

Regular City Council Meeting

September 24, 2018

Agenda

7:30 pm

Call to Order

Pledge of Allegiance

Roll Call

Approval of Minutes: September 10, 2018

Approval of Bills: None

Attorney Bills: None

Approval of Agenda

Public Comment

Discussion – Downtown

I. Old Business

1. Application for Class C Liquor License (quota license)

II. New Business

1. First Reading of Zoning Ordinance Amendment to amend and add definitions and limit the height of utility poles and other structures in a public right-of-way
2. Vacant City Property – 318 W. Lake Street

III. Budget

IV. Manager's Report

V. Public Comment

VI. Council Comments

VII. Adjournment

City of South Lyon
Regular City Council Meeting
September 10, 2018

Mayor Pelchat called the meeting to order at 7:30 p.m.
Mayor Pelchat led those present in the Pledge of Allegiance.

Present: Mayor Pelchat, Councilmembers Kennedy, Kivell, Kurtzweil, Parisien, Richards and Walton
Also Present: Chief Collins, Fire Chief Vogel and Clerk/Treasurer Deaton

Mayor Pelchat stated Attorney Wilhelm will be arriving late.

MINUTES

August 23, 2018

Councilmember Kennedy stated on page 3, the word kit gloves, should be kid gloves. He further stated after his management the word should philosophy. He then stated on page 5 under, question 15 it should say Gantt charts, as well as in the next paragraph. He then stated on the bottom of the last paragraph, the sentence was cut short, please add " it may take a vote of full Council to make that change, it cannot just be one individual on Council making these decisions."
Councilmember Parisien stated on page 5, the word substantial should be changed to substance.

CM 9-1-18 MOTION TO APPROVE MINUTES AS AMENDED

Motion by Kivell, supported by Walton

Motion to approve the minutes as amended

VOTE:

MOTION CARRIED UNANIMOUSLY

August 27, 2018

Councilmember Kurtzweil stated under public comment, she believes the woman's name was Denise Murry, and asked if we could check the tape.

Councilmember Kennedy stated on page 3, the word should be there, not they. He then stated the word beneath that should be alluded, not eluded.

Councilmember Richards stated he was quoted on page 7 and it isn't exactly what he said, but he is ok with it. He further stated he wanted to apologize to everyone, he tries to put too much into his comments, and he didn't cover his topics exactly as he should have done so for accuracy which is why it reads in a confuddled way. He will try to be clearer in the future.

CM 9-2-18 MOTION TO APPROVE MINUTES AS AMENDED

Motion by Parisien, supported by Kivell

Motion to approve minutes as amended

VOTE:

MOTION CARRIED UNANIMOUSLY

BILLS

Councilmember Kurtzweil stated on the check register it shows a South Lyon VFW Post 224 with a tax disbursement for \$340,149.64 which seems odd, and it appears the same number is shown for South Lyon Community Schools for a tax disbursement. She knows Lori watches the Council Meetings so she asks her to give her a call.

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CM 9-3-18 MOTION TO APPROVE BILLS AS PRESENTED

Motion by Kennedy, supported by Kivell

Motion to approve bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

ATTORNEY BILLSCM 9-4-18 MOTION TO APPROVE ATTORNEY BILLS

Motion by Parisien, supported by Kennedy

Motion to approve attorney bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

AGENDACM 9-5-18 MOTION TO APPROVE AGENDA

Motion by Kivell, supported by Walton

Motion to approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Margaret Banaitis of 62290 Arlington Circle stated at the previous meeting the comment was made that Colonial Acres was on board with the Thomasville Development, that is not true. She stated everyone she has spoke with is not on board, we are resigned to it.

DISCUSSION- Downtown

Robert Donohue stated plans are moving forward for right after Pumpkinfest. The downtown will have a different look this year, we will have the orange lights with the cornstalks. We have also ordered the holiday lights which will be changed mid-November. We will still have the garland and the white lights, as well as lights for the trees. He then reminded everyone Heinanen Engineering is putting up a 35-50-foot holiday tree. He further stated the holidays downtown should be very memorable. Mr. Donohue stated Kiwanis has agreed to their part of Brotoberfest as a food vendor. The billboard will go up early October, then will switch to Ladies Night out. He stated the veterans and farmers market parking lots have had their first seal coat down and should be finished the next day. He then stated the Wells Street parking lot will be done next year. Councilmember Walton asked about the parking lot at McMunn and Dorothy. Mr. Donohue stated that lot isn't in the DDA, but he has spoken with Ron Brock and that will be a capital improvement plan. Councilmember Parisien stated she knows we have a few people that have applied to be on the DDA, and the process isn't clear on the website. Mr. Donohue stated the bylaws states the DDA makes a recommendation, then the City Manager and Council make the final approval. He further stated there would have been more information available which included discussion of an application, but the minutes aren't available because they didn't have a quorum in August to approve the minutes. Councilmember Parisien stated she is more concerned about the bylaws and if it isn't available online or approved by Council, we need to make it clear to people the process to be on a board or commission. She asked him to see if the bylaws have been approved, and available online. She asked if the applications are date stamped. Clerk Deaton stated they don't always date stamp because we normally don't get very many applications, but we can make sure that is done in the future. Councilmember Richards stated he understands that building owners are automatically members of the DDA but not automatically on the Board. If they want to be on the board, they have to apply. Mr. Donohue stated all property owners are eligible to be on the board, as well as business owners, and

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managers. He further stated the law reads the majority of the board should be of people with the primary interest of the business within, and the remainder can be filled with a DDA resident, or more downtown property owners, at least 1 resident and generally the City Manager.

Councilmember Kurtzweil stated she has been told the biggest improvement she has heard from residents is the corn stalks. They love them, it makes the downtown look fabulous. She wanted to let him know people are looking forward to the downtown seasonally change and the DDA's hard work isn't going unnoticed. Mr. Donohue stated they are also recycling, they will get the stalks and pumpkins from the Pumpkinfest Committee, and if we are short on any stalks, we will get them from a vendor from the Farmers Market.

Chief Collins suggested old business be tabled until Attorney Wilhelm arrives

CM 9-6-18 MOTION TO TABLE OLD BUSINESS

Motion by Kurtzweil, supported by Kivell

Motion to table the Old Business on the agenda until further notice

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

1. Adoption of Oakland County Hazard Mitigation Plan

Chief Collins stated this is a housekeeping item. The County has to pass a county hazard mitigation plan every 5 years. This qualifies us for pre and post disaster funding and to be a part of it, all municipalities involved must pass the resolution. Councilmember Richards asked if the City has to pay anything in for the hazardous waste mitigation plan. Chief Collins stated this could be for things such as a train derailment, a tornado or such, and there is not cost, it just makes the jurisdiction eligible for federal funding in case of a disaster.

CM 9-7-18 MOTION TO APPROVE RESOLUTION

Motion by Walton, supported by Kurtzweil

Motion to approve the resolution adopting the Oakland County Hazard Mitigation Plan

VOTE:

MOTION CARRIED UNANIMOUSLY

2. First reading of lot coverage zoning Ordinance amendment

Ms. McIntyre of CIB Planning stated lot coverage has been a concern for the City for years now. She stated when you consistently see the same issues coming before the ZBA, that tells you it is time for a change. She stated they had a public hearing and the planning commission felt keeping the lot coverage at 25% for buildings on site was adequate. They felt what they could add is a 10% lot coverage for impervious surfaces, such as a deck, and patios. You may not exceed the 25% for building coverage, that is not proposed to be increased. She stated there is a definition included that explains this very clearly. There has been a history in the City of not always applying this standard in the same way over the years. Councilmember Kennedy thanked Ms. McIntyre for attending the meeting. He stated he believes there is some vagueness that could be misinterpreted. He then stated he is glad she stressed 25% is the maximum for building coverage, because the chart reflects the maximum coverage of 35%. That should only be 10% for that classification and 25% for the home. Councilmember Kennedy stated there is something on page 2 speaking to artificial structures. He suggests we give examples of artificial structures so there is not misinterpretation. He is inclined to approve the first reading with the caveat that the clarifications be addressed.

Councilmember Richards stated he is confused about something. He stated in town there are some older homes with larger lots. If no one enters into a major remodeling, they would still be within the footprint

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below the 35%. He further stated older houses will be grandfathered in for expansion. Ms. McIntyre stated they are not grandfathered in, they are considered existing non-conforming site. It exists and it predates the current ordinance that is applicable. She stated if they wanted to expand, they would have to ask for a variance. She stated this applies to downtown, but it is most applicable to subdivisions.

Councilmember Kurtzweil asked if she tore a house in the downtown, would this ordinance apply. Ms. McIntyre stated yes, if someone does a tear down, they have to rebuild by the ordinance. She stated it will also apply if they want to do any construction, this ordinance will apply. Councilmember Kurtzweil stated the tear down will have the benefit of the extra 10% without having to go through the aggravation of getting a variance. She stated she also had the same concerns Councilmember Kennedy did about the numbers being a little misleading. She then stated she is ok with some ambiguity on the artificial structures. She stated if you become too defined in your ordinance anytime there is a new trend, you will have to adjust your ordinance. She further stated ambiguity is deliberately inserted in ordinance drafting so sometimes you don't get backed into a corner. Ms. McIntyre stated that is true.

Councilmember Kivell stated he doesn't disagree with that, but the suggestion was just to have examples, not listing product by product. He stated doing an amendment to an existing property, especially when working in historic environments they can get a variance if a hardship can be demonstrated that is justifiable. He further stated this is comprehensive on new developments and there are things that become more common in everyone's backyard. A lot of this became more profound when Singh sued the City to be able get everything they couldn't get through planning and it was unfortunate. He further stated he wants to identify the fact when we have approved the planned developments we haven't been nearly as careful as we should have been in projecting where some of these misgivings would be. He stated he isn't trying to assign blame to the planning commission or planning, but if you don't think everything through the entire package you end up with some unintended circumstances.

Councilmember Richards stated this ordinance will be posted in the paper, an average homeowner may think it means them and they might wonder if they are conforming and if they have to challenge this to make sure they don't get a citation. He asked if Ms. McIntyre thinks it will go smoothly. Ms. McIntyre stated this will go smoothly. She stated if something is currently there, it is existing, this only affects things that happen from here out.

Councilmember Kivell stated he would also like to have the City Manager look at this, as well as allowing the Planning Commission to look at this again as well. His concern is if they decide to put a shed in the backyard, is that part of the 35% or is that specific to the building. He stated if someone wanted to make an amendment to their entire package, and remove something to get more room for something else. He would like all of this figured out and he hopes the new City Manager to look at this because he may have experience with this in the past. His biggest concern is the 35% going to be satisfactory. We have a number of neighboring communities and what their percentages are, and maybe the planning commission may want to look at that. Ms. McIntyre stated they did have that information and there is a meeting this week, they could discuss that as well.

Councilmember Kennedy stated he wants the motion to reflect this is approved based on the discussion tonight. For example, adding to the definitions that is used for the ordinances such as what is an artificial structure and a description of what constitutes an artificial structure and it needs to be made very clear the building structure cannot exceed 25% lot coverage.

CM 9-8-18 MOTION TO APPROVE FIRST READING ZONING ORDINANCE AMENMENT

Motion by Walton, supported by Kurtzweil

Motion to approve the First Reading of the Ordinance to amend the City of South Lyon Code of Ordinances, Chapter 102 – Zoning, Article VII- supplementary district regulations, Division 2 - height, bulk, density and area limitations, by amending Section 102-456- Schedule limiting height, bulk, density and area by zoning district by adding a maximum percent of lot area covered by impervious surfaces for residential districts, and by adding subsection 102-457(p) defining impervious surfaces

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VOTE: MOTION CARRIED UNANIMOUSLY

Attorney Wilhelm arrived at 8:14 p.m.

3. City Manager employment agreement

Chief Collins stated the City Attorney negotiated the agreement with Council's input and with the new City Manager. He further stated it appears Mr. Zelenak is on board with what is in here as well as the City Attorney. Chief Collins stated the fingerprint results and they are clear. Councilmember Richards asked if any details should arise in this contract that they want to go over, do we have to do so in a closed session. Attorney Wilhelm stated any changes would be made in open session.

CM 9-9-18 MOTION TO APPROVE THE CITY MANAGER EMPLOYMENT AGREEMENT

Motion by Kurtzweil, supported by Walton

Motion to approve the City Manager employment agreement between Paul Zelenak and the City of South Lyon, as presented, and authorize the Mayor and Clerk to sign the agreement subject to receipt of acceptable results on pre-employment screening for medical examination, drug testing and fingerprinting and an agreed upon start date

VOTE: MOTION CARRIED UNANIMOUSLY

OLD BUSINESS

1. Corrections relating to Council Motion 8-5-18 regarding Thomasville during 8/13/18 meeting

Attorney Wilhelm stated on August 13th meeting, there was an item on the agenda for the first reading of Thomasville. He stated there was discussion regarding postponing based on the need of more information. Then Councilmember Parisien read the motion as it was on the agenda note to approve the first reading as opposed to postponing the first reading. He stated the whole discussion was around postponing. He stated it was a mistake. At this point, we need to rescind the motion, then to accurately convey the intent to postpone it. There will need to be notes made to explain this situation in the minutes of the previous meetings. Attorney Wilhelm stated at the following meeting, everyone including the applicant was under the impression it was postponed. He stated we need to rescind the motion and adjust the minutes from when the minutes were corrected.

CM 9-10-18 MOTION TO RESCIND CM 8-5-18 APPROVING FIRST READING OF THOMASVILLE AT AUGUST 13, 2018 MEETING

Motion by Parisien, supported by Kivell

Motion to rescind Council Motion 8-5-18 approving the first reading of Thomasville PD rezoning which occurred on 8/13/18

VOTE: MOTION CARRIED UNANIMOUSLY

CM 9-11-18 MOTION TO RECONSIDER THE COUNCIL MOTION TO APPROVE THE 8/13/18 MINUTES AS REVISED TO COUNCIL MOTION 8-5-18

Motion by Parisien, supported by Walton

Motion to reconsider the Council Motion to approve the 8/13/18 minutes as revised to Council Motion 8/5/18

VOTE: MOTION CARRIED UNANIMOUSLY

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CM 9-12-18 MOTION TO APPROVE THE MINUTES OF 8/13/18 WITHOUT REVISIONS TO COUNCIL MOTION 8-5-18

Motion by Parisien, supported by Walton

Motion to approve the minutes of 8/13/18 without revisions to Council Motion 8-5-18

VOTE: MOTION CARRIED UNANIMOUSLY

CM 9-13-18 MOTION TO DIRECT CLERK TO INCLUDE NOTES IN THE 8/13/18 MEETING AND 8/27/18 MINUTES

Motion by Parisien, supported by Walton

Motion to direct Clerk to include notes in the 8/13/18 and 8/27/18 minutes stating that Council Motion 8-5-18 to approve the first reading of the Thomasville PD rezoning was rescinded on 9/10/18

VOTE: MOTION CARRIED UNANIMOUSLY

2. First reading of Ordinance rezoning parcel 21-19-126-002 (Thomasville) from RM-1 (Multiple family residential) to PD (Planned development)

Attorney Wilhelm stated he spoke with Mr. Cavaliere earlier in the day and he proposed that we postpone this for two meetings from now to allow staff and the applicant to meet and go through the issues. Attorney Wilhelm stated he will work with Council to understand their concerns and he will convey that to Mr. Cavaliere, and try to bring this forward in a way that Council can act on it one way or another. Attorney Wilhelm then asked Council to convey to him any concerns they have and he will do the same before he sits down with Mr. Cavaliere and the planners later this week. Councilmember Richards stated the issue has been the same. Other Councilmembers asked Mr. Cavaliere very direct questions and he gave vague answers. He further stated we have a responsibility to protect not only Colonial Acres, but the entire community. He stated that extends to quality of life as well, not just to ensure Mr. Cavaliere gets a large return on his investment. We have a small town and we are trying to preserve it. When it comes down to it, we will have to make a hard decision. He is for development but we can't stab our own community in the back that may never be finished in the long term.

CM 9-14-18 MOTION TO POSTPONE FIRST READING OF ORDINANCE REZONING TO THE FIRST MEETING IN THE MONTH OF OCTOBER

Motion by Kurtzweil, supported by Walton

Motion to postpone the first reading of ordinance rezoning parcel 21-19-126-002 (Thomasville) from RM-1 (multiple family residential) to PD (planned development) to the first Council meeting in October

VOTE: MOTION CARRIED UNANIMOUSLY

BUDGET- None

MANAGER'S REPORT

Chief Collins stated last week he attended a preliminary design meeting regarding paving Dixboro Road between 8- & 9-Mile Road. He stated the project is planned to begin in 2019 and completion in 2020. Chief Collins stated he continued to work with Charleston Park residents to have street lights installed. He contacted Singh as well as reps for DTE, and they have agreed to move forward with having street lights installed. He will be working with DTE regarding specifications for the poles and light fixtures. Chief Collins stated they will be holding Sargent and Lieutenant promotional exams on September 18th. He stated a company named Emco out of Troy will be the written test provider. He then stated in the interest of full transparency, he wants everyone to know, he sometimes acts as a consultant for Emco as

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an assessor and test author. He stated he doesn't author off the shelf type of exam that is being utilized for these promotional exams and he did not work on these exams. He further stated there are two companies that are endorsed by Michigan Association of Chief's of Police, one company is Emco, and the other is Standard and Associates. He further stated the cost for the Sgt and Lt. exam from Emco is \$110.00 per exam. He then stated the Standard and Associates have the same cost for the Sgt, but the Lt exam is \$135.00. It is cheaper to go with Emco which is why we chose them.

Councilmember Kivell asked if the street light issue for Charleston Park was that a function of them having to wait for a threshold of homes being built. Chief Collins stated he believes it was something that fell through the cracks since 2006. He stated he has been working on this for about 2 weeks.

Chief Collins updated everyone that there was an agreement between the applicant for the Class C Liquor License and staff that it will not be before Council again until the September 24th meeting to give the applicant enough time to update their application and to ensure it is complete and accurate.

Chief Collins stated it was brought to his attention, that we need to decide which color of white we want for the water tower. He stated there is a white and tank white, which has a tinge of blue to it. He stated the engineers suggested white. He then asked the Cultural Arts and they suggested white, white and as long as Council doesn't disagree, he will ask them to move forward with that. Councilmember Kivell asked how the project is moving along. Chief Collins stated it has been moving along well and we haven't had a pressure loss. It is progressing as scheduled. Councilmember Richards stated he is concerned about the lettering of South Lyon on the water tower. Chief Collins stated the lettering has been approved by the Cultural Arts Commission and it is as large as they can be so the letters will not overlap from one side to the other.

PUBLIC COMMENT- None

COUNCIL COMMENTS

Councilmember Kivell stated he assumes a number of us attended Depot Day and it was well attended. The kids had a great time and the Fire Truck was there which is always a crowd pleaser. He then stated he appreciates everyone that tends to that whole project and having this kind of a day that of a reflection of the history of the City. Kiwanis was there as the food vendor.

Councilmember Kivell stated the theatre has been running a lot of first run movies and that is such an asset for our community. They have done a great job preserving that building but yet still being able to have the equipment to run first run movies.

Councilmember Parisien stated Pumpkinfest has asked for volunteers, and if anyone is interested, it is September 28th, 29th and 30th. Councilmember Parisien stated she loves the theater and all the time and effort the owners have put into it, it is a great asset to our community. Councilmember Parisien stated she knows Erwin's Orchard isn't in the City, but if anyone has a chance they should visit them, it is always a good time and they are always busy.

Councilmember Kennedy stated he wanted to congratulate Chief Vogel and the South Lyon Fire Department for 125 years of service to the City. They don't always get the recognition they deserve and they do a great job. Councilmember Kennedy then thanked the residents in the community that helped support the Salem South Lyon Library with their used book sale, it provided them with over \$2,300 which will allow them to purchase additional materials.

Councilmember Richards stated Depot Day was a great success. Two years ago, the Historical Society agreed to abandon Heritage Day, they decided to put more effort into Depot Day. They then formed a standing committee. It then transfers to Larry and Linda who implement what the committee sets up for the whole program with the vendors. He stated when they do their final accounting, if they are close to no

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more than a \$1,000 short on revenue, they consider it a great victory. As it has been for a number of years.

Councilmember Richards stated at the last Historical meeting, he asked some questions and they have received a quote for repairing the sidewalks and approaches at Dorothy Street for \$2,000. He then stated if Council gives him the approval, he will suggest they accept it. He stated it has deteriorated terribly over the last few years. He stated a contributing factor is when we brought in the rock that was brought in that weighed over 9,000 pounds. Councilmember Richards stated he brought up the parking lot at the post office. He stated it is similar to the size of City Halls parking lot. He asked them how much it cost, but they didn't have any idea. The bidding is done through the maintenance department of the Detroit office.

Councilmember Richards stated complications from the blockage at 390 Lafayette from the water overflow that went into our storm drains was cleaned out this week. They did a wonderful job.

Councilmember Richards stated he understands the City has acquired some new park land on Eleven Mile. He then asked if that would be given to Parks and Recreation. Chief Collins stated that is the park within the Carriage Trace subdivision. He stated that property was quit claimed a number of years ago, and we simply needed the City Attorney's assistance to confirm that.

Councilmember Walton stated she also wanted to congratulate the Fire Department on their 125 years and she thanked them for being here. She stated she attended the Labor Day walk and it has been a great event for several years and she thanked all the volunteers. She then thanked the Cultural Arts for their extra help with the water tower. Councilmember Walton stated the Witches Hat Run was held on Saturday and Sunday. South Lyon High and South Lyon East boy's cross-country team were present and working with it, and thank you to the South Lyon High School band what was practicing on the track and allowed us to begin the run there, they played the National Anthem for us. She then thanked the South Lyon Police Department for being there for all the extra runners that were on the streets. She then thanked the Historical Society for Depot Day as well as all the volunteers. She stated it was a great event. Councilmember Walton stated the Salem South Lyon Library is now open on Sundays, so if any students that need extra help. She stated while she was attending these events, she spoke with some residents. Now that the schools are back in session, people are trying to avoid the main thoroughfare, and there is much more traffic on Dorothy and McMunn streets and people are speeding through there and not stopping at stop signs. They are asking for better signage for bus stops and parks in the area, foot traffic in the area. She further stated they are asking for more police presence. Councilmember Walton stated the parking lot on Dorothy is dangerous and it is City parking and we need to take care of it.

Councilmember Kurtzweil stated she would like to thank everyone that volunteered for Depot Day as well as the Four Seasons Garden Club, they have done a great job. She further stated the kids loved the particular project they provided. It is a great event to have near our downtown.

Councilmember Kurtzweil stated she spent some time with friends in the downtown, they had a light dinner at Lake Street Tavern then went to the Lyon Theatre and watched a movie. You can have a great evening in our downtown.

Councilmember Kurtzweil stated she was asked about a voting issue. She stated as of right now, you cannot vote straight ticket. Michigan enacted public act 268 which eliminated straight ticket voting, and it was challenged in 2016. In August of 2018 the federal district court in Detroit ruled and prevented the State from enforcing the elimination of straight ticket voting. She further stated the Secretary of State then took that to State circuit court and last Wednesday September 5th, they are permitted to strike straight ticket voting.

Councilmember Kurtzweil stated she wanted to thank all the soccer moms that were out all weekend collecting bottles and cans for their sons and daughters for their fundraisers. She then stated she hopes everyone will clean out their garages and donate their bottles and cans. She is going to encourage everyone to donate their bottles and cans for the young athletes in the community.

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Councilmember Kurtzweil stated she wanted to let Dawn Marie know that she did some research on her concern from the last meeting about protected trilliums and Michigan does have 4 protected trilliums. She stated she doesn't know if the Thomasville property has any of those on the property because she hasn't been given permission to trespass on his property, but she wanted to let Dawn know and if anyone in Colonial Acres want to get a hold of her, she will pass along the information.

Councilmember Kurtzweil stated the Salem South Lyon Library give out a great pamphlet every season of all the wonderful events they have. She further stated they have great events coming up and a favorite event is the veterans that have served in our community can bring a picture in to be displayed on the wall of honor.

Councilmember Kurtzweil stated John Hogan is having a seminar at the Salem South Lyon Library and the first session is on credit scores. It starts on September 25th. She further stated he is a notary public and if anyone need anything notarized, come early and he will notarize documents for you. She further stated he is a great local banker, and has served this community for many years as the assistant vice president of Comerica.

Councilmember Kurtzweil stated she would like to remind everyone tomorrow to take a moment of silence to remember everyone that died on September 11th during the terror events. She stated we should be thankful for the freedoms we have as a result of our veterans and their service to our country and to all the first responders whether they were in New York or our first responders living here in our wonderful community.

Mayor Pelchat stated Judy Pieper sent him an email from a resident commending the DPW for the great job they do maintaining the rail trail, and the trail is one of the top reasons they moved here because they use it for training purposes. He then thanked the DPW for all their hard work. Mayor Pelchat stated Saturday there is an event in South Lyon called Victory Day. He further stated it is an event for children that don't get to experience football due to a disability or special needs, and the cheerleaders are there cheering and the band is there, and they give them the full experience of practicing football with the team. It starts at 10:30 a.m.

Mayor Pelchat stated he also would like to remind everyone to take a moment to reflect on September 11th and all the lives that were lost that day.

ADJOURNMENT

CM 9-15-18 MOTION TO ADJOURN

Motion by Kurtzweil, supported by Kennedy

Motion to adjourn at 9:00 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Mayor Dan Pelchat

City Clerk Lisa Deaton

AGENDA NOTE

Old Business: Item #1

MEETING DATE: September 24, 2018

PERSON PLACING ITEM ON AGENDA: Interim City Manager

AGENDA TOPIC: Application for Class C Liquor License (quota license)

EXPLANATION OF TOPIC: Ms. Rhonda Bifano has submitted a revised application for the City's last remaining quota Class C Liquor License to be located at 101 S. Lafayette – The Corner Cafe. The application indicates that the Class C license would be utilized to operate a wine/cocktail bar, with food service, primarily during the evening hours.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: City of South Lyon Liquor License Application; Michigan Liquor Control Commission Application; Police Department liquor license investigation report; memo from Economic Development and DDA Director; memo from W&WW Chief Operator; memo from Building Department; Fire Inspection report; City of South Lyon Liquor License Ordinance.

POSSIBLE COURSES OF ACTION: Approve/Do Not Approve the application for the requested Class C Liquor License

RECOMMENDATION: Carefully consider the criteria enumerated in the South Lyon Liquor License Ordinance, (Art. II, Sec. 8-36, f. – g.), noting that the establishment does not currently comport with Building Department and Fire Department requirements. According to the Building Department memo, a renovation by a design professional would be required to bring the property into compliance with A-2 group occupancy standards. Additionally, if operated as a bar with food service the business would owe the City \$21,700.00 in additional water tap fees.

SUGGESTED MOTION: Motion by _____, supported by _____ to _____

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Amended

City of South Lyon
Liquor License Application

Please answer each question thoroughly. All answers should be typed or printed legibly and neatly in black ink. If the space provided is insufficient for a complete answer, use additional sheets following the same format used in the questionnaire. Failure to provide all required information or attachments could result in delay or denial of liquor license. All Liquor License applications are subject to final approval by the South Lyon City Council.

Name and address of applicant:

Rhonda Bilano

[REDACTED]

[REDACTED]

[REDACTED]

Name and address of business:

The Corner Cafe LLC

101 S. Lafayette

South Lyon MI 48178

248) 437-0686

Note: If the applicant is a partnership, you must include the name and address of each partner and attach a copy of the partnership agreement. If the applicant is a privately held corporation, you must include the name and address of each corporate officer, member of the board of directors and/or stockholders. Attach a copy of the articles of incorporation.

Type of liquor license applying for (circle all those that apply):

☒ Class C Resort

☐ Tavern Club

☐ Hotel A B

☐ Quota Transfer

☐ Microbrewery/Brewpub

Theme of Proposed Business: A downtown corner cafe that
would serve coffee, sandwiches, ice cream & wine and
with assorted cocktails in the evening hours. We would
also offer desserts and small plates for the after-
dinner or movie crowd.

Street address where the liquor license is to be located:

101 S. Lafayette S. Lyon MI 48178

Questionnaire:

What is the applicant's management experience in the alcohol liquor business?

Though the cafe, coffeeshop & bar industry is new to me, I have placed a management staff in the cafe with 15yrs+ experience in the industry.

What is the applicant's general business management experience?

I have owned two businesses in downtown South Lyon for approximately 20 years now. I also own a real estate/rental venture for approximately 9 years now.

What is the applicant's general business reputation?

I would like to say excellent. We have owned an optometric practice in down town South Lyon and have earned the "Peoples Choice" Award several years in a row.

What is the applicant's moral character?

Excellent.

What is the applicant's financial status and ability to build and/or operate the proposed facility on which the proposed liquor license is to be located?

Excellent. I have added my personal financial advisor as a reference and ^{she} can vouch for my financial status.

What is the applicant's past criminal convictions involving moral turpitude, violence or alcoholic liquors?

NONE

Does the applicant use alcoholic beverages to excess?

NO

What is the effect that the issuance of a license would have upon the economic development of the surrounding area?

I feel the concept of a wine bar / cordials / dessert etc.
in downtown is filling a void in downtown. I want to
create a place for dessert or a drink after dinner / movies
that is not of a "sports bar" venue.

What effect would the issuance of a license have on the health, safety and welfare of the general public?

There would ~~be~~ no effect on the welfare
of the general public as we would be ~~adhering~~ abiding
by all of the health departments requirements.

Has the applicant received responses from the Health Department, Planning Department, Building Department and/or Fire Department with regard to the proposed facility?

NOT yet, pending

What is the public need or convenience for issuance of a liquor license for this facility at the proposed location?

The city currently doesn't have a wine bar or a nicer place for a cocktail in the evening hours. This is new and exciting for our downtown.

What is the uniqueness of the proposed facility when contrasted against other existing or proposed facilities and the compatibility of the proposed facility to surrounding architecture and land use?

This wine bar concept fills a void in South Lyon. We want to create a quieter atmosphere to have an evening cocktail.

Does the facility to which the proposed liquor license is to be issued comply with the applicable building, plumbing, electrical and fire prevention codes and zoning statutes and ordinances applicable in the City?

(Has applicant received information from these departments?)

Yes, pending inspections

What effect will the facility to which the proposed license is to be issued have upon vehicular and pedestrian traffic in the area?

It would not effect traffic, as patrons would park in designated spots or local parking lots as they currently do when visiting the city.

What is the proximity of the proposed business facilities to other similarly situated licensed liquor facilities?

The Lake St. Tavern and the St. Hotel are within walking distance but we plan on having a different feel with a quieter atmosphere.

What is the proximity of the proposed facility to complimentary uses such as office and commercial development?

The proposed facility compliments local businesses and draws them in after closing due to the uniqueness of an up scale wine bar.

What effect would the proposed facility have upon the surrounding neighborhood and/or business establishments, including impacts upon residential areas, church and school districts?

It would draw in a different clientele, that are looking for an up scale environment for an evening cocktail. It would help stabilize the corner offering an evening business instead of closing in the afternoon.

What proposed or actual commitments are being made by the applicant to establish permanency in the community?

The applicant lives and works in the downtown community already.
What utilities are available to serve the facility?
All utilities are available, ... gas, electric, phone, garbage internet and wi-fi for patrons

What other factors should the City consider?

The applicant has been invested in the downtown area for over 20 years and is committed to the community. She wants to bring a unique venue downtown and is willing to invest in something new. She is a successful business owner and wants this corner to thrive. The corner needs more than coffee and ice cream to thrive in the evening hours.

R. Bifano
Signature of Applicant

6.18.15
Date

Checklist:

Complete the Michigan Liquor Control Commission Application

✓

Fully complete the City of South Lyon Liquor License Application

✓

Current credit report

✓

Attach a non-refundable application fee of \$500 made payable to the City of South Lyon

✓

Proposed Menu

✓

Any other information pertinent to the applicant and operation of the proposed facility

Liquor License Investigation

Applicant's Full Name (as listed on Driver's License) Rhonda Bifano

Address: [REDACTED]

Home phone: Cell phone: [REDACTED]

Date of Birth: 9.17.66 Place of Birth: Lansing, MI

Driver's License No.: Social Security No.: [REDACTED]

Have you ever legally changed your Name? Yes If Yes, List the following:

Date: 8.29.92 City/State: Lansing, MI Court: Eaton County
(previously Rhonda Graham)

Employer's Name: _____ Business Phone: _____

List chronologically all of your residences for the last 10 years:

Dates	Street Address	City	State
-------	----------------	------	-------

June 1992 to present	[REDACTED]	[REDACTED]	[REDACTED]
----------------------	------------	------------	------------

If multiple applicants/partners, list partners:

2/17

LCC Business/Employment References

Applicant: Rhonda Bitano

List chronologically all employment and business ownerships during the past 10 years, starting with your current employment.
Use a separate sheet of paper for additional employment or to further explain reasons for leaving previous employment.

① Current Business/Employment: Bitano Eyecare

Employer's Name:

myself

Phone:

248.446.1146

Supervisor (if applicable):

Position & Job description:

Optometrist / Business owner

Date Hired: 1992 to present Reason for leaving: Still employed

② Previous Business/Employment: L+M Holdings LLC

Employer's Name: myself Phone: 248-568-2922

Supervisor (if applicable): NONE

Position & Job description: owner + land lord

Date Hired: 1999 to Present Reason for leaving: Still employed

③ Previous Business/Employment: Bifano Developments LLC

Employer's Name: myself Phone: 248-568-2922

Supervisor (if applicable): NONE

Position & Job description: owner + land lord

Date Hired: 2009 to Present Reason for leaving: Still employed

Previous Business/Employment: _____

Position & Job description:

Date Hired:

to

Reason for leaving:

LCC Personal References

Applicant:

Rhonda Bifano

Full name:

Chris Bifano

Address:

[REDACTED]

Home phone:

X

Cell phone:

[REDACTED]

Employer:

Bifano Eyecare
L+M Holdings

Bus. phone:

248.446.1146

Position: Work phone:

Partner / optometrist / Landlord

Number of years acquainted:

30 yrs

Full name:

Christine Isham

Address:

[REDACTED]

Home phone:

Cell phone:

Employer: Northern Financial Advisors Bus. phone: 248) 985-1632

Position: President / Co-owner Work phone: Same

Number of years acquainted: 26 years

Full name: Eric Oprisio

Address: [REDACTED]

Home phone: — Cell phone: [REDACTED]

Employer: Dhea Consulting Bus. phone: —

Position: owner Work phone: —

Number of years acquainted: 20 years

Affidavit

Applicant: Rhonda Bifano

The Liquor Application, Business/Employment References and Personal References forms provided must be completed in their entirety.

A complete investigation will be conducted by the City of South Lyon Police Department to verify all of the information that you provide in the referenced Liquor Application forms.

Your Criminal History will be obtained and evaluated by the Chief of Police, who will be your contact person for the Liquor Application Process.

Additionally, you must obtain and provide, at your own expense, a copy of your current credit report which is to be submitted with the Liquor Application forms. The three national credit bureaus are Trans Union, Equifax and Experian, which can be accessed at www.creditreporting.com.

I attest that the facts that I have provide in the Liquor License Application forms are complete and true to the best of my knowledge. I authorize the City of South Lyon Police Department to investigate my personal history as well as my financial and credit records for the purposes of this Application. Additionally, I have read and understand the provisions of the City of South Lyon Statement of Policy on Alcoholic Beverages Licenses.

R. B. Biano 9.5.18
Applicant's Signature Date

Rhonda Biano
Printed Name

Amended

CITY OF SOUTH LYON
CLASS C LIQUOR LICENSE - PLAN OF OPERATION

The corner Cafe LLC,
Business Name

101 S. Lafayette, South Lyon, MI 48178
Street Address

Preamble: I have received copies of South Lyon City Ordinance, An Ordinance to Establish a General Policy for the management of Liquor Licenses and Permits, understand its provisions and will be governed by them. The following Plan of Operation is developed in keeping with the spirit and intent of this Ordinance.

- I. **HOURS OF OPERATION:** We recently opened on May 21, 2018. At present, our planned hours of operation will be Sunday-Saturday, from 6 a.m. -9 p.m. We plan to add evening hours until 11pm every night when we obtain our liquor license. Last call will be 30 minutes before closing and last service 20 minutes before closing.
- II. **FORMAT:** The premises will be primarily operated as a coffee bar during the day with sandwiches and ice cream, and, a wine bar with beer and other cocktails available and with desserts/small plates in the evening (providing for up to 35 patrons). We do not anticipate regular live entertainment or banquets or parties at this time. However, we may entertain an occasional acoustic type entertainer.
 - a. We have (4) 4-seat tables, (4) counter-top seats, (1) 6 seat table, (2) bistro tables, (5) soft seats and (5) 4-seat outdoor tables

The current projected ratio of food sales to alcohol sales is anticipated to be: 80/20%

- III. **CODE COMPLIANCE:** The premises, if ever remodeled, will fully comply with all applicable health, safety, building, sanitation, electrical, plumbing and fire codes as well as zoning requirements.
- IV. **PLAN OF OPERATION:** It is acknowledged that under the Ordinance, the business shall be operated in accordance with an approved plan of operation. Changing the operation of the business in any manner inconsistent with the approved plan of operation is a violation of the ordinance and the rules of the Liquor Control Commission. Any change to the plan of operation must be approved by the City Commission prior to it being placed into effect on the business premises.

- V. **SECURITY:** Security for the customer, building, and community is the first priority for the business, and as such, we will undertake whatever measures are necessary to maintain and supervise the expected level.
- VI. **PARKING:** Parking shall be provided as follows: 10 spaces on-site and 3 public parking lots within walking distance.
- VII. Employees will park in spaces designated by management.
- VIII. **ALCOHOL MANAGEMENT:** The establishment will strictly obey all rules and regulations promulgated by the City of South Lyon and the State of Michigan Liquor Control Commission. There will be neither service to nor consumption of alcoholic beverages by minors at any time. No alcohol will be sold, or permitted to be sold, on a commission basis by any person.

The following policies will be enforced at the establishment:

1. No alcoholic beverages will be allowed on the premises, other than what is dispensed by the establishment.
2. All Staff will pay attention and be alert to observable clues displayed by an intoxicated individual such as: impaired reflexes, impaired coordination, reduced judgment and inhibitions, impaired vision, etc.
3. All staff will be alert to potential problems at their respective areas at the facility.
4. Be polite and courteous to the intoxicated individual(s). Be knowledgeable as to when to request assistance from additional facility staff.
5. Patrons who appear to be 30 years of age or younger will be asked to show proper Michigan identification. Signage will be posted at serving locations. Patrons must produce proper identification.
6. For all patrons under 21 years of age, service will be refused.
7. Check "State Seal" and other markings. Check for damage or alterations to identification card.
8. Do not return falsified identification cards. Call management immediately.
9. If a patron shows signs of intoxication, then refuse service, politely explain policy, suggest non-alcohol purchase, and/or call for management if necessary.
10. If a patron is purchasing on behalf of someone else who appears less than 30 years old or younger, then request to see identification of recipient or contact supervisory personnel whom will seek patron(s) out. Refuse service to minors. Inform all parties involved that policy allows for ejection off of premises if illegal activity has occurred.
11. Alcohol dispensing may be restricted to one of the following practices or any combination thereof:
 - a. No sales to intoxicated persons - No sales without proper identification
- Limited alcoholic choices if necessary - When in doubt, do not serve, call a supervisor
-No alcoholic beverages are allowed to leave the facility or property.

11. Approach any patron appearing to be impaired and leaving the event. Determine if they are driving. If so, attempt to persuade them not to drive and request a non-impaired companion to drive. If unable, refer patron(s) to bus or taxi service.
12. Supervisory and management personnel will complete documentation of any alcoholic related incidents at end of event. Information will be disseminated accordingly.
13. The establishment fully participates in Techniques in Alcohol Management Program and will continue such participation in that program or a similarly recognized program. TIPS/TAM certification, or another similarly recognized program, for all employees shall be provided within 35 days of date of hire.

- IX. REFUSE DISPOSAL:** The establishment will dispose of refuse in enclosed dumpster/s, with locked lids. Pickup will be a minimum of 2 times per week.
- X. GENERAL:** Every effort will be made to maintain positive relationships with adjacent and nearby businesses as well as cooperation with all city departments.
- XI.** Every effort will be made to solve any problems which may arise.
- XII. EMERGENCY CONTACT:** (Rhonda Bifano)

Date: _____

By: _____

Rhonda Bifano

Amended

Sec. 8-36 (b)

1. The applicant is The Corner Cafe LLC which is a LLC owned by Rhonda Bifano 11310 Arrowhead, South Lyon MI 48178. (Articles of Organization are attached).
2. The Corner Cafe LLC is applying for a Class C on premise liquor license
3. The address is 101 S. Lafayette, South Lyon MI 48178 and is zoned B2, Central Business
4. Dennis Engerer is the owner of the premises. His address is 215 E Main St, Northville MI 48167 (Lease is attached).
5. See attached business plan
6. See attached plan of operation
7. Rhonda Bifano (owner of The Corner Cafe LLC) has been a downtown South Lyon business owner for over 20 years. She currently has a successful Optometric practice along with 2 additional real estate businesses. She has the knowledge, the personal finances and the history to run a successful wine bar in South Lyon.
8. The required 3 personal references are listed in the application.
9. The Corner Cafe LLC start-up funds are from the owner's personal finances. One of the required references is her personal financial planner that she has worked with for over 25 years and can attest to her financial stability.
10. The applicant has not applied for a liquor license in the past.
11. The Corner Cafe LLC will be managed by Mike Carano and Mike Stanbury who have a history in both the coffee shop and bar/restaurant businesses.
12. The criminal background check is attached.
13. The applicant is not disqualified to receive such a license.
14. There are no liquor license violations for this applicant.
15. The applicant has no violations or restrictions that would disqualify the applicant from receiving the license as described in subsection (f).
16. There is no other pertinent information on the applicant or the establishment that is not covered in this written statement, the city application or the attached documentation.

City of South Lyon
Liquor license application

Theme of proposed business

-A downtown corner cafe that would serve coffee, sandwiches & ice cream. We would like to add wine and assorted cocktails in the evening hours. We would also offer desserts and small plates for the after dinner or movie crowd.

Street address where the liquor license is to be located?

-101 S. Lafayette, South Lyon 48178

What is the applicant's management experience in the alcohol liquor business?

-Although the cafe/bar industry is a new venture for me, I have placed a management staff in the cafe with 15+ years in the industry.

What is the applicant's general business management experience?

-I have owned 2 successful businesses in downtown South Lyon for 20+ years now. I also own a successful real estate/rental venture for over 9 years now, managing 8 properties.

What is the applicant's general business management experience?

Excellent, I have owned an Optometric practice in downtown South Lyon for over 20 years and have earned the local People Choice Award several years in a row.

What is the applicant's moral character?

-Excellent

What is the applicant's financial status and ability to build and/or operate the proposed facility on which the proposed liquor license is to be located?

-Excellent, I will be funding the project personally and have added my personal financial advisor as a reference and can vouch for my financial status.

What is the applicant's past criminal convictions involving moral turpitude, violence or alcoholic liquors? None

Does the applicant use alcoholic beverages to excess? No

What is the effect that the issuance of a license would have upon the economic development of the surrounding area?

-I feel the concept of a wine/cocktail bar with desserts and small plates is unique to the downtown area and fills a void. I want to create a place for desserts and a drink for after dinner/movies that is not of the "sports bar" genre.

What effect would the issuance of a license on the health, safety, welfare of the general public?

-There would be no effect on the welfare of the general public as we would abide by all of the health department requirements.

Has the applicant received responses from the Health Department, planning department, building department and/or fire department with regard to the proposed facility? Yes

What is the public need or convenience for issuance of a liquor license for this facility at the proposed location?

-The City currently doesn't have a wine bar or a nicer upscale venue for a cocktail in the evening hours. This is new and exciting for our downtown.

What is the uniqueness of the proposed facility when contrasted against other existing or proposed facilities and the compatibility of the proposed facility to surrounding architecture and land use?

-This wine bar concept fills a void in South Lyon. We want to create a quieter atmosphere to have an evening cocktail.

Does the facility to which the proposed liquor license is to be issued comply with the applicable building, plumbing, electrical, and fire prevention codes and zoning statutes and ordinances applicable in the City?

Yes, pending inspections

What effect will the facility to which the proposed license is to be issued have upon vehicular and pedestrian traffic in the area?

-It would not affect traffic as patrons would park in designated spots or local parking lots as they currently do when visiting the City.

What is the proximity of the proposed business facilities to other similarly situated licensed liquor facilities?

-The Lake St Tavern and SL Hotel are within walking distance but we plan on having a different feel with a quieter atmosphere.

What is the proposed facility to complimentary uses such as office and commercial development?

-The proposed facility compliments local businesses and draws them in after closing due to the uniqueness of an upscale wine/cocktail bar.

What effect would the proposed facility have upon the surrounding neighborhood and/or business establishments, including impacts upon residential areas, churches and school districts?

-It would draw a different clientele than a sports bar, patrons that would be looking for a quieter upscale environment for an evening cocktail. It would help stabilize the corner offering an evening business instead of closing in the afternoon.

What proposed or actual commitments are being made by the applicant to establish permanency in the community?

-I live and work in the community currently and have been here almost 30 years.

What utilities are available to serve the facility?

-All utilities are available....gas, electric, phone, garbage, water, internet and wifi for patrons

What other factors should the City consider?

-I have been invested in the downtown area for over 20 years and is committed to improving the community. I want to bring a unique venue downtown and am willing to invest my personal finance to provide something new and bring stability to the main corner. I am a successful business owner and I want the downtown to thrive.



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll-Free: 866-813-0011 - www.michigan.gov/lcc

Business ID: _____
Request ID: _____
(For MLCC Use Only)

Retailer License & Permit Application

For information on retail licenses and permits, including a checklist of required documents for a completed application, please visit the Liquor Control Commission's frequently asked questions website by [clicking this link](#).

Part 1 - Applicant Information

Individuals, please state your legal name. Corporations or Limited Liability Companies, please state your name as it is filed with the State of Michigan Corporation Division.

Applicant name(s): <u>The Corner cafe</u>	
Address to be licensed: <u>101 S. Lafayette</u>	
City: <u>South Lyon</u>	Zip Code: <u>48178</u>
City/township/village where license will be issued: <u>South Lyon</u>	County: <u>Oakland</u>
Federal Employer Identification Number (FEIN): <u>[REDACTED]</u>	

1. Are you requesting a new license? ☒ Yes ☐ No
2. Are you applying ONLY for a new permit or permission? ☐ Yes ☒ No
3. Are you buying an existing license? ☐ Yes ☒ No
4. Are you transferring the classification of an existing on premises license? ☐ Yes ☒ No
5. Are you modifying the size of the licensed premises? ☐ Yes ☒ No
- If Yes, specify: ☐ Adding Space ☐ Dropping Space ☐ Redefining Licensed Premises
6. Are you transferring the location of an existing license? ☐ Yes ☒ No
7. Is this license being transferred as the result of a default or court action? ☐ Yes ☒ No
8. Do you intend to use this license actively? ☒ Yes ☐ No

Leave Blank - MLCC Use Only

Part 2 - License Transfer Information (If Applicable)

If transferring ownership of a license ONLY and not transferring the location of a license, fill out only the name of the current licensee(s)

Current licensee(s): <u>N/A</u>	
Current licensed address:	
City:	Zip Code:
City/township/village where license is issued:	County:

Part 3 - Licenses, Permits, and Permissions

Off Premises Licenses - Applicants for off premises licenses, permits, and permissions (e.g. convenience, grocery, specialty food stores, etc.) must complete the attached Schedule A and return it with this application. Transfer the fee calculations from the Schedule A to Part 4 below.

On Premises Licenses - Applicants for on premises licenses, permits, and permissions (e.g. restaurants, hotels, bars, etc.) must complete the attached Schedule A and return it with this application. Transfer the fee calculations from the Schedule A to Part 4 below.

Part 4 - Inspection, License, and Permit Fees - Make checks payable to State of Michigan

Inspection Fees - Pursuant to MCL 436.1529(4) a nonrefundable inspection fee of \$70.00 shall be paid to the Commission by an applicant or licensee at the time of filing of a request for a new license or permit, a request to transfer ownership or location of a license, a request to increase or decrease the size of the licensed premises, or a request to add a bar. Requests for a new permit in conjunction with a request for a new license or transfer of an existing license do not require an additional inspection fee.

License and Permit Fees - Pursuant to MCL 436.1525(1), license and permit fees shall be paid to the Commission for a request for a new license or permit or to transfer ownership or location of an existing license.

Inspection Fees: <u>\$ 70.00</u>	License & Permit Fees: <u>760.00</u>	TOTAL FEES: <u>830.00</u>
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Schedule A - Licenses, Permits, & Permissions

Applicant name:

The Corner Cafe

Off Premises License Type:

Base Fee:

Fee Code
MLCC Use
Only

New Transfer

- ☐ ☐ SDM License \$100.00
- ☐ ☐ SDD License \$150.00
- ☐ ☐ Resort SDD License Upon Licensure/\$150.00

Off Premises Permits:

Base Fee:

- ☐ Sunday Sales Permit (AM)* \$160.00
- ☐ Sunday Sales Permit (PM)** \$22.50
(Held with SDD License)
- ☐ Catering Permit \$100.00
- ☐ Secondary Location Permit - Complete Form LCC-201
- ☒ Beer and Wine Tasting Permit No charge
- ☐ Living Quarters Permit No charge

On/Off Premises Permission Type:

Base Fee:

- ☐ Off-Premises Storage No charge
- ☐ Direct Connection(s) No charge
- ☒ Motor Vehicle Fuel Pumps No charge

*Sunday Sales Permit (AM) allows the sale of liquor, beer, and wine on Sunday mornings between 7:00am and 12:00 noon, if allowed by the local unit of government.

**Sunday Sales Permit (PM) allows the sale of liquor on Sunday afternoons and evenings between 12:00 noon and 2:00am (Monday morning), if allowed by the local unit of government. No Sunday Sales Permit (PM) is required for the sale of beer and wine on Sunday after 12:00 noon. The Sunday Sales Permit (PM) fee is 15% of the fee for the license that allows the sale of liquor. Additional bar fees and B-Hotel room fees are also calculated as part of the permit fee.

Licenses, permits, and permissions selected on this form will be investigated as part of your request. Please verify your information prior to submitting your application, as some licenses, permits, or permissions cannot be added to your request once the application has been sent out for investigation by the Enforcement Division.

Inspection, License, Permit, & Permission Fee Calculation

Number of Licenses: 1 x \$70.00 Inspection Fee

Total Inspection Fee(s): \$70.00

Total License Fee(s): \$600.00

Total Permit Fee(s): \$160.00

TOTAL FEES DUE: \$830.00

Please note that requests to transfer SDD licenses will require the payment of additional fees based on the seller's previous calendar year's sales. These fees will be determined prior to issuance of the license to the applicant.

Make checks payable to **State of Michigan**

On Premises License Type:

Base Fee:

Fee Code
MLCC Use
Only

New Transfer

- ☐ ☐ B-Hotel License \$600.00
- Number of guest rooms: _____
- ☐ ☐ A-Hotel License \$250.00
- Number of guest rooms: _____
- ☒ ☐ Class C License \$600.00
- ☐ ☐ Tavern License \$250.00
- ☐ ☐ Resort License Upon Licensure
- ☐ ☐ DDA/Redevelopment License Upon Licensure
- ☐ ☐ Brewpub License \$100.00
- ☐ ☐ G-1 License \$1,000.00
- ☐ ☐ G-2 License \$500.00
- ☐ ☐ Aircraft License \$600.00
- ☐ ☐ Watercraft License \$100.00
- ☐ ☐ Train License \$100.00
- ☐ ☐ Continuing Care Retirement Center License \$600.00
- ☐ MCL 436.1545(1)(b)(i) ☐ MCL 436.1545(1)(b)(ii)

B-Hotel or Class C Licenses Only:

- ☐ ☐ Additional Bar(s)

Number of Additional Bars: _____

B-Hotel or Class C licenses allow licensees to have one (1) bar within the licensed premises. A \$350.00 licensing fee is required for each additional bar over the one (1) bar initially issued with the license.

On Premises Permits:

Base Fee:

- ☒ Sunday Sales Permit (AM)* \$160.00
- ☒ Sunday Sales Permit (PM)** 15%**
- ☐ Catering Permit \$100.00
- ☐ Banquet Facility Permit - Complete Form LCC-200

A Banquet Facility Permit is an extension of the license at a different location. It may have its own permits and permissions. It is not a banquet room on the licensed premises.

- ☒ Outdoor Service No charge
- ☒ Dance Permit No charge
- ☒ Entertainment Permit No charge
- ☐ Extended Hours Permit: No charge
- ☐ Dance ☐ Entertainment Days/Hours: _____
- ☐ Specific Purpose Permit: No charge

Activity requested: _____

Days/Hours requested: _____

- ☐ Living Quarters Permit No charge
- ☐ Topless Activity Permit No charge

Schedule B - New Specially Designated Merchant (SDM) License Supplemental Application - New SDM License Applications ONLY

Applicant name: The corner cafe

Effective January 4, 2017 pursuant to MCL 436.1533(5), Specially Designated Merchant (SDM) licenses are quota licenses based on one (1) SDM license for every 1,000 of population in a local governmental unit. MCL 436.1533 provides for several exemptions from the quota for qualified applicants. Please carefully read the requirements in the boxes below, selecting the applicable approved type of business option(s) from Section 1 and an applicable new SDM license quota option from Section 2.

Section 1 - Requirements to Qualify as Approved Type of Business for New SDM License Applicants

Applicant must meet one (1) or more of the following conditions (check those that apply to your business):

- ☒ a. Applicant holds and maintains retail food establishment license or extended retail food establishment license under the Food Law of 2000, MCL 289.1101 to MCL 289.8111.
- ☐ b. Applicant holds or has been approved for Specially Designated Distributor (SDD) license.
- ☐ c. Applicant holds or has been approved for an on-premises license, such as a Class C, A-Hotel, B-Hotel, Tavern, Club, G-1, or G-2 license.

Section 2 - Quota Requirements for New SDM License Applicants

Applicant must qualify under one of the following sections of the Liquor Control Code regarding the SDM quota:

- ☒ a. Applicant is an applicant for or holds a Class C, A-Hotel, B-Hotel, Tavern, Club, G-1, or G-2 license.
MCL 436.1533(5)(a) - SDM license is exempt from SDM quota and license cannot be transferred to another location.
- ☐ b. Applicant's establishment is at least 20,000 square feet and at least 20% of gross receipts are derived from the sale of food.
MCL 436.1533(5)(b)(i) - SDM license is exempt from SDM quota and license cannot be transferred to another location.
- ☐ c. Applicant's establishment is a pharmacy as defined in the Public Health Code, MCL 333.17707.
MCL 436.1533(5)(b)(ii) - SDM license is exempt from SDM quota and license cannot be transferred to another location.
- ☐ d. Applicant's establishment qualifies as a marina under MCL 436.1539.
MCL 436.1533(5)(e) - SDM license is exempt from SDM quota and license may be transferred to another location if the applicant complies with MCL 436.1539 at the new location.
- ☐ e. Applicant does not qualify under any of the quota exemptions or waiver listed above.
MCL 436.1533(5) - Commission shall issue one (1) SDM for every 1,000 population in a local governmental unit and an unissued SDM must be available in the local governmental unit for the applicant to qualify. SDM license may be transferred to another location.

Documents Required To Be Submitted with New SDM License Application

In addition to the documents listed on the application checklist, the new SDM license applicant must submit the documents listed below, as applicable, with its application to comply with the requirements described above. Select one or more of the following:

- ☒ Copy of retail food establishment license or extended retail food establishment license for a SDM license. The name on the food establishment license must match the applicant name in Part 1 of this application form. A food establishment license is not required for a SDM license to be issued in conjunction with a SDD license or an on-premises license.
- ☐ If applying under Section 2b above, documentary proof that applicant's establishment is at least 20,000 square feet and at least 20% of gross receipts are derived from the sale of food.
- ☐ If applying under Section 2c above, a copy of the pharmacy license issued under the Public Health Code.

Part 5a - Information on Individual Applicant, Stockholder, Member, or Limited Partner

Each individual, stockholder, member, or partner must complete Part 5a, 5b, and 5c. If a stockholder or member of an applicant company is a corporation or limited liability company, complete Part 5a and 5c and submit a completed Form LCC-301.

For applications with multiple individuals, stockholders, members, or partners - each person or entity must complete a separate copy of this page.

Name: <u>Rhonda Bifano</u>		
Home address: [REDACTED]		
City: [REDACTED]	State: <u>MI</u>	Zip Code: <u>48178</u>
Business Phone: [REDACTED]	Cell Phone: [REDACTED]	Email: [REDACTED]
Have you ever been licensed by the Michigan Liquor Control Commission (MLCC) or do you currently hold an interest in any other licenses issued by the MLCC? If Yes , please list business ID numbers below. If you hold interest in 2 or more locations under the same name, please also write "chain" below. Pursuant to MCL 436.1603, a retailer licensee <u>may not</u> hold interest in a manufacturer or wholesaler licensee. <input type="radio"/> Yes <input checked="" type="radio"/> No		
Do you hold 10% or more interest in the applicant entity? <input checked="" type="radio"/> Yes <input type="radio"/> No		
If you answered "no" to the first question and "yes" to the second question, you must submit fingerprints and undergo an investigation by the MLCC. Please see the attached instructions for submitting fingerprints to the MLCC. You must submit a copy of the completed and endorsed " <u>Livescan Fingerprint Background Request</u> " with your application.		

Part 5b - Personal Information (Individuals) - Must be at least 21 years of age, pursuant to administrative rule R 436.1105(1)(a).

Date of Birth: <u>9-17-66</u>	Social Security Number: [REDACTED]	Driver's License Number: [REDACTED]	
Are you a citizen of the United States of America? <input checked="" type="radio"/> Yes <input type="radio"/> No			
Have you ever legally changed your name? <input checked="" type="radio"/> Yes <input type="radio"/> No			
If you answered "yes", please list your prior name(s) (including maiden): <u>Rhonda Graham</u>			
Spouse's full name (if currently married): <u>N/A</u>			
Spouse's date of birth:	Is your spouse a citizen of the United States of America? <input type="radio"/> Yes <input type="radio"/> No		
Do you or your spouse hold any position, either by appointment or election, which involves the duty to enforce any penal law of the United States of America, or the penal laws of the State of Michigan, or any penal ordinance or resolution of any municipal subdivisions of the State of Michigan? <input type="radio"/> Yes <input type="radio"/> No			
Does your spouse hold a retail, manufacturer, or wholesaler license issued by the MLCC? <input type="radio"/> Yes <input type="radio"/> No			
Have you ever been found guilty, pled guilty, or pled no contest to a criminal charge or any local ordinance violations? If Yes , list below (attach additional pages if necessary): <input type="radio"/> Yes <input checked="" type="radio"/> No			
Date	City/State	Charge	Disposition
Has your spouse ever been found guilty, pled guilty, or pled no contest to a criminal charge or any local ordinance violations? If Yes , list below (attach additional pages if necessary): <input type="radio"/> Yes <input type="radio"/> No			
Date	City/State	Charge	Disposition

Part 5c - Signature

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing **false** or **fraudulent** information is a violation of the Liquor Control Code pursuant to MCL 436.2003. (This form must be signed by the person whose information it contains).

<u>Rhonda Bifano</u>	<u>Rhonda Bifano</u>	<u>4-11-18</u>
Print Name	Signature	Date

Part 6 - Contact Information

Provide information on the contact person for this application. Please note that corporations and limited liability companies must provide documentation (e.g. meeting minutes, corporate resolution) authorizing anyone other than the applicant or an attorney of record to be the contact person. If an authorization is not provided, your contact person will not be acknowledged if they are anyone other than the applicant or attorney.

What is your preferred method of contact?		<input type="radio"/> Phone	<input type="radio"/> Mail	<input checked="" type="radio"/> Email	<input type="radio"/> Fax
What is your preferred method for receiving a Commission Order?		<input type="radio"/> Mail	<input checked="" type="radio"/> Email	<input type="radio"/> Fax	
Contact name:	Rhonda Bifano		Relationship: self		
Mailing address:	[REDACTED]				
Phone:	[REDACTED]	Fax number:	[REDACTED]	Email:	[REDACTED]

Part 7 - Attorney Information (If You Have An Attorney Representing You For This Application)

Attorney name:		Member Number: P-	
Attorney address:			
Phone:	[REDACTED]	Fax number:	Email:
Would you prefer that we contact your attorney for all licensing matters related to this application?			<input type="radio"/> Yes <input type="radio"/> No
Would you prefer any notices or closing packages be sent directly to your attorney?			<input type="radio"/> Yes <input type="radio"/> No

Part 8 - Signature of Applicant

Be advised that the information contained in this application will only be used for this request. This section will need to be completed for each subsequent request you make with this office.

Notice: When purchasing a license, a buyer can be held liable for tax debts incurred by the previous owner. Prior to committing to the purchase of any license or establishment, the buyer should request a tax clearance certificate from the seller that indicates that all taxes have been paid up to the date of issuance. Obtaining sound professional assistance from an attorney or accountant can be helpful to identify and avoid any pitfalls and hidden liabilities when buying even a portion of a business. Sellers can make a request for the tax clearance certificate through the Michigan Department of Treasury.

Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of this application by the Michigan Liquor Control Commission does not waive any of these requirements. The licensee must obtain all other required state and local licenses, permits, and approvals for this business before using this license for the sale of alcoholic liquor on the licensed premises.

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing false or fraudulent information is a violation of the Liquor Control Code pursuant to MCL 436.2003.

The person signing this form has demonstrated that they have authorization to do so and have attached appropriate documentation as proof.

<u>Rhonda Bifano (member)</u>	<u>Rhonda Bifano</u>	<u>4.11.18</u>
Print Name of Applicant & Title	Signature of Applicant	Date

Please return this completed form along with corresponding documents and fees to:
Michigan Liquor Control Commission
Mailing address: P.O. Box 30005, Lansing, MI 48909
Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Fax to: 517-284-8557



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll-Free: 866-813-0011 - www.michigan.gov/lcc

Business ID: _____
Request ID: _____
(For MLCC Use Only)

Report of Stockholders, Members, or Partners
(Authorized by MCL 436.1529(1), R 436.1051, and R 436.1110)

Part 1 - Licensee Information

Please state your name as it is filed with the State of Michigan Corporation Division.

Licensee name(s): The Corner Caffé	
Address: 101 S. Lafayette	
City: South Lyon	Zip Code: 48178

Part 2a - Corporations - Please complete this section and attach more copies of this page if more room is needed.

Name and address of all stockholders:	No. of Shares Issued:	Date Issued/Acquired:
Name and address of Corporate Officers and Directors, pursuant to administrative rule R 436.1109:		

Part 2b - Limited Liability Companies - Please complete this section and attach more copies of this page if more room is needed.

Name and address of all members:	Percent % Issued:	Date Issued/Acquired:
Rhonda Bifano [REDACTED]	100	April/2018
Name and address of Managers and Assignees, pursuant to administrative rule R 436.1110:		



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll-Free: 866-813-0011 - www.michigan.gov/lcc

Business ID: _____

Request ID: _____

(For MLCC Use Only)

Report of Stockholders, Members, or Partners

(Authorized by MCL 436.1529(1), R 436.1051, and R 436.1110)

Part 2c - Limited Partnerships - Please complete this section and attach more copies of this page if more room is needed.		
Name and address of all partners:	Percent % Issued:	Date Issued/Acquired:
Name and address of Managers, pursuant to administrative rule R 436.1111:		

Part 3 - Authorized Signers (Authorized in compliance with R 436.1109(1)(c) for a corporation or R 436.1110(1)(g) for a limited liability company)	
Name & Title:	Rhonda Bifano member
Name & Title:	
Name & Title:	
Name & Title:	
Name & Title:	

Part 4 - Signature of Applicant or Licensee

I certify that the authorized signers under Part 3 of this form have been authorized in compliance with R 436.1109(1)(c) for a corporation or R 436.1110(1)(g) for a limited liability company.

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing **false** or **fraudulent** information is a violation of the Liquor Control Code pursuant to MCL 436.2003.

The person signing this form has demonstrated that they have authorization to do so and have attached appropriate documentation as proof.

<u>Rhonda Bifano member</u>	<u>R Bifano</u>	<u>4.17.18</u>
Print Name of Applicant or Licensee & Title	Signature of Applicant or Licensee	Date

Please return this completed form to:
Michigan Liquor Control Commission
Mailing address: P.O. Box 30005, Lansing, MI 48909
Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Fax to: 517-763-0059

LARA Corporations
Online Filing System
Department of Licensing and Regulatory Affairs

Form Revision Date 02/2017

ARTICLES OF ORGANIZATION
For use by DOMESTIC LIMITED LIABILITY COMPANY

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned executes the following Articles:

Article I

The name of the limited liability company is:

THE CORNER CAFE LLC

Article II

Unless the articles of organization otherwise provide, all limited liability companies formed pursuant to 1993 PA 23 have the purpose of engaging in any activity within the purposes for which a limited liability company may be formed under the Limited Liability Company Act of Michigan. You may provide a more specific purpose:

Article III

The duration of the limited liability company if other than perpetual is:

Article IV

The street address of the registered office of the limited liability company and the name of the resident agent at the registered office (P.O. Boxes are not acceptable):

1. Agent Name: RHONDA BIFANO
2. Street Address: 101 S. LAFAYETTE
Apt/Suite/Other:
City: SOUTH LYON
State: MI Zip Code: 48178

3. Registered Office Mailing Address:

P.O. Box or Street Address: [REDACTED]
Apt/Suite/Other:
City: [REDACTED]
State: MI Zip Code: 48178

Signed this 29th Day of March, 2018 by the organizer(s):

Signature	Title	Title if Other was selected
Rhonda Bifano	Organizer	

By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

☐ Decline ☒ Accept

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
FILING ENDORSEMENT

This is to Certify that the ARTICLES OF ORGANIZATION

for

THE CORNER CAFE LLC

ID Number: 802180212

received by electronic transmission on March 29, 2018 ***, is hereby endorsed.***

Filed on March 30, 2018 ***, by the Administrator.***

The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.



In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 30th day of March, 2018.

Julia Dale, Director

Corporations, Securities & Commercial Licensing Bureau

COMMERCIAL LEASE

This Lease is made between: DENNIS ENGERER
herein called Lessor and CORNER CAFE, Rhonda Bifano, herein called lessee.

Lessee hereby offers to lease from the Lessor the premises situated in the City of _____,
County of OAKLAND, State of Michigan, described as 101 LAFAYETTE &, upon
the following TERMS and CONDITIONS:

1. **Terms and Rent.** Lessor demises the above premises for a term of 3 years, commencing 1ST OF MAY 2018 and terminating on APRIL 31, 2021, or sooner as provided herein at the annual rent of Two Thousand Six Hundred Dollars (\$2,600), payable in equal installments in advance on the first day of each month's rental, during the term of this lease. All rental payments shall be made to the Lessor, at the address specified above. Lessee has first option to renew lease for the next 3 years, * NOT MORE THAN 3% INCREASE PER YEAR.
2. **Use.** Lessee shall use and occupy the premises for CAFE/CAFE SHOP. The premises shall be used for no other purpose. Lessor represents that the premises may law-fully be used for such purpose.
3. **Care and Maintenance of Premises.** Lessee acknowledges that the premises are in good order and repair, unless otherwise indicated herein. Lessee shall, at his own expense and at all times, maintain premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations and any other system or equipment upon the premises and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for all repairs required, excepting the roof and exterior walls, structural foundations, and: N/O OTHER STRUCTURES, which shall be maintained by Lessor. Lessee shall also be maintain in good condition such portions adjacent to the premises, such as sidewalks, driveways, lawns and shrubbery, which would otherwise be required to be maintained by Lessor.
4. **Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, or improvements in, to or about the premises.
5. **Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, pertaining to the premises, occasioned by or affecting the use of thereof by Lessee.
6. **Assignment and Subletting.** Lessee shall not assign this lease or sublet any portion of the premises without prior written consent of the Lessor, which shall not be unreasonably withheld. Any such assignment or subletting without consent shall be void and, at the option of Lessor, may terminate this lease.
7. **Utilities.** All applications and connections for necessary utility services on the demised premises shall be made in the name of the Lessee only, and Lessee shall be solely liable for the utility charges as they become due, including those for sewer, water, gas, electricity, and telephone services, internet, cable or satellites services. (). Garbage 7.
8. **Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within (60) days prior to the expiration of this lease, to place upon premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the premises thereafter.
9. **Possession.** If Lessor is unable to deliver possession of the premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this lease void or voidable, but Lessee may terminate this lease of possession is not delivered within 60 days of commencement of term hereof.

10. **Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the demised premises or any part thereof, and Lessee agrees to hold Lessor harmless from any claims for damages, no matter how caused.
11. **Insurance.** Lessee, at his/her expense, shall maintain plate glass and public liability insurance including bodily injury and property damage Lessee and Lessor with minimum coverage as follows:
Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any all rights of subrogation which otherwise might exist.
12. **Eminent Domain.** If the premises or any part thereof of any other estate therein, or any other part of the building materially affecting Lessee's use of the premises, shall be taken by eminent domain, this lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as the termination date, and rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for taking of fixtures and improvements owned by Lessee, and for moving expenses.
13. **Destruction of Premises.** In the event of partial destruction of the premises during term hereof, from any cause, Lessor shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the premises. If such repairs cannot be made within said (60) days, Lessor, at his option, may make the same within a reasonable time, this lease continuing effect with the rent proportionately abated foresaid, and in the event that Lessor shall not elect to make such repairs which cannot be made within sixty (60) days, this lease may be terminated at the option of either party. In the event that the building in which the demised premises may be situated is destroyed to an extent of not less than one-third of replacement costs thereof, Lessor may elect to terminate lease whether the demised premises be injured or not. A total destruction of the building in which premises may be situated shall terminate this lease.
14. **Lessor's Remedies on Default.** If Lessee defaults in payment of rent, or any additional rent, or defaults in performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within thirty (30) days, after the giving such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this lease on not less than _____ days' notice Lessee. On the date specified in such notice the term of this lease shall terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall remain liable as hereinafter provided. If this lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises by any lawful means and remove Lessee and other occupants and their effects. No failure to enforce any term shall be deemed a waiver.
15. **Security Deposit.** Lessee shall deposit with Lessor on the signing of this lease the sum of (One Month Rent and Security deposit, 2,600, Last month rent) Dollars (\$ _____) as security for the performance of Lessee's obligations under this lease, including without limitation the surrender of possession of the premises to Lessor as herein provided. If Lessor applies any part of the deposit to cure any default of Lessee, Lessee shall on demand deposit with Lessor the amount so applied so that Lessor shall have the full deposit on hand at all times during the lease.
16. **Tax Increase.** In the event there is any increase during any year of the term of this lease in the City, County, or State real estate taxes over and above the amount of such taxes assessed for the tax year during which the term of this lease commences, whether because of increased rate or valuation, Lessee shall pay to Lessor upon presentation of paid tax bills an amount equal to sixty six (66%) of the increase in taxes upon the land and building in which leased premises are situated. In event that such taxes are assessed for a tax year extending beyond the

term of lease, the obligation of Lessee shall be proportionate to the portion of the lease term included in such year.

17. **Common Area Expenses.** In the event the demised premises are situated in a shopping center or in a commercial building in which there are common areas, Lessee agrees to pay his pro-rata share of maintenance, taxes, and insurance for the common area.
18. **Attorney's Fees.** In case suit should be brought for recovery of the premises, or for any sum due hereunder, or because of any act which may arise out of possession of the premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.
19. **Waiver.** No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.
20. **Notices.** Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Lessee at the premises, or Lessor at the address specified above, or at such other places as may be designated by the parties from time to time.
21. **Heirs, Assigns, Successors.** This lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.
22. **Option to Renew.** Provided that Lessee is not in default in the performance of this lease, Lessee shall have the option to renew the lease for additional term of () years commencing at the expiration of the initial lease term. All of the terms and conditions of the lease shall apply during the renewal term except that the monthly rent shall be the sum of \$. The option shall be exercised by written notice given to Lessor not less than days prior to the expiration of the initial lease term. If notice is not given in the manner herein within the time specified, this option shall expire. ** Not greater than 3% increase per year.
23. **Subordination.** This lease is and shall be subordinated to all existing and future liens and encumbrances against property.
24. **Radon Gas Disclosure.** As required by law. (Landlord) (Seller) makes the following disclosure: "Radon Gas" is naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in. Additional information regarding radon testing may be obtained from your public health unit.
25. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by writing signed by both parties. The following Exhibits, if any, have been made a part of this lease before parties' execution hereof:

Signed this Second day of May 2018 Day of MAY 2018

By Rhonda Bullock
Lessee

[Signature]
Lessor

LIVESCAN FINGERPRINT BACKGROUND REQUEST

AUTHORITY: MCL 28.214, MCL 28.273 & MCL 28.162; **COMPLIANCE:** Voluntary, however failure to complete this form will result in denial of request.

Purpose: To conduct a fingerprint-based background check for employment, to volunteer, or for licensing purposes as authorized by law.

I. Fingerprint Reason											
1. Code LL		2. Requestor/Agency ID 1479J		3. Agency Name MI DEPT OF LICENSING AND REGULATORY AFFAIRS - LIQUOR CONTROL							
II. Applicant Information: Type or clearly print answers in all fields before going to be fingerprinted.											
1a. Last Name Bifano			1b. First Name Rhonda			1c. Middle Initial			1d. Suffix		
2. Any Alternative Names, Last Names, or Aliases Rhonda Graham						3. Social Security Number (Optional) [REDACTED]					
4. Place of Birth (State or Country) 9.17.66 ← Lansing		5. Date of Birth		6. Phone Number [REDACTED]		7. Driver License State MI		8. Driver License Number [REDACTED]			
9. Address [REDACTED]			10. City South Lyon			11. State MI			12. ZIP Code 48178		
13. Sex F		14. Race Caucasian		15. Height 5'5"		16. Weight 140		17. Eye Color Blue		18. Hair Color Brown	
III. Live Scan: Must be completed by the Livescan Operator at the time of fingerprinting.											
1. Date Printed		Picture ID Type Presented			3. TCN			4. Live Scan Operator			

NOTE: After fingerprinting, applicant must return signed and completed document to the requesting agency. Livescan Operator must return completed copy to applicant.

I understand that my personal information and biometric data being submitted by livescan will be used to search against criminal identification records from both the Michigan State Police (MSP) and Federal Bureau of Investigation (FBI) for the fingerprint reason listed above. I hereby authorize the release of my personal information for such purposes and release any records found to the authorized requesting agency listed above.

During the processing of this application, and for as long as your fingerprints and associated information/biometrics are retained at the State and or FBI, they may be disclosed without your consent as permitted by the Federal Privacy Act of 1974 (Pub. L. 93-579) for all applicable routine uses published by the FBI, including the Federal Register and the FBI's Next Generation Identification (NGI).

Routine uses include, but is not limited to, disclosure to: governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Signature: Rhonda Bifano Date: 4/1/18

Procedure to obtain a change, correction or update of identification records:

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency. (28 CFR §16.34)

**** ENSURE THAT THE CORRECT FINGERPRINTING REASON CODE AND AGENCY ID ARE USED. MSP WILL CHARGE FOR SECOND REQUESTS DUE TO INCORRECT CODES. ****



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll-Free: 866-813-0011 - www.michigan.gov/lcc

Livescan Fingerprint Background Request Instructions for Michigan & Out-of-State Applicants

APPLICANTS THAT LIVE IN MICHIGAN

Applicants for a Michigan liquor license must have their fingerprints a law enforcement agency in Michigan that offers digital fingerprinting or a private Livescan vendor approved by the Michigan State Police. You may access a list of approved vendors on the Michigan State Police website (contains vendors' websites and contact information): http://www.michigan.gov/msp/0,4643,7-123-1878_8311-237662--,00.html.

On the attached Livescan Fingerprint Background Request form, you must use the correct Code (LL), Agency ID Number (1479J), and Agency Name (MI DEPT OF LICENSING AND REGULATORY AFFAIRS - LIQUOR CONTROL) in order for the fingerprint report to be sent to the Michigan Liquor Control Commission. Payment receipts **should not** be mailed to the office, but kept for your own records.

You must bring the Livescan Fingerprint Background Request form with a driver's license or other state or federal-issued picture identification to your fingerprint appointment. You will also be required to pay a separate fee to the fingerprint agency when registering and/or scheduling your appointment. A copy of the Livescan Fingerprint Background Request form, which is signed by the Livescan Operator and returned to you, must be submitted with your application in order for your request to be investigated.

When your fingerprints are taken, a technician will perform a scan of your fingerprints and submit the data electronically to the Michigan State Police.

APPLICANTS THAT LIVE OUTSIDE OF MICHIGAN

Applicants for a Michigan liquor license that live outside of Michigan must submit fingerprints through one of the private Livescan vendors approved by Michigan State Police that offer fingerprinting for residents that live outside of Michigan. You may access a list of approved vendors that process finger print cards for non-Michigan residents on the Michigan State Police website (contains vendors' websites and contact information): http://www.michigan.gov/msp/0,4643,7-123-1878_8311-237662--,00.html.

The applicant must contact a local law enforcement agency, governmental agency, or private fingerprint agency to perform ink fingerprinting on a FBI fingerprint card (FD-258) or fingerprint cards from any other state or local agency (fingerprint cards must be on card stock). These fingerprint cards must be submitted for processing to one of vendors on the Michigan State Police's list of approved vendors. Contact the vendor directly regarding its process and the fee for submitting the fingerprint cards for processing.

Make a copy of the completed and signed Livescan Fingerprint Background Request form and submit that copy with the license application.

WHAT HAPPENS AFTER FINGERPRINTS ARE SUBMITTED

The law enforcement agency or private vendor will submit your fingerprints to the Michigan State Police for analysis.

If no criminal history is found, the Michigan Liquor Control Commission will be notified.

If criminal history is found, the Michigan State Police will send the record directly to the Michigan Liquor Control Commission for review.

QUESTIONS AND ADDITIONAL INFORMATION

For questions about the Livescan fingerprinting process, call the Michigan State Police at 517-241-0606.

Please do not contact the Michigan Liquor Control Commission regarding your criminal background check, unless your fingerprints were taken more than 30 days ago.

Please note: Fingerprints taken for any other agency will not fulfill fingerprint requirements for a liquor license in Michigan.



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll Free: 866-813-0011 • www.michigan.gov/lcc

Business ID: _____

Request ID: _____

(For MLCC use only)

Local Government Approval
(Authorized by MCL 436.1501)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new on-premises license application, certain types of license classification transfers, and/or a new banquet facility permit.

Instructions for Local Legislative Body:

- Complete this resolution or provide a resolution, along with certification from the clerk or adopted minutes from the meeting at which this request was considered.

At a _____ meeting of the _____ council/board
(regular or special) (township, city, village)

called to order by _____ on _____ at _____
(date) (time)

the following resolution was offered:

Moved by _____ and supported by _____

that the application from _____

(name of applicant - if a corporation or limited liability company, please state the company name)

for the following license(s): _____
(list specific licenses requested)

to be located at: _____

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: _____

It is the consensus of this body that it _____ this application be considered for
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are _____

Vote

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the _____
council/board at a _____ meeting held on _____ (township, city, village)
(regular or special) (date)

Print Name of Clerk

Signature of Clerk

Date

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Please return this completed form along with any corresponding documents to:

Michigan Liquor Control Commission

Mailing address: P.O. Box 30005, Lansing, MI 48909

Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933


Fax to: 517-763-0059

City of South Lyon

Department of Police

219 Whipple
South Lyon, Michigan 48178
PH. (248) 437-1773 / FAX (248) 437-0459
Lloyd T. Collins
Chief of Police

To: Chief Collins

From: Sgt. Chris Sederlund 

Date: 07/23/2018

Subject: Liquor Control Commission
License Application
Corner Caffé'

Chief,

Upon receiving the liquor license application for the Corner Caffé' from Rhonda Marie Bifano, a thorough background investigation was conducted as requested. The investigation revealed only positive responses and recommendations regarding this applicant from the listed references.

Due to the fact that Rhonda Bifano has owned and operated Bifano Eyecare for 20 plus years with no known major complaints, it appears that she is a responsible and successful business owner, who is an asset to this community.

References:

1. Chris Bifano
2. Eric Oprisiu

References described Rhonda Bifano as a very honest, easy going, diplomatic, and a mild tempered individual. They also described her as being a caring person. As a businesswoman, she reportedly takes her responsibilities seriously and treats her employees fairly. They are not aware of any legal or financial difficulties involving her. They were also not aware of any drug or alcohol problems.

She is, as stated, a mild tempered, non-violent person.

All references believe that Rhonda Bifano would be successful in her endeavor of operating an establishment with a liquor license and further believe that she would take those responsibilities seriously.

Criminal History:

ICHAT indicated no documented criminal history involving Rhonda Bifano. There is one speeding violation listed on her driving record.

South Lyon Police Department Contacts:

Department records indicate several contacts with Rhonda Bifano, but nothing serious in nature. In 2017, she reported a parking complaint. In 2013, she was contacted to pick up her son at the station after officers found him in a new construction site with marijuana. In 2010, she was listed as a person interview in a harassing communications incident. In 2009, she was contacted after her son was injured in a bike/vehicle personal injury accident and in 2000, she reported a larceny at her business, Bifano Eyecare.

Other Police Department Contacts:

Clemis records indicated three (3) police contacts with other area departments. In 2012, she was listed as the owner of a vehicle that was involved in a PDA out of the Oakland County Sheriff's Office, however she was not the driver. In 2006, she was listed as a person interview in a PDA in Milford and in 2000, she was the victim of a larceny from auto in Dearborn.

Credit History:

A credit summary obtained on 06/18/2018 indicated eighteen (18) accounts listed to her. Five (5) accounts are open and thirteen (13) accounts are paid/closed. There are no collections, charge offs, bankruptcies, liens, garnishments, or other judgments on file. Payments on credit accounts are reportedly made as agreed and on time.

The investigation summary is forwarded to your attention for review.

MEMORANDUM

TO: Mayor & City Council
FROM: Bob Donohue, Economic Development & DDA Director
SUBJ: Bifano Class C Liquor License Request
DATE: September 16, 2018

The purpose of this memo is to provide my review and analysis, as requested by the Mayor and City Council at their regular City Council Meeting on August 13, 2018, of the Rhonda Bifano request for a City of South Lyon Class C Liquor License. This review, now based upon new information, in addition to my previous comments in an e-mail dated July 31, 2018, is as follows.

ISSUES/CONCERNS:

1. The City has one (1) Class C Liquor License available at this time, based upon the Michigan Liquor License Control Commission (MLCC) rules for Municipalities which are based upon population, known as the quota system.
2. The approximate cost of a City Quota Class C Liquor License is \$1,000.00.
3. Compliance with the City's new Liquor License Ordinance.
4. Police Department Review as part of the MLCC process to approve.
5. The City's (DDA and City Council) desire to attract Upscale Restaurants and a Wine Bar.
6. Availability of adequate space for an Upscale Restaurant and a Wine Bar.
7. Availability of Redevelopment (DDA) Class C Liquor Licenses which are unlimited in terms of number available. There is a requirement of a minimum of \$100,000 to be invested by the License owner at the site (Building and Site) of the Liquor License establishment; or, proof (from Oakland County Equalization and/or the City's Building Department) that there has been at least \$100,000 invested in the Redevelopment (DDA) District within the past 2 years.
8. The cost of a Redevelopment (DDA) Class C Liquor License is approximately \$23,000.
9. The cost of a non-quota Class C Liquor License purchased by a private owner and transferable from anywhere in Oakland County, if approved by the City, and a Resort Transfer Class C Liquor License from anywhere in the State of Michigan, if approved by the City, is approximately \$60,000 - \$120,000.
10. Is there a greater cost factor for a small business versus a larger business to obtain a City Quota Liquor License?
11. Will an experienced, successful Upscale Restaurant make their decision to locate in Downtown South Lyon based upon the availability of a City Quota Class C Liquor License?
12. Parking. The core downtown and most of the DDA District is a "Parking Exempt Zone" as defined by the City's Zoning Ordinance. Does a proposed location have more or less of an impact on adjacent parking, parking within the core downtown and parking within the DDA District?
13. Risk: Stability and Longevity of the Business Operation and keeping the license in South Lyon.
14. Does the proposed Wine Bar request improve the Business Mix in Downtown South Lyon?

15. MLCC Requirements
16. City of South Lyon Building Department Requirements
17. State of Michigan Barrier Free (ADA) Design Requirements
18. Business Experience
19. Business Plans

BACKGROUND INFORMATION:

- A. At least 7 different Upscale Restaurant owner/developers have contacted the City in the past 2 years who were or are now interested in locating in Downtown or anywhere within the City of South Lyon. Most want a Downtown location. No space was available at the time. 3 of those remain interested.
- B. Four additional upscale Restaurant owner/developers were contacted by the City over the past 2 years who then became interested in locating in Downtown or anywhere in the City of South Lyon. Most want a Downtown Location. No space was/is available at the time. One of those remains interested.
- C. 9 of the 11 Upscale Restaurant owner/developers expressed a need for at least 3,000 – 4,500 square feet of floor space. The other 2 noted their need of at least 1,800 - 2,000 square feet. Again, no space in the Downtown was or is now available at this time.
- D. The former Draft Street Bar & Grill building (now vacant) became available in late Spring of this year. It has its own Class C Liquor License and a Package Liquor Sales License. 2 of the above noted Upscale Restaurants who previously showed interest in South Lyon, have made offers to the current owner's Realty Co., Thomas Duke & Assoc. One is currently in negotiations. There are environmental issues.
- E. The City has been contacted by 4 different Wine Bar operators over the past 2 years. 2 of those have Wine Bar experience and one has Bar and food service experience. The other had no experience. Again, no adequate space was or is now available, except for one space where the building owner is not willing to cover the costs of Code or ADA requirements. He expects the tenant to cover those costs. Thus, it has remained vacant for the past 12 months (former Quilt Shop on E. Lake Street). None of the previous prospective Wine Bar operators are still interested.
- F. The minimum space for all prospective Wine Bar Operators was noted as "800 – 2,000 square feet of floor space." The capacity for a Wine Bar is anywhere from 20 – 50 persons based upon other Wine Bars in and outside of Michigan.
- G. I recently discussed the City Quota versus Redevelopment (DDA) Class C Liquor Licenses with the 3 prospective Upscale Restaurant owner/developers who are still interested in locating in Downtown South Lyon. All 3 noted that their "ability to get the City's Quota Liquor License is not a deal breaker" for them. They all also noted "the availability and relatively easy process to obtain a Redevelopment (DDA) Liquor License, the impressive and very positive residential growth in and surrounding the City of South Lyon, management of the downtown, the apparent upswing of the downtown and the historic character and charm of the downtown are what attracts us."

CONCLUSION/RECOMMENDATION:

I realize that this is a complex issue and is not an easy decision to make. However, after my review of all of the issues, concerns, background information, other known factors, the most recent information provided by the applicant, and with a great deal of thought, **it is now my recommendation that City Council approve the subject request by Rhonda Bifano, for the following reasons:**

1. I have had several discussions with the applicant and her team members before and after my initial review and comments which I provided in an e-mail dated July 31, 2018.
2. New, more detailed information was recently provided by the applicant which provides a more complete picture that results in a clearer description and higher quality proposed business operation, in my opinion.
 - A. The subject request meets the requirements of the City's new Liquor License Ordinance.
 - B. The Wine Bar Management Team includes Bar and Restaurant Management experience, in addition to Rhonda Bifano's own successful, long-time, local, professional business experience.
 - C. The interior design will be enhanced, particularly the area now occupied by Glazy Days, to provide soft colors, soft lighting and a small intimate atmosphere to meet the perceptions of customers/patrons of what a wine bar is, or is supposed to be, "similar to other Wine Bars in Michigan and other states."
 - D. The Corner Caffe (Coffee Shop) will continue to be an important part of the overall operation and atmosphere primarily during the hours of 6:00 a.m. through 7:00 p.m., while the Wine Bar will have service as early as 11:00 a.m. with its primary hours between 5:00 – 11:00 p.m. Extended hours (beyond 11:00 p.m.) may be available on Friday and Saturday evenings, based upon demand. I am aware of successful, combined Wine Bar/Coffee Shops elsewhere.
 - E. Glazy Days will not be part of the final space design plan. I am working with them to relocate.
 - F. A Small Plate ("Tapas") Menu will be available, in addition to the Caffe menu.
 - G. Water Service and Restroom improvements will be made to conform with City and State code requirements (noted by the SL Building Department), including all handicap (American Disability Act (ADA) requirements.
 - H. Will meet all MLCC and Oakland County Health Department requirements.
3. A Wine Bar provides a key ingredient of an optimal business mix for Downtown.
4. The proposed Wine Bar meets market demand confirmed by the Oakland County Small Business Center in their Market Analysis for Downtown South Lyon provided in November, 2016. And, the market data will be updated in early 2019.
5. Support of our Local Business Owners is very important.
6. Risk of keeping the Liquor License's future in South Lyon is reduced due to the applicant being a successful, long-time, local professional business owner, and by the experience of the Wine Bar Team which the owner has assembled.
7. Provides a positive, much needed shot in the arm for Downtown and the overall community, which will, in my opinion, help to recruit Upscale Restaurants and Retail businesses.
8. The applicant's proposed site for the Wine Bar operation has its own adjacent parking lot with 9 spaces, which is within the "Parking Exempt Zone" as noted in the City's Zoning Ordinance.

9. Consistent attention to detail by the Corner Caffè owners and staff, inside and out (outstanding flowers are well maintained outside of the building on the front and side), high quality of the products sold at The Corner Caffè, and the obvious high quality customer service training of the employees, is very positive for Downtown and the community.
10. I do not see size (number of seats anywhere from 29 – 50, final number yet to be determined by the applicant) as an issue or a factor, due to the size of existing typical successful Wine Bars elsewhere (20 – 50) and our expressed need for both a Wine Bar and Upscale Restaurants as part of an optimal business mix and overall downtown experience here in Downtown South Lyon. Some of the Upscale Restaurants who have approached us have indicated seating numbers of 50 or less.
11. Approval of the Bifano request does not harm our ability to recruit and accommodate an experienced, Upscale Restaurant, with the current, somewhat unlimited availability of Redevelopment (DDA) Liquor Licenses.

My recommendation to approve the Bifano request is based upon the items noted above, my 40 years of professional experience in downtown revitalization and downtown management, and my now more than two years of becoming familiar with all aspects of Downtown South Lyon and the surrounding community. Also, this recommendation is provided after taking a fresh look at all of the issues, review of background information and consideration of new details. New and more detailed information has changed my stance on some, not all, of the points noted in my e-mail of July 31, 2018. Therefore, at this time, I believe that approval of the Bifano request is simply the right thing to do. Furthermore, I believe it will be good for Downtown. It is my hope that City Council will understand and consider this opinion as part of its final decision. Thank you for your time and consideration.

Respectfully,
Bob Donohue, Director
Economic Development & Downtown Development Authority (DDA)
City of South Lyon

Lloyd Collins

From: Robert Donohue <robert@southlyonmi.org>
Sent: Tuesday, July 31, 2018 11:26 AM
To: Lloyd Collins
Subject: Rhonda Bifano Liquor License Application: Econ Dev & DDA Response

Lloyd:

This is my response to your request for an **Economic Development & DDA response to the Application submitted by Rhonda Bifano for the last Class C Quota Liquor License in the City of South Lyon.**

- I agree with statements made by various members of City Council over the past two (2) that “we should utilize the City’s last Class C Quota Liquor License to attract a new upscale restaurant to the Downtown.” However, while most seemed to agree, in fact not all Council Members agree on that statement.
- The DDA has also had several discussions, with regard to how to best attract an upscale restaurant, over the past two years. The consensus has been to provide the City’s last Class C quota Liquor License “to the most qualified operator”, regardless of it being an existing business owner or a new restaurant operator.
- It is definitely an advantage when recruiting new restaurants to Downtown South Lyon, to say that “The City has one Class C quota Liquor License available”. For years it was difficult to attract restaurants to Downtown South Lyon for a variety of reasons. Now it is easy to attract them and in fact they are now contacting us, to locate a new upscale restaurant here.
- Now we have lots of interest by restaurant owners and developers, but no adequate space to put them, except for one, the former Draft Street Bar & Grill. Most upscale restaurants want anywhere from 3,000 – 5,000 square feet (s.f.) of floor space. The “Draft Street Building” is approx 5,000 s.f. and the adjacent former party store is 1,800 s.f. for a total of 6,800 s.f.
- Wine Bars are generally smaller (800 – 1,800 s.f. of floor space) than a restaurant and are often paired with the retail sale of wine and/or cheese. We have had interest by at least 3 different Wine Bar operators. Again, at the time peak interest by each of those 3, there were no spaces available.
- There is no question that a Wine Bar, in my opinion, backed up by market information and current trends in Optimal Downtown Business Mix, that a Wine bar would definitely be a welcome addition to Downtown South Lyon.
- A Wine bar would be supported by the Market Area and Demographic Profiles of the Downtown’s general market area surrounding and including the City of South Lyon, as shown in the recent Market Analysis prepared by Oakland County in the fall of 2016.
- The former Draft Street Bar & Grill is currently for sale. The building comes with one (1) Class C quota License and one (1) Package Liquor License as part of the building & property sale.
- I have gone on record as supporting the language of the City’s new Liquor License Ordinance, and in fact, I assisted the City Attorney in drafting that ordinance as well as the policy for review of applications. All of my involvement in that matter was prior to any knowledge of an application by Rhonda Bifano.
- During the time period that the proposed new Liquor License Ordinance was being considered by City Council, after my input, earlier this year and before its adoption, Rhonda Bifano did request a meeting with the Interim City Manager (Lloyd) and myself to discuss her plans to apply for a Class c Liquor License in the near future. Lloyd and I both informed her of previous discussions by the City Council and the DDA, as noted above.
- Small, independent business owners could obviously better afford the approximate \$1,000 cost of the City’s Class C quota Liquor License, than the price to purchase a Class C Liquor License or a Resort Transfer Class C Liquor License on the open market within Oakland County or the State of Michigan at approximately \$60,000 - \$150,000.
- There is another option to purchase a Class C Liquor License, that is more affordable for a small and/or independent Wine Bar, Bar or Restaurant. That is a “DDA Liquor License” which is a full- service Class C Liquor License. To qualify for a DDA Liquor License, the applicant must:
 1. Verify that no Class C Quota License is available from the local municipality

2. Or, verify they were turned down (not approved) by the local municipality for their request for a Class C Quota Liquor License
3. The applicant must have the City verify that one of two factors exist:
 - A. The applicant's project construction, renovation and total rehabilitation/reuse and build-out investment costs to open are at least \$100,000.; or
 - B. The applicant has the municipality verify that there has been at least \$100,000 of private investment in the DDA within the past year, at the time of application.
- The cost of a DDA Liquor License is \$23,000. Thus, it is more affordable option than going out in the open market. Any business, local or regional, with a sound, detailed business plan should be able to afford a DDA Liquor License as it plans to open an operation anywhere.

If anyone has any questions on the items noted above I would be happy to address them at any time.

Respectfully submitted,
Robert Donohue, Director
Economic Development & DDA
City of South Lyon

Lloyd Collins

From: Ronald Beason <rbeasonsouthlyon@hotmail.com>
Sent: Tuesday, July 31, 2018 2:40 PM
To: Lloyd Collins
Subject: Regarding tap in fees for corner cafe lot

Per your request, here is the information I have.

In 2005 corner cafe was charged a \$5600 tap in fee. This was based on a .8 per restaurant unit factor. Previous owner, prior to 2005, had already paid a 1.0 tap in factor. This was based on 2005 unit rates. Totaling 1.8 being paid for.

Restaurants with liquor licenses have a unit factor of .35 per fixture. An onsite inspection indicates the Corner Cafe has 14 fixtures in the business. Tap in factor 4.9 minus 1.8 (that they have already paid for) equaling 3.1 additional units. Taking that 3.1 and times it by the current \$7000.00 tap in fee. It would cost the Corner Cafe \$21,700.00.

Tap in fee numbers are based on Oakland County Schedule of Unit Assignment factors effective July 1, 2018.

All of the information above is correct to the best of my knowledge.

Thanks,

Ron Beason



CITY OF SOUTH LYON

August 1, 2018

Subject: Plan Review -

Jurisdiction

City of South Lyon

335 S Warren

South Lyon, MI 48178

Contact: Ken Pike, Building Official, kpika@safebuilt.com. 248 459-5081

NOTE: All plan review responses and questions shall be directed to the person that did the review as noted below.

Mayor

Daniel L. Pelchat

Council Members

Glenn Kivell

Margaret J. Kurtzweil

Mary Parisien

Carl W. Richards

Rose Walton

Stephen Kennedy

Interim City Manager

Chief Lloyd Collins

Clerk/Treasurer

Lisa Deaton

Deputy Clerk/Treasurer

Judy Pieper

335 S Warren

South Lyon, MI 48178

Phone: 248-437-1735

Fax: 248-486-0049

www.southlyonmi.org

Codes Currently in Effect (Statewide)

2015 Michigan Building Code, MBC 2015

2015 Michigan Mechanical Code, MMC 2015

2015 Michigan Plumbing Code, MPC 2015

2014 National Electrical Code w/state amendments, NEC 2014

Accessibility: Michigan Barrier Free Design Law, P.A. 1966 as amended and the 2003 ICC/ANSI A117.1 - 2009 standard as referenced from Chapter 11 of the 2015 Michigan Building Code.

Disclosure and Limitation of Reviews

This review and recommendation for approval does not relieve the owner or their representatives from complying with other codes, ordinances and other federal, state and county reviews, approvals, permits and inspections.

Building Plan Review Comments by: Tracy Kallek, Deputy Building Official.

To: Lloyd Collins, Interim City Manager

Re: Liquor License at 101 S. Lafayette

Chief, per your request here is the review of 101 South Lafayette.

A liquor license will put this property into a A-2 Occupancy condition. Nightclubs, bars, taverns, dance halls, and food courts. Water closets required, Male 1 per 40, Female 1 per 40. Lavatories, Male and Female 1 per 75. Drinking Fountain 1 per 500. One Service Sink.

There is currently an old print for the Corner Café, which calls out an Occupancy of 30 people indoor and 18 people outdoors. The restroom currently in use has only one water closet, one lavatory and is not Barrier Free.

A renovation by a design professional will required to bring this property up to a A-2 use group occupancy.

Best Regards,

Tracy Kallek
Deputy Building Official

City of South Lyon Building Department
335 S Warren
South Lyon, MI 48178
248.459.4227 cell
tkallek@safebuilt.com

SAFE**built**inc.



SOUTH LYON FIRE DEPARTMENT

217 Whipple Street, South Lyon, MI 48178
Phone: 248-437-2616 Fax: 248-437-3025
www.southlyonfire.com

7/19/2018

CORNER CAFE &
GLAZY DAYS
101 SOUTH LAFAYETTE
SOUTH LYON, MICHIGAN 48178

TO WHOM IT MAY CONCERN:


PLEASE BE ADVISED THAT AN ANNUAL FIRE INSPECTION OF THE ABOVE LISTED BUSINESS WAS CONDUCTED ON 7/17/2018. THIS INSPECTION WAS ALSO CONDUCTED FOR THE PURPOSE OF A LIQUOR LICENSE APPLICATION. THE BELOW LISTED DEFECIENCYS/VIOLATIONS WERE NOTED AT THE TIME OF THE INSPECTION.

1. FIRE EXTINGUISHERS REQUIRE ANNUAL INSPECTION.
2. POST APPROVED BUSINESS OCCUPANT LOAD (AT SERVICE COUNTER/CORNER CAFE).
3. PORTABLE FIRE EXTINGUISHER REQUIRES MOUNTING ON APPROVED BRACKET (FOOD PREP AREA/CORNER CAFE).
4. REMOVE DOOR HARDWARE ON NON-REQUIRED DOOR (ADJACENT TO MAIL BOXES).
5. ELIMINATE MULTIPLE ELECTRICAL OUTLETS/ADAPTERS (BASEMENT X 2).
RECOMMEND INSTALLING APPROVED ELECTRICAL OUTLET JUNCTION BOXES WHERE NECESSARY.
6. POTTERY KILN REQUIRES APPROVED CONVECTION EXHAUST HOOD AND EXHAUST FAN. (GLAZY DAYS). PROVIDE DOCUMENTATION OF ELECTRICAL & MECHANICAL INSPECTIONS FOR NEW INSTALLATION.)
7. PROVIDE COPY OF APPROVED APPLICATION FOR NEW CANOPYS SHELTERS.

THE ABOVE DEFECIENCYS/VIOLATIONS SHALL BE CORRECTED ON/OR BEFORE AUGUST 25, 2018.

IF YOU HAVE ANY QUESTIONS CONCERNING THE ABOVE INFORMATION, PLEASE DO NOT HESITATE TO CONTACT ME.

YOURS SINCERELY,


ALAN A. MATTHEWS
FIRE INSPECTOR.

ORDINANCE NO.03-18

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO ADD CHAPTER 8 – ALCOHOLIC LIQUOR – TO THE CITY OF SOUTH LYON CODE OF ORDINANCES TO PROVIDE POLICIES AND REGULATIONS FOR THE APPLICATION, REVIEW, ISSUANCE, TRANSFER, RENEWAL, REVOCATION AND ENFORCEMENT OF LIQUOR LICENSES AND FOR THE OPERATION OF LICENSED PREMISES.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Addition of Chapter 8. Chapter 8 – Alcoholic Liquor – is hereby added to the City of South Lyon Code of Ordinances, to read in its entirety as follows:

CHAPTER 8 – ALCOHOLIC LIQUOR

ARTICLE I – GENERAL

Secs. 8-1 – 8-30. - Reserved.

ARTICLE II – LICENSING

Sec. 8-31. - Short title.

This ordinance shall be known and may be cited as the City of South Lyon "Liquor License Ordinance."

Sec. 8-32. – Statement of purpose.

The purpose of this article is to establish the city's policies and procedures for regulating liquor licenses including application and review procedures for the issuance of new on-premises licenses, transfers of on-premises licenses into and within the city and among owners and/or applicants, and for the renewal and revocation of liquor licenses. The process is intended to ensure that the individuals and entities seeking licenses or who propose to operate licensed on-premises liquor establishments within the city, meet certain minimum requirements as to background, experience, financial resources, business operations and management and that the proposed establishment meets the needs of the community. It requires the city council to review application information in light of certain criteria to identify the kinds of applicants and establishments that best qualify for a license and best meet the needs of the City and its residents. It reserves to the city any and all discretion afforded to it under applicable laws relating to the issuance of on-premises licenses.

Sec. 8-33. – Definitions.

The following definitions shall apply to this chapter:

(a) *Act* means the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, MCL 436.1101 et seq., as amended.

(b) *Alcoholic liquor* means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the Michigan Liquor Control Commission.

(c) *Applicant* means and includes all persons and entities proposed to be owners of the license and/or of the licensed premises, all key personnel involved in the management and operation of the licensed business, and all persons and entities proposed to be involved in the finance of the license and/or licensed premises. Applicant includes all owners, shareholders, officers, partners, members, and managers of an entity applying for a license.

(d) *Brewpub* means a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 18,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407 of the Michigan Liquor Control Code of 1998. A brewpub is considered a hybrid on- and off-premises liquor license.

(e) *Class C license* means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.

(f) *Club license* means a liquor license issued to a club as defined by section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(g) *Establishment* means a business or premises whose primary function is the serving of alcoholic beverages for consumption on-premises.

(h) *Hotel license* means a liquor license issued to a hotel as defined in section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(i) *License* means a contract between the commission and the licensee granting authority to that licensee to manufacture and sell, or sell, or warehouse alcoholic liquor in the manner provided by the Act.

(j) *Licensee* means an individual or entity holding a license issued under this chapter or by the Michigan Liquor Control Commission.

(k) *Michigan Liquor Control Commission* and *MLCC* mean the liquor control commission provided for and created in Section 209 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1209).

(l) *Micro brewer* means a brewer that produces in total less than 60,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in MCL 436.1203. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

(m) *Minor* means an individual less than 21 years of age.

(n) *Off-premises license* means a liquor license to sell alcoholic liquor at retail for consumption off the licensed premises, including SDD, SDM, and other licenses designated as such in the Act.

(o) *On-premises license* shall mean a liquor license to sell alcoholic liquor at retail for consumption on the licensed premises, including Class C, tavern, resort, club, hotel, brewpub and micro brewer licenses.

(p) *Person* means an individual, firm, partnership, limited partnership, association, limited liability company, or corporation.

(q) *Resort license* means a liquor license issued by the Michigan Liquor Control Commission in a resort area, without regard to other Liquor Control Commission quota requirements, in accordance with the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(r) *Sale* includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor.

(s) *Special license* means a contract between the commission and the special licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the commission shall not deny a special license solely by the applicant's affiliation with an organization that is also eligible for a special license.

(t) *Special permit* includes, but is not limited to, outdoor service permits, one-day licenses, after hours permits, temporary dance, entertainment, or add bar permits, specific purpose permits, and special licenses, as those terms are defined and utilized in the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(u) *Specially designated distributor (SDD)* means a person engaged in an established business licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises.

(v) *Specially designated merchant (SDM)* means a person to whom the commission grants a license to sell beer or wine, or both, at retail for consumption off the licensed premises.

(w) *Tavern* means any place licensed to sell retail beer and wine for consumption on the premises only.

Sec. 8-34. – License required.

No person shall engage in the business of selling alcoholic liquor for consumption on premises in the City of South Lyon, transfer such a license into the city, transfer ownership or location of such a license within of the city, without first obtaining an approval for same by the city council as provided for in this chapter and also obtaining a license or approval therefor as required by the Act and MLCC.

Sec. 8-35. – Plan of operation required.

(a) *Plan of operation.* All on premises licensees shall operate in accordance with a plan of operation approved by the city council.

(b) *Contents of plan.* A plan of operation shall contain an operational statement outlining the proposed manner in which the establishment will be continuously operated consistent with the requirements of this chapter and the city code of ordinances, including, but not limited to, the opening date, the business concept, the anticipated food-to-alcohol ratio, a schedule of the days and hours of operation, method of alcohol management, crowd control/security, use of building facilities, parking facilities and arrangements, plan for interior use and layout, exterior design, layout of any ancillary facilities on the site, dance/entertainment permits needed or requested, estimated cost of building and site improvements, and any other pertinent information as requested by the city.

(c) *Use of liquor license.* It is the intent of the city that approved licenses shall be put into use immediately following approval. Non-use, inactivity, escrowing, or warehousing of licenses is prohibited in the plan of operation.

(d) *Compliance.* Licensees shall comply with all applicable state and city regulations, this chapter, and a plan of operation as approved by city council.

Sec. 8-36. – Application and review procedures.

(a) *Application.* In addition to such application(s) as may be required by the Act and the Michigan Liquor Control Commission for licensing by the State of Michigan, each applicant for a new on-premises license, transfer of an on-premises license into the city, or relocation or transfer of an existing on-premises license within the city or among owners and applicants, shall submit to the city clerk's office a fully completed "City of South Lyon Liquor License Application" on a form furnished by the clerk's office signed by the applicant or a duly authorized agent, along with the required fee(s) and all additional documents and materials referred to in the application form or otherwise required under this article.

(b) *Required information.* The applicant shall include, with the application, at least the following:

- (1) Name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall be provided, and a copy of any

partnership agreement attached. If the applicant is a privately-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders shall be provided, and a copy of the articles of incorporation attached. If the applicant is a publicly-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders who own ten percent (10%) or more of the corporate stock shall be provided. If the applicant is a limited liability company, the names and addresses of all members, managers and assignees of membership interests shall be provided, and a copy of the articles of organization attached.

- (2) The type of license and/or related permit(s) requested.
- (3) The address, legal description, and zoning district of the property where the licensed establishment is to be located.
- (4) The name and address of the record fee owner of the premises, and, if the applicant is not the owner, proof of its interest in or right to occupy the premises.
- (5) Building and site plans showing the site and existing structures for the proposed establishment demonstrating compliance with zoning requirements, adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for sound barriers and noise control. If the establishment is to be located in a proposed building for which site plan approval has not yet been obtained, or in an existing building that is to be remodeled, a conceptual plan showing the relationship of the building to the surrounding properties and uses, and proposed building elevations.
- (6) A plan of operation as referenced in section 8-35.
- (7) A written statement as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is to be issued, including the length of time the applicant has been in business of that character; or in the case of a partnership or other business entity, the date when it was created, established or organized.
- (8) Three (3) written references as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is desired.
- (9) A written statement identifying the source of all funds which will be relied upon for the establishment and operation of the proposed establishment sought to be licensed including the name and address of the financial institution where such funds are deposited.

- (10) A statement whether the applicant has operated or made application for a similar or another license on any premises other than described in this application, and the status or disposition of such license or application.
- (11) Whether a manager or person other than the applicant will manage the operations of the proposed establishment, and if so, the identity(ies) of such managers or persons.
- (12) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report and the report must be dated within thirty (30) days of the date of the application.
- (13) A statement that the applicant is not disqualified to receive a license for any reason under this chapter or state law.
- (14) An accurate record and history of any liquor license or Liquor Control Act violations by the applicant, and any entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary entity of the applicant for the immediate preceding five (5) years.
- (15) A written statement explaining in detail how the application and applicant meet the review criteria listed in subsection (f).
- (16) Any other information pertinent to the applicant, premises, and operation of the proposed establishment as may be required by this chapter, including information regarding each of the criteria listed in subsection (f).

(c) *Investigation.* Following receipt of a complete application, fees and other information as may be requested by the city, the city manager will refer the application to the police department, fire department, planning department, building department, economic development department, public works department, and such other departments as deemed appropriate, which departments shall cause a thorough review and investigation of the applicant(s) and premises to be completed, including, but not limited to, an investigation regarding the background of the applicant(s) and owners, a complete history of past business and experience and liquor law violations, the proposed premises, code compliance, payment of taxes and utility charges, availability of utilities. The findings and results of the investigations, including where applicable, recommendations, shall be provided to the city manager, who shall then report same to the city council. In making its reviews and investigations, the city, and its departments, may request other pertinent information from the applicant.

(d) *Placement upon city council agenda.* Upon receipt by the city manager of the findings, results, and recommendations of the department investigations, the city manager shall place the application on a city council agenda for consideration. Due notice will be provided to the applicant, and the applicant will be required to appear before the city council and make an oral and/or written presentation and address any questions concerning the application.

(e) *City council action required.* All applications are subject to action by the city council. The city council may approve with or without conditions, postpone consideration for a reasonable period, or deny the license. If the license is either approved or denied, the city council shall cause its decision to be transmitted to the Michigan Liquor Control Commission and promptly give notice of the decision to the applicant, in writing. Unless otherwise indicated by the city council, all approvals are conditioned upon the applicant obtaining any required building permits and any other necessary permits, licenses, or approvals from the city, including special land use approval, or approvals from other regulatory agencies within sixty (60) days or such other time period specified by the city council from the date of such conditional approval. The construction of new buildings and alterations of existing buildings shall commence within six (6) months after the date of the conditional approval, with a completion date of no more than one (1) year after the issuance of the relevant building permit. Extensions of time for completion of construction or alteration or to meet conditions may be granted by the city council for good cause as determined in its sole discretion. Failure to comply with such conditions shall render the license, and any approval, subject to revocation.

(f) *Review criteria.* In making its determination pursuant to section 8-36(e), the city council may consider and/or weigh, in its discretion, the following factors:

- (1) Surrounding land uses and proximity to residences, schools, and churches, and any potential adverse effect the surrounding area and land uses, including vehicular and pedestrian traffic and movement, parking, noise and input from residents and businesses.
- (2) The investigations, findings and recommendations of the city departments regarding the applicant, application, and proposed premises and establishment.
- (3) The applicant's history and experience, if any, in conducting a business holding a liquor license, including history of MLCC violations and other business and operations and management experience.
- (4) The applicant's financial status and its ability to build and/or operate the proposed establishment.
- (5) Past criminal convictions of the applicant for felonies and crimes involving moral turpitude, violence, or alcoholic liquors, including, but not limited to: gambling, prostitution, weapons, tax evasion, fraudulent activity, controlled substances, crimes or violations of such a nature that it may impair the ability of the applicant to operate a licensed establishment in a safe and competent manner.
- (6) Non-payment or late payment of taxes and utility bills.
- (7) The availability of utilities to serve the proposed establishment.
- (8) Compliance with applicable building, plumbing, electrical and fire prevention codes, zoning ordinance, or other applicable ordinances, laws, codes, and regulations.

- (9) The nature and extent of preservation or restoration of existing or historic buildings.
- (10) The number, proximity and capacity of similar licensed establishments in the city and surrounding area
- (11) The amount to be invested in the proposed premises/establishment and the effect on the economic development of the city or the surrounding area.
- (12) Whether the proposed establishment is part of a multi-use project with substantial new retail, office or residential components; the size of the proposed establishment relative to the overall project or development.
- (13) Whether the applicant has demonstrated a public need or convenience for the issuance of the liquor license for the business establishment at the location proposed.
- (14) The plan of operation including the type or character of proposed establishment and services, menu and entertainment to be offered, the overall theme, atmosphere, or ambiance of the proposed business, the proposed hours and days of operation, the proposed ratio of sales of food to alcohol, the size and percent of floor area devoted to kitchen, dining, dance floor, bar, outdoor service areas.
- (15) The impact of the establishment on city policing and code enforcement activities, and the possibility of consequent costs to the city.
- (16) The overall benefits and/or detriments of the proposed establishment to the city.
- (17) Any other factors that may affect the health, safety and/or welfare of the general public.

(g) *Restrictions on licenses.* No license shall be issued to the following unless such applicable restriction is waived by city council:

- (1) Any person whose liquor license has been revoked or not renewed for cause under this article, or a comparable local ordinance or state law, whether in Michigan or otherwise.
- (2) Any person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (3) Any applicant, including any owner, shareholder, officer, partner, member, manager, or assignee thereof, owing a ten percent (10%) interest or more would not be eligible to receive a license hereunder or the Act for any reason.

- (4) Any person who does not own the premises for which a license is sought or does not have a lease or other right to possess or occupy the premises for the full period for which the license is issued.
- (5) Any law enforcement official or any member of the council, or to any such official having interest in any way, either directly or indirectly, in manufacture, sale or distribution of alcoholic liquor.
- (6) Any applicant who omits or falsifies any information required by this article.
- (7) Any premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance without approved arrangements for correction or achieving compliance.
- (8) Any premises that does not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, noise or nuisance control, or such new construction or remodeling as proposed would not be completed.

(h) *Changes in plans, drawings, etc.* After receipt of a conditional approval by the city council, no site plan, floor plan, building elevation, seating arrangement, kitchen layout, or other pertinent facts, drawings, or documents submitted to the city may be changed without the applicant first receiving approval from the city planning, engineering, and building departments and city council.

(i) *Recommendation for approval of liquor license.* Upon completion of the building and/or improvements and satisfaction of all other conditions and in accordance with the prior conditional approval of the city council and resolution, if applicable, the city council shall then recommend, above all others, the applicant for approval of the liquor license to the Liquor Control Commission of the State of Michigan.

(j) *Reservation of authority.* No applicant for a liquor license has a right to the issuance of such license, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses.

Sec. 8-37. – Substantial changes in licensed operations.

(a) Substantial changes in the licensee's operations or plan of operation within three (3) years of the license being issued must be approved by the city council. Substantial changes shall include, but are not limited to: changes in space, percentage of food or other sales not related to liquor, changes in hours of operations, capacity, or parking of twenty-five percent (25%) or more. Changes in the theme, style or character of an establishment, alone, shall not constitute a substantial change. No fee shall be charged for this process. The licensee is responsible for compliance with this section within fourteen (14) days of the change of information or circumstances.

(b) Variance from or failure to comply with an approved plan of operation or obtain approval of a substantial change in operations of a licensed establishment is a violation of this article and may result in the city objecting to the renewal or recommending revocation of the license, or other action.

Sec. 8-38. – Transfers of existing on-premises licenses.

(a) The city council has determined that profiteering by on-premises liquor licensees is contrary to the best interests of the city. Accordingly, to prevent profiteering, to the full extent authorized by law, the city council shall not approve the transfer of an on-premises liquor license issued as a new license under this chapter within three (3) years of the date of the original issuance of the license except that the city council may, but is not required to, waive this restriction in the following circumstances:

- (1) If the licensee is a natural person, he or she dies or becomes incapacitated.
- (2) If the licensee is a business entity (e.g., limited liability company, corporation, partnership), the majority interest holder or owner dies or becomes incapacitate, or the business entity dissolves for reasons other than to transfer the license.
- (3) The licensee and the proposed transferee establish that the transfer shall not result in profiteering.
- (4) The application of this section will subject the licensee to financial hardship due to no fault of its own, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the licensee's control.

(b) The transfer of any existing on-premises liquor license into, within, out of the city or to a different owner(s) shall require approval of the city council. An applicant for approval of a license transfer and the use and occupancy of such a license shall:

- (1) Submit an application with all of the information required under Section 8-36(b) above for a new on-premises liquor license, including a plan of operation;
- (2) Pay the applicable fees.
- (3) Furnish any necessary authorization allowing the city access to any and all files which may be in the Michigan Liquor Control Commission's possession regarding the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in.

(c) In reviewing an application for license transfer, the city council may consider the criteria listed in Section 8-36(f).

(d) Requests for approvals of transfers of licenses shall be approved or denied in the sole discretion of the city council.

(e) Transfers that involve the following circumstances may be placed on a city council agenda for consideration, without payment of a fee and without the necessity of furnishing the information required for new licenses:

- (1) The exchange of the assets of a licensed sole proprietorship, licensed general partnership, or licensed limited partnership for all outstanding shares of stock in a corporation in which the sole proprietor, all members of the general partnership, or all members of the limited partnership are the only stockholders of that corporation.
- (2) The removal of a member of a firm, a stockholder, a member of a general partnership or limited partnership, or association of licensees from a license.
- (3) The occurrence of any of the following events: i) a corporate stock split, ii) issuing previously unissued stock shares to an existing shareholder, iii) redemption of stock shares by a licensed corporation; and iv) a public offering of stock.

(f) Existing permits ancillary to liquor licenses are transferred with the liquor license unless cancelled in writing. Transferees must present plans regarding the operation they intend to conduct using a permit.

Sec. 8-39. – Objections to renewal and requests for revocation.

(a) *Generally.* The city council may, at any time, review a license and object to a renewal or request the revocation of a liquor license with the MLCC.

(b) *Procedure.* Before filing an objection to the renewal or requesting revocation of a license with the MLCC, the city shall serve the licensee a notice of hearing, by first class mail, mailed not less than ten (10) days prior to the hearing, which shall contain the following information:

- (1) Reason(s) for the hearing and proposed action.
- (2) Date, time and place of the hearing.
- (3) A statement that the licensee may present evidence and testimony, and may confront witnesses and may be represented by a licensed attorney.

(c) *Hearing and final decision.* The hearing may be conducted by city council as a whole, or by a hearing officer appointed by the city council for such purposes. If a hearing officer is appointed, it shall be the officer's duty to conduct the hearing and hear and take evidence and testimony. After the hearing, the hearing officer shall make a recommendation to the city council for its ultimate final review and decision. The city council shall submit to the licensee and the MLCC, a written statement of its ultimate findings and determination.

(d) *Criteria for non-renewal or revocation.* The city council may recommend non-renewal or request revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at a hearing, any of the following exists:

- (1) A violation of any section of this chapter, the Act, or the rules and regulations of the MLCC, including sales of alcoholic liquor to minors.
- (2) A violation of any applicable building, electrical, mechanical, plumbing or fire code; applicable zoning regulations; applicable public health regulations; applicable rules and regulations of the county health department; or any other applicable city code provision.
- (3) Maintenance of a nuisance on the premises.
- (4) A license being or remaining unused or inactive for one (1) year after being issued without further approval from the city council.
- (5) A license being placed in and remaining in escrow for five (5) years or more.
- (6) A material change in those conditions, statements or representations contained in the written application by the licensee, including a plan of operation, upon which the city council based its recommendation for approval, when, in the judgment of the city council, that change is found to be contrary to the best interest of the city and/or its residents.
- (7) A licensee has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
- (8) The premises does not, or will not reasonably soon, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control where a nuisance does or will exist.
- (9) Non-payment of taxes relating to the premises related to the license.
- (10) Other factors negatively impacting the general health, safety and welfare of the community and the public.

Sec. 8-40. – Fees.

Each applicant for a new on-premises license or license transfer shall pay a nonrefundable application investigation fee in an amount set by city council resolution. Such fee will be in addition to any fee(s) required by the MLCC.

Sec 8-41. – Nudity.

No person, while appearing in a state of public nudity as defined in Section 5h of Act 279 of 1909, being MCL 117.5h, shall frequent, loiter, work for or perform in any establishment licensed or

subject to licensing by the state liquor control commission. No proprietor or operator of any such establishment shall allow the presence in such establishment of any person who violates the provisions of this section.

Sec. 8-42 through 8-69. Reserved.

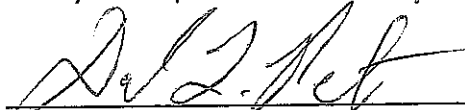
PART II. Severability. Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

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.

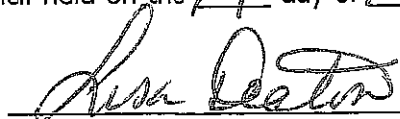
Made, passed and adopted by the South Lyon City Council this 14 day of May, 2018.


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 14 day of May, 2018.


Lisa Deaton, City Clerk

Adopted: 5/14/18
Published: 5/24/18
Effective: 5/24/18

AGENDA NOTE

New Business Item # 1

MEETING DATE: September 24, 2018

PERSON PLACING ITEM ON AGENDA: Recommended for approval by Planning Commission and City Attorney

AGENDA TOPIC: First Reading of Zoning Ordinance Amendment to amend and add definitions and limit the height of utility poles and other structures in a public right-of-way.

EXPLANATION OF TOPIC: The Michigan Legislature is reasonably expected to pass Senate Bill 673 (SB 637), which, among other things, limits municipal right-of-way authority. Section 13(5) of SB 637 entitles a wireless provider to construct, maintain, modify, operate, or replace utility poles and wireless equipment in the City's rights-of-way subject to specific height requirements. However, Section 13(6) allows a wireless provider to exceed the height limits under Section 13(5), subject to the City's Zoning regulations. The City may take action before SB 637 becomes law if it wishes to limit the height of utility poles and wireless equipment in its public rights-of-way. To address this issue, an ordinance amending Sections 102-3 and 102-104 of the Zoning Ordinance is proposed in order to add definitions and limit the height of utility poles and other structures in a public right-of-way to the high limits provided under Section 13(5) of SB 637.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Proposed Ordinance – redline copy showing proposed changes
- Summary of Senate Bill 637

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

RECOMMENDATION: Approve the first reading of the ordinance amendment.

SUGGESTED MOTION: Motion to approve the first reading of an Ordinance Amending the City of South Lyon Zoning Ordinance, Sections 102-3 and 102-104, to amend and add definitions and limit the height of utility poles and other structures in a public right-of-way.

ORDINANCE NO. __-18

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 102 - ZONING TO AMEND ARTICLE I - IN GENERAL, AND ARTICLE III - EXCEPTIONS, TO AMEND AND ADD DEFINITIONS AND TO LIMIT THE HEIGHT OF UTILITY POLES AND OTHER STRUCTURES IN A PUBLIC RIGHT-OF-WAY

THE CITY OF SOUTH LYON ORDAINS:

PART I: Amendment of Section 102-3 to Amend Definition. Section 102-3 - Definitions in Article I, Chapter 102 - Zoning, of the City of South Lyon Code of Ordinances is hereby amended to amend the following definitions:

Essential services means the erection, construction, alteration or maintenance of railroads, public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection herewith, but not including: (i) buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare, (ii) utility poles and other structures more than 40 feet in height above ground level in a public right-of-way, and (iii) wireless equipment extending more than five (5) feet above the top of a utility pole or structure it is attached to in a public right-of-way.

PART II: Amendment of Section 102-3 to Add Definitions. Section 102-3 - Definitions in Article I, Chapter 102 - Zoning, of the City of South Lyon Code of Ordinances is hereby amended to add the following definitions:

Public right-of-way means the surface of, air space above, and area below the entire width of any road, highway, street, alley, thoroughfare, easement, or other area that is dedicated, reserved, used or open to use as a matter of right, for public travel, whether owned or controlled by, or under the jurisdiction of, the city or county, state, or federal government.

Utility pole means a pole or similar structure that is or may be used in whole or in part for cable, wireline, or wireless communication service, electric distribution, lighting, traffic control, signage, or a similar function.

Wireless equipment means the equipment and components, including cellular antennae, transmitters, receivers, equipment shelters or cabinets, regular and backup power supply including emergency generators, and power supply, coaxial and fiber optic cables used in the provision of wireless services, but excluding wireless support structures.

PART III: Amendment of Section 102-104. Section 102-104 - Height limit in Article III – Exceptions, Chapter 102 - Zoning, of the City of South Lyon Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 102-104 Height limit

(a) The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires or steeples, flag poles, public monuments and privately owned noncommercial towers or structures provided that the height of such building or structure shall not be greater than the minimum horizontal distance measured from the base of said building or structure to the nearest property line. The board of appeals may specify a greater height when the owners of adjacent land which lies within the free fall radius of the building or structure, who would therefore be most affected, are notified prior to a hearing on the requested variance. In determining whether a variance ought to be granted and particularly when a variance for a privately owned noncommercial tower is the subject of the variance request, the board of appeals shall consider the private and public value to be derived from the erection of said tower and balance that need against the legitimate concerns of surrounding property owners in making their decision.

(b) Notwithstanding subsection (a) above, utility poles and structures in a public right-of-way shall not be more than 40 feet in height above ground level, and wireless equipment shall not extend more than five (5) feet above the top of a utility pole or structure it is attached to in a public right-of-way

PART IV. 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 V. 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 South Lyon Code of Ordinances set forth in this Ordinance.

PART VI. 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 VII. Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 102 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of South Lyon stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 a.m. to 5:00 p.m., local time. The provisions of this Ordinance shall become effective seven (7) days after its 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:



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1886

Senate Bill 637 (Substitute S-2 as passed by the Senate)
Senate Bill 894 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Joe Hune (S.B. 637)
 Senator Mike Nofs (S.B. 894)
Committee: Energy and Technology

Date Completed: 5-3-18

RATIONALE

First introduced in the 1990s, "smartphones" have evolved quickly in a relatively short period of time. Mobile phones that perform many of the functions of a computer, smartphones were rarely found in the U.S. until the development of the BlackBerry in the mid-2000s, and they continued to gain mainstream popularity with the introduction of the iPhone in 2007. Since then, smartphone ownership has grown exponentially. Today, 77% of adults in the U.S. say they own a smartphone, up from 35% in 2011, according to the Pew Research Center. However, as smartphones and other wireless digital devices become more advanced and more numerous, the wireless networks that connect them must keep pace. Deploying the appropriate mobile broadband infrastructure is considered critical to sustaining the rapid growth of wireless technology and expanding wireless broadband coverage, while maintaining the speed and reliability that wireless users desire. Many people believe that small cell wireless technology is one solution to improving mobile service and coverage.

Small cells are low-powered cellular radio access nodes that operate as base stations, receiving and sending signals. Small cells typically support a single carrier, operate on one or two frequency bands, and require minimal power to operate. However, small cells have a range of only 10 meters to a few kilometers, less than two miles, and transmit less power than a remote radio unit or digital antenna system. This means that a large number of small cells must be deployed in order for them to be effective. It is believed that creating a dense network of small cells that are placed on existing infrastructure ultimately will eliminate the need for further cell tower construction. Evidently, the use of small cell wireless technology also is important for the deployment of advanced, or "fifth generation", wireless systems, called 5G networks, as well as for the development and implementation of autonomous vehicles and the development of "smart cities" (urban areas that use different types of electronic data collection sensors for various purposes, such as managing traffic lights or monitoring water systems).

Many people believe that utilizing small cell technology in Michigan would provide wireless consumers with faster and more reliable connections, bring economic growth and development to local communities, and make Michigan's wireless infrastructure a competitive frontrunner among other states. To accomplish this, it has been suggested that State create a regulatory framework for small cell deployment that would establish a uniform permitting process for wireless providers seeking access to pole structures in rights-of-way, improve mobile networks in congested urban areas, and expand high-speed broadband service in rural areas.

CONTENT

Senate Bill 637 (S-2) would enact the "Small Wireless Communications Facilities Deployment Act" to do the following:

- Prohibit an authority (the State or a local unit) from prohibiting, regulating, or charging for the collocation of small cell wireless facilities, except as provided in the Act.
- Prohibit an authority from entering into an exclusive agreement for use of a right-of-way (ROW) for work on utility poles or the collocation of small cell wireless facilities.
- Prohibit an authority from charging a wireless provider a rate or fee for the use of an ROW, except as provided in the Act.
- Permit a wireless provider to colocate small wireless facilities and work on utility poles in, along, across, upon, and under an ROW, subject to certain height limitations.
- Permit an authority to adopt requirements for design or concealments measures in a historic district, downtown district, or residential district, subject to evaluation on the effects on historic properties.
- Allow an authority to require a wireless provider to repair any damage to an ROW directly caused by the provider's activities while working on small cell wireless facilities or utility poles in the ROW.
- Allow an authority to require a permit to colocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility would be colocated.
- Require an application and an application fee for a permit to meet certain conditions.
- Require a provider to complete collocation within one year after a permit was granted, subject to exceptions.
- Require a wireless provider to notify an authority in writing before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, and specify when and how the facility would be removed.
- Specify requirements an application for a zoning approval would have to meet.
- Require an authority to approve or deny an application and notify the applicant within 90 days if the application were for a modification for a wireless support structure or the installation of a new small cell wireless facility, or within 150 days if the application were for a new wireless support structure.
- Prohibit an authority from denying an application without a reasonable basis for the denial, require a denial to be supported by substantial evidence, and prohibit a denial from discriminating with respect to the placement of facilities or other wireless providers.
- Establish application fees for zoning approval, and require a wireless provider to commence construction of an approved structure or facility within one year after zoning approval was granted.
- Prohibit an authority from entering into an exclusive arrangement with any person for the right to attach to authority poles.
- Establish requirements that a rate or fee to colocate a small cell wireless facility on an authority pole would have to meet.
- Prohibit the governing body of a municipally owned electric utility from entering into an exclusive agreement with any person for the right to attach to nonauthority poles.
- Require the governing body of a municipally owned electric utility to adopt a process for wireless providers' requests to colocate small cell wireless facilities, and establish requirements that a rate or fee to process such requests would have to meet.
- Require a wireless provider that had to relocate small cell facilities colocated on a nonauthority pole to comply with terms and standards adopted by the governing board of a municipally owned electric utility.
- Permit the governing body of a municipally owned electric utility to require a wireless provider to defend, indemnify, or hold harmless an authority, the governing body, and its employees, agents, and officers against any claims resulting from working on wireless facilities, wireless support structures, or utility poles.
- Provide that the circuit court would have jurisdiction to determine all disputes arising under the Act.
- Permit an authority, as a condition of obtaining a permit, to adopt bonding requirements for small cell wireless facilities if certain requirements were met.

Senate Bill 894 (S-1) would amend the Michigan Zoning Enabling Act to provide that the Act and a zoning ordinance would be subject to the proposed Small Wireless Communications Facilities Deployment Act.

Each bill would take effect 90 days after it was enacted. Senate Bill 894 (S-1) is tie-barred to Senate Bill 637 (S-2).

Senate Bill 637 (S-2) is described in more detail below.

Definitions

"Authority", unless the context implied otherwise, would mean the State, or a county, township, city, village, district, or subdivision thereof authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application described in the proposed Act. The term would not include any of the following:

- A municipally owned electric utility.
- An investor-owned utility whose rates are regulated by the Michigan Public Service Commission (MPSC).
- A State court having jurisdiction over an authority.

"Small cell wireless facility" would mean a wireless facility that meets both of the following requirements:

- Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six cubic feet.
- All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume.

(The following types of associated ancillary equipment would not be included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.)

"Colocate" or "collocation" would mean to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. The term would not include make-ready work or the installation of a new utility pole or new wireless support structure.

("Make-ready work" would mean work necessary to enable an authority pole or utility pole to support collocation, which could include modification or replacement of utility poles or modification of lines.)

"Public right-of-way" or "ROW" would mean the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement, dedicated for compatible uses. The term would not include any of the following:

- A private right-of-way.
- A limited access highway.
- Land owned or controlled by a railroad as defined in the Railroad Code.
- Railroad infrastructure.

"Wireless facility" would mean equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including radio transceivers, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. It also would include a small cell wireless facility. The term would not include any of the following:

- The structure or improvements on, under, or within which the equipment is colocated.
- A wireline backhaul facility (a facility used to transport services by wire or fiber-optic cable from a wireless facility to a network).
- Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

"Wireless services" would mean any services, provided using licensed or unlicensed spectrum, including the use of wi-fi, whether at a fixed location or mobile.

"Wireless provider" would mean a wireless infrastructure provider or a wireless services provider. It would not include an investor-owned utility whose rates are regulated by the MPSC.

"Wireless infrastructure provider" would mean any person, including a person authorized to provide telecommunications services in the State, but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and that, when filing an application with an authority under the proposed Act, provides written authorization to perform the work on behalf of a wireless services provider.

"Wireless support structure" would mean a freestanding structure designed to support or capable of supporting small cell wireless facilities. It would not include a utility pole.

Purpose of the Act

The stated purpose of the proposed Act would be to do all of the following:

- "Increase investment in wireless networks that will benefit the citizens of the state by providing better access to emergency services, advanced technology, and information."
- "Increase investment in wireless networks that will enhance the competitiveness of the state in the global economy."
- "Encourage the deployment of advanced wireless services by streamlining the process for the permitting, construction, modification, maintenance, and operation of wireless facilities in the public rights-of-way."
- "Allow wireless services providers and wireless infrastructure providers access to the public rights-of-way and the ability to attach to poles and structures in the public rights-of-way to enhance their networks and provide next generation services."
- "Ensure the reasonable and fair control and management of public rights-of-way by governmental authorities within the state."
- "Address the timely design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities as matters of statewide concern and interest."
- "Provide for the management of public rights-of-way in a safe and reliable manner that does all of the following: supports new technology; avoids interference with right-of-way use by existing public utilities and cable communications providers; allows for a level playing field for competitive communications service providers; and protects public health, safety, and welfare."
- "Increase the connectivity for autonomous and connected vehicles through the deployment of small cell wireless facilities with full access and compatibility for connected and autonomous vehicles as determined and approved by the state transportation department, county road commissions, and authorities."
- "Prioritize, as provided in this act, the use of existing utility poles and wireless support structures for collocation over the installation of new utility poles or wireless support structures."

"Communications service provider" would mean any entity that provides communications service. "Communications service" would mean service provided over a communications facility, including cable service, as defined in 47 USC 522(6) (the one-way transmission to subscribers of video programming and other programming service, and subscriber interaction, if any, that is required for the selection or use of such programming or programming service), information service, as defined in 47 USC 153(24) (the offering of a capability for generating, acquiring, storing,

transforming, processing, retrieving, using, or making available information via telecommunications, including electronic publishing, but not including any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service), telecommunications service, as defined in 47 USC 153(53) (the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used), or wireless service.

"Communications facility" would mean the set of equipment and network components, including wires, cables, antennas, and associated facilities, used by a communications service provider to provide communications service.

Prohibited Regulation: Collocation Approval

Except as otherwise provided in the proposed Act, an authority could not prohibit, regulate, or charge for the collocation of small cell wireless facilities.

The approval of a small cell wireless facility would authorize only the collocation of a small cell wireless facility and would not authorize either of the following:

- The provision of any particular services.
- The installation, placement, modification, maintenance, or operation of a wireline backhaul facility in an ROW.

Right-of-Way Use

The following provisions would apply only to activities of a wireless provider within a public right-of-way for the deployment of small cell wireless facilities and associated new or modified utility poles.

("Utility pole" would mean a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that does not exceed 40 feet above ground level, unless a taller height is agreed to by an authority, and is designed to support small cell wireless facilities. The term would not include a sign pole less than 15 feet in height above ground.)

An authority could not enter into an exclusive arrangement with any person for use of an ROW for the construction, operation, marketing, or maintenance of utility poles or the collocation of small cell wireless facilities.

An authority could not charge a wireless provider a rate for each utility pole or wireless support structure in an ROW in the authority's geographic jurisdiction on which the wireless provider colocated a small cell wireless facility that exceeded the following:

- \$20 annually, unless the following applied.
- \$125 annually, if the utility pole or wireless support structure were erected by or on behalf of the wireless provider on or after the effective date of the proposed Act, unless the replacement of the utility pole was not designed to support small cell wireless facilities.

Every five years after the Act took effect, the maximum rates then authorized would be increased by 10% and rounded to the nearest dollar.

If, on the date the Act took effect, an authority had a rate or fee in an ordinance or in an agreement with a wireless provider for the use of an ROW to colocate a small cell wireless facility or to construct, install, mount, maintain, modify, operate, or replace a utility pole, and the rate or fee did not comply with the limitations listed above, the authority would have to revise the rate or fee within 90 days after the Act took effect.

For installations of utility poles designed to support small cell wireless facilities or collocations of small cell wireless facilities installed and operational in an ROW before the date the Act took effect, the fees, rates, and terms of an agreement or ordinance for use of the ROW would remain in effect subject to the termination provisions contained in the agreement or ordinance.

For installations of utility poles designed to support small cell wireless facilities or collocations of small cell wireless facilities installed and operational in an ROW after the date the Act took effect, the fees, rates, and terms of an agreement or ordinance for use of the ROW would have to comply with the rates proposed above.

A wireless provider could, as a permitted use not subject to zoning review or approval, except that an application for a permitted use would still be subject to approval by the authority, colocate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under an ROW. Such structures and facilities would have to be constructed and maintained so as not to obstruct the legal use of the authority's ROW or uses of the ROW by other utilities and communications service providers. Both of the following provisions would apply:

- A utility pole in the ROW installed or modified on or after the date the proposed Act took effect could not exceed 40 feet above ground level, unless the authority agreed to a taller height.
- A small cell wireless facility in the ROW installed or modified after the date the Act took effect could not extend more than five feet above a utility pole or wireless support structure on which the facility was colocated.

Subject to these and other provisions, and applicable zoning regulations, a wireless provider could colocate a small cell wireless facility or install, construct, maintain, modify, operate, or replace a utility pole that exceeded the specified height limits, or a wireless support structure, in, along, across, upon, and under the ROW.

A wireless provider would have to comply with reasonable and nondiscriminatory requirements otherwise provided that prohibited communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities if all of the following applied:

- The authority had required all cable and utility facilities, other than authority poles, along with any attachments, or poles used for street lights, traffic signals, or other attachments necessary for public safety, to be placed underground by a date that was at least 90 days before the submission of an application.
- The authority did not prohibit the replacement of authority poles by a wireless provider in the designated area.
- The authority allowed wireless providers to apply for a waiver of the undergrounding requirements for the placement of a new utility pole to support small cell wireless facilities, and the waiver applications were addressed in a nondiscriminatory manner.

Subject to permit provisions (described below), and except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4), an authority could adopt written, objective requirements for reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures in a historic district, downtown district, or residential zoning district. Any such requirement could not have the effect of prohibiting any wireless provider's technology. Any such design or concealment measures would not be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

(Under 47 CFR 1.1307(a)(4), applicants must prepare environment assessments if the Federal Communications Commission (FCC) takes action with respect to facilities that may affect districts, sites, buildings, structures, or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places, and that are subject to review by the FCC and have been determined through that review

process to have adverse effects on identified historic properties. (The term "applicant" includes an applicant for a wireless or broadband license, authorization, or antenna structure registration.)

"Historic district" would mean a historic district established under the Local Historic Districts Act, or a group of buildings, properties, or sites that are either listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the Federal agency to list properties and determine their eligibility for the National Register, in accordance with the Nationwide Programmatic Agreement.)

An authority's administration and regulation of wireless providers' activities in the ROW would have to be reasonable, nondiscriminatory, and competitively neutral and would have to comply with applicable law.

An authority could require a wireless provider to repair all damage to an ROW directly caused by the activities of the provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and to return it to its functional equivalence before the damage. If the provider failed to make the repairs required by the authority within 60 days after written notice, the authority could make the repairs and charge the wireless provider the reasonable, documented cost of repairs.

Permit

The following provisions would apply to activities of a wireless provider within a public ROW.

Except as otherwise provided, an authority could require a permit to colocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility would be colocated if the permit were of general applicability. The processing of an application for such a permit would be subject to all of the following:

- The authority could not directly or indirectly require an applicant to perform services unrelated to the collocation for which a permit was sought, such as reserving fiber, conduit, or pole space for the authority or making other in-kind contributions to the authority.
- A wireless provider would have to provide, to each affected authority to which an application for the activity was not submitted, notification of the wireless provider's intent to locate a small cell wireless facility within the ROW, if a proposed activity would occur within a shared ROW or an ROW that overlapped another ROW, and the authority could require proof of other necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity were obtained.
- The authority could require an applicant to include an attestation that the small cell wireless facilities would be operational for use by a wireless services provider within one year after the permit was issued, unless the authority and the applicant agreed to extend the period or delay was caused by lack of commercial power or communications transport facilities to the site.
- The application would have to be processed on a nondiscriminatory basis.
- Approval of an application would authorize the wireless provider to undertake an installation or collocation and maintain the small cell wireless facilities and any associated utility poles or wireless support structures covered by the permit for as long as the site was in use and in compliance with the initial permit, subject to relocation requirements that would apply to similarly situated users of an ROW and the applicant's right to terminate at any time.
- An authority could not institute a moratorium on filing, receiving, or processing applications or issuing permits for the collocation of small cell wireless facilities or the installation, modification, or replacement of utility poles on which the facilities could be colocated.
- An authority and an applicant could extend a time period by mutual agreement.

Within 25 days after receiving an application, an authority would have to notify the applicant in writing whether the application was complete. If the application were incomplete, the notice would

have to clearly and specifically delineate missing documents or information. The notice would toll the running of the time for approving or denying an application as described below.

The running of the time period tolled would resume when the applicant made a supplemental submission in response to the authority's notice of incompleteness. If a supplemental submission were inadequate, the authority would have to notify the applicant in writing within 10 days after receiving the supplemental submission that it did not provide the information identified in the original notice delineating missing documents or information. The time period could be tolled in the case of second or subsequent notices under the procedures identified above. Second or subsequent notices of incompleteness could not specify missing documents or information that was not delineated in the original notice.

An authority would have to approve or deny an application and notify the applicant in writing within the following period of time after the application was received:

- 60 days, for an application for the collocation of small cell wireless facilities on a utility pole, subject to the following adjustments: an additional 15 days if an application from another wireless provider were received within one week of the application in question, and an additional 15 days if, before the otherwise applicable 60-day or 75-day time period elapsed, the authority notified the applicant in writing that an extension was needed and the reasons for the extension.
- 90 days, for an application for a new or replacement utility pole that would not exceed 40 feet above ground level, unless a taller height was agreed to by the authority, and associated small cell facility, subject to the following adjustments: an additional 15 days if an application from another wireless company were received within one week of the application in question; and an additional 15 days if, before the otherwise applicable 90-day or 105-day time period elapsed, the authority notified the applicant in writing that an extension was needed and the reasons for the extension.

If an authority failed to comply with these provisions, the completed application would be considered approved subject to the condition that the applicant provide the authority at least 7 days' advance written notice that the applicant would be proceeding with the work pursuant to this automatic approval.

An authority could deny a completed application for a proposed collocation of a small cell wireless facility or installation, modification, or replacement of a utility pole that would not exceed 40 feet above ground level, unless a taller height was agreed to by the authority, only if the proposed activity would do any of the following:

- Materially interfere with the safe operation of traffic control equipment.
- Materially interfere with sight lines or clear zones for transportation or pedestrians.
- Materially interfere with compliance with the Americans with Disabilities Act, or similar Federal, State, or local standards regarding pedestrian access or movement.
- Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of an authority.
- Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed, or not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the Drain Code and access to the drainage infrastructure, with respect to drainage infrastructure under the jurisdiction of an authority.
- Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general application adopted by ordinance or otherwise that applied to the location of ground-mounted equipment and new utility poles that did not prevent a wireless provider from serving any location.
- Fail to comply with applicable codes.
- Fail to comply with provisions pertaining to underground or buried cables, or historic districts.
- Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance

and nondiscriminatorily applied to all other occupants of an ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the authority.

An authority could require an applicant to provide information and documentation to enable the authority to make a decision with regard to the criteria listed above. An authority also could require a certification of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

If the completed application were denied, the written notice to the applicant would have to explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial was based. The applicant could cure the deficiencies identified by the authority and resubmit the application within 30 days after the denial without paying an additional application fee. The authority would have to limit its review of the revised application to the deficiencies cited in the denial.

An applicant could at its discretion file a consolidated application and receive a single permit for the collocation of up to 20 small cell wireless facilities within the jurisdiction of a single authority or, in the case of the Michigan Department of Transportation (MDOT), a single designated control section as identified on MDOT's website. The small cell facilities within a consolidated application would have to consist of substantially similar equipment and be placed on similar types of utility poles or wireless support structures. An authority could approve a permit for one or more small cell wireless facilities included in a consolidated application and deny a permit for the remaining small cell facilities. An authority could not deny a permit for a small cell facility included in a consolidated application on the basis that a permit was being denied for one or more other facilities included in that application.

Within one year after a permit was granted, a wireless provider would have to complete collocation of a small cell wireless facility that was to be operational for use by a wireless services provider, unless the authority and the applicant agreed to extend the period or the delay was caused by the lack of commercial power or communications facilities at the site. If the wireless provider failed to complete the collocation within the applicable time, the permit would be void and the wireless provider could reapply for a permit. A permittee could voluntarily request that the permit be terminated.

An authority could revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole failed to meet the requirements listed above as reasons for which an authority could deny a completed application.

An authority could not require a permit or any other approval or require fees or rates for any of the following:

- The replacement of a small cell wireless facility with a small cell wireless facility that was not larger or heavier, in compliance with applicable codes.
- Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.
- The installation, placement, maintenance, operation, or replacement of micro wireless facilities that were suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.

These activities would be exempt from zoning review.

An authority that received an application to place a new utility pole could propose an alternative location within an ROW or on property or structures owned or controlled by an authority within 75 feet of the proposed location to either place the new utility pole or colocate on an existing structure. The applicant would have to use the alternative location if, as determined by the applicant, it had the right to do so on reasonable terms and conditions and the alternative location did not impose unreasonable technical limits or significant additional costs.

Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider would have to notify an authority in writing. The notice would have to specify when and how the wireless provider intended to remove the small cell wireless facility, utility pole, or wireless support structure. The authority could impose reasonable and nondiscriminatory requirements and specifications for the wireless provider to return the property to its preinstallation condition. If the wireless provider did not complete the removal within 45 days after the discontinuance of use, the authority could complete the removal and assess the costs of removal against the wireless provider. A permit for a small cell wireless facility would expire upon removal of the facility.

An authority would not be prohibited from requiring a permit for work that would reasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in an ROW.

"Micro wireless facility" would mean a small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.

"Applicable codes" would mean uniform building, fire, electrical, plumbing, or mechanical codes adopted under the Single State Construction Code Act, or adopted by the United States Occupational Safety and Health Administration or by a state or national code organization, including the National Electrical Safety Code published by the Institute of Electrical and Electronic Engineers.

Permit Fee

An application fee for a permit to collocate a small cell wireless facility, or install, modify, or replace a utility pole on which such a facility would be collocated, could not exceed the lesser of the following:

- \$200 for each small cell wireless facility alone.
- \$300 for each small cell wireless facility and a new utility pole to which it would be attached.

Every five years after the proposed Act took effect, the maximum fees then authorized would be increased by 10% and rounded to the nearest dollar.

Zoning Approval: Review

The provisions discussed below would apply to zoning reviews for the following activities that would be subject to zoning review and approval, that would not be a permitted use, and that took place within or outside a public ROW:

- The modification of existing or installation of new small cell wireless facilities.
- The modification of existing or installation of new wireless support structures used for such facilities.

Within 30 days after receiving an application for a zoning approval, an authority would have to notify the applicant in writing whether the application was complete. If the application were incomplete, the notice would have to clearly and specifically delineate all missing documents or information. The notice would toll the running of the 30-day period.

The running of the time period tolled would resume when the applicant made a supplemental submission in response to the authority's notice of incompleteness. If a supplemental submission were inadequate, the authority would have to notify the applicant within 10 days after receiving the submission that it did not provide the information identified in the original notice delineating missing documents or information. The time period could be tolled in the case of second or subsequent notices under the procedures identified above. Second or subsequent notices of

incompleteness could not specify missing documents or information that was not delineated in the original notice of incompleteness.

The application for a zoning approval would have to be processed on a nondiscriminatory basis.

An authority would have to approve or deny an application and notify the applicant in writing within 90 days after an application for a modification of a wireless support structure or installation of a small cell wireless facility was received or 150 days after an application for a new wireless support structure was received. The time period for approval could be extended by mutual agreement between the applicant and authority. If the authority failed to comply with these provisions, the application would be considered approved subject to the condition that the applicant provide the authority at least 15 days' advance written notice that the applicant would be proceeding with the work pursuant to this automatic approval.

An authority could not deny an application unless all of the following applied:

- The denial was supported by substantial evidence contained in a written record that was publicly released contemporaneously.
- There was a reasonable basis for the denial.
- The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

An authority's review of an application for a zoning approval would be subject to all of the following:

- An authority could not evaluate or require an applicant to submit information about an applicant's business decisions with respect to any of the following: the need for a wireless support structure or small cell wireless facilities; or the applicant's service, customer demand for the service, or the quality of service.
- Any requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping, would have to be reasonable.
- Any setback or fall zone requirement would have to be substantially similar to such a requirement imposed on other types of commercial structures of a similar height.

An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures or technology to be used would be presumed to be reasonable. This presumption would not apply with respect to the height of wireless facilities or wireless support structures. An authority could consider the height of such structures in its zoning review, but could not discriminate between the applicant and other communications service providers.

An application fee for a zoning approval could not exceed the following:

- \$1,000 for a new wireless support structure or a modification of an existing wireless support structure.
- \$500 for a new small cell wireless facility or modification of an existing small cell wireless facility.

Within one year after a zoning approval was granted, a wireless provider would have to commence construction of the approved structure or facilities that were to be operational for use by a provider, unless the authority and the applicant agreed to extend the period or the delay was caused by a lack of commercial power or communications facilities at the site. If the provider failed to commence construction within the time period required, the zoning approval would be void, and the provider could reapply for a zoning approval. However, the provider could voluntarily request that the zoning approval be terminated.

An authority could not institute a moratorium on either of the following: filing, receiving, or processing applications for zoning approval; or issuing approvals for installations that were not a permitted use.

An authority could revoke a zoning approval, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated wireless support structure failed to meet the requirements of the approval, applicable codes, or applicable zoning requirements.

Collocation Rates & Fees

An authority could not enter into an exclusive arrangement with any person for the right to attach to authority poles. A person who purchased, controlled, or otherwise acquired an authority pole would be subject to the requirements described below.

("Authority pole" would mean a utility pole owned or operated by an authority and located in the ROW.)

The rate for the collocation of small cell wireless facilities on authority poles would have to be nondiscriminatory regardless of the services provided by the collocating person. The rate could not exceed \$30 per year per authority pole. Every five years after the date the proposed Act took effect, the maximum rate then authorized would be increased by 10% and rounded to the nearest dollar. This rate for the collocation of small cell wireless facilities on authority poles would be in addition to the rate charged for the use of an ROW.

If, on the date the Act took effect, an authority had a rate, fee, or other term in an ordinance or in an agreement with a wireless provider that did not comply with these provisions, the authority would have to revise the rate, fee, or term, within 90 days after that date. Both of the following would apply:

- An ordinance or agreement between an authority and a wireless provider that was in effect on the date the Act took effect and that related to the collocation on authority poles of small cell wireless facilities installed and operational before that date would remain in effect as it related to those collocations, subject to termination provisions in the ordinance or agreement.
- The rates, fees, and terms established in the Act would apply to the collocation on authority poles of small cell wireless facilities that were installed and operational after the rates, fees, and terms took effect.

Within 90 days after receiving the first request to colocate a small cell wireless facility on an authority pole, the authority would have to make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small cell wireless facilities on the authority poles. The rates, fees, and terms would have to comply with all of the following:

- The rates, fees, and terms would have to be nondiscriminatory, competitively neutral, and commercially reasonable.
- The authority would have to provide a good-faith estimate for any make-ready work within 60 days after receiving a complete application, and any make-ready work would have to be completed within 60 days of the applicant's written acceptance of the good-faith estimate.
- The person owning or controlling the authority pole could not require more make-ready work than required to comply with law or industry standards.

Fees for make-ready work could not: include costs related to preexisting or prior damage or noncompliance unless the damage or noncompliance was caused by the applicant; include any unreasonable consultant fees or expenses; or exceed actual costs imposed on a nondiscriminatory basis.

These provisions would not require an authority to install or maintain any specific authority pole or to continue to install or maintain authority poles in any location if the authority made a nondiscriminatory decision to eliminate aboveground poles of a particular type generally, such as electric utility poles, in a designated area of its geographic jurisdiction. For authority poles with colocated small cell wireless facilities in place when an authority made a decision to eliminate aboveground poles of a particular type, the authority would have to do one of the following:

- Continue to maintain the authority pole.
- Install and maintain a reasonable alternative pole or wireless support structure for the collocation of the small cell wireless facility.
- Offer to sell the pole to the wireless provider at a reasonable cost.
- Allow the wireless provider to install its own utility pole so it could maintain service from that location.
- Proceed as provided by an agreement between the authority and the wireless provider.

Municipally Owned Electric Utility

"Municipally owned electric utility" would mean a system owned by a municipality or combination of municipalities to furnish power or light and would include a cooperative electric utility that, on or after the date the proposed Act took effect, acquired all or substantially all of the assets of a municipal electric utility, when applying the Act to the former territory of the municipal electric utility.

The governing body of a municipally owned electric utility could not enter into an exclusive agreement with any person for the right to attach to nonauthority poles, and would have to allow the collocation of small cell wireless facilities on nonauthority poles on a nondiscriminatory basis.

The collocation of small cell wireless facilities on nonauthority poles by a wireless provider would have to comply with the applicable, nondiscriminatory safety and reliability standards adopted by the governing body of a municipally owned electric utility and with the National Electric Safety Code published by the Institute of Electrical and Electronics Engineers. The governing body could require a wireless provider to execute an agreement if such an agreement were required of all other nonauthority pole attachments.

The governing body of a municipally owned electric utility would have to adopt a nondiscriminatory and competitively neutral process for requests by wireless providers to colocate small cell wireless facilities on nonauthority poles. If such a process had not been adopted within 90 days after the date the proposed Act took effect, the application process for a permit within a public ROW would apply to such requests. The governing body of a municipally owned electric utility could not impose a moratorium on the processing of nonauthority pole collocation requests, or require a wireless provider to perform any service not directly related to the collocation. The governing body could charge a maximum fee of \$100 per nonauthority pole for processing the request. The governing body also could charge an additional fee of up to \$100 per nonauthority pole for processing the request, if a modification or maintenance of the collocation required an engineering analysis. Every five years after the date the Act took effect, the maximum fees then authorized would be increased by 10% and rounded to the nearest dollar.

The rate for a wireless provider to colocate on a nonauthority pole in an ROW could not exceed \$50 annually per nonauthority pole. Every five years after the date the proposed Act took effect, the maximum rate then authorized would be increased by 10% and rounded to the nearest dollar.

A wireless provider would have to comply with the process for make-ready work that the governing body of a municipally owned electric utility had adopted for other parties under the same or similar circumstances that attached facilities to nonauthority poles. If such a process had not been adopted, the wireless provider and the governing body would have to comply with the process for make-ready work under 47 USC 224 and implementing orders and regulations. (That section of the U.S. Code pertains to attachments by a cable television system or telecommunications service provider to a pole, duct, conduit, or right-of-way owned or controlled by a utility.) A good-faith estimate established by the governing body for any make-ready work for nonauthority poles would have to include pole replacement, if necessary. All make-ready costs would have to be based on actual costs, with detailed documentation provided.

If a wireless provider were required to relocate small cell facilities colocated on a nonauthority pole, it would have to do so in accordance with the nondiscriminatory terms adopted by the governing body of a municipally owned electric utility.

An attaching entity, and all contractors or parties under its control, would have to comply with reliability, safety, and engineering standards adopted by the governing body of a municipally owned electric utility, including the following:

- Applicable engineering and safety standards governing installation, maintenance, and operation of facilities and the performance of work in or around the municipally owned electric utility nonauthority poles and facilities.
- The National Electric Safety Code.
- Regulations of the U.S. Occupational Safety and Health Administration.
- Other reasonable safety and engineering requirements to which municipally owned electric facilities were subject by law.

The governing body of a municipally owned electric utility could require an attaching entity to execute an agreement for wire or cable attachments to nonauthority poles or related infrastructure.

The governing body of a municipally owned electric utility could not charge an attaching entity a rate for wire or cable pole attachments within the communication space on a nonauthority pole greater than the maximum allowable rate pursuant to 47 USC 224(d) and (e) as established in FCC Order on Reconsideration 15-151. ("Communication space" would mean that term as defined in the National Electric Safety Code. Under 42 USC 224, rates must be just and reasonable. Section 224(d) provides for a determination of whether a rate is just and reasonable, and Section 224(e) requires any increase in the rates for pole attachments from the adoption of regulations to be phased in equal annual increments over a period of five years.)

Subject to proposed provisions pertaining to court action (described below), an attaching entity could commence a civil action for injunctive relief for a violation these provisions. The attaching entity could not file an action unless it had first given the municipally owned electric utility a written notice of the intent to sue. Within 30 days after the utility received the notice of intent to sue, the utility and the attaching entity would have to meet and make a good-faith attempt to determine if there was a credible basis for the action. If the parties agreed that there was a credible basis for the action, the governing body of the utility would have to take all reasonable and prudent steps necessary to comply with the applicable requirements within 90 days after the meeting.

Requirement to Indemnify, Defend, or Insure

With respect to a small cell wireless facility, a wireless support structure, or a utility pole, as part of the permit process for activities of a wireless provider within the public ROW, a zoning approval process for the modification or installation of new small cell wireless facilities or wireless support structures, or a request process for wireless providers to colocate small cell wireless facilities on nonauthority poles, an authority or the governing body of a municipally owned electric utility could require a wireless provider to defend, indemnify, and hold harmless the authority or the governing body, and its officers, agents, and employees, against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, its contractors, its subcontractors, and the officers, employees, or agents of any of those. A wireless provider would have no obligation to defend, indemnify, or hold harmless an authority or governing body, or its officers, agents, or employees, against any liabilities or losses due to or caused by the sole negligence of the authority or the governing body, or its officers, employees, or agents.

Additionally, an authority or the governing body of a municipally owned electric utility could require a wireless provider to obtain insurance naming the authority or the governing body, and its officers, agents, and employees, as additional insureds against any claims, demands, damages, lawsuits,

judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider could meet all or a portion of the authority's insurance coverage and limit requirements by self-insurance. To the extent a wireless provider self-insured, it would have to provide to the authority evidence demonstrating, to the authority's satisfaction, the provider's financial ability to meet the authority's insurance coverage and limit requirements.

Authority Limitations

An authority would not have jurisdiction or authority over the design, engineering, construction, installation, or operation of a small cell wireless facility located in an interior structure or upon a campus of an institution of higher education, including any stadiums or athletic facilities associated with the institution, a professional stadium, or a professional athletic facility, other than to enforce applicable codes. The proposed Act would not authorize the State or any other authority to require wireless facility deployment or to regulate wireless services.

Fees Less than Maximum

Subject to other requirements of the proposed Act, an authority could establish a fee or rate less than the maximum specified for utility poles or wireless support structures in an ROW in the authority's geographic jurisdiction on which a wireless provider had colocated a small cell wireless facility, a permit application, zoning approval application, or the collocation of small cell facilities on authority poles.

Dispute Resolution

The circuit court would have jurisdiction to determine all disputes arising under the proposed Act. Venue would lie in the judicial circuit where an authority or municipally owned electric utility was located. In addition to its right to appeal to the circuit court, an applicant could elect, at its sole discretion, to appeal a determination under the Act to an authority, if the authority had an appeal process to render a decision expeditiously.

Bonding Requirements

As a condition of a permit described in the proposed Act, an authority could adopt bonding requirements for small cell wireless facilities if the authority imposed similar requirements in connection with permits issued for similarly situated users of an ROW. The purpose of the bonds would have to be one or more of the following:

- To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determined should be removed to protect public health, safety, or welfare.
- To repair the ROW as provided by the Act.
- To recoup rates or fees that a wireless provider had not paid in more than 12 months, if the provider had received 60-day advance notice from the authority of noncompliance.

An authority could not require a cash bond unless the wireless provider had failed to obtain or maintain a bond required under these provisions, or the surety had defaulted or failed to perform on a bond given to the authority on behalf of the wireless provider. Also, an authority could not require a bond in an amount exceeding \$1,000 per small cell wireless facility.

Scope of Act; MPSC Jurisdiction

The proposed Act would not impose or otherwise affect any rights, controls, or contractual obligations of an investor-owned utility whose rates are regulated by the Michigan Public Service Commission, an affiliated transmission company, an independent transmission company, or a cooperative electric utility (unless it acquired all or substantially all of the assets of a municipal

electric utility after the Act's effective date) with respect to its poles or conduits, similar structures, or equipment of any type.

The Act also would not add to, replace, or supersede any law regarding poles or conduits, similar structures, or equipment of any type owned or controlled by any of those entities.

Except for the purposes of a wireless provider obtaining a permit to occupy an ROW, the Act would not affect an investor-owned utility whose rates are regulated by the MPSC. Notwithstanding any other provision of the Act, the MPSC would have sole jurisdiction over attachment of wireless facilities on the poles, conduits, and similar structures or equipment of any type or kind owned or controlled by an investor-owned utility whose rates are regulated by the MPSC.

Other Provisions

A small cell wireless facility for which a permit was issued would have to be labeled with the name of the wireless provider, emergency contact telephone number, and information that identified the facility and its location.

A wireless provider would be responsible for arranging and paying for the electricity used to operate a small cell wireless facility.

MCL 125.3205 (S.B. 894)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The rapid proliferation and advancement of smartphones, tablets, and other wireless devices has placed a considerable strain on Michigan's communications infrastructure. The solution to easing this burden is the deployment of small cell technology, the next generation of wireless communications. Michigan led the nation in helping telecommunications carriers gain access to public rights-of-way through the enactment in 2002 of the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, which was designed to streamline the process for authorizing access to and use of public ROWs, ensure the reasonable control and management of ROWs by municipalities, and provide for common public ROW maintenance fees.

Although the telecommunications industry has been working to obtain local government approval to place small cells on vertical structures in public ROWs across Michigan, the permitting process is slow and unpredictable, even when only a small antenna needs be attached to the top of an existing municipally owned pole. In other cases, many municipalities do not allow access to ROWs or they require noneconomically feasible fees for access. The bills would establish reasonable and standardized fees for attachment to municipally owned poles and structures, and would encourage timely approval of small cell locations and installation. Streamlining the permitting, installation, and maintenance processes associated with mounting small cell wireless facilities in a municipal ROW would bolster Michigan's existing wireless networks and make way for 5G networks and other coming improvements to wireless communications technology.

Compared to 4G networks, 5Gs are expected to be 100 times faster, support 100 times more devices, and provide five times faster response time, according to the CTIA, a trade association that represents the wireless communications industry. However, 5G cannot be implemented using the State's existing wireless infrastructure. The need to modernize this infrastructure is highlighted by the plans of AT&T to introduce mobile 5G service in a dozen markets by late 2018. 5G will operate using millimeter wave spectrum, which offers higher capacity rates than low-band spectrum. However, millimeter wave transmitters must be close to the ground and do not transmit over long distances, so AT&T plans on using small cells to launch its 5G network. The bills would create a regulatory environment conducive to the rollout of small cell technology to ensure that

the growing number of wireless consumers will have the reliable, on-demand coverage that they want and need when using their mobile devices and other technology.

Supporting Argument

In today's economy, access to the latest and most reliable wireless technology, as well as a fast and dependable communications network, is critical for business. Employers, employees, clients, and customers are becoming increasingly reliant on mobile devices and technology to stay connected and conduct business in the modern workplace. The deployment of a 5G network would promote economic growth and development in Michigan through greater broadband speeds and the new innovation that would come from the improved networks. A 2017 report from the American Consumer Institute Center for Citizen Research titled, "The Economic & Consumer Benefits from 5G", found that 5G is expected to generate nearly \$8.5 billion in economic investment and more than 105,000 jobs in Michigan over the next seven years.

The bills would foster a regulatory environment that would encourage wireless providers to invest in the kind of network enhancements and upgrades that would keep Michigan's communications infrastructure on the forefront of innovation. Creating a predictable statewide framework designed to streamline the process for small deployment inclusive of rates and fees would allow wireless providers to meet the increasing consumer demands and needs, and invite capital investment in the State. Other states that have passed similar legislation adopted policies specifically aimed at inviting investment in small cell technology. The proposed legislation is important for encouraging continued economic growth and prosperity in Michigan.

Supporting Argument

The use of small cells is key to "smart" cities and the future of transportation and road safety. Many local governments have a vision of creating connected cities that would operate more smoothly and efficiently, and improve services, while simultaneously reducing taxpayers' costs. Recent innovations in wireless and mobile technology allow the development of this type of connected technology. Whether the goal is smart lighting, improved traffic management, autonomous vehicles, smart parking, disaster awareness, or WiFi kiosks, however, these innovations require more reliable wireless connectivity and increased data usage than are currently available.

Michigan also is on the cutting edge of autonomous and automated vehicle development. The operation and safety of connected and autonomous vehicles require infrastructure that will allow vehicles to communicate with each other on the road and with surrounding infrastructure, such as traffic signals and crosswalks, through the use of wireless and mobile communications technology. Connected vehicle technology could alert drivers to imminent crash situations, such as a blind-side merger or the sudden braking of a vehicle traveling in front of the driver. Connected infrastructure also could alert drivers when they entered school or construction zones, or when an upcoming traffic light was about to change.

Connected cities and autonomous and automated vehicle technology, however, require a quick and reliable wireless network in order to become a reality. Small cell technology is a critical component of implementing this type of connectivity. The bills would establish a streamlined process for small cell deployment to improve the way Michigan residents live and travel.

Response: Currently, there are several entities at the local, State, and Federal levels involved in the research and development of autonomous and connected vehicle technology. The bills would interfere with the deployment of hardware and technology necessary for autonomous and connected vehicles. Traffic signal systems and equipment for autonomous and connected vehicles is cutting-edge technology and adding small cells to authority or utility poles could create unforeseen problems.

Supporting Argument

The use of small cell technology would offer additional wireless capacity in high-traffic areas, which is key to advancing FirstNet throughout the State. FirstNet, which was created by AT&T in a public-private partnership with the First Responder Network Authority, is the country's first and only

nationwide public safety communications platform dedicated to first responders. FirstNet is a broadband LTE ("Long-Term Evolution") network that allows first responders and other public safety personnel to send and receive voice, data, video, images, and text without network congestion, and enables information-sharing across disciplines and jurisdictions. This new technology makes it even more critical for Michigan to support network deployments that build on advances in public safety and wireless communications technology. Having a dedicated public safety network would make it easier for police officers, firefighters, and EMTs to respond timely and effectively in times of need. By allowing easier small cell deployment, the bills would benefit members of the public and the first responders who serve them.

Supporting Argument

Modern agriculture is a highly competitive, high-tech, global business that is constantly evolving. Today, access to technology is a key factor in determining success for Michigan farms. As farming technology has improved to include GPS-steered equipment, wireless monitoring systems, and digital data collection, access to high-speed internet now is a necessity for farm operations. However, rural areas disproportionately lack access to high-speed wireless technology. According to a November 2017 article from The Center for Michigan, 37% of residents in rural areas of Michigan had no access to high speed broadband, and in some counties, 100% of rural residents had no access. Deploying small cell technology would strengthen wireless networks in rural areas by increasing the availability and reliability of high-speed wireless technology throughout Michigan. This would mean additional capacity, greater speeds, and a better overall wireless experience that would benefit farmers and rural business interests across the State.

Opposing Argument

Many townships and local governments have seen an increase in requests to build within their public ROWs. These include requests to erect small cell wireless facilities that are placed at street level on street lights and power and traffic light poles. Under the bills, wireless service providers would virtually have free rein to place these wireless facilities on utility poles with little or no local oversight of their placement or the number of facilities in an area, and no consideration for the aesthetics of the ROWs. The proposed definition of "small cell wireless facility" would permit wireless providers to install equipment that would have to fit within an imaginary space of not more than six cubic feet, and all the wireless equipment would have to be not more than 25 cubic feet in volume. Essentially, the legislation would allow these providers to attach industrial refrigerator-size equipment to poles. Space within ROWs is already at a premium and the bills would further limit access to these areas for pedestrians. Residents in local communities do not want this size or type of equipment outside of their homes. Additionally, many local planning commissions spend a lot of time determining how ROWs should look, and it would be unfair for the telecommunications industry to usurp local government control over the appearance of their ROWs. The bills would force local municipalities to litigate to preserve the residential character of their communities.

The bills also would take away a principal property interest from every community in the State without a commitment from the wireless industry as to what it would provide in exchange for this public, taxpayer-supported property. Even though Senate Bill 637 (S-2) discusses the charges that the local governments could collect from wireless providers, there is no discussion of what rates wireless providers could charge taxpaying customers for wireless service. If the people are going to have to maintain the ROWs with their taxpayer money, the wireless providers should have to pay a fair market value for use of the ROWs. In order to protect the best interests of constituents, nonessential infrastructure, such as small cell facilities, should be controlled and authorized by local governing units.

Opposing Argument

The bills would have a detrimental effect on public health as they do not include any medical accommodations for people with a sensitivity to radiation, electromagnetic fields (EMFs), and radio frequencies. Although reports on the health hazards of 4G are just now emerging, there is a growing body of evidence that the radiation emitted from wireless technology adversely affects the health of wildlife, farm animals, and humans, particularly those with a sensitivity to EMF

sources. This sensitivity to EMF emissions is generally called "electromagnetic hypersensitivity syndrome" (EHS), and is characterized by a wide variety of mild to severe dermatological, immunological, and neurological symptoms. Although many people believe there is no scientific evidence that links these reported symptoms to exposure to EMF, the World Health Organization has conducted research into the existence of EHS. It estimates that the reported prevalence of EHS is a few individuals per 1.0 million. The Bioinitiative Working Group, an international collaboration of scientists, researchers, and public health policy professionals, released reports detailing the negative effects of EMFs. These reports conclude that chronic exposure to low-level radiation, such as that emitted from cell phones, can cause a variety of cancers, impair people's immune systems, and contribute to Alzheimer's disease, dementia, and heart disease.

Small cell technology would add more man-made nonionizing microwave radiation to the environment, and current levels already make people ill. The FCC has yet to study all of the health effects of the widespread implementation of small cell technology. It should not be deployed until independent studies have been conducted to determine what kind of effect the nonionizing radiation from 5G could have on humans.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bill 637 (S-2)

The bill would have an indeterminate fiscal impact on the State and a likely negative impact on local units of government.

The bill would set limits on permit application fees and annual rent fees that authorities could charge for the use or placement of utility poles within the right-of-way for small cell wireless providers. Authorities are defined in the bill to include the Department of Transportation, counties, townships, cities, and villages. The Department believes that the fees identified in the bill would be sufficient to cover the administrative costs associated with any work done in the portions of the ROW within its jurisdiction.

Local units of government do not currently have a standard rent or permitting fee structure for utility pole work done in the ROW. Fees most often vary based on actual costs, and may be larger or smaller than the limits identified in the bill due to several factors, including whether the ROW location is within an urban or rural setting, the available space within the ROW at that location, aesthetic considerations, potential damage to the ROW, and safety concerns. Some of these factors are addressed in the bill, as an authority could require a wireless provider to purchase insurance for work on the ROW and also could require a bond for any damage done to the ROW. The bill would prohibit an authority from charging a small cell wireless provider for unreasonable consultant fees associated with make-ready work, as defined in the bill. Many local units of government, particularly smaller counties, townships, and villages, do not have engineers or attorneys on staff who can review plans for work within the ROW. When those types of services would be required, the bill could prohibit those units of government from transferring the costs to the small cell wireless provider.

Senate Bill 894 (S-1)

The bill would subject existing zoning ordinances to Senate Bill 637 (S-2). It would not have a direct impact on the State or local units of government beyond its reference to the language found in Senate Bill 637 (S-2), which would exempt the activities of wireless providers within the ROW from zoning review.

Fiscal Analyst: Michael Siracuse

SASIA1718/sb637a

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.

AGENDA NOTE

New Business: Item # 2

MEETING DATE: September 24, 2018

PERSON PLACING ITEM ON AGENDA: Interim City Manager

AGENDA TOPIC: Vacant City Property – 318 W. Lake Street

EXPLANATION OF TOPIC: The former library building located at 318 W. Lake Street has been vacant since the South Lyon Area Recreation Authority terminated the lease and moved to a new location. The property is owned by the City and Council direction is needed regarding disposition. The property is zoned R-3 Residential and permitted uses include: one-family detached dwellings; publicly owned libraries and recreational facilities; elementary schools not operated for profit; home occupations as enumerated in the zoning ordinance including day-care homes – limited to applicants who legally reside in the residence. A professional commercial appraisal of the property was obtained and the projected sale price is approximately \$62,000. An assessed value for the property is unavailable since the property is listed as “tax exempt” due to City ownership. An estimated cash value of \$240,000 for the property, as an office building, was submitted by Oakland County Equalization Field Supervisor Bryan Paris. That estimate is subject to an inspection verifying physical characteristics and external influences that are not readily observable utilizing GIS technology.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Commercial Property Appraisal Report from Independent Appraisal Corporation; e-mail message from Field Supervisor Bryan Paris.

POSSIBLE COURSES OF ACTION: Direct the City Manager to: engage a realtor to list the property for sale, lease, or rent; designate an alternative use for the property; allow the property to remain vacant.

RECOMMENDATION: Council Discretion

SUGGESTED MOTION: Motion by _____, supported by _____ to _____

09/24/18

From: Paris, Bryan J [mailto:parisb@oakgov.com]
Sent: Wednesday, September 19, 2018 3:00 PM
To: robert@southlyonmi.org
Cc: Lloyd Collins; Ideaton@southlyonmi.org; Godoshian, Jacqueline A; Zerwas, Steven G
Subject: FW: 318 W. Lake Street, South Lyon Assessed Value Needed Today by 3:00

Mr. Donohue,

I've measured the subject property utilizing GIS, and I estimate the building to be 2,400 sq ft. Comparable office properties are selling for approximately \$100 per square foot; therefore, an appropriate true cash value for the subject parcel would be \$240,000. The true cash value stated is subject to an inspection verifying physical characteristics and external influences that are not readily observable utilizing GIS technology.

If you require additional assistance, then please feel free to contact me at 248-858-8766 or parisb@oakgov.com.

Sincerely,

Bryan Paris, MMAO, MCPPE
Equalization Field Supervisor
Oakland County Equalization
250 Elizabeth Lake Road, Suite 1000 W
Pontiac, MI 48341
E-Mail: ParisB@oakgov.com
Ph: (248) 858-8766
Fx: (248) 975-4407

Preliminary Data Analysis:

Former Library Building
318 West Lake Street
South Lyon, Michigan



Date of Preliminary Valuation: August 15, 2018

SUMMARY OF IMPORTANT DATA:

This exercise of preliminary data analysis applies as of August 15, 2018.

Subject Property:	318 West Lake, South Lyon, Michigan.
Location:	North side of West Lake Road, west of Pontiac Trail, South Lyon, MI.
Type of Property:	One story: commercial.
Zoning:	R-3 Residential.
Purpose of Analysis:	Market Valuation.
Value Analyzed:	Market Value.
Land Area:	8,712 s.f.
Building Size:	2,070 s.f.
Land / Bld'g. Ratio:	4.2 / 1.
Age of Improvements:	1960 (est)
Building Condition:	Fair.
Highest & Best Use: As Vacant:	Residential.
As Improved:	Residential or permitted other use (i.e. day care).
Remaining Econ. Life:	30 years.
Indicated Data Analysis:	Market Approach: \$ 62,000.00 Cost Approach: not developed Income Approach: not developed

WEIGHTED DATA INDICATORS:

\$ 62,000.00

The above data summarizes the findings of initial due diligence. They are not conclusions of value, nor are they to be construed as any form of appraisal of the property. No value conclusion is made, represented, or implied in the reporting of this data to the client. This data is for the intended user the city of South Lyon, only, and is predicated on the potential permitted use as a day care center (see Sec. 102-203, Item #8 – Addenda).

TAXES AND ASSESSMENT:

The Subject Property is taxed and assessed as follows:

Parcel #	2018 SEV	2018 Taxable Value	2017 Property Taxes
21- 19- 456 - 026	Exempt	Exempt	-0-

SALES COMPARISON APPROACH:

The following Sales Comparables are available for comparison to the Subject property:

COMPARABLE SALE #1

1014 N Saginaw St

Holly, MI 48442

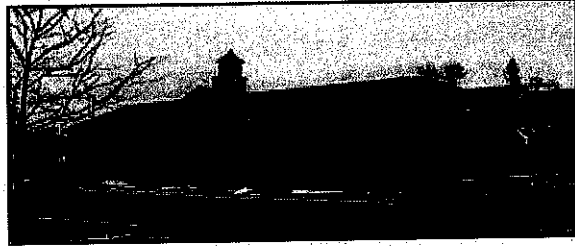
Day Care Center Building of 3,635 SF Sold on 6/20/2018 for \$285,000 - Public Record

buyer

Nj Holly Holdings Llc
2171 Deering St
West Bloomfield, MI 48323

seller

Holly Marketplace Llc



vital data

Escrow/Contract: -
Sale Date: 6/20/2018
Days on Market: -
Exchange: No
Conditions: -
Land Area SF: 22,355
Acres: 0.51
\$/SF Land Gross: \$12.75
Year Built, Age: 2005 Age: 13
Parking Spaces: -
Parking Ratio: -
FAR 0.16
Lot Dimensions: -
Frontage: -
Tenancy: Single
Comp ID: 4431039

Sale Price: \$285,000
Status: -
Building SF: 3,635 SF
Price/SF: \$78.40
Pro Forma Cap Rate: -
Actual Cap Rate: -
Down Pmnt: -
Pct Down: -
Doc No: 51943-365
Trans Tax: -
Corner: No
Zoning: C1
No Tenants: 1
Percent Improved: -
Submarket: Northern Outlying
Map Page: -
Parcel No: 01-27-302-004
Property Type: Retail

income expense data

Listing Broker

CORE Partners, LLC
30100 Telegraph Rd
Bingham Farms, MI 48025
(248) 399-9999
Phil Wojtowicz


Buyer Broker

financing


1st State Bk

Bal/Pmt: \$213,750


COMPARABLE SALE #3

29375 Halsted Rd Children's World Learning Center Farmington Hills, MI 48331 Day Care Center Building of 4,179 SF Sold on 5/23/2018 for \$295,000 - Public Record	
buyer 	
seller 	
vital data	
Escrow/Contract: - Sale Date: 5/23/2018 Days on Market: 173 days Exchange: No Conditions: - Land Area SF: 58,192 Acres: 1.29 \$/SF Land Gross: \$5.25 Year Built, Age: 1978 Age: 40 Parking Spaces: - Parking Ratio: - FAR: 0.07 Lot Dimensions: - Frontage: 120 feet on Halsted (with 2 ... Tenancy: Single Comp ID: 4271781	Sale Price: \$295,000 Status: - Building SF: 4,179 SF Price/SF: \$70.59 Pro Forma Cap Rate: - Actual Cap Rate: - Down Pmnt: - Pct Down: - Doc No: - Trans Tax: - Corner: No Zoning: MM Percent Improved: - Submarket: Farmington/Farm Hills Map Page: - Parcel No: - Property Type: Retail
income expense data	Listing Broker Pilot Property Group, Inc. 44400 Van Dyke Ave Sterling Heights, MI 48314 (586) 254-0900 Jimmy Diehl
financing	Buyer Broker


COMPARABLE SALE #4

3575 Airport Rd Kinder Care Waterford, MI 48329 Day Care Center Building of 5,880 SF Sold on 4/14/2016 for \$255,000 - Research Complete										
buyer First Free Will Baptist Church of Waterford 3575 Airport Rd Waterford, MI 48329 (248) 886-1036										
seller Kc Propco Holding I LLC 2601 S BAYSHORE Dr Coconut Grove, FL 33133										
vital data										
Escrow/Contract: 60 days Sale Date: 4/14/2016 Days on Market: 581 days Exchange: No Conditions: - Land Area SF: 61,855 Acres: 1.42 \$/SF Land Gross: \$4.12 Year Built, Age: 1986 Age: 30 Parking Spaces: 24 Parking Ratio: - FAR: 0.18 Lot Dimensions: - Frontage: 87 feet on Airport Rd (with 2 ... Tenancy: Single Comp ID: 3866747	Sale Price: \$255,000 Status: Confirmed Building SF: 5,880 SF Price/SF: \$43.37 Pro Forma Cap Rate: - Actual Cap Rate: - Down Pmnt: \$7,500 Pct Down: 2.9% Doc No: - Trans Tax: - Corner: No Zoning: BI No Tenants: 1 Percent Improved: - Submarket: Lakes Area Map Page: - Parcel No: 13-05-478-021 Property Type: Retail									
income expense data										
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">Expenses</td> <td style="width: 20%; text-align: center;">- Taxes</td> <td style="width: 40%; text-align: right;">\$12,810</td> </tr> <tr> <td></td> <td style="text-align: center;">- Operating Expenses</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Total Expenses</td> <td style="text-align: right;">\$12,810</td> </tr> </table>	Expenses	- Taxes	\$12,810		- Operating Expenses			Total Expenses	\$12,810	Listing Broker Pilot Property Group, Inc. 44400 Van Dyke Ave Sterling Heights, MI 48314 (586) 254-0900 Anthony Rubino, Jimmy Diehl
Expenses	- Taxes	\$12,810								
	- Operating Expenses									
	Total Expenses	\$12,810								
Buyer Broker No Buyer Broker on Deal										
financing										

COMPARABLE SALE #5

2700 E Commerce St Milford, MI 48381 Day Care Center Building of 3,654 SF Sold on 10/20/2016 for \$355,000 - Public Record											
buyer Milford Montessori School Llc											
seller Boffi Roberto & Regina											
vital data											
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	- Operating Expenses										
	Total Expenses	\$8,673									
financing											
1st Huntington National Bank Bal/Pmt: \$410,000											

COMPARABLE SALE #6

5758 Cooley Lake Rd Waterford, MI 48327 Day Care Center Building of 6,260 SF Sold on 11/1/2016 for \$190,000											
buyer											
seller											
Knowledge Learning Corporation 650 NE Holladay St Portland, OR 97232 (503) 872-1300											
vital data											
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Expenses	- Taxes	\$13,112									
	- Operating Expenses										
	Total Expenses	\$13,112									
financing		Buyer Broker									
		Pilot Property Group, Inc. 44400 Van Dyke Ave Sterling Heights, MI 48314 (586) 254-0900 Anthony Rubino									

Sales Discussion:

Sales Comparables #1- #4 are sales of day care facility buildings in the west side metropolitan market area. A preliminary adjustment grid is produced to show the following adjustment factors pertinent to the Subject Property: location, building size, effective age and condition, land / building ratio, construction and finish, as compared to the Subject:

Sale #	Sale Pr./ SF	location	Bldg Size	Eff. Age/ Cond.	Land / Bldg.	Constr./ Finish	Net Adj.	Adjusted SP/SF
1	\$78.40	0%	20%	-40%	0%	-30%	▮ -50%	\$39.20
2	\$69.42	0%	0%	0%	-5%	-30%	▮ -35%	\$45.12
3	\$70.59	0%	20%	-25%	-15%	-30%	▮ -50%	\$35.30
4	\$43.37	0%	30%	-30%	-15%	-30%	▮ -45%	\$23.85
5	\$97.15	0%	-15%	-25%	-15%	-30%	▮ -85%	\$14.57
6	\$30.35	0%	30%	-30%	-15%	-30%	▮ -45%	\$16.69
Mean:								\$29.12

Conclusion:

After making plus and minus adjustments to the sales comparables for differences in building size, effective age, land area, and construction /finish (the Subject would require remodeling for day care use), an indicated unit s.f. value range of from \$16.69/s.f to \$45.12/s.f. is produced for the building area of the Subject. All sales require significant finish adjustment for anticipated remodeling expense. After a preliminary analysis of all factors pertinent to value, a conclusion of \$30.00/s.f. would be considered a market value for the s.f. building area of the Subject Property, a value selected from the mid range of the adjusted sale prices. This preliminary sale price/s.f. recognizes the condition of the Subject Property, while also considering its overall functional utility as a potential day care facility building, including adequacy of parking, subject to permitted use. Applying this unit s.f. price to the building area of 2,070 s.f. produces a preliminary indicated projected sale price of:

$$2,070 \text{ s.f. } @ \$ 30.00/\text{s.f.} = \$ 62,100.00$$

SAY: \$ 62,000.00, rounded.

COST APPROACH:

The Cost Approach to value utilizes the appraisal principle of Substitution, which asserts that the value of a property can be determined through the cost to construct a substitute property of equal utility to the Subject. The Cost Approach is an effort to determine the cost to construct the Subject building and site improvements, to deduct total accrued depreciation, and to add this depreciated improvement value to the value of the site.

Site value is based on the principle of Substitution as well, emphasizing actual sales on sites of similar utility to determined market value for the Subject property.

The Value of the buildings and site improvements is calculated in the Cost Approach by determining the reproduction cost new of the improvements, less accrued depreciation. Accrued depreciation is the total amount of depreciation resulting from three factors: physical depreciation, functional obsolescence, and external obsolescence. As the Subject is of approx. 1960 construction, substantial physical depreciation is evident in building improvements. The building floorplan is functionally adequate, and the building is suitable for its use. The location of the site, in the city of South Lyon, a market area of average appeal and marketability, reflects no specific external obsolescence, which is related to any loss in value of the property attributable to locational influences, as derived from market sales of similar properties. Because of the age of the Subject property and the indeterminate amount of accrued depreciation evident in the property, this approach is not considered to be a reliable means of valuation in this case, and was not developed.

INCOME APPROACH:

A survey of day care properties in the local market indicates that they are typically either owner operated or corporate owned, and are not typically leased. Sufficient rental income and expense data is not available to establish market rent potential and projected expenses for the Subject. Therefore, the income Approach to value is not considered to be reliable in the case of the Subject, and is not developed.

Oakland County Public Records - Full Detail Report

Location & Ownership

Property Address:	33145 Dequindre Road	Property ID:	2036476061
City/State/Zip:	Troy, Michigan, 48063-4627		
Owner Name:	Dimatteo Family Llc	Lat/Long:	42.535955 / -83.087340
Taxpayer Address:	28480 Lathrup Boulevard	Census Tract:	1981
City/State/Zip:	Lathrup Village, Michigan, 48076-2829	Block Group:	2
City/Village/Town:	Troy	School District:	Warren Con
Subdivision:		Property Category:	Commercial
MLS Area:	02203 - Troy	Land Use:	201 - BUSINESS, IMPROVED
Legal Description:	T2N, R11E, SEC 36 PART OF SE 1/4 OF SE 1/4 BEG AT PT DIST N 00-54-00 W 235.55 FT FROM SE SEC COR, TH N 89-43-00 W 80 FT, TH S 70-59-40 W 21.19 FT, TH N 89-43-00 W 150.05 FT, TH N 00-54-00 W 240 FT, TH S 89-43-00 E 250.05 FT, TH S 00-54-00 E 223 FT TO BEG EXC E 60 FT TAKEN FOR RD 1.04 A		

Photos

Taxes

Year	Season	Total Ad Val	Admin Fee	Asmnt	CVT	Ttl Seasonal
2017	S	\$15,551.37	\$121.52	\$0.00	\$0.00	\$15,672.89
2016	W	\$567.44	\$5.67	\$0.00	\$0.00	\$573.11
2016	S	\$15,489.83	\$121.08	\$0.00	\$0.00	\$15,610.91
2015	W	\$568.91	\$5.68	\$0.00	\$0.00	\$574.59
2015	S	\$15,248.76	\$118.45	\$0.00	\$0.00	\$15,367.21
2014	W	\$561.61	\$5.61	\$0.00	\$0.00	\$567.22
2014	S	\$14,972.61	\$116.14	\$0.00	\$0.00	\$15,088.75
2013	W	\$427.24	\$4.27	\$0.00	\$0.00	\$431.51
2013	S	\$14,967.72	\$116.28	\$0.00	\$0.00	\$15,084.00

Assessments

Year	Taxable Val	State Eq Val	Hmstd %	Ttl Taxes
2017	\$328,110	\$353,230	0	\$15,672.89
2016	\$325,190	\$343,280	0	\$15,184.02
2015	\$324,220	\$324,220	0	\$15,941.80
2014	\$319,810	\$319,810	0	\$15,655.97
2013	\$317,400	\$317,400	0	\$15,515.51

Transfer Information

Grantor	Grantee	Sale Date	Deed Date	Sale Price	Deed Type	Liber/Page
DIMATTEO, PAULINE	PAULINE DIMATTEO TR	11/10/2003	11/07/2003	\$1	QCD	31395/0669
PAULINE DIMATTEO TR	DIMATTEO FAMILY	11/10/2003	11/07/2003	\$1	QCD	31395/0671
D1 O INV CO INC	DIMATTEO, PAULINE	02/26/1998	11/20/1997	\$1	QCD	18147/0438

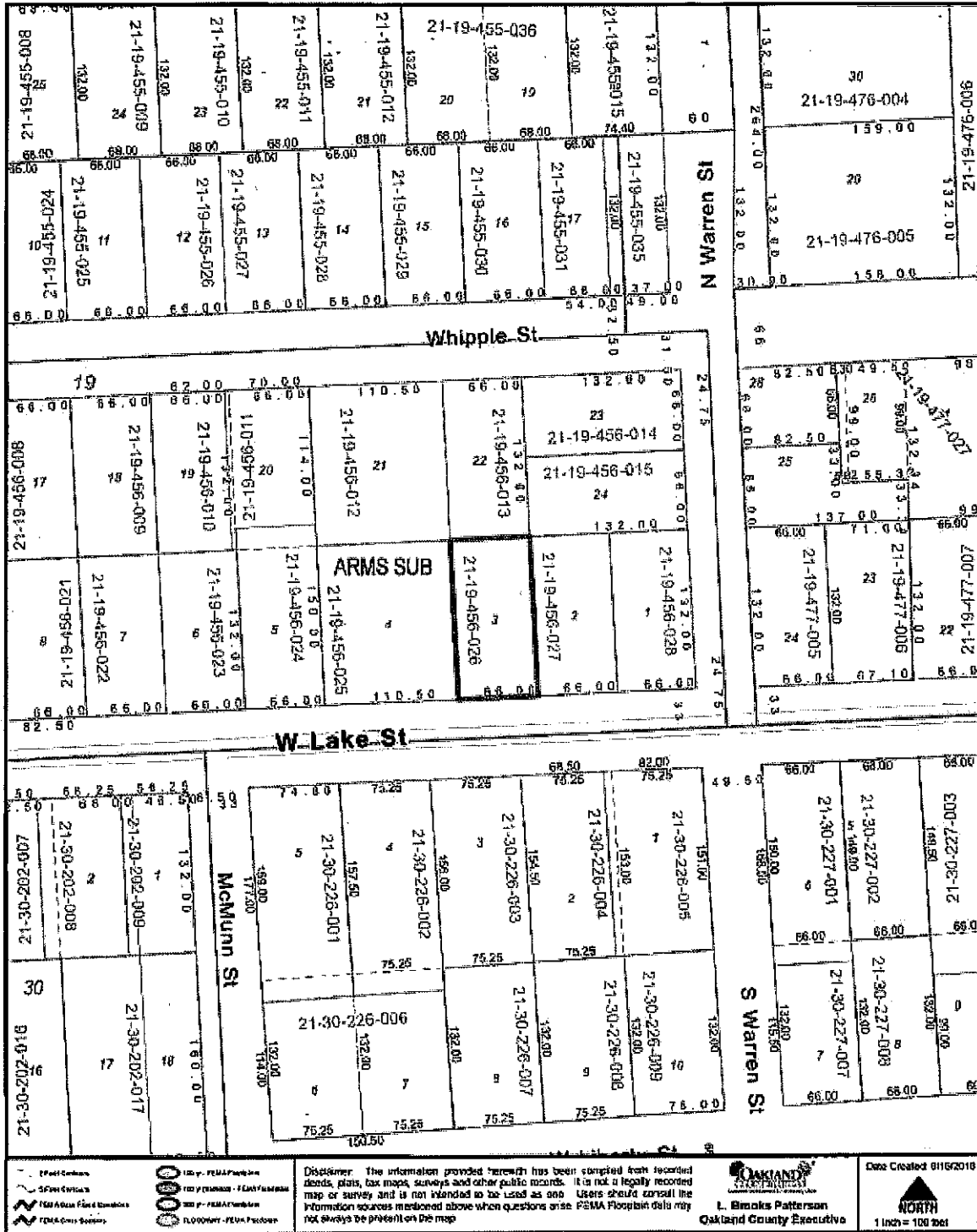
Other Recordings

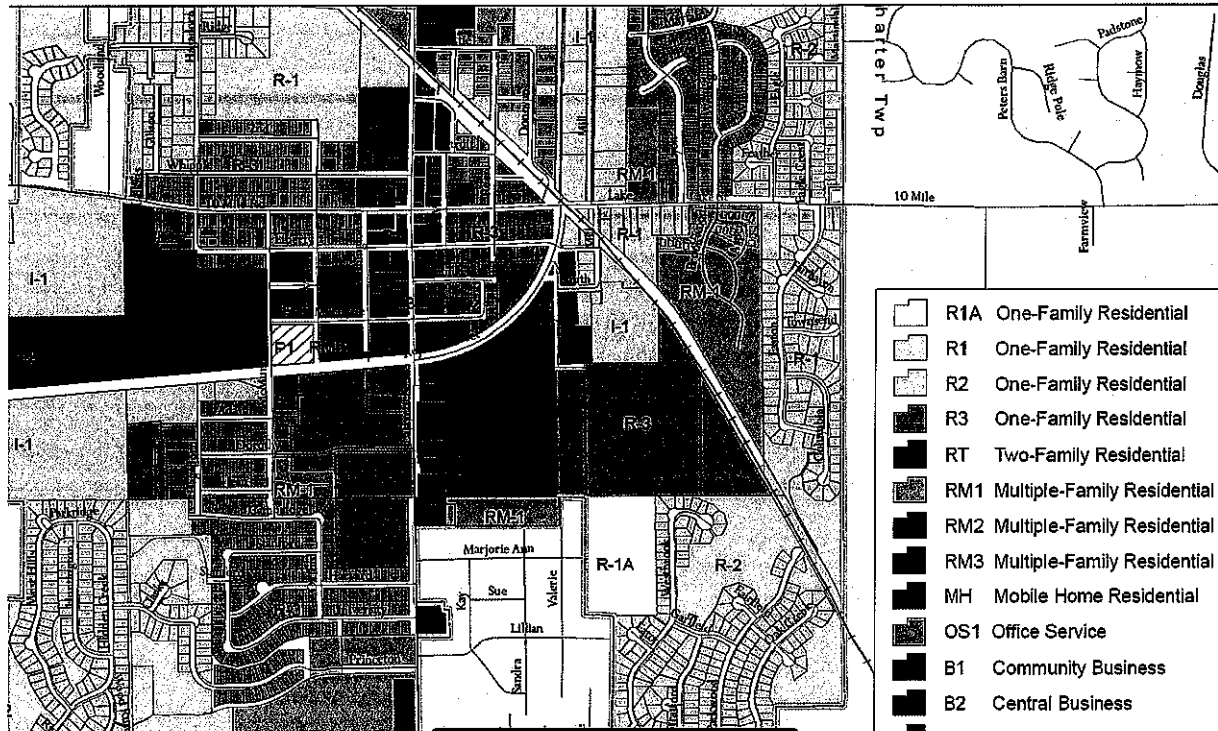
Obligee	Obligor	Record Date	Doc Date	Amount	Doc Type	Liber/Page
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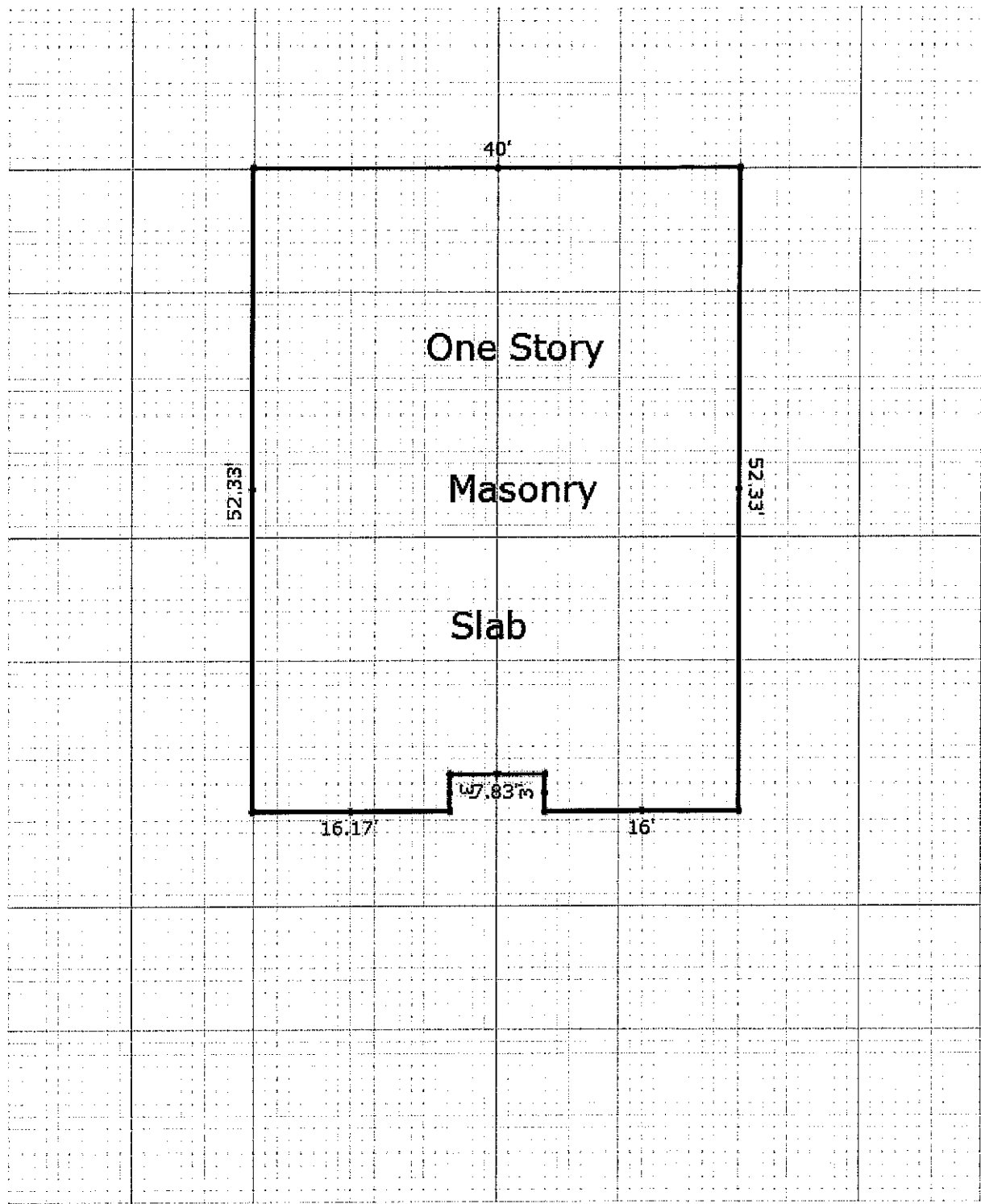
Characteristics

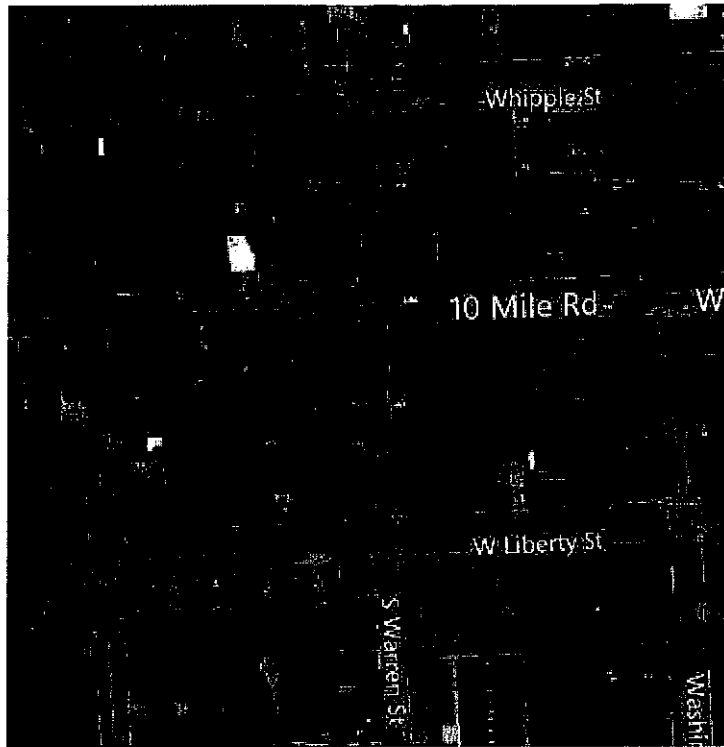
Living Area SF:	3826	Bedrooms:	
Year Built:	1971	Pool:	
Year Remodeled:	1979	Fireplace:	No
Architecture Level:	1 Story	Garage Year Built:	
Heating:	HVAC	Gas Service:	
# 1 Porch/Dimensions:	/ 0.0000	Storm Sewer:	
# 2 Porch/Dimensions:	/	Land Dimension:	1.03X43560
Irregular:	YES	Acres:	1.03

318 W Lake









DIVISION 2. - R-1A THROUGH R-3 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 102-201. - Intent.

The R-1A through R-3 one-family residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.

(Ord. of 2-13-95(2), § 5.90)

Sec. 102-202. - Principal uses permitted.

In a one-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) One-family detached dwellings.
- (2) Publicly owned and operated libraries, parks, parkways and recreational facilities.
- (3) Cemeteries which lawfully occupied land at the time of adoption of this chapter.
- (4) Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
- (5) Home occupation in compliance with the following provisions:
 - a. Home occupation shall not be permitted if said home occupation:
 1. Changes the outside appearance of the residential character of the dwelling.
 2. Occupies more than 25 percent of the ground floor area or basement of the dwelling.
 3. Requires the employment of anyone in the home other than the dwelling occupants.
 4. Generates excessive traffic, parking, sewage, or water use.
 5. Requires parking for customers that cannot be accommodated on the site and/or not exceeding one parking space at curbside in the street.
 6. Creates noise, vibration, glare, fumes, odors, or results in electrical interference, or becomes a nuisance.
 7. Results in outside storage or display of anything; including signs.
 8. Requires the delivery of goods or the visit of customers before 6:00 a.m. or after 8:00 p.m.
 - b. The following are permitted home occupations provided they do not violate the provisions of subsection (5)a of this section.
 1. Dressmaking, sewing, and tailoring.
 2. Laundering and ironing.
 3. Home crafts, such as model making, rug weaving, and lapidary work.
 4. Painting, sculpturing, or writing.
 5. Telephone answering.
 6. Computer application; not including sale of computers.
 7. Salesperson office or home office of a professional person.
 8. Tutoring, music, or dance teaching, limited to four students at a time.

9. Repair of clocks, instruments, or other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors, or results in electrical interference.
 10. Day-care home (family).
 - c. The following are not permitted as home occupations:
 1. Private clubs.
 2. Repair shops which create a nuisance due to noise, vibration, glare, fumes, odors, or electrical interference.
 3. Restaurants.
 4. Stables or kennels.
 5. Vehicle repair or paint shops.
 - d. Any proposed home occupation not referenced in subsections (5)b and (5)c of this section may be permitted subject to the conditions set forth in subsection (5)a of this section and subject to further review and approval by the planning commission pursuant to the procedure set forth in section 102-203.
 - e. Home occupation permits shall be limited to applicants who legally reside in the residence.
- (6) Accessory buildings and uses, customarily incident to any of the above uses, provided such building and uses are located on the same zoning lot as a permitted use.

(Ord. of 2-13-95(2), § 5.95)

Sec. 102-203. - Uses permitted subject to special conditions.

The following uses may be permitted upon the granting of a permit for such use by the planning commission subject to the conditions hereinafter imposed for each use, and subject further to such other reasonable conditions which, in the opinion of the commission, are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing and review in accord with article II, division 2, of this chapter.

- (1) Farms, provided they do not create a public nuisance as defined by local and county health codes and provided further that they shall meet the minimum of standards of those codes. Livestock when corralled or tethered shall be so restrained no less than 80 feet from any property line.
- (2) Apiaries, when located well into the interior of a property.
- (3) Private stable as an accessory use for not more than one horse on a lot and when said zoning is not less than two acres in area, except that one additional horse may be stabled thereon provided there is an additional one-half acre of land for each additional horse. In no instance shall a horse be tethered nearer than 80 feet to any property line and shall in all instances be located in the rear yard.
- (4) Public stables and riding academies subject to the following conditions:
 - a. There shall be maintained a minimum lot area of not less than ten acres, with a minimum lot width of not less than 500 feet.
 - b. There shall be provided an area of not less than one acre for each horse stabled.
 - c. Any structure for housing horses shall be not less than 100 feet from any exterior property line, except that any such structure shall not be less than 200 feet from any adjacent residential district.

- d. Manure and stable refuse shall be treated and disposed of as required by local health codes.
 - e. Grandstands and other spectator facilities may be permitted provided that all such facilities are located in the interior of the site, and provided further that adequate off-street parking as required in sections 102-476 and 102-477 shall be provided with all access to off-street parking conforming to requirements of section 102-439.
- (5) Churches and other facilities normally incidental thereto subject to the following conditions:
- a. Buildings of greater than the maximum height allowed in article VII, division 2, of this chapter may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
 - b. All access to the site shall be in accordance with section 102-439.
- (6) Public, parochial and private intermediate or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 102-439.
- (7) Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.
- (8) State licensed day care home (group) all in accord with Act 116 of 1973, as amended, for not more than 12 children for care during the day subject to the following:
- a. Is located not closer than 1,500 feet to any of the following:
 - 1. Another licensed group day care home.
 - 2. Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act.
 - 3. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under article 6 of the Public Health Code.
 - 4. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
 - b. Has appropriate fencing for the safety of the children in the group day care home as determined by the city.
 - c. Maintains the property consistent with the visible characteristics of the neighborhood.
 - d. Does not exceed 16 hours of operation during a 24-hour period. The city may limit the operation of a group day care home between the hours of 10:00 p.m. and 6:00 a.m.
 - e. Off-street parking for not less than two cars in addition to requirements for the dwelling unit shall be provided.
- (9) Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, all subject to the following conditions:
- a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare as designated on the major thoroughfare plan and the site shall be so planned as to provide all access in accordance with section 102-439.
 - b. Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition.

- c. Off-street parking shall be provided so as to accommodate not less than one-half of the member-families and/or individual members. The planning commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate from the immediately adjacent areas, and will therefore be pedestrian. Prior to the issuance of a building permit or zoning compliance permit, bylaws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal membership, the off-street parking requirement shall be determined by the planning commission on the basis of usage.
 - d. Whenever a swimming pool is constructed under this chapter, said pool area shall be provided with a protective fence, six feet in height, and entry shall be provided by means of a controlled gate.
- (10) Golf courses, which may or may not be operated for profit, subject to the following conditions:
 - a. The site shall be so planned as to provide all access in accordance with section 102-439.
 - b. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety.
 - c. Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any property line abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the planning commission may modify this requirements.
 - d. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate.
- (11) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical, or religious education and subject to the following conditions:
 - a. Any use permitted herein shall be developed only on sites of at least 40 acres in area, and shall not be permitted on any portion of a recorded subdivision plat.
 - b. All access to said site shall be in accordance with section 102-439.
 - c. No building shall be closer than 80 feet to any property line.
- (12) Cemeteries provided that:
 - a. Not more than 51 percent of the land in the residential unit in which the cemetery is to be located is in recorded plats.
 - b. All access to said site shall be in accordance with section 102-439.
- (13) Bed and breakfast operations as a subordinate use to single-family dwelling units subject to city licensing provisions and a determination by the city planning commission that the applicant has shown proof of historic significance of the dwelling unit. In making the determination, the planning commission shall reference the historic criteria developed and adopted by the commission. Bed and breakfast operations shall further be subject to the following:
 - a. Such dwelling shall abut a major thoroughfare as designated on the City of South Lyon Master Plan for thoroughfares.
 - b. Such dwellings shall meet all applicable codes and ordinances of the city, county and state.
 - c. Floor plans drawn to scale of all floors to be utilized for bed and breakfast activities shall be submitted to the city.

- d. Buildings shall be suitable in character for the use proposed and shall not be cause for a change in character of the neighborhood.
 - e. The dwelling shall be a building exhibiting historical qualities with not more than six sleeping rooms available for guests of the bed and breakfast dwelling.
 - f. There shall be no separate cooking facilities provided for the bed and breakfast occupants. Meals, other than those served as a part of the normal operation of the household, shall be served only to occupants of the bed and breakfast facility.
 - g. Approved smoke detectors shall be provided in individual sleeping units and in common hallways.
 - h. Emergency egress lighting to assure continued illumination for a duration of not less than one hour in case of emergency or primary power loss.
 - i. An approved fire extinguisher in the common hallway accessible to all occupants.
 - j. Every sleeping unit shall have at least one operable window approved for emergency egress or rescue, except where the sleeping unit is provided with a door to a corridor having access to two remote exits in opposite directions.
 - k. Occupancy shall be of a transient nature for periods not to exceed one week in duration in any one month by any transient occupant. A guest registry indicating name, address, phone number, vehicle license number shall be kept indicating dates of arrival and departure of guests and shall be available to the city for inspection upon request.
 - l. An unlighted sign not exceeding six square feet in area may be provided. Such sign may be provided as a ground sign or a wall sign.
 - m. Off-street parking shall be provided based upon one space for each rental room and one space for the operator of the facility. It is the city's intent to not encourage yards to be destroyed, landscaping removed or the integrity of the neighborhood altered in order to provide parking. In those instances where parking requirements cannot be met, the applicant may request special consideration from the planning commission. In such a case, the applicant shall submit an analysis of radius of the subject parcel. After analyzing this data, the planning commission may lower the number of the required parking spaces based on the fact that sufficient off-street parking exists in the neighborhood.
 - n. Such bed and breakfast dwelling shall not be located within 200 feet as measured from the nearest property lines of another such facility.
- (14) Private pools shall be permitted as an accessory use within the rear yard only provided they meet the following requirements:
- a. Private pools shall not require planning commission review and approval.
 - b. The outside of a pool wall shall not be located less than six feet from any rear or side lot line.
 - c. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - d. No swimming pool shall be located less than 35 feet from any front lot line or any existing dwelling unit on abutting property.
 - e. No swimming pool shall be located in an easement.
 - f. For the protection of the general public, all areas containing swimming pools shall be completely enclosed by a fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods.

- (15) Accessory buildings customarily incident to any of the above permitted uses, provided such buildings and uses are located on the same zoning lot as a permitted use.
- (16) Landscaping and snow removal vehicle storage subject to the following conditions:
 - a. Sites for vehicle storage of landscaping and snow removal equipment shall be limited to those sites whose side yard or rear yard abuts an industrial district(s).
 - b. There shall be maintained a minimum lot area of not less than four acres.
 - c. The maximum number of vehicles stored on site shall not be more than five.
 - d. The maximum number of trailers stored on site shall not be more than five.
 - e. All service vehicles and equipment must be screened from view and stored in the rear yard.
 - f. Trailers shall not exceed 20 feet in length.
 - g. Service vehicles shall be limited to those with one axle.
 - h. No product, material, or waste from another site shall be stored, dumped, or placed on site.
 - i. Hours of operation shall be between the hours of 7:00 a.m. and 8:00 p.m.
 - j. This use shall be subject to yearly review to ensure compliance with the above conditions.

(Ord. of 2-13-95(2), § 5.100; Ord. of 1-22-01(2), § 1; Ord. of 1-25-10(3))

Sec. 102-204. - Required conditions.

- (a) See article VII, division 2, of this chapter limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.
- (b) All dwelling units shall be reviewed by the building inspector subject to the following conditions:
 - (1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.
 - (2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.
 - (3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
 - (4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
 - (5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width-to-depth or depth-to-width ratio which does not exceed three to one, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.
 - (6) The dwelling shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.

- (7) The building inspector may request a review by the planning commission of any dwelling unit with respect to subsections (b)(3), (4) and (5) of this section. The building inspector or planning commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the building inspector may require the applicant to furnish such plans, elevations and similar documentation as it deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 similar type dwellings shall be considered.

(Ord. of 2-13-95(2), § 5.105)

Secs. 102-205—102-215. - Reserved.