

# AGENDA NOTE

New Business: Item # 5

**MEETING DATE:** August 13, 2018

**PERSON PLACING ITEM ON AGENDA:** Police Chief

**AGENDA TOPIC:** Purchase of Five (5) In-Car Mobile Data Computers (MDCs) using Drug Forfeiture Funds.

**EXPLANATION OF TOPIC:** Our current in-car MDCs (Motorola 810) and printers are 11 years old and in need of replacement. Clemis recently informed me that our department is one of five out of the 125 police departments on the Clemis system that has not upgraded to the Dell MDC package. Additionally, Clemis radio repair indicated that they will no longer service the outdated Motorola 810 MDC and printer units should repairs become necessary. If we chose to bring in the Motorola units for repair, there will be a mandatory \$50 charge to send it to Motorola for a diagnosis, which may take up to two months. The mandatory \$50 charge would be in addition to the cost of repairs.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:** Lt. Sovik Memo, Itemization document, Estimates from Dell, CDW, and Cynergy Wireless for units, accessories, installation and activation.

**POSSIBLE COURSES OF ACTION:** Approve/Do Not Approve purchase of 5 MDCs for \$22,777.30 using drug forfeiture funds.

**RECOMMENDATION:** Approve the purchase of two 5 MDCs for \$22,777.30 using drug forfeiture funds.

**SUGGESTED MOTIONS:** 1. Motion by \_\_\_\_\_, supported by \_\_\_\_\_ to waive the competitive bidding process because there would be no advantage to the City in obtaining bids. 2. Motion by \_\_\_\_\_, supported by \_\_\_\_\_ to approve the purchase of 5 MDCs for \$22,777.30 using drug forfeiture funds.

08/13/18

# **SOUTH LYON POLICE DEPARTMENT MEMORANDUM**

**Subject: In-Car Mobile Data Computer (MDC) Purchase**

**To: Chief Lloyd T. Collins**

**From: Lt. Christopher Sovik**

**Date: July 19, 2018**

**Our current in-car MDCs (Motorola 810) and printers are 11 years old and in need of replacement. Clemis recently informed me that our department is one of five out of the 125 police departments on the Clemis system that has not upgraded to the Dell MDC package. Additionally, Clemis radio repair indicated to me that they will no longer service the outdated Motorola 810 MDC and printer units should repairs become necessary. If we chose to bring in the Motorola units for repair, there will be a mandatory \$50 charge to send it to Motorola for a diagnosis, which may take up to two months. The mandatory \$50 charge would be in addition to the cost of repairs.**

**As you are aware, I recently replaced one (1) MDC / Printer utilizing funds from department line item 820 (Computer Expense) in this year's current budget. The total cost of the project was approximately \$4,700 which included the removal of the old MDC / printer, installation & activation of the new.**

**Initially, while preparing FY budget 2018-19, I included an additional \$9,400 to cover the cost of two (2) replacement MDCs. During our budget discussion with Brian Camiller of Plante Moran, it was suggested to use forfeiture funds to purchase the MDCs.**

**I'm recommending that we use forfeiture funds to replace five (5) MDCs and printers for the rest of the fleet. The cost would be \$22,777.30.**

**In accordance with South Lyon City Code Article VI – Purchasing, Section 2-224, I would normally seek bids on the replacement costs of the MDCs and printers since the total replacement cost would be in excess of \$5,000. However, Section 2-224 includes the following excerpt: “Where such expenditure or contract exceeds \$5,000.00, it shall be subject to competitive bidding as herein prescribed except where the council shall determine that no advantage to the city would result or where the expenditure or contract is for professional services.”**

**Our department has contracted with CLEMIS for several years. CLEMIS indicated that participating agencies purchase their MDC and printer equipment from the same vendors (Dell and CDW), so there is consistency with the hardware, software, and repairs should they become necessary. All upgraded MDCs and printers are identical for every agency minus the specialized programmed software for each department. Additionally, departments receive a lower price for the units because of the large number of units purchased by participating agencies.**

**In my opinion, there would be no advantage to the City in obtaining bids from vendors other than those listed above.**

**With your approval, I would like to move forward with ordering and purchasing five (5) MDC / printer units from Dell and CDW. This would complete the replacement of all MDCs and printers in our current fleet. Identical to the purchasing process of the most recent MDC/ printer, our department will receive invoices from both vendors once the equipment is received in full.**

**This purchase was discussed during the budget meeting while preparing the 2018-2019 FY Budget.**

# **SOUTH LYON POLICE DEPARTMENT**

## **MEMORANDUM**

**Subject: In-Car Mobile Data Computer (MDC) Itemization**

**To: Chief Lloyd T. Collins**

**From: Lt. Christopher Sovik**

**Date: July 19, 2018**

### **Itemization**

(5) Dell Latitude Rugged 5414 MDC Units.....	\$10,250.00
(5) Dell Docking Stations.....	\$248.70
(5) Dell Triple High-Gain Antenna Docking Stations.....	<u>\$2,875.00</u>
	\$13,373.70

(5) Cradlepoint Mobile Routers.....	\$4,450.00
(5) Powertech Antennas.....	\$825.00
(5) Brother Rugged In-Car Printers.....	\$2,085.15
(5) Brother USB Cables.....	\$37.85
(5) Brother Car Adaptors.....	\$76.80
(5) Brother Printer Mounting Brackets.....	\$307.45
(5) Brother 3YR Premier Service.....	<u>\$271.35</u>
	\$8,053.60

**Cynergy Wireless Removal / Install three (3) MDC Units...\$1,350.00**

**TOTAL - \$22,777.30**

## Chris Sovik

---

**From:** Wendy.Rhodes@Dell.com  
**Sent:** Tuesday, July 17, 2018 10:30 AM  
**To:** Chris Sovik  
**Subject:** FW: Dell eQuote #:1026847936501

Here's your budgetary quote Chris. Please reach out directly to me with questions or when you're ready to place your order.

Please note these are estimates as pricing can change in the next couple of months.

Warmly,

### Wendy Rhodes

Inside Sales - Customer For Life

Dell EMC

O - 512-725-1281

F - 512-283-0890

Wendy\_rhodes@dell.com

Comments? Please contact my manager at [darryl.fonville@dell.com](mailto:darryl.fonville@dell.com)

Helpful Links: [Order Status](#) [Customer Care](#) [Technical Support](#)

**From:** Automated Email On Behalf Of Dell Automated Email

**Sent:** Tuesday, July 17, 2018 9:29 AM

**To:** Rhodes, Wendy

**Subject:** Dell eQuote #:1026847936501



You have  
received an  
eQuote  
1026847936501

An eQuote  
has been  
sent to you  
from your  
Dell Online  
Store.  
This  
eQuote will  
expire on  
10/15/2018

## Who sent this eQuote

Saved by:  
Wendy\_Rhodes@Dell.com

## To retrieve this eQuote

Login to Premier  
Sign in to Oakland County- CLEMIS  
Click on "Quotes" in the top menu  
bar and search for eQuote number  
1026847936501

eQuote South Lyon PD Budgetary  
Name Quote  
Saved Wendy\_Rhodes@Dell.com  
By  
Account Oakland County- CLEMIS  
Name  
Contract99AGZ  
Code

## eQuote Summary

Description	Quantity	Unit Price	Subtotal
Latitude 14 Rugged 5414	5	\$2,050.00	\$10,250.00
DEVMT,DOCKST,DELL,400,OPT,SCRSPRT,	5	\$49.74	\$248.70
Havis DS-DELL-406-3 Basic Port Replication with Triple High-Gain Antenna - docking station	5	\$575.00	\$2,875.00

eQuote Subtotal	\$13,373.70
Promotional Discounts*	\$0.00
Shipping*	\$0.00
Shipping Discount*	\$0.00
Estimated Tax*	\$0.00
Environmental Disposal Fee*	\$0.00

**eQuote Total\* \$13,373.70**

\*The eQuote total, including applicable taxes and additional fees, may be viewable online.

## eQuote Details

Description	Quantity	Price
rcrc1296685-4509385   Latitude 14 Rugged 5414	5	\$22,215.70
Premier discount		\$11,965.70
(Unit Price after discount: \$2,050.00 ea.)		\$10,250.00

Module	Description	Product Code	Sku	ID
Latitude 14 Rugged (5414)	Dell Latitude 5414 XCTO	X5414T	[210-AJRP]	1
Processor	Intel® Core™ i7-6600U Processor (4M Cache, 2.60 GHz) with Security Bundle	I76600	[338-BJIQ]	146
Operating System	Windows 10 Pro 64bit English, French, Spanish	10P64M	[619-AHKN]	11
Office Productivity Software	No Productivity Software	NOPSW	[630-AARX]	1002
Systems Management	No Out-of-Band Systems Management	NOVPRO	[631-AAZE]	49
Memory	4GB (1x4GB) 2133MHz DDR4 Memory	4G1D4	[370-ACDC]	3
Hard Drive	256GB Mobility Solid State Drive	256SSD	[400-ANBI]	8
Video Card	Intel® HD Graphics 520	UMA	[340-AJPV] [490-BDCP]	6
LCD	14.0" FHD (1920x1080) Outdoor-Readable Touchscreen, Webcam with Privacy Shutter and Mic	TCMHD	[391-BCRV]	760
Keyboard	Sealed Internal RGB Backlit English Keyboard	KBENG	[580-ABYR]	4
Mouse	No Mouse Selected	NOMSE	[570-AADK]	12
Driver	Wireless 8260 Driver	8260AC	[555-BCZH]	7
Wireless	Intel® Dual-Band Wireless-AC 8260 Wi-Fi + BT 4.2 Wireless Card	8260AC	[555-BCMT]	19
Mobile Broadband	No Mobile Broadband Card WLAN/WWAN	NOBBL	[362-BBBB]	114
Primary Battery	6-cell (65Wh) Lithium Ion Battery	65W	[451-BBWF]	112
Power Supply	65W AC Adapter, 3-pin	65WE5	[492-BBEM]	1015
FGA Module	No FGA	NOFGA	[817-BBBB]	572

			6813] [975- 3461] [989- 3449] [973- 9201]	33
Support	5 Year Accidental Damage Service	ACDAMS		

rrrc1296685-4131559   DEVMT,DOCKST,DELL,400,OPT,SCRSPRT,	5	\$289.95
Premier discount		\$41.25
(Unit Price after discount: \$49.74 ea.)		<hr/> \$248.70

Module	Description	Product Code	Sku	ID
Dellware Only Config	Dellware Only Config	DWC	[DWC]	1

rrrc1296685-4147686   Havis DS-DELL-406-3 Basic Port Replication with Triple High-Gain Antenna - docking station	5	\$3,529.95
Premier discount		\$654.95
(Unit Price after discount: \$575.00 ea.)		<hr/> \$2,875.00

Module	Description	Product Code	Sku	ID
Dellware Only Config	Dellware Only Config	DWC	[DWC]	1



eQuote Subtotal	\$13,373.70
Promotional Discounts*	\$0.00
Shipping*	\$0.00
Shipping Discount*	\$0.00
Estimated Tax*	\$0.00

**eQuote Total\*      \$13,373.70**

\*The eQuote total, including applicable taxes and additional fees, may be viewable online.

Let's

connect.



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Disclaimer:  
Please note  
that Dell  
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responsible for  
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other errors  
and reserves  
the right to  
cancel any  
orders arising  
from such  
errors. The  
amount of tax  
and shipping  
added to your  
order depends  
on where you  
have asked for  
the product to  
be shipped as  
well as on  
which  
products  
and/or  
services you've  
chosen to  
purchase. Your  
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# QUOTE CONFIRMATION



DEAR CHRIS SOVIK,


Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
JXNZ916	7/19/2018	CRADLEPOINT/BROTHER	8574907	\$8,053.60

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
<u>Cradlepoint NetCloud Essentials for Mobile Routers (Prime) - subscription I</u> Mfg. Part#: MA5-0900600M-NNA UNSPSC: 43233204 Contract: MARKET	5	4944074	\$890.00	\$4,450.00
<u>Cradlepoint Verizon 2FF SIM Card</u> Mfg. Part#: CDP-DFILLSIM2FF-VZ Contract: MARKET	5	5122332	\$0.00	\$0.00
<u>CRADLEPOINT SIM INSERTION</u> Mfg. Part#: DINSERTSIM Contract: MARKET	5	5106701	\$0.00	\$0.00
<u>VERIZON WRLS ACTIVATION W/O SCAN</u> Mfg. Part#: WRNACTW/ODVCS Contract: MARKET	5	2608862	\$0.00	\$0.00
<u>PowerTech PT60 Series - antenna</u> Mfg. Part#: PT60BB-2C15SM3-G15 UNSPSC: 43221723 Contract: MARKET	5	4407681	\$165.00	\$825.00
<u>Brother RuggedJet RJ-4040 - label printer - monochrome - direct thermal</u> Mfg. Part#: RJ4040 UNSPSC: 43212108 Contract: MARKET	5	2603587	\$417.03	\$2,085.15
<u>Brother USB cable - 10 ft</u> Mfg. Part#: LB3603 UNSPSC: 26121604 Contract: MARKET	5	1907598	\$7.57	\$37.85
<u>Brother LB3692 Car Adapter</u> Mfg. Part#: LB3692 UNSPSC: 39121006 Contract: MARKET	5	1912881	\$15.36	\$76.80
<u>Brother printer vehicle mounting bracket</u> Mfg. Part#: PA-CM-4000 UNSPSC: 31162313 Contract: MARKET	5	2603591	\$61.49	\$307.45

QUOTE DETAILS (CONT)				
<b>BROTHER 3YR PREMIER SVC</b>	5	4769302	\$54.27	\$271.35
Mfg. Part #: 207803-001				
Electronic distribution - NO MEDIA				
Contract: MARKET				

<b>PURCHASER BILLING INFO</b>	<b>SUBTOTAL</b>	\$8,053.60
Billing Address: CITY OF SOUTH LYON ACCTS PAYABLE 335 S WARREN ST SOUTH LYON, MI 48178-1317 Phone: (248) 437-1735 Payment Terms: Net 30 Days-Govt State/Local	<b>SHIPPING</b>	\$0.00
	<b>GRAND TOTAL</b>	\$8,053.60
<b>DELIVER TO</b>	<b>Please remit payments to:</b>	
Shipping Address: CITY OF SOUTH LYON CHRIS SOVIK 335 S WARREN ST SOUTH LYON, MI 48178-1317 Phone: (248) 437-1735 Shipping Method: FEDEX Ground	CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

CDW • G SALES CONTACT INFORMATION		
	Dave Engmark   800.808.4239	davieng@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at  
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>  
 For more information, contact a CDW account manager

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1463 Combermere Drive - Troy Michigan 48083  
 Phone 248-298-3855 - Toll Free 800-491-9350  
 Fax 248-298-3859

## Quote

Date	Quote #
7/18/2018	30398

### Name / Address

South Lyon Police Department  
 219 Whipple Street  
 South Lyon, MI. 48178

### Ship To

South Lyon Police Department  
 219 Whipple Street  
 South Lyon, MI 48178

			Account #	Rep	Project
				CHSI	
Qty	Item	Description	Cost	Total	
3	Labor	Please accept the following quote to provide equipment removal and installation services for the customers new DELL model 14 super rugged lap tops and Cradle Point modem and new antenna system in the customers (3) existing patrol cars in the fleet. All equipment will be provided by the customer and the work will be done at our facility in Troy. Labor - Equipment Removal and New Equipment Installations - There are (2) additional equipment installations but they will be part of the (2) new vehicle changeovers.	450.00	1,350.00	
<b>Total</b>				<b>\$1,350.00</b>	

# **AGENDA NOTE**

New Business: Item #6

**MEETING DATE:** August 13, 2018

**PERSON PLACING ITEM ON AGENDA:** Police Chief

**AGENDA TOPIC:** Furnace & A/C Replacement (2) Units

**EXPLANATION OF TOPIC:** The furnace and air conditioning units (2) in the police/fire administration building are at least twenty years old and are due for replacement. Replacement of both furnaces and air conditioning units is included in F.Y. Budget 2018-2019. Three bids were obtained for comparable furnace/ air conditioning units.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:** Memo from Lt. Sovik; bids from Sean Klein HVAC (\$12,400), Unlimited Heating & Air LLC (\$12,940), & Heinanen Engineering (\$21,686.13)

**POSSIBLE COURSES OF ACTION:** Approve/Do Not Approve the purchase of the furnace and air conditioning units, (includes removal of old units and installation of new units), from Unlimited Heating & Air LLC for \$12,940.

**RECOMMENDATION:** Approve the purchase and installation as bid by Unlimited Heating & Air LLC HVAC for the amount of \$12,940.

**SUGGESTED MOTION:** Motion by \_\_\_\_\_, supported by \_\_\_\_\_ to approve the purchase and installation of the furnace and air conditioning unit as bid by Unlimited Heating & Air LLC for \$12,940.

08/13/18

# **SOUTH LYON POLICE DEPARTMENT MEMORANDUM**

**Subject: (2) Furnace / Air Conditioning Units –Police/Fire  
Administration Building**

**To: Chief Collins**

**From: Lt. Sovik**

**Date: August 7, 2018**

**Chief Collins,**

**Attached are estimates from three Heating & Cooling companies: Sean Klein HVAC, Unlimited Heating and Air LLC, and Heinanen Engineering. I met with representatives from each company during their inspection of the current heating & cooling units. All three companies indicated that they would pull the appropriate permits for the project.**

**Both furnaces and air conditioning units in the admin building have been serviced during the past few years. Both units are at least twenty years old and in need of replacement. I budgeted \$12,000 (Capital Improvement) for the replacement of both furnaces and air conditioning units in the upcoming F.Y. 2018-2019 budget. The low bid was \$12,400 by Sean Klein HVAC, but I am recommending the second lowest bid at \$12,940 by Unlimited Heating & Air LLC.**

**All three companies will use the 410A Freon in the air conditioning units as approved by the EPA.**

**Sean Klein HVAC and Unlimited Heating and Air install the 135,000 BTU 80% single stage efficiency furnaces. Heinanen Engineering installs the 140,000 BTU 80% single stage furnaces. Sean Klein HVAC installs Payne Products. Unlimited Heating & Air LLC installs Comfortmaker Products. Heinanen Engineering installs Trane Products. Because of the cold temperatures in the winter and the**

placement of the furnace units in the attic area of the building, a higher efficiency furnace was not recommended. All three companies install 5-ton 13 SEER AC units.

Sean Klein HVAC and Unlimited Heating & Air LLC provide a 10-year warranty on the furnace parts and a 20-year warranty on the heat exchanger. Sean Klein HVAC and Unlimited Heating & Air LLC offer a 10-year warranty on parts and compressor for the AC units. All three offer a 1-year limited service warranty on new equipment in addition to manufacturer warranties.

Sean Klein HVAC and Heinanen Engineering offer a 1-year labor warranty.

I spoke with City Plumbing and Mechanical Inspector Russ Walker regarding the requirements. He informed me that he will be inspecting the project to ensure city codes and requirements have been met. He added that there will need to be a smoke detector installed in the project area in addition to a strobe to alert any detection of smoke. This purchase and install was not included in the bid quotes. I will seek bids for that project.

I usually recommend contracting with the low bid, but not in this situation. Sean Klein HVAC was the low bid at \$12,400. Some questions were raised regarding the lack of detail in his original quote. On July 23rd, I brought those questions/ concerns to Sean Klein and requested he resubmit another bid / quote with greater detail. He indicated that he would. On July 27th, I contacted Sean Klein a second time and requested the same. I have not heard back from him. His lack of attention to detail and failure to respond to my requests are disappointing, because I know firsthand that he does excellent work. Although Sean Klein HVAC was the low bid by \$540.00, it is my recommendation to go with the next highest bidder, Unlimited Heating & Air LLC at \$12, 940.

Unlimited Heating & Air LLC was the low bid in 2016 when the Police Department replaced the second furnace and air conditioning unit in the main police building. The installation went as planned and we have not experienced any issues / problems to date with the service or performance of the products installed.

Unlimited Heating and Air LLC  
6335 Prospect St  
Linden, MI 48451  
517-404-9638  
unlimitedheatingandairllc@gmail.com

UNLIMITED HEATING AND AIR LLC

## ESTIMATE

### ADDRESS

South Lyon Police Department  
219 Whipple St  
South Lyon, MI 48178

ESTIMATE # 1024

DATE 06/04/2018

EXPIRATION DATE 07/04/2018

### P.O. NUMBER

213 Whipple st

ACTIVITY	QTY	RATE	AMOUNT
<b>materials</b> 135,000 btu 80% single stage Comfortmaker furnace with ECM Blower motor model N8MXL. warranty- 10 year parts and 20 year heat exchanger	2	1,165.00	2,330.00
<b>materials</b> 5.0 ton 13 seer Comfortmaker AC and 5.0 ton indoor horizontal A-coil warranty- 10 year parts and 10 year compressor.	2	1,840.00	3,680.00
<b>materials</b> custom metal, gas pipe, refrigeration lines, fan programmable thermostat, drain lines, pan, electrical and permits.	2	840.00	1,680.00
<b>HVAC</b> Labor/ This estimate is for a single stage furnace with new filter rack, refrigeration lines and air conditioning. Includes new thermostat. Electrician to install smoke detector and alarms for each unit.	2	2,400.00	4,800.00
<b>materials</b> Skyjack rental to lift new units and remove old units from attic space	1	450.00	450.00
			0.00
			0.00

WWW.GOCOMFORTMAKER.COM to  
your product choices.

1 year limited service warranty on new equipment from Unlimited  
Heating and Air LLC from date of installation in addition to

TOTAL

**\$12,940.00**



Sean Klein  
4615 Pontiac Trail  
Ann Arbor MI 48105  
Mechanical Contractor  
248-755-3620

Attention: Chris Sovik  
Job: Furnace and AC  
5-20-18

To: Chris Sovik  
South Lyon PD

This is a quote for work to be performed at The Police Dept. in South Lyon MI.

*13 SEER  
201 1/2*

Install 2-135,000 Btu 80% furnace and 2- 5-ton AC unit with new line sets and removal of old units. Includes permits and duct alteration. The manufacturer will be Payne with a 10-year warranty on all parts including AC compressor and a one-year labor warranty through me. The heat exchanger will have a 20 year manufacturer warranty.

Payment schedule will be 50% down and 50% upon completion

Total for this job will be \$12,400.00

Any questions or concerns feel free to give me a call at 248-755-3620 thank you.

Kind Regards,  
Sean Klein

*7/25 requested more detail in bid - OK  
7/27 requested a second time*

# HEINANEN ENGINEERING

COOLING HEATING HELPING

350 S. Lafayette St.  
South Lyon, MI 48178  
TEL: (248) 486-6100  
(734) 422-1600  
FAX: (248) 486-6176  
info@warmnup.com  
www.warmnup.com

South Lyon Police Department  
219 Whipple St.  
South Lyon, MI 48178

June 8, 2018

Unit Evaluation: N/A

Recommendation: Heinanen Engineering, Inc. recommends equipment replacement.

**Equipment and service Proposed:**

- 2 TRANE TUED140A9601A80% Single stage gas furnaces 140,000 BTU
- 2 TRANE 4TTR3060A1000A Single stage 13 SEER condensing units
- 2 TRANE 4TXCD010DS3 Cased Evaporators
- 2 TRANE TCONT824 Wi-Fi Enabled comfort control
- 2 TRANE TFM245 Media filters
- 2 Outdoor equipment pads as needed
- 2 New refrigeration piping as needed
- 2 Drain piping as needed
- 2 Secondary drain pans as needed w/safety switch
- 2 Control wiring as needed
- 2 Equipment hoisting as needed
- 2 Gas piping reconections as needed w/valves
- 2 Provide supply and return duct reconnection as needed w/sealant
- 2 Electrical reconections as needed only
- 2 Metal venting as needed to existing
- 2 Permits and fees
- 2 System start and check

**By others:**

- 1) Make-up-air as required
- 2) Smoke detectors and strobes as required
- 3) Walkway, electrical corrections, additional code updates
- 4) Additional repairs/alterations

*Heinanen Engineering, Inc.* 1 year labor warranty  
*TRANE* 1year limited registered parts warranty

**TOTAL**

**\$21,686.13**

Heinanen Engineering, Inc. has the ability to make any and all decisions regarding the installation of the above as to provide the most effective installation. See attached contract.

**Payment Terms:** 100% UPON COMPLETION

I have read and understand the contents of this proposal and the attached contract fully.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

This proposal is valid for a period of 10 days

6700  
85117

# AGENDA NOTE

New Business # 7

**MEETING DATE:** August 13, 2018

**PERSON PLACING ITEM ON AGENDA:** City Attorney

**AGENDA TOPIC:** First reading of Ordinance Amendment to Add Section 22-167 – Soliciting in Public Roadway Prohibited; Exceptions

**EXPLANATION OF TOPIC:** In 2016 the Michigan Attorney General issued an opinion (OAG #7291) concluding that soliciting in public streets and highways violates the Michigan Vehicle Code and Uniform Traffic Code. The Michigan Legislature responded by enacting Public Act 112 of 2017 amending the Michigan Vehicle Code to add language to MCL 257.676b to specifically allow a charitable or civic organization to solicit charitable contributions within the public roadway provided certain conditions are met:

- The organization must comply with applicable local government regulations
- The organization must maintain at least \$500,000 in liability insurance coverage
- Individuals soliciting on behalf of an organization must be at least 18 years old
- Soliciting may only take place during daylight hours
- Individuals soliciting must wear high-visibility safety apparel
- No soliciting in a work zone and soliciting must take place in an intersection with working traffic control devices

The City has historically allowed soliciting within the right of way, and in addition to the requirements in Public Act 112 of 2017, the proposed ordinance amendment includes the following requirements:

- Solicitors must have personal identification as well as something identifying the organization
- Solicitors must leave the roadway when traffic is moving
- Solicitors must not impede or interfere with traffic, yell at, threaten, or intimidate drivers
- Applicant organizations must obtain a permit for soliciting in the public roadway

## **MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Proposed ordinance adding Section 22-167
- Bill Analysis of HB 4160 (S-4) and
- Enrolled HB 4160 (Public Act 112 of 2017)
- MCL 257.676b as amended by PA 112
- City of South Lyon Code of Ordinances Chapter 22, Article VI – Solicitors – current

**POSSIBLE COURSES OF ACTION:** Approve/Deny/No Action/Postpone

**RECOMMENDATION:** Approve

**SUGGESTED MOTION:** Motion to approve the first reading of the ordinance amending the City of South Lyon Code of Ordinances, Chapter 22 – Businesses, Article VI – Solicitors, to add a new section 22-167 – Soliciting in Public Roadways Prohibited; Exceptions, to comply with the requirements and statutory amendments in Public Act 112 of 2017 applicable to soliciting in public roadways.

ORDINANCE NO. \_\_\_\_-18

CITY OF SOUTH LYON  
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 22 – BUSINESSES, ARTICLE VI – SOLICITORS, TO ADD A NEW SECTION 22-167 – SOLICITING IN PUBLIC ROADWAYS PROHIBITED; EXCEPTIONS, TO COMPLY WITH THE REQUIREMENTS AND STATUTORY AMENDMENTS IN PUBLIC ACT 112 OF 2017 APPLICABLE TO SOLICITING IN PUBLIC ROADWAYS.

THE CITY OF SOUTH LYON ORDAINS:

**PART I. Amendment of Chapter 22 – Businesses, Article VI – Solicitors; Adding Section 22-167 – Soliciting in Public Roadways Prohibited; Exceptions.** Chapter 22 – Businesses, Article VI – Solicitors, of the Code of Ordinances of the City of South Lyon, is hereby amended to add Section 22-167 – Soliciting in Public Roadways Prohibited; Exceptions, as follows:

Sec. 22-167 – Soliciting in Public Roadways Prohibited; Exceptions.

- a) Notwithstanding any other provision in this article to the contrary, no person, whether or not registered and permitted as a solicitor, shall block, obstruct, impede or otherwise interfere with the normal flow of vehicular traffic upon a public roadway within the City by means of a barricade, object or device, or with his or her person. For purposes of this article the term “roadway” means the area of a paved or unpaved public street, highway or road designed for vehicular travel generally including the area from curb to curb, or if no curb is present, from outer edge of shoulder to outer edge of shoulder.
- b) The foregoing prohibition does not apply to a person soliciting contributions on behalf of a charitable or civic organization, if all of the following conditions are satisfied:
  - i. Only persons soliciting contributions on behalf of a charitable or civic organization are permitted to solicit or complete solicitation transactions within the roadway. As used in this section, “charitable or civic organization” means a nonprofit organization that is qualified under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, 26 USC 501, or a veterans’ organization that has tax-exempt status under the Internal Revenue Code, as defined in MCL 257.676b(6) of the Michigan Vehicle Code.
  - ii. A person soliciting on behalf of a charitable or civic organization shall have visible identification or lettering identifying the organization and shall carry personal identification on their person.
  - iii. All persons soliciting on behalf of a charitable or civic organization must be 18 years of age or older, and each person soliciting must be identified by full legal name on the application, including date of birth, address, and the applicant must

attach to the application a copy of a government issued form of identification for each person who will engage in soliciting, such as a driver's license, passport, or other identification card.

- iv. Soliciting shall occur only during daylight hours which is defined to mean one-half hour after the sunrise and one-half hour before sunset based on published sunrise and sunset times on the applicable day where the soliciting occurs.
- v. All persons engaged in soliciting in the roadway shall wear high visibility safety apparel meeting the current American standards promulgated by the International Safety Equipment Association.
- vi. The portion of the roadway upon which the soliciting occurs is not in a work zone and is within an intersection where traffic control devices are present and functioning. Soliciting is not permitted in any intersection identified by the South Lyon Police Department, in its sole discretion and judgment, as being unreasonably dangerous or otherwise inappropriate for soliciting, based on factors including, but not limited to, traffic crash data, traffic violator data, sight distance or other features of the area, obstructions, traffic volume, traffic flow, or weather conditions.
- vii. Soliciting in the roadway shall not impede the free movement of vehicle traffic, intimidate or threaten drivers or occupants of vehicles, touch any vehicles or the driver or occupants, yell or scream at vehicles, the driver or its occupants, in a threatening manner, or otherwise cause traffic delays or interfere with traffic.
- viii. All persons engaged in soliciting shall move off or out of the roadway when vehicular traffic is moving.
- ix. Soliciting shall not occur at any time during inclement weather such as snow, ice, or fog, as determined by the Police Chief and/or his/her designee.
- x. A person shall only carry or hold a container of a small size, shape and weight (12"Hx6"Wx6"W, may have a handle which is not included in determining size) so as to not impede vehicle traffic and safe vehicular movement.
- xi. The charitable or civic organization shall maintain at least \$500,000.00 in liability insurance, and must submit adequate proof of this insurance to the City with its application.
- xii. The charitable or civic organization and persons soliciting on its behalf shall comply with all other provisions of this article and other applicable City requirements for the applications for and permitting of soliciting.

Secs. 22—168 – 22-180. - Reserved.

**PART II. Severability.** Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART III. Savings Clause.** The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance.

**PART IV. Repealer.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART V. Effective Date: Publication.** This Ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided by the Charter of the City of South Lyon.

Made, passed and adopted by the South Lyon City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Daniel L. Pelchat, Mayor

\_\_\_\_\_  
Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Lisa Deaton, City Clerk

Adopted:  
Published:  
Effective:



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7636

## BILL ANALYSIS



Telephone: (517) 373-6383  
Fax: (517) 373-1886

House Bill 4160 (Substitute S-4 as reported by the Committee of the Whole)  
Sponsor: Representative Shane Hernandez  
House Committee: Transportation and Infrastructure  
Senate Committee: Transportation

**CONTENT**

The bill would amend the Michigan Vehicle Code to do the following:

- Allow a person to solicit contributions on behalf of a charitable or civic organization during daylight hours on a public street or roadway under certain circumstances (listed below).
- Specify that a local government or road authority with jurisdiction over a roadway on which solicitation occurred would not be liable for any claim for damages arising out of the use of the roadway.
- Allow a local government to enact or enforce regulations restricting, but not prohibiting, the solicitation described in the bill, and require a local government that had enacted or was enforcing regulations prohibited under the bill to bring those regulations into compliance with the bill within 60 days after its effective date.

The conditions under which contributions could be solicited in a roadway are as follows:

- The organization would have to comply with applicable local government regulations.
- The organization would have to maintain at least \$500,000 in liability insurance.
- The person soliciting contributions would have to be at least 18 years old.
- The person would have to be wearing high-visibility safety apparel.
- The portion of the roadway where solicitation occurred could not be a work zone and would have to be within an intersection where traffic control devices were present.

"Charitable or civic organization" would mean a nonprofit organization that is qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, or a veterans' organization that has tax-exempt status under the Code.

Currently, the Michigan Vehicle Code prohibits a person, without authority, from blocking, obstructing, impeding, or otherwise interfering with the normal flow of vehicular or pedestrian traffic upon a public street or highway in the State, by means of a barricade, object, or device, or with his or her own person. A person who violates this provision is responsible for a civil infraction.

MCL 257.676b

Legislative Analyst: Drew Krogulecki

**FISCAL IMPACT**

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local government. Any associated decrease in fine revenue would reduce funding to public libraries. Local governments also could potentially avoid the loss of revenue from lawsuits directed at municipalities due to injury of solicitors.

Date Completed: 6-27-17

Fiscal Analyst: Ryan Bergan

floorhdb4160a

Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Act No. 112  
Public Acts of 2017  
Approved by the Governor  
July 27, 2017  
Filed with the Secretary of State  
July 27, 2017  
EFFECTIVE DATE: July 27, 2017

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2017**

Introduced by Reps. Hernandez, Lucido, Canfield, Frederick, Noble, Brann and Sabo

**ENROLLED HOUSE BILL No. 4160**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 876b (MCL 257.876b).

*The People of the State of Michigan enact:*

Sec. 676b. (1) Subject to subsection (2), a person, without authority, shall not block, obstruct, impede, or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public street or highway in this state, by means of a barricade, object, or device, or with his or her person. This section does not apply to persons maintaining, rearranging, or constructing public utility facilities in or adjacent to a street or highway.

(2) Subsection (1) and any provision of the Michigan Administrative Code that prohibits a person from standing in a roadway other than a limited access highway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle do not apply to a person who is soliciting contributions on behalf of a charitable or civic organization during daylight hours, if all of the following are satisfied:

(a) The charitable or civic organization complies with applicable local government regulations. A local government may enact or enforce regulations restricting, but not prohibiting, the activity described in this subsection.

(b) The charitable or civic organization maintains at least \$500,000.00 in liability insurance.

(c) The person is 18 years of age or older.

(d) The person is wearing high-visibility safety apparel that meets current American standards promulgated by the International Safety Equipment Association.

(e) The portion of the roadway upon which the solicitation occurs is not a work zone and is within an intersection where traffic control devices are present.



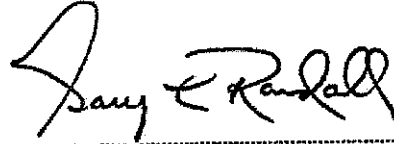
(3) A local government or road authority that has jurisdiction over a roadway upon which solicitation occurs as described in subsection (2) is not liable for any claim for damages arising out of the use of the roadway as described in subsection (2).

(4) A person who violates this section is responsible for a civil infraction.

(5) A local government that, on the effective date of the amendatory act that added this subsection, has enacted or is enforcing regulations that are prohibited under subsection (2)(a) shall bring those regulations into compliance with subsection (2)(a) no later than 60 days after the effective date of the amendatory act that added this subsection.

(6) As used in this section, "charitable or civic organization" means a nonprofit organization that is qualified under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501, or a veterans' organization that has tax-exempt status under the internal revenue code.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved .....

.....  
Governor

**MICHIGAN VEHICLE CODE (EXCERPT)**  
**Act 300 of 1949**

**257.676b Interference with normal flow of vehicular or pedestrian traffic prohibited; public utility facilities; solicitation of contributions on behalf of charitable or civic organization; violation as civil infraction; local regulations; "charitable or civic organization" defined.**

Sec. 676b. (1) Subject to subsection (2), a person, without authority, shall not block, obstruct, impede, or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public street or highway in this state, by means of a barricade, object, or device, or with his or her person. This section does not apply to persons maintaining, rearranging, or constructing public utility facilities in or adjacent to a street or highway.

(2) Subsection (1) and any provision of the Michigan Administrative Code that prohibits a person from standing in a roadway other than a limited access highway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle do not apply to a person who is soliciting contributions on behalf of a charitable or civic organization during daylight hours, if all of the following are satisfied:

(a) The charitable or civic organization complies with applicable local government regulations. A local government may enact or enforce regulations restricting, but not prohibiting, the activity described in this subsection.

(b) The charitable or civic organization maintains at least \$500,000.00 in liability insurance.

(c) The person is 18 years of age or older.

(d) The person is wearing high-visibility safety apparel that meets current American standards promulgated by the International Safety Equipment Association.

(e) The portion of the roadway upon which the solicitation occurs is not a work zone and is within an intersection where traffic control devices are present.

(3) A local government or road authority that has jurisdiction over a roadway upon which solicitation occurs as described in subsection (2) is not liable for any claim for damages arising out of the use of the roadway as described in subsection (2).

(4) A person who violates this section is responsible for a civil infraction.

(5) A local government that, on the effective date of the amendatory act that added this subsection, has enacted or is enforcing regulations that are prohibited under subsection (2)(a) shall bring those regulations into compliance with subsection (2)(a) no later than 60 days after the effective date of the amendatory act that added this subsection.

(6) As used in this section, "charitable or civic organization" means a nonprofit organization that is qualified under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501, or a veterans' organization that has tax-exempt status under the internal revenue code.

History: Add. 1968, Act 151, Eff. Nov. 15, 1968;—Am. 1978, Act 510, Eff. Aug. 1, 1979;—Am. 2017, Act 112, Imd. Eff. July 27, 2017.

*Current  
Act on Solicitors*

Sec. 22-161. - Solicitor defined.

The word *solicitor* as used in this article shall include any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, and such definition shall include any person who, for himself, or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. The word "solicitor" shall include the word "canvasser."

(Code 1988, § 7.81)

Sec. 22-162. - License required.

No person shall engage in the business of a solicitor within the city without first obtaining a license therefor. No such license shall be granted except upon certification of the chief of police.

(Code 1988, § 7.82)

Sec. 22-163. - License application.

The license application filed under the provisions of section 22-34 shall furnish the following information:

- (1) Name and description of the applicant.
- (2) Permanent home address and full local address of the applicant.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.

- (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- (7) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (8) The fingerprints of the applicant and the names of at least two reliable property owners of the County of Oakland, State of Michigan, who will certify as to the applicant's good character and business respectability, or in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
- (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefore.

(Code 1988, § 7.83)

Sec. 22-164. - License fees.

The fees for a solicitor's license shall be as specified in sections 22-57 through 22-59. No fee for a solicitor's license shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the city manager for an adjustment of the fees so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit, and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the city manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The city manager shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and

above the fee so fixed. In fixing the fee to be charged, the city manager shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed by sections 22-57 through 22-59. Should the city manager determine the gross sales measure of the fee to be the fair basis, he may require the applicant's business in the City of South Lyon or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any one license year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed in sections 22-57 through 22-59.

(Code 1988, § 7.84)

Sec. 22-165. - Exempt persons.

Persons engaged in soliciting on foot in the neighborhood of their residence under the direct supervision of any school or recognized nonprofit organization shall be exempt from the requirements of this article.

(Code 1988, § 7.85)

Sec. 22-166. - Violation and penalties.

A violation of this article shall be deemed a municipal civil infraction.

(Ord. of 11-28-94(13), § 1(7.86))

Secs. 22-167—22-180. - Reserved.

# AGENDA NOTE

*New Business #8*

**MEETING DATE:** August 13, 2018

**PERSON PLACING ITEM ON AGENDA:** Recommendation from Planning Commission

**AGENDA TOPIC:** First Reading of Ordinance to Amend the Official Zoning Map of the City of South Lyon Conditionally Rezoning 825 W Lake St – Parcel No. 21-30-126-005 from R-1A (One-Family Residential) to RM-3 (Multiple-Family Residential).

**EXPLANATION OF TOPIC:** In March 2018, the owner of 825 W Lake St, LV Holdings, LLC, requested that the City rezone Parcel No. 21-30-126-005 from R-1A (One-Family Residential) to RM-3 (Multiple-Family Residential) with conditions that the development and use of the property be limited to a multiple family residential apartment project consisting of no more than 72 apartment units in 3 buildings. The owner's request is submitted pursuant to MCL 125.3405 which authorizes rezoning with conditions voluntarily offered by the owner of the property. The Planning Commission held a Public Hearing on June 14, 2018, and recommended approval of the owner's request for conditional rezoning based on the conditions voluntarily offered in writing by the owner.

Note, the Property was annexed by consent resolutions of the Township and City in 2016, and upon annexation, the Property “came into” the City zoned R-1A pursuant to Section 102-185 of the Zoning Ordinance.

Following the Planning Commission's recommendation, a conditional rezoning agreement was prepared, and it is set forth in the proposed zoning ordinance amendment in full. If the second reading is approved, Council will be asked to consider and approve the Conditional Rezoning Agreement separately at that time.

CIB Planning's review letter dated June 7, 2018 sets forth the details regarding the property and the surrounding area, its zoning and provides an analysis of the zoning amendment criteria.

The conditions voluntarily offered by the owner are contained on page 3 in Paragraph 3 of the Conditional Rezoning Agreement.

The Conditional Rezoning Agreement contains time limits, as authorized under MCL 125.3405(2), which the owner must meet or the zoning of the parcel will revert back to R-1A:

- (i) Final site plan approval within six (6) months of the approval of the Agreement;
- (ii) A building permit for the project, or first phase, if applicable, obtained within eighteen (18) months from the date of the approval of this Agreement; and
- (iii) A final certificate of occupancy for the project or the first phase thereof, if applicable, obtained within thirty (30) months from the date of the approval of this Agreement.

The time limits can be extended by the City on written request of the owner, but the City is not required to grant such requests for extension.

Once the use is established, it must be maintained in compliance with the conditions approved in the rezoning and agreement.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Ordinance to amend the official zoning map of the City of South Lyon conditionally rezoning Parcel No. 21-30-126-005 – 825 W Lake St, from R-1A to RM-3. The proposed ordinance contains the proposed Conditional Rezoning Agreement verbatim, but the Agreement will be presented separately for approval
- Planning Commission Minutes of June 14, 2018
- CIB Review updated June 7, 2018

**POSSIBLE COURSES OF ACTION:** Approve/Deny/Table/Postpone

**RECOMMENDATION:** Approve

**SUGGESTED MOTION:** Motion to approve the first reading of the Ordinance to amend the official zoning map of the City of South Lyon conditionally rezoning Parcel No. 21-30-126-005, 825 W Lake St from the R-1A (One-Family Residential) to the RM-3 (Multiple-Family Residential) as presented.

**ORDINANCE NO. \_\_\_\_-18**

**CITY OF SOUTH LYON  
OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP  
OF THE CITY OF SOUTH LYON CONDITIONALLY  
REZONING PARCEL NO. 21-30-126-005, 825 W. LAKE  
STREET, FROM THE R-1A DISTRICT (ONE-FAMILY  
RESIDENTIAL) TO THE RM-3 DISTRICT (MULTIPLE-  
FAMILY RESIDENTIAL)**

**THE CITY OF SOUTH LYON ORDAINS:**

**PART I. Amendment of Official Zoning Map.** The Official Zoning Map of the City of South Lyon incorporated into the South Lyon Zoning Ordinance by Section 102-182 is hereby amended to conditionally rezone the Property located at 825 W. Lake Street, South Lyon, MI 48178, Tax ID: 21-30-126-005, which is more fully described as:

A parcel of land located in Fractional Sections 19 and 30, Town 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, described as Beginning at the intersection of the line between Oakland and Livingston Counties with the center line of Ten Mile Road and running thence along the center line of Ten Mile Road an arc distance of 418.03 feet along a curve concave to the South, radius 1535.89 feet, whose chord bears North 80 degrees 01 minutes East, and is 416.75 feet long; thence South 0 degrees 24 minutes 0 seconds East 532.45 feet; thence North 89 degrees 13 minutes 47 seconds West 198.47 feet to the Southeast corner of a 70 foot by 223 foot Lot previously sold to Felix Turner and Cleo Turner, his wife; thence North 0 degrees 55 minutes East, along the East line of said Lot 70.00 feet to its Northeast corner; thence North 89 degrees 13 minutes 47 seconds West along the North line of said Lot 223.00 feet to its Northwest corner situated on the line between Oakland and Livingston Counties; thence North 0 degrees 55 minutes East along said county line to the point of beginning.

from the R-1A District (One-Family Residential) to the RM-3 District (Multiple-Family Residential) subject to the conditions set forth in the Conditional Rezoning Agreement and exhibits referenced below and attached hereto which were voluntarily offered by the Owner/Applicant and which are expressly incorporated into this Ordinance.

**CONDITIONAL REZONING AGREEMENT**

City of South Lyon  
and  
LV Holdings, LLC

(825 W. Lake Street – Parcel ID 21-30-126-005)

THIS CONDITIONAL REZONING AGREEMENT (the "Agreement") is made this \_\_\_\_ day of August, 2018, by and between the CITY OF SOUTH LYON, a Michigan municipal corporation, with its offices located at 335 S. Warren Street, South Lyon, MI 48178 ("City") and LV Holdings,



LLC, a Michigan limited liability company, whose address is 128 N. Center Street, Northville, MI 48167 ("Owner").

#### RECITALS

WHEREAS, the City is a municipal corporation organized and existing under and pursuant to the Michigan Home Rules Cities Act, 1909 PA 279, MCL 117.1 et seq., as amended, and exercising all of the powers provided for therein and pursuant to the City of South Lyon City Charter, last amended November 3, 2009;

WHEREAS, the Owner is a Michigan limited liability company, and it is the fee title holder of certain real property ("Property") commonly known as 825 W. Lake Street, South Lyon, MI 48178, Tax ID 21-30-126-005 which is more fully described as follows:

**A parcel of land located in Fractional Sections 19 and 30, Town 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, described as Beginning at the intersection of the line between Oakland and Livingston Counties with the center line of Ten Mile Road and running thence along the center line of Ten Mile Road an arc distance of 418.03 feet along a curve concave to the South, radius 1535.89 feet, whose chord bears North 80 degrees 01 minutes East, and is 416.75 feet long: thence South 0 degrees 24 minutes 0 seconds East 532.45 feet: thence North 89 degrees 13 minutes 47 seconds West 198.47 feet to the Southeast corner of a 70 foot by 223 foot Lot previously sold to Felix Turner and Cleo Turner, his wife; thence North 0 degrees 55 minutes East, along the East line of said Lot 70.00 feet to its Northeast corner; thence North 89 degrees 13 minutes 47 seconds West along the North line of said Lot 223.00 feet to its Northwest corner situated on the line between Oakland and Livingston Counties; thence North 0 degrees 55 minutes East along said county line to the point of beginning.**

WHEREAS, the Property is currently zoned R-1A (One-Family Residential), and Owner desires to develop a multiple family residential apartment project on the Property which is not permitted under the Property's R-1A zoning;

WHEREAS, pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008 PA 110, MCL 125.3405 et seq., as amended, certain conditions voluntarily offered by the Owner of the Property, may become a condition of rezoning the Property;

WHEREAS, on or about March 21, 2018, 2018, the Owner submitted a Conditional Rezoning Application for the Property along with a conceptual site plan, a written supplement,

conceptual architectural drawings, and a conceptual landscape plan (attached as Exhibit A, collectively the "Application documents"), voluntarily offering, in writing, certain conditions to rezone the Property from R-1A (One-Family Residential) to RM-3 (Multiple-Family Residential) with conditions as set forth in this Agreement;

WHEREAS, on June 14, 2018, the City Planning Commission held a public hearing, after publication of notice thereof, on the Owner's Conditional Rezoning Application;

WHEREAS, on June 14, 2018, the City Planning Commission recommended approval of the Owner's request for conditional rezoning based upon the conditions voluntarily offered by Owner in writing which are set forth in this Agreement and the attached exhibits;

WHEREAS, on \_\_\_\_\_, 2018, the City Council approved the request for Conditional Rezoning and adopted Ordinance No. \_\_\_\_\_ based upon the conditions voluntarily offered by the Owner in writing which are set forth in this Agreement and the attached exhibits; and

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the City and Owner agree as follows:

1. Conditional Rezoning. Pursuant to Section 405 of the Michigan Zoning Enabling Act, MCL 125.3405, Owner agrees to limit the development and use of the Property as set forth in the rezoning conditions below as a condition of rezoning. Upon execution of this Agreement by the parties, the City shall effectuate the conditional rezoning of the Property from the R-1A district (One-Family Residential) to the RM-3 district (Multiple-Family Residential) on the City's official Zoning Map. This Agreement is valid and entered into on a voluntary basis and represents a permissible exercise of authority by the City pursuant to MCL 125.3405.

2. Rezoning Conditions. Owner agrees to develop and use the Property in accordance with the following conditions which have been offered voluntarily in writing by the Owner as conditions to the rezoning:

- a. Development and use of the Property shall be for a multiple family residential apartment project consisting of no more than 72 apartment units in 3 buildings in substantial conformance with the Application documents attached as Exhibit A;
- b. Development and use of the Property for a multiple family residential apartment development shall be subject to and in conformance with the final approval of the site plan for the Property by the City Planning Commission. The parties agree that minor revisions to the approved final site plan which, in the sole discretion of the City Manager, do not significantly modify the proposed development or use of the Property or the site plan, may be considered and approved by the City administratively without the necessity of review and approval by the Planning Commission and/or without amendment of this Agreement and exhibits hereto;
- c. All other permitted and special land uses in the RM-3 district are prohibited on the Property;
- d. Screening and landscaping shall be provided on the Property in accordance the Application documents, and otherwise consistent with City Ordinances;
- e. Except as modified herein, development and use of the Property shall comply with all other applicable state and local requirements for land development and use, ordinances, codes, standards, regulations, requirements, and engineering design standards and requirements.

3. Compliance with Conditions. Once commenced and established, development and use of the Property must remain in compliance with the conditions of rezoning and this Agreement. Any failure to comply with a condition contained herein shall constitute a violation of the City of South Lyon Zoning Ordinance and shall be punishable as provided for therein. Additionally, any such violation shall be deemed a nuisance per se and subject to abatement as provided for by law.

4. Time Limits. The City and Owner agree that the following approvals and activities are conditions to this Agreement and if not completed in the following time limits, the Property will revert back to the R-1A, One-Family Residential Zoning District:

- a. Final site plan approval within \_\_\_\_ (\_\_\_\_) months from the date of this Agreement;
- b. A building permit for the Project, or first phase thereof if applicable, is obtained within \_\_\_\_\_ (\_\_\_\_) months from the date of this Agreement.
- c. A final certificate of occupancy for the Project, or first phase thereof if applicable, is obtained within \_\_\_\_\_ (\_\_\_\_) months from the date of of this Agreement.

5. Extension of Time Limits. The City may agree to extend the time limits in paragraph 4 on written request from the Owner, but shall not be required to grant such request for extension. Any extension granted shall be in writing signed by both parties.

6. City Right to Rezone. In the event that the time limit conditions in paragraph 4 are not met, nor extended upon mutual agreement of the parties pursuant to Paragraph 5 ; nothing in this Agreement shall be deemed to prohibit the City from rezoning all or any portion of the Property which is subject to this Agreement to another zoning district. Any rezoning shall be conducted in compliance with the City's Zoning Ordinance and the Michigan Zoning Enabling Act..

7. Owner Acknowledgments. Owner acknowledges that it voluntarily offered the conditions contained in this Agreement in connection with the request for conditional rezoning of the Property and that such conditions were offered in writing. Owner acknowledges that upon the requested conditional rezoning and this Agreement becoming effective, the development and use of the Property shall conform thereafter with the terms and conditions of the conditional rezoning, this Agreement, and all the requirements regulating development and use within the RM-3 zoning district as modified by the voluntarily offered conditions and with

this Agreement and that any failure to fully comply with such conditions and/or this Agreement shall constitute a violation of the City of South Lyon Zoning Ordinance, and shall be punishable accordingly. Owner acknowledges and agrees that the terms and conditions of this Agreement are necessary and roughly proportional to the burden imposed by the conditional rezoning of the Property, and are therefore necessary to ensure that public services and facilities will be capable of accommodating the development and use and the increased service of facility loads caused by the development and use, to protect the natural environment and conserve natural resources, to ensure compatibility with adjacent uses of land, and to promote the use of the Property in a socially and economically feasible manner, and to achieve other legitimate objectives authorized by law. Owner agrees that the terms and conditions herein do not constitute a taking of property for any purpose or a violation of any Constitutional right, and Owner agrees to be bound by each and every provision and conditions of this Agreement.

8. Entire Agreement. This Agreement together with any agreements referenced herein, constitutes the entire agreement between the parties with respect to the subject of this Agreement.

9. Binding Effect, Running with the Land. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors, heirs, assigns and transferees, and shall run with the land.

10. Amendments. The terms of this Agreement may be amended, changed, or modified, but only by written agreement executed by the required parties. Any amendment of this Agreement shall be recorded in the Oakland County Register of Deeds.

11. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with Michigan law.

12. Authority to Execute. The parties each represent and state that the individuals signing this Agreement are fully authorized to execute this document and bind their respective parties to the terms and conditions contained herein.

13. Enforcement. In the event of a proceeding to enforce this Agreement, a prevailing party may seek to recover its costs and attorney fees in addition to any other applicable and available relief.

14. Joint Drafting. No provision of this Agreement shall be construed against or interpreted to the disadvantage of one party against any other party by any court or other governmental authority by reason of any determination or assertion that one party was chiefly or primarily responsible for having drafted this Agreement.

15. Conflicts. In the event of conflict between the provisions of this Agreement and the provisions of another applicable ordinance, code, regulations, requirement, standard, or policy, the provisions of this Agreement shall prevail.

16. Severability. This invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, which shall remain valid and enforceable to the fullest extent permitted by law.

17. Recording. This Agreement shall be binding on the parties and the Property and shall be recorded with the Oakland County Register of Deeds.

18. Counterparts. This Agreement and any amendments to it may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one Agreement. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

<b>CITY:</b> <b>CITY OF SOUTH LYON,</b> a Michigan Municipal Corporation  By: _____ DANIEL L. PELCHAT, its Mayor  By: _____ LISA DEATON, its Clerk	<b>OWNER:</b> <b>LV HOLDINGS, LLC</b> A Michigan Limited Liability Company  By: _____ Name: J. ROBERT LANGAN Title: Member/Manager  By: _____ Name: MICHAEL V. VALVONA Title: Member/Manager
--	--

**ACKNOWLEDGEMENT**

STATE OF MICHIGAN    )  
  ) ss  
COUNTY OF OAKLAND )

The foregoing Agreement was signed and acknowledged before me by Daniel L. Pelchat, the Mayor of the City of South Lyon, and Lisa Deaton, the Clerk of the City of South Lyon, on behalf of the City of South Lyon, a Michigan municipal corporation, on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public  
Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF MICHIGAN    )  
  ) ss  
COUNTY OF OAKLAND )

The foregoing Agreement was signed and acknowledged before me by J. Robert Langan and by Michael V. Valvona, both on behalf of LV Holdings, LLC, a Michigan Limited Liability Company on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public

Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

**PART II. Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART III. Savings Clause.** This Ordinance amends the Zoning Ordinance only as specified herein, and the Zoning Ordinance shall remain in full force and effect.

**PART IV. Repealer.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART V. Publication.** The City Clerk shall publish this Ordinance in the manner required by law and shall publish at the same time, a notice of the adoption of this Ordinance and stating that a copy of the Ordinance is available to the public at the office of the City Clerk for inspection.

**PART VI. Effective Date.** This Ordinance shall be effective on the date provided by applicable law following publication.

Made, passed and adopted by the South Lyon City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Daniel L. Pelchat, Mayor

\_\_\_\_\_  
Lisa Deaton, City Clerk

### **Certificate of Adoption**

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Lisa Deaton, City Clerk

Adopted:  
Published:  
Effective:



**City of South Lyon  
Planning Commission  
Regular Meeting Minutes  
June 14, 2018**

Approved: \_\_\_\_\_

The meeting was called to order by Chairman, Scott Lanam at 7:15 p.m.

Roll Call: Scott Lanam, Chair  
Keith Bradley, Vice Chair  
Steve Mosier, Commissioner  
Mike Joseph, Commissioner

Absent: Jason Rose, Commissioner, Excused  
Wayne Chubb, Commissioner, Excused  
Erin Kopkowski, Commissioner, Excused

**Motion to excuse Commissioner Chubb, Rose and Kopkowski  
Motion by Mosier, Second by Bradley**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

Also Present: Carmine Avantini, Planning Consultant  
Kelly McIntyre, Planning Consultant  
Judy Pieper, Deputy Clerk  
Patrick Brzozowski, Zoning Administrator  
Tim Wilhelm, City Attorney

**Motion made to add New Business #1, set Public Hearing for July 12, 2018 for the ordinance Utility Poles and Wireless facilities in the right away - distributed by Attorney Wilhelm at the beginning of the meeting.**

**Motion by Bradley, Second by Joseph**

Voice Vote: Ayes: Unanimous  
Nayes: None

**Motion Approved**

**Motion to approve the Agenda as amended  
Motion by Mosier, Second by Bradley**

Voice Vote: Ayes: Unanimous  
Nayes: None

**Motion Approved**

**Motion to approve Minutes as amended  
Motion by Bradley, Second by Joseph**

Voice Vote: Ayes: Unanimous  
Nayes: None

**Motion Approved**

**Public Comments – None**

**Public Hearings**

1. Thomasville Site Condominium, PD Rezoning Preliminary Site Plan (#2018-003)

Allan Pruss, Monument Engineering Group and Associates, Inc., begins by explaining that the first time they went before the Board, sometime in early 2016, receiving a final site plan approval for the basically the same lay out that is in front of the Board now. He further states that the only change is that the lots went from 40 foot wide lots to now 50 foot lots, the density went from 60 units down to 50 units. The road alignment has not changed. The intersection at Lexington and Thomasville has been tweaked to accommodate the 50 foot wide lots. He further states that they made a few other minor changes throughout the sub. They have been working with Patrick and Carmine. They are here to answer any questions.

Planning Consultant McIntyre states that this will be a two-step process and they are looking at taking care of this simultaneously. The rezoning and the preliminary PD Site Plan request to construct a 50 unit, detached single-family residential condominium site. McIntyre states the only major change is the increase in lot size. She also states that there are a number of items that will need a waiver on. The Lot Area, Lot Width, Residential Density, Front yard setback, Side yard setback, Rear yard, Building Height and Lot Coverage. McIntyre goes on to state that the Police and Fire Departments have requested the installation of a paved, gated emergency access drive to 11 Mile Road. The previous property owners tried to work with Colonial Acres to obtain a cross access easement to allow the connection of Lexington Drive within Colonial Acres. At this time, Colonial Acres is not interested in pursuing this agreement. The City requests that Lexington Drive be paved to the property line and that easement language is included as a condition of site plan approval.

Planning Consultant Carmen Avantini, adds on the original plans, the sidewalks were back off of the curb by a foot or two. Now they are showing integrated with the curb.

Lorenzo Cavaliere, 30078 Schoenherr, Suite 300, Warren, Michigan  
Cavaliere states that in the old plan there was a 3 foot green belt between the back of the curb and the sidewalk, and you really can't plant anything on the 3 feet. If we could go with a 2 foot green belt and a 5 foot public walk that would still give you the look and still give something that is quite practical.

Chair Lanam states that the elevations seem to be very similar and doesn't see a difference when driving down the street.

Cavaliere states that it is done on a case by case basis, as they will not know which home is going to be sold on each lot.

Commissioner Joseph states that these are the epitome of “cookie cutter” houses. The designs are dated. They need to be more imaginative. Look at the materials that you are using. Take a drive around South Lyon. This is a 1980’s house. Chair Lanam states that the designs are mostly identical. Commissioner suggests flipping the garage from one side to the other. Cavaliere explains that the elevations will be changing. Commissioner adds that the homes have very little character. Avantini adds that this is a re-zoning, so the preliminary is done here, recommendation to Council, and then they would come back here for site-plan and then to Council again. Cavaliere adds that they can definitely add some additional options for elevations. Lanam adds that they should bring in samples of materials as part of the review process. The conversation continues regarding the target market for this development and the housing shortage in this state. Attorney Wilhelm states that he wants to raise some issues from looking back at the last time this was presented to Council. Avantini states that the only reason that that connection was sought by the Police and Fire Department was so that they can approve their emergency exit through Colonial Acres. It really provides no benefit to this development. The conversation continues regarding the 2<sup>nd</sup> reading that is included in the Council packet dated 11-14-2016.

**Public Hearing opens at 7:56 p.m.**

Judy Keeling, Colonial Acres Board

Keeling states that she would like to re-iterate that they are not for this property coming on to Lexington Drive, it’s a private road and we maintain that road. She states that they have Heritage Road that goes through for Police and Fire. She again states that she wants it noted that the project itself is not the problem, the problem is if they come on to our road.

Avantini adds that Colonial Acres may want to put up a sign on their property line.

**Public Hearing closes at 7:58 p.m.**

**Motion made to recommend to City Council approval for Plan Development and Rezoning the Preliminary PD Site Plan for Thomasville Development conditioned upon the approval of the following: a waiver to allow an average lot area of 4,200 s.f.; a waiver to allow a minimum lot width of 50ft.; a waiver to allow an**

overall density of 5.2 units per acre; a waiver to allow a setback of 15 feet between buildings; the installation of landscape buffering abutting colonial acres to be installed at the beginning of the project/construction; inclusion of language for a future cross access agreement with Colonial Acres via Lexington Drive; Submission of revised building elevations and material samples to the Planning Commission during final site plan review; draft condominium documents to be submitted during final site plan approval; sidewalks back to 2ft green belt between the curb and the sidewalk; all recommendations from the 11-14-2016 City Council packet A – E; All part of the original plans must be included on the site plan.

**Motion by Bradley, Second by Mosier**

Voice Vote: Ayes: Unanimous  
Naves: None

**Motion Approved**

Cavaliere asked for a correction to 10 feet between buildings on prior Motion.

**Motion to amend prior motion to allow waiver of setback to 10ft between buildings**

**Motion by Bradley, Second by Mosier**

Voice Vote: Ayes: Unanimous  
Naves: None

**Motion Approved**

**Motion to approve amended motion**  
**Motion by Bradley, Second by Mosier**

Voice Vote: Ayes: Unanimous

Nayes: None

### **Motion Approved**

#### **2. 825 W. Lake Street Conditional Rezoning (#2018-004)**

Developer – Bob Langan, 128 N. Center Street, Northville, Michigan

One of the Principles of LV Holdings, LLC., which is the owner of this property. He goes on to state that his partner, Michael Valvona and their Consulting Engineer, Cliff Seiber, from Seiber Keast and Associates is also in the room this evening. He states that this property is at the corner of Lake Street and Dixboro and was in the Township until about a year or so ago, when it was annexed in to the city. He goes on to say that they have had a number of meetings with Consultants in the City to go over what they thought would be a good use of this property. He states that they have come up with a Multi-Family concept, 72 units in three buildings. Consulting Engineer, Cliff Seiber states that they have really made an effort to make it not look crammed from Lake Street. He states that it is a looped traffic system with a Boulevard entrance off of Lake Street and good circulation throughout the site. Entering the site from the Boulevard gives you a more open space with a Gazebo. The Storm Water Basin runs along Lake Street adding a more open feel for the development. The Boulevard was added for a secondary access (after speaking with the Fire Marshall) with a breakaway gate for emergency use. Utilities, along with a looped water system, sanitary sewer and storm water will be on site as well. The mix of the units will include 51 – 2 bedroom and 21 – 1 bedroom. The parking requirements are met, along with an additional 20% guest parking.

Avantini refers the Board to the letter dated 6-7-2018 , he states that this is an additional rezoning request from R-1A (One Family Residential) to RM-3 (Multiple Family Residential) He goes on to explain the process stating the applicant will offer conditions. If those conditions are found acceptable in the Board's recommendation and also to City Council, the applicant would have to come back for final site plan approval.

Avantini goes on to list the following Conditions:

1. Building Exterior – High quality building materials
2. High Quality Interior Fit and Finish

3. Outdoor Recreation – Walkway connection over to the trail that goes to McHattie Park
4. Carport Construction – With input from the Police Department, will be open design, be strategically placed and illuminated

Avantini goes on to talk about how they had 2 meetings to discuss different land uses. What would be a good transitional use? This particular use gives us more flexibility. He states that with the conditional re-zoning, they are locked in with this use.

Avantini goes on to state that they recommend the approval of the conditional rezoning application for 825 West Lake Street, from R1-A, Single Family Residential to RM-3, Multiple Family Residential, in order to construct a low-rise apartment complex – based upon the following reasons:

1. Although the multiple family designation is not consistent with the site's planned future use of industrial, residential properties are in close proximity to the subject parcel;
2. The proposed multiple-family residential provides an appropriate transition between the abutting industrial and single family residential zoning districts.
3. It will be difficult to develop the property for any of the permitted and special land uses in the current R1-A zoning district;
4. The site's physical and other environment features are compatible with the proposed use;
5. The proposed use is compatible with surrounding uses and zoning in terms of land suitability, impacts on the environment, traffic volumes, aesthetics, infrastructure, and addressing a community need;
6. The street system is capable of safely and efficiently accommodating the limited expected traffic volumes generated by the proposed use; and
7. The capacity of public utilities and services is sufficient to accommodate the proposed use without compromising the city's health, safety and welfare.

The conversation continues regarding building a pathway and whether to build now or build it when the City feels it is appropriate, based on the paving of Dixboro. Chair Lanam states that Dixboro, between 8 and 9 Mile will be paved within the next year, but between 9 and 10 Mile there is no definite time. There are pretty major things in the way.

Lanam questions why they felt that the Dixboro entrance is not necessary. Seiber explains that this can be changed if the city would prefer.

Commissioner Joseph states that he is not a fan of apartments, but these are an appealing design. He states that he would like these to be maintained and to have appropriate landscaping.

Commissioner Bradley questions if 2 dumpsters will be enough. Langan states that they would be placing them and sizing them accordingly.

Lanam states that they would like to see building and color samples.

#### **Public Hearing opens at 8:32 p.m.**

Gayle Neff, 834 W. Lake, South Lyon, Michigan

Neff states that she has lived at this corner for almost 35 years, and there have been numerous accidents at this location. She states that there is a slight curve to this road and her concern is the speed of the traffic as traffic is heading out of town. She questions if there will be any changes to Lake Street. She states that she is worried about losing her 100+ year old barn. She states that she is concerned regarding the electricity. She also states that it is a nice looking building, her main concern is the road and the traffic. She adds she would like to see a blinking light at this corner.

Commissioner Joseph states that if/when they pave Dixboro, they will have to put up a traffic light.

Matt Zajac, 132 Shannon Partin Court, Charleston Park Sub-Division

Zajac states that he would prefer that South Lyon remain more of a community where the owners have a vested interest in the City. In his younger years, having an apartment was not a community; it was just somewhere you are staying. While it is proposed to be higher end, this is his point of view and he is assuming the same point of view from his community. If it does go forward, he states, he would like to see requirements from the city that landscaping be imparted to hide parking and/or carports. He states again, that he would like to see owned units vs leased or rented units.

Commissioner Bradley adds, that as far as landscaping is concerned, the Board is pretty tough on this.

Ken and Linda Redman, 24000 N. Dixboro, South Lyon, MI

Redman states that he borders the property that we are talking about. He just wanted to see what this was about; he really does not have any complaints as of yet. Just wants to see what is going on there.

#### **Public Hearing closes at 8:43 p.m.**



Langan states that the application that they submitted comes with a two page, written by me, narrative of the conditions which were the exterior quality(durability), the interior quality fit and finish, the outdoor recreation pathway that we discussed, and the carport construction that we keep public safety in mind and to minimize the overwhelming visual effect of a carport. Langan states that he has submitted a landscape plan with the package. It has significant landscaping along Lake Street and significant landscaping with the Redman's.

Attorney Wilhelm states that he would like to briefly touch on the authorization for conditional rezoning – MCL125.3405

**Motion to recommend to the Council approval of the conditional rezoning application for 825 W. Lake Street from R1-A, Single Family Residential to RM-3, Multiple Family Residential, with the following conditions:**

1. **The Exterior use of durable, exterior building materials including cultured stone accents, high quality composite siding, high efficiency and quality rated windows and attractive solid core exterior doors.**
2. **Interior Fit and Finish: Use of upgraded finishes including: stainless steel plumbing fixtures, granite countertops, marble and tile bathrooms, built in dishwasher, decorative trim, crown moldings, upgraded carpet, hardwood floors, and in-unit stackable washer and dryers.**
3. **Outdoor Recreation: the construction of a non-motorized pathway connecting the development to the Huron Valley Trail. The initial path will be temporary and constructed of wood chips or gravel. The owner/developer will deposit the civil engineer's cost of construction estimate for the construction of an asphalt path to be complete after Dixboro Road is paved.**
4. **Carport Construction: Carports will use an open design, be strategically placed, and illuminated (consistent with the current crime prevention and personal safety standards), with a berm between the carports and Dixboro Road to soften the visual impact.**
5. **Final site plan approval including landscaping for the following reasons:**
  1. **Although the multiple family designation is not consistent with the site's planned future use of Industrial, residential properties are in close proximity to the subject parcel;**

2. The proposed multiple-family residential provides an appropriate transition between the abutting industrial and single-family residential zoning districts.
3. It will be difficult to develop the property for any of the permitted and special land uses in the current R1-A zoning district;
4. The site's physical and other environmental features are compatible with the proposed use;
5. The proposed use is compatible with surrounding uses and zoning in terms of land suitability, impacts on the environment, traffic volumes, aesthetics, infrastructure, and addressing a community need;
6. The street system is capable of safely and efficiently accommodating the limited expected traffic volumes generated by the proposed use;
7. The capacity of public utilities and services is sufficient to accommodate the proposed use without compromising the city's health, safety and welfare.

**Motion by Bradley, Second by Mosier**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

**New Business:**

1. Consideration of Zoning Ordinance Amendments for Small Cell Wireless Communication Facilities Deployment Act (SB 637)

Attorney Wilhelm gives a bit of back ground information regarding this act. He states that we are just trying to be proactive and stay ahead of the game.

**Motion to set a Public Hearing for 7-12-2018, to go over the ordinance for the wireless utility pole and other structures.**

**Motion by Mosier, Second by Joseph**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

Old Business:

Tabled Items:

Planning Consultant Report:

Avantini states that they are looking forward to meeting with you in two weeks to go through the Zoning Ordinance.

Staff Report: None

**Adjournment:**

**Approval to Adjourn**

**Motion by Bradley, Second by Joseph**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved – Meeting Adjourned – 9:05 p.m.**

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Scott Lanam, Chairman

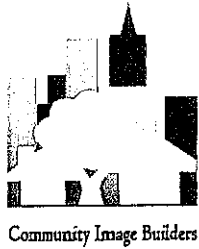
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Judy Pleper, Recording Secretary

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Steve Mosier, Secretary

DRAFT



# CIB Planning

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June 7, 2018

Planning Commission  
City of South Lyon  
335 South Warren Street  
South Lyon, Michigan 48178

Attention: Patrick Brzozowski, Zoning Administrator

Subject: **Lake Street Conditional Rezoning Review (825 West Lake Street), R-1A, One-Family Residential to RM-3, Multiple Family Residential.**  
Approximately 5 acres located at the south east corner of West Lake Street and North Dixboro Road.

Dear Commissioners:

We have reviewed the above application for a Conditional Rezoning amendment from R-1A, One-Family Residential to RM-3, Multiple Family Residential. The applicant submitted the Conditional Rezoning Application for the property with, a conceptual site plan, voluntarily offering to limit its use of the property to an apartment complex along with enhanced building design. The parcel has 419 feet of frontage on West Lake Street and is characterized as a square parcel. This property was annexed into the City on August 11, 2016. Currently the parcel has a single family home at the front of the property, with the majority of the parcel undeveloped. Based upon our review of the zoning ordinance and master plan, discussions with City Staff and a visit to the site, we offer the following comments for your consideration.

## CONDITIONAL REZONING

The applicant is proposing to change the zoning of this parcel from One-Family Residential, R-1A, to Multiple Family Residential, RM-3, as a conditional rezoning under Section 405 of the Michigan Zoning Enabling Act (Act 110 of 2006). A conceptual plan is also provided to illustrate the proposed development and show that ordinance requirements can be met. Under Section 405 of the Zoning Enabling Act, a petitioner may

voluntarily offer in writing, and the City may approve, certain uses and development of property as a condition to rezoning land. Such conditions must be offered voluntarily by a petitioner; the City may not require a petitioner to offer conditions as a prerequisite for rezoning property. The conditions proposed by a petitioner as part of a conditional rezoning are supposed to result in recognizable and material benefits to the City that would unlikely be achieved otherwise under the site's existing zoning.

As part of a conditional rezoning request, the petitioner is offering the following conditions:

1. Exterior: use of durable, exterior building materials including cultured stone accents, high quality composite siding, high efficiency and quality rated windows, and attractive solid core exterior doors.
2. Interior Fit and Finish: use of upgraded finishes including: stainless steel plumbing fixtures, granite countertops, marble and tile bathrooms, built in dishwasher, decorative trim, crown moldings, upgraded carpet, hardwood floors, and in-unit stackable washer and dryers.
3. Outdoor Recreation: the construction of a non-motorized pathway connecting the development to the Huron Valley Trail. The initial path will be temporary and constructed of wood chips or gravel. The owner/developer will deposit the civil engineer's cost of construction estimate for the construction of an asphalt path to be complete after Dixboro Road is paved.
4. Carport Construction: Carports will use an open design, be strategically placed, and illuminated (consistent with the current crime prevention and personal safety standards), with a berm between the carports and Dixboro Road to soften the visual impact.

The proposed use cannot be obtained under the current zoning designation and a regular rezoning to RM-3, Multiple Family Residential could result in a complex with more units than shown. The City will have to determine that these benefits justify the rezoning and make the proposed use compatible with surrounding development.

In approving conditions to a rezoning, the City may establish a time period during which the conditions apply. If the conditions are not satisfied within the time specified then the land reverts to its former zoning classification. During the approved time period, the City can neither add to nor alter the conditions. The time period can be extended by mutual agreement between the City and petitioner.

As part of a conditional rezoning, the City may also waive required standards of the Zoning Ordinance if they feel the conditions proposed by the petitioner and the benefits that would result from them outweigh the need to meet such standards. Conversely, compliance with some or all Zoning Ordinance standards may be required by the City.

Conditional rezoning is a two step process: following a public hearing, a recommendation from the Planning Commission to City Council for the rezoning, then a formal site plan submission to the Planning Commission, if the rezoning is approved.

## LOCATION AND DESCRIPTION

The subject property was annexed into the City from Lyon Township on August 11, 2016. Per Section 102-185, Zoning of Annexed Area, "land zoned or un-zoned shall be automatically classified as an R1-A district." The site is surrounded by varied uses: to the north is single-family residential (Charleston Park) and to the west single-family residential homes (in Green Oak Township); industrial to the south (an undeveloped industrial park) and southeast (Michigan Seamless Tube); and vacant wetlands to the direct east. The property has frontage on Lake Street (Ten Mile Road) to the north as well as Dixboro Road to the west. Dixboro Road divides the City and Green Oak Township. Dixboro Road is not paved, and while many discussions have indicated that it will be paved, the timing of that construction is unknown. The parcel has a few existing trees on the site, however, the condition of the trees is not know at this time. The majority of the parcel is clear-cut, undeveloped land. No significant topographic issues are present.

Surrounding Land Use and Zoning			
	Existing Use	Zoning	Future Land Use / Master Plan
<b>Subject Property</b>	Single Family Residential & Vacant	R-1A, Single Family Residential	Industrial
North	Single Family Residential	R-1, Single Family Residential	Suburban Residential
South	Vacant	Industrial	Industrial
East	Single Family Residential	Industrial	Industrial
West	Single Family Residential	Township	Township

The following summarizes the permitted and special land uses in both the existing and proposed zoning districts

### **R1-A, One Family Residential**

#### ***Permitted Uses***

- Single-Family *attached* dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### ***Special Uses***

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

### **RM-3, One Family Residential**

#### ***Permitted Uses***

- Single-Family dwellings
- Two Family dwellings
- Multiple Family dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### ***Special Uses***

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public



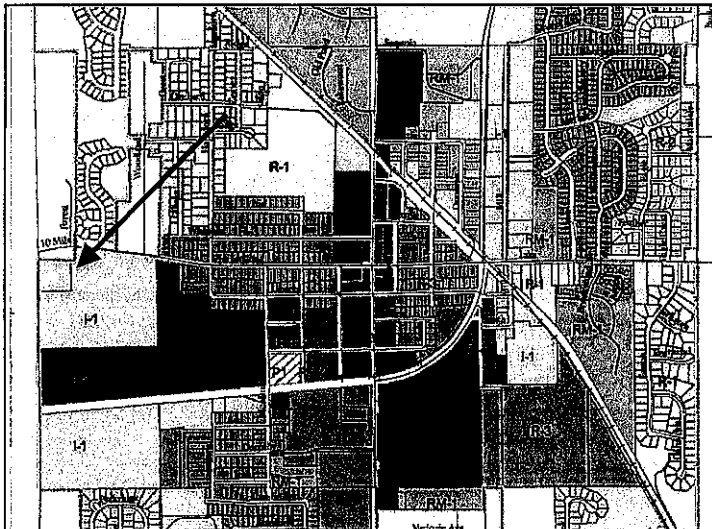
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

## REVIEW COMMENTS

In reviewing this application for an rezoning (amendment to the Zoning Map), the Planning Commission should consider additional comments from the applicant, relevant factual new information presented at the public hearing, and the following criteria, among other factors they may deem appropriate, in making their findings, decision and corresponding recommendation:

*A. The requested zone should be consistent with the goals, policies and future land use map of the Master Plan, including any location-specific or corridor studies. If conditions have changed since the Master Plan was adopted, as determined by the Planning Commission or City Commission, the consistency with recent development trends in the site's area shall be considered.*

The property at 825 West Lake Street is zoned **R1-A, Single Family Residential** and master planned as **Industrial**. The City's Master Plan was drafted in 2014 when the subject property was still part of the Township. The approved City Master Plan has the property surrounded by industrial planned land (within the City), however when a property is annexed into the City is is automatically zoned R1-A, single family residential. For the property to be developed consistent with the Future Land Use plan (as industrial land), a map amendment (rezoning) will need to occur.



The City's current zoning map shows the subject property within the Township and not zoned. With the annexation of the property, the zoning designation becomes R1-A.

While the proposed multiple-family residential development is not consistent with industrially zoned future land use, there are several properties in close proximity that are master planned as residential. The proposed multiple-family use provides a practical transition from the industrial site to the south and east, and the single family residential to the north and west of the site.

The City's master plan has a goal to "provide housing to match the varied needs and income levels of the present and future population." Currently multiple family residential only comprises 4.3 percent of the total existing land use in the City, and 7.3 percent of all residential. The proposed housing works toward the goal of providing high quality housing for a diverse population with varying incomes.

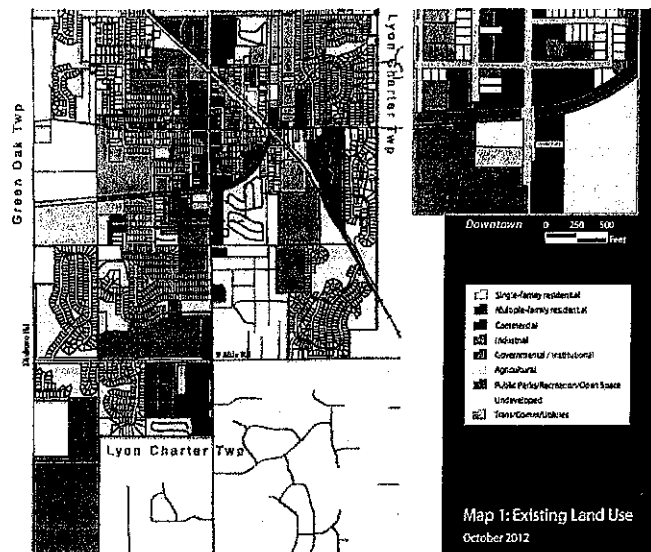
Additionally, another Master Plan goal within Industrial land is "to strive for full occupancy within the City's Industrial Parks." The property to the south of our subject site is a vacant industrial park-with infrastructure in place and waiting for build out and tenancy. Until this property is developed and used as Industrial land, there is not a demonstrated need for additional industrial land in this area of the City.

This conditional rezoning limits the property to be developed as multiple-family residential and excludes all other permitted uses. The City has the ability to permit a use that does not match the Future Land Use designation when it determines that the conditions proposed make the requested use compatible with surrounding land uses.

*B. The site's physical, geological, hydrological and other environmental features should be compatible with the host of principal permitted and special land uses in the proposed zone.*

As a condition of rezoning, this property can not develop into any other permitted or special land uses permitted in the Multiple Family Residential zoning district.

*C. Evidence should document the applicant cannot receive a reasonable return on investment through developing the property with one or more of the principal permitted and special land uses under the current zoning.*



The current zoning allows single-family residential housing. It is unlikely that a reasonable return on investment can be obtained by developing the property for large lot single-family residential use given the: size and shape of the parcel; lot size minimums and setback constraints; the requirement for two points of access to the residential development; and the varying uses on adjacent properties.

#### **FINDINGS**

In reviewing this application for an amendment to the Zoning Map, the Planning Commission should consider the following criteria, among other factors they may deem appropriate, in making their findings, recommendation, and decision:

***A. The requested zone should be consistent with the goals, policies and future land use map of the Master Plan, including any location-specific or corridor studies. If conditions have changed since the Master Plan was adopted, as determined by the Planning Commission or City Commission, the consistency with recent development trends in the site's area shall be considered.***

The property at 825 West Lake Street is zoned single-family residential and master planned for industrial land use. While the proposed multiple family residential zoning is not consistent with existing land use designation nor future land use designation, there are several properties in close proximity that are zoned (and vacant) as industrial property. The City does not currently have a need for additional industrially-zoned land in this immediate area. This conditional rezoning limits the property to development of multiple-family residential units and excludes all other permitted industrial uses.

***B. The site's physical, geological, hydrological and other environmental features should be compatible with the host of principal permitted and special land uses in the proposed zone.***

As a condition of rezoning, this property can not develop into any other permitted or special land uses permitted in the Multiple Family Residential district.

***C. Evidence should document the applicant cannot receive a reasonable return on investment through developing the property with one or more of the principal permitted and special land uses under the current zoning.***

The current zoning allows single-family residential housing. It is unlikely that a reasonable return on investment through developing the property as a low-density single-family residential development given the: size of the parcel; lot size minimums and setback constraints; the requirement for two points of access to the residential development; and adjacent industrial properties.

***D. The potential uses allowed in the proposed zone should be compatible with surrounding uses and zoning in terms of land suitability, impacts on the***

***environment, density, nature of use, traffic volumes, aesthetics, infrastructure, and potential influence on property values.***

The conditional rezoning limits the property's development to multiple family residential. A multiple-family residential development will have more "greenspace" and have minimal odors, fumes, dust, and noise that may be associated with industrial development. The traffic generation rates are similar between low rise multi-family residential and light industrial/industrial parks. The additional "heavy load" traffic associated with industrial development has a greater effect on the roads.

***E. The street system should be capable of safely and efficiently accommodating expected traffic volumes generated by potential uses in the requested zone.***

The street system is capable of safely and efficiently accommodating expected traffic volumes generated by the multiple family residential development.

***F. The capacity of public utilities and services should be sufficient to accommodate the potential uses in the requested zone without compromising the City's health, safety and welfare.***

The proposed conditional rezoning should not increase demand for public services beyond what can reasonably be provided to the site.

***G. There should be an apparent demand in the City for the types of potential uses in the requested zone in relation to the amount of land in the City currently zoned and available to accommodate the demand.***

There is a limited amount of multiple-family residential development both existing and zoned for development. The City's Master Plan identifies a goal to provide varied affordable housing options for the existing and future population. The presence of industrial land to the south of the property and single-family residential to the north of the property makes this a good location for multiple-family residential, since it acts as a transition from, and buffer between, the different land uses.

***H. Other criteria as determined by the Planning Commission or City Council which would protect the public health, safety and welfare, protect public and private investment in the City, promote implementation of the goals, objectives and policies of the Master Plan and any amendments thereto, and enhance the overall quality of life in the City.***

The subject property is subject to the site plan review process and failure to obtain approval will lead to the conditional rezoning being eliminated.

## **RECOMMENDATION**

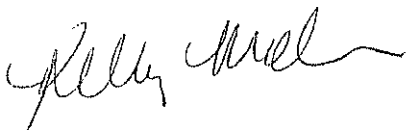
Given the above analysis, we recommend approval of the conditional rezoning application for 825 West Lake Street, from R1-A Single Family Residential to RM-3, Multiple Family Residential, in order to construct a low-rise apartment complex, with the above submitted conditions and based upon the following reasons:

1. Although the multiple family designation is not consistent with the site's planned future use of Industrial, residential properties are in close proximity to the subject parcel;
2. The proposed multiple-family residential provides an appropriate transition between the abutting industrial and single-family residential zoning districts.
3. It will be difficult to develop the property for any of the permitted and special land uses in the current R1-A zoning district;
4. The site's physical and other environmental features are compatible with the proposed use;
5. The proposed use is compatible with surrounding uses and zoning in terms of land suitability, impacts on the environment, traffic volumes, aesthetics, infrastructure, and addressing a community need;
6. The street system is capable of safely and efficiently accommodating the limited expected traffic volumes generated by the proposed use; and
7. The capacity of public utilities and services is sufficient to accommodate the proposed use without compromising the city's health, safety and welfare.

If you have any further questions, please contact us at 810-335-3800.

Sincerely,

**CIB PLANNING**

A handwritten signature in black ink, appearing to read "Kelly McIntyre", with a stylized flourish at the end.

Kelly McIntyre  
Senior Principal Planner