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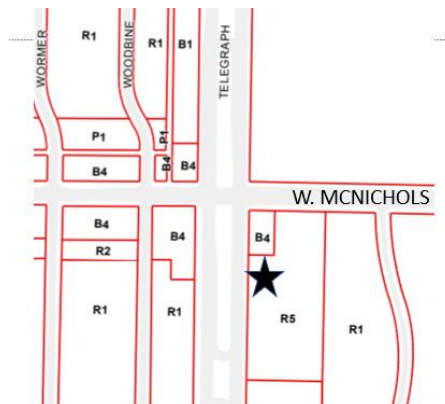
HONORABLE CITY COUNCIL

RE: The request of the Telegraph Musical Co, LLC and the Detroit City Planning Commission to rezone 16890 and 16920 Telegraph Road from a R5 (Medium Density Residential) zoning classification to a B4 (General Business) zoning classification (RECOMMEND APPROVAL)

The Telegraph Musical Co, LLC (TMC) and the City Planning Commission (CPC) are requesting to amend Article XVII, Section 50-17-75, District Map No. 73 of the 2019 Detroit City Code, Chapter 50, Zoning, to show a B4 zoning classification where a R5 zoning classification is currently shown at 16890 and 16920 Telegraph Road. The subject property is generally located on the east side of Telegraph south of West McNichols. The change in zoning is being requested so that the zoning in the area is more consistent with existing land uses and the City's Master Plan of Policies. Please see the attached CPC public hearing notice for reference.

BACKGROUND AND REQUEST

The east side of Telegraph, south of West McNichols, is zoned R5 except for the existing gas station at the corner 23891 Telegraph, which is zoned B4. The existing zoning map for this area is shown below.



TMC is the owner of 16890 Telegraph Road – highlighted in red on the map below. This site presently contains a one-story vacant commercial building formerly occupied by a nightclub called The Jazz Club. The Jazz Club LLC, a related party, has been working since 2016 to redevelop the site as a medical marijuana caregiver center and retail space.



Regarding the history of the site, back in 1940s, 16890 Telegraph and the surrounding area were zoned R1 (Single-Family Residential). It appears that during the 1950s, the subject area was changed from R1 to RM4 (referred to as 50 Foot Height – Multiple Dwellings). In 1961, the Detroit Board of Zoning Appeals (BZA) granted permission to erect a cocktail lounge and restaurant. In 1968, 16890 Telegraph and surrounding land changed from RM4 to R5. However, the nearby gas station was rezoned from B2 (Local Business) to B4.

The following is a brief summary of the petitioner’s efforts to redevelop 16890 Telegraph:

- March 2015 - the Detroit Buildings, Safety Engineering, and Environmental Department (BSEED) issued the Jazz Club LLC a building permit to change from a nightclub to retail sales
- March 2016 - the Jazz Club LLC applied to BSEED for a medical marijuana dispensary
- March 2016 - BSEED denied application due to proximity to a drug-free zone – it was within 1,000 feet of a greenway
- October 2017 - the Jazz Club LLC appealed to the BZA which affirmed BSEED’s decision that the subject property was located in a drug-free zone
- March 2018 - the Jazz Club LLC appealed to Circuit Court, and the Court affirmed the BZA’s decision to deny
- January 2020 - the Court of Appeals reversed the Circuit Court’s decision, concluding that the subject greenway did not qualify as a drug-free zone and remanded the case back to Circuit Court
- April 2021 - Wayne County Circuit Court ruled, in part, the City will proceed on the Jazz Club LLC’s application for land use approval for a medical marijuana facility

Since the Jazz Club submitted its request dating back to 2015, it was regularly noted in BSEED, BZA, and court documents that the subject site was zoned B4. Upon further review, in June 2021, BSEED informed the Jazz Club that the land was in fact zoned R5 which does not allow medical marijuana caregiver centers or provisioning centers. In order to resolve the issue, the TMC is now requesting that 16890 Telegraph be rezoned from R5 to B4 to allow the reuse of a portion of the subject building for a medical marijuana provisioning center facility and use of the remainder of the building with a retail use, likely a hardware or garden store.

Land at 16920 Telegraph Road, north of the subject Jazz Club, is also zoned R5 and currently developed with the Telegraph Motel. Motels are a conditional land use in both R5 and B4. The

CPC is proposing that this land be added to the subject request and be rezoned to B4 as well. This would create a similar zoning pattern on the east side of Telegraph, south of W. McNichols, creating a contiguous zoning of B4 with the gas station, the motel, and former Jazz Club. The CPC staff contacted the owner of the motel, Mr. Shri Sai Ram, to discuss the proposal and, later, Mr. Ram submitted a letter in support of the rezoning. The map below shows the two parcels proposed to be rezoned highlighted in red.



Expanded Request 23861 & 23871 W. McNichols – Later Withdrawn

Land on the south side of W. McNichols just east of the gas station is presently zoned R5 and developed with vacant land at 23871 W. McNichols, which is owned by the Detroit Land Bank Authority (DLBA), and 23861 W. McNichols which has a 1-story commercial building. The CPC proposed that these two parcels be rezoned from R5 to B4, as well, in order to create a B4 commercial node at the intersection of Telegraph and W. McNichols. These parcels are highlighted in blue in the image above.

However, after including these two parcels in the rezoning request, CPC staff investigated these two sites more thoroughly. CPC staff found that 23871 W. McNichols was previously used for offices but demolished in 1988 and is now vacant land owned by the DLBA. 23861 W. McNichols was used for offices via BZA variance in 1961, and as a medical office in 1985. However, it now appears, within the past three years or so, Cleveland Trucking Inc. Logistics & Excavating has moved into the building and is storing several large semi-trailers/gravel haulers behind the building and on the DLBA land. CPC staff is not aware of any valid permit for the company to use either site. CPC staff asked BSEED to investigate the land use status of the trucking company, but has yet to receive a response.

CPC staff spoke with the owner of the trucking company who indicated they would like to rezone their property; in early 2020, they inquired with the City about rezoning their land. The current trucking use is listed in the Zoning Ordinance as a trucking terminal/open area for the parking of semi-trailers, which is first allowed in B6 (General Services) and industrial zoning districts. CPC staff advised the company that they could request a rezoning to legalize the trucking operation, but suggested that the company also explore finding other land that is already

zoned B6 or industrial. As a result, the CPC agreed to remove these two parcels from the subject request.

COMMUNITY INPUT AND PUBLIC HEARING

On October 5, 2021, TMC held a zoom meeting with the adjacent neighbors. The petitioner indicated that there was general support at the meeting, and it was noted that hopefully this project will help with two main area problems of vagrancy and security.

On October 7, 2021, the City Planning Commission held a public hearing on the rezoning request. The CPC received a letter of support from the adjacent River Block Neighborhood Association and four letters of support from area business, including the adjacent Telegraph Motel at 16920 Telegraph. During public comment, one member of the public spoke in support noting that the petitioner provides jobs for area residents. One of the petitioner's representatives indicated they had done extensive outreach to the surrounding area, including going door-to-door in the area. They said that most welcomed the proposed medical marijuana use because it would bring added security and less dumping. The petitioner indicated that the company would work to limit odors and noise and stated that they would hire local residents as well as train them to start their own businesses.

The Commissioner's feedback is summarized as follows:

- One Commissioner favored rezoning all the subject sites now to B4, to avoid having to revisit the site later.
- One Commissioner asked to hear from BSEED, which was not present, particularly regarding the Appeals Court decision and BSEED's current stance on this petition. CPC staff responded it had consulted with the City Administration and was advised to proceed with the subject rezoning.
- One Commissioner asked if baseline outreach efforts are required related to marijuana uses. The petitioner responded that they do need a community benefits agreement/good neighbor plan in place as part of the State license for medical marijuana.
- One Commissioner said it would be helpful for the local Detroit police precinct to provide feedback on this proposal. The petitioner responded that there is not an overconcentration in the area - the closest marijuana use is Green Genie, which is more than 2,000 feet away. The Commander of the 8th precinct reported to the Commission that the subject area has challenges with prostitution, dumping and vagrancy, but did not have an official position on the proposed marijuana use.

PLANNING CONSIDERATIONS

Surrounding Zoning and Land Use

The zoning classification and land uses surrounding the subject area are as follows:

North: R1; across W. McNichols, developed with Grand Lawn Cemetery
East: R1; developed with single-family housing (referred to as the River Block Neighborhood Association)
South: R5; developed with apartment buildings
West: B4 and R1; across Telegraph, developed with a restaurant and single-family housing

Zoning Classifications

The pertinent zoning district classifications are described as follows:

R5 – Medium Density Residential District

This district provides for a range of residential development from the single-family detached dwelling to medium-density multiple-family dwellings. The primary use in this district will be the rental apartment structure. In addition to permitted residential uses, certain specified non-residential uses which can be properly blended into this district may be permitted. R5 does allow some limited commercial uses as conditional, such as motels. Uses such as offices not more than 3,000 square feet are conditional.

B4- General Business District

This district provides for business and commercial uses of a thoroughfare-oriented nature. In addition to these uses, other businesses, which may benefit by drawing part of their clientele from passing traffic are permitted. Additional uses, which may be successfully blended with permitted by-right uses, are conditional.

Zoning Ordinance Criteria

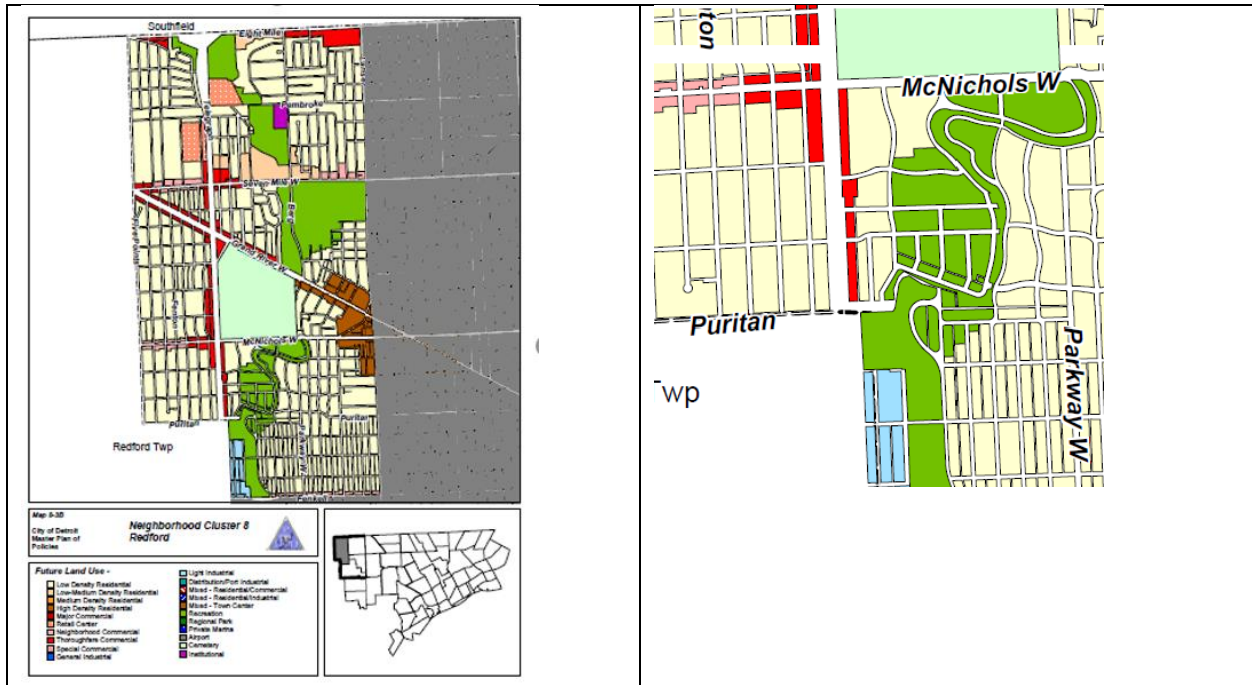
Section 50-3-70 of the Detroit Zoning Ordinance lists eight approval criteria on which zoning map amendments must be based. The CPC's analysis of the criteria is as follows:

1. *Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact;*

The proposed amendment would not correct an error on the zoning map. The proposed map amendment meets the challenge of a changing condition or trend. At least since the 1960s, it appears the subject area has developed with a mix of commercial uses (the gas station, motel, and Jazz Club) and apartment buildings further south.

2. *Whether the proposed amendment is consistent with the Master Plan and the stated purposes of this Zoning Ordinance;*

The subject site is located within the Redford Area of Neighborhood Cluster 8 of the Detroit Master Plan of Policies shown below. The Future Land Use map for this area shows Thoroughfare Commercial (TC) along the east side of Telegraph south of McNichols and Low Density Residential (RL) east of the commercial frontage. P&DD staff indicates the following: "the proposed commercial rezoning along Telegraph is consistent with the Master Plan. The expansion of the commercial zoning into the area designated as RL, though currently zoned as Medium Density Residential, does not change the character of the area, as the development is presently commercial. Therefore, the overall proposed rezoning envisions commercial uses such as are seen today and is generally consistent with the Master Plan classifications."



3. *Whether the proposed amendment will protect the health, safety, and general welfare of the public;*
 The CPC thinks the proposed amendment will not have a negative impact on the health, safety, and general welfare of the public. The proposed amendment will reflect the long term use of the property for commercial activity.

4. *Whether the City and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development;*
 The subject rezoning is located on Telegraph Road which is an eight lane thoroughfare.

5. *Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, soil, wildlife, and vegetation and with respect to anticipated changes in noise and regarding stormwater management;*
 It appears the proposed project will not have significant adverse impact on the natural environment. The developer indicates it will have a rigorous odor elimination plan and is willing to explore adding stormwater management solutions to the existing asphalt parking lot.

6. *Whether the proposed amendment will have significant adverse impacts on other property that is in the vicinity of the subject tract;*
 It is not anticipated the proposed rezoning will have significant adverse impacts on other property that is in the vicinity. There is an existing commercial use to the north (the gas station) and there are existing commercial uses further south (a gas station and LED sign shop). The subject Jazz Club was allowed by a BZA grant in the 1960s. As a result, the subject rezoning would reflect the current land use for the subject area.

7. *The suitability of the subject property for the existing zoning classification and proposed zoning classification; and*

As noted earlier in this report, in 1961, the Detroit BZA granted permission to erect a one-story cocktail lounge and restaurant at 16890 Telegraph. The subject site has been used for a variety of commercial uses since that time. The subject motel is allowed as conditional use in both R5 and B4.

8. *Whether the proposed rezoning will create an illegal "spot zone."*

As shown on the existing zoning map, there exists other B4 parcels to the northwest, north, west (across Telegraph), and further south. The proposed rezoning also complies with the Master Plan of Policies. As a result, the proposed rezoning would not create a spot zone.

CONCLUSION AND RECOMMENDATION

In conclusion, based on the public hearing, above analysis, and review of the Section 50-3-70 criteria of the Zoning Ordinance, CPC staff recommends **APPROVAL** of the rezoning request to rezone 16890 and 16920 Telegraph Road from R5 to B4. The approved-as-to-form Ordinance is attached for Your consideration.

Respectfully submitted,

Lauren Hood, CHAIRPERSON



Marcell R. Todd, Jr., Director
Christopher J. Gulock, AICP, Staff

Attachments: public hearing notice and ordinance

cc: Kim James, Esq., Law Department
Dave Bell, Director, BSEED
Antoine Bryant, Director, P&DD
Karen Gage, P&DD

Lauren Hood, MCD
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NOTICE OF PUBLIC HEARING

The Detroit City Planning Commission will conduct a public hearing on a proposed amendment to the Detroit Zoning Ordinance:

THURSDAY, OCTOBER 7, 2021 AT 6:00 PM

to consider the request of the City Planning Commission and the Telegraph Musical Co LLC to amend Article XVII, Section 50-17-75, District Map No. 73 of the 2019 Detroit City Code, Chapter 50, Zoning, to show a B4 (General Business District) zoning classification where a R5 (Medium Density Residential District) zoning classification is currently shown at 16920 and 16890 Telegraph Road, and 23861 and 23871 West McNichols Road generally located on the east side of Telegraph south of West McNichols. The location of the proposed rezoning is indicated as the shaded area on the accompanying map.

The proposed map amendment is being requested so that the zoning in the area is more consistent with existing land uses and the City's Master Plan of Policies. The pertinent zoning district classifications are described as follows:

R5 – Medium Density Residential District

This district provides for a range of residential development from the single-family detached dwelling to medium-density multiple-family dwellings. The primary use in this district will be the rental apartment structure. In addition to permitted residential uses, certain specified non-residential uses which can be properly blended into this district may be permitted.

B4- General Business District

This district provides for business and commercial uses of a thoroughfare-oriented nature. In addition to these uses, other businesses, which may benefit by drawing part of their clientele from passing traffic are permitted. Additional uses, which may be successfully blended with permitted by-right uses, are conditional.

Zoning Ordinance amendments require approval by the City Council following a separate public hearing conducted by the Council. The Council considers the matter upon receipt of a report and recommendation from the City Planning Commission. This Zoning Ordinance map amendment request is being considered consistent with the provisions of Article III, Divisions 2, 3 and 4 of Chapter 50 of the 2019 Detroit City Code, the Detroit Zoning Ordinance.

All interested persons are invited to be present and be heard as to their views. Persons making oral presentations as well as those persons who are unable to attend this public hearing are encouraged to submit written testimony, for the record, to the City Planning Commission via e-mail at cpc@detroitmi.gov or via US Mail to the above address. Public comment/testimony may be given at

the appropriate times when called for during the meeting. If you desire to speak and are attending the meeting online, press the “raise your hand” icon at the bottom of the screen or press ALT-Y for a PC or OPT-Y for a MAC to raise your hand virtually. If attending by phone press *-9 to raise your hand.

If interpretation or translation services are needed, including for the hearing impaired, call the Department of Civil Rights, Inclusion & Opportunity at 313-224-4950. For further information on this proposal or the public hearing, please call (313) 224-6225.

CPC Webpage: <https://detroitmi.gov/government/commissions/city-planning-commission>

Pursuant to the Michigan Open Meetings Act, as amended, and in response to the COVID-19 pandemic the Detroit City Planning Commission (CPC) will be meeting virtually using a videoconferencing platform.

The CPC meeting may also be viewed in the following manner.

Online:

<https://cityofdetroit.zoom.us/j/96355593579?pwd=TTloMzN5M3pmU1RKNXp1MjJlczN3UT09>

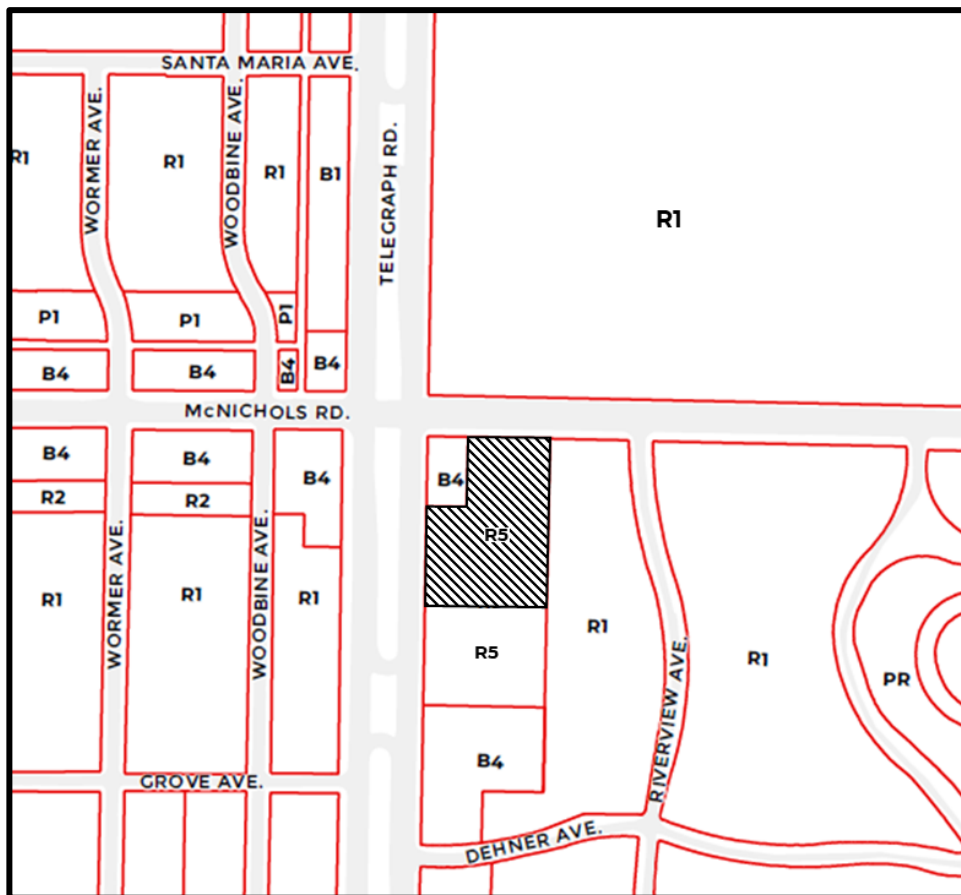
Or iPhone one-tap:

US: +12678310333,96355593579# or +13017158592,,96355593579#

Or by Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 267 831 0333 or +1 301 715 8592 or +1 312 626 6799 or +1 213 338 8477 or +1 253 215 8782 or +1 346 248 7799 Webinar ID: 963 5559 3579



Highlighted area proposed to be rezoned from R5 to B4

SUMMARY

An ordinance to amend Chapter 50 of the 2019 Detroit City Code, *Zoning*, by amending Article XVII, *Zoning District Maps*, Section 50-17-75, *District Map No. 73*, to revise the existing R5 (Medium Density Residential District) zoning classification to the B4 (General Business District) zoning classification for two parcels generally located on the east side of Telegraph Road and south of West McNichols Road, commonly known as 16890 Telegraph Road and 16920 Telegraph Road (Lot 7 only).

1 **BY COUNCIL MEMBER _____** :

2 **AN ORDINANCE** to amend Chapter 50 of the 2019 Detroit City Code, *Zoning*, by
3 amending Article XVII, *Zoning District Maps*, Section 50-17-75, *District Map No. 73*, to revise
4 the zoning classification for two parcels generally located on the east side of Telegraph Road and
5 south of West McNichols Road, commonly known as 16890 Telegraph Road and 16920 Telegraph
6 Road (Lot 7 only) from the existing R5 (Medium Density Residential District) zoning
7 classification to the B4 (General Business District) zoning classification.

8 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:**

9 **Section 1.** Chapter 50 of the 2019 Detroit City Code, *Zoning*, Article XVII, *Zoning District*
10 *Maps*, Section 50-17-75, *District Map No. 73*, is amended as follows:

11 **CHAPTER 50. ZONING**

12 **ARTICLE XVII. ZONING DISTRICT MAPS**

13 **Section 50-17-75. District Map No. 73.**

14 For the properties generally located on the east side of Telegraph Road and south of West
15 McNichols Road, commonly known as 16890 Telegraph Road and 16920 Telegraph Road (Lot 7
16 only) and identified more specifically as:

17 E TELEGRAPH 8 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300;

18 E TELEGRAPH 7 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300,

19 the existing R5 (Medium Density Residential District) zoning classification is revised to the B4
20 (General Business District) zoning classification.

21 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are
22 repealed.

1 **Section 3.** This ordinance is declared necessary for the preservation of the public peace,
2 health, safety, and welfare of the people of the City of Detroit.

3 **Section 4.** This ordinance shall become effective on the eighth (8th) day after publication
4 in accordance with Section 401(6) of Public Act 110 of 2006, as amended, M.C.L. 125.3401(6),
5 and Section 4-118, paragraph 3 of the 2012 Detroit City Charter.

Approved as to Form:



Charles Raimi,
Deputy Corporation Counsel

12/20/21