15 percent by '15 renewable energy policy goal, adopted in March 2007. Will review and recommend environmental/conservation policy for the city, including recommendations for action to the City Commission. Meets as needed.

Contact: Utility Administrator, 269-966-3343

Experience: __ Environmental __ Live in city limits __ Business Representative

Technical Review Committee – Appointing authority: City staff by City Manager; remaining members by contributing jurisdictions.

Provides review, input, and recommendations to the City and the City Commission regarding various aspects of the Wastewater Treatment system and rates. Meets quarterly.

Contact: Public Works Director, 269-966-3490

Experience: __ Engineering __ Other Technical Expertise __ Industry Representative

Tree Advisory Council – Appointing authority: Mayor, with Commission approval.

Members serve in an advisory capacity to the Department of Public Works and the City Manager in developing the annual Tree Work Plan and the issuance of rules and regulations supplementary to the city's tree ordinance. Establishment meets a Tree City USA criterion. Meets at least once a year, in September.

Contact: City Engineer, 269-966-3343

Experience: __ Horticulture __ Forestry

Water System Advisory Council – Appointing authority: Mayor and Commission.

To advise and assist with the creation of materials and plans to educate the community about the dangers of lead in drinking water, assist with development of public awareness campaign materials, advise and consult on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded, advise and consult on efforts to replace private lead service lines, assist in promoting transparency of data and documents related to lead in drinking water, and collaborate with local community groups to ensure those living in the city have the opportunity to be involved in efforts to educate the community about lead in drinking water. Meets annually.

Contact: Public Works Director, 269-966-3490

Experience: __ Interest/knowledge about lead in drinking water and its effects __ Live in city limits

Youth Advisory Board – Appointing authority: Mayor, with Commission approval.

Established by Resolution 117 dated April 1, 2003 to involve area youth in local government policy development and administrative procedures that will improve the leadership development of the community's youth. Meets monthly.

Contact: City Manager's Office, 269-966-3378

Experience: __ Live in city limits __ Age 14-20

Zoning Board of Appeals – Appointing authority: Mayor, with Commission approval.

Considers requests for variances to the requirement of the planning and zoning code. Typical variance requests include yard setback reductions and the size of commercial signage. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: __ Land Use Planning __ Real Estate/Development/Law __ Building Construction/Engineering __ Live in city limits



Resolution

NO. 536

A Resolution reappointing members to the Lakeview Downtown Development Authority Board

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

The Anmar Atchu is reappointed to the Lakeview Downtown Development Authority with a term to expire on 11/13/2026.

Battle Creek City Commission

11/15/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution reappointing members to the Lakeview Downtown Development Authority Board

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

The LDDA was created and authorized by the adoption of Ordinance 280 on October 26, 1981, by the Battle Creek Township Board of Trustees, to Act 197 of the Public Acts of 1975 of the State of Michigan.

The membership is made up of the City Manager, plus 12 other members, 8 of whom have an interest in property located in the LDDA District. The LDDA's activities shall include, but are 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 Act 197 of PA 1975.

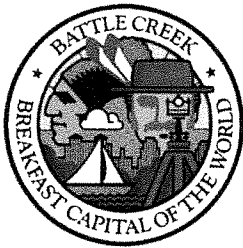
DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee is supportive of this appointment.

ATTACHMENTS:

File Name	Description
▣ Atchu__Anmar_-_2022.pdf	Atchu, Anmar - 2022
▣ Lakeview_Downtown_Development_Authority.doc	Lakeview Downtown Development Authority



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt and will be posted on the City website.)

- | | |
|---|---|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Goguac Lake Board |
| <input type="checkbox"/> AMSA Construction Board of Appeals | <input type="checkbox"/> Historic District Commission |
| <input type="checkbox"/> Battle Creek Downtown Development Authority | <input type="checkbox"/> Human Relations Board |
| <input type="checkbox"/> Battle Creek Housing Commission | <input type="checkbox"/> Income Tax Board of Appeals |
| <input type="checkbox"/> Battle Creek Transit Local Advisory Council | <input type="checkbox"/> International Relations Committee |
| <input type="checkbox"/> Battle Creek Transit Local Coordinating Committee | <input checked="" type="checkbox"/> Lakeview Downtown Development Authority |
| <input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority | <input type="checkbox"/> License Review Board |
| <input type="checkbox"/> Bicycle Advisory Committee | <input type="checkbox"/> Local Development Financing Authority |
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Local Officers' Compensation Commission |
| <input type="checkbox"/> Board of Review (Assessing) | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Sustainable BC Committee |
| <input type="checkbox"/> Columbia Avenue Business Improvement District | <input type="checkbox"/> Technical Review Committee |
| <input type="checkbox"/> Dangerous Building Hearings Officer | <input type="checkbox"/> Tree Advisory Council |
| <input type="checkbox"/> Development Area Citizen's Council | <input type="checkbox"/> Water System Advisory Council |
| <input type="checkbox"/> Dickman Road Business Improvement District | <input type="checkbox"/> Youth Advisory Board |
| <input type="checkbox"/> Downtown Parking System Advisory Committee | <input type="checkbox"/> Zoning Board of Appeals |
| <input type="checkbox"/> Economic Development Corporation | |

Name Atchu Anmar P
Last First M.I.
Home Address: 4011 Woodhams Ave, Portage, MI 49002 E-mail: anmara@hinmancompany.com

Telephone: Home _____ Work 269-488-3642 Cell _____

Are you at least 18 years of age? Yes ☒ No ☐

Current occupation (students, list school activities) Real Estate

Employer/work address (students, list school) Hinman Company

Educational background/degrees (students, list year in school) Bachelors - WMU

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service _____

Current LDDA board member with an expiring term seeking reappointment. Economic Development Corp (Current)

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations) _____

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary). Representative of owner with property located within the Authority boundaries.

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature _____

Date 10/31/22

RETURN APPLICATION TO: City Manager's Office, 10 N. Division Street,
Room 206, Battle Creek, MI 49014

LAKEVIEW DOWNTOWN DEVELOPMENT AUTHORITY

Authorization: Adoption of Ordinance 280 on October 26, 1981, by Battle Creek Township Board of Trustees, pursuant to Act 197 of PA 1975, of the State of Michigan.

Appointing Authority: City Manager with approval of the City Commission.

Purpose: The LDDA's activities shall include, but are 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 Act 197 of PA 1975.

Members: Up to twelve (plus City Manager), eight of whom shall be persons owning property in the District or having an interest in property in the District. New appointees to take oath of office.

Term: **Members shall be appointed for a term of four years after the initial appointments, or to fill an unexpired term.**

Compensation: None, except for reimbursement for actual and necessary expenses incurred in the performance of their official duties.

<u>Property Owners in the District**</u>	<u>Address</u>	<u>Term Expires</u>
Anmar Atchu**	750 Trade Centre Way, Ste. 100 Portage, MI 49002	11-13-2022
David Rost , DVM	51 Minges Rd. W.	2-6-2026
T.R. Shaw**	935 Hillbrook Drive	2-6-2026
Dave Schweitzer Schweitzer Construction	9807 Bellevue Road (14)	6-21-2024
Vacancy		6-21-2024
Vacancy		6-21-2024
Rebecca L. Fleury City Manager	10 N. Division Street	

05-04-22



Resolution

NO. 537

A Resolution reappointing and appointing a new member to the Zoning Board of Appeals

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That James Moreno is reappointed to the Zoning Board of Appeals with a term expiring on 01/01/2026.

That Janine Reed is appointed to the Zoning Board of Appeals with a term expiring on 01/01/2026.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution reappointing and appointing a new member to the Zoning Board of Appeals

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

The Zoning Board of Appeals was created in accordance with Public Act 207 of 1921, as amended. Members hear appeals from citizens regarding zoning problems and reach a decision in each case. The Board consists of seven members, with not more than two alternate members. At least one member of the Board shall be a member of the Planning Commission.

DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee is supportive of this appointment.

ATTACHMENTS:

File Name	Description
📎 Moreno__James_-_2022.pdf	Moreno, James - 2022
📎 Reed__Janine_-_2022.pdf	Reed, Janine - 2022
📎 Zoning_Board_of_Appeals.docx	Zoning Board of Appeals



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt and will be posted on the City website.)

- | | |
|---|--|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Goguac Lake Board |
| <input type="checkbox"/> AMSA Construction Board of Appeals | <input type="checkbox"/> Historic District Commission |
| <input type="checkbox"/> Battle Creek Downtown Development Authority | <input type="checkbox"/> Human Relations Board |
| <input type="checkbox"/> Battle Creek Housing Commission | <input type="checkbox"/> Income Tax Board of Appeals |
| <input type="checkbox"/> Battle Creek Transit Local Advisory Council | <input type="checkbox"/> International Relations Committee |
| <input type="checkbox"/> Battle Creek Transit Local Coordinating Committee | <input type="checkbox"/> Lakeview Downtown Development Authority |
| <input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority | <input type="checkbox"/> License Review Board |
| <input type="checkbox"/> Bicycle Advisory Committee | <input type="checkbox"/> Local Development Financing Authority |
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Local Officers' Compensation Commission |
| <input type="checkbox"/> Board of Review (Assessing) | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Sustainable BC Committee |
| <input type="checkbox"/> Columbia Avenue Business Improvement District | <input type="checkbox"/> Technical Review Committee |
| <input type="checkbox"/> Dangerous Building Hearings Officer | <input type="checkbox"/> Tree Advisory Council |
| <input type="checkbox"/> Development Area Citizen's Council | <input type="checkbox"/> Water System Advisory Council |
| <input type="checkbox"/> Dickman Road Business Improvement District | <input type="checkbox"/> Youth Advisory Board |
| <input type="checkbox"/> Downtown Parking System Advisory Committee | <input type="checkbox"/> Zoning Board of Appeals |
| <input type="checkbox"/> Economic Development Corporation | |

Name _____

Last

First

M.I.

Home Address: _____ E-mail _____

Telephone: Home _____ Work _____ Cell _____

Are you at least 18 years of age? Yes _____ No _____

Current occupation (students, list school activities) _____

Employer/work address (students, list school) _____

Educational background/degrees (students, list year in school) _____

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service _____

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations) _____

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary). _____

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature _____

Date _____

RETURN APPLICATION TO: City Manager's Office, 10 N. Division Street,
Room 206, Battle Creek, MI 49014

Demographics

We request the following Affirmative Action and Equal Opportunity information to help determine whether application information for city boards and commissioners is reaching all parts of the community. Providing the following information is optional, and if you wish to leave this section blank or incomplete, it will not affect your potential membership.

Race and Hispanic Origin (Select all that apply)

☐ American Indian and Alaska Native

☐ Asian

☐ Black or African American

☐ Native Hawaiian and Other Pacific Islander

☐ White

☐ Two or More Races

☒ Hispanic or Latinx

☐ Not Hispanic or Latinx

Sexual Orientation

☒ Straight/Heterosexual

☐ Gay or Lesbian

☐ Bisexual

☐ Prefer to self-describe

☐ Prefer not to say

Gender

☒ Man

☐ Woman

☐ Non-binary or third gender

☐ Prefer to self-describe

☐ Prefer not to

say

Do you have a disability?

☐ Yes

☒ No

☐ Prefer not to respond

City of Battle Creek Boards, Commissions and Committees – Descriptions

**PLEASE CHECK EXPERIENCE FOR THE (3) BOARD(S) OR COMMISSION(S) ON WHICH
YOU ARE INTERESTED IN SERVING**

Airport Advisory Board – Appointing authority: Mayor and Commission.

The committee makes policy recommendations regarding airport matters in order to support the continued development of the airport and economic growth of the community, and acts as an advocate for the current and potential future economic value of the airport. Meets quarterly.

Contact: Battle Creek Executive Airport at Kellogg Field, 269-966-3470

Experience: ☐ Airport Operations ☐ Economic Development ☐ Live in city limits

AMSA Construction Board of Appeals – Appointing authority: Proposed by AMSA committee, appointed by the Mayor.

This committee hears appeals on building permit denials and from any other decision pursuant or related to. Meets as needed.

Contact: City Clerk, 269-966-3348

Experience: ☐ Architecture ☐ Building Construction ☐ Engineering ☐ Real Estate/Development/Law

Battle Creek Downtown Development Authority – Appointing authority: City Manager, with Commission approval.

The Downtown Development Authority, Public Act 57 of 2018, is designed to be a catalyst in the development of the city's downtown district. The DDA provides for a variety of funding options including a tax increment financing mechanism, which can be used to fund public improvements in the downtown district. Meets quarterly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Property Owner ☐ Business Representative ☐ Live in city limits

Battle Creek Housing Commission – Appointing authority: Mayor and Commission.

Manages all public housing facilities and rental voucher (Section 8) programs in the city. Public housing facilities include scattered site rental housing, home purchase programs and senior residential developments. Meets monthly.

Contact: Community Services Director, 269-966-3387

Experience: ☐ Public Housing ☐ Live in city limits

Battle Creek Transit Local Advisory Council – Appointing authority: Mayor and Commission.

Public Act 51 of 1951, as amended, required there to be a Local Advisory Council whose legal function is to review and comment on the applicant Vehicle Accessibility Plan and annual updates to that plan. Meets annually, with special meetings scheduled if necessary.

Contact: Battle Creek Transit, 269-966-3374

Experience: ☐ Public Transportation ☐ Live in city limits

Battle Creek Transit Local Coordinating Committee – Appointing authority: Mayor and Commission.

Public Act 51 of 1951, as amended, required there to be a local coordination of transportation services to the elderly and disabled. Because of this requirement, the Michigan Department of Transportation directed that each transit agency have a "local coordinating committee" whose legal function is to determine annually how the Specialized Services funds will be allocated among the various sub-recipients. Meets Quarterly.

Contact: Battle Creek Transit, 269-966-3474

Experience: ☐ Public Transportation ☐ Live in city limits

Battle Creek TIFA/Brownfield Redevelopment Authority – Appointing authority: City Manager, with Commission approval.

To halt a decline of property values, increase property tax valuation, eliminate causes of decline in value, and promote growth in the Fort Custer Industrial Park. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Property Owner ☐ Business Owner ☐ Live in city limits

Bicycle Advisory Committee – Appointing authority: City Manager for city staff members; Mayor and Commission for remaining members.

The League of American Bicyclists has created a framework for communities to use to become Bicycle Friendly Communities, which includes the creation and maintenance of a bicycle advisory committee to assist the city by providing research, community outreach, and policy recommendations to the Commission and city staff. Meets monthly.

Contact: Recreation Department, 269-966-3431; Engineering Division, 269-966-3343

Experience: ☐ Business Representative ☐ Live in city limits

Board of Appeals – Appointing authority: Mayor, with Commission approval.

Board members hear and decide on appeals concerning the application or interpretation of the provisions and standards of the Building Code, the International Property Maintenance Code and Chapter 842 of these Codified Ordinances, and to hear appeals of decisions of the Dangerous Buildings Hearing Officer. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: ☐ Building Construction/Engineering ☐ Zoning ☐ Real Estate/Development/Law ☐ Live in city limits

Board of Review (Assessing) – Appointing authority: Mayor and Commission.

Members serve for five years and must be city electors and property owners. Members may correct/amend assessment rolls and increase or decrease taxable property assessment or valuation. Meets for a minimum of five days in March; one day in July; and one day in December.

Contact: City Assessor, 269-966-3369

Experience: ☐ Banking/Finance ☐ Property Appraisal/Assessing ☐ Real Estate/Development/Law ☐ Live in city limits

City Commission – Appointing authority: Elected by City of Battle Creek voters.

City Commissioners serve two-year terms.

City voters elect the mayor as a separate office to serve a two-year term. After an election, the vice mayor is selected by their fellow commissioners to serve a two-year term. The commission is comprised of five ward commissioners, representing geographic wards within the city, and four at-large commissioners.

All interested City Commission candidates must collect signatures, and submit nominating petitions. See more information about commissioner candidate requirements at battlecreekmi.gov/elections. In the case of a position vacancy, the commission will follow a special process, about which information will be released separately.

Contact: City Clerk, 269-966-3348

Civil Service Commission – Appointing authority: Mayor and Commission appoint one member, Fire Department appoints one member, and those two members appoint a third member.

Establishes rules applicable to all regular and full-time Fire Department personnel, excluding civilian employees.

Members must reside in the city limits for one year, reside within the county for three years, and hold no other government office. There may be no more than two members of the same political party. Meets monthly.

Contact: City Clerk, 269-966-3348

Experience: ☐ Live in city limits

Columbia Avenue Business Improvement District – Appointing authority: Mayor and City Commission

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Columbia Avenue and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Business Representative ☐ Live in city limits

Dangerous Building Hearings Officer – Appointing authority: Mayor, with Commission approval.

Identifies those structures within the city confines that are considered to be a public nuisance; serves written notice of a hearing to the owner or party of interest at the address shown on the tax records; and shows cause why the structure(s) should not be ordered demolished, otherwise made safe, or properly maintained. Must have expertise in housing matters, including, but not limited to: an engineer, architect, building contractor, building inspector, or member of a community housing organization. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: ☐ Building Construction/Engineering ☐ Real Estate/Development/Law ☐ Housing

Development Area Citizen's Council – Appointing authority: City CommissionAn advisory body to a development authority and, ultimately, the City Commission, related to updates to the authority's development plan. Contact: City Manager, 269-966-3378Experience: ☐ Lives within authority boundaries

Dickman Road Business Improvement District – Appointing authority: City Manager, with Commission approval; City of Springfield

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Dickman Road and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Non-automotive Business Representative ☐ Automotive Business Representative

Downtown Parking System Advisory Committee – Appointing authority: Mayor appoints commissioners; City Manager appoints owners and members at large with Commission approval.

Advises city staff and the city's parking administrator on issues related to the municipally-owned and operated parking system. Meets as needed.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Downtown Business/Property Owner ☐ Live in city limits

Economic Development Corporation – Appointing authority: Mayor, with Commission approval.

Alleviates unemployment conditions, assists in industry retention and promotes the general welfare of Battle Creek. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Economic Development ☐ Live in city limits

Goguac Lake Board – Appointing authority: Two representatives and a Goguac Lake property owner by the Mayor and City Commission; a county commissioner by the Calhoun County Board of Commissioners chairperson; the county drain commissioner; a representative of the Michigan Department of Environment, Great Lakes, and Energy.

Pursuant to Public Act 451 of 1994, as amended by Public Act 59 of 1995, formed to protect the public health, safety and welfare, and conserve the natural resources and preserve property values around Goguac Lake. Meets quarterly.

Contact: Utility Administrator, 269-966-3343

Experience: ☐ Own property on Goguac Lake

Historic District Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law and local ordinance with reviewing plans for exterior modifications or demolition of buildings within the federal, state or local historic districts. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: ☐ Construction/Building Trades ☐ History ☐ Architecture ☐ Live in city limits

Human Relations Board – Appointing authority: Mayor, with Commission approval.

To increase constructive communication among all people regardless of actual or perceived race, ethnicity, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or socioeconomic status. To also increase constructive communication between community members, public officials, and community organizations, thereby promoting harmonious and productive relationships

within the community, and equitable access to community resources for all. Board shall be representative of management and labor, various religions, various races, and others who have an interest in human relations. Meets monthly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Live in the metropolitan area

Income Tax Board of Appeals – Appointing authority: Mayor, with Commission approval.

Pursuant to State Act 284 of 1964, attempts to settle city income tax disputes. Meets as needed.

Contact: Income Tax Division, 269-966-3345

Experience: ☐ Income Tax/Accounting ☐ Live in city limits

International Relations Committee – Appointing authority: Mayor, with Commission approval.

To foster cultural promotion of the city and provide a positive environment toward foreign industrialists and their families. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Live in city limits

Lakeview Downtown Development Authority – Appointing authority: City Manager, with Commission approval.

The LDDA's activities shall include, but are 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 Act 197 of PA 1975. Meets bi-annually.

Contact: City Manager, 269-966-3378

Experience: ☐ District Property Owner/Business Representative ☐ Live in city limits

License Review Board – Appointing authority: Mayor, with Commission approval.

Provides an opportunity to appeal when an application to operate as a vendor within the city limits is denied or a current Vendor's License becomes subject to suspension or revocation. Meets as needed.

Contact: City Clerk, 269-966-3348

Experience: ☐ Live in city limits

Local Development Financing Authority – Appointing authority: City Manager, with Commission approval.

To conduct those activities authorized under Act 281, Public Acts of 1986, and as amended from time to time (MCLA Section 125.2151 et seq.; MSA Section 3.540 (351) et seq.), and to otherwise govern the affairs of the I-94 Business Park and Certified Technology Park (SmartZone) established by the City of Battle Creek, Michigan, pursuant to an Agreement (The Battle Creek Aviation and E-Learning SmartZone Agreement) with the Michigan Economic Development Corporation. Meets as needed.

Contact: City Manager, 269-966-3378

Experience: ☐ Live in city limits ☐ Calhoun County Commission/KCC/MEDC appointment

Local Officers' Compensation Commission – Appointing authority: Mayor, with Commission approval.

Determine salaries of elected officials. Shall meet for at least one, and not more than 15, session days in each odd-numbered year. "Session day" is a calendar day on which the commission meets and for which a quorum is present.

Contact: City Clerk, 269-966-3348

Experience: ☐ Live in city limits

Planning Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law with the adoption of plans for the city. Also considers requests for zoning classifications and special use permits, and makes recommendations to the City Commission on amendments to the planning and zoning code. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: ☐ Civil/Engineering/Landscape Architecture ☐ Land Use Planning ☐ Real Estate/Development ☐ Law

Sustainable BC Committee – Appointing authority: City staff by City Manager; remaining members by Mayor, with Commission approval.

Increase the city's efforts to incorporate environmentally-responsible policies in the management of its facilities and services, including initiatives outlined in the Climate Protection Act Policy, adopted in August 2006, and the 15 percent by '15 renewable energy policy goal, adopted in March 2007. Will review and recommend environmental/conservation policy for the city, including recommendations for action to the City Commission. Meets as needed.

Contact: Utility Administrator, 269-966-3343

Experience: ☐ Environmental ☐ Live in city limits ☐ Business Representative

Technical Review Committee – Appointing authority: City staff by City Manager; remaining members by contributing jurisdictions.

Provides review, input, and recommendations to the City and the City Commission regarding various aspects of the Wastewater Treatment system and rates. Meets quarterly.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Engineering ☐ Other Technical Expertise ☐ Industry Representative

Tree Advisory Council – Appointing authority: Mayor, with Commission approval.

Members serve in an advisory capacity to the Department of Public Works and the City Manager in developing the annual Tree Work Plan and the issuance of rules and regulations supplementary to the city's tree ordinance. Establishment meets a Tree City USA criterion. Meets at least once a year, in September.

Contact: City Engineer, 269-966-3343

Experience: ☐ Horticulture ☐ Forestry

Water System Advisory Council – Appointing authority: Mayor and Commission.

To advise and assist with the creation of materials and plans to educate the community about the dangers of lead in drinking water, assist with development of public awareness campaign materials, advise and consult on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded, advise and consult on efforts to replace private lead service lines, assist in promoting transparency of data and documents related to lead in drinking water, and collaborate with local community groups to ensure those living in the city have the opportunity to be involved in efforts to educate the community about lead in drinking water. Meets annually.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Interest/knowledge about lead in drinking water and its effects ☐ Live in city limits

Youth Advisory Board – Appointing authority: Mayor, with Commission approval.

Established by Resolution 117 dated April 1, 2003 to involve area youth in local government policy development and administrative procedures that will improve the leadership development of the community's youth. Meets monthly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Live in city limits ☐ Age 14-20

Zoning Board of Appeals – Appointing authority: Mayor, with Commission approval.

Considers requests for variances to the requirement of the planning and zoning code. Typical variance requests include yard setback reductions and the size of commercial signage. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: X ☒ Land Use Planning ☐ Real Estate/Development/Law ☐ Building Construction/Engineering ☒ Live in city limits



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt and will be posted on the City website.)

- | | |
|---|--|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Gogua Lake Board |
| <input type="checkbox"/> AMSA Construction Board of Appeals | <input type="checkbox"/> Historic District Commission |
| <input type="checkbox"/> Battle Creek Downtown Development Authority | <input type="checkbox"/> Human Relations Board |
| <input type="checkbox"/> Battle Creek Housing Commission | <input type="checkbox"/> Income Tax Board of Appeals |
| <input type="checkbox"/> Battle Creek Transit Local Advisory Council | <input type="checkbox"/> International Relations Committee |
| <input type="checkbox"/> Battle Creek Transit Local Coordinating Committee | <input type="checkbox"/> Lakeview Downtown Development Authority |
| <input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority | <input type="checkbox"/> License Review Board |
| <input type="checkbox"/> Bicycle Advisory Committee | <input type="checkbox"/> Local Development Financing Authority |
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Local Officers' Compensation Commission |
| <input type="checkbox"/> Board of Review (Assessing) | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Civil Service Commission | <input checked="" type="checkbox"/> Sustainable BC Committee |
| <input type="checkbox"/> Columbia Avenue Business Improvement District | <input type="checkbox"/> Technical Review Committee |
| <input type="checkbox"/> Dangerous Building Hearings Officer | <input type="checkbox"/> Tree Advisory Council |
| <input type="checkbox"/> Development Area Citizen's Council | <input type="checkbox"/> Water System Advisory Council |
| <input type="checkbox"/> Dickman Road Business Improvement District | <input type="checkbox"/> Youth Advisory Board |
| <input type="checkbox"/> Downtown Parking System Advisory Committee | <input type="checkbox"/> Zoning Board of Appeals |
| <input type="checkbox"/> Economic Development Corporation | |

Name Reed, Janine A

Home Address: 70 W. Michigan Ave Ste. 810

E-mail: diebel1953@icloud.com

Telephone: Home _____ Work _____ Cell 517-881-1556

Are you at least 18 years of age? Yes ☒ No ☐

Current occupation (students, list school activities) Retired Registered Nurse - Dialysis Administration

Employer/work address (students, list school) None

Educational background/degrees (students, list year in school) Master Holistic Health WMU, BS Health Studies WMU

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service Alport Syndrome Foundation Board 5 years,

National Kidney Foundation Advocacy 10 years, Otsego Memorial Board 15 years, Fall Fiber Retreat 12 years

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations) _____

Pierce Cedar Creek Institute, Michigan Beekeepers Association, Alport Syndrome Foundation, National Kidney Foundation, Sprout BC

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary. Please see added page.

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature Janine A Reed

Date Sept. 25, 2022

RETURN APPLICATION TO: City Manager's Office, 10 N. Division Street,
Room 206, Battle Creek, MI 49014

I am a 3rd generation organic gardener and have embraced ecologically sound principles wherever possible throughout my adult life. Upon my retirement, I moved back to my hometown of Battle Creek where I began developing a 6 acre small farm using sustainability and permaculture principles. I became a member of Pierce Cedar Creek Institute in order to learn more and engage in their volunteer opportunities. I recently sold my home and moved into The Battle Creek Tower which has helped me to become more aware of the efforts being made to support sustainability within the city limits, especially the downtown area.

As a registered nurse, I have had 50 years of successfully communicating with the general public as patients and their families, coworkers, and through various community committees. In these activities and in my current board and committee work, I have learned how important it is to listen and learn from others in the group as well as those collaborating with the group.

As a new resident of downtown Battle Creek, I feel invested in actively participating in the development and application of sustainability planning.

Thank you for your consideration.

Janine Reed

Demographics

We request the following Affirmative Action and Equal Opportunity information to help determine whether application information for city boards and commissioners is reaching all parts of the community. Providing the following information is optional, and if you wish to leave this section blank or incomplete, it will not affect your potential membership.

Race and Hispanic Origin (Select all that apply)

☐ American Indian and Alaska Native

☐ Asian

☐ Black or African American

☐ Native Hawaiian and Other Pacific Islander

☒ White

☐ Two or More Races

☐ Hispanic or Latinx

☐ Not Hispanic or Latinx

Sexual Orientation

☒ Straight/Heterosexual

☐ Gay or Lesbian

☐ Bisexual

☐ Prefer to self-describe

☐ Prefer not to say

Gender

☐ Man

☒ Woman

☐ Non-binary or third gender

☐ Prefer to self-describe

☐ Prefer not to say

Do you have a disability?

☒ Yes

☐ No

☐ Prefer not to respond

Hearing loss supported with hearing aids

City of Battle Creek Boards, Commissions and Committees – Descriptions

**PLEASE CHECK EXPERIENCE FOR THE (3) BOARD(S) OR COMMISSION(S) ON WHICH
YOU ARE INTERESTED IN SERVING**

Airport Advisory Board – Appointing authority: Mayor and Commission.

The committee makes policy recommendations regarding airport matters in order to support the continued development of the airport and economic growth of the community, and acts as an advocate for the current and potential future economic value of the airport. Meets quarterly.

Contact: Battle Creek Executive Airport at Kellogg Field, 269-966-3470

Experience: ☐ Airport Operations ☐ Economic Development ☐ Live in city limits

AMSA Construction Board of Appeals – Appointing authority: Proposed by AMSA committee, appointed by the Mayor. This committee hears appeals on building permit denials and from any other decision pursuant or related to. Meets as needed.

Contact: City Clerk, 269-966-3348

Experience: ☐ Architecture ☐ Building Construction ☐ Engineering ☐ Real Estate/Development/Law

Battle Creek Downtown Development Authority – Appointing authority: City Manager, with Commission approval.

The Downtown Development Authority, Public Act 57 of 2018, is designed to be a catalyst in the development of the city's downtown district. The DDA provides for a variety of funding options including a tax increment financing mechanism, which can be used to fund public improvements in the downtown district. Meets quarterly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Property Owner ☐ Business Representative ☐ Live in city limits

Battle Creek Housing Commission – Appointing authority: Mayor and Commission.

Manages all public housing facilities and rental voucher (Section 8) programs in the city. Public housing facilities include scattered site rental housing, home purchase programs and senior residential developments. Meets monthly.

Contact: Community Services Director, 269-966-3387

Experience: ☐ Public Housing ☐ Live in city limits

Battle Creek Transit Local Advisory Council – Appointing authority: Mayor and Commission.

Public Act 51 of 1951, as amended, required there to be a Local Advisory Council whose legal function is to review and comment on the applicant Vehicle Accessibility Plan and annual updates to that plan. Meets annually, with special meetings scheduled if necessary.

Contact: Battle Creek Transit, 269-966-3374

Experience: ☐ Public Transportation ☐ Live in city limits

Battle Creek Transit Local Coordinating Committee – Appointing authority: Mayor and Commission.

Public Act 51 of 1951, as amended, required there to be a local coordination of transportation services to the elderly and disabled. Because of this requirement, the Michigan Department of Transportation directed that each transit agency have a "local coordinating committee" whose legal function is to determine annually how the Specialized Services funds will be allocated among the various sub-recipients. Meets Quarterly.

Contact: Battle Creek Transit, 269-966-3474

Experience: ☐ Public Transportation ☐ Live in city limits

Battle Creek TIFA/Brownfield Redevelopment Authority – Appointing authority: City Manager, with Commission approval.

To halt a decline of property values, increase property tax valuation, eliminate causes of decline in value, and promote growth in the Fort Custer Industrial Park. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Property Owner ☐ Business Owner ☐ Live in city limits

Bicycle Advisory Committee – Appointing authority: City Manager for city staff members; Mayor and Commission for remaining members.

The League of American Bicyclists has created a framework for communities to use to become Bicycle Friendly Communities, which includes the creation and maintenance of a bicycle advisory committee to assist the city by providing research, community outreach, and policy recommendations to the Commission and city staff. Meets monthly.

Contact: Recreation Department, 269-966-3431; Engineering Division, 269-966-3343

Experience: ☐ Business Representative ☐ Live in city limits

Board of Appeals – Appointing authority: Mayor, with Commission approval.

Board members hear and decide on appeals concerning the application or interpretation of the provisions and standards of the Building Code, the International Property Maintenance Code and Chapter 842 of these Codified Ordinances, and to hear appeals of decisions of the Dangerous Buildings Hearing Officer. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: ☐ Building Construction/Engineering ☐ Zoning ☐ Real Estate/Development/Law ☐ Live in city limits

Board of Review (Assessing) – Appointing authority: Mayor and Commission.

Members serve for five years and must be city electors and property owners. Members may correct/amend assessment rolls and increase or decrease taxable property assessment or valuation. Meets for a minimum of five days in March; one day in July; and one day in December.

Contact: City Assessor, 269-966-3369

Experience: ☐ Banking/Finance ☐ Property Appraisal/Assessing ☐ Real Estate/Development/Law ☐ Live in city limits

City Commission – Appointing authority: Elected by City of Battle Creek voters.

City Commissioners serve two-year terms.

City voters elect the mayor as a separate office to serve a two-year term. After an election, the vice mayor is selected by their fellow commissioners to serve a two-year term. The commission is comprised of five ward commissioners, representing geographic wards within the city, and four at-large commissioners.

All interested City Commission candidates must collect signatures, and submit nominating petitions. See more information about commissioner candidate requirements at battlecreekmi.gov/elections. In the case of a position vacancy, the commission will follow a special process, about which information will be released separately.

Contact: City Clerk, 269-966-3348

Civil Service Commission – Appointing authority: Mayor and Commission appoint one member, Fire Department appoints one member, and those two members appoint a third member.

Establishes rules applicable to all regular and full-time Fire Department personnel, excluding civilian employees. Members must reside in the city limits for one year, reside within the county for three years, and hold no other government office. There may be no more than two members of the same political party. Meets monthly.

Contact: City Clerk, 269-966-3348

Experience: ☐ Live in city limits

Columbia Avenue Business Improvement District – Appointing authority: Mayor and City Commission

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Columbia Avenue and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Business Representative ☐ Live in city limits

Dangerous Building Hearings Officer – Appointing authority: Mayor, with Commission approval.

Identifies those structures within the city confines that are considered to be a public nuisance; serves written notice of a hearing to the owner or party of interest at the address shown on the tax records; and shows cause why the structure(s) should not be ordered demolished, otherwise made safe, or properly maintained. Must have expertise in housing matters, including, but not limited to: an engineer, architect, building contractor, building inspector, or member of a community housing organization. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: ☐ Building Construction/Engineering ☐ Real Estate/Development/Law ☐ Housing

Development Area Citizen's Council – Appointing authority: City CommissionAn advisory body to a development authority and, ultimately, the City Commission, related to updates to the authority's development plan. Contact: City Manager, 269-966-3378Experience: ☐ Lives within authority boundaries

Dickman Road Business Improvement District – Appointing authority: City Manager, with Commission approval; City of Springfield

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Dickman Road and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Non-automotive Business Representative ☐ Automotive Business Representative

Downtown Parking System Advisory Committee – Appointing authority: Mayor appoints commissioners; City Manager appoints owners and members at large with Commission approval.

Advises city staff and the city's parking administrator on issues related to the municipally-owned and operated parking system. Meets as needed.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Downtown Business/Property Owner ☐ Live in city limits

Economic Development Corporation – Appointing authority: Mayor, with Commission approval.

Alleviates unemployment conditions, assists in industry retention and promotes the general welfare of Battle Creek. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Economic Development ☐ Live in city limits

Goguac Lake Board – Appointing authority: Two representatives and a Goguac Lake property owner by the Mayor and City Commission; a county commissioner by the Calhoun County Board of Commissioners chairperson; the county drain commissioner; a representative of the Michigan Department of Environment, Great Lakes, and Energy.

Pursuant to Public Act 451 of 1994, as amended by Public Act 59 of 1995, formed to protect the public health, safety and welfare, and conserve the natural resources and preserve property values around Goguac Lake. Meets quarterly.

Contact: Utility Administrator, 269-966-3343

Experience: ☐ Own property on Goguac Lake

Historic District Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law and local ordinance with reviewing plans for exterior modifications or demolition of buildings within the federal, state or local historic districts. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: ☐ Constriction/Building Trades ☐ History ☐ Architecture ☐ Live in city limits

Human Relations Board – Appointing authority: Mayor, with Commission approval.

To increase constructive communication among all people regardless of actual or perceived race, ethnicity, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or socioeconomic status. To also increase constructive communication between community members, public officials, and community organizations, thereby promoting harmonious and productive relationships

within the community, and equitable access to community resources for all. Board shall be representative of management and labor, various religions, various races, and others who have an interest in human relations. Meets monthly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Live in the metropolitan area

Income Tax Board of Appeals – Appointing authority: Mayor, with Commission approval.

Pursuant to State Act 284 of 1964, attempts to settle city income tax disputes. Meets as needed.

Contact: Income Tax Division, 269-966-3345

Experience: ☐ Income Tax/Accounting ☐ Live in city limits

International Relations Committee – Appointing authority: Mayor, with Commission approval.

To foster cultural promotion of the city and provide a positive environment toward foreign industrialists and their families. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Live in city limits

Lakeview Downtown Development Authority – Appointing authority: City Manager, with Commission approval.

The LDDA's activities shall include, but are 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 Act 197 of PA 1975. Meets bi-annually.

Contact: City Manager, 269-966-3378

Experience: ☐ District Property Owner/Business Representative ☐ Live in city limits

License Review Board – Appointing authority: Mayor, with Commission approval.

Provides an opportunity to appeal when an application to operate as a vendor within the city limits is denied or a current Vendor's License becomes subject to suspension or revocation. Meets as needed.

Contact: City Clerk, 269-966-3348

Experience: ☐ Live in city limits

Local Development Financing Authority – Appointing authority: City Manager, with Commission approval.

To conduct those activities authorized under Act 281, Public Acts of 1986, and as amended from time to time (MCLA Section 125.2151 et seq.; MSA Section 3.540 (351) et seq.), and to otherwise govern the affairs of the I-94 Business Park and Certified Technology Park (SmartZone) established by the City of Battle Creek, Michigan, pursuant to an Agreement (The Battle Creek Aviation and E-Learning SmartZone Agreement) with the Michigan Economic Development Corporation. Meets as needed.

Contact: City Manager, 269-966-3378

Experience: ☐ Live in city limits ☐ Calhoun County Commission/KCC/MEDC appointment

Local Officers' Compensation Commission – Appointing authority: Mayor, with Commission approval.

Determine salaries of elected officials. Shall meet for at least one, and not more than 15, session days in each odd-numbered year. "Session day" is a calendar day on which the commission meets and for which a quorum is present.

Contact: City Clerk, 269-966-3348


Experience: ☐ Live in city limits

Planning Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law with the adoption of plans for the city. Also considers requests for zoning classifications and special use permits, and makes recommendations to the City Commission on amendments to the planning and zoning code. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: ☐ Civil/Engineering/Landscape Architecture ☐ Land Use Planning ☐ Real Estate/Development ☐ Law

 **Sustainable BC Committee** – Appointing authority: City staff by City Manager; remaining members by Mayor, with Commission approval.

Increase the city's efforts to incorporate environmentally-responsible policies in the management of its facilities and services, including initiatives outlined in the Climate Protection Act Policy, adopted in August 2006, and the 15 percent by '15 renewable energy policy goal, adopted in March 2007. Will review and recommend environmental/conservation policy for the city, including recommendations for action to the City Commission. Meets as needed.

Contact: Utility Administrator, 269-966-3343

Experience: ☒ Environmental ☒ Live in city limits ☐ Business Representative

Technical Review Committee – Appointing authority: City staff by City Manager; remaining members by contributing jurisdictions.

Provides review, input, and recommendations to the City and the City Commission regarding various aspects of the Wastewater Treatment system and rates. Meets quarterly.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Engineering ☐ Other Technical Expertise ☐ Industry Representative

Tree Advisory Council – Appointing authority: Mayor, with Commission approval.

Members serve in an advisory capacity to the Department of Public Works and the City Manager in developing the annual Tree Work Plan and the issuance of rules and regulations supplementary to the city's tree ordinance. Establishment meets a Tree City USA criterion. Meets at least once a year, in September.

Contact: City Engineer, 269-966-3343

Experience: ☐ Horticulture ☐ Forestry

Water System Advisory Council – Appointing authority: Mayor and Commission.

To advise and assist with the creation of materials and plans to educate the community about the dangers of lead in drinking water, assist with development of public awareness campaign materials, advise and consult on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded, advise and consult on efforts to replace private lead service lines, assist in promoting transparency of data and documents related to lead in drinking water, and collaborate with local community groups to ensure those living in the city have the opportunity to be involved in efforts to educate the community about lead in drinking water. Meets annually.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Interest/knowledge about lead in drinking water and its effects ☐ Live in city limits

Youth Advisory Board – Appointing authority: Mayor, with Commission approval.

Established by Resolution 117 dated April 1, 2003 to involve area youth in local government policy development and administrative procedures that will improve the leadership development of the community's youth. Meets monthly.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Live in city limits ☐ Age 14-20

Zoning Board of Appeals – Appointing authority: Mayor, with Commission approval.

Considers requests for variances to the requirement of the planning and zoning code. Typical variance requests include yard setback reductions and the size of commercial signage. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: ☐ Land Use Planning ☐ Real Estate/Development/Law ☐ Building Construction/Engineering ☐ Live in city limits

ZONING BOARD OF APPEALS

- Authorization:** PA 110 of 2006, as amended Chapter 1234, Section 1234.01(b), City Codified Ordinances.
- Appointing Authority:** Mayor with approval of majority vote of the City Commission.
- Purpose:** Interpretation of the zoning ordinance; hear requests and grant variances to the zoning ordinance for specific warranted circumstances; hear appeals from citizens affected by a decision relative to the zoning ordinance.
- Membership:** Seven (7) members, as established by ordinance with not more than two (2) alternate members.
- Term:** Staggered. Initially, 2 for one year; 2 for two years; 3 for three years. Thereafter, all appointments shall be for 3 years each.
- Special Requirements:** One member of the Zoning Board of Appeals shall be a member of the Planning Commission as established by ordinance. The Chairman and Vice Chairman shall be elected annually by members of the board.
- Members:**

<u>Name:</u>	<u>Address:</u>	<u>Term Expires:</u>
Bill Hanner	239 S. 20 th Street	01/01/2023
James Moreno	451 Main Street	01/01/2023
Mark Jones	30 E. Columbia Ave., Ste F-1 #211	01/01/2023
Michael Delaware	33 N. Broad St	01/01/2024
Noris Lindsey	2153 E. Columbia Ave.	01/01/2024
Chris Rogers	131 Kings Ct.	01/01/2024
<u>Alternate:</u>		



Resolution

NO. 538

A Resolution appointing a member to the Historic District Commission.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That Kurt Thornton is newly appointed to the Historic District Commission, with a term expiration of 1-1-2026.

Battle Creek City Commission

11/15/2022

Action Summary

Staff Member: Heather Robinson, Executive Assistant

Department: City Manager

SUMMARY

A Resolution appointing a member to the Historic District Commission.

BUDGETARY CONSIDERATIONS

None.

HISTORY, BACKGROUND and DISCUSSION

This Commission is charged under State Law and local ordinance with reviewing plans for the exterior modification or demolition of buildings within the Federal, State, or Local Historic Districts. It is composed of seven (7) members who shall reside in the City, and one of whom shall be a duly registered architect. The appointing authority is the Mayor with concurrence of the City Commission.

DISCUSSION OF THE ISSUE

POSITIONS

The Review Committee is supportive of this appointment.

ATTACHMENTS:

File Name	Description
☐ Thornton__Kurt_-_2022.pdf	Thornton, Kurt - 2022
☐ Historic_District_Commission.doc	Historic District Commission



BOARD AND COMMISSION APPLICATION

CITY OF BATTLE CREEK

10 N. Division Street
Battle Creek, Michigan 49014-4004
269.966.3378

PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING

(This application will remain active for one year from the date of receipt and will be posted on the City website.)

- | | |
|---|--|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Gogua Lake Board |
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| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Sustainable BC Committee |
| <input type="checkbox"/> Columbia Avenue Business Improvement District | <input type="checkbox"/> Technical Review Committee |
| <input type="checkbox"/> Dangerous Building Hearings Officer | <input type="checkbox"/> Tree Advisory Council |
| <input type="checkbox"/> Development Area Citizen's Council | <input type="checkbox"/> Water System Advisory Council |
| <input type="checkbox"/> Dickman Road Business Improvement District | <input type="checkbox"/> Youth Advisory Board |
| <input type="checkbox"/> Downtown Parking System Advisory Committee | <input type="checkbox"/> Zoning Board of Appeals |
| <input type="checkbox"/> Economic Development Corporation | |

Name THORNTON KURT C
Last First M.I.
Home Address: 238 FREMONT, BATTLE CREEK E-mail: thorntonkurt@att.net
Telephone: Home 269-965-6574 Work — Cell 269-967-5887

Are you at least 18 years of age? Yes ☒ No ☐

Current occupation (students, list school activities) RETIRED

Employer/work address (students, list school) RETIRED FROM CALHOUN COUNTY, COUNTY CLERKS OFFICE

Educational background/degrees (students, list year in school) HIGH SCHOOL DIPLOMA BCCHS / K.C.C. - NO DEGREE

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service
I SERVED ON THE B.C. HISTORIC DISTRICT COMMISSION

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations)
BATTLE CREEK REGIONAL HISTORY MUSEUM - BOARD OF DIRECTORS / OAK HILL CEMETERY - BOARD MEMBER

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary). I SERVED ON THE HISTORIC DISTRICT COMMISSION FROM 2004 thru 2012. THE LAST YEAR I WAS THE COMMISSION'S CHAIRPERSON. I AM A RECOGNIZED LOCAL HISTORIAN... I HAVE PUT TOGETHER FOUR PICTORIAL HISTORY BOOKS ABOUT BATTLE CREEK.

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature [Signature] Date 09-22-22

Demographics

We request the following Affirmative Action and Equal Opportunity information to help determine whether application information for city boards and commissioners is reaching all parts of the community. Providing the following information is optional, and if you wish to leave this section blank or incomplete, it will not affect your potential membership.

Race and Hispanic Origin (Select all that apply)

☐ American Indian and Alaska Native

☐ Asian

☐ Black or African American

☐ Native Hawaiian and Other Pacific Islander

☒ White

☐ Two or More Races

☐ Hispanic or Latinx

☐ Not Hispanic or Latinx

Sexual Orientation

☐ Straight/Heterosexual

☐ Gay or Lesbian

☐ Bisexual

☐ Prefer to self-describe

☒ Prefer not to say

Gender

☒ Man

☐ Woman

☐ Non-binary or third gender

☐ Prefer to self-describe

☐ Prefer not to say

Do you have a disability?

☐ Yes

☒ No

☐ Prefer not to respond

Dangerous Building Hearings Officer – Appointing authority: Mayor, with Commission approval.

Identifies those structures within the city confines that are considered to be a public nuisance; serves written notice of a hearing to the owner or party of interest at the address shown on the tax records; and shows cause why the structure(s) should not be ordered demolished, otherwise made safe, or properly maintained. Must have expertise in housing matters, including, but not limited to: an engineer, architect, building contractor, building inspector, or member of a community housing organization. Meets monthly.

Contact: Code Compliance Manager, 269-966-3387

Experience: ☐ Building Construction/Engineering ☐ Real Estate/Development/Law ☐ Housing

Development Area Citizen's Council – Appointing authority: City CommissionAn advisory body to a development authority and, ultimately, the City Commission, related to updates to the authority's development plan. Contact: City Manager, 269-966-3378Experience: ☐ Lives within authority boundaries

Dickman Road Business Improvement District – Appointing authority: City Manager, with Commission approval; City of Springfield

Undertakes functions, objectives, and powers enumerated in Section 1 of Public Act 49 of the Public Acts of 1999, including the promotion of economic activity in the BID along Dickman Road and providing or contracting for the administration, security, and operation of the District, to include physical improvements and joint marketing. Meets quarterly.

Contact: City Manager, 269-966-3378

Experience: ☐ Non-automotive Business Representative ☐ Automotive Business Representative

Downtown Parking System Advisory Committee – Appointing authority: Mayor appoints commissioners; City Manager appoints owners and members at large with Commission approval.

Advises city staff and the city's parking administrator on issues related to the municipally-owned and operated parking system. Meets as needed.

Contact: Public Works Director, 269-966-3490

Experience: ☐ Downtown Business/Property Owner ☐ Live in city limits

Economic Development Corporation – Appointing authority: Mayor, with Commission approval.

Alleviates unemployment conditions, assists in industry retention and promotes the general welfare of Battle Creek. Meets as needed.

Contact: City Manager's Office, 269-966-3378

Experience: ☐ Economic Development ☐ Live in city limits

Goguac Lake Board – Appointing authority: Two representatives and a Goguac Lake property owner by the Mayor and City Commission; a county commissioner by the Calhoun County Board of Commissioners chairperson; the county drain commissioner; a representative of the Michigan Department of Environment, Great Lakes, and Energy.

Pursuant to Public Act 451 of 1994, as amended by Public Act 59 of 1995, formed to protect the public health, safety and welfare, and conserve the natural resources and preserve property values around Goguac Lake. Meets quarterly.

Contact: Utility Administrator, 269-966-3343

Experience: ☐ Own property on Goguac Lake

Historic District Commission – Appointing authority: Mayor, with Commission approval.

Charged under state law and local ordinance with reviewing plans for exterior modifications or demolition of buildings within the federal, state or local historic districts. Meets monthly.

Contact: Planning Division, 269-966-3320

Experience: ☒ Construction/Building Trades ☐ History ☒ Architecture ☒ Live in city limits

Human Relations Board – Appointing authority: Mayor, with Commission approval.

To increase constructive communication among all people regardless of actual or perceived race, ethnicity, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or socioeconomic status. To also increase constructive communication between community

Historic District Commission

Authorization: Public Act 169 of 1970 of the State of Michigan provided for the establishment of a Historic District Study Commission; and, further, Ordinance No. 22-81, adopted October 6, 1981, allowed for the establishment of a Historic District Commission to implement said Ordinance.

Appointing Authority: Mayor with concurrence of City Commission.

Purpose: See Authorization above.

Membership: Seven (7) members who shall reside in the City, one (1) of whom shall be a graduate of an accredited school of architecture, (2) years of architectural experience, or an architect registered in the state, if available. The bylaws and authorizing State Statute provides that the Mayor shall appoint at least (2) members from a list of citizens submitted by (1) or more duly organized local historic preservation organizations.

Term: Three-year terms.

Special Requirement: Members are limited to two consecutive terms by ordinance and the bylaws.

Compensation: None.

Members:

Name:	Email/Contact Info:	Term Expires:
Brian Scott Durham	sdurham@lakeviewspartans.org	1-1-2023
Deboraha Sallee	deborahasallee@aol.com	1-1-2023
Adam Reid	areidbc@gmail.com	1-1-2024
Gerardyne Drozdowski	gdrozowski@wnj.com	1-1-2024
Cody Newman	cnewman0330@gmail.com	1-1-2025
Jana Davis	janamdavis73@yahoo.com	1-1-2025
Ross Simpson	clarasmil@sbcglobal.net	1-1-2025
City Commission Liaison:		
Commissioner Jenasia Morris	jmmorris@battlecreekmi.gov	Open



Resolution

NO. 539

A Resolution seeking removal of Commissioner Ariel Laws from the Planning Commission due to nonfeasance based upon chronic absenteeism.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That important matters take place at Battle Creek Planning Commission meetings that often require public notices be placed in the newspaper, with mailings sent to property owners within 300 feet of the property that is the subject of a public hearing thus a great deal of expense can be incurred.

If a quorum of Planning Commission members are not in attendance, a meeting would have to be cancelled. In addition, certain matters that come before the Planning Commission require a super majority, or 6 of the 9 appointed members to vote in support, for approval - this includes adoption or amendment of the Master Plan. Thus regular attendance by Planning Commission members at public meetings is extremely important.

Because of the importance of regular attendance by commission members at Planning Commission meetings, the following provision was adopted into Article II, Section 2 of its Bylaws:

“Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term.”

Commissioner Ariel Laws was appointed to a full term of the Planning Commission on January 1, 2022 to expire January 1, 2025.

Seven meetings of the Planning Commission have taken place thus far in calendar year 2022.

Commissioner Ariel Laws failed to attend six of the seven Planning Commission meetings in calendar year 2022.

Commissioner Ariel Laws was provided notice by email and regular mail on November 10, 2022 with a written charge that he has committed nonfeasance as a Planning Commission member for chronic absenteeism by missing more than four meetings in calendar year 2022 and that a public hearing would be held at the November 15, 2022 City Commission meeting seeking removal.

NOW THEREFORE, the City Commission finds that Commissioner Ariel Laws has committed nonfeasance as a Planning Commission member for chronic absenteeism, having missed six of seven Planning Commission meetings so far for calendar year 2022, and he is removed as a member of the City of Battle Creek Planning Commission effective immediately.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking removal of Commissioner Ariel Laws from the Planning Commission due to nonfeasance based upon chronic absenteeism.

BUDGETARY CONSIDERATIONS

There are none.

HISTORY, BACKGROUND and DISCUSSION

Section 15 of the Michigan Planning Enabling Act, MCL 125.3815(9), provides, in pertinent part as follows: “(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.”

Battle Creek City Ordinance 1280.02(c)(1) , provides as follows:

(1) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Battle Creek Planning Commission Bylaws, Article II, Section 2, provides as follows, in pertinent part: “Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term.”

The written charge for nonfeasance that was sent to Commissioner Laws is attached, which provides the dates of the meetings he missed and the one that he attended in calendar year 2022.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
❑ Planning_Commission_Bylaws_Rev_2011.pdf	Planning Commission ByLaws
❑ Written_Charges_Ariel_Laws.pdf	Written Charges against Commissioner Ariel Laws

**BY-LAWS OF THE CITY PLANNING COMMISSION
OF THE CITY OF BATTLE CREEK**

**ARTICLE I
POWERS AND DUTIES**

The powers and duties of the City Planning Commission of the City of Battle Creek are those set forth in Act 33 of the Public Acts of 2008, as amended, together with those powers and duties delegated to it by Section 1.55 of the 1975 Compiled ordinances of the City of Battle Creek as approved, adopted pursuant to and in accordance with Act 285 of the Public Acts of 1931, as continued and amended by Act 33 of the Public Acts of 2008.

**ARTICLE II
MEMBERS**

Section 1. Membership. The Planning Commission shall consist of nine (9) members appointed by the Mayor, subject to the approval by a majority vote of the members of the City Commission elected and serving. Members may include the City Manager or a person designated by the City Manager, if any, the Mayor and one or more members of the City Commission, or any combination thereof, as ex officio members; however, not more than one-third of the members of the Planning Commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the Planning Commission. [MCL 125.3815 (1), (2) and (5).]

Members of a Planning Commission shall be qualified electors of the local unit, except that one Planning Commission member may be an individual who is not a qualified elector of the City. [MCL 125.3815 (4)(c).]

One member of the zoning board of appeals may be a member of the Planning Commission [MCL 125.3601 (4)]; however that member shall not participate in a public hearing on or vote on the same matter that they voted on as a member of the other board/commission. However the member may consider and vote on other unrelated matters involving the same property. [MCL 125.3601 (13)]

Members of the Planning Commission shall serve without compensation.

The term of each appointed member shall be three years or until his or her successor takes office. The terms of ex officio members shall correspond to their respective official tenures.

Section 2. Removal. The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term. Nonfeasance may also include abstaining from voting where either the City Attorney's Office has issued an opinion (verbal or written), or there has been a majority vote of the remaining members of the

Planning Commission as set out in below Art. V, §9(c), that no conflict of interest exists. [MCL 125.3815 (9).]

Section 3. Vacancies. Any vacancy occurring in the membership of the Planning Commission shall be filled for the remainder of the unexpired term in the same manner provided for original appointments as set out in above Article II, Section 1.

ARTICLE III

OFFICERS AND THEIR DUTIES

Section 1. Selection. At the regularly scheduled meeting in January of each year, which shall be held on the fourth Wednesday of the month, the Planning Commission shall select from its membership a Chairperson, Vice-Chairperson and Secretary. All officers are eligible for re-election.

Section 2. Tenure. The Chairperson, Vice-Chairperson, and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

Section 3. Chairperson. The Chairperson shall be elected from among the appointed members of the City Planning Commission. An ex officio member of the planning commission is not eligible to serve as chairperson. He or she shall preside at all meetings and hearings of said Commission and shall have and perform the duties usually incident to the office of the Chairperson. He or she shall decide, subject to these by-laws, all questions of order and procedure, unless otherwise directed by a majority of said Commission in session at the time, and shall have the privilege of discussing all matters before said Commission and of voting thereon.

Section 4. Vice-Chairperson. The Vice-Chairperson shall be elected from among the appointed members of the City Planning Commission, and shall act for the Chairperson in his or her absence. An ex officio member of the planning commission is not eligible to serve as vice-chairperson.

Section 5. Secretary. The Secretary shall be elected from among the members of the City Planning Commission. [MCL 125.3817 (1).]

Section 6. Other Duties. Other duties of the Chairperson, Vice-Chairperson, and Secretary shall be such as the City Planning Commission shall from time to time prescribe by formal action.

Section 7. Executive Secretary. The Director of Planning shall serve as the Executive Secretary to the Planning Commission. He or she shall keep a record of the resolutions, transactions, findings and determinations of said Commission, which record shall be a public record; shall prepare, under supervision of the Chairperson, the agenda for all regular and special meetings of said Commission; shall provide notice of all meetings of said Commission; and shall have and perform such other duties as are usually incident to the office of secretary.

All communications, petitions and reports shall be addressed to the Planning Commission and delivered or mailed to the Executive Secretary.

The Executive Secretary of the Planning Commission shall not be a member of said Commission, and shall have no voting privileges.

ARTICLE IV

NOMINATION AND ELECTION OF OFFICERS

Section 1. Term of Office. A candidate receiving a majority vote of the entire membership of said Commission shall be declared elected, and shall hold office for one (1) year, or until his or her successor shall take office, with eligibility for re-election.

Section 2. Vacancies. Vacancies in office shall be filled for the unexpired term by regular election procedure at the next regular meeting following such vacancy, or at a special meeting called for that purpose.

ARTICLE V

MEETINGS

Section 1. Open Meetings Act. All meetings of the City Planning Commission shall conform to the requirements of Public Act 267 of 1967, as amended, that being the Open Meetings Act.

Section 2. Number of Required Annual Meetings. The City Planning Commission shall hold not less than four (4) regular meetings each year. [MCL 125.3821 (1).]

Section 3. Regular Meeting Date. Regular meetings of said Commission shall be held on the fourth Wednesday in each month, at 4:00 p.m., in Room 301 of the City Hall, or at a designated place duly noticed. The Commission may also, by majority vote, deviate from the fourth Wednesday of the month in order to accommodate observed holiday periods or traditional vacation periods when annually approving the meeting calendar dates.

Section 4. Voting Requirements. A majority, or five (5) members of said Commission, shall be necessary to constitute a quorum, and must be present before business may be transacted. Provided, however, that an affirmative vote of at least six (6) members of the Commission shall be necessary for the adoption or amendment of the master plan.

Section 5. Special meetings. Special meetings of the Commission shall be held at any time upon call of the Chairperson, and shall be called by him or her upon written request of at least three (3) members of said Commission. All special meetings shall conform to the requirements of the Open Meetings Act. (P.A. 267 of 1976, as amended.)

Section 6. Notice. Written notice of the time, place and purpose of any special meeting shall be given to each member by the Secretary, not less than forty-eight (48) hours in advance of such meeting. [MCL 125.3821 (1).]

Section 7. Business Conducted Restricted. The business considered or transacted at any special meeting shall be restricted to that stated in the notice or call, unless by consent of at least five (5) members present at such meeting.

Section 8. Majority for Voting Purposes. Except as herein otherwise provided, when a quorum is present, a majority vote shall be sufficient to pass any motion or resolution at any meeting of said Commission.

Section 9. Conflict of Interest. A conflict of interest exists when a member of a public body has an economic, personal, or family connection to a matter before them which may prevent, or appear to prevent, an objective vote. The following shall apply in determining: whether a conflict of interest in fact exists; the obligations of a member with a conflict of interest, or a potential conflict of interest; and the consequences of failing to disclose a potential conflict, or abstaining from voting where there is no conflict of interest.

- (a) "Conflict of interest" shall be defined as a material financial interest, or where a member has a legal or fiduciary duty to another organization or entity, or personal relationship that may give the appearance of a conflict of interest in a matter presented for action. For purposes of this section, a "material financial interest" shall be defined as one in which the member will directly benefit in an amount exceeding \$250.00, or receive a benefit exceeding a fair market value of \$250.00 in a matter presented for action. [MCL 125.3815 (9).]
- (b) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. If a conflict of interest in fact exists, then the member is disqualified from discussion or voting on that matter in his or her capacity as a Commission member.
- (c) Even if the member does not disqualify himself or herself based upon a conflict of interest, the member may be disqualified from discussion or voting on that matter in his or her capacity as a Commission member by a majority vote of the remaining members of the Planning Commission.
- (d) Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.
- (e) Abstaining from voting where either the City Attorney's Office has issued an opinion (verbal or written), or there has been a majority vote of the remaining members of the Planning Commission as set out in above subsection (c), that no conflict of interest exists, constitutes nonfeasance in office.

Section 10. Robert's Rules of Order Govern. Parliamentary practice at the meetings of said Commission shall be governed, where applicable, by Roberts Rules of Order, except where in conflict with the laws of the State of Michigan, the Charter or ordinances or the City of Battle Creek, or these by-laws.

ARTICLE VI

ORDER OF BUSINESS

The order of business at all regular meetings of the City Planning Commission, as far as practicable, shall be as follows:

1. Call to order.
2. Roll call.
3. Correction and approval of minutes of previous meeting.
4. Correspondence.
5. Additions to the Agenda.
6. Public Hearings.
7. Old Business.
8. New Business.
9. Comments by the Public.
10. Comments by the Members.
11. Adjournment.

This order of business may be changed at any time upon consent of a majority of members present.

ARTICLE VII

COMMISSION BUSINESS

Section 1. Planning Commission Matters. The following matters shall be presented for consideration in a meeting of the City Planning Commission:

- (a) Preparation and adoption of a master plan for the physical development of the City, including any areas outside of its boundaries which, in said Commission's judgment, bear relations to the planning of the City, or the adoption of any part or extension thereof, or amendment or addition thereto. Any resolution adopting or revising the master plan shall refer expressly to the maps and narrative and other matter intended by said Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and narrative matter by the identifying signature of the Executive Secretary of said Commission. An attested copy of the plan or part thereof shall be certified to the City Commission and to the County Register of Deeds.
- (b) Petitions and staff proposals for changes in the Zoning Ordinance and for Special Use Permits.
- (c) Preliminary plans and reports for the physical development of the City, including the general location, character and extent of streets, viaducts, bridges, parks and open spaces, the general location of public buildings and other public property, the general location and extent of public utilities and terminals.

- (d) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, open spaces, buildings, or properties.
- (e) The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
- (f) Land subdivision plans.
- (g) All planning reports and plans for publications.
- (h) All capital improvement programs for the City.
- (i) The annual written report to the City Commission concerning its operations and the status of planning activities, including recommendations regarding actions by the City Commission related to planning and development. [MCL 125.3817 and 125.3819.]
- (j) Such matters as the Executive Secretary shall find advisable or essential to receive consideration by the Planning Commission.

Section 2. Commission Business Not Limited By Section 1. Section One of this Article shall in no way limit the business of the Commission.

ARTICLE VIII **EMPLOYEES**

The City Commission may appoint such employees as it may deem necessary for the Planning Commission's work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of the law as govern other corresponding civil employees of the City of Battle Creek. The City Commission may also contract with City planners, engineers, architects, and other consultants for such services as it may require. The expenditures of said Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Commission, which shall provide the funds, equipment, and accommodations necessary for the Commission's work. [MCL 125.3825 (1).]

ARTICLE IX **PUBLIC HEARINGS**

Section 1. Public Hearings; Notice. The Planning Commission shall hold a public hearing in the following instances:

1. Adoption or amendment of the master plan or any part thereof.
2. Considerations of Special Use Permits.
3. Consideration of Zoning Code Amendments.

Notice of the time and place of the hearing shall be given, according to Michigan statute.

Section 2. Other Public Hearings. In addition to those public hearings required by law, the City Planning Commission may, in its discretion, hold public hearings when it deems such hearings to be in the best interest of the public.

Section 3. Notice. Notice of such hearings shall be published in the official newspaper of the City, or in a newspaper of general circulation, at least fifteen (15) days prior to such hearing.

Section 4. Presentations Before Planning Commission. Matters of business before the City Planning Commission shall be presented in summary by the Chairperson, or by a member of said Commission, as designated by the Chairperson. Any interested spokesperson may address the Commission, consistent with Robert's Rules of Order.

ARTICLE X

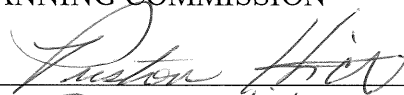
AMENDMENTS

These by-laws may be altered or amended by a two-thirds vote of the entire membership of the City Planning Commission, notice of hearing having been given in writing of the proposed alteration or amendment at a previous meeting of said Commission.

Approved and Adopted on this date:

BATTLE CREEK
PLANNING COMMISSION

October 26, 2011, 2011


By: Preston Hicks
Its: Chairperson

**PUBLIC HEARING TO CONSIDER REMOVAL OF PLANNING COMMISSION
MEMBER ARIEL LAWS FOR NONFEASANCE IN OFFICE
BASED UPON CHRONIC ABSENTEEISM.**

Section 15 of the Michigan Planning Enabling Act, MCL 125.3815(9), provides, in pertinent part as follows: “(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.”

Battle Creek City Ordinance 1280.02(c)(1) , provides as follows: (1) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Battle Creek Planning Commission Bylaws, Article II, Section 2, provides as follows, in pertinent part: “Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term.”

WRITTEN CHARGE:

Planning Commission member Ariel Laws was appointed to the Planning Commission on March 16, 2021 pursuant to Resolution 93 to complete an unexpired term ending January 1, 2022. He was reappointed to the Planning Commission on January 4, 2022 by Resolution 279 with a term expiring January 1, 2025.

From the time of his initial appointment through the end of calendar year 2021, Commissioner Laws attended 3 of the 5 scheduled Planning Commission meetings that took place. He was absent from the September and November meetings. He had a 60% attendance rate.

Since his reappointment on January 4, 2022 for a full term, through November 10, 2022, Commissioner Laws has had a 14% attendance rate. The only Planning Commission meeting he attended was February 23, 2022. [Note that the January, May, June and July Planning Commission meetings were cancelled.]

Commissioner Laws was absent from the following Planning Commission meetings in calendar year 2022:

March 23, 2022

August 24, 2022

April 27, 2022

September 7, 2022

August 24, 2022

October 26, 2022

Commissioner Laws has demonstrated nonfeasance based upon chronic absenteeism from the Planning Commission, having missed 6 of the 7 meetings that have taken place in calendar year 2022.



Resolution

NO. 540

A Resolution seeking authorization the City Manager to employ retiree Leona Parrish on a temporary basis under 296.09(c).

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That the City Manager is authorized to employ retiree Leona Parrish on a temporary basis to support the Community Services department on an as needed basis; not to exceed 1,000 hours per calendar year.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Michelle Hull, HR Director

Department: Human Resources

SUMMARY

A Resolution seeking authorization the City Manager to employ retiree Leona Parrish on a temporary basis under 296.09(c).

BUDGETARY CONSIDERATIONS

Employment is for \$25.00/hr for all hours worked. Hours are not to exceed 1,000 per year. Due to the temporary nature of the role, the position is ineligible for all fringe benefits.

HISTORY, BACKGROUND and DISCUSSION

Pursuant to Employment Provision 296.09 " (c) No person shall be employed by the City, or paid with City funds, who has retired under the provisions of . . . the Michigan Municipal Employees' Retirement System . . . The City Manager may make exceptions to this provision, with the approval of the City Commission, when . . . "she" feels the interests of the City would be served thereby."

Leona retired from the Community Services Department as an Administrative Assistant in the Planning Division. The department is requesting the ability to allow Leona to temporarily return in order to assist with training a new city employee. Additionally, from time to time, there may be a need to fill in and assist

the division if the newly hired employee is on vacation, etc. Because of Leona's knowledge of the position and the specific nature of the work, the City Manager believes that the interests of the City would be best served by making an exception to the general prohibition of re-employing City Retirees.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name

Description

No Attachments Available



Resolution

NO. 541

A Resolution seeking to approve S13-2022, a Special Use Permit to allow for a new Major Vehicle Repair Shop at 164 S. 24th Street (Parcel #0065-00-650-0) in a B-1 Corridor Commercial District pursuant to Section 1281.05 of the zoning code.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That the Planning Commission has reviewed the petition from Mitten State Engineering on behalf of Mr. Jon Homrich requesting a Special Use Permit to allow for a new Major Vehicle Repair shop in a B-1 Corridor Commercial District located on the parcel at 164 S. 24th Street (parcel # 0065-00-650-0) as permitted by special use under the Planning and Zoning Ordinance, Chapter 1240, Section 1240.11 of the zoning code.

The Planning Commission held a Public Hearing on this matter at a meeting held on September 28, 2022, and after due consideration, recommended that the Battle Creek City Commission approve the petition for a Special Use Permit based on the findings and conditions as 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 S13-2022 for a new Major Vehicle Repair Shop at 164 S. 24th Street finding beyond reasonable doubt that the general standards set forth in Zoning Code 1281.05 be satisfied by the completion and operation of the proposed development with the following conditions and/or restrictions:

1. Approval conditioned upon all remaining items identified in the staff report related to the site plan review process being addressed sufficiently prior to the issuance of necessary permits.
2. The proposed development shall comply with all local, state, and federal ordinances, laws, regulations and other requirements as applicable.
3. The approval of this request is directly tied to the proposed use and elements of the proposal 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.
4. All necessary approvals, including site plan review pursuant, and any required permits shall be obtained and maintained as applicable from the appropriate agencies, including but not limited to State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.
5. 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 Building and Zoning Codes. Pursuant to

Chapter 1281.05 (A.5), certificates of occupancy 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.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A Resolution seeking to approve S13-2022, a Special Use Permit to allow for a new Major Vehicle Repair Shop at 164 S. 24th Street (Parcel #0065-00-650-0) in a B-1 Corridor Commercial District pursuant to Section 1281.05 of the zoning code.

BUDGETARY CONSIDERATIONS

Costs for the development are the responsibility of the developer. No use of City funds is expected for this development.

HISTORY, BACKGROUND and DISCUSSION

The subject site is located along the west side of S 24th St. approximately 217 feet south of Columbia Ave. W. The subject parcel currently includes a single legally nonconforming building at the northeast corner of the property, for which no alteration is proposed. The property is owned by Mr. Jon Homrich, with Mitten State Engineering applying for the proposed use on Mr. Homrich's behalf. Mitten State Engineering is in the process of obtaining site plan approval for a Minor Vehicle Repair / Automobile Repair operation to service diesel vehicles at the site, with the special use permit which is required for the owner to offer Major Vehicle Repair services that includes the service of semi-trucks.

Both minor vehicle repair and automobile repair uses are permitted by right within the B-1 zoning district. The applicant has applied for and is in the process of working through site plan approval for a new main building on the site, along with associated parking and drive aisle space adequate for the maneuvering and parking of large vehicles. While minor vehicle repair is a permitted use by right in the B-1 zoning district, major vehicle repair requires a special use permit.

The key factor in this special use application is the lack of a specific allowance for the service of semi-trucks under the definition of "Automobile Repair," while the definition of "Minor Vehicle Repair" specifically excludes the service of semi-trucks. For this reason, a special use permit is required in order to classify the applicant's establishment as a "Major Vehicle Repair," allowing for the applicant to perform

work on semi-trucks on the property. The applicant states that the proposed business would operate Monday – Friday from 8:00 a.m. until 5:00 p.m.

Chapter 1251 (Standards Applicable to Specific Uses) includes an additional requirement for Major Vehicle Repair establishments outside of the general requirements applied to commercial uses during the site plan review process. The additional condition states that “Truck parking, maneuvering lanes, and access ways to public streets must be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.” As a part of the site plan review process, the Department of Public Works has reviewed the proposed project for access and maneuvering standards and impact upon traffic, and has approved the site plan. As such, the additional standard outlined in Section 1251.52 may be considered met with regard to this project.

DISCUSSION OF THE ISSUE

POSITIONS

As a special use, 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 map, goals and objectives, as well as on the character and development of the neighborhood. T

The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose relevant 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 proposed major vehicle repair diesel shop would provide a needed service for the community.

While automobile repair shops are in good supply within the City, shops providing service for diesel vehicles (and particularly, semi-trucks) are much less numerous. The proposal meets several goals of the Master Plan, and fits the category of “auto-oriented uses such as dealerships, gas stations and auto-repair shops...”. The use would also fit the category of specialized and retail and service businesses, as semi-truck service and repair is not usually offered at a typical automobile repair shop.

The Master Plan’s land use classification of the subject site and the properties immediately adjacent to the north and west, as well as one of the properties immediately to the south is “Corridor Commercial,” which supports restaurants and cafes, various forms of retail, professional and medical offices, auto-oriented uses, etc.

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 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.

At the September 28, 2022 Planning Commission Special Meeting, the Planning Commission reviewed the request under the Special Use Permit criteria outlined in the zoning code (Section 1281.05 (C)(2) Basis for Determination) and recommended the approval of the request based on the following findings.

(a) The approval of a special use permit for a new major vehicle repair shop will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan. Staff finds the proposal to be consistent with the “Commercial Corridor” classification of the Master Plan and meet Goals #2, #4, and #7 as stated in the Master Plan with regard to repositioning of land use to reflect the anticipated needs

of the community, revitalizing commercial corridors, and improving the overall appearance of the community.

(b) The use will be designed, constructed, and operated so as to be harmonious and appropriate in appearance with existing character of the neighborhood; and the use will not change the essential character of the neighborhood. Nearby uses include a UPS shipping facility, multiple auto parts stores, and City-owned property utilized for public utilities. Any potential impact of the development upon the single-family uses to the east across S 24th St. should be dampened by the significant setback of the proposed building from the front lot line and the proposed landscaping along the front lot line.

(c) The use as a major vehicle repair shop will not be hazardous or disturbing to the existing or future neighboring uses. While residentially zoned and used property does exist directly across S 24th St. from the property, the building's significant proposed setback from the front lot line and the proposed landscaping along the front lot line are expected to soften the impact of the proposed repair shop. Additionally, the applicant does not propose any night or weekend hours for the shop.

(d) The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole. At present, the property is mostly vacant (only existing building is a vacant outbuilding) and contains unmaintained vegetation overgrowth. The future use of this site as a major vehicle repair shop will clean up the property and provide more visual appeal from the street, as the applicant is proposing landscaping along the front lot line compliant with the provisions of Chapter 1262 (Landscaping).

(e) The use will be 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 proposed major vehicle repair shop is not anticipated to create additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(g) 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.

(h) With staff's recommended conditions of 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.

Therefore, as the request meets the general standards listed in Section 1281.05 as outlined above, planning staff recommends City Commission approval of Special Use Permit Petition S13-2022 that would allow the use of a Major Vehicle Repair Shop on the subject parcel in a B-1 Corridor Commercial District located at 164 S. 24th Street Parcel #0065-11-650-0 with the following conditions:

1. Approval conditioned upon all remaining items identified in the staff report related to the site plan review process being addressed sufficiently prior to the issuance of necessary permits.
2. The proposed development shall comply with all local, state, and federal ordinances, laws, regulations and other requirements as applicable.

3. The approval of this request is directly tied to the proposed use and elements of the proposal 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.

4. All necessary approvals, including site plan review pursuant, and any required permits shall be obtained and maintained as applicable from the appropriate agencies, including but not limited to State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.

5. 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 Building and Zoning Codes.

6. Pursuant to Chapter 1281.05 (A.5), certificates of occupancy 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.

ATTACHMENTS:

File Name	Description
1. 164_S_24th_St_SUP_Staff_Report.pdf	164 S. 24th Street SUP S13-2022 Staff Report
2. Application.pdf	164 S. 24th Street SUP Application
4. Site_plan_2.pdf	164 S. 24th Street Site Plan
PC_9.28.22_Meeting_Minutes_APPROVED.pdf	PC 9.28.22 Meeting Minutes



Battle Creek City Planning Commission

Staff report for the September 28, 2022 meeting

To: Planning Commissioners

From: Travis Sullivan, Planner

Date: September 21, 2022

Subject: Petition S13-2022, for a Special Use Permit for a new Major Vehicle Repair shop at 164 S 24th St., Parcel #0065-00-650-0 in a B-1 Corridor Commercial district pursuant to Section 1281.05 of the zoning code.

Summary

A petition from Mitten State Engineering on behalf of Mr. Jon Homrich, requesting a Special Use Permit to allow for a new Major Vehicle Repair shop, which will provide diesel vehicle service and repair, including service for semi-trucks. The proposed site of the shop is at 164 S 24th St., Parcel #0065-00-650-0, located along the west side of S 24th St. approximately 217 ft. to the south of the intersection of S 24th St. and Columbia Ave. W within a B-1 Corridor Commercial District. See Figure 1 for site location.

This proposal consists of the construction of a new main building for vehicle service, as well as a parking and drive area for customers and employees of the establishment, providing adequate area and turn radiuses to allow for the parking and maneuvering of large vehicles on the site. While Minor Vehicle Repair is use by right within the B-1 zoning district, the inclusion of semi-truck service tips this proposal into the Major Vehicle Service category, requiring the approval of a special use permit.

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.

Planning Commissioners will want to note that while a legally nonconforming building does currently exist on the site totaling 1,809 sq. ft., the applicant is proposing no alteration to this building. Commissioners will also want to note that as Minor Vehicle Repair and Automobile Repair are permitted uses by right within the B-1 zoning district, the applicant is currently in the process of obtaining site plan approval for this project, which would allow for all proposed services with the exception of semi-truck service. The approval of a special use permit is required in order to perform this service, and is the subject of the application detailed in this report.

Background/Property Description

The subject site is located along the west side of S 24th St. approximately 217 feet south of Columbia Ave. W. The subject parcel currently includes a single legally nonconforming building at the northeast corner of the property, for which no alteration is proposed. The property is owned by Mr. Jon Homrich, with Mitten State Engineering applying for the proposed use on Mr. Homrich's behalf. Mitten State Engineering is in the process of obtaining site plan approval for a Minor Vehicle Repair / Automobile Repair operation to service diesel vehicles at the site, with the special use permit which is the subject of this application required for the owner to offer Major Vehicle Repair services, which include the service of semi-trucks.

The neighboring uses in the area include an O'Reilly Auto Parts location immediately adjacent to the north, with City-owned properties immediately adjacent to the south (lift station and a City-owned retention basin). Immediately behind the property to the west is a UPS Freight location, with single-family residential uses immediately across S 24th St. to the east, and an Advance Auto Parts location across the S 24th St. to the east of the northernmost portion of the property.

	SUBJECT PROPERTY	NORTH	SOUTH	EAST	WEST
FUTURE LAND USE	Corridor Commercial	Corridor Commercial	Corridor Commercial, Suburban Residential	Corridor Commercial / Single-Family (both across S 24 th St.)	Corridor Commercial
ZONING DISTRICT	B-1 Corridor Commercial	B-1 Corridor Commercial	B-1 Corridor Commercial / R-1A Single- Family Residential	B-1 Corridor Commercial / R-1B Single- Family Residential (across S 24 th St.)	B-1 Corridor Commercial
EXISTING USE	Mostly Vacant with Small Vacant Commercial Building	Commercial	Public Utility	Commercial / Single-Family Residential across S 24 th St.	Commercial



Figure 1. Subject site shown in outline is located along the west side of S 24th St. 217 feet (approx.) south of Columbia Ave. W. Aerial photograph provide by City staff, taken spring 2020 (approx.).

Project Description

The applicant has filed a Special Use Permit application to operate a Major Vehicle Repair shop at the 164 S 24th St. location. The applicant plans to offer diesel vehicle repair services. As was previously discussed, both minor vehicle repair and automobile repair uses are permitted by right within the B-1 zoning district. The applicant has applied for and is in the process of working through site plan approval for a new main building on the site, along with associated parking and drive aisle space adequate for the maneuvering and parking of large vehicles. While minor vehicle repair is a permitted use by right in the B-1 zoning district, major vehicle repair requires a special use permit.

Major vehicle repair is defined in Section 1230.06 as “Any establishment where major repairs are performed on motor vehicles, including aircraft, watercraft, and semi-trucks. Major repairs include engine rebuilding, rebuilding or reconditioning of vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of vehicles, overhauling of engine requiring removal of cylinder head or crank case, steam cleaning and similar activities.”

Minor vehicle repair is defined by Section 1230.06 as “Buildings or structures which are designed or used for furnishing fuel, lubricants, air, water and other operating commodities for motor vehicles, including aircraft and water craft, but excluding semi-trucks, and which has space and facilities for: 1) the storage of fuel in underground tanks,; or 2) the installation of such commodities on or in such vehicles, and the storage, minor repair or servicing of such vehicles, but which does not have a space and facilities for major repair, bumping, painting, refinishing, overhauling, steam cleaning, rust proofing, or high speed washing of such vehicles.”

Section 1230.06 also includes a definition for “Automobile Repair,” which is a permitted use by right in the B-1 zoning district. Automobile Repair is defined as “All general repair and reconditioning of motor vehicles, including engine rebuilding, repair of collision damage, overall painting and vehicle rust proofing, and other similar services with the exception of an automobile junkyard.”

In studying these definitions and the applicant’s intended use of the property, it becomes apparent that while there are several distinctions between “Major Vehicle Repair” and “Minor Vehicle Repair,” the definition of “Automobile Repair” remains more broad, and encompasses nearly all of the services contemplated by the Major Vehicle Repair definition. The key factor in this special use application, however, is the lack of a specific allowance for the service of semi-trucks under the definition of “Automobile Repair,” while the definition of “Minor Vehicle Repair” specifically excludes the service of semi-trucks. For this reason, a special use permit is required in order to classify the applicant’s establishment as a “Major Vehicle Repair,” allowing for the applicant to perform work on semi-trucks on the property.

Chapter 1251 (Standards Applicable to Specific Uses) includes an additional requirement for Major Vehicle Repair establishments outside of the general requirements applied to commercial uses during the site plan review process. The additional condition states that “Truck parking, maneuvering lanes, and access ways to public streets must be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.” As a part of the site plan review process, the Department of Public Works has reviewed the proposed project for access and maneuvering standards and impact upon traffic, and has approved the site plan. As such, the additional standard outlined in Section 1251.52 may be considered met with regard to this project.

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 and the properties immediately adjacent to the north and west, as well as one of the properties immediately to the south is "Corridor Commercial," which supports restaurants and cafes, various forms of retail, professional and medical offices, auto-oriented uses, etc.

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 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.

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 on 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, set forth standards for new roads, utilities, and other infrastructure for new development. As noted earlier, the subject site and abutting properties to the north and west as well as one of the properties to the south are in the B-1 'Corridor Commercial' zoning district, which allows a variety of retail and business service activities that serve the whole community and the metropolitan region. The property to south which shares a common lot line with the subject property and is zoned R-1A Single Family Residential (City-owned retention basin) is adequately screened by the existing dense vegetation.

As this proposed project can be accurately classified as "Major Vehicle Repair," the proposed use is subject to special land use approval prior to the issuance of permits.

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, September 8, and notices of the public hearing were also sent by regular mail to the properties located within 300 feet of the subject parcel.

As of the date of the subject memorandum, the Planning Department has not received any public comment or correspondence related to this request.

Neighborhood Outreach

Staff recommends applicants to present or otherwise communicate their development to the local Neighborhood Planning Council (NPC). However, all NPC meetings have been cancelled through 2021 and into 2022 due to the COVID-19 outbreak. Currently, staff is not aware of a date when NPC meetings will resume. As of the date of the subject memorandum, staff has not received any comments from the neighborhood.

Analysis

The proposed major vehicle repair diesel shop would provide a needed service for the community. While automobile repair shops are in good supply within the City, shops providing service for diesel vehicles (and particularly, semi-trucks) are much less numerous. The proposal meets several goals of the Master Plan, and fits the category of “auto-oriented uses such as dealerships, gas stations and auto-repair shops...”. The use would also fit the category of specialized and retail and service businesses, as semi-truck service and repair is not usually offered at a typical automobile repair shop.

Due to the nature and classification of the proposed use, parking needs are expected to be relatively minimal. Section 1261.01 requires that for automobile repair uses, two spaces be provided for each service bay, plus one space for each employee on the largest working shift. The applicant’s site plan indicates the construction of four service bays, with the site plan displaying a total of 15 parking spaces, plus one ADA accessible space. While minor alterations have been requested of the applicant as part of the site plan review process (including the addition of dedicated semi-truck parking spaces at the rear of the parking area to the west of the proposed building), the applicant’s site plan is generally compliant with the parking, loading and access requirements as described in Chapter 1261.

Both portions of the driveway access indicated on the site plan providing access to the property meet the requirements of Section 1261.01 and Section 1251.05. Staff has requested that the applicant provide on their site plan for the location and style of lighting proposed for the site, ensuring that all proposed exterior lighting is arranged in such a way as to deflect away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Additionally, the applicant’s submitted landscaping plan is compliant with the requirements of Chapter 1262 (Landscaping).

The applicant states that the proposed business would operate Monday – Friday from 8:00 a.m. until 5:00 p.m. No excessive generation of light, glare, noise, or other nuisance is anticipated by the proposed use. While common lot lines are not shared, single-family residential zoning and uses do exist immediately across S 24th St. to the east. However, the proposed building’s setback from the front lot line (54 feet) as well as landscaping lining the entryway to the parking area are expected to help dampen any impact. For this reason, combined with the otherwise shipping and auto service oriented character of the vicinity, it is staff’s determination that the proposed use is harmonious with the surrounding area.

Of final note, the site plan as presented does not include any new signage associated with the proposed development. Any new signage proposed will require the issuance of necessary permits prior to the placement of said signage.

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 approval of a special use permit for a new major vehicle repair shop will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan. Staff finds the proposal to be consistent with the “Commercial Corridor” classification of the Master Plan and meet Goals #2, #4, and #7 as stated in the Master Plan with regard to repositioning of land use to reflect the anticipated needs of the community, revitalizing commercial corridors, and improving the overall appearance of the community.

(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 existing character of the neighborhood; and the use will not change the essential character of the neighborhood. Nearby uses include a UPS shipping facility, multiple auto parts stores, and City-owned property utilized for public utilities. Any potential impact of the development upon the single-family uses to the east across S 24th St. should be dampened by the significant setback of the proposed building from the front lot line and the proposed landscaping along the front lot line.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses.

The use as a major vehicle repair shop will not be hazardous or disturbing to the existing or future neighboring uses. While residentially zoned and used property does exist directly across S 24th St. from the property, the building’s significant proposed setback from the front lot line and the proposed landscaping along the front lot line are expected to soften the impact of the proposed repair shop. Additionally, the applicant does not propose any night or weekend hours for the shop.

(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. At present, the property is mostly vacant (only existing building is a vacant outbuilding) and contains unmaintained vegetation overgrowth. The future use of this site as a major vehicle repair shop will clean up the property and provide more visual appeal from the street, as the applicant is proposing landscaping along the front lot line compliant with the provisions of Chapter 1262 (Landscaping).

(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 use will be 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 major vehicle repair shop is not anticipated to create additional requirements at public cost for public facilities and services and 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.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

With staff's recommended conditions of 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 as stated below are intended to protect the health, safety, and welfare of those who will use the subject site and 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 which ensure adequate lighting of the property and the meeting of the minimum required number of parking spaces as stipulated by Section 1261.01 is 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 recommended conditions will ensure the project results in safe access to and adequate parking at the project site. All proposed conditions are intended to ensure compliance with the standards established in this zoning ordinance.

Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal. Additionally, upon reviewing the submitted site plan, staff finds that the proposed project is generally compliant with appropriate provisions of the Zoning Ordinance as well as the overall goals and intent of the Master Plan. Further, the proposed project will be harmonious with the surrounding area.

Therefore, staff recommends that the Planning Commission recommend approval of the proposed major vehicle repair shop to be constructed at 164 S 24th St. (Parcel #0065-00-650-0) with the following conditions:

- 1. Approval conditioned upon all remaining items identified in the staff report related to the site plan review process being addressed sufficiently prior to the issuance of necessary permits.**
- 2. The proposed development shall comply with all local, state, and federal ordinances, laws, regulations and other requirements as applicable.**
- 3. The approval of this request is directly tied to the proposed use and elements of the proposal 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.**
- 4. All necessary approvals, including site plan review pursuant, and any required permits shall be obtained and maintained as applicable from the appropriate agencies, including but not limited to State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.**
- 5. 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 Building and Zoning Codes.**

- 6. Pursuant to Chapter 1281.05 (A.5), certificates of occupancy 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.**

Attachments

The following information is attached and made part of this Staff report:

- Special Use Permit Petition Form (Petition #S13-2022)
- Site Plan



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



SPECIAL USE PERMIT

Application

Petition No. 9-13-22

Date Received: 9-1-22

APPLICANT

NAME: Mitten State Engineering

ADDRESS: 10123 S M-43, Suite E Delton, MI 49046

PHONE: (269) 364-5626 FAX: _____

EMAIL: tyler.cravens@mittenstateeng.com

OWNER (if different from applicant)

NAME: Jon Homrich

ADDRESS: 420 W Dickman Rd, Battle Creek, MI 49037

PHONE: (269) 806-0901 FAX: _____

EMAIL: jonhomrichdiesel@gmail.com

****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: 164 S 24th St Battle Creek, MI 49015

Current use of the property: Vacant.

List existing structures on the property and the approximate age of each. Existing out building.

Approximately 23 years old.

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.

Unknown.

PROJECT DESCRIPTION

What is the proposed use of the property that warrants the special use permit? Diesel repair shop that involves repairs of semi-trucks.

Please list all activities that will take place on the property if the special use permit were approved? Diesel vehicle service and repair, with the addition of semi-truck repair upon approval of Special Use Permit.

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? 0 current employees. There will be 6 employees who will be onsite Monday through Friday from 8am to 5pm.

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. No.

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: The hours of operation will be 8am to 5pm and the special use will be long term.

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
It is harmonious with the character of adjacent properties because the property to the W is zoned Corridor Commercial and is used for shipping. The property to the N is zoned Corridor Commercial and is used for automobile parts sale.

Will the special land use change the character of adjacent properties and the surrounding area?
☐ Yes ☒ No

Because the character of the proposed development is harmonious with the character of the adjacent properties as described in the previous question, the proposed development will not change the character of the adjacent properties.

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

The proposed development will be diesel vehicle service and repair, with appropriate safety measures and precautions installed, and thus will not be hazardous or detrimental to the health, safety, or welfare of the adjacent properties.

Will the special land use be a substantial improvement to property in the immediate vicinity and to the community as a whole? ☒ Yes ☐ No

The proposed development will provide diesel vehicle service and repair, and thus will be a substantial improvement to the property's current vacant use.

Will the special land use place demands on public facilities or services in excess of current capacity?

☐ Yes ☒ No

The proposed development is within current limits of capacity for all public facilities that will be used.

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? ☐ Yes ☒ No

The proposed development will provide 4 stalls for diesel vehicle service and repair, and thus will not produce excessive traffic, noise, smoke, fumes, or glare.

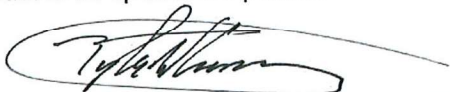
SUBMITTAL REQUIREMENTS

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.

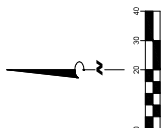


Name

09/01/2022

Date

C001









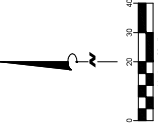
SITE INFORMATION	
ZONING:	CORRIDOR COMMERCIAL DISTRICT
	11.400 ZF (5%); 2.85 (6% SF)
BUILDING AREA:	11,400 SF (5%)
PARKING COVERAGE:	33.93 SF (5%)
STREET FRONTAGE:	33.93 FT (4%)
BUILDING SETBACK:	25 FT
FLOOR-TO-FLOOR HEIGHT:	8 FT
REAR SETBACK:	6 FT
CITY-STREET PARKING REQUIREMENTS	
STANDARD PARKING SPACE:	363.7 X 17 FT
MINIMUM PARKING SPACE:	300 X 17 FT
CDZ BAYS:	1 X 1 EMPLOYEE; 4 SPACES
TOTAL SPACES REQUIRED:	8 SPACES
TOTAL SPACES PROVIDED:	8 SPACES
ADA COMPLIANT SPACES:	2 SPACES
ADA PARKING SPACES PROVIDED:	1 SPACE

SITE GENERAL NOTES

1. DIMENSIONS REFER TO THE FACE OF CURB UNLESS OTHERWISE NOTED.
2. CONDUITS, TELEPHONE, FIBER OPTIC AND CABLE TV UTILITIES ON SITE. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.
3. BUILDING DIMENSIONS ARE TO THE OUTSIDE FACE OF BUILDING UNLESS NOTED OTHERWISE.
4. REFER TO ARCHITECTURAL AND STRUCTURAL PLANS TO VERIFY ALL BUILDING DIMENSIONS.

KEY NOTES	
1	ADAPTIVE TRIM CURB (SEE DETAILS)
2	CONCRETE CURB (SEE DETAILS)
3	CONCRETE CURB (SEE DETAILS)
4	ACCESSIBLE PARKING MARKINGS, TYP. (SEE DETAILS)
5	ACCESSIBLE PARKING SIGN, TYP. (UNICO D340)
6	ACCESSIBLE PARKING SIGN, TYP. (MUTCO R4P)
7	4' WIDE UNPAVED SOLID WHITE LINE, TYP.
8	4' WIDE UNPAVED SOLID BLUE LINE, TYP.
9	4' WIDE UNPAVED SOLID WHITE LINE AT 45 DEGREES, TYP.
10	6 GALVANIZED FENCE
11	6" WIDE SLIDING GATE (SEE PLANS IN OTHERS)
12	CONCRETE FILL (SEE DETAILS)

	STANDARD DUTY CONCRETE PAVEMENT SEE DETAIL S
	HEAVY DUTY CONCRETE PAVEMENT SEE DETAIL S
	STANDARD DUTY PAVEMENT SEE DETAIL S
	7' HMA (1568217) 13A LEVELING COURSE
	16' AGGREGATE BASE 22A
	12' SUBGRADE 4P



GRADING NOTES

1. CONTRACTOR SHALL COORDINATE WITH EXCAVATOR, LANDSCAPE, AND PAVING SUBCONTRACTORS REGARDING TOPSOIL THICKNESS FOR LANDSCAPE AREAS AND TOPSOIL REMOVAL FOR PAVING AREAS. CONTRACTOR SHALL ENSURE ADEQUATE CUT TO ESTABLISH BORDERS AND ELEVATIONS.
2. ALL EXISTING SLOPES SHALL BE LESS THAN 3:1 UNLESS OTHERWISE NOTED.
3. THE MAXIMUM RUNNING SLOPE FOR ALL SIDEWALK SHALL NOT EXCEED 8% AND CROSS SLOPE SHALL NOT EXCEED 2%.
4. MAXIMUM SLOPE IN PARKING SPACES AND LOADING ZONES SHALL NOT EXCEED 5%.
5. THE CONTRACTOR SHALL MATCH EXISTING ELEVATIONS AT THE PROPERTY LIMITS UNLESS OTHERWISE NOTED.
6. TOP OF ASPHALT CURB SHALL BE 0.3' HIGHER THAN FINISH ELEVATIONS UNLESS OTHERWISE NOTED.
7. VERTICAL CURB OR FINISH OF PARAPET IS AWAY FROM THE CURB. THE CONTRACTOR SHALL INITIAL REVERSE OUTLET PITCH.

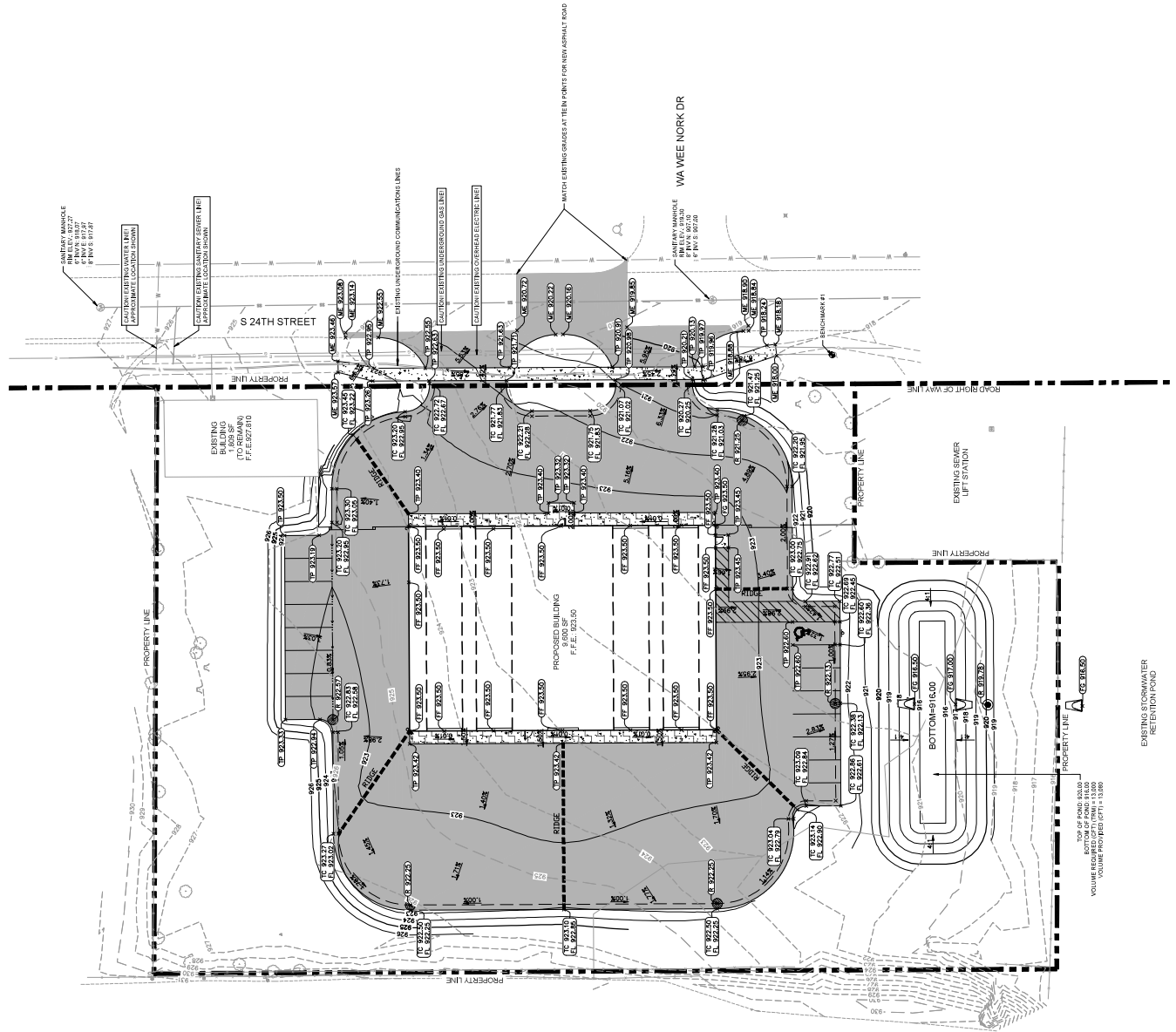
GRADING LEGEND

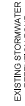
TC = TOP OF CURB
ME = MATCH ELEVATION
R = RM ELEVATION
FG = FINISH GRADE
FL = FLOW LINE
TP = TOP OF PAVEMENT

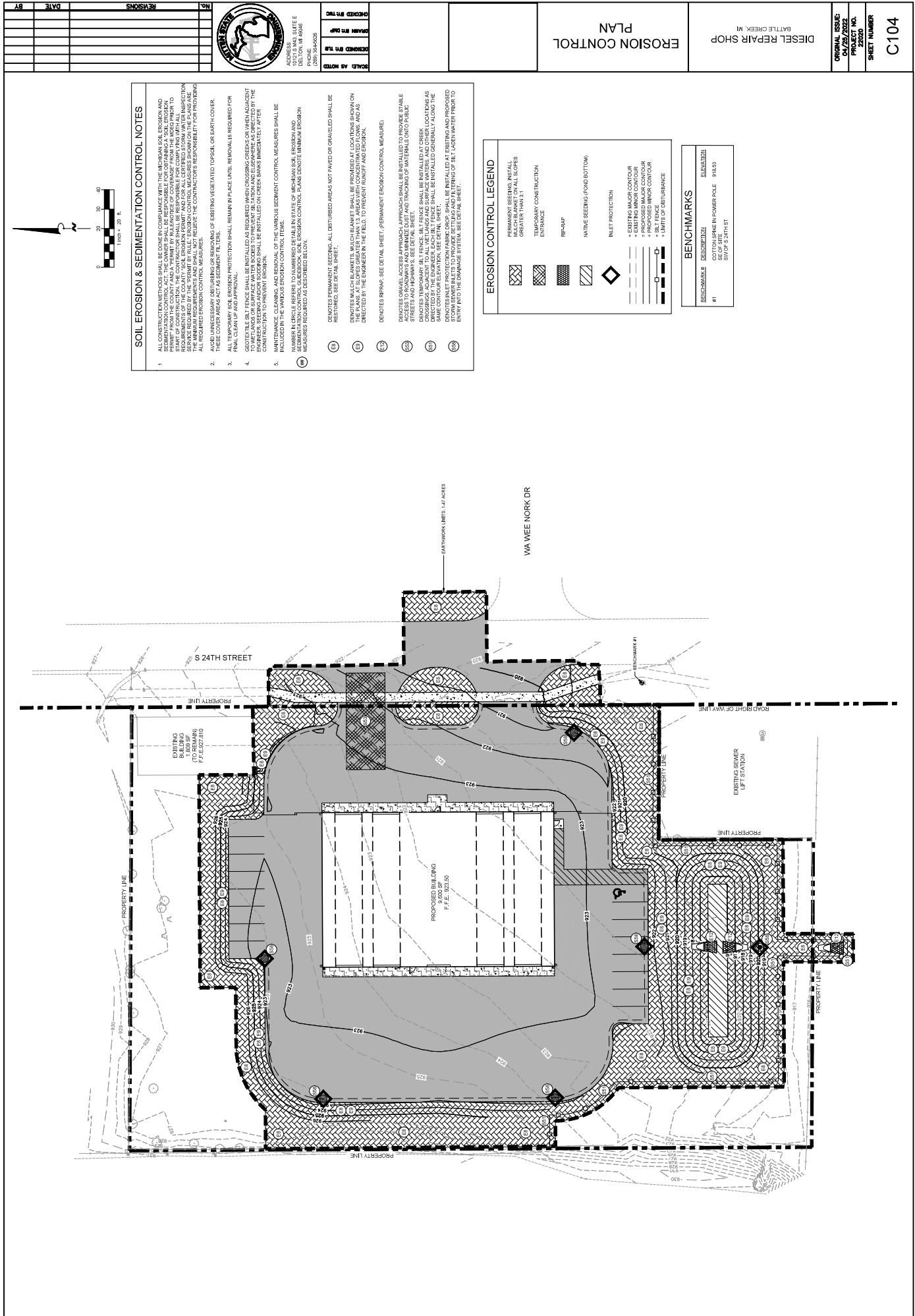
— XXX — EXISTING CONTOUR
— XXX — PROPOSED CONTOUR
■ RIDGE ■ RIDGE LINE
● ● ● ● ● PROPOSED SWALE

BENCHMARKS

BENCHMARK #	DESCRIPTION	ELEVATION
#1	COTTON SPIKE IN POWER POLE SE OF SITE SW OF S 24TH ST	918.53







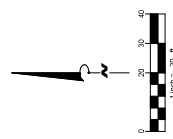
- ### SOIL EROSION & SEDIMENTATION CONTROL NOTES
- ALL CONSTRUCTION METHODS SHALL BE DONE IN COMPLIANCE WITH THE MICHIGAN SOIL EROSION AND SEDIMENTATION CONTROL ACT. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING A SOIL EROSION AND SEDIMENTATION CONTROL PLAN FROM THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL REQUIREMENTS OF THE PLAN. EROSION CONTROL MEASURES SHOWN ON THE PLANS ARE REQUIRED BY THE PERMIT. EROSION CONTROL MEASURES SHOWN ON THE PLANS ARE REQUIRED BY THE PERMIT. EROSION CONTROL MEASURES SHOWN ON THE PLANS ARE REQUIRED BY THE PERMIT.
 - MAINTENANCE, CLEANING AND REMOVAL OF THE VARIOUS SEDIMENT CONTROL MEASURES SHALL BE INCLUDED IN THE VARIOUS EROSION CONTROL ITEMS.
 - NUMBER IN CIRCLE REFERS TO NUMBERED DETAIL IN STATE OF MICHIGAN SOIL EROSION AND SEDIMENTATION CONTROL ACT. SEE DETAIL SHEET.
 - CONSTRUCT PERMANENT SETTING. ALL DISTURBED AREAS NOT PAVED OR GRAVELED SHALL BE RESTORED. SEE DETAIL SHEET.
 - CONSTRUCT MULCH BLANKET. MULCH BLANKET SHALL BE PROVIDED AT LOCATIONS SHOWN ON THE PLANS. AT SLOPES GREATER THAN 1:3 AREAS WITH CONCENTRATED FLOWS, AND AS DIRECTED BY THE ENGINEER IN THE FIELD. TO PREVENT RUNOFF AND EROSION.
 - CONSTRUCT TEMPORARY SILT FENCE. SILT FENCE SHALL BE INSTALLED AT CREEK, DITCHES, AND OTHER LOCATIONS AS DIRECTED BY THE ENGINEER. SILT FENCE SHALL BE INSTALLED AT CREEK, DITCHES, AND OTHER LOCATIONS AS DIRECTED BY THE ENGINEER. SILT FENCE SHALL BE INSTALLED AT CREEK, DITCHES, AND OTHER LOCATIONS AS DIRECTED BY THE ENGINEER.
 - CONSTRUCT GRAVEL ACCESS APPROACH. GRAVEL ACCESS APPROACH SHALL BE INSTALLED TO PROVIDE STABLE ACCESS TO ALL LOCATIONS SHOWN ON THE PLANS. GRAVEL ACCESS APPROACH SHALL BE INSTALLED TO PROVIDE STABLE ACCESS TO ALL LOCATIONS SHOWN ON THE PLANS.
 - CONSTRUCT GRAVEL ACCESS APPROACH. GRAVEL ACCESS APPROACH SHALL BE INSTALLED TO PROVIDE STABLE ACCESS TO ALL LOCATIONS SHOWN ON THE PLANS. GRAVEL ACCESS APPROACH SHALL BE INSTALLED TO PROVIDE STABLE ACCESS TO ALL LOCATIONS SHOWN ON THE PLANS.
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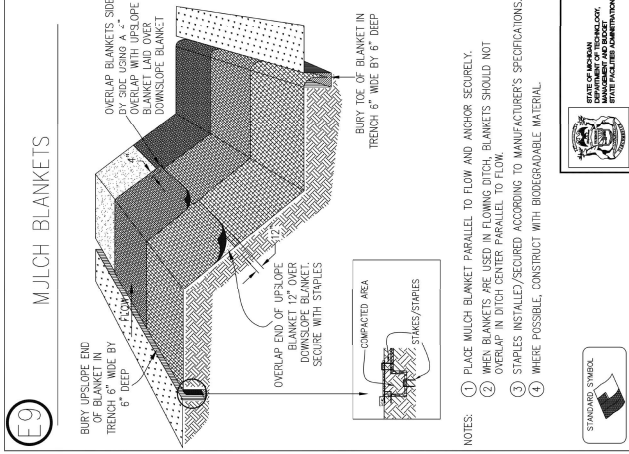
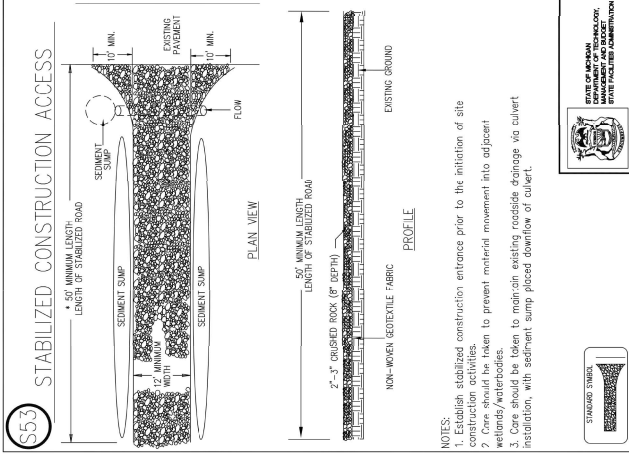
EROSION CONTROL LEGEND

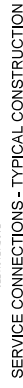
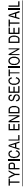
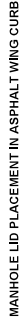
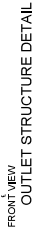
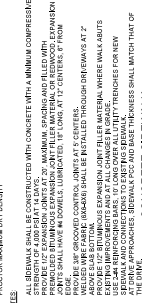
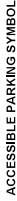
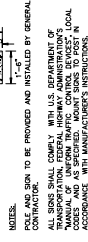
	PERMANENT SEEDING INITIAL
	TEMPORARY CONSTRUCTION ENTRANCE
	INLET PROTECTION
	NATIVE SEEDING (POND BOTTOM)
	EXISTING MAJOR CONTOUR
	PROPOSED MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	PROPOSED MINOR CONTOUR
	LIMITS OF DISTURBANCE

BENCHMARKS

BENCHMARK #	DESCRIPTION	ELEVATION
#1	COTTAGE IN POWER POLE SW OF S 24TH ST	916.53







ORIGINAL ISSUE: 04/25/2022	PROJECT NO. 22020	SHEET NUMBER C106
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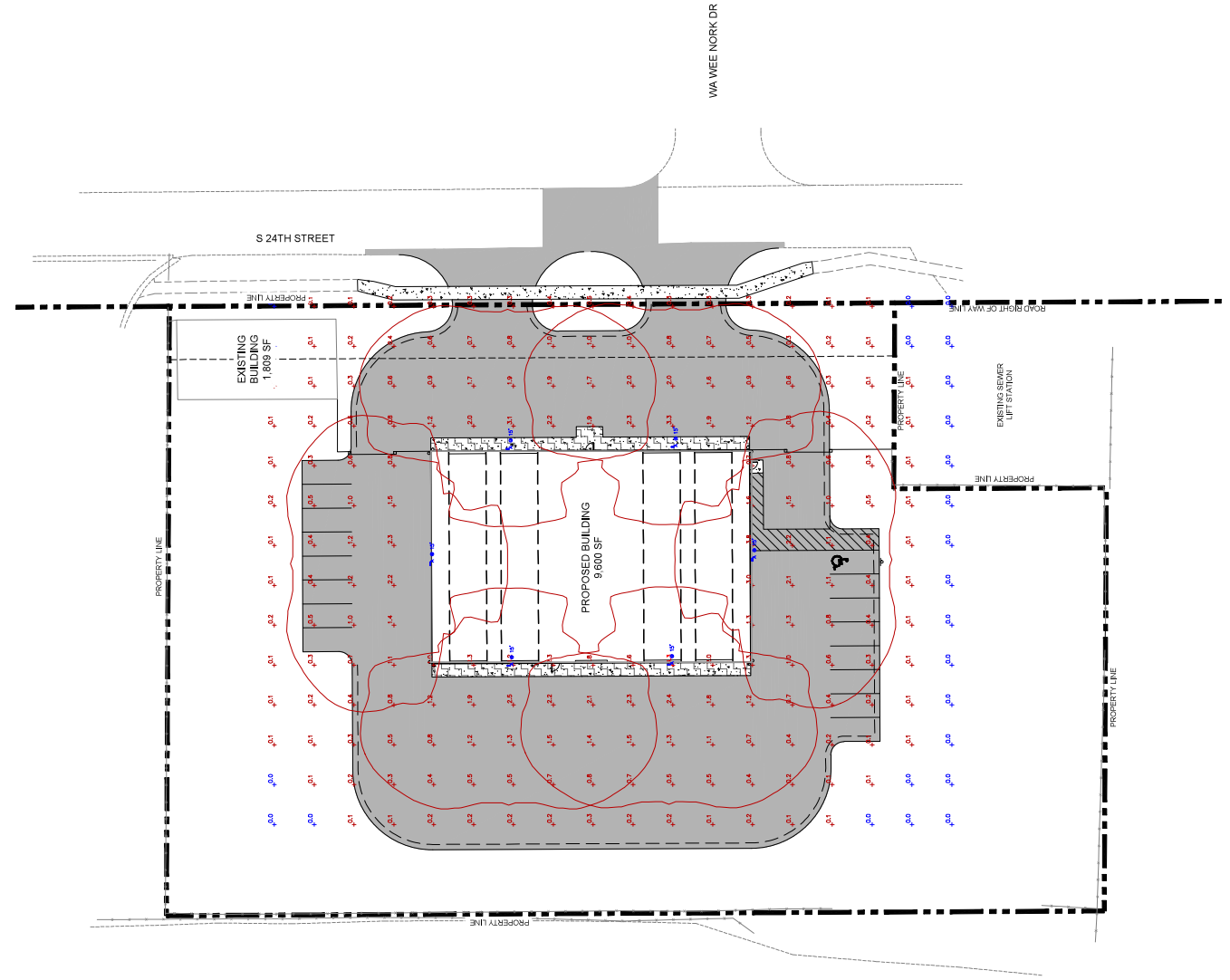
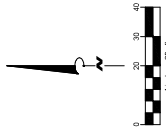
CONSTRUCTION DETAILS

DIESEL REPAIR SHOP
BATTLE CREEK, MI

C106



NO.	REVISIONS	DATE	BY



**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for Wednesday, September 28, 2022**

MEETING CALLED TO ORDER:

By Chairperson Godfrey at 4:00 p.m. This meeting was held in person.

ATTENDANCE: Chairperson Godfrey asked for a roll call attendance.

Commission Members Present:

Comm. Newman, present, in Battle Creek
Comm. Spranger, present, in Battle Creek
Comm. Godfrey III present, in Battle Creek
Comm. Gray, present, in Battle Creek

Mayor Behnke, present, in Battle Creek
Comm. Morris, present, in Battle Creek
Vice Mayor Reynolds, present, in Battle Creek

Commissioners Absent: Comm. Laws

Commissioners Excused: Comm. Hughes

Staff Present: Travis Sullivan, Planner, Susan Cronander, Planning Administrator, Marcie Gillette, Community Services Director, Crystal Bax, Customer Service Representative, Marcel and Stoetzel, Deputy City Attorney,.

APPROVAL OF MINUTES: Previous meeting minutes submitted for approval for August 24, 2022 meeting and minutes for the Special Meeting from September 7, 2022.

MOTION MADE BY COMM. NEWMAN TO APPROVE THE AUGUST 24, 2022 MEETING MINUTES AS PRESENTED AND THE SEPTEMBER 7, 2022 MEETING MINUTES WITH A CORRECTION TO EXCUSE COMM. GRAY FROM THE MEETING. SECONDED BY VICE MAYOR REYNOLDS.

ROLL VOTE: Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: None

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

CHAIRPERSON GODFREY asked to open the public hearing for item 6A (#S-12-22) on the agenda.

- A. SPECIAL USE PERMIT #S-13-22:** Petition from Mitten State Engineering on behalf of their client Jon Homrich, requesting a Special Use Permit for property located at 164 S 24th St. The request is for a diesel repair shop, including the repair of semi-trucks (Major Vehicle Repair, per Section 1230.06). Property is zoned “B-1 Corridor Commercial District” pursuant to Sections 1251.52 and 1281.05 of the zoning code. Parcel # 0065-00-650-0 LEGALLY DESCRIBED AS SEC 15 T2S R8W S 353 FT OF N 570 FT OF E 262.3 FT OF E 1/2 OF W 1/2 OF SE 1/4 OF SD SEC, EXC S 80 FT OF E 103 FT, CONT 1.94 A, SUBJ TO EASE OVER ELY 33 FT FOR 24TH ST ((ASSESSED WITH 0065-00-660-0 IN 1983 THRU 1996))

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. The proposed major vehicle repair diesel shop would provide a needed service for the community. While automobile repair shops are in good supply within the City, shops providing service for diesel vehicles (and particularly, semi-trucks) are much less numerous. The proposal meets several goals of the Master Plan, and fits the category of “auto oriented uses such as dealerships, gas stations and auto repair shops...”. The use would also fit the category of specialized and retail and service businesses, as semi-truck service and repair is not usually offered at a typical automobile repair shop.

Due to the nature and classification of the proposed use, parking needs are expected to be relatively minimal. Section 1261.01 requires that for automobile repair uses, two spaces be provided for each service bay, plus one space for each employee on the largest working shift. The applicant’s site plan indicates the construction of four service bays, with the site plan displaying a total of 15 parking spaces, plus one ADA accessible space. While minor alterations have been requested of the applicant as part of the site plan review process (including the addition of dedicated semi-truck parking spaces at the rear of the parking area to the west of the proposed building), the applicant’s site plan is generally compliant with the parking, loading and access requirements as described in Chapter 1261. The applicant states that the proposed business would operate Monday – Friday from 8:00 a.m. until 5:00 p.m. No excessive generation of light, glare, noise, or other nuisance is anticipated by the proposed use.

Staff has reviewed the application and finds that it meets the requirements for submittal. Additionally, upon reviewing the submitted site plan, staff finds that the proposed project is generally compliant with appropriate provisions of the Zoning Ordinance as well as the overall goals and intent of the Master Plan. Further, the proposed project will be harmonious with the surrounding area.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #S-13-22 was present to speak.

Applicant: Jon Homrich, the owner of the proposed major vehicle repair shop, stated that he intends to clean up the area and build a heavy duty repair shop for diesel truck repair. He purchased this property and has since made changes to the current condition of the vacant lot in regards to the landscaping.

Public Comments: None, closed the public hearing.

MOTION MADE BY MORRIS AND SECONDED BY COMM. SPRANGER TO APPROVE #S-13-22 SPECIAL USE PERMIT FOR A MAJOR VEHICLE REPAIR SHOP IN A B-1 CORRIDOR COMMERCIAL ZONING DISTRICT AT 164 S 24TH STREET PARCEL # 0065-00-650-0 WHERE MAJOR VEHICLE REPAIR SHOPS CAN BE ALLOWED AS A SPECIAL USE IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

.....

OLD BUSINESS: None

NEW BUSINESS:
2019-2020 Planning and Zoning Annual Report

Marcie Gillette, Community Services Director, gave the report, to summarize 2019 and 2020 the amount of requests coming into the department has been relatively consistent with previous years, though there is a decline in the types of projects requiring additional approvals from any of the appropriate boards and commissions. This may be due in part to the assistance provided to the applicants from the outset of a project to help it be successful

in the most expeditious and efficient manner. Additionally, it is critical to remember the impact that the Covid crisis of 2020 may have had on development patterns during the majority of 2020.

The department will continue to look at ways regulations can be amended to ensure that property improvements can be reviewed and approved promptly, while being conscientious of surrounding property owners and land uses to ensure their well-being and property values are protected. These efforts are a balancing act to ensure all concerns are treated equitably and the outcome is for the overall benefit of the community.

A priority project list is maintained by the Planning Department to ensure ongoing projects meet the goals of the Planning Commission, City Commission and the community as a whole.

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM COMMISSION MEMBERS AND STAFF: None

ADJOURNMENT:

Chairman Godfrey adjourned the meeting at 4:39 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning

M:\Planning Files\Planning Dept\1. Planning Commission\2.Minutes\Year 2022\PC 9.28.22 Meeting Minutes_DRAFT.docx



Resolution

NO. 542

A Resolution seeking to approve S14-2022, a Special Use Permit to allow for an In-Home Group Child Care Home for up to twelve (12) children at 24 Golden Avenue (parcel #4690-08-506-0) in a R-1A Single Family Residential District pursuant to Section 1281.06 of the zoning code.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That the Planning Commission has reviewed the petition from Kelly Gast requesting a Special Use Permit to allow for a State licensed In-Home Group Child Care for up to 12 children in an R-1A Single Family Residential District located on the parcel at 24 Golden Avenue SW (parcel # 4690-08-506-0) as permitted by special use under the Planning and Zoning Ordinance, Section 1240.06 and Section 1281.05.

The Planning Commission held a Public Hearing on this matter at the October 26, 2022 meeting, and after due consideration, recommended that the Battle Creek City Commission approve the petition for a Special Use Permit based upon the findings and conditions as 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 S14-2022 for an In-Home Group Child Care Home at 24 Golden Avenue finding beyond reasonable doubt that the general standards set forth in Zoning Code 1281.05 be satisfied by the completion and operation of the proposed development with the following conditions and/or restrictions:

1. Prior to Site Plan Application approval, the applicant shall submit a parking and circulation plan meeting Chapter 1261 Parking, Loading, and Access Management.
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, 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 Certificate of Occupancy.
4. 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.
5. 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
11/15/2022

Action Summary

Staff Member: Marcie Gillette, Community Services Director

Department: Planning

SUMMARY

A Resolution seeking to approve S14-2022, a Special Use Permit to allow for an In-Home Group Child Care Home for up to twelve (12) children at 24 Golden Avenue (parcel #4690-08-506-0) in a R-1A Single Family Residential District pursuant to Section 1281.06 of the zoning code.

BUDGETARY CONSIDERATIONS

Costs of the development are the responsibility of the developer. No use of City funds is expected for this development.

HISTORY, BACKGROUND and DISCUSSION

The subject site is a total of 22,781.88 square feet (.523 of an acre) with a 1,688 square foot home constructed in 1964, and a 528 square foot garage. The Applicant is proposing to have an accessory use of a Group Child Care Home of up to twelve (12) children.

Recognizing that there is generally a shortage of child care for working people in the State of Michigan, the Legislature this past June increased the maximum number of children for a state licensed child care family home (an accessory use by right in the R-1A District) from six (6) to seven (7), and the maximum number of children for a child care group home from twelve (12) to fourteen (14). At this time, local ordinance remains a maximum of twelve (12) children.

24 Golden Avenue is located on the south side of Golden Avenue, between N Brewer Drive and Capital Avenue SW. The driveway at the subject property is located 300 feet from the intersection with Capital Ave. to the west, and 150 feet from the intersection with Brewer Drive S. to the west. The property is adjacent to other single family residences on all side; except for the apartment buildings north on the other side of Golden Drive.

The plan is to provide child care between 6:00am and 6:00pm each day, Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements.

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all child care facilities. A Group Child Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other

facets of the child care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

DISCUSSION OF THE ISSUE

POSITIONS

As a special use, 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 map, goals and objectives, as well as on the character and development of the neighborhood.

The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose relevant conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

At the October 26, 2022 Planning Commission Special Meeting, the Planning Commission reviewed the request under the Special Use Permit criteria outlined in the zoning code and recommended the approval of the request based on the following findings.

(a) The use of this structure as a Group Child Care Home will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan. A near term implementation of goal #2 of the plan is to work with major employers in Battle Creek to identify barriers that discourage employees from living within the community, and an important factor in this goal is the availability of adequate and safe child care for children of working families. To that end, zoning ordinance regulations provide adequate opportunities for safe and convenient child care and other support services near residential areas, such as this property, which has access to the arterial Capital Avenue SW that bisects and serves most of the City.

(b) The proposed use will 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 as the primary use of the property will remain residential with no improvements planned except for a possible play structure and fence in the backyard; and there are no exterior signs proposed for the child care.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is compatible with surrounding zoning and residential land uses that allow other families with children and the limited hours of operation and size of the property and adjacent properties will provide ample space for the proposed use with little to no impact on surrounding properties. In addition, the eighty (80) foot long driveway with a side parking area for a couple of vehicles supports ample room for more than a couple of vehicles to pick up or drop off at the same time. Golden Avenue is a minor arterial that leads to Capital Avenue SW with ample capacity for additional vehicles from the proposed child care.

(d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as a valuable service will be provided to the community, in relatively close proximity to families, schools, and employment centers.

(e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use. There is ample off-street parking and loading areas in the existing driveway and should be little to no impact to street traffic.

f) There will be no City expenses associated with the maintenance and improvements to the property, and therefore, 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.

(g) 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. Any noise associated with the use will be the result of typical activities found in a residential neighborhood.

(h) The primary use of the property will continue to be residential, and therefore the use will be consistent with the intent and purpose of this Zoning Code. Additionally, the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. It will also be required to be in compliance with all State licensing/certificate regulations concerning the proposed use.

Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Child Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:

1. All necessary approvals and any required permits shall be obtained, 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 Certificate of Occupancy.
2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Child Care facility with a maximum capacity of twelve (12) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.
3. Pursuant to Chapter 1281.02, 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.
4. Installation of a fence to help provide additional safety to the children that will be cared for.

ATTACHMENTS:

File Name	Description
❑ 24_Golden_Avenue_Complete_Staff_Report.pdf	SUP S14-2022 Staff Report
❑ 24_Golden_Ave_SUP_Child_Care_application.docx.pdf	SUP S14-2022 Application
❑ 24_Golden_Ave_support_letters.pdf	SUP S14-2022 Letters of Support
❑ PC_10.26.22_Meeting_Minutes_DRAFT.pdf	PC 10.26.22 Meeting Minutes DRAFT



Battle Creek City Planning Commission

Staff Report for the October 26, 2022 Meeting

To: Planning Commissioners

From: Susan C. Cronander, Planning and Zoning Administrator

Subject: Petition S-14-22 from Kelly Gast, requesting a Special Use Permit for property located at 24 Golden Avenue. Battle Creek, MI 49015. The request is for an In-Home Group Child Care Home for up to 7-14 children. Property is zoned "R-1A Single Family Residential District" pursuant to Section 1240.06 of the zoning code. PARCEL # 4690-08-506-0

Summary

A Petition from Kelly Gast, 843 Pine Street Hancock Michigan, requesting a Special Use Permit for a State licensed child care group home for up to 12-14 minor children in an R-1A zoning district, parcel #4690-08-506-0 per the City of Battle Creek Zoning Code, Section 1240.06 R-1A Single Family District and Section 1281.05 Special Land Uses.

Background/Property Information

The subject site is a total of 22,781.88 square feet (.523 of an acre) with a 1,688 square foot home constructed in 1964, and a 528 square foot garage. The Applicant is proposing to have an accessory use of a home-based daycare of up to fourteen (14) children. Recognizing that there is generally a shortage of daycare for working people in the State of Michigan, the Legislature this past June increased the maximum number of children for a state licensed child care family home (an accessory use by right in the R-1A District) from six (6) to seven (7), and the maximum number of children for a child care group home from twelve (12) to fourteen (14).

24 Golden Avenue is located on the south side of Golden Avenue, between N Brewer Drive and Capital Avenue SW. The driveway at the subject property is located 300 feet from the intersection with Capital Ave. to the west, and 150 feet from the intersection with Brewer Drive S. to the west. The property is adjacent to other single family residences on all side; except for the apartment buildings north on the other side of Golden Drive.

The Applicant currently has a purchase agreement for the subject property. The current owner's permission letter to apply for this special use is an attachment along with the application at the end of this report.

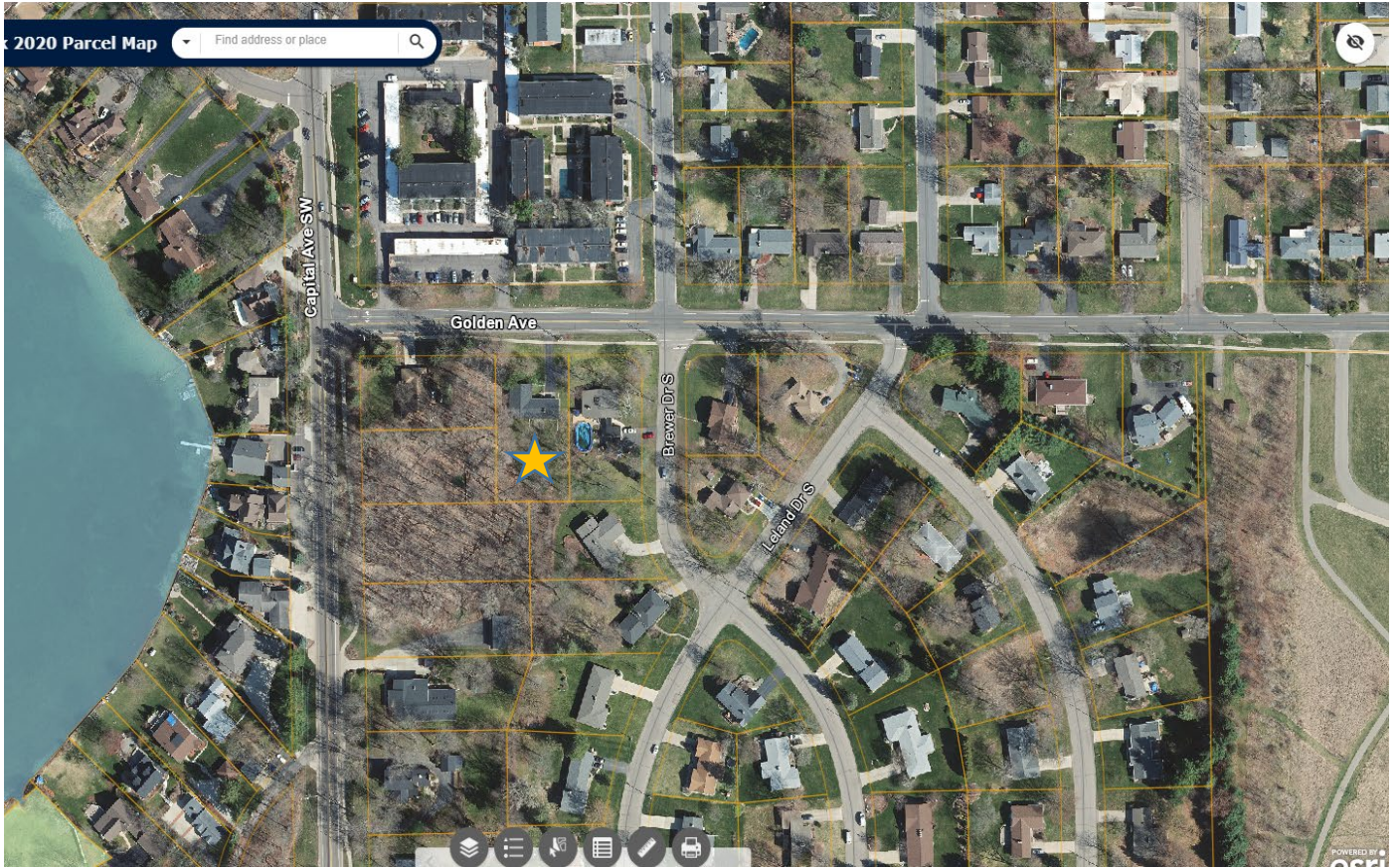


Figure 1: Aerial View of 24 Golden Avenue



Figure 2: Street View of Home at 24 Golden Avenue



Figure 3: Street View of Golden Dr. Looking East Toward Brewer Drive from 24 Golden Avenue



Figure 4: Street View of Golden Dr. Looking West Toward Capital Ave from 24 Golden Avenue

Table 1: Surrounding Land Uses / Zoning / Existing Uses

	SUBJECT PROPERTY	NORTH	SOUTH	EAST	WEST
FUTURE LAND USE	Suburban Residential	Suburban Residential	Suburban Residential	Suburban Residential	Suburban Residential
ZONING DISTRICT	R-1A Single Family Residential District	MRF High Density Multiple Family District	R-1A Single Family Residential District	R-1A Single Family Residential District	R-1A Single Family Residential District
EXISTING USE	Single Family Home	Golden Drive / Apartment Buildings	Single Family Home/Vacant Lot	Single Family Home	Single Family Home/Vacant Lot

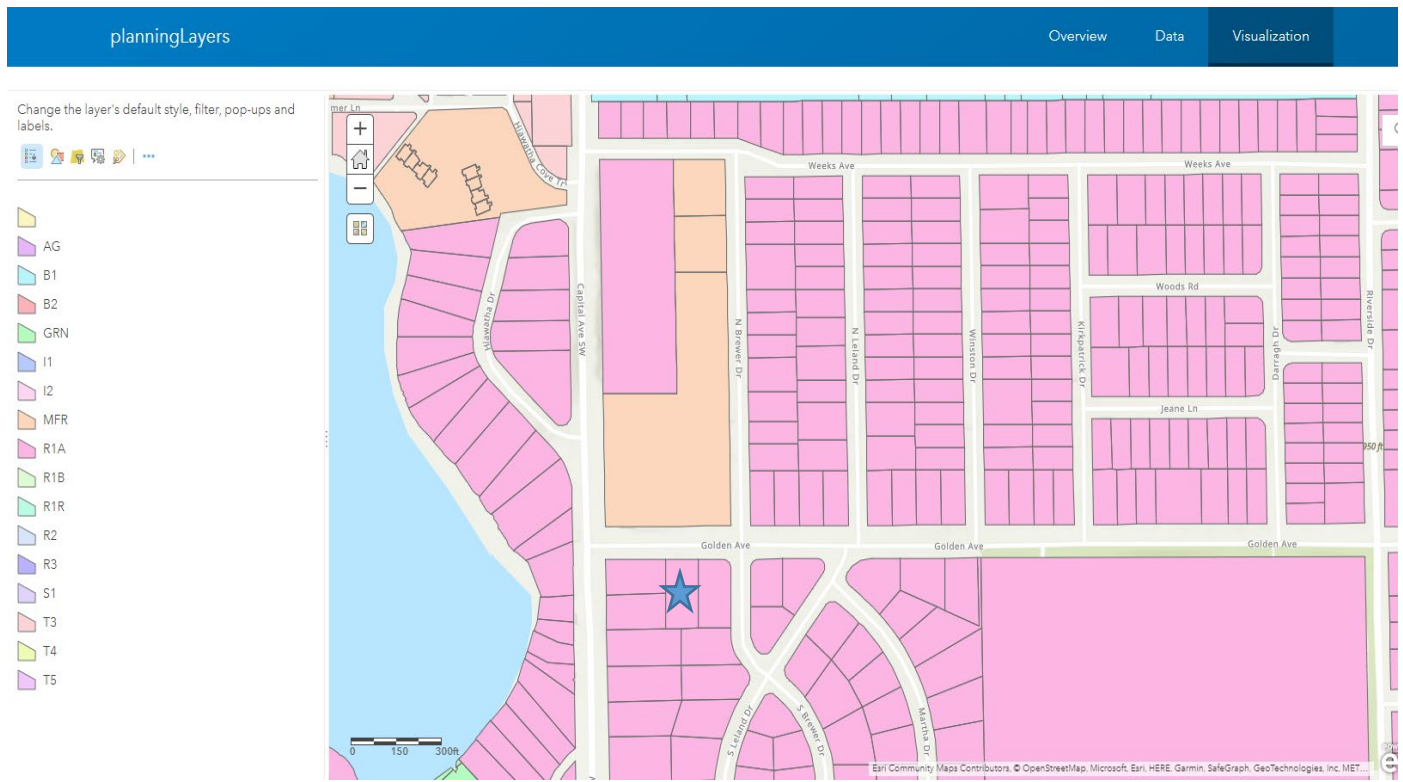


Figure 5: Zoning for 24 Golden Avenue and Surrounding Area

Proposed Scope of Project

The applicant is seeking a special use permit to operate a group child care home based business out of the home at 24 Golden Avenue. The proposed capacity of the daycare related to this request is for up to 14 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6:00am and 6:00pm each day, Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements.

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other facets of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

Applicable Ordinance Provisions

Planning and Zoning Code (December 2020):

1. 1230.06 Definitions, 178) State Licensed Residential Facilities, b) Child Care Facilities, ii) State Licensed Child Care Group Home,
2. Section 1240.06 Single-Family Residential District,
3. Section 1251.44 State Licensed Child Care Group Home, 7-12 Children,
4. Chapter 1251 Standards Applicable to Specific Uses, Section 1251.17 Home Occupations,
5. Section 1281.05 Special Land Uses

178) State Licensed Residential Facilities.

b) Child Care Facilities. As used in this Ordinance, the following definitions shall apply to child care facilities:

ii) State Licensed Child Care Group Home. A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision by the resident of the home for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. All group child care homes shall be registered with or licensed by the Michigan Department of Licensing and Regulatory Affairs or successor agency.

Section 1251.17 Home Occupations

C.2) A babysitting service or family childcare home when not more than six minor children are received for care and supervision for periods of less than eighteen hours a day, when unattended by a parent or legal guardian, is permitted. A special use permit shall be required to conduct a babysitting or group child care home that receives more than six minor children for care and supervision.

Section 1251.44 State Licensed Child Care Group Home, 7-12 Children.

A. Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

B. Limit on the Number of Children. The limit on the number of children at a Child Care Family Home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Enquirer on October 6, 2022 and notices of the public hearing were also sent by regular mail as required to all owners and occupants of properties located within 300 feet of the subject parcel.

Neighborhood Outreach

Due to Covid, the Neighborhood Planning Council #11 has not met in the last couple of years.

Basis for Determination

As a special use, 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 as well as on 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 can be reviewed using the eight standards a) – h) listed in Chapter 1281.05 *Special Land Uses C) Decision on Application; Basis for Determination.*

Analysis and Recommendation

Staff finds the request consistent with the general special use standards listed in 1281.05, as outlined herein:

- (a) The use of this structure as a Group Day Care Home will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan. A near term implementation of goal #2 of the plan is to work with major employers in Battle Creek to identify barriers that discourage employees from living within the community, and an important factor in this goal is the availability of adequate and safe day care for children of working families. To that end, zoning ordinance regulations provide adequate opportunities for safe and convenient day care and other support services near residential areas, such as this property, which has access to the arterial Capital Avenue SW that bisects and serves most of the City.
- (b) The proposed use will 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 as the primary use of the property will remain residential with no improvements planned except for a possible play structure and fence in the backyard; and there are no exterior signs proposed for the day care.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is compatible with surrounding zoning and residential land uses that allow other families with children and the limited hours of operation and size of the property and adjacent properties will provide ample space for the proposed use with little to no impact on surrounding properties. In addition, the eighty (80) foot long driveway with a side parking area for a couple of vehicles supports ample room for more than a couple of vehicles to pick up or drop off at the same time. Golden Avenue is a minor arterial that leads to Capital Avenue SW with ample capacity for additional vehicles from the proposed daycare.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as a valuable service will be provided to the community, in relatively close proximity to families, schools, and employment centers.
- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use. There is ample off-street parking and loading areas in the existing driveway and should be little to no impact to street traffic.

(f) There will be no City expenses associated with the maintenance and improvements to the property, and therefore, 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.

(g) 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. Any noise associated with the use will be the result of typical activities found in a residential neighborhood.

(h) The primary use of the property will continue to be residential, and therefore the use will be consistent with the intent and purpose of this Zoning Code. Additionally, the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. It will also be required to be in compliance with all State licensing/certificate regulations concerning the proposed use.

Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Day Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:

- 1. All necessary approvals and any required permits shall be obtained, 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 Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of fourteen (14) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- 3. Pursuant to Chapter 1281.02, 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.**

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1. Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report:

1. Special Use Permit application form (Petition #S-14-22),
2. Permission letter from property owner for the Special Use Permit Application,
3. Letters from neighbors submitted by the Applicant.



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



PD \$ 600.00
MC# 7863
4284117

SPECIAL USE PERMIT Application

Petition No. S-14-22

Date Received: 9.29.22

APPLICANT

NAME: Kelly Lynn Gast
ADDRESS: 843 Pine Street MI 49930
PHONE: 906 370 2395 FAX: _____
EMAIL: kellyskidds@live.com

OWNER (if different from applicant)

NAME: Purchase agreement with
ADDRESS: current owners of
PHONE: _____ FAX: 24 Golden Ave Battle Creek
EMAIL: _____ MI 49015

**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: 24 Golden Ave.
Battle Creek, MI 49015

Current use of the property: resident home

List existing structures on the property and the approximate age of each. home with
attached garage built in 1964

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.

not to my knowledge

PROJECT DESCRIPTION

What is the proposed use of the property that warrants the special use permit?

In-home group childcare 8-14 children

Please list all activities that will take place on the property if the special use permit were approved?

Early childhood education program run as a licensed Michigan in-home group childcare in the fully finished basement and yard

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? Zero, currently. During childcare

hours up to 2 people in order to comply w/ MI licensing requirements for group in-home childcare

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. We may put up a fence in the

backyard. We will be putting in an egress window or door in the basement. Trim and/or cut down a couple trees. possible raised flower/garden beds and small play equipment

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:

Mon-Friday 8am-6pm with possible evening or weekend care if allowed. Year round. Parents will pull in driveway for pick-up and drop-off of children.

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

The home/childcare and yard will remain in and looking as such as any well taken care of single family homes yard/home.

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?

LI 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

The community as a whole (and every community currently)
is in great need for childcare, especially quality
childcare programs

Will the special land use place demands on public facilities or services in excess of current capacity?

LI Yes ☒ No

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? LI Yes ☒ No

Parents will be dropping off and picking up their children
at staggered times, and pulling into driveway to not block
the street. We will be running a respectful, clean childcare
with no more noise than a family home.

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 \$500.00 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.

Name

Kelly Lynn Bast

Date

9/28/2022

9/30/2022

To whom it may concern for the City Battle Creek,

My name is Rus Smith and I am the owner of the 24 Golden Ave property in Battle Creek. Currently I have a sales agreement to sell 24 Golden Ave where the sale is contingent on the buyers Obtaining a City of Battle Creek Special Land Use Permit for the Accessory Use of a State Licensed Child Care Group Home, 7-12 Children. I approve of them pursuing and obtaining this Special Land Use in advance of the sale.

Rus Smith (Patrick) Monarchs LLC
269-979-5252
rsmith17@comcast.net
2081 Oak Lane, Battle Creek 49014

Rus Smith



- TALIA, WE HAVE 3 OF 4 ADJACENT PROPERTIES SIGNED. ~~210 S BREWER~~
- ~~I AM SURE WILL CONTACT ME.~~ CRYSTAL DID NOT MENTION GOING OUT
- PAST THE 4 PROPERTIES!
- 210 BREWER - SPOKE WITH SISTER TODAY, OWNER WILL SIGN & CONTACT YOU, TALIA, TO DROP OFF!
 - OWNER - SONJA MOODY - 269-223-0370 - ALSO OWNS RAY'S OPTICAL
 - SISTER - MARGE - 269-779-1815
 - I ASKED CRYSTAL ABOUT REQUIRING MONARCHS LLC ARTICLES OF ORGANIZATION & OPERATING AGREEMENT AND ^{ONE} TOLD ME NOT NEEDED!

THANKS TALIA!

RWD

Hi neighbor!

I currently have a sales agreement on the 24 Golden Ave Property which is contingent on the buyer securing a Special Land Use Permit to have childcare in their home. It is one of the allowed Accessory Uses for this district/subdivision but needs a permit from the Planning and City Commissions.

One of the steps to obtain a permit is to check with the neighbors that they would be agreeable with the permit. This is fairly, common, and simple to get approved, but we want to make sure we follow all City Ordinances/procedures in moving forward.

The buyers now run a small in-home childcare from where they live up north, and have much experience with handling in home child care.

If you do not mind, would you please sign the bottom of this sheet, so that the buyer may submit to the City of Battle Creek with their Application. Then place it in my mailbox at 24 Golden.

Call me if you have any questions!!

Rus Smith
2081 Oak Lane
Battle Creek, MI 49014
269-979-5252 rsmith17@comcast.net

THANKS
Rus

24 Golden Ave, Battle Creek

I understand that the buyer of 24 Golden Ave is seeking a Special Land Use Permit for the district allowed Accessory Use of a State Licensed Child Care Group Home.

Signature

Date

9-30-2022

PATRICK & ASHLEY MOORE
32 GOLDEN AVE
BC

BRENDA MOORE

Hi neighbor!

I currently have a sales agreement on the 24 Golden Ave Property which is contingent on the buyer securing a Special Land Use Permit to have childcare in their home. It is one of the allowed Accessory Uses for this district/subdivision but needs a permit from the Planning and City Commissions.

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Call me if you have any questions!!

Rus Smith
2081 Oak Lane
Battle Creek, MI 49014
269-979-5252 rsmith17@comcast.net

THANKS Rus

24 Golden Ave, Battle Creek

I understand that the buyer of 24 Golden Ave is seeking a Special Land Use Permit for the district allowed Accessory Use of a State Licensed Child Care Group Home.

Signature Brenda Moore Date 9.30.2022

BRENDA MOORE
915 SW CAPITAL AVE

BIRT
ANDY & JENN

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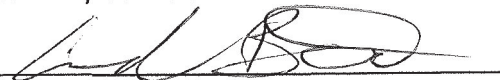
Rus Smith
2081 Oak Lane
Battle Creek, MI 49014
269-979-5252 rsmith17@comcast.net

THANKS
Rus

24 Golden Ave, Battle Creek

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Signature



Date

10/1/22

Andy Birt
959 Capital Ave SW

Jennifer Brit



City of Battle Creek

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PD \$ 600.00
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SPECIAL USE PERMIT Application

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APPLICANT

NAME: Kelly Lynn Gast
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PHONE: 906 370 2395 FAX: _____
EMAIL: kellyskidds@live.com

OWNER (if different from applicant)

NAME: Purchase agreement with
ADDRESS: current owners of
PHONE: _____ FAX: 24 Golden Ave Battle Creek
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hours up to 2 people in order to comply w/ MI licensing requirements for group in-home childcare

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backyard. We will be putting in an egress window or door in the basement. Trim and/or cut down a couple trees. possible raised flower/garden beds and small play equipment

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The home/childcare and yard will remain in and looking as such as any well taken care of single family home's yard/home.

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?

LI 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

the community as a whole (and every community currently)
is in great need for childcare, especially quality
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Will the special land use place demands on public facilities or services in excess of current capacity?

LI Yes ☒ No

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? LI Yes ☒ No

Parents will be dropping off and picking up their children
at staggered times, and pulling into driveway to not block
the street. We will be running a respectful, clean childcare
with no more noise than a family home.

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 \$500.00 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.

Name

Kelly Lynn Bast

Date

9/28/2022



TRIA, WE HAVE 3 OF 4 ADJACENT PROPERTIES SIGNED. 210 S BREWER
~~FAVORABLE CONTACT ME.~~ CRYSTAL DID NOT MENTION GOING OUT

PART THE 4 PROPERTIES.

— 210 BREWER - SPOKE WITH SISTER TODAY, OWNER WILL SIGN & CONTACT YOU TODAY, TO DROP OFF
 OWNER - SOJIA MOODY - 369-233-0370 - ALSO OWNS RAY'S OPTICAL
 SISTER - MARGE - 269-772-1815

— I ASKED CRYSTAL ABOUT REQUIRING MONARCHS LLC ARTICLES OF ORGANIZATION
 & OPERATING AGREEMENT AND ^{WE} TOLD ME NOT NEEDED!

THANKS TRIA!
 RUD

PATRICK & ASHLEY

Hi neighbor!

I currently have a sales agreement on the 24 Golden Ave Property which is contingent on the buyer securing a Special Land Use Permit to have childcare in their home. It is one of the allowed Accessory Uses for this district/subdivision but needs a permit from the Planning and City Commissions.

One of the steps to obtain a permit is to check with the neighbors that they would be agreeable with the permit. This is fairly, common, and simple to get approved, but we want to make sure we follow all City Ordinances/procedures in moving forward.

The buyers now run a small in-home childcare from where they live up north, and have much experience with handling in home child care.

If you do not mind, would you please sign the bottom of this sheet, so that the buyer may submit to the City of Battle Creek with their Application. Then place it in my mailbox at 24 Golden.

Call me if you have any questions!!

Rus Smith
2081 Oak Lane
Battle Creek, MI 49014
269-979-5252 rsmith17@comcast.net

PATRICK & ASHLEY

24 Golden Ave, Battle Creek

I understand that the buyer of 24 Golden Ave is seeking a Special Land Use Permit for the district allowed Accessory Use of a State Licensed Child Care Group Home.

Signature  Date 9-30-2012

PATRICK & ASHLEY MOORE
32 GOLDEN AVE
BC

BRENDA MOORE

Hi neighbor!

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Call me if you have any questions!!

Rus Smith
2081 Oak Lane
Battle Creek, MI 49014
269-979-5252 rsmith17@comcast.net

THANKS
RUS

24 Golden Ave, Battle Creek

I understand that the buyer of 24 Golden Ave is seeking a Special Land Use Permit for the district allowed Accessory Use of a State Licensed Child Care Group Home.

Signature Brenda Moore Date 9/30/2021

BRENDA MOORE
915 SW CAPITAL AVE

B, RT
ANDY F. JENN

Hi neighbor!

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Call me if you have any questions!!

Rus Smith
2081 Oak Lane
Battle Creek, MI 49014
269-979-5252 rsmith17@comcast.net

THANKS
RUS

24 Golden Ave, Battle Creek

I understand that the buyer of 24 Golden Ave is seeking a Special Land Use Permit for the district allowed Accessory Use of a State Licensed Child Care Group Home.

Signature



Date

10/1/22

Andy Birt
959 Capital Ave SW

Andy Birt
Jennifer Birt

**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for Wednesday, October 26, 2022**

MEETING CALLED TO ORDER:

By Chairperson Godfrey at 4:01 p.m. This meeting was held in person.

ATTENDANCE: Chairperson Godfrey asked for a roll call attendance.

Commission Members Present:

Comm. Newman, present, in Battle Creek
Comm. Spranger, present, in Battle Creek
Comm. Godfrey III present, in Battle Creek
Comm. Gray, present, in Battle Creek

Mayor Behnke, present, in Battle Creek
Comm. Morris, present, in Battle Creek
Vice Mayor Reynolds, present, in Battle Creek

Commissioners Absent: Comm. Laws

Commissioners Excused: Mayor Behnke (@ 5:28PM)

Staff Present: Travis Sullivan, Planner, Susan Cronander, Planning Administrator, Marcie Gillette, Community Services Director, Crystal Bax, Customer Service Representative, Marcel and Stoetzel, Deputy City Attorney.

APPROVAL OF MINUTES: Previous meeting minutes submitted for approval for September 28, 2022.

MOTION MADE BY COMM. NEWMAN TO APPROVE THE SEPTEMBER 28, 2022 MEETING MINUTES AS PRESENTED. SECONDED BY VICE MAYOR REYNOLDS.

ROLL VOTE: Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: 2 e-mail correspondence were provided to the board by staff.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

CHAIRPERSON GODFREY asked to open the public hearing for item 6A (#S-14-22) on the agenda.

- A. SPECIAL USE PERMIT #S-14-22:** Petition from Kelly Gast, requesting a Special Use Permit for property located at 24 Golden Avenue. Battle Creek, MI 49015. The request is for an In-Home Group Child Care Home for up to 7-14 children. Property is zoned “R-1A Single Family Residential District” pursuant to Section 1240.06 of the zoning code. PARCEL # 4690-08-506-0

Staff Presentation: Susan Cronander, Planning Administrator, gave the staff report presentation. The applicant is seeking a special use permit to operate a group child care home based business out of the home at 24 Golden Avenue. The proposed capacity of the daycare related to this request is for up to 14 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6:00am and 6:00pm each day,

Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements. Petition No.S-14-22 24 Golden Avenue, Parcel #4690-08-506-0

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other facets of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

Staff finds the request consistent with the general special use standards listed in 1281.05.

Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Day Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:

- 1. All necessary approvals and any required permits shall be obtained, 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 Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of fourteen (14) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- 3. Pursuant to Chapter 1281.02, 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.**

And one additional request by Planning Commission is that a fence needs to be put in place for safety measures.

COMMISSIONER DISCUSSION:

Chairperson Godfrey III asked the planning administrator if they would have to come before the board for additional approval

Susan C. Cronander, Planning and Zoning Administrator stated that according to the city attorney they would not need to come before the board for additional approval.

Deputy City Attorney Marcel Stoetzel confirmed this to be the case. But the zoning code would need to amend by the board to allow for the same regulations in regards to the number of children as the state.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #S-14-22 was present to speak.

Applicant: Kelly Gast, petitioner for Special Use Permit #S-14-22 (24 Golden Avenue) gave some of her background information about her current daycare and group home business at her current residence in the Upper Peninsula. She stated she is looking forward to being a part of the community and providing a great need to that particular area and gave statistical knowledge of the need for daycare in that area and surrounding areas in the City of Battle Creek. Kelly Gast offered her support of any questions the board may have.

Public Comments:

Janine Reichardt of 261 S Leland Dr, asked the board to consider putting together a Children at Play in the area.

Talia Champlin of 116 S Lincoln Blvd, realtor representing the seller, stated that the seller collected signatures of the surrounding properties stating that the neighbors were okay with the proposed use of the property, and gave information in regards to waiting lists for young children in the area.

John Shwark of 250 Martha Drive, stated that he felt the area was being slowly squeezed inward by businesses and commercial properties due to the uses allowed in their zoning district, and would rather see the area remain single family residential.

Kelly Gast, applicant addressed the safety concerns and explained how she can circumvent that issue with fencing and stroller systems for walks to the park.

MOTION MADE BY COMM. NEWMAN AND SECONDED BY COMM. MORRIS TO APPROVE #S-14-22 SPECIAL USE PERMIT FOR AN IN-HOME GROUP CHILD CARE HOME FOR UP TO 7-14 CHILDREN PURSUANT TO SECTION 1240.06 OF THE ZONING CODE. PARCEL # 4690-08-506-0 WHERE IN-HOME GROUP CHILD CARE HOME CAN BE ALLOWED AS A SPECIAL USE IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF AND THE PLANNING COMMISSION.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6B (#Z-02-22) on the agenda.

- B. REZONING REQUEST #Z-02-22:** Petition from the City of Battle Creek to rezone properties located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to the inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as “R-1A Single Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current “I-2 Heavy Industrial District” zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings

are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-02-22 was present to speak.

Applicant: The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

Public Comments:

Wayne Edmunds of 4521 W Columbia, asked of what properties were not included on the list of those to be rezoned, and whether property values will change for those that are being rezoned.

Commissioner Comments:

JOHN HUGHES asked to be recused from the passing of the motion due to potential conflict of interest.

MOTION MADE BY MAYOR BEHNKE AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE REZONING REQUEST #Z-02-22 TO REZONE PROPERTIES LOCATED ALONG ROBERTSON AVE., NEWTOWN AVE., W COLUMBIA AVE., INDEPENDENCE AVE. AND SONGBIRD LN. TO “R-1A SINGLE FAMILY RESIDENTIAL DISTRICT” PURSUANT TO SECTIONS 1240.06 AND 1281.01 OF THE ZONING CODE.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6C (#Z-03-22) on the agenda.

- C. REZONING REQUEST #Z-03-22: Petition from Summit Pointe requesting the rezoning of property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting to be rezoned as “T-4 Downtown Commercial District” pursuant to Section 1281.01 of the zoning code. PARCEL #: 9730-00-052-0

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. 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. 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.

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 non-conformity, 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.

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.

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.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-03-22 was present to speak.

Applicant: Richard Lindsey, outside council for summit pointe, explained that the rezoning is effort to allow for a pharmacy expansion

Public Comments: None. Public Hearing closed.

MOTION MADE BY MAYOR BEHNKE AND SECONDED BY COMM. NEWMAN TO APPROVE REZONING REQUEST #Z-03-22 TO REZONE 175 COLLEGE ST. TO “T-4 DOWNTOWN COMMERCIAL DISTRICT” PURSUANT TO SECTIONS 1240.14 AND SECTION 1281.05 OF THE ZONING CODE.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6D (#S-15-22) on the agenda.

D. SPECIAL USE PERMIT #S-15-22: Petition from Summit Pointe requesting a Special Use permit for property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting a Special Use Permit for an addition of a 1663sqft P a g e | 2 Agenda, cont. 10.26.22 PC M:\Planning Files\Planning Dept\1. Planning Commission\1.Agendas\Year 2022\PC Mtg. Agenda 10.26.22.docx 10 N. DIVISION ST. P.O. BOX 1717 BATTLE CREEK MICHIGAN 49016-1717 PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV pharmacy for the existing community mental health use that will

operate as an accessory to the main outpatient mental health practice (summit Pointe). Pursuant to Section 1260.01. PARCEL#: 9730-00-052-0

Staff Presentation: Travis Sullivan, Planner, gave the staff report presentation. 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 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. 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.). Petition No. S15-2022 Parcels: 9730-00-052-0 175 College Street Page 4 of 9

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.

Applicant: Richard Lindsey, wanted to point out that to location of the site would be very beneficial to the patients to allow to be seen and pick their prescriptions up in the same place as well as for the use of the public and it will allow for all employees to be housed in the same building rather than a separate building.

Public Comments: None. Public Hearing Closed.

MOTION MADE BY COMM. NEWMAN AND SECONDED BY MAYOR BEHNKE TO APPROVE #S-15-22 SPECIAL USE PERMIT FOR THE CONTINUANCE AND ALTERATION TO THE EXISTING MEDICAL PRACTICE IN EXCESS OF 20,000 SQ. FT. PURSUANT TO SECTION 1240.14 AND SECTION 1281.05 OF THE ZONING CODE. PARCEL #9730-00-052-0 IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6E (#Z-04-22) on the agenda.

- E. REZONING REQUEST #Z-04-22:** Petition from the City of Battle Creek requesting the rezoning of properties located along S Kendall St. and Lafayette St. The properties are currently zoned "R-3 Multiple Family Residential District" with the petitioner requesting to be rezoned as "S Spark District" pursuant to Sections 1281.01 and 1240.18 of the zoning code. Parcels proposed to be rezoned are as follows: 2400-00-002-0, 2400-00-001-0 and 0601-32-144-0.

Staff Presentation: Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the owners of the above three parcels requesting a rezoning from R-3 Multiple Family Residential to S Spark District. The three subject parcels currently have functioning nonresidential businesses located on the parcels, and wish to revert back to a zoning district that include uses similar to their existing retail and storage uses. In 2019 (see Figure 6) these parcels were zoned I1 Light Industrial. Battle Creek's adopted 2018 Master Plan identifies this area including the subject parcels as one of the City's "Development Opportunity Centers" overlain on the Multi-Unit Residential category (see Figure 7.)

Because the parcels are within a “Development Opportunity Center” and the underlying category is a residential category, staff believes that the S Spark District is the best fit, since two other Multi-Unit Residential sections in the City that are also “Development Opportunity Centers” have been zoned to S Spark District without amending the 2018 Master Plan.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-04-22, request for rezoning of the three (3) parcels that are the subject of this petition and are identified in Table 1: “List Of The Three (3) Subject Parcels, Addresses And Uses”.

Applicant: The City of Battle Creek City staff had no additional comments.

Public Comments: Brian Smith owner of US Lumber at 100 S Kendall Rd, is a subject of the rezoning stated that his facility also is a state licensed firearms dealer and has plans for light assembly of weapons. Along with that they also manufacture trusses, door frames, and wall panels and in the future would like to manufacture steel roofing and was concerned that the rezoning of this area would affect his ability to allow for light assembly and manufacturing with the proposed district rezoning.

John Hart, small business development, stated that there are others included in this rezoning request and he was there to speak on their behalf, and they their wishes are similar to US Lumber.

MOTION MADE BY COMM. MORRIS AND SECONDED BY COMM. SPRANGER TO POSTPONE #Z-04-22 REQUEST FOR REZONING OF THE THREE (3) PARCELS 0601-32-144-0, 2400-00-002-0, 2400-00-001-0 for 90 days.

Commissioner Comments: Comm. Newman asked that if they were able to come forward sooner, if that would be allowed.

Comm. Morris and Chairperson Godfrey III agreed with Comm. Newman.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CHAIRPERSON GODFREY asked to open the public hearing for item 6F (#Z-05-22) on the agenda.

- F. REZONING REQUEST #Z-05-22:** Petition from the City of Battle Creek to rezone properties located along Dickman Road currently zoned as “T-3 Neighborhood Commercial District.” Due to inconsistency with the Land Use Plan, the City is requesting a rezoning of the area to “T-4 Downtown Commercial District” pursuant to Sections 1240.13, 1240.14 and 1281.01 of the zoning code.

Staff Presentation: Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road.

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.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the

2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels

The purpose of the T-3 Neighborhood Commercial District is 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. The purpose of the T-4 Downtown Commercial is 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.

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.

Chairperson Godfrey III asked if the petitioner or anyone on behalf of the petition #Z-05-22 was present to speak.

Applicant: The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

Public Comments:

Marvin Day 16 Enwood St. stated he frequently bikes through downtown as that is his main form of transportation, and he mentioned how some of the areas through the proposed rezoning location have narrow bike lanes and narrow shoulders that have made it very difficult to navigate through, and that he appreciates the city’s effort to address this area as it is dangerous and he looks forward to potential redevelopments that have been proposed through this particular strip of Dickman Road.

MOTION MADE BY COMM. GRAY AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE #Z-05-22 REQUEST FOR REZONING FROM T-3 NEIGHBORHOOD COMMERCIAL TO T-4 DOWNTOWN COMMERCIAL OF SIXTEEN (16) PARCELS LOCATED ALONG DICKMAN ROAD FROM MCCAMLY ST. S. TO 80 RIVERSIDE DR. / DICKMAN ROAD AT GOGUAC ST. E. AS PRESENTED BY STAFF.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

.....
OLD BUSINESS: None

NEW BUSINESS:

2021 Planning and Zoning Annual Report

Marcie Gillette, Community Services Director, gave the report to summarize 2021.

In 2021 for planning commission there were a total of 11 items that came before the board. In previous years the numbers were lower and it seems that in 2021 there was a swinging back to a pre-covid era in numbers. In spring of 2021 there were a group of map amendments and texts amendments made to the zoning ordinance due to an oversight.

With regard to Zoning Board of Appeals there were a total of 12 items that came before the body 5 of which were approved and 6 denials and there was a noticeable trend upward to the pre-covid era again with that as well.

For Historic District Commission there were a couple of items that came before the body and there were also 5 items that were reviewed by staff and were administratively approved for minor classes of work.

In 2021 we still continued our work with the redevelopment ready and being a certified community in 2021 there were 23 project site plan reviews.

There were a total of 221 zoning enforcements in 2021 which is down a little bit from the pre-covid period of time 200 of those were rental registrations, 1 non-conforming investigation, and 20 illegal use investigations, and 100 miscellaneous enforcements such as parking, recreational vehicles, fencing etc.

There were 1,501 permits that were reviewed by the planning division as part of the application and approval process, 908 of those were residential, 244 commercial, 237 fences, 72 sign, and 40 property demolition.

COMM. NEWMAN MADE A MOTION TO RECEIVE THIS REPORT AS PRESENTED, COMM. GRAY SECONDED.

ALL IN FAVOR, NONE APPOSED.

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM COMMISSION MEMBERS AND STAFF: None

ADJOURNMENT:

Chairman Godfrey adjourned the meeting at 5:55 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning



Resolution

NO. 543

A Resolution seeking authorizing for the City Manager to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement for the amount of \$252,000.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

The City Manager is authorized to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement, or one in a form as approved by the City Attorney, for the amount of \$252,000 to provide supportive services to HOME-ARP qualifying populations in the form of substance abuse treatment within its two transitional housing programs, the Men's Life Recovery Program and the Women's Life Recovery Program.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Chris Lussier, Community Development Supervisor

Department: Community Development

SUMMARY

A Resolution seeking authorizing for the City Manager to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement for the amount of \$252,000.

BUDGETARY CONSIDERATIONS

No general fund budgetary considerations.

HISTORY, BACKGROUND and DISCUSSION

The American Rescue Plan Act of 2021, also called the COVID-19 Stimulus Package or American Rescue Plan, was passed by the 117th United States Congress and signed into law by President Joe Biden on March 11, 2021, to speed up the country's recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession. The Act appropriated \$5 billion to provide housing, services, and shelter to individuals experiencing homeless and other vulnerable populations, to be allocated by formula to jurisdictions that qualified for HOME Investment Partnerships Program allocations in Fiscal

Year 2021. On September 21, 2021 the U.S Department of Housing and Urban Development (HUD) awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan (HOME-ARP) Program funds.

The City of Battle Creek prepared a HOME-ARP Allocation Plan in accordance with HUD guidelines published on September 13, 2021 titled: Requirements for the Use of Funds in the HOME-American Rescue Plan Program. As part of the preparation of the allocation plan City staff issued a request for proposals from the community. Nine proposals were received totaling roughly four million dollars. Six proposals were recommended for \$959,090 of HOME-ARP funding. The allocation plan was adopted by the City Commission during is August 8, 2022 meeting, setting aside funding for programs that provide supportive services and the development of permanent supportive housing units.

The agreement with the Haven of Rest Ministries will provide Case Managers for two years to provide recovery services to individuals and assist them with finding safe and affordable housing, as well as providing other referrals to providers and resources within the community as needed.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
 HOME-ARP_Haven_Supportive_Services_Clean_11.8.22.docx	HOME-ARP Haven Agreement

**AGREEMENT BETWEEN
THE CITY OF BATTLE CREEK
AND
THE HAVEN OF REST MINISTRIES OF BATTLE CREEK
FOR
SUPPORTIVE SERVICES**

THIS AGREEMENT, entered into, and effective, this _____ day of _____ 2022, by and between the City of Battle Creek, a Michigan municipal corporation, of 10 N. Division Street, Battle Creek, MI 49014, (herein the “Grantee”) and The Haven of Rest Ministries, a Michigan non-profit corporation, of 11 Green Street, Battle Creek, MI 49014,) (herein the “Subrecipient”).

Whereas, Grantee has applied for and received funds from the United States Government under section 3205 of the American Rescue Plan Act of 2021 (“ARP”) for the HOME Investment Partnerships Program (HOME) from the US Department of Housing and Urban Development (HUD); and

Whereas, Grantee wishes to engage Subrecipient to assist Grantee in utilizing such funds to provide supportive services in the form of substance abuse treatment.

Now, therefore, Grantee and Subrecipient do mutually agree as follows:

I. SCOPE OF SERVICE

A. Activities/Services

Subrecipient shall utilize HOME-ARP Program funds to provide supportive services in the form of substance abuse treatment within its two transitional housing programs to qualifying populations, as defined below in Section I (B) in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. This programming shall include the following activities eligible under the HOME-ARP Program:

1. Activity #1

Subrecipient shall continue to offer its Men’s Life Recovery Program and its Women’s Life Recovery Program providing substance abuse treatment by licensed or certified professionals to eligible populations in an effort to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors.

2. Activity #2

Subrecipient shall continue to offer case management services to eligible program participants following participation in the substance abuse treatment program.

3. Activity #3

Subrecipient shall create an affirmative marketing plan for services provided under this agreement. The plan shall identify demographic groups least likely to access service; identify barriers, recommend strategies to eliminate or reduce barriers and increase access; and evaluate implementation. The Grantee will provide up to \$2000 for administrative costs in meeting this requirement.

B. Qualifying Populations

ARP requires that HOME-ARP funds be used to primarily benefit individuals and families in the following specified “qualifying populations.” Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population are required for income determinations in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

1. Homeless, as defined in 24 CFR 91.5 Homeless (1), (2), or (3):

a) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(1) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(2) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

(3) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

- b) An individual or family who will imminently lose their primary nighttime residence, provided that:
 - (1) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - (2) No subsequent residence has been identified; and
 - (3) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- c) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - (1) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - (2) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - (3) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - (4) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

2. At risk of Homelessness, as defined in 24 CFR 91.5 At risk of homelessness:

- a) An individual or family who:
- (1) Has an annual income below 30 percent of median family income for the area, as determined by HUD;
 - (2) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph 1. of the “Homeless” definition in this section; and
 - (3) Meets one of the following conditions:
 - (a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - (b) Is living in the home of another because of economic hardship;
 - (c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - (d) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low income individuals;
 - (e) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
 - (f) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - (g) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

- b) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- c) A child or youth who does not qualify as “homeless” under this section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

3. Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.

- a) For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.
- b) Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:
 - (1) A current or former spouse or intimate partner of the victim (the term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
 - (2) A person with whom the victim shares a child in common;

- (3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - (4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
 - (5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- c) Dating violence which is defined in 24 CFR 5.2003 means violence committed by a person:
 - (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (a) The length of the relationship;
 - (b) The type of relationship; and
 - (c) The frequency of interaction between the persons involved in the relationship.
- d) Sexual assault which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.
- e) Stalking which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (1) Fear for the person's individual safety or the safety of others; or
 - (2) Suffer substantial emotional distress.
- f) Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:
 - (1) Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

4. Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

a) Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

b) At Greatest Risk of Housing Instability is defined as household who meets either paragraph (1) or (2) below:

(1) Has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);

(2) Has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at 24 CFR 91.5:

(a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(b) Is living in the home of another because of economic hardship;

(c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

- (d) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, state, or local government programs for low-income individuals;
- (e) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons per room, as defined by the U.S. Census Bureau;
- (f) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- (g) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

5. Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

C. Eligible Activities

1. There are three categories specifically included as supportive services under HOME-ARP:
 - a) McKinney-Vento Supportive Services: McKinney-Vento Supportive Services under HOME-ARP are adapted from the services listed in section 401(29) of McKinney-Vento.
 - b) Homelessness Prevention Services: HOME-ARP Homelessness Prevention Services are adapted from eligible homelessness prevention services under the regulations at 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106.

c) **Housing Counseling Services:** Housing counseling services under HOME-ARP are those consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, respectively, except where otherwise noted. The requirements at 24 CFR 5.111 state that any housing counseling, as defined in 24 CFR 5.100, required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under 24 CFR part 214 to provide housing counseling, consistent with 12 U.S.C. 1701x. Please Note: When subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in 24 CFR 5.100, and therefore are not required to be carried out in accordance with the certification requirements of 24 CFR 5.111.

2. **Eligible Costs for McKinney Vento Supportive Services and Homelessness Prevention Services** include costs associated with the services as set forth U.S. Department of Housing and Urban Development Community Planning and Development, Notice CPD-21-10, Section VI.D.4.c.i.

D. Preferences and Limitations

Supportive services under this agreement shall be provided to all eligible individuals or families on a first-come, first-served basis. Subrecipient shall not use any other method of determining preference or limitation.

E. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the following levels of program services:

Activity	Units per Quarter	Total Units per Year
Program Participants Served	32	130

F. Staffing

Title	Salary/Benefits	Grant Amount	% ARP
Treatment Provider/Admin			
Staff Program Coordinators			
Staff Case Managers			

Annual Total	\$600,000	\$125,000	15%
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Any changes in the key personnel assigned as noted above or their general responsibilities under this project are subject to the prior approval of the Grantee. Notification of said changes shall be communicated in writing by the Subrecipient to the Grantee within a reasonable amount of time.

G. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the ____ day of _____, 2022 and end on the ____ day of _____. The term of the Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of HOME-ARP funds or other assets, including program income.

III. BUDGET

Line Item / Account Description	Amount
Wages and Salary to Staff Programs (2 years)	\$250,000
Affirmative Marketing Plan	\$2,000
Total	\$252,000

Any indirect costs charged must be consistent with the conditions of Section VIII.C.2 of this Agreement. In addition, Grantee may require a more detailed budget breakdown than the one contained herein, and Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by Grantee. Any amendments to this budget must be approved in writing by Grantee and Subrecipient.

IV. PAYMENT

It is expressly agreed and understood that the total to be paid by Grantee under this Agreement shall not exceed \$252,000. Drawdown for the payment of eligible expenses shall be made against the line item budgets specified in Section III of this Agreement and in accordance with performance. Payments made by Grantee to Subrecipient for eligible expenses incurred under

this Agreement shall be paid on a reimbursable basis, given that Subrecipient has provided proper and complete source documentation to Grantee.

Payments may be contingent upon certification of Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-110.

V. NOTICES

Communication and details concerning this Agreement shall be directed to the following contract representatives:

Grantee

Crystal Watson, Community Development Specialist
City of Battle Creek
10 N. Division Street
Battle Creek, MI 49014
(269) 966-3315

Subrecipient

Daniel Jones, Executive Director
The Haven of Rest Ministries
11 Green Street
Battle Creek, MI 49014
(269) 788-0975

VI. SPECIAL CONDITIONS

None.

VII. GENERAL CONDITIONS

A. General Compliance

1. Subrecipient agrees to comply with the requirements for funds appropriated under section 3205 of the American Rescue Plan Act of 2021 for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services. The requirements in 24 CFR 92.350 apply to the HOME-ARP program, as well as the federal requirements set forth in 24 CFR part 5, subpart A, including: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; drug-free work; and housing counseling and the nondiscrimination requirements at section 282 of NAHA.

2. Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under this Agreement. Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

3. Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Department of Housing and Urban Development regulations concerning HOME-ARP). Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under this Agreement. Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Duplication of Benefits

Subrecipient shall establish requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services.

C. Hold Harmless

Subrecipient shall indemnify, defend and hold harmless Grantee, its employees, agents and elected officials, from any and all claims, demands, actions, suits, proceedings, loss, costs, charges, judgments, reasonable attorney's fees and/or litigation expenses whatsoever arising out of Subrecipient's negligent act, omission, professional error, fault, mistake, or negligence of Subrecipient, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance and Bonding

1. Subrecipient shall maintain and comply with the bonding and insurance requirements of 2 CFR Part 215, as they may apply.
2. Subrecipient shall at the time of execution of this contract, file with Grantee the Certificate of Insurance, which shall cover all of its insurance as required herein, including evidence of payment of premiums thereon, and the policy or policies of insurance covering Subrecipient and its officers, agents and employees. Each such policy and certificate shall be satisfactory to the City. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Subrecipient's responsibility for payment of damages resulting from its operations under this Contract.
3. Subrecipient shall maintain insurances in force at all times during the term of this agreement at the minimum amounts and types as indicated.

Coverage Afforded		Limits of Liability	
Workers' Compensation		\$100,000	or statutory limit
Commercial General Liability: (including XCU if appropriate)	Bodily Injury	\$1,000,000	each occurrence
	Property Damages	\$1,000,000	each occurrence
	Or Combined Single Limit	\$1,000,000	
Automobile Liability:	Bodily Injury	\$300,000	each person
	Liability	\$300,000	each occurrence
	Property Damage	\$500,000	
	Or combined Single Limit	\$500,000	

Grantee shall be listed as an additional insured on general liability coverage, and shall be provided with a Certificate of Insurance that reflects this additional insured status. A 30-day notice of cancellation or material change shall be provided to the City and so noted on the Certificate of Insurance. All certificates and notices shall be sent to City of Battle Creek, 10 N. Division Street, Community Development, Battle Creek, Michigan, 49014.

F. Amendments

1. Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both Grantee and Subrecipient, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.
2. Grantee may, unilaterally and at its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment results in changes to the funding amount or the scope of services in Section I.A. as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

G. Suspension or Termination

1. Either party may terminate this Agreement at any time by giving 30 days written notice to the other party specifying the effective date of such termination. Partial terminations of the Scope of Service in Section I.A. requires prior approval of Grantee. In the event of any termination, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by Subrecipient under this Agreement shall, at the option of Grantee, become the property of Grantee, and Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.
2. Grantee may also suspend or terminate this Agreement, in whole or in part, if Subrecipient fails to comply with any written term of this Agreement, or with any of the laws, rules, regulations or provisions referred to herein; and Grantee may declare Subrecipient ineligible for any further participation in Grantee's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Subrecipient is in noncompliance with any applicable rules or regulations, Grantee may withhold up to fifteen (15) percent of said contract funds until such time as Subrecipient is found to be in compliance by Grantee, or is otherwise adjudicated to be in compliance.

VIII. ADMINISTRATIVE REQUIREMENTS

Subrecipient agrees to comply with applicable uniform administrative requirements contained at 24 CFR 570.502 including, but not limited to the following:

A. Financial Management

1. Accounting Standards

Subrecipient agrees to comply with 2 CFR Part 215, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

Subrecipient shall administer its program in conformance with 2 CFR Parts 230 or 220, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

Subrecipient shall maintain all records required by the federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

- a) Records providing a full description of each activity undertaken;
- b) Records demonstrating that each activity undertaken meets one of the National Objectives of the HOME-ARP Program;
- c) Records required to determine the eligibility of activities;
- d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME-ARP assistance;
- e) Records documenting compliance with the fair housing and equal opportunity components of the HOME-ARP Program;
- f) Financial records as required by 24 CFR 570.502, and OMB Circular A-110; and
- g) Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for nonexpendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he or she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of

the five year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five year period, whichever occurs later.

3. Client Data

Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of services provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

Subrecipient understands that client information collected under this Agreement is private and the use of disclosure of such information, when not directly connected with the administration of Grantee's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service, and in the case of a minor, that of a responsible parent/guardian or as subject to a Freedom of Information Act request or other legal means such as a subpoena.

5. Property Records

Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold with funds provided under this Agreement. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503(b)(8), as applicable.

6. Close-outs

Subrecipient's obligation to Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to Grantee) and determining the custodianship of records.

7. Audits and Inspections

a) All Subrecipient records with respect to any matters covered by this Agreement shall be made available to Grantee, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as Grantee or Grantor agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Subrecipient.

b) Failure of Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy and as applicable OMB Circular A-133.

8. Reversion of Assets

Upon the expiration of this Agreement, Subrecipient shall transfer to Grantee any HOME-ARP funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME-ARP funds. Any real property under Subrecipient's control shall be disposed of as required at 24 CFR 570.503 (b)(8).

9. Administrative Requirements

Subrecipient shall comply with applicable program rules contained in 24 CFR 570 Subpart K.

C. Reporting and Payment Procedures

1. Program Income

Subrecipient shall report on a quarterly basis all program income as defined at 24 CFR 570.500 (a) generated by activities carried out with HOME-ARP funds made available under this Agreement. The use of program income by Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, Subrecipient may use such program income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to Grantee at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to Grantee.

2. Indirect Costs

If indirect costs are charged, Subrecipient shall develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs to be charged under this Agreement and Subrecipient shall submit such a plan to Grantee for approval prior to reimbursement of expenses and in a form specified by Grantee.

3. Payment Procedures

Grantee will pay to Subrecipient funds available under this Agreement based upon information submitted by Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, Grantee reserves the right to liquidate funds available under this Agreement for cost incurred by Grantee on behalf of Subrecipient.

4. Progress Reports

Subrecipient shall submit regular progress reports to Grantee in the form, content and frequency as required by Grantee.

D. Procurement

1. Compliance

Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all nonexpendable personal property as defined by such policy as may be procured with funds provided herein. Subrecipient shall procure all materials, property and/or services in accordance with the requirements of 24 CFR Part 84 and any other applicable rules or regulations.

2. Travel

Subrecipient must obtain prior written approval from Grantee for any travel outside the metropolitan area paid for with funds provided under this Agreement.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

A. Subrecipient agrees to comply with:

1. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606 (b);
2. The requirements of 24 CFR 570.606 (c) governing the Residential Anti-Displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act of 1974, as amended; and
3. The requirements in 24 CFR 570.606 (d) governing optional relocation policies.

B. Relocation Assistance

Subrecipient shall provide relocation assistance to the persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a HOME-ARP-funded project. Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Subrecipient agrees to comply with the following: Elliott-Larson Civil Rights Act, Michigan Civil Rights Act; Title VI of the Civil Rights Act of 1964, as amended; Title VIII of the Civil Rights Act of 1968, as amended; Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended; Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Age Discrimination Act of 1975; Executive Order 11063, 11246, 11375, and 12086, as amended.

2. Nondiscrimination

a) Subrecipient agrees that in carrying out the terms of this Agreement that it shall not deny any person the equal protection of the laws; nor shall the Subrecipient deny any person the enjoyment of their civil rights or discriminate against any person because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

b) Subrecipient's signature on this Agreement is a certification that it is in compliance with the provisions of Chapter 214 of Battle Creek City ordinances. Subrecipient further acknowledges and agrees that its breach of the agreement not to discriminate shall be a material breach of this contract.

3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that Grantee and the United States are beneficiaries of and entitled to enforce such covenants. Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706),

which prohibits discrimination against the handicapped in any federally assisted program. Grantee shall provide Subrecipient with any applicable federal guidelines necessary for compliance with that portion of the regulations enforced during the term of this Agreement.

B. Equal Opportunity

1. Equal Employment Opportunity

Subrecipient agrees that it is committed to carrying out the activities under this Agreement in keeping with the principles as provided in Executive Order 11246 of September 24, 1965, as amended.

2. Women- and Minority-Owned Business Enterprises

Subrecipient will use its best efforts to afford women- and minority- owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term “women- and minority-owned business enterprises” means a business at least fifty-one percent owned and controlled by women or minority group members. Subrecipient may rely on written representations by businesses regarding their status as women- and minority-owned business enterprises in lieu of an independent investigation.

3. Access to Records

Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by Grantee, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with rules, regulations and provisions stated herein.

4. Notifications

Subrecipient will send to each labor union and/or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker’s representative of Subrecipient’s commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO Statement

Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity Employer.

6. Subcontract Provisions

Subrecipient will include the provisions of Sections X (A) Civil Rights, and (B) Equal Opportunity, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

a) Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti- Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and 40 U.S.C. 276c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

b) Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and regulations are imposed by state or local law, nothing hereunder is intended to relieve Subrecipient of its obligation, if any, to require payment of the higher wage. Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this section.

3. "Section 3" Clause Compliance

a) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the Grantee, Subrecipient and any of Subrecipient's subrecipients and/or subcontractors. Failure to fulfill these requirements shall subject Grantee, Subrecipient and any of Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

b) Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all sub- contracts executed under this Agreement:

(1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development of 1968, as amended (12 U.S.C. 1701u). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulation.

- (3) The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (5) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (6) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that, to the greatest extent feasible, (1) preference and opportunities for training and employment shall be given to Indians, and (2) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3, to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

D. Conduct

1. Assignability

Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institutions without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a) Approvals

Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of Grantee prior to the execution of such agreement.

b) Monitoring

Subrecipient will monitor all subcontracted services on a regular basis to ensure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c) Content

Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d) Selection Process

Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to Grantee along with documentation concerning the selection process.

3. Hatch Act

Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that no persons described in s (c) of this section who exercise or have exercised any functions or responsibilities with respect to HOME-ARP activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, currently have, or may obtain, a financial interest or benefit from a HOME-ARP-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a HOME-ARP-assisted activity, or with respect to the proceeds of the HOME-ARP-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or of subrecipients which are receiving funds under the HOME-ARP Entitlement program.

5. Lobbying

Subrecipient hereby certifies that:

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

- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c) It will require that the language of section (d) of this certification be included in the award documents for all Sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly; and
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this Agreement results in any copyrightable material or inventions, Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize other to use, the work or materials for governmental purposes.

7. Religious Organizations

Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

Grantee

Subrecipient

By: _____

By: _____

Rebecca L. Fleury
Its: City Manager

Daniel Jones
Its: Executive Director

Witness: _____

Witness: _____

Fed. ID#: 57-0422667

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Marcel Stoetzel, Deputy City Attorney



Resolution

NO. 544

A Resolution seeking to set a closed session on a labor matter for November 15, 2022.

BATTLE CREEK, MICHIGAN - 11/15/2022

Resolved by the Commission of the City of Battle Creek:

That a Closed Session of the City Commission will be held on Tuesday, November 15, 2022, in Room 302A, City Hall, Battle Creek Michigan, pursuant to MCL 15.268(c) for strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement as requested by the City; and that, Rebecca L. Fleury, City Manager, is hereby appointed as the designated secretary to record and prepare appropriate Minutes of this Closed Session.

Battle Creek City Commission
11/15/2022

Action Summary

Staff Member: Michelle Hull, Human Resources Director

Department: Labor Relations

SUMMARY

A Resolution seeking to set a closed session on a labor matter for November 15, 2022.

BUDGETARY CONSIDERATIONS

None

HISTORY, BACKGROUND and DISCUSSION

As permitted under the Michigan Open Meetings Act, a public body, upon a majority vote, may meet in closed session for strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing, and the City has requested that closed session; and that, Rebecca L. Fleury, City Manager, is hereby appointed as the designated secretary to record and prepare appropriate Minutes of this Closed Session.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name

Description

No Attachments Available