

**NOTATIONS**

TO: City of Detroit Planning Commission

FROM: Charles E. Murphy  
Andrew Richner  
Clark Hill PLC

DATE: September 15, 2021

SUBJECT: 16890 Telegraph Road - Reasons for Zoning Classification Change

---

Telegraph Musical Company, LLC ) ("TMC"), as the owner of the property located at 16890 Telegraph Road (the "Property"), is petitioning to rezone the Property to B4 General Business District, which would permit a medical marijuana caregiver center to be operated by a related party as tenant, the Jazz Club 2 LLC (the "Jazz Club"). On June 28, 2021, the Building Safety Engineering and Environmental Department ("BSEED") sent a letter to TMC stating that the Property was located in an R5 Medium Density Residential District. TMC's petition is based on the following: (1) the City's Master Plan of Policies for the Property; (2) TMC understood and relied upon numerous communications from the City of Detroit going back to 2015 that the Property was zoned B4 in pursuing its license to do business at the Property and (3) the prior nonconforming uses granted by the City are consistent with TMC's proposed use of the Property.

**1. City's Master Plan**

Our position regarding the intent of the City's zoning is supported by the City's Master Plan of Policies for the Property. The City's Master Plan of Policies for Neighborhood Cluster 8 Redford at page 5 shows the entire length of Telegraph Rd. between W. McNichols and Dehner Street, which includes the Property, as used and zoned for Major Commercial Uses. **Ex. 1.**

The City's Master Plan demonstrates the intent of the City to zone the properties on Telegraph Rd. between W. McNichols and Dehner as B4. This would be consistent with the long-standing commercial uses of these properties prior to the adoption of the zoning code. The first three lots on Telegraph Rd. running south are a Mobil Gas station (23891 West McNichols Rd., Parcel # 22122530-4, classified as B4 in the zoning portal), Suburban Motel (16920 Telegraph Rd, Parcel # 22122526-9, classified as R5 in the zoning portal) and then the Property. The parcels north of Dehner are commercial properties (16800 Telegraph Rd., Parcel # 22122519-21 classified as B4 in the zoning portal). Simply put, it does not make sense that the intent of the City is to classify the Property as R5 when it had been a nightclub serving liquor and food since the early 1960s, when the surrounding adjacent commercial properties are classified as B4, except for the Suburban Motel.

**2. Statements by the City That the Property Is Zoned B4**

The June 2021 letter is contrary to innumerable statements by the City of Detroit since 2015 that the Property is located in a B4 zone as described below.

BSEED issued a building permit for the change of use of the Property from a nightclub to retail sales on March 31, 2015 and listed the zoning district as B4. BSEED approved the certificate of occupancy on July 27, 2015 and listed the zoning district as B4.

The Jazz Club applied for a medical marijuana caregiver center license on March 1, 2016. The Jazz Club filed a site plan application and a building permit application. The March 1, 2016 Site Plan Application lists the Property zoning as B4. The Jazz Club application was denied on March 3, 2016 by BSEED due to proximity to what BSEED alleged was a park. BSEED questioned the zoning designation after March 3, 2016 and following an exchange with The Jazz Club began describing the zoning as B4, which will be described in detail below.

The Jazz Club brought a Circuit Court action to obtain an order that it was entitled to an appeal hearing before the Board of Zoning Appeals ("BZA"). Judge John Murphy issued an order on August 15, 2016 directing the BZA to allow the Jazz Club an appeal. On August 3, 2016 BSEED denied the request for an administrative review based on the proximity to the Rouge Valley Parkway.

On August 8, 2016 the Jazz Club filed an appeal to the BZA.

The BZA Worksheet for the appeal dated August 12, 2016 lists the Zoning District as "B4 (General Business District)" and describes the location as "16890 Telegraph between Six Mile and Fenkell in a B4 zone (District)." In describing the Appeal, the Worksheet states: "No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day and uncorrected and continued violations shall constitute a separate violation in a B4 zone (District)." **Ex. 2.**

This BZA Worksheet dated August 12, 2016 was corrected on the Location line to state that 16890 Telegraph Rd was between W. McNichols Rd and Dehner St. It is noteworthy that the statement regarding the B4 zoning district on the same line was not changed. **Ex. 3.**

A September 15, 2016 Assessment sheet describes the building as commercial/industrial building -bar-tavern and under Zoning Code states "2011 AUTH". **Ex. 4.**

The BZA Zoning Appeals Inspector Issued a notice to the parties in interest within 300 feet of the Property for the BZA appeal hearing on October 11, 2016 and in describing the Location of 16890 Telegraph Rd stated that it is located in a "B4 Zone". In the Proposal section addressing the BSEED position the Inspector again describes the Property as being in a "B4 zone." **Ex. 5.**

The minutes of the BZA public hearing on October 11, 2016 at page 5 state that the appeal hearing was adjourned but stated twice in the Location and Proposal sections that the Property is located in a B4 zone. **Ex. 6.**

The appeal was adjourned to February 14, 2017 and the notice to parties of interest again state twice that the Property is located in a B4 Zone. **Ex. 7.**

April Purofoy, the BZA Zoning Inspector, and James Ribbron, the Director of the BZA prepared a BZA "Staff Report" for the February 14, 2017 BZA hearing. There are statements that the Property is located in a B4 zone in the Location section and the Whereas section of the Staff Report. More significantly in the Presentation of Facts section it is stated that an inspection was made of the Property on January 20, 2017 and "shows that the property is located within a one-story building in a B4 Zone. General Business District." This section concludes by reiterating that

the Property is located in a "B4 zone" and states the block in question contains the "Subject Property" and "Commercial/Industrial Uses." **Ex. 8.**

The minutes of the BZA public hearing on February 14, 2017 at page 7 state that the appeal hearing was adjourned but state twice in the Location and Proposal sections that the Property is located in a B4 zone. **Ex. 9.**

The BZA was adjourned to October 10, 2017 when the appeal hearing took place. The BZA Worksheet for the October 10, 2017 BZA hearing makes three statements that the Property is in a B4 Zone in the Zoning District, Location and Appeal sections of its Worksheet. **Ex. 10.**

April Purofoy, the BZA Zoning Inspector, and James Ribbron, the Director of the BZA signed a BZA "Staff Report" for the October 10, 2017 BZA hearing. There are statements that the Property is located in a B4 zone in the Location section and the Whereas section of the Staff Report. More significantly in the Presentation of Facts section it is stated that two inspections were made of the Property on January 20, 2017 and September 29, 2017 and "shows that the property is located within a one-story building in a B4 Zone. General Business District." This section concludes by reiterating that the Property is located in a "B4 zone" and states the block in question contains the "Subject Property" and "Commercial/Industrial Uses." **Ex. 11.**

The notice for the October 10, 2017 BZA hearing again states twice that the Property is located in a B4 zone. **Ex. 12.**

The transcript of the October 10, 2017 BZA hearing includes testimony of Inspector April Purofoy beginning at page 57 and at page 59 where she testifies that "An inspection made on January 20<sup>th</sup>, 2017 and September 29<sup>th</sup>, 2017, shows the property is located within a one-story building in a B4 Zone." Inspector Purofoy at page 60 quotes from the BSEED administrative review correction of August 3, 2016 and describes the building and land as being in a "B4 Zone." **Ex. 13.**

Also, BSEED's Jayda Philson testified at the BZA hearing at pages 76-79 and did not contest or contradict Inspector Purofoy's statement that the Property is located in a B4 Zone. She indicated that BSEED's inspectors also inspected the Property for the Certificate of Occupancy **Ex. 13.** The Certificate of Occupancy lists the Property as located in a B4 Zone.

The minutes of the BZA public hearing on October 10, 2017 at page 3 contain statement by the BZA in the Location and Proposal sections that the Property is located in a B4 zone. The BZA affirmed BSEED's decision that the Property is in a Drug Free Zone. **Ex. 14.**

The BZA Decision and Order dated December 5, 2017 states the Property is located in a B4 zone in the Address and Legal Description section. It reiterates BSEED's August 3, 2016 Administrative Review and Correction Order stating the Property is in a B4 zone. The BZA Resolution affirming the BSEED Order states the Property is in a "B4 zone." **Ex. 15.**

The Jazz Club was closed by January 1, 2018 following Judge John Murphy's denial of its motion to stay enforcement of the BZA decision and to stay open during its appeal to the Wayne County Circuit Court of the BZA decision. BSEED issued a Correction Order on February 8, 2018 again stating that the Property is located in a B4 Zoning District. **Ex. 16.**

In every pleading and appeal brief filed by the City of Detroit in the appeal of the Jazz Club to the Wayne County Circuit Court and then to the Court of Appeals between October 18,

2017 and January 9, 2020, the City stated that the Property is located in a B-4 General Business District Zone.

Based on the prior statements of the City, the Jazz Club has a very strong case for equitable estoppel based upon its reliance upon the affirmative statement of the City with respect to the B4 zoning classification of the Property. When the City made its statements, the parties were acting in good faith and without collusion, the proposed use was apparent and the Jazz Club was forthright in its representation of the use of the property as a medical marijuana provisioning center. The Jazz Club has expended a considerable amount of money for the BZA , Wayne County Circuit Court, Court of Appeals, and the Wayne County Circuit Court remand proceedings in reliance upon the City's statements that the Property is located in a B4 zone and six years have elapsed since the city began stating repeatedly that the Property is in a B4 zone before BSEED issued the June 28, 2021 letter.

### 3. Legal Non-Conforming Use

Since at least 1961, the City has granted permission to operate a cocktail lounge/nightclub/restaurant/bar/arcade at the Property as legal non-conforming uses of the Property.<sup>1</sup>

BZA Case 869-61 was decided November 20, 1961. The owners were granted permission to erect a one-story cocktail lounge and restaurant and to also use the front, side and rear yards for off-street parking in an RM4 district. According to the zoning code at that time a cocktail lounge and restaurant would be a use allowed in a B2 district. There is reference to an earlier January 10, 1961 BZA decision granting the owner's permission to erect a cocktail lounge and restaurant on the property but with smaller dimensions. This appeal was to increase the size of the structure and to allow for the off-street parking. BZA found that Telegraph Rd was for all practical purposes a business or commercial street and that the proposed use was compatible to other uses on the street and that to restrict it to an RM4 zone would be an injustice to the owners of the Property. The BZA found that the proposed use would not change the essential character of the neighborhood, that the owner had tried unsuccessfully for many years to sell the Property for a conforming use, and therefore there was a practical difficulty and an unnecessary hardship. It found that the proposed construction and use would not be injurious or have a harmful effect upon the surrounding neighborhood. The appeal of the owners was granted and they were allowed to expand the size of the structure and to use front, side and rear yards for off-street parking in the RM4 district. **Ex. 17.**

BZA Case 169-77 was decided April 29, 1977. The owner was seeking to add an arcade use to an existing Class "C" bar in an R5 district per Map 73. An arcade use would be considered a B3 use in an R5 district. The BZA found that to permit the addition of an arcade use to the existing bar and restaurant on a temporary basis for three years would not be injurious or detrimental to the neighborhood and will not change the essential character of the neighborhood. BZA granted the appeal for a period of three years to allow an arcade use to an existing Class C bar in an R5 district. **Ex. 18.**

---

<sup>1</sup> The earlier establishment on the Property was known as 24K Twenty Four Karat Club. Later, it was known as The Jazz Club.

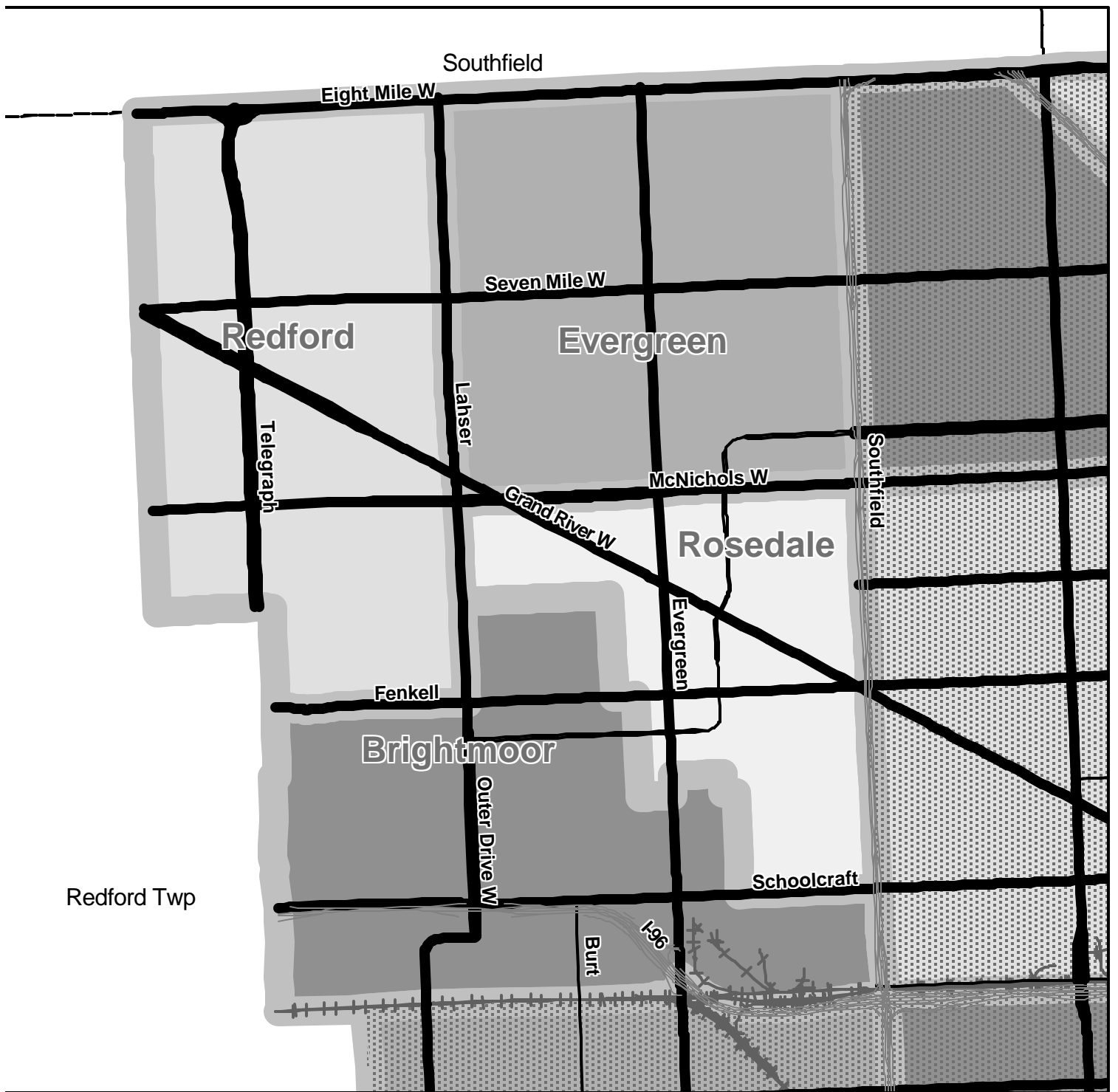


Sec. 61-15-2 of the 2016 Zoning Code states that it is the general policy of the City to allow uses that came into existence legally, in conformance with then-applicable requirements, to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible. Sec. 61-15-6 states that the status of non-conformity is not affected by changes of ownership.

Granting the petition for rezoning would allow for consistency in permitted uses of the Property through the BZA decisions and would be consistent with Zoning Code provisions.

### **Requested Resolution**

A change in the Property's zoning classification would be consistent with the City's Master Plan, would remedy the inequities to the petitioner in relying on the City's many statements regarding the zoning classification of the Property and would be consistent with the use of the Property as allowed by the City since at least 1961.



Map 8A

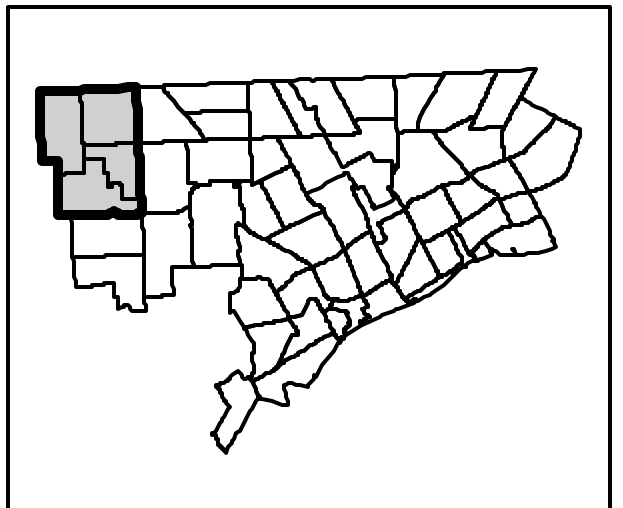
City of Detroit  
Master Plan of  
Policies

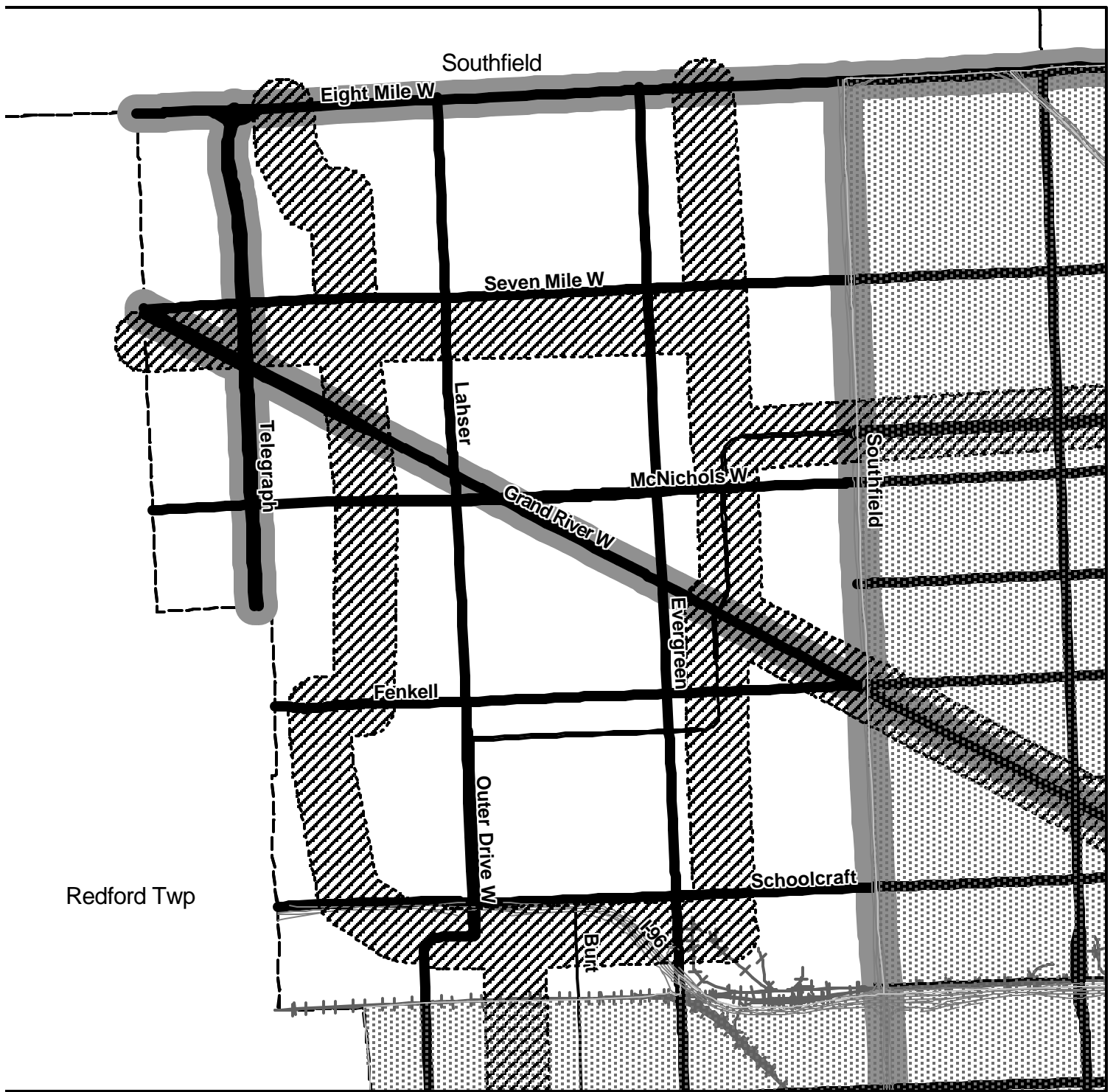
**Neighborhood Cluster 8**



**Neighborhood Index**

- Brightmoor
- Evergreen
- Redford
- Rosedale










Map 8B

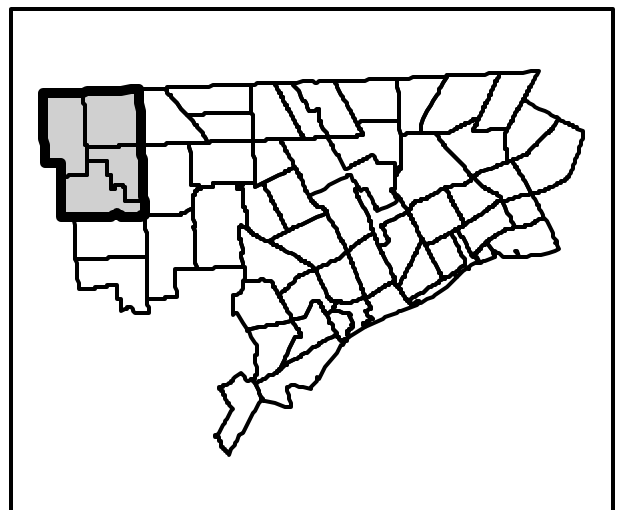
City of Detroit  
Master Plan of  
Policies

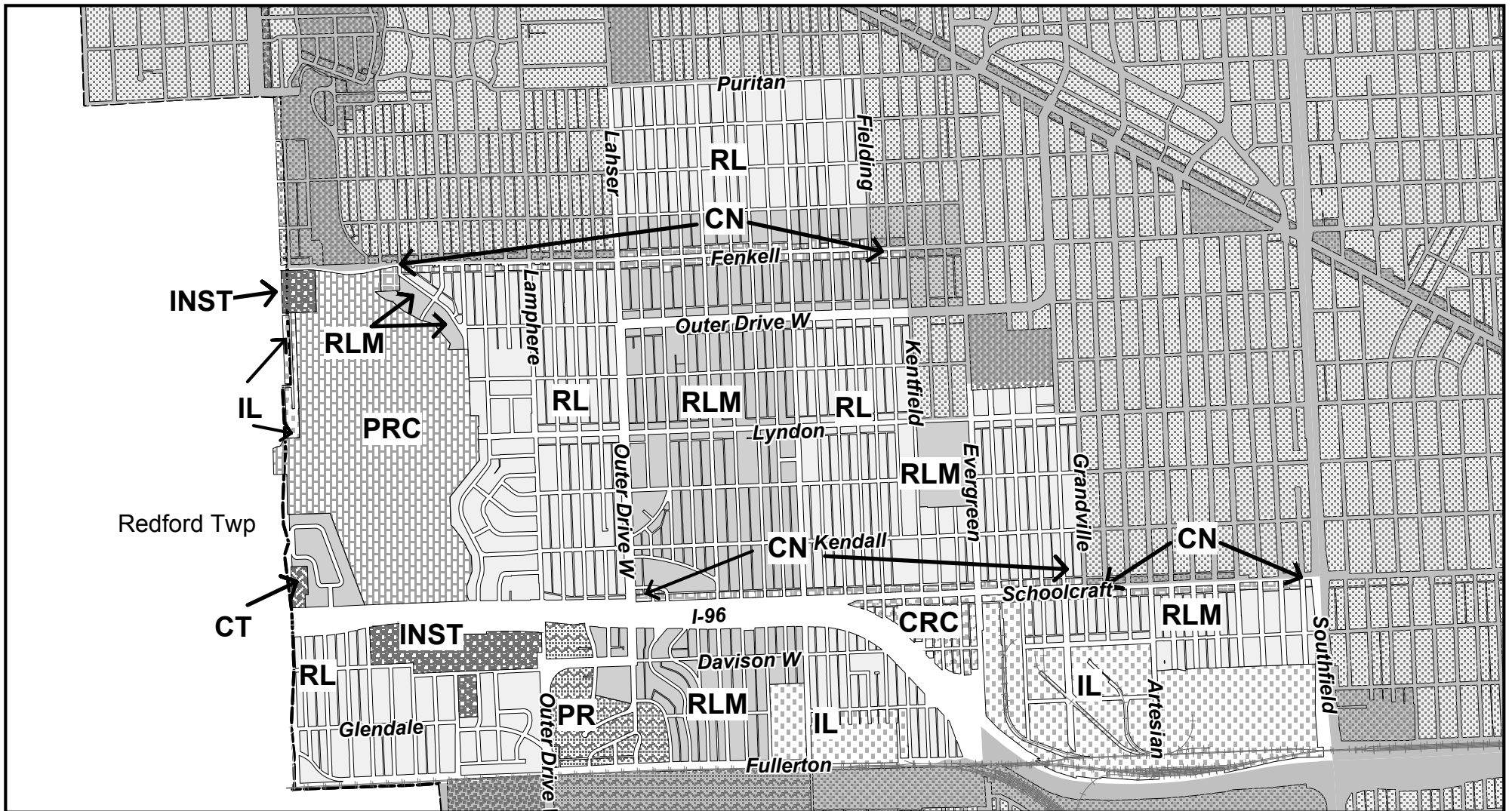
**Neighborhood Cluster 8**



**Transportation Network**

-  Major Street
-  Secondary Street
-  Mass Transit Route
-  Passenger Rail Route
-  Non-Motorized Route - Conceptual





Map 8-1B

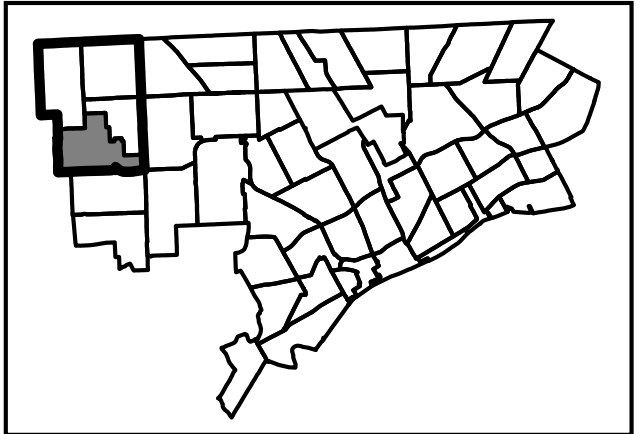
City of Detroit  
 Master Plan of  
 Policies

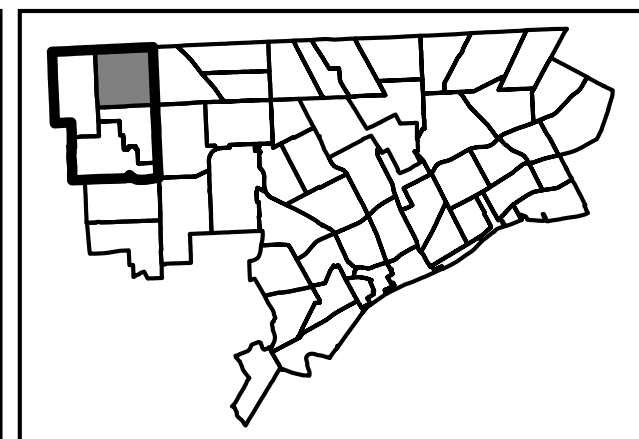
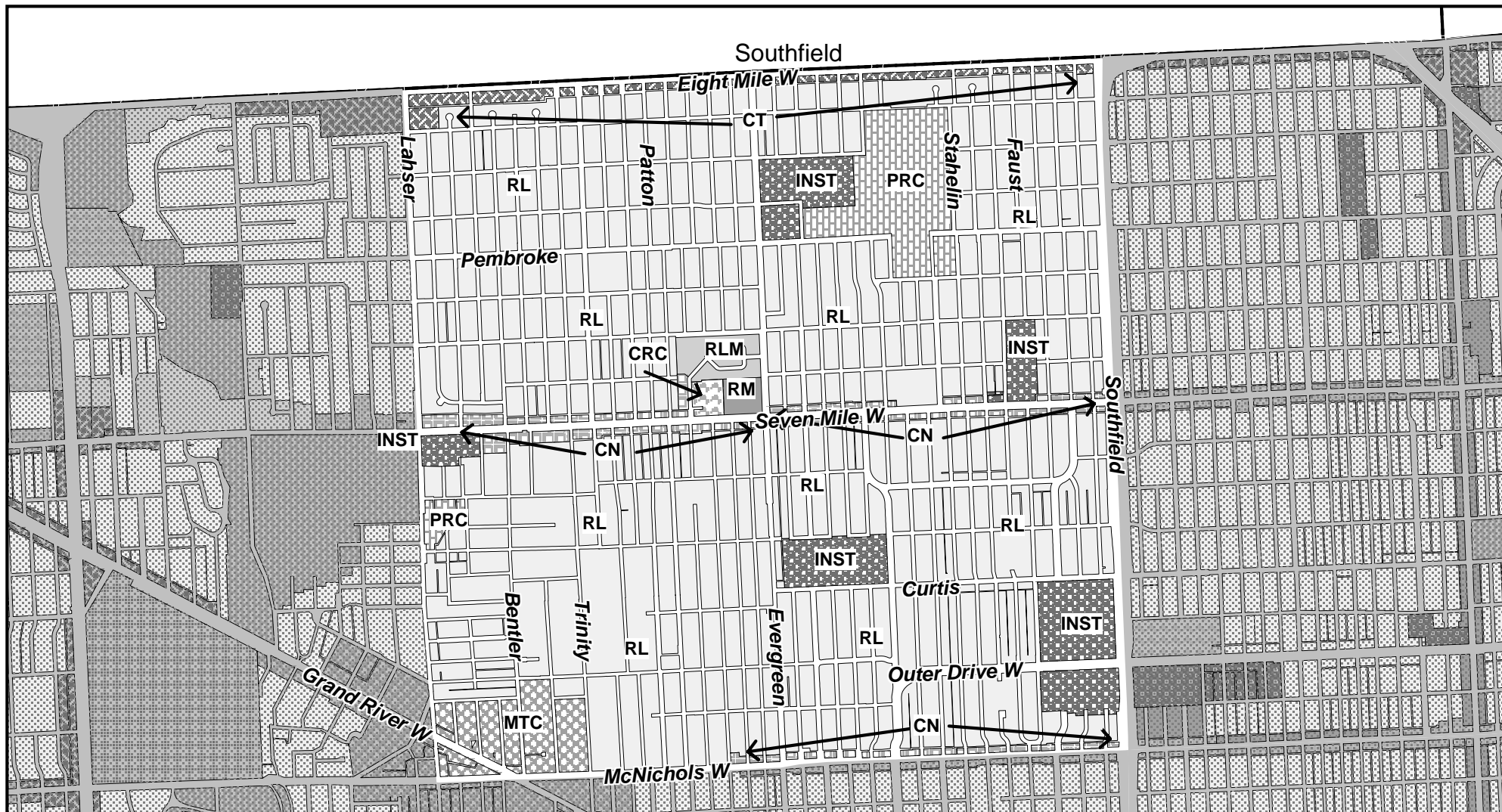
**Neighborhood Cluster 8**  
**Brightmoor**



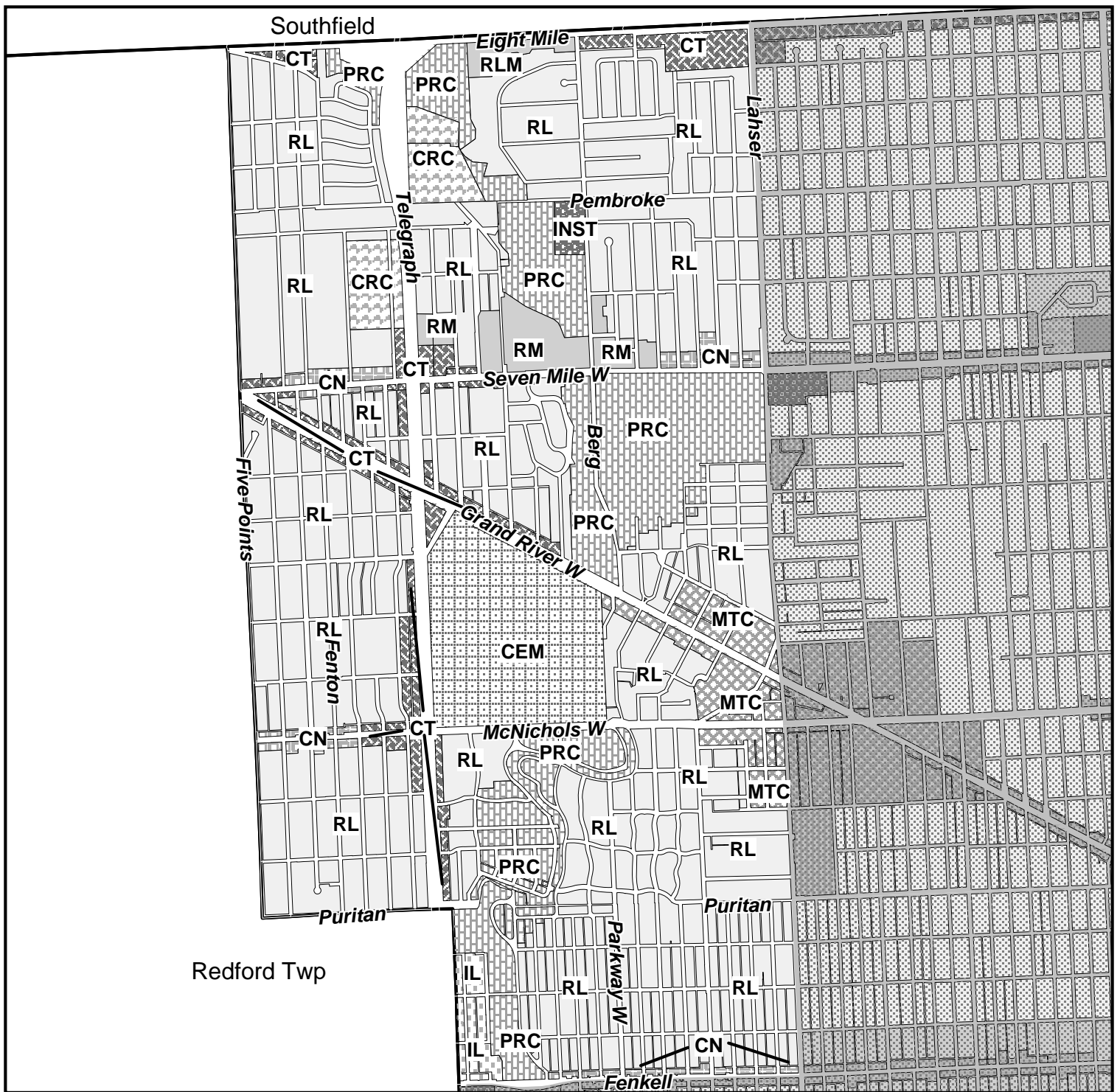
**Future Land Use -**

- |                                      |                                    |
|--------------------------------------|------------------------------------|
| Low Density Residential (RL)         | Light Industrial (IL)              |
| Low-Medium Density Residential (RLM) | Distribution/Port Industrial (IDP) |
| Medium Density Residential (RM)      | Mixed-Residential/Commercial (MRC) |
| High Density Residential (RH)        | Mixed-Residential/Industrial (MRI) |
| Major Commercial (CM)                | Mixed-Town Center (MTC)            |
| Retail Center (CRC)                  | Recreation (PRC)                   |
| Neighborhood Commercial (CN)         | Regional Park (PR)                 |
| Thoroughfare Commercial (CT)         | Private Marina (PMR)               |
| Special Commercial (CS)              | Airport (AP)                       |
| General Industrial (IG)              | Cemetery (CEM)                     |
|                                      | Institutional (INST)               |









Map 8-3B

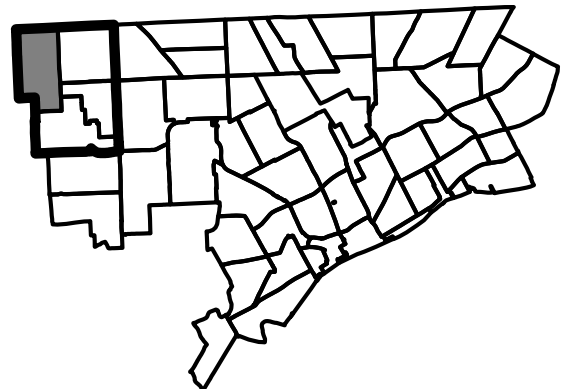
City of Detroit  
Master Plan of  
Policies

**Neighborhood Cluster 8  
Redford**



**Future Land Use -**

- |                                      |                                    |
|--------------------------------------|------------------------------------|
| Low Density Residential (RL)         | Light Industrial (IL)              |
| Low-Medium Density Residential (RLM) | Distribution/Port Industrial (IDP) |
| Medium Density Residential (RM)      | Mixed-Residential/Commercial (MRC) |
| High Density Residential (RH)        | Mixed-Residential/Industrial (MRI) |
| Major Commercial (CM)                | Mixed-Town Center (MTC)            |
| Retail Center (CRC)                  | Recreation (PRC)                   |
| Neighborhood Commercial (CN)         | Regional Park (PR)                 |
| Thoroughfare Commercial (CT)         | Private Marina (PMR)               |
| Special Commercial (CS)              | Airport (AP)                       |
| General Industrial (IG)              | Cemetery (CEM)                     |
|                                      | Institutional (INST)               |



Amendment #2: 06/23/09 (PRC to CRC)

**CITY OF DETROIT**  
**BOARD OF ZONING APPEALS**  
**WORKSHEET**

CASE # 63-16

DATE FILED: August 12, 2016

ZONING DISTRICT:

B4 (General Business District) Council Dist. #1

Petitioner:

The Jazz Club c/o George Brikho

Address:

16890 Telegraph

City:

Detroit, MI 48219

Location:

16890 Telegraph between 6 Mile and Fenkell in a B4 zone (District).

Legal Description:

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

Appeal:

The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (District).

This case is appealed because:

Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone.

Zoning Ordinance Sections:

61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance.

Hearing Date & Time:

Tuesday,

**BOARD OF ZONING APPEALS  
PUBLICATION NOTICE FORM**

CASE NO.: **63-16**

ADDRESS: **16890 TELEGRAPH**

DATE OF PUBLICATION: 9-26-16

DATE NOTICES MAILED: 9-26-16

NO. OF NOTICES: 82

LETTERS OF PROTEST: \_\_\_\_\_

LETTERS OF CONSENT: \_\_\_\_\_

LETTERS RETURNED: \_\_\_\_\_

AFFIDAVIT

STATE OF MICHIGAN

COUNTY OF WAYNE

THE UNDERSIGNED, BEING DULY SWORN, DEPOSES AND SAYS THAT NOTICES OF PUBLIC HEARING ON THE ABOVE ZONING APPEALS CASE WERE MAILED TO ALL THE PROPERTY OWNERS ON THE ATTACHED LIST AND PUBLISHED.

DATE 9-23-16  
NAME OF SENDER: J. Davidson



CITY OF DETROIT

BOARD OF ZONING APPEALS

WORKSHEET

CASE # 63-16

DATE FILED: August 12, 2016

ZONING DISTRICT:

B4 (General Business District) Council Dist. #1

Petitioner:

The Jazz Club c/o George Brikho

Address:

16890 Telegraph

City:

Detroit, MI 48219

Location:

16890 Telegraph between 6 Mile Rd and Penick in a B4 zone (District).

Legal Description:

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

Appeal:

The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (District).

This case is appealed because:

Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone.

Zoning Ordinance Sections:

61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance.

Hearing Date & Time:

Tuesday,

*W McMichals Rd*  
*Demer A. Demest.*

Previous Year Info	MBOR Assessed	Final S.E.V.	Final Taxable
2015	\$267,900	\$95,400	\$95,400
2014	\$52,500	\$267,930	\$207,624

**Land Information [collapse]**

Frontage	Depth
Lot 1: 140.00 Ft.	0.00 Ft.
Lot 2: 0.00 Ft.	0.00 Ft.
Lot 3: 0.00 Ft.	0.00 Ft.
<b>Total Frontage:</b> 140.00 Ft.	<b>Average Depth:</b> 0.00 Ft.

<b>Total Acreage:</b>	0.96
<b>Zoning Code:</b>	2011 AUTH
<b>Total Estimated Land Value:</b>	\$105,000
<b>Land Improvements:</b>	\$47,738
<b>Renaissance Zone:</b>	NO
<b>Renaissance Zone Expiration Date:</b>	

<b>Mortgage Code:</b>	
<b>Lot Dimensions/Comments:</b>	N/A

**Legal Information for 22122525. [collapse]**

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

**Sales Information**

2 sale record(s) found.

Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms Of Sale	Liber/Page
12/19/2014	\$115,000.00	WD	RAHAL, ABDUL K	TELEGRAPH MUSIC GROUP, LLC	REVIEW NEEDED	51971/1498
03/01/1977	\$230,000.00	LC			ARMS LENGTH	00140:05970

Load Building Information on this Page.

**Building Information**

1 building(s) found.

Description	Floor Area	Yr Built
Commercial/Industrial Building 1 - Bar - Tavern	6940 Sq. Ft.	1962

**\*\*Disclaimer:** BS&A Software provides this Web Site as a way for municipalities to display information online and is not responsible for the content or accuracy of the data herein. This data is provided for reference only and WITHOUT WARRANTY of any kind, expressed or inferred. Please contact your local municipality if you believe there are errors in the data.





CITY OF DETROIT  
 BOARD OF ZONING APPEALS  
 COLEMAN A. YOUNG MUNICIPAL CENTER  
 2 WOODWARD AVENUE SUITE 212  
 DETROIT, MICHIGAN 48226  
 Phone: (313) 224-3595  
 Fax: (313) 224-4597  
 Email: boardofzoning@detroitmi.gov

**LEGAL NOTICE OF APPLICATION**

TO PARTIES IN INTEREST, OWNERS AND RESIDENTS WITHIN 300 FEET  
 OF:

16890 Telegraph Rd.

On Tuesday, October 11, 2016 at 10:45 a.m., the Board of Zoning Appeals will hold a Public Hearing in the ERMA L. HENDERSON AUDITORIUM on the 13<sup>th</sup> FLOOR, of the Coleman A. Young Municipal Center, 2 Woodward Avenue, on the following request:

\*\*\*\*\*

**CASE NO:** 63-16  
**BZA PETITIONER:** The Jazz Club c/o George Brikho  
**LOCATION:** 16890 Telegraph Rd. Between: W McNichols Rd. and Dehner St. in a B4 Zone (General Business District)  
**LEGAL DESCRIPTION OF PROPERTY:** E TELEGRAPH 8 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300

**PROPOSAL:** The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

\*\*\*\*\*

We are sending you this notice to give you the chance to let us know if you are in support in or opposition of this appeal case. It is the responsibility of the home or business owner to notify any tenant occupying your property.  
 You may come down to the hearing, you may bring your attorney, you can authorize someone to represent you or you can let us know how you feel about this case by writing on the back of this letter.  
 All letters should be in our office before the date of the hearing by fax, email, postal mail or in person or you may submit your letters at the time of the hearing.  
 Please feel free to inform any of your neighbors who would warrant concern.  
 If you have any questions on this case, please contact a BOARD OF ZONING APPEALS INSPECTOR at 224-4568.

**BOARD MEMBERS**

**Keith Williams**  
Chairperson

**Robert Thomas**  
Vice-Chairperson

**Evelyn Smith**  
**Latisha Johnson**  
**Rita Ross**  
**Robert G. Weed**  
**Emmanuel Calzada**



**City of Detroit**  
**Board of Zoning Appeals**  
**Coleman A. Young Municipal Center**  
**2 Woodward Ave Suite 212**  
**Detroit, Michigan 48226**  
**(313) 224-3595**

**JAMES W. RIBBRON**  
Director

**LYALL T. HOGGATT**  
Appeals Specialist

**MINUTES OF THE BOARD OF ZONING APPEALS**

A public hearing of the Board of Zoning Appeals was held on Tuesday **October 11, 2016** on the 13th Floor in Auditorium, Coleman A. Young Municipal Building, 2 Woodward Avenue.

The Chairman of the Board Keith Williams called the meeting to order and Appeals Specialist Hoggatt called the roll at 9:00 a.m.

**BOARD MEMBERS PRESENT:**

- (1) Keith Williams, Board Member
- (2) Robert E. Thomas, Board Member
- (3) Robert G. Weed, Board Member
- (4) Emmanuel Calzada, Board Member
- (5) Rita Ross, Board Member
- (6) Evelyn Smith, Board Member
- (7) Latistha Johnson, Board Member

**BOARD MEMBERS ABSENT:**

**MINUTES:**

Board Member Ross made a motion to approve the minutes for October 4, 2016 and with corrections.

Affirmative: Mr. Williams, Thomas, Calzada  
Ms. Ross, Smith, Johnson

Negative: None

**PROCEDURAL MATTERS:**

- (A) A motion was made, seconded and carried that the Director of the Board read into the record the notices, reports, letters, or any other information pro or con, on each individual case, and be filed and made a part of the record in each case.
- (B) A motion was made, seconded and carried that the appearance slips, be filled out by property owners or parties of interest who appeared at the public hearing, be filed in the individual case file and be made a part of the record in each case.
- (C) A motion was made, seconded, and carried that the recorded transcript of the proceedings of the various hearings, furnished by BZA Staff, be made part of the MINUTES.

9:15 a.m. CASE NO.: 58-16

APPLICANT: Rex Rosenhaus c/o Pollicella & Associates, PLLC

LOCATION: 19331 Mt. Elliott St. Between: E. Lantz St. and Emery St. in a m2 Zone (Restricted Industrial District).

LEGAL DESCRIPTION OF PROPERTY: W MT ELLIOT 43-40 GEO J KOLOWICH L46 P45 PLATS, W C R 13/287 80 X 124.51

PROPOSAL: Rex Rosenhaus c/o Pollicella & Associates, PLLC appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated July 20, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a M2 zone (Restricted Industrial District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Rex Rosenhaus c/o Pollicella & Associates located at 19331 Mt. Elliot has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Kern Playground located at 18801 Mt. Elliot (939 linear feet away) from the subject property. Because the subject property is approximately 939 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Ms. Johnson made a motion to ADJOURN without date and with fee at petitioner's request. Supported by Ms. Smith

Affirmative: Mr. Thomas, Weed, Calzada, Williams  
Ms. Ross, Smith, Johnson

Negative:

ADJOURNED WITHOUT DATE AND WITH FEE

9:45 a.m.

**CASE NO.:** 60-16

**APPLICANT:** Sabrina Drinkwine

**LOCATION:** 4140 E. Eight Mile Rd. Between: Ryan Rd. and Dean Ave. in a B4 Zone (General Business District).

**LEGAL DESCRIPTION OF PROPERTY:** S EIGHT MILE RD 119-12- DROSTE WALDMANN L45 P95 PLATS, W C R13/299 100 X 72 Parcel ID 13-009128.001

**PROPOSAL:** Sabrina Drinkwine appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated July 27, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Sabrina Drinkwine located at 4140 E. Eight Mile Rd. has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Farwell Field located 4400 E. Eight Mile Rd. (approximately 612 linear feet away) from the subject property. Because the subject property is approximately 612 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Walvers; Public Nuisance).AP

**ACTION OF THE BOARD:**

Ms. Smith made a motion to DENY petitioners request and UPHOLD the BSEED Decision confirming property is in a Drug Free Zone. Supported by Ms. Ross

**Affirmative:** Mr. Thomas, Weed, Calzada, Williams  
Ms. Ross, Smith, Johnson

**Negative:**

**BSEED DECISION UPHELD**



10:45 a.m.

CASE NO.: 63-16

APPLICANT: The Jazz Club c/o George Brikho

LOCATION: 16890 Telegraph Rd. Between: W. McNichols Rd. and Dehner St. in a B4 Zone (General Business District).

LEGAL DESCRIPTION OF PROPERTY: E TELEGRAPH 8 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300

PROPOSAL: The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD:

Ms. Ross made a motion to ADJOURN without date and with fee at petitioner's request. Supported by Ms. Johnson

Affirmative: Mr. Thomas, Weed, Calzada, Williams  
Ms. Ross, Smith, Johnson

Negative:

ADJOURNED WITHOUT DATE AND WITH FEE





CITY OF DETROIT  
BOARD OF ZONING APPEALS  
COLEMAN A. YOUNG MUNICIPAL CENTER  
2 WOODWARD AVENUE SUITE 212  
DETROIT, MICHIGAN 48226  
Phone: (313) 224-3595  
Fax: (313) 224-4597  
Email: boardofzoning@detroitmi.gov

LEGAL NOTICE OF APPLICATION

TO PARTIES IN INTEREST, OWNERS AND RESIDENTS WITHIN 300 FEET  
OF:

16890 Telegraph Rd.

On Tuesday, February 14, 2017 at 10:45 a.m., the Board of Zoning Appeals will hold a Public Hearing in the ERMA L. HENDERSON AUDITORIUM on the 13<sup>th</sup> FLOOR, of the Coleman A. Young Municipal Center, 2 Woodward Avenue, on the following request:

\*\*\*\*\*

**CASE NO:** 63-16 – Adjourned from October 11, 2016  
**BZA PETITIONER:** The Jazz Club c/o George Brikho  
**LOCATION:** 16890 Telegraph Rd. Between: W McNichols Rd. and Dehner St. in a B4 Zone (General Business District)  
**LEGAL DESCRIPTION OF PROPERTY:** E TELEGRAPH 8 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300

**PROPOSAL:** The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Walvers; Public Nuisance).AP

\*\*\*\*\*

We are sending you this notice to give you the chance to let us know if you are in support in or opposition of this appeal case. It is the responsibility of the home or business owner to notify any tenant occupying your property.

You may come down to the hearing, you may bring your attorney, you can authorize someone to represent you or you can let us know how you feel about this case by writing on the back of this letter.

All letters should be in our office before the date of the hearing by fax, email, postal mail or in person or you may submit your letters at the time of the hearing.

Please feel free to inform any of your neighbors who would warrant concern.

If you have any questions on this case, please contact a BOARD OF ZONING APPEALS INSPECTOR at 224-4568.

S T A F F R E P O R T

.....

DATE OF HEARING: FEBRUARY 14, 2017

REGARDING: ZONING APPEAL CASE NO. 63-16

LOCATION: 16890 Telegraph Rd. between W. McNichols Rd. and Dehner St. in a B4 zone (General Business District). Council District #1

BZA PETITIONER: THE JAZZ CLUB 2, LLC c/o GEORGE BRIKHO  
16890 TELEGRAPH  
DETROIT, MI. 48219

WHEREAS: The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District).

REASON FOR HEARING: Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone.

RELATED ORDINANCE SECTIONS: 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance..

LEGAL DESCRIPTION: W MT ELLIOT 43-40 GEO J KOLOWICH L46 P45  
PLATS, W C R 13/287 80 X 124.51

**PRESENTATION OF FACTS** This property was before the Board under Case No.

An inspection made on **January 20, 2017** shows that the property is located within a one story building in a B4 zone. General Business District.

**Building Safety Engineering and Environmental Department Letter addressed to petitioner on August 3, 2016 states:**

**Complete letter in rear of staff report.**

The City of Detroit BSEED has received and completed its investigation of the request for an Administrative Review dated May 6, 2016.

The Jazz Club 2 at 16890 Telegraph has been identified as being in a Drug Free Zone based on its proximity to Rouge Valley Parkway at 16950 W. Riverdale.

BSEED has identified that City owned Rouge Valley Parkway is currently part of an active park system. The Detroit Recreation Department is in the preliminary stages of creating a greenway that would connect said River Rouge Parkway to Eliza Howell Park and potentially extend northward. This greenway will be a wide walk/bike path that will have benches and garbage cans spaces occasionally throughout the area, at which time completed will become part and parcel of Eliza Howell Park. Therefore, because said Jazz Club 2 is approximately 818 linear feet within Rouge Valley Parkway radius, it is affirmed in a DFZ.

**Sec. 61-4-72. Appeals.**

Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses, Regulated Uses, or Controlled Uses, or 3) by any denial of a site plan by the Planning and Development Department.

PAGE 3  
ZONING APPEAL CASE NO: 63-16  
PREMISES LOCATED AT: 16890 TELEGRAPH RD.

**FACTS CONTINUED:**

**Sec. 61-3-354. Conditional Uses; Procedures; Waivers;  
Public Nuisance.**

(b) The Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center:

(1) where located in a drug-free zone, as defined in Sec. 61-3-353 of this Code, or where located within a Gateway Radial Thoroughfare overlay area or Traditional Main Street overlay area (as provided in Article XI, Division 14 of this Chapter); and

The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District).

**SLIDE PRESENTATION:** The block in question contains:

- (a) The Subject Property
- (b) Commercial/Industrial uses

The block opposite contains:

- (a) Commercial/Industrial uses

**BOARD OF ZONING APPEALS**

**APRIL T. PUROFOY  
ZONING INSPECTOR**

**JWR/ATP  
1-12-2016**

**APPROVED BY \_\_\_\_\_  
JAMES W. RIBBRON, DIRECTOR**

CAUTION

The granting of an appeal by the Zoning Board of Appeals pertains only Zoning regulations. The grant does not abrogate or release the grantee from complying with all laws relating to safety, stability, health, etc., as required by the Building, Housing, Electrical, Plumbing and other Municipal Codes

FINAL DECISION

Any decision of the Board of Zoning Appeals may be appealed to Circuit Court as specified in Section 5 of the Michigan City and Village Zoning Act, being 125.585, within twenty-one (21) days from the date of entry of such decisions.

## BOARD MEMBERS

Robert E. Thomas  
Chairperson

Latisha Johnson  
Vice-Chairperson

Vivian Teague  
Rita Ross  
Robert G. Weed  
Emmanuel Calzada  
Elois Moore



City of Detroit  
Board of Zoning Appeals  
Coleman A. Young Municipal Center  
2 Woodward Ave Suite 212  
Detroit, Michigan 48226  
(313) 224-3595

JAMES W. RIBBRON  
Director

LYALL T. HOGGATT  
Appeals Specialist

### MINUTES OF THE BOARD OF ZONING APPEALS

A public hearing of the Board of Zoning Appeals was held on Tuesday **February 14, 2017** on the 13th Floor in the Auditorium, Coleman A. Young Municipal Building, 2 Woodward Avenue.

Chairperson Thomas called the meeting to order and Appeals Specialist Hoggatt called the roll at 9:00 a.m.

#### BOARD MEMBERS PRESENT:

- (1) Elois Moore, Board Member
- (2) Robert E. Thomas, Board Member
- (3) Vivian Teague, Board Member
- (4) Robert G. Weed, Board Member
- (5) Rita Ross, Board Member
- (6) Latisha Johnson, Board Member
- (7) Emmanuel Calzada, Board Member

#### BOARD MEMBERS ABSENT:

#### MINUTES:

Board Member Calzada made a motion to approve the minutes for January 31, 2017 and with corrections

Affirmative: Mr. Thomas, Calzada, Weed

Ms. Ross, Teague, Moore, Johnson

Negative: None

#### PROCEDURAL MATTERS:

- (A) A motion was made, seconded and carried that the Director of the Board read into the record the notices, reports, letters, or any other information pro or con, on each individual case, and be filed and made a part of the record in each case.
- (B) A motion was made, seconded and carried that the appearance slips, be filled out by property owners or parties of interest who appeared at the public hearing, be filed in the individual case file and be made a part of the record in each case.
- (C) A motion was made, seconded, and carried that the recorded transcript of the proceedings of the various hearings, furnished by **BZA Staff**, be made part of the **MINUTES**.

**CASE NO.:** 69-16 (aka BSE&ED 20-16)  
**APPLICANT:** Dina Hamzee  
**LOCATION:** 10 E. Eight Mile Rd. Between: Conventry St. and John R. St. in a B4 Zone (General Business District).

**LEGAL DESCRIPTION OF PROPERTY:** LOT 727, THE SOUTH 16 FEET OF LOT 728 AND THE VACATED ALLEY LYING NORTH OF ADJOINING THEREOF, ALSO THE NORTH 4 FEET OF LOT 729, LOTS 730-733, INCLUSIVE, AND THE VACATED ALLEY LYING EAST OF AND ADJACENT THEREOF, INCLUDING E. EIGHT MILE ROAD, AS WIDENED, "GILMORE & CHAVENELLE'S SUBDIVISION NO.2", CITY OF DETROIT, WAYNE COUNTY, MICHIGAN, AS RECORDED IN LIBER 40, PAGE 94, PLATS, WAYNE COUNTY RECORDS, 16,400 S.F. (PIN09008289)

**PROPOSAL:** Dina Hamzee requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing 2,225 square foot building, which was APPROVED in (BSEED 20-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed use is within 1,000 radial feet from one (1) other Controlled Use located at 15260 E. Eight Mile Rd. (J's Liquor Shoppe 261 radial feet away) and a Religious Institution at 20480 John R., (Land Mark COGIC, 305 radial feet away). Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code. (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses-Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

Friday 3, 2017 at 2:19p.m. Board Member Calzada called the BZA office to inform the Director he intends to move for a reconsideration of the vote. It was determined by the City Assessor that the property located at 20480 John R. (Land Mark Cogic) is not tax exempt and therefore not subject to requiring a variance.

Ms. Johnson made a motion to GRANT the Variance of Spacing / Locational Regulation for the establishment of a Medical Marihuana Caregiver Center (MMCC) in an approximate existing 2,225 square foot building, which was APPROVED in (BSEED 20-16) in a B4 zone (General Business District) with stipulations that the petitioner purchase the SDM/SDD store and change the use. Support by Board Member Teague.

Affirmative: Mr. Thomas, Weed, Calzada  
Ms. Teague, Johnson

Negative: Ms. Moore, Ross

**SPACING/LOCATIONAL WAIVER FOR THE CONTROLLED  
USE LOCATED AT 15260 E. EIGHT MILE RD. AND 20480  
JOHN R. GRANTED**



9:15 a.m.      **CASE NO.:**                    78-16  
**APPLICANT:**                    Bilal Seklaoui  
**LOCATION:**                        7355 Bryden St. Between: Majestic St. and W. Warren Ave. in a  
M3 Zone (General Industrial District). – Council District #7

**LEGAL DESCRIPTION OF PROPERTY:**        E CENTRAL N 15 FT 4 3 THRU 1 AND  
N 10 FT 10 AND VAC ALLEY ADJ MAKOWSKIS SUB L45 P11  
PLATS, W C R 18/427 1 THRU 6 AND VAC ALLEY ADJ FORYS  
SUB L45 P32 PLATS, W C R 18/429 35,527 SQ FT

**PROPOSAL:**                    Bilal Seklaoui request a Variance of Spacing/Locational  
Regulation TO establish a Motor Vehicles, used salesroom or  
sales lot (by-right-use) in a M3 zone (General Industrial District).  
This case is appealed because after a public hearing, a  
variance may be granted by the Board of Zoning Appeals  
based on the approval criteria of Sec. 61-4-81 of this Code in  
the Instance that when an administrative adjustment is  
granted, excluding all Adult Uses, the Board of Zoning  
Appeals may modify any spacing or locational regulation,  
also known as a locational variance, in Sec. 61-12-87,  
between land uses as provided for in the table in Sec. 61-12-  
91 of this Code and in accordance with the procedures in Sec.  
61-12-95 of this Code. Also, Used Motor Sales Lots cannot be  
established within 1,000' of another Used Motor Vehicle Sales Lot.  
There are currently three (3) Used Auto Sales Lots within 1,000  
radial feet of the subject property. 8000 W. Warren (**Popa's Used  
Auto Sales-804 feet away**), 8007 W. Warren (**T&A Auto  
Service-845 feet away**), 7700 W. Warren (**GNT Auto-846 feet  
away**). In addition, Used Motor Vehicle Sales Lots must be  
located on a major thoroughfare identified in the Master Plan.  
(Sections 61-4-92(3) Other Variances, Variance of  
Spacing/Locational Regulation, 61-12-95 Waiver of General  
Spacing Requirements and 61-4-81 Approval Criteria).AP

**ACTION OF THE BOARD:** Ms. Johnson made a motion to Adjourn this case at  
petitioner request due to consultant on the case being  
medically ill and unable to assist petitioner in presenting the  
case. Support by Board Member Teague

Affirmative:      Mr. Weed, Calzada, Thomas  
   Ms. Ross, Teague, Moore, Johnson

Negative:

**ADJOURNED WITHOUT DATE AND WITHOUT FEE**

9:45 a.m. CASE NO.: BSE&ED 30-16 – Court REMANDED Back to BZA

APPLICANT: Sharleen Wadley & Jacqueline Jones

LOCATION: 15831 Mack (aka 15837 Mack) Between: Berkshire St. and Buckingham Rd. in a B4 Zone (General Business District). – Council District #4

LEGAL DESCRIPTION OF PROPERTY: LOTS 100-102 EXCLUDING MACK AVENUE AS WIDENED, E DETROIT DEVELOPMENT COS. SUBDIVISION NO. 1, LIBER 36, PAGE 19, PLATS, W.C.R. 70.83 X 72.90 (PIN 21001445-6)

PROPOSAL: Sharleen Wadley & Jacqueline Jones appeals the decision of the Buildings Safety Engineering and Environmental Department (BSEED 30-16) which (Approved With Conditions) TO establish a Medical Marluhana Caregiver Center (MMCC) in an existing 2,900 square foot building in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed location is within 1,000 radial feet of a Controlled Use (Devonshire Liquor & Drugs) and a Religious Institution (Spirit of Love MBC). (Sections 61-4-72 Appeals, 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance and 61-3-231 General Approval Criteria).AP

ACTION OF THE BOARD: Ms. Johnson made a motion to Dismiss this case after both petitioners informed the Board they are no longer interested in pursuing this appeal. Support by Board Member Calzada

Affirmative: Mr. Calzada, Thomas  
Ms. Moore, Johnson

Negative: Weed  
Ross, Teague

DISMISSED WITH PREJUDICE

10:15 a.m.      **CASE NO.:**                    74-16 (aka BSE&ED 35-16)

**APPLICANT:**                    Kevin Thomas / KushZone Medical Relief Center

**LOCATION:**                            4233 Joy Rd. Between: Petoskey Ave. and Otsego St. in a B4 Zone (General Business District). – Council District #7

**LEGAL DESCRIPTION OF PROPERTY:**      LOT 50 AND THE EAST 20 FEET OF LOT 51, LAMBRECHT KELLY & COS. GRAND RIVER TERMINAL SUBDIVISION, LIBER 27, PAGE 86, PLATS, W.C.R. 69 X 100 (PIN 14003368 & 14003369)

**PROPOSAL:**                            Kevin Thomas / KushZone Medical Relief Center requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing approximate 2,898 square foot building APPROVED in (BSEED 35-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed use is within 1,000 radial feet from two (2) other Controlled Uses located at 4058 Joy Rd. (Flamingo Liquor - 459 radial feet away) and 4421 Joy Rd. (Daily's Market – 202 radial feet away). In addition, there are four (4) Religious Institutions within 1,000 radial feet of the subject property: Divine Baptist Church – 4446 Joy Rd.-287 feet away, Full Truth Unity Fellowship Church – 4458 Joy Rd. – 379 feet away, United House of Prayer – 4038 Joy Rd. 555 feet away and New Home Full Gospel Christian Center – 8870 Otsego – 821 feet away. Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code. (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses-Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

**ACTION OF THE BOARD:** Ms. Ross made a motion to DENY Variance of Spacing / Locational Regulation TO establish a Medical Marlhuana Caregiver Center (MMCC) in an existing approximate 2,898 square foot building APPROVED in (BSEED 35-16) in a B4 zone (General Business District). Support by Ms. Moore.

Affirmative:      Mr. Weed, Thomas, Calzada  
                                 Ms. Teague, Ross, Moore, Johnson

Negative:

**SPACING VARIANCE DENIED**

10:45 a.m.

**CASE NO.:** 63-16

**APPLICANT:** The Jazz Club c/o George Brikho

**LOCATION:** 16890 Telegraph Rd. Between: W. McNichols Rd. and Döhner St. in a B4 Zone (General Business District). – Council District #1

**LEGAL DESCRIPTION OF PROPERTY:** E TELEGRAPH 8 RIVERDALE PARK  
SUB L33 P77 PLATS, W C R 22/472 140 X 300

**PROPOSAL:** The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department’s Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed to the Board of Zoning Appeals by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

**ACTION OF THE BOARD:** Mr. Johnson made a motion to ADJOURN this case at petitioners request without date and with fee. Support by Mr. Calzada.

Affirmative: Mr. Thomas, Calzada  
Ms. Teague, Ross, Johnson, Moore

Negative: Mr. Weed

**ADJOURNED WITHOUT DATE AND WITH FEE**

11:15 a.m.      **CASE NO.:**                    66-16 (aka BSE&ED 25-16)

**APPLICANT:**                Top Dollar Holdings c/o Kimberly Gaetano

**LOCATION:**                        15880 E. 8 Mile Rd. Between: Rex Ave. and Redmond St. in a B4 Zone (General Business District). -- Council District #3

**LEGAL DESCRIPTION OF PROPERTY:**      LOTS 49-51, DRENNAN & SELDON'S REGENT PARK SUBDIVISION, LIBER 53, PAGE 72, PLATS, W C R 60 X 100 (PIN 21027990-2)

**PROPOSAL:**                        Top Dollar Holdings c/o Kimberly Gaetano requests a variance of spacing and locational regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing approximate 2,400 square foot building which was Approved in (BSEED 25-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed use is within 1,000 radial feet from two (2) Controlled Uses located at 15900 E. Eight Mile Rd. (Handy Spot Liquor & Food (141' feet away) and 16086 E. Eight Mile Rd. Royal Foods (777" feet away). Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code.      (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses- Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

**ACTION OF THE BOARD:** Mr. Calzada made a motion to **DENY** variance of spacing and locational regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing approximate 2,400 square foot building which was Approved in (BSEED 25-16) in a B4 zone (General Business District). Support by Ms. Ross

Affirmative:      Mr. Weed, Calzada  
                                 Ms. Ross, Moore

Negative:            Mr. Thomas  
                                 Ms. Teague, Johnson

**SPACING/LOCATIONAL WAIVER DENIED**

11:45 a.m.

CASE NO.: 58-16 – Adjourned from October 11, 2016

APPLICANT: Rex Rosenhaus c/o Pollicella & Associates, PLLC

LOCATION: 19331 Mt. Elliott St. Between: E. Lantz St. and Emery St. in a M2 Zone (Restricted Industrial District). – Council District #5

LEGAL DESCRIPTION OF PROPERTY: W MT ELLIOT 43-40 GEO J KOLOWICH L46 P45 PLATS, W C R 13/287 80 X 124.51

PROPOSAL: Rex Rosenhaus c/o Pollicella & Associates, PLLC appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated July 20, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a M2 zone (Restricted Industrial District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Rex Rosenhaus c/o Pollicella & Associates located at 19331 Mt. Elliott has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Kern Playground located at 18801 Mt. Elliott (939 linear feet away) from the subject property. Because the subject property is approximately 939 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Mr. Calzada made a motion to DISMISS this case at petitioner's request. Support by Ms. Moore

Affirmative: Mr. Weed, Calzada, Thomas  
Ms. Ross, Moore, Teague, Johnson

Negative:

DISMISSED WITH PREJUDICE AT PETITIONERS REQUEST

12:15 a.m.

CASE NO.: 76-16

APPLICANT: Fadi Antoine

LOCATION: 19344 W. Seven Mile Rd. Between: Huntington Rd. and Grandville Ave. in a B4 Zone (General Business District). -- Council District #1

LEGAL DESCRIPTION OF PROPERTY: THE NORTH 82.95 FEET OF LOT 69 AND THE NORTH 82.95 FEET OF LOT 70, OF MARSHALL SUBDIVISION, AS RECORDED IN LIBER 44 OF PLATS, PAGE(S) 77, WAYNE COUNTY RECORDS.

PROPOSAL: Fadi Antoine appeals the decision of the Buildings Safety Engineering and Environmental Department's Correction Order dated August 10, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Fadi Antoine located at 19344 W. Seven Mile Rd. has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Christian Day Care Center, which is an active daycare center that was legally established under permit #77741 obtained on September 21, 2004. Furthermore, on September 5, 2005, the daycare center received their Certificate of Occupancy to legally occupy the building. Therefore, because the proposed Med Shop is approximately 158 linear feet within the Christian Day Care radius, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Mr. Calzada made a motion to **ADJOURN** without date and with fee. Support by Mr. Calzada

Affirmative: Mr. Calzada, Thomas  
Ms. Ross, Johnson

Negative: Mr. Weed  
Ms. Moore, Teague

**ADJOURNMENT REQUEST DENIED**

Ms. Johnson made a motion to **ADJOURN** without date and with fee with a stipulation that the petitioner close the establishment until the decision of the next scheduled meeting before the Board. Support by Mr. Calzada

Affirmative: Mr. Calzada, Thomas  
Ms. Ross, Johnson, Moore, Teague

Negative: Mr. Weed

**ADJOURNMENT REQUEST GRANTED**

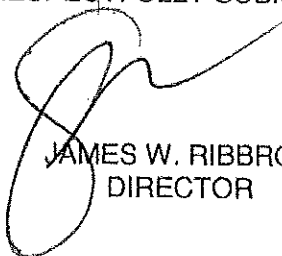


**ADVISEMENTS CONTINUED INDEFINITELY UNTIL FURTHER NOTICE.**

\*\*\*\*\*

There being no further business to be transacted, Board Member Johnson motioned that the meeting be adjourned. Board Member Calzada seconded this motion which was unanimously carried and the meeting adjourned at 3:00 p.m.

RESPECTFULLY SUBMITTED



JAMES W. RIBBRON  
DIRECTOR

JWR/atp

**CITY OF DETROIT**  
**BOARD OF ZONING APPEALS**  
**WORKSHEET**

CASE # 63-16

DATE FILED: August 12, 2016  
Adjourned from February 14, 2017

ZONING DISTRICT:

B4 (General Business District) Council Dist. #1

Petitioner:

The Jazz Club c/o George Brikho

Address:

16890 Telegraph

City:

Detroit, MI 48219

Location:

16890 Telegraph Rd. between W. McNichols Rd. and Dehner St. in a B4 zone (General Business District).

Legal Description:

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

Appeal:

The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District).

This case is appealed because:

Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone.

Adjournment:

Board Member Johnson made a motion to ADJOURN this case at petitioners request without date and with fee. Support by Mr. Calzada.

Affirmative: Mr. Thomas, Calzada

Ms. Teague, Ross, Johnson, Moore

Negative: Mr. Weed

**CASE ADJOURNED WITHOUT DATE AND WITH FEE**

Zoning Ordinance Sections:

61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance.

Hearing Date & Time:

Tuesday,

S T A F F R E P O R T

.....

DATE OF HEARING: OCTOBER 10, 2017 ADJOURNED FROM FEBRUARY  
14, 2017

REGARDING: ZONING APPEAL CASE NO. 63-16

LOCATION: 16890 Telegraph Rd. between W. McNichols Rd. and Dehner  
St. in a B4 zone (General Business District). Council District  
#1

BZA PETITIONER: THE JAZZ CLUB 2, LLC c/o GEORGE BRIKHO  
16890 TELEGRAPH  
DETROIT, MI. 48219

WHEREAS: The Jazz Club c/o George Brikho appeals the decision of  
the Buildings Safety Engineering and Environmental  
Department's Administrative Review and Correction  
Order dated August 3, 2016, which states; Discontinue  
use of premises as a Medical Marihuana Facility. No  
permit has been issued for the present use of the  
property, unlawful change of use of the building or land  
and each day an uncorrected and continued violation  
shall constitute a separate violation in a B4 zone (General  
Business District).

REASON FOR HEARING: Appeals to the Board of Zoning Appeals may be taken by  
any person, firm, partnership or corporation, or by any  
City department, commission, board or other City agency  
which is aggrieved 1) by a decision of an enforcing  
officer, or 2) by any decision made by the Buildings and  
Safety Engineering Department involving Conditional  
Uses. Also, the Buildings, Safety Engineering, and  
Environmental Department shall not approve any request  
under this Chapter for a medical marihuana caregiver  
center in a Drug Free Zone. The locational specifications  
related to drug-free zones of subsection 354(b)(1) of this  
section may not be waived or modified by the Buildings,  
Safety Engineering and Environmental Department, nor  
the Board of Zoning Appeals. Applications that are not  
consistent with the locational specifications of  
subsection (b)(1) of this section shall be considered  
ineligible and shall be dismissed. Also, the proposed  
(MMCC) by The Jazz Club c/o George Brikho located at  
16890 Telegraph has been identified as being in a Drug Free  
Zone based on being within 1,000 radial feet of Rouge Valley  
Parkway Park. Because the subject property is approximately  
182 linear feet from the park, it is confirmed to be within a  
Drug Free Zone.

PAGE 2  
ZONING APPEAL CASE NO: 63-16  
PREMISES LOCATED AT: 16890 TELEGRAPH

RELATED ORDINANCE SECTIONS: 61-4-72 Appeals and 61-3-354(b)(1)  
Conditional Uses; Procedures; Waivers;  
Public Nuisance..

LEGAL DESCRIPTION: W MT ELLIOT 43-40 GEO J KOLOWICH L46 P45  
PLATS, W C R 13/287 80 X 124.51

PRESENTATION OF FACTS This property was before the Board under Case No.

An inspection made on **January 20, 2017 and September 29, 2017** shows that the property is located within a one story building in a B4 zone. General Business District.

Building Safety Engineering and Environmental Department Letter addressed to petitioner on August 3, 2016 states:

**Complete letter in rear of staff report.**

The City of Detroit BSEED has received and completed its investigation of the request for an Administrative Review dated May 6, 2016.

The Jazz Club 2 at 16890 Telegraph has been identified as being in a Drug Free Zone based on its proximity to Rogue Valley Parkway at 16950 W. Riverdale.

BSEED has identified that City owned Rouge Valley Parkway is currently part of an active park system. The Detroit Recreation Department is in the preliminary stages of creating a greenway that would connect said River Rouge Parkway to Eliza Howell Park and potentially extend northward. This greenway will be a wide walk/bike path that will have benches and garbage cans spaces occasionally throughout the area, at which time completed will become part and parcel of Eliza Howell Park. Therefore, because said Jazz Club 2 is approximately 818 linear feet within Rouge Valley Parkway radius, it is affirmed in a DFZ.

**FACTS CONTINUED:**

**Sec. 61-4-72. Appeals.**

Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses, Regulated Uses, or Controlled Uses, or 3) by any denial of a site plan by the Planning and Development Department.

**Sec. 61-3-354. Conditional Uses; Procedures; Waivers; Public Nuisance.**

(b) The Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center:

(1) where located in a drug-free zone, as defined in Sec. 61-3-353 of this Code, or where located within a Gateway Radial Thoroughfare overlay area or Traditional Main Street overlay area (as provided in Article XI, Division 14 of this Chapter); and

The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District).

**SLIDE PRESENTATION:** The block in question contains:

- (a) The Subject Property
- (b) Commercial/Industrial uses

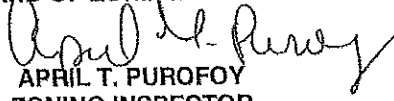
The block opposite contains:

- (a) Commercial/Industrial uses

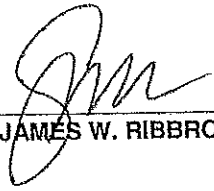
PAGE 4  
ZONING APPEAL CASE NO: 63-16  
PREMISES LOCATED AT: 16890 TELEGRAPH RD.

FACTS CONTINUED:

BOARD OF ZONING APPEALS

  
APRIL T. PUROFOY  
ZONING INSPECTOR

JWR/ATP  
1-12-2016

APPROVED BY   
JAMES W. RIBBRON, DIRECTOR

PAGE 4  
ZONING APPEAL CASE NO: 63-16  
PREMISES LOCATED AT: 16890 TELEGRAPH RD.

CAUTION

The granting of an appeal by the Zoning Board of Appeals pertains only Zoning regulations. The grant does not abrogate or release the grantee from complying with all laws relating to safety, stability, health, etc., as required by the Building, Housing, Electrical, Plumbing and other Municipal Codes

FINAL DECISION

Any decision of the Board of Zoning Appeals may be appealed to Circuit Court as specified in Section 5 of the Michigan City and Village Zoning Act, being 125.585, within twenty-one (21) days from the date of entry of such decisions.



CITY OF DETROIT  
BOARD OF ZONING APPEALS  
COLEMAN A. YOUNG MUNICIPAL CENTER  
2 WOODWARD AVENUE SUITE 212  
DETROIT, MICHIGAN 48226  
Phone: (313) 224-3595  
Fax: (313) 224-4597  
Email: boardofzoning@detroitmi.gov

LEGAL NOTICE OF APPLICATION

TO PARTIES IN INTEREST, OWNERS AND RESIDENTS WITHIN 300 FEET  
OF:

16890 Telegraph Rd.

On Tuesday, October 10, 2017 at 9:45 a.m., the Board of Zoning Appeals will hold a Public Hearing in the ERMA L. HENDERSON AUDITORIUM on the 13<sup>th</sup> FLOOR, of the Coleman A. Young Municipal Center, 2 Woodward Avenue, on the following request:

\*\*\*\*\*

**CASE NO:** 63-16 – Adjourned from October 11 & 2016, February 14, 2017

**BZA PETITIONER:** The Jazz Club c/o George Brikho

**LOCATION:** 16890 Telegraph Rd. Between: W McNichols Rd. and Dehner St. in a B4 Zone (General Business District)

**LEGAL DESCRIPTION OF PROPERTY:** E TELEGRAPH 8 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300

**PROPOSAL:**

The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marijuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

\*\*\*\*\*

We are sending you this notice to give you the chance to let us know if you are in support in or opposition of this appeal case. It is the responsibility of the home or business owner to notify any tenant occupying your property.

You may come down to the hearing, you may bring your attorney, you can authorize someone to represent you or you can let us know how you feel about this case by writing on the back of this letter.

All letters should be in our office before the date of the hearing by fax, email, postal mail or in person or you may submit your letters at the time of the hearing.

Please feel free to inform any of your neighbors who would warrant concern.

If you have any questions on this case, please contact a BOARD OF ZONING APPEALS INSPECTOR at 224-4568.

BZA  
63-16

6890  
TELEGRAPH

CITY OF DETROIT

BOARD OF ZONING APPEALS

Regular Meeting of October 10, 2017

Coleman A. Young Municipal Center

2 Woodward Avenue, Suite 212

Detroit, MI 48226

(313)224-3595

APPEARANCES:

ROBERT THOMAS, CHAIRPERSON

LATISHA JOHNSON, VICE-CHAIRPERSON

ROBERT WEED, BOARD MEMBER

RITA ROSS, BOARD MEMBER

VIVIAN TEAGUE, BOARD MEMBER

ELOIS MOORE, BOARD MEMBER

EMMANUEL CALZADA, BOARD MEMBER

RECORDED BY:

REGENCY COURT REPORTING

3133 Union Lake Road, Ste. A.

Commerce Township, MI 48382

(248) 360-2145



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TABLE OF CONTENTS

MEETING CALLED TO ORDER

3

EXHIBITS:

None

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Detroit, Michigan

Tuesday, October 10, 2017

\* \* \* \* \*

DIRECTOR RIBBRON: Okay, Madam Chair.

BOARD MEMBER JOHNSON: Good morning.

I'd like to call the hearing to order. I don't feel like I'm on. Can you hear me?

Roll call, please?

DIRECTOR RIBBRON: Give me one second.

All right. I've got a lot of papers this morning.

Good morning, everyone.

Board Member Ross.

BOARD MEMBER ROSS: Present.

DIRECTOR RIBBRON: Board Member Calzada.

BOARD MEMBER CALZADA: Present.

DIRECTOR RIBBRON: Board Member Moore.

BOARD MEMBER MOORE: Present.

DIRECTOR RIBBRON: Board Member Teague.

BOARD MEMBER TEAGUE: Present.

DIRECTOR RIBBRON: Board Member Weed.

(No response.)

DIRECTOR RIBBRON: Board Member Johnson.

1 BOARD MEMBER JOHNSON: Present.

2 DIRECTOR RIBBRON: Board Member  
3 Thomas.

4 (No response.)

5 DIRECTOR RIBBRON: Madam Chairman, you  
6 have a quorum. We do expect Board Member Weed and  
7 Chairman Thomas will be here around 9:45, 10:00.

8 BOARD MEMBER JOHNSON: Okay. Thank  
9 you.

10 Are there any procedural matters?

11 DIRECTOR RIBBRON: None, Madam Chair.

12 BOARD MEMBER JOHNSON: Is there a  
13 Motion on the minutes?

14 DIRECTOR RIBBRON: We're not approving  
15 the minutes at this time, Madam Chair. I am going to  
16 provide you with the notes for today.

17 What was that? Oh, hold on a second.  
18 I've got to get them together first. Okay.

19 BOARD MEMBER JOHNSON: Okay. Thank  
20 you.

21 DIRECTOR RIBBRON: April -- April, why  
22 aren't we doing the minutes? Why aren't we doing the  
23 minutes?

24 INSPECTOR PUROFOY: Because we have a  
25 (inaudible).

1                   DIRECTOR RIBBRON: Okay. Madam Chair,  
2 there's a -- there is a procedure matter. Let's back  
3 up to procedure matters. I'm sorry.

4                   The reason we're not approving the  
5 minutes at this time because there is a procedural  
6 matter that we're going to be dealing with related to  
7 a case. Once we take care of that, then we can  
8 approve the minutes.

9                   BOARD MEMBER JOHNSON: Okay. Thank  
10 you. So we're going to come back to that?

11                   DIRECTOR RIBBRON: Okay. All right.  
12 So we can move to --

13                   BOARD MEMBER JOHNSON: Communications?

14                   DIRECTOR RIBBRON: -- communications.  
15 No communications.

16                   BOARD MEMBER JOHNSON: Any  
17 miscellaneous business?

18                   DIRECTOR RIBBRON: Yes. Good morning,  
19 Board Member -- Board Member Weed has joined us.

20                   Let's start with our notes. Board  
21 Member Weed needs a copy of the notes. Okay.

22                   BOARD MEMBER JOHNSON: Good morning,  
23 Board Member Weed.

24                   DIRECTOR RIBBRON: All right. Number  
25 one, I have two cases for signature, BZA Case 59-17,

1                   DIRECTOR RIBBRON: Madam Chair, I know  
2 we adjourned, but just for the record, we want the  
3 Petitioner to know that there is a -- an adjournment  
4 fee of \$300.

5                   Okay. Thank you, Madam Chair.

6                   BOARD MEMBER JOHNSON: Thank you.

7                   (Off the Record at about 9:30 A.M.)

8                   (Back on the Record at about 9:45

9 A.M.)

10                  BOARD MEMBER JOHNSON: I'd like to  
11 call the meeting back to order.

12                  Case Number 63-16 is going to be  
13 adjourned to the call of the Chair and I will turn it  
14 over to Director Ribbron.

15                  DIRECTOR RIBBRON: Madam Chair, thank  
16 you. We -- we have a special presentation by the  
17 Allen Brothers who is the representation for your  
18 honorable body. I'd like to introduce at this time  
19 Esquire John Nader.

20                  MR. NADER: Thank you, Director.

21                  Good morning, Board Members. I'm John  
22 Nader from the Allen Brothers and my colleague, Jim  
23 Allen, sitting there. We have a presentation for you  
24 and I've passed out a -- I'm having Director Ribbron  
25 pass out a memo. It's pretty short, like four pages,

1 you.

2 MR. NADER: You have our number in the  
3 memo if you have any other questions. Thank you.

4 CHAIRMAN THOMAS: All right. Thanks a  
5 lot.

6 All right. I want to first apologize  
7 for my tardiness to the rest of the Board and to the  
8 greater community. I want to also welcome myself  
9 back from out of town. I heard we had some pretty  
10 spirited hearings last week in my absence.

11 With that being said, is the next case  
12 in?

13 DIRECTOR RIBBRON: Yes, Mr. Chairman.

14 CHAIRMAN THOMAS: All right.

15 DIRECTOR RIBBRON: BZA Case 63-16  
16 adjourned from October 11th and -- October 11, 2016,  
17 and February 14, 2017. The applicant Jazz Club  
18 Company of George Brikho at 16890 Telegraph Road.  
19 The Jazz Club Company of George Brikho appeals the  
20 decision of the Buildings Safety Engineering and  
21 Environmental Department's administrative review and  
22 correction order dated August 3rd, 2016, which  
23 states: discontinue the use of premises as a medical  
24 marijuana facility.

25 No permit has been issued for the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

present use of the property, unlawful change of use of the building and/or land and each day an uncorrected violation shall constitute a separate violation. This is a Drug Free Zone.

We will now hear from Inspector Purofoy.

INSPECTOR PUROFOY: Thank you, Director. Good morning, Board Members.

Anyone here today wishing to speak on case 63-19 property at 16890 Telegraph, please stand and be sworn in for testimony.

Would you all raise your right hands, please? Do you affirm the testimony you give today is the truth and the whole truth?

(Witness answered affirmatively.)  
Thank you. You may have a seat.

We're hearing this case because Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership, or corporation or by any City Department, Commission, Board or other City agency which is aggrieved by a decision of an enforcing officer or by any decision made by the Building Department involving conditional uses.

Also, the Building Department shall

1 not approve any requests under this chapter for a  
2 medical marijuana caregiver center in a Drug Free  
3 Zone. The locational specifications related to a  
4 Drug Free Zone of subsections 354(b)(1) of this  
5 section may not be waived or modified by the Building  
6 Department or Building -- or the Board of Zoning  
7 Appeals.

8 Applications that are not consistent  
9 with the locational specifications or subsection  
10 (b)(1) of this section shall be considered ineligible  
11 and shall be dismissed. Also, the proposed MMCC, The  
12 Jazz Club, care of George Brikho, located at 16890  
13 Telegraph has been identified as being in a Drug Free  
14 Zone based on being within 1,000 radial feet of Rouge  
15 Valley Parkway Park.

16 Because the subject property is  
17 approximately 182 linear feet from the park, it is  
18 confirmed to be within a Drug Free Zone.

19 Again, we're hearing this case under  
20 Section 61-4-72 appeals and Section 61-3-354(b)(1)  
21 conditional uses; procedures; waivers; and public  
22 nuisance.

23 We are hearing this case under the  
24 legal description attached. Our attorneys will  
25 assess ownership shortly.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

This property has no previous history before the Board. An inspection made on January 20th, 2017, and September 29th, 2017, shows the property is located within a one-story building in a B4 Zone.

The Building Department's letter dated August 3rd, 2016, states that the City of Detroit Building Department has received and completed its investigation of the request for an administrative review dated May 6, 2016.

The Jazz Club at 16890 Telegraph has been identified as being in a Drug Free Zone based on its proximity to Rouge Valley Parkway at 16950 West Riverdale.

BSEED has identified that city-owned Rouge Valley Parkway is currently part of an active parks system. Detroit Recreation Department is in its preliminary stages of creating a greenway that would connect said Rouge -- River Rouge Parkway to Eliza Howell Park and potentially extend northward. This greenway will be wide walk bike -- bike path that will have benches and garbage can spaces occasionally throughout the area at which time completed will become part of Eliza Howell Park.

Therefore, because the said Jazz Club

1 is approximately 818 linear feet from Rouge Valley  
2 Parkway, it is affirmed to be in a Drug Free Zone.

3 Again, we're hearing this case under  
4 Section 61-4-72 appeals and 61-3-354 conditional  
5 uses; procedures; waivers; and public nuisance.

6 The Jazz Club in care of George Brikho  
7 appeals the decision of the Building Department's  
8 administrative review correction which was dated  
9 August 3rd, 2016, which states, "Discontinued use of  
10 the premises as a medical marijuana facility. No  
11 permit has been issued for the present use of the  
12 property. Unlawful change of use of the building or  
13 land and each day an uncorrected and continued  
14 violation shall constitute a separate violation in a  
15 B4 Zone.

16 Front view of the subject property in  
17 question. Again, the property is located on  
18 Telegraph Road just south of McNichols Road.

19 Shot looking down Telegraph looking to  
20 the south. There is residential apartments and  
21 commercial businesses on this area.

22 Shot looking -- again looking down  
23 Telegraph to the south.

24 Block opposite. There's some vacant  
25 land and there's a gas station on the corner of West

1 McNichols and Telegraph.

2 Shot looking down Telegraph to the  
3 north. Immediately adjacent from the subject  
4 property is a motel and a gas station on the corner  
5 of Six Mile.

6 Another view of the adjacent  
7 properties of the subject property.

8 Another front-on view of the subject  
9 property. This is the south side of the property.  
10 There are two points of ingress and egress. This is  
11 the south point of ingress and egress.

12 This is the north point of ingress and  
13 egress.

14 Shot looking down the east side of the  
15 property -- the north side of the property looking to  
16 the east. Again, this is one point of ingress and  
17 egress.

18 Shot looking down the frontage of the  
19 subject property on Telegraph looking to the south.

20 Interior -- interior view of the  
21 parking area in the front and the entrance into the  
22 building.

23 Shot looking down the north side of  
24 the building looking to the rear.

25 Frontage of the subject property's

BZA  
63-16

6890  
TELEGRAPH

PT. 2

CITY OF DETROIT

BOARD OF ZONING APPEALS

Regular Meeting of October 10, 2017

Coleman A. Young Municipal Center

2 Woodward Avenue, Suite 212

Detroit, MI 48226

(313)224-3595

APPEARANCES:

ROBERT THOMAS, CHAIRPERSON

LATISHA JOHNSON, VICE-CHAIRPERSON

ROBERT WEED, BOARD MEMBER

RITA ROSS, BOARD MEMBER

VIVIAN TEAGUE, BOARD MEMBER

ELOIS MOORE, BOARD MEMBER

EMMANUEL CALZADA, BOARD MEMBER

RECORDED BY:

REGENCY COURT REPORTING

3133 Union Lake Road, Ste. A.

Commerce Township, MI 48382

(248) 360-2145

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

parking area.

Rear view of the subject property  
looking to the east.

Parking area directly behind the  
subject property.

View looking back up towards  
Telegraph.

This is the rear of the subject  
property. The masonry wall separates it from  
residential on the opposite side.

Shot from the rear of the property  
looking back to the rear of the building.

Shot of the south side of the building  
looking towards Telegraph.

Interior view of the parking in the  
rear.

And another front-on view of the  
parking for the subject property in the front.

And I'll put it back on the front view  
of the subject property in question.

Again, Board, you are hearing this  
case as the Building Department has affirmed it is  
within a Drug Free Zone. Petitioner, when they do  
come up, has a presentation they'd like to show you  
when -- when -- when you give them that opportunity.



1 Zone. We have put together -- and I'll give him time  
2 -- good?

3 All right. All right. We've put  
4 together a slide presentation for your convenience  
5 which will be handed out after my testimony. Also,  
6 we provided you with a briefing document complete  
7 with detailed appendixes.

8 I'll begin with the denial letter from  
9 BSEED. Here in this letter, BSEED is suggesting that  
10 The Jazz Club was denied because it's located within  
11 1,000 feet of a city-owned park. Not only do we  
12 refute the claim that the park that was in question  
13 that fall within 1,000 feet of The Jazz Club is a  
14 park, we refute that -- the fact that the City owns  
15 the parcels.

16 In fact, we contend that the parcels  
17 are owned by private owners who plan to build  
18 residential housing. If you'll indulge me, I'll  
19 prove these claims and let's start with the property  
20 in question.

21 Slide. You have Dehner -- the Dehner  
22 parcel and the Verne parcel. These parcels are among  
23 the property the City refers to as part of the park,  
24 the Rouge Valley Parkway. So the -- so the City  
25 claims that these -- these two parcels of property

1 are also part of the parkway. We don't believe  
2 that's the truth.

3 So let's take a look at it, the actual  
4 parcels that they're calling a park. Let's go to  
5 slide. This is actually a playscape. Benn buried  
6 for years under overgrown and unmaintained property.  
7 Next, you have a basketball court. Old rusted out  
8 basketball hoop I should say. There is no court if  
9 you notice. No cement, just burned out, unmaintained  
10 grass.

11 Here, you have rusted out, broken down  
12 swing set with no swings. There you go. Swing set  
13 with no swings. And go back to that last image. And  
14 this is the entry to the parkway which has been  
15 closed, by the way, by the City and obviously it's a  
16 place for abandoned vehicles and -- and debris.

17 Not much of a park, is it?

18 Over the course of the last 16 years,  
19 the City of Detroit has had three mayors who have  
20 upgraded parks all over the City, yet this property  
21 has not seen any upgrades. And according to the City  
22 of Detroit's Parks and Recreation master planning  
23 documents, this property won't see any upgrades in  
24 the foreseeable future.

25 Appendix A, which you can find in your



1 -- your packet, you'll find the City's strategic  
2 master planning document that looks like that.

3 Rouge Valley Parkway is not even  
4 listed as a park. Rouge Valley Parkway is actually  
5 designated a greenway. A -- a greenway, folks. Not  
6 a park. That's very key, but we'll come -- we'll  
7 come back to that.

8 Next slide. Appendix D. We'll take a  
9 look at the City of Detroit's Recreation Department's  
10 program strategy. You have it in your packet. Also,  
11 you can see here that this information on all parks  
12 organized by program strategy. That's what it says.

13 In more than 120 pages, the Rouge  
14 Valley -- Rouge Valley is not mentioned anywhere in  
15 the text. Not even in the community open spaces  
16 program strategy. We contend it's because the City  
17 doesn't consider these parks as a park either. As  
18 I've mentioned, the City's Recreation Department's  
19 master planning document designates this property as  
20 a greenway.

21 Let's look at that slide. When you  
22 look at the Detroit zoning core definitions of a  
23 park, you'll get a number of categories. In this  
24 case, the closest these parcels could come to a park  
25 is outdoor recreation facility. Let's -- let's stay

1 here for a second.

2 Well, we'll continue and then we'll  
3 come back.

4 So let's go to the text from the  
5 Ordinance. So for a Drug Free Zone, let's just go  
6 over the standard. A Drug Free Zone as established  
7 in Section 38-11-42 of the Zoning Ordinance and as  
8 defined by the MMCC means the area that is within  
9 1,000 feet -- radial feet of the zoning lot of an  
10 arcade, childcare center, educational institution,  
11 library, outdoor recreation facility as defined by  
12 61-16-144 of this Code and identified in the City of  
13 Detroit Recreation Master Plan, a school, a youth  
14 activity center, and public housing. Those are the  
15 eight categories.

16 Those are the eight categories:  
17 arcade, childcare center, educational institution,  
18 library, outdoor recreation facility, school, a youth  
19 activity center, and public housing.

20 So the only thing that this could be -  
21 - what was -- let's -- let's stay here. The only  
22 thing that this can be based on that criteria is  
23 outdoor recreation. I think everyone would agree to  
24 that.

25 Let's look at that definition. An

1 outdoor recreation facility is defined the use of  
2 land for purpose of golf course, skating rink, ice  
3 skating, roller skating, rollerblading, skating --  
4 skateboarding and similar activities, park,  
5 playfield, playground, park lot, parkway, park play  
6 lot, swimming pool, and tennis court.

7 Let's go to the next slide. Very key  
8 slide. I don't know if you can see that, but it's  
9 also in your packet. It looks like this. Same --  
10 same -- and again, there's a definition of all of  
11 those things that I mentioned, all of those  
12 categories. What's not included in that list is a  
13 greenway and we've established that the City of  
14 Detroit's Master Plan document has designated this  
15 property as a greenway.

16 So again, very key. Greenway is not  
17 listed here and this is very detailed information.  
18 They've taken the time in the Zoning Code to identify  
19 all of these potential outdoor recreational  
20 facilities and define what they are individually.  
21 Greenway is not included.

22 Okay. Earlier, I cited that the  
23 strategic master plan document, there's a map that  
24 looks like this. Let's go back to that map.

25 Here, you'll see all the parks are in

1 green. Let me just walk to it. I'll speak louder so  
2 everyone can hear me.

3 Every park on this map is indicated by  
4 the key that says green. Here is the Rouge Valley  
5 Parkway. It is blue. It is not green. Again,  
6 greenway, not a park, not a restriction in the  
7 Ordinance. And we'll move on.

8 Currently, Mayor Duggan and the City's  
9 Recreation Department are renovating about 20 parks  
10 with about \$12 million that they found in their  
11 budget after emergency management. They've been  
12 building some basketball courts in some of these new  
13 renovated parks.

14 Additionally to that, the Detroit  
15 Pistons, by way of MOU, is renovating another 60  
16 basketball courts in the City of Detroit because of  
17 their correlation between Pistons and basketball.  
18 Guess which one is not included? This one right  
19 here. It certainly needs improvement I would say,  
20 but that's not included.

21 In Appendix A, you can also see that  
22 the parcels are not designated for basketball court  
23 improvements. In fact, in that document, the City's  
24 own -- the City -- the Parks and Recreation's own  
25 master planning document has no improvements for any

1 of it listed in the 2017 Master Plan, capital  
2 improvements or otherwise.

3 Let me tell you why this park was left  
4 out. It's because these parcels -- it's because the  
5 City doesn't view these parcels as a park or outdoor  
6 recreational facility. More importantly, it's likely  
7 because the City doesn't actually own these  
8 properties.

9 Slide please. We asked Fidelity  
10 National Title Insurance Company to perform a  
11 thorough title search on these properties, the Dehner  
12 and Verne parcels. And they said that this property  
13 is not owned by the City. They said, and I  
14 paraphrase, that these parcels are owned by private  
15 owners. This is Fidelity. One of the top title  
16 companies in the country.

17 Without Verne or Dehner included, it  
18 demonstrates that The Jazz Club is more than 1,000  
19 feet away from the Rouge Valley Parkway even if for  
20 some reason or somehow you disagree with our  
21 contention that a greenway is not a part of this and  
22 you think a parkway is a park without these two  
23 parcels, The Jazz Club is still far beyond the two --  
24 I mean the 1,000 square feet radial restriction  
25 without those two parcels of property.

1                   So let's go to the survey map. This  
2 is a survey map that shows these parcels were never  
3 intended to be a park. It shows that they were  
4 platted for residential housing. So again I'll walk  
5 over to this (inaudible) which you also have in your  
6 packet. These are Dehner and Verne properties and  
7 you can see here that it's actually plotted for  
8 residential use and not for park use. So the intent  
9 of these private owners was to build residential  
10 housing.

11                   I know that the park property actually  
12 looks like a park -- like it could've been a park  
13 once upon a time, but so does the area near my old  
14 neighborhood on the east side of Detroit: Malcolm  
15 and Olga, right by 94 and Conner. It's almost  
16 entirely enclosed by the Channel Park Golf Course.

17                   Let's go to the -- okay. So this is a  
18 block on Malcolm Street, one of the four blocks, five  
19 blocks, in that little area.

20                   Next slide. This used to all -- used  
21 to be where the homes of my childhood friends lived.  
22 Now, because of dilapidation, they've been knocked  
23 down, this looks like the same parkway that we're  
24 talking about, but it's actually the neighborhood  
25 where my friends grew up.

1                   Next slide. They live in houses right  
2 across the street like that. That is exactly across  
3 the street from the lots I just showed you, so it  
4 looks a whole lot like the parkway and it is adjacent  
5 to the Channel Park Golf Course. Does that make it a  
6 part of the park? Does that mean that the City is  
7 going to take this property off of the tax rolls? I  
8 don't think so.

9                   All right. Please bear with me.

10                  Okay. We're wrapping this up.

11                  CHAIRMAN THOMAS: All right.

12                  MR. DICKENS: So I think we've proven  
13 that the City -- and the City doesn't refute the fact  
14 that the City doesn't own these parcels. We've got  
15 Appendix A that -- well, we've got the Fidelity title  
16 search. Appendix A shows that these so-called parks  
17 weren't mentioned in the text in the strategic master  
18 plan. Nowhere in this capital improvement plan. Not  
19 mentioned in the text of any of those documents at a  
20 time when 80 City parks are being improved with an  
21 emphasis on basketball courts.

22                  Let's go through those slides. One  
23 more, but not that one. Eighty. Eighty parks.  
24 Eighty basketball courts. Not that one. No new  
25 swing sets. No new basketball hoops. No playscapes.

1                   We contend that this so-called park  
2 was omitted for two reasons. The first is because  
3 it's not a park, and the second is because the City  
4 doesn't actually own the parcels.

5                   And before I conclude, I'd like to  
6 remind this body of one more thing. The City of  
7 Detroit has had a Drug Free Zone restriction far  
8 beyond -- before the passage of the City's medical  
9 marijuana ordinance was passed last year.

10                   The special restrictions are the same  
11 as it is in the Ordinance. Identical. Same  
12 restriction, 1,000 feet from, you know, park,  
13 playfield, arcade, daycare center. Pursuant to the  
14 City's zoning code, the City shall post signs that  
15 indicate that it's a Drug Free Zone. There are no  
16 signs that indicate that it's a Drug Free Zone.

17                   Again, this comes from an ordinance  
18 passed long before the medical marijuana ordinance.  
19 In fact, the restriction for Drug Free Zones were  
20 taken from the City Zoning Code and placed into the  
21 Michigan medical -- I mean, well, the -- the City of  
22 Detroit's medical marijuana caregiver center  
23 ordinance.

24                   Further, my client sought a  
25 certificate of occupancy and compliance from the City



1 prior to opening and the City gave it to him. That's  
2 right. The City issued a certificate of occupancy  
3 and compliance for The Jazz Club to sell medical  
4 marijuana to its patients.

5 The reason we know that is because in  
6 order to receive a certificate of occupancy and  
7 compliance from the City, all inspections have to be  
8 done while the establishment is set up for its  
9 operation. That means that inspectors saw medical  
10 marijuana on display during inspection and they  
11 approved this location. That would mean that the  
12 City itself didn't even believe that those parcels  
13 and The Jazz Club fell within a Drug Free Zone.

14 Otherwise, how could The Jazz Club  
15 receive the certificate of occupancy and compliance  
16 in this location when inspectors knew that they were  
17 going to sell medical marijuana.

18 So to conclude, we submit to this body  
19 that The Jazz Club is not in a Drug Free Zone for  
20 several reasons. The first one, as we showed you  
21 earlier, the City own -- the City's own park and  
22 recreation Master Plan designate these parcels and  
23 the Rouge Valley parkway as a greenway, not a park or  
24 outdoor recreation.

25 Secondly, we showed you the letter

1 from Fidelity. The City doesn't even own the -- the  
2 parcels in question.

3 Thirdly, you saw that the private  
4 owners never intended for that area to be a park --  
5 those parcels to be a park. They intended it for  
6 residential development.

7 And lastly, it was the Drug Free Zone.  
8 The City provided my City (sic) with a certificate of  
9 occupancy and compliance knowing that they were going  
10 to sell medical marijuana in this place and location.  
11 They didn't even consider it a park themselves.

12 Without those two parcels, the Dehner  
13 parcel and the Verne parcel, which we show that the  
14 City doesn't own in a greenway that's not a  
15 restriction per the Ordinance, we believe that we've  
16 proven that this is not, in fact, in a Drug Free Zone  
17 and as such, we ask this Honorable body to reverse  
18 BSEED's ruling that this Jazz Club is in a Drug Free  
19 Zone.

20 Thank you very -- oh, by the way, just  
21 if you can see here, you can see the path it takes  
22 for a person to get from The Jazz Club to (inaudible)  
23 Verne and Dehner and -- okay. Here's The Jazz Club.  
24 You would have to (inaudible) -- why don't you show  
25 them, Jason? You can see that --

1 MR. CANVASSER: So The Jazz Club is  
2 all the way at the very top. It's this white box.  
3 As much color that I have (inaudible) you have to  
4 come all the way down here, all the way over here  
5 just to get to the very beginning of the park. All  
6 of that (inaudible).

7 CHAIRMAN THOMAS: Okay. All right.  
8 Thank you.

9 MR. DICKENS: Thank you very much. We  
10 really appreciate it.

11 CHAIRMAN THOMAS: All right. Building  
12 and Safety.

13 MS. PHILSON: Good morning.

14 CHAIRMAN THOMAS: Good morning, Ms.  
15 Philson.

16 MS. PHILSON: Jayda Philson  
17 representing the Building Department.

18 We stand by our decision that The Jazz  
19 Club is located in a Drug Free Zone. The Rouge Park  
20 is -- when we wrote the letter, within the Master  
21 Plan, the Recreation Department's Master Plan, they  
22 also plan on building a greenway to connect Rouge and  
23 Ella Howe Park together as a bike path for citizens  
24 around that neighborhood. So we contend that it is a  
25 park. It will be a park and it will stay a park.

1 CHAIRMAN THOMAS: Okay.

2 MS. PHILSON: Also, I wanted to speak  
3 to Mr. Dickens saying that -- that he received a C of  
4 O from our Department, a certificate of occupancy.  
5 His clients came in with a retail store, so when our  
6 inspectors go out to inspect, they're inspecting for  
7 the retail component and that's how they received a  
8 certificate of occupancy for a retail store. He does  
9 not have a permit for a medical marijuana caregiver  
10 center at this time.

11 CHAIRMAN THOMAS: Okay. I -- I do  
12 have a quick question for you. Actually, probably a  
13 couple.

14 The applicant Petitioner presented  
15 these parcels of land. Is this City-owned? Are  
16 these City-owned parcels or what's going on with  
17 these parcels along Verne Street and Dehner Street?

18 MS. PHILSON: I can't speak to those  
19 specifically, those parcels.

20 CHAIRMAN THOMAS: Okay. And he -- he  
21 also submitted a -- a letter from Clark Hill, I  
22 believe it's the law firm that's representing this  
23 case, from Fidelity also stating that there's -- they  
24 didn't see any records that the City owned the  
25 property. So --

1 MS. PHILSON: From the Recreation  
2 Department, they said that they are doing  
3 improvements to Rouge Park. So I'm not sure what the  
4 ownership is, but from our records, they are -- they  
5 have the right to do those improvements.

6 CHAIRMAN THOMAS: Okay. Okay. Okay.  
7 But have they acquired the land is what I'm looking  
8 at?

9 MS. PHILSON: Well, that land has been  
10 acquired for many years by Recreation Department.

11 CHAIRMAN THOMAS: Okay.

12 MS. PHILSON: They can't do  
13 improvements unless they own the land.

14 CHAIRMAN THOMAS: Okay.

15 MS. PHILSON: So I'm not sure what  
16 they were looking at.

17 CHAIRMAN THOMAS: All right. Okay.

18 Ms. Bassett.

19 MS. BASSETT: Laura Bassett, City Law  
20 Department. Just to -- just to add to that, just to  
21 clarify that as part of the Drug Free Zone definition  
22 in the -- in the Zoning Ordinance, it does not have  
23 to be City-owned.

24 CHAIRMAN THOMAS: Okay. All right.  
25 Point well taken. All right.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Board Member Calzada.

BOARD MEMBER CALZADA: Board Member Calzada. I guess in looking at the -- looking at the -- the letter from Fidelity National that the Petitioner's counsel provided, what is the radial distance from their current location to the -- I -- I -- I know it's 800 feet or something, but -- but -- but is there -- and the park is pretty big I guess. How many times does that radial feet touch the park at any one given time?

I mean, I know the -- as soon as it touches 800 feet, but I mean does it -- does it -- does it encompass the park many times on that radial feet or just one time?

MS. PHILSON: No, it -- it -- many times.

BOARD MEMBER CALZADA: So that's -- that's the point I'm trying to make. So not just -- not one point does it -- does this radial feet from the distance of The Jazz Club hit the park. It hits that park at many different points. Okay.

Thank you.

CHAIRMAN THOMAS: All right. Anymore questions?

(No response.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

All right. Thank you.

All right. Anymore departments?

(No response.)

Seeing none I'm going to shift to --  
all right -- no, I can't do that because this is --  
the only question we're answering is this recognized  
as a Drug Free Zone.

All right. Petitioner.

MR. DICKENS: I just wanted to correct  
the record. Ms. -- Ms. Philson mentioned a couple  
times Rouge Park, but we're talking about the Rouge  
Valley Parkway. Rouge Park is several miles away  
from this location. It's connected by this -- this  
greenway.

And then to respond to the Law  
Department about the park not being -- have to --  
having to be owned by the City, well, I don't know  
how the City could have it. They claim that it's in  
the City's Master Plan. Why would the City put in  
their Master Plan if they didn't claim to own it?

And if they don't own it, it's  
certainly not a park because we've seen the property  
and by its own -- by the City's own -- the City  
Recreation's own strategic planning document, it is a  
greenway which we now know is not a part of the list

1 of things that are restriction as outdoor recreation.

2 So I just wanted to reiterate those  
3 facts.

4 CHAIRMAN THOMAS: Board Member Ross.

5 BOARD MEMBER ROSS: Board Member --  
6 Board Member Ross. You have outlined very well to me  
7 how the City has been derelict in its duties. You  
8 used to work for the City from my understanding.

9 MR. DICKENS: I did.

10 BOARD MEMBER ROSS: Were you aware of  
11 this or any other things that the City is supposed to  
12 do but that -- have not done?

13 MR. DICKENS: Well, you know, I was an  
14 executive in the City in a -- in a specific  
15 portfolio, which was communication.

16 BOARD MEMBER ROSS: Okay.

17 MR. DICKENS: Media relation and that  
18 -- and marketing. I wouldn't be an authority at that  
19 time. I come to -- I've become an authority over the  
20 last few weeks, but not at that time, so I wouldn't  
21 have known.

22 BOARD MEMBER ROSS: One of the reasons  
23 the people have come to the City Council to -- to --  
24 to actually setup these ordinances is because they  
25 found a lot of spaces where the City has not been



1 evidently doing what they should do. And one of the  
2 reasons we're here now is to be accountable to the  
3 citizens of the City of Detroit because you could  
4 probably find a lot of discrepancies in other areas,  
5 such as maybe the areas that you're in, whereas the  
6 City is derelict in some of their responsibilities,  
7 but that's still, in my opinion, does not take away  
8 the fact that this is a park, but because they're not  
9 doing their job, which you have outlined in your  
10 presentation, is that it is a park, but the City is  
11 not doing the -- the -- what they're supposed to do.

12 MR. DICKENS: For -- for -- thank you  
13 for that, Board Member Ross. For clarification, my  
14 point was not that it is a park and the City is not  
15 doing its -- it -- it does not -- that the City's  
16 derelict in their duties. My point was that if it  
17 was a park, it would look like a park.

18 And then my -- my -- my point also was  
19 that, you know, it's not a park because it's a --  
20 it's a greenway and that's not identified in the  
21 Ordinance anywhere as a restriction for a Drug Free  
22 Zone. And then I went further to say that the City  
23 doesn't even own it and that they can't have it in  
24 their Master Plan if they don't own the property,  
25 which they don't mention this park anywhere in text

1 in their Master Plan. Anywhere in their Master Plan,  
2 so that's -- that was more so what I was trying to  
3 relay and I apologize if I was a bit confusing.

4 CHAIRMAN THOMAS: All right.

5 Board Member Johnson.

6 BOARD MEMBER JOHNSON: Board Member  
7 Johnson. So are you essentially indicating that the  
8 information that we have that says that this parkway,  
9 park, greenway, whatever we're calling it, it says  
10 that it's 182 linear feet from The Jazz Club.

11 MR. DICKENS: Right. So --

12 BOARD MEMBER JOHNSON: You -- so -- so  
13 you identified the two parcels that are privately  
14 owned?

15 MR. DICKENS: That's correct.

16 BOARD MEMBER JOHNSON: Is it those  
17 only two parcels that are within 1,000 feet of The  
18 Jazz Club that are -- that would cause the Drug Free  
19 Zone --

20 MR. DICKENS: That's correct.

21 BOARD MEMBER JOHNSON: -- issue?

22 MR. DICKENS: That's correct.

23 BOARD MEMBER JOHNSON: And so there is  
24 no other parcel within that 1,000 feet that's  
25 associated with the parkway, the park, the greenway,

1 whatever we're calling it, that would also perpetuate  
2 that Drug Free Zone?

3 MR. DICKENS: Yes, and I appreciate  
4 that question, Board Member Johnson. So you're  
5 absolutely right. We're saying that those two  
6 parcels of property, Verne and Dehner, that are  
7 privately owned and not a part of this -- this  
8 greenway. If those two parcels were taken out, which  
9 we contend that they should not be considered, then  
10 we are well beyond 1,000 feet and we wouldn't be  
11 having this conversation about a Drug Free Zone  
12 today.

13 CHAIRMAN THOMAS: Board Member  
14 Calzada.

15 BOARD MEMBER CALZADA: Board Member  
16 Calzada. Do you know who the owners of those lots  
17 are and do you have any evidence that they -- you  
18 know, who they are and can they speak on -- on -- on  
19 those lots?

20 MR. DICKENS: Well, this -- the -- the  
21 original owners go back to the '50s.

22 BOARD MEMBER CALZADA: Okay.

23 MR. DICKENS: So we do have names, but  
24 we have not been able to identify family members, you  
25 know, who are -- who -- who, you know, the property's

1 passed down to them, but what we do know is that that  
2 property is owned by private owners and not by the  
3 City of Detroit. Again, Fidelity is probably one of  
4 the most accredited title companies in the country  
5 and we asked them and -- and paid substantially for a  
6 very thorough title search and this is what we came  
7 back with.

8 BOARD MEMBER CALZADA: To the Chair,  
9 I'm not a real estate attorney, but doesn't -- if --  
10 if the lots do not get claimed by kin, doesn't it go  
11 to the City or doesn't it go to the state? I don't  
12 know what -- I don't know what the procedure is.

13 CHAIRMAN THOMAS: It's a little bit  
14 more complex than that, but --

15 BOARD MEMBER CALZADA: I mean, in  
16 layman's terms, wouldn't that -- wouldn't that would  
17 happen?

18 CHAIRMAN THOMAS: It could revert to  
19 the City, but --

20 MR. DICKENS: Or it could get caught  
21 up in probate --

22 CHAIRMAN THOMAS: Yeah.

23 MR. DICKENS: -- you know, amongst  
24 family members.

25 BOARD MEMBER CALZADA: So there's a

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

lot of circumstances behind it.

CHAIRMAN THOMAS: Yeah.

BOARD MEMBER CALZADA: So okay.

MR. DICKENS: Yes.

BOARD MEMBER CALZADA: I just -- I just want to make sure to put that clear. If you can't find anyone, maybe -- maybe ask the City if they -- they have a deed or something.

MR. DICKENS: We've -- we've been in contact with the City about this particular property and -- and they don't refute our claims --

CHAIRMAN THOMAS: All right.

MR. DICKENS: -- that -- that they don't own it.

CHAIRMAN THOMAS: Okay.

BOARD MEMBER CALZADA: Okay. Thank you.

MR. DICKENS: Outright I should say.

BOARD MEMBER CALZADA: Sure.

CHAIRMAN THOMAS: All right.

Board Member Johnson.

BOARD MEMBER JOHNSON: Board Member Johnson. Just very quickly, would you happen to know the parcel ID numbers for either one of those parcels?

1 MR. DICKENS: Parcel ID numbers for  
2 those parcels?

3 MR. CANVASSER: They should be in the  
4 brief.

5 MR. DICKENS: So that's the one that  
6 we slipped into the front page of -- of your packet.

7 CHAIRMAN THOMAS: Okay. I do have a  
8 question for Building and Safety just really briefly,  
9 Ms. Philson.

10 Okay. So -- so I -- I recall this  
11 case coming back. I think you came before us in  
12 January or -- or -- I think I've seen this before  
13 anyway.

14 MS. PHILSON: It was June.

15 CHAIRMAN THOMAS: In June?

16 MS. PHILSON: I think it was --

17 INSPECTOR PUROFOY: Inspector Purofoy.  
18 You have adjourned it twice.

19 CHAIRMAN THOMAS: Yeah.

20 INSPECTOR PUROFOY: You never actually  
21 heard the case.

22 CHAIRMAN THOMAS: Yeah, yeah, yeah. I  
23 remember it came up though and that was -- one of my  
24 questions was -- I -- I remember Mr. Mohammed  
25 initially doing the review of this case. And I rode

1 around this -- this plot of land and the only park I  
2 could see at that time was River Rouge Park, but now  
3 that this is up again, it's -- it's being called  
4 Rouge Valley Parkway and then I'm looking at Dave  
5 Bell explaining it also as a greenway.

6 So are -- are we now calling parkways  
7 and greenways parks?

8 MS. PHILSON: No, the greenway will  
9 connect the parks.

10 CHAIRMAN THOMAS: The greenway will  
11 connect the parks.

12 MS. PHILSON: The greenway will be for  
13 the bike paths.

14 CHAIRMAN THOMAS: Okay. So which part  
15 of this is the greenway and which part is the park?

16 MS. PHILSON: There are two --

17 CHAIRMAN THOMAS: Or the parkway?

18 MS. PHILSON: -- there are two parks  
19 that we have identified. We identified Eliza Howell  
20 Park and then the Valley Rouge Park also.

21 CHAIRMAN THOMAS: That abuts this in  
22 this 1,000 foot --

23 MS. PHILSON: Right.

24 CHAIRMAN THOMAS: -- buffer?

25 MS. PHILSON: In the area and then --

1 CHAIRMAN THOMAS: So there's two parks  
2 --  
3 MS. PHILSON: -- so the greenway --  
4 CHAIRMAN THOMAS: -- that's in the --  
5 MS. PHILSON: -- will -- the greenway  
6 will connect both of the parks.  
7 CHAIRMAN THOMAS: Okay. So is this --  
8 is the Petitioner's property in the buffer zone of  
9 the greenway or the parks themselves?  
10 MS. PHILSON: We're saying the park  
11 theirselves (sic). Not Eliza. They're within the  
12 800 feet of the Valley Rouge Park.  
13 CHAIRMAN THOMAS: Okay. I need to  
14 revert back to the map. It -- I believe the  
15 Petitioner provided -- that was it. Thank you.  
16 Anymore questions from the Board for  
17 Petitioner?  
18 Board Member Weed.  
19 BOARD MEMBER WEED: Board Member Weed.  
20 CHAIRMAN THOMAS: Is this for the  
21 Petitioner or --  
22 BOARD MEMBER WEED: That's all right.  
23 CHAIRMAN THOMAS: -- Jayda -- Ms.  
24 Philson?  
25 BOARD MEMBER WEED: The statement that



1 was made in the report from Mr. Bell says that the --  
2 identified the City-owned Rouge Park -- Rouge Valley  
3 Parkway is currently part of the active park system.  
4 So that is what their position is is it's part of the  
5 park system?

6 MS. PHILSON: Yes.

7 BOARD MEMBER WEED: Which has been  
8 established through the City through --

9 MS. PHILSON: Through the Recreation  
10 Department, yes.

11 BOARD MEMBER WEED: -- all of the  
12 processes, all of what's done.

13 MS. PHILSON: Yes.

14 BOARD MEMBER WEED: Thank you.

15 CHAIRMAN THOMAS: Anymore questions  
16 from the Board?

17 (No response.)

18 All right. Thank you, Ms. Philson.

19 To Petitioner, can you come back? All  
20 right.

21 MR. DICKENS: Yes. Again -- again,  
22 for the record, Mr. Chair, the -- this -- this  
23 location is miles away from Eliza Howell Park, miles  
24 away from Rouge Park. So what we're talk -- what --  
25 what the Department is suggesting is that the

1 greenway -- and they referred to it -- the Department  
2 today refers to it as a greenway.

3 We are within 1,000 feet of the  
4 greenway and we contend that a greenway is not a  
5 restriction per Ordinance. And then we also contend  
6 that those two parcels of property that is not owned  
7 by the City and not a part of that greenway, without  
8 that, we wouldn't even be within 1,000 feet of the  
9 greenway.

10 So we're miles away from the park.  
11 Eliza Howell, Rouge Park are not within 1,000 feet of  
12 us. The park -- the greenway, with those two parcels  
13 that we believe -- we contend that the City doesn't  
14 own, what those -- with those two parcels, we are  
15 within 1,000 feet of the greenway, but the greenway  
16 again is not a restriction as we -- as we showed you  
17 based on the Ordinance that is passed -- that was  
18 passed by City Council and upheld by this body many,  
19 many times.

20 CHAIRMAN THOMAS: So how far are you  
21 away from Howell Park?

22 MR. DICKENS: Howell Park is -- do you  
23 know how far away --

24 CHAIRMAN THOMAS: Is that the park  
25 that's south?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. MURPHY: Howell Park is --

CHAIRMAN THOMAS: Can you -- can you  
come forward to the mic, please?

MR. DICKENS: So we're at -- we're at  
-- I'll let -- I'll let Charles Murphy respond.

MR. MURPHY: Yeah, the -- the greenway  
is between Six and Five and then Eliza Howell is  
south of Five Mile.

CHAIRMAN THOMAS: Okay. Can you state  
your name and address for us?

MR. MURPHY: Yes. I'm Charles Murphy  
with the Clark Hill firm in Detroit.

CHAIRMAN THOMAS: Okay. And you said  
-- how far is Howell Park from the Petitioner's --

MR. MURPHY: The other side of Five  
Mile Road.

CHAIRMAN THOMAS: Okay.

MR. MURPHY: So the Rouge Valley  
Parkway and it's designated as a greenway on this map  
which is in the Master Plan and the map was created  
in March of this year and it's in blue on that Master  
Plan map. That's between Six Mile and Five Mile and  
the portion we're talking about is closer to Six  
Mile.

CHAIRMAN THOMAS: Yeah. Okay.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Board Member Calzada.

BOARD MEMBER CALZADA: Board Member Calzada. I guess it's either a question for the Petitioner or BSEED. Has -- how do we know the perimeter or the size of river park -- the perimeter or how -- how -- how wide or how big the park is if you're considering that the -- that the City is considering the greenway as the park, how do we know that that's what you're saying the site what they're considering?

Is there I guess -- I don't know -- I don't know -- BSEED may not know. Recreation may know. Is -- how -- what are the perimeter -- what is the perimeter of the -- of the park itself to classify it as a park compared to a greenway?

MR. DICKENS: So -- so, you know, real simply, you know, we went to the edge of what they call the greenway because it was the area that the Department pointed us into that said we were within 1,000 feet of and that's where we started. And then we have all the maps from the Master Plan that shows us where we are as it relates to our facility and -- you know, and the -- and -- and where the -- the greenway runs from and to.

BOARD MEMBER CALZADA: I -- to the

1 Chair -- I -- I agree that that's probably the  
2 typical way to do it, but I also agree that the City  
3 of Detroit has plans for parks and I don't think that  
4 they may just have a perimeter set yet, so that's why  
5 I believe the -- the BSEED is classifying it as -- as  
6 Drug Free.

7 I think that's the way I understand it  
8 right now unless Recreation is here to -- to -- to  
9 debunk me.

10 MR. DICKENS: Let's go back to that --

11 BOARD MEMBER CALZADA: I don't think  
12 that I could take the -- the -- the evidence of -- of  
13 what's being classified from BSEED as the correct --  
14 the correct analysis of this. I mean, help me  
15 understand this a little bit better, but from what  
16 I'm seeing is that you're -- you're -- you're just  
17 disputing the -- that the distance between your  
18 facility and the park is what -- is not -- is not a  
19 park, it's greenway, but from what I understand, they  
20 -- there's future plans for that area --

21 MR. DICKENS: Yeah.

22 BOARD MEMBER CALZADA: -- that -- that  
23 the Building and Safety and Recreation still has not  
24 developed.

25 MR. DICKENS: So -- so Mrs. Philson

1 just came to the microphone and -- and basically made  
2 my point when she talked about a greenway for biking  
3 and so forth. That is not -- she did not -- to  
4 connect the parks. She did not say, "We are  
5 expanding the park."

6 BOARD MEMBER CALZADA: Right.

7 MR. DICKENS: She said, "We're  
8 expanding the greenway," so -- so I think that it  
9 still supports our contention in that a greenway,  
10 which is what we're close to, if -- if -- if the City  
11 was going to make any argument about us being close  
12 to something park-related, it would be the greenway,  
13 but based on the Ordinance, a greenway is not a  
14 restriction for Drug Free Zone.

15 And -- and so -- say that you don't --  
16 say that you think that, you know, whether City owns  
17 those other two parcels or not, it's connected to a  
18 greenway that's not a restriction in this Ordinance.  
19 If you look at all the categories, it does not say  
20 greenway. It says a whole lot of other things, but  
21 greenway is not one of them.

22 BOARD MEMBER CALZADA: To the Chair, I  
23 -- I agree with you, Germaine. It's just that it's --  
24 -- it's really hard to put something on -- on a plan --  
25 -- a schematic that's still not -- that's still not

1 developed. I want to believe that the City of  
2 Detroit is going to develop that area. They're  
3 saying they're going to develop the area, but I -- I  
4 get your point. I definitely understand it.

5 MR. DICKENS: I appreciate that. And  
6 just one -- one other point to the Chair, if I may,  
7 so when we consider something abandoned, we give it a  
8 six-month standard, liquor store, church, what have  
9 you. This has been abandoned for three mayors. Each  
10 mayor gets a four-year term. We've been three  
11 mayors. That's -- that's over 16 years. You don't  
12 get to a -- a facility that looks like that  
13 overnight, in six months even.

14 And I think there are residents here  
15 that can help shine some light on that -- those  
16 particular parcels of property, what is so -- even a  
17 so-called greenway. I mean, the -- the greenway is  
18 just that in title itself. It's not much of a  
19 greenway. And I hope -- truly hope that the City  
20 does develop it as a greenway that at some point the  
21 community can enjoy, but at this point, it hasn't  
22 been anything the community enjoys.

23 Matter of fact, it's been a place  
24 where people have even dumped, you know, homicide  
25 victims because they know they would never be found

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

because no one uses the greenway.

So -- so with that, I appreciate your indulgence. Thank you.

CHAIRMAN THOMAS: Thank you.

BOARD MEMBER CALZADA: Thank you.

CHAIRMAN THOMAS: Anymore questions from the Board?

(No response.)

CHAIRMAN THOMAS: All right. At this point in time, I'm going to move to community input.

Anybody here in support of the Petitioner's project? Anyone here in support? Can you come down, please?

Anyone else in support?

Can you state your name, your address, and the reason why you're supporting it within a minute timeframe?

MR. UPPERS: William Uppers, 23642 Daner. I live at the intersection of Riverview Street and the Dehner property. The Jazz Club would be located technically kind of off to the side and behind my home.

That greenspace has been vacant for quite some -- for years and years and years. I have purchased the property as of January this year with a



1 partner and we've been there pretty much every day  
2 working on it, meeting the residents in the  
3 community, and talking with the little neighborhood  
4 association that we have.

5 It's a little proud community. It's  
6 very, very tightknit and we've been growing together  
7 and we see what happens over there and we've been  
8 running people off. The more area that's left open  
9 like this and unattended is just drawing more people  
10 to dump and drawing more illicit activity, et cetera.

11 Since The Jazz Club and other  
12 businesses that have arranged themselves on Telegraph  
13 there, we've seen that less and less and less. We  
14 would like this to continue. They're a -- they're a  
15 community partner for us and this greenspace is just  
16 left vacant. We take care of it. I personally pick  
17 up trash over there. The City doesn't have the time  
18 or the money to maintain it, so we would like this to  
19 continue. It seems nice just to leave us alone the  
20 way that it is over there. These people are helpful.

21 CHAIRMAN THOMAS: All right. Thank  
22 you.

23 MR. UPPERS: Thank you.

24 CHAIRMAN THOMAS: Next. Your name,  
25 your address, and the reason why you're in support

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

and within a minute timeframe.

MR. MILESVAY: My name is Glasgow Milesvay (ph). I live at 16865 Riverview. Been there about 29 years. I can't recall anytime that the children actually went over there and played because of the various things that you do find there, such as one of them stated the bodies and the abandoned cars, the tricking that go on, you name it. So no, it's not what you call a park.

CHAIRMAN THOMAS: Okay. Thank you.

Next gentleman. Your name, your address and the reason why you support.

MR. OSBORNE: My name is William Osborne Junior. I live at 16751 Riverview Street. I'm across the street from this area. I've been there 40 years and I watched it deteriorate, put up with the dumping, the -- let's say the lewd things that go on at night because we just got a light in that area. It's been dark. When I moved there, it was all dark, so I don't know how it was a park -- considered a park. It was -- and the street just got paved I think about 12 -- 10 or 12 years ago. It was just like a forgotten area.

CHAIRMAN THOMAS: Okay. Thank you.

All right. Anyone else in support?

1                   Anyone else in support?  Anyone else in support?

2                                   (No response.)

3                                   All right.  Anyone in opposition?

4                   Anyone in opposition?

5                                   All right.  Ms. Carter.

6                                   MS. CARTER:  Good morning.

7                                   CHAIRMAN THOMAS:  Good morning.

8                                   MS. CARTER:  Pat Carter, Oakland

9                   Boulevard Community Association 3126 Ewald Circle.

10                   First of all, if it's a basketball hoop there and a

11                   old swing set, they have no right to disregard that

12                   regardless of the condition that the swing set or the

13                   basketball hoop is in.

14                                   There's been many parks in the City of

15                   Detroit that were abandoned for years, but then they

16                   come back.  You have certain groups.  We've had

17                   certain groups in our neighborhood that build up

18                   these parks eventually and they do things for them.

19                                   So if they're within 180 some feet of

20                   a park, they shouldn't be open according to the

21                   Zoning Ordinance.

22                                   Thank you.

23                                   CHAIRMAN THOMAS:  Thank you.

24                                   Anyone else in opposition?  Anyone

25                   else in opposition?



1 out basketball courts and different things like that.

2 So I do have all the residents in the  
3 building that support me or we all support them not  
4 being open, so hopefully we trust that the Board will  
5 make a decision that will help this area in the  
6 community along with the others move forward.

7 CHAIRMAN THOMAS: Okay. Thank you.

8 All right. Anyone else in opposition?  
9 Anyone else in opposition? Anyone else in  
10 opposition?

11 (No response.)

12 Hearing none, seeing none.

13 All right. It's now -- Director  
14 Ribbron, communications?

15 DIRECTOR RIBBRON: Thank you, Mr.  
16 Chairman. In BZA Case 63-16, notices were mailed  
17 September the 18th, 2017; 34 notices were sent. We  
18 received numerous communications on today. We did  
19 not receive any letters of protest or consent or none  
20 returned. And today's hearings were posted in the  
21 Thursday -- I'm sorry -- Tuesday -- in the Thursday,  
22 September 21st edition of the Detroit Legal News.

23 Thank you, Mr. Chairman.

24 CHAIRMAN THOMAS: Thank you. All  
25 right.

1                   At this point in time, I'm not sure if  
2 all the Board Members saw the communications that  
3 came through.

4                   At this point in time, we're going to  
5 make a determination about this case being a Drug  
6 Free Zone and I will -- what's this? Oh, okay.  
7 Yeah.

8                   All right. You're right.

9                   To Petitioner, do you want a brief  
10 rebuttal or you stated your case enough?

11                   MR. DICKENS: Yes, and thank you for  
12 that, Mr. Chairman. Real briefly, I just want to  
13 say, with all due respect, to the -- the resident  
14 that this is all about whether it's near a Drug Free  
15 Zone, people were saying 150 feet. This -- their --  
16 their -- their measurements are way off by any  
17 standard. We're talking about a greenway, not -- not  
18 a -- not a park. We're talking about a greenway  
19 which is not a restriction, so I just wanted to  
20 reiterate that.

21                   Thank you.

22                   CHAIRMAN THOMAS: Thank you.

23                   All right. Board Member Johnson.

24                   BOARD MEMBER JOHNSON: Board Member  
25 Johnson. Mr. Dickens, I just have a quick question

1 for you. What is the difference to you between a  
2 greenway and a parkway?

3 MR. DICKENS: The difference is what  
4 the City designated it as. You know, prior to that,  
5 I had no idea, but what I know is that the City --  
6 Recreation, I assume, and -- and -- and give them the  
7 credibility to know that there's a difference and  
8 they call it a greenway. They designated it a  
9 greenway, not just called it a greenway. They  
10 designated it a greenway, so from that, that's all I  
11 needed to know.

12 So I wanted to find out if a greenway  
13 was part of a restriction by the -- by the Ordinance.  
14 You know, there's a whole lot of restrictions in this  
15 Ordinance, you know, liquor stores, churches,  
16 arcades. Greenway is not one of them. So straight  
17 up and down, you know, that is the question today.  
18 Is it near a park? What makes a park a park? You  
19 know, is a greenway a park? If that answer is no, I  
20 think that this Board would agree that it's not  
21 within a Drug Free Zone.

22 Thank you.

23 BOARD MEMBER JOHNSON: Thank you.

24 CHAIRMAN THOMAS: Thank you.

25 Board Member Teague.

1 BOARD MEMBER TEAGUE: Board Member  
2 Teague. Mr. Dickens?

3 MR. DICKENS: I'm sorry.

4 BOARD MEMBER TEAGUE: The question I  
5 think is more to -- well, it has to go through you  
6 since we haven't seen your client, but other than  
7 some businesses, I see basically businesses. What  
8 have -- have they done any reaching out to the  
9 neighbors?

10 MR. DICKENS: Yes, ma'am. I  
11 appreciate that, Board Member Teague, and it was my  
12 counsel and my advice for them not to bring those  
13 folks to talk about the interaction between The Jazz  
14 Club and the Community because I thought and it is  
15 that today's question is whether it's a Drug Free  
16 Zone or not.

17 We have a ton of letters, by the way,  
18 that I provided to Mr. Ribbron from the community.  
19 We did bring letters, but we had members of the  
20 community who were willing to come and support, but I  
21 said, and -- and I'm hoping that wasn't a mistake,  
22 that it doesn't matter for this because this is only  
23 to answer a question as to whether it's a Drug Free  
24 Zone or not, so I didn't have them come, but just to  
25 be safe, we did bring the letters and petitions.



1 BOARD MEMBER TEAGUE: The majority of  
2 the letters -- excuse me, Board Member Teague. The  
3 majority of the letters that I see are from  
4 businesses. I'm -- I am speaking on the residents.

5 MR. DICKENS: I -- I asked the  
6 residents not to come because I thought that this  
7 issue would be strictly --

8 BOARD MEMBER TEAGUE: Well, I mean,  
9 even if they didn't come, I'm just asking --

10 MR. DICKENS: Oh.

11 BOARD MEMBER TEAGUE: -- has he  
12 communicated?

13 MR. DICKENS: Yes.

14 BOARD MEMBER TEAGUE: Has he done  
15 anything in the neighborhood, been around the  
16 neighbors?

17 MR. DICKENS: Oh, oh, yes. You know,  
18 I think if you had a -- one of the gentlemen that  
19 spoke to you today is from it and he's -- he's a  
20 president of the neighborhood association in that  
21 area, you know, and we've been -- and well, the  
22 client has been interacting with them, providing  
23 security.

24 They had started off with just around  
25 the facility and now they actually secure the area

1. because it needs to, you know -- you know,  
2 contributions to cleanup efforts and so forth, so you  
3 know, there's been interactions between the facility  
4 and -- and the community. So much so that you had  
5 the -- the -- the neighborhood association president  
6 here speaking on behalf of this facility.

7 I just wish I would've just said -- I  
8 thought -- I usually think less is more, you know, so  
9 I didn't -- didn't have those folks come to give you  
10 their own individual testimony.

11 BOARD MEMBER TEAGUE: That was no --  
12 that was no problem. I just wanted to know.

13 MR. DICKENS: Okay. Thank you.

14 BOARD MEMBER TEAGUE: Thank you.

15 MR. DICKENS: Thank you.

16 CHAIRMAN THOMAS: Thank you. Anymore  
17 questions from the Board?

18 (No response.)

19 Thank you to the Petitioner.

20 All right. The question before us is:  
21 Do we agree with the Building and Safety's assessment  
22 that this is, in fact, a Drug Free Zone calling the  
23 greenway or a parkway an actual park?

24 So with that being said, I'm going to  
25 ask, do we agree? So I'm not sure -- Board Member

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Calzada, want to make a Motion there?

BOARD MEMBER CALZADA: Yeah. Board Member Calzada. I -- I appreciate the Petitioner's due diligence in obtaining all the information that was necessary, but at this time, I'd like to -- I -- I agree and I hope the Board agrees with the Board -- Building and Safety that this area is considered a park and that considered being in a Drug Free Zone.

CHAIRMAN THOMAS: Is there a second?

BOARD MEMBER ROSS: I support.

CHAIRMAN THOMAS: Okay. It's been moved and properly seconded.

Any questions? Any unreadies?

All in favor?

(All members responded aye.)

CHAIRMAN THOMAS: Any nays?

(No response.)

The ayes have it.

All right.

DIRECTOR RIBBRON: Mr. Chairman, in BZA Case 63-16 located at 16890 Telegraph where The Jazz Club company of George Brikho appeals the decision of the Buildings and Safety Engineering Department administrative review that this is a Drug Free Zone that the Board has agreed with the BSEED's

1 decision. It is a Drug Free Zone.

2 Thank you, Mr. Chairman.

3 CHAIRMAN THOMAS: Is the next case in?

4 DIRECTOR RIBBRON: Yes, Mr. Chairman.

5 CHAIRMAN THOMAS: Okay.

6 DIRECTOR RIBBRON: This is BZA Case  
7 82-16 that was adjourned from February 28th, 2017, at  
8 18830 Woodward, Michael Beydoun/Michelle Whitney  
9 appeals the decision of the Buildings and Safety  
10 Engineering and Environmental Department's correction  
11 order dated August the 2nd, 2016, which states  
12 discontinue the use of premises as a medical  
13 marijuana care -- as a medical marijuana facility.

14 No permit has been issued for the  
15 present use of the property, unlawful change of use  
16 of the building or land and each day an uncorrected  
17 and continued violation shall constitute a separate  
18 violation in a B4 zone.

19 Mr. Chairman, on September the 21st, I  
20 received a communication from the Petitioner's  
21 representative requesting that this case be adjourned  
22 until November 28th due to the applicant having  
23 immigration issues, Mr. Chairman.

24 CHAIRMAN THOMAS: Oh, wow. Okay. All  
25 right. To the Board, the Petitioner is asking for an

1 STATE OF MICHIGAN)  
 ) SS  
2 COUNTY OF OAKLAND)

3  
4 C E R T I F I C A T E

5 I hereby certify that this transcript,  
6 consisting of two hundred thirty-five (235) pages, is  
7 a complete, true, and correct record of the meeting  
8 held October 10, 2017.

9 I also certify that I am not a  
10 relative of, employee of, or an attorney for a party;  
11 nor am I financially interested in the action.  
12

13  
14 Kristine E. Norlin  
15 Kristine E. Norlin CER 00670  
16 Certified Electronic Reporter  
17 3133 Union Lake Road  
Commerce Twp., Michigan 48324  
(248) 360-2145

18 Dated: November 3, 2017  
19  
20  
21  
22  
23  
24  
25

## BOARD MEMBERS



**JAMES W. RIBBRON**  
Director

**Robert E. Thomas**  
Chairperson

**Latisha Johnson**  
Vice-Chairperson

**Vivian Teague**  
**Rita Ross**  
**Robert G. Weed**  
**Emmanuel Calzada**  
**Elois Moore**

**City of Detroit**  
**Board of Zoning Appeals**  
**Coleman A. Young Municipal Center**  
**2 Woodward Ave., Suite 212**  
**Detroit, Michigan 48226**  
**(313) 224-3595**

### MINUTES OF THE BOARD OF ZONING APPEALS

A public hearing of the Board of Zoning Appeals was held on Tuesday October 10, 2017  
ERMA L. HENDERSON AUDITORIUM ON THE 13<sup>TH</sup> FLOOR of the Coleman A. Young  
Municipal Building, 2 Woodward Avenue.

Board Member Johnson called the meeting to order and Director Ribbron called the roll at 9:00  
a.m.

#### BOARD MEMBERS PRESENT:

- (1) Robert Thomas, Board Member
- (2) Robert G. Weed, Board Member
- (3) Rita Ross, Board Member
- (4) Vivian Teague, Board Member
- (5) Emmanuel Calzada, Board Member
- (6) Elois Moore, Board Member
- (7) Latisha Johnson, Board Member

#### BOARD MEMBERS ABSENT:

#### MINUTES:

No minutes were approved

#### PROCEDURAL MATTERS:

- (A) A motion was made, seconded and carried that the Director of the Board read into the record the notices, reports, letters, or any other information pro or con, on each individual case, and be filed and made a part of the record in each case.
- (B) A motion was made, seconded and carried that the appearance slips, be filled out by property owners or parties of interest who appeared at the public hearing, be filed in the individual case file and be made a part of the record in each case.
- (C) A motion was made, seconded, and carried that the recorded transcript of the proceedings of the various hearings, furnished by BZA Staff, be made part of the **MINUTES**.

9:15 a.m.

CASE NO.: 28-17 (aka BSE&ED 78-16)

APPLICANT: Valerie Felder

LOCATION: 15545 Mack Ave. Between: Nottingham Rd. and Somerset Ave. in a B4 Zone (General Business District). – Council District #4

LEGAL DESCRIPTION OF PROPERTY: N MACK 8&9 EXC MACK AVE AS WD MEININGER SUBN L46 P47 PLATS, W C R 21/270 43.22 X 72.38A

PROPOSAL: Valerie Felder appeals and requests to reverse the decision of the Buildings Safety Engineering and Environmental Department (BSEED 78-16) which DENIED the establishment of a Medical Marihuana caregiver Center (MMCC) in an existing approximate 1,058 square foot building in a B4 zone (General Business District). This case is appealed because the Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination that is made by an administrative official in the administration of this Zoning Ordinance, or any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, no Conditional Use shall be approved by the Buildings and Safety Engineering Department, or the Board of Zoning Appeals on appeal, unless each of the general findings of Section 61-3-231 are made. (NOTE: If the BSEED denial is overturned, the petitioner has a Spacing Variance. An additional fee and date is required.)(Sections 61-4-71 Jurisdiction Over Appeals of Administrative Decisions and 61-3-231 General Approval Criteria).AP

ACTION OF THE BOARD: Mr. Calzada made a motion to Adjourn due to petitioner's attorney not being able to be present to represent his client. Support by Board Member Teague

Affirmative: Mr. Calzada, Thomas  
Ms. Ross, Moore, Teague, Johnson

Negative: Mr. Weed

ADJOURNED WITH FEE AND WITHOUT DATE

9:45 a.m. CASE NO.: 63-16 – Adjourned from October 11, 2016 & February 14, 2017

APPLICANT: The Jazz Club c/o George Brikho

LOCATION: 16890 Telegraph Rd. Between: W. McNichols Rd. and Dehner St. B4 Zone (General Business District). – Council District #1

LEGAL DESCRIPTION OF PROPERTY: E TELEGRAPH 8 RIVERDALE PARK SUB L33 P77 PLATS, W C R 22/472 140 X 300

PROPOSAL: The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by The Jazz Club c/o George Brikho located at 16890 Telegraph has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Valley Parkway Park. Because the subject property is approximately 182 linear feet from the park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD Mr. Calzada made a motion to Affirm BSEED's decision that the location is in a Drug Free Zone. Support by Ms. Ross.

Affirmative: Mr. Weed, Thomas, Calzada  
Ms. Ross, Moore, Teague, Johnson

Negative:

BSEED DECISION AFFIRMED, DRUG FREE ZONE



10:15 a.m.

CASE NO.:

82-16 – Adjourned from February 28, 2017

APPLICANT:

Michelle Whitney

LOCATION:

18830 Woodward Ave. Between: W. Hollywood Ave. and W. Robinwood St. in a B4 Zone (General Business District). – Council District #2

LEGAL DESCRIPTION OF PROPERTY: LOT(S) 260 AND 261, OF WOODWARD PARK SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 28 OF PLATS, PAGE 37, OF WAYNE COUNTY RECORDS.

PROPOSAL:

Michelle Whitney appeals the decision of the Buildings Safety Engineering and Environmental Department's Correction Order dated August 2, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Michael Beydoun located at 18830 Woodward has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Palmer Park located at 19021 Woodward Ave. Palmer Park is an active park with pedestrians frequenting it during the inspection conducted on July 6, 2016. Furthermore, Palmer Park is included in a report, "2016 PARKS AND RECREATION IMPROVEMENT PLAN..." The report plans to implement 10 phases of capital improvements of which Palmer Park is in phase two, six, and ten for \$3,000,000.00 total. Therefore, because said MMCC is approximately 355 linear feet within the Palmer Park radius, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD Mr. Calzada made a motion to Deny Adjournment Request. Support by Ms. Moore

Affirmative: Mr. Weed, Thomas, Calzada  
Ms. Ross, Moore, Teauge, Johnson

Negative:

ADJOURNEMENT REQUEST DENIED

**CASE NO.: 82-16 Continued**

After opening the case and further information Ms. Johnson made a motion to adjourn this case with fee.

Affirmative: Mr. Weed, Thomas, Calzada  
Ms. Ross, Moore, Teauge, Johnson

Negative:

**ADJOURNEMENT REQUEST GRANTED**

10:45 a.m. CASE NO.: 79-16 (aka BSE&ED 31-16) – Adjourned from February 28, 2017

APPLICANT: Steve Dennis

LOCATION: 16094 E. Eight Mile Rd. Between: Boulder St. and Redmond St. in B4 Zone (General Business District). – Council District #3

LEGAL DESCRIPTION OF PROPERTY: LOTS 1-6 PATERSON BROS & COS. RIDGEMONT'S GARDENS SUBDIVISION, LIBER 60, PAGE 3, PLATS, W.C.R. (PIN 21027954-9)

PROPOSAL: Steve Dennis requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in one (1) unit of an existing two (2) unit 6,500 square foot building APPROVED in (BSEED 31-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed use is within 1,000 radial feet from two (2) other Controlled Uses located at (15900 E. Eight Mile Rd., Handy Spot Liquor & Food - 763 radial feet away) and (16086 E. Eight Mile Rd., Royalty Foods – 227 radial feet away. Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code. (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses-Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

ACTION OF THE BOARD: Ms. Moore made a motion to Dismiss with prejudice and without return of fee. Support by Ms. Teague

Affirmative: Mr. Calzada, Weed, Thomas  
Ms. Johnson, Teague, Ross, Moore

Negative:

DISMISSED WITH PREJUDICE AND WITHOUT RETURN OF FEE

11:15 a.m. CASE NO.: 83-16 (aka BSE&ED 37-16) – Adjourned from February 28, 2017

APPLICANT: Teri Hargrave / House of Zen

LOCATION: 14501 Mack Ave. Between: Philip St. and Marlborough St. in a B4 Zone (General Business District). – Council District #4

LEGAL DESCRIPTION OF PROPERTY: LOTS 1-2 EXCLUDING MACK AVE. AS WIDENED, HUTTON & NALLS BRUSSELS HEIGHTS SUBDIVISION, LIBER 28, PAGE 66, PLATS, W.C.R. (PIN 21001365)

PROPOSAL: Teri Hargrave / House of Zen requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an approximate 1,323 square foot portion of an existing building APPROVED in (BSEED 37-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed use is within 1,000 radial feet from one (1) other Controlled Use located at 14820 Mack Ave. 842 radial feet away and one (1) other Religious Institution, Detroit World Outreach located at 14617 Mack – 269 radial feet away. Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code. (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses-Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

ACTION OF THE BOARD: Mr. Calzada made a motion to Grant Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an approximate 1,323 square foot portion of an existing building APPROVED in (BSEED 37-16) in a B4 zone (General Business District) Support by Ms. Teague

Affirmative: Mr. Weed, Calzada, Thomas  
Ms. Teague, Ross, Moore, Johnson

Negative:

SPACING/LOCATIONAL VARIANCE GRANTED

Vice Chairperson Johnson signed 2 decision and orders. 59-17 and 58-17

Director Ribbron informed the Board of a staff mistake to dismiss a case that needs to be placed back on the docket at a later date.

**ACTION OF THE BOARD:** Mr. Calzada made a motion to place Case No. 25-17 property located at 14839 W. 7 Mile back on the docket. Support by Ms. Moore

Affirmative: Mr. Weed, Calzada  
Ms. Teague, Ross, Moore, Johnson

Negative:

**REQUEST TO PUT BACK ON BZA DOCKET**

Director Ribbron informed the Board of Case No. 110-16 no longer needing a spacing variance and a recommendation to make a motion to withdraw the case.

**ACTION OF THE BOARD:** Ms. Teague made a motion to Withdraw Case No. 110-16 property located at 20046 W. Warren. Support by Ms. Ross

Affirmative: Mr. Weed, Calzada  
Ms. Teague, Ross, Moore, Johnson

Negative:

**CASE WITHDRAWN**

**RULES AND PROCEDURES**

Mr. Weed made a motion set date for Public Hearing for the adoption of the New Rules and Procedures. Support by Ms. Teague

Affirmative: Mr. Weed, Calzada  
Ms. Johnson, Ross, Moore, Teague

Negative:

**RULES AND PROCEDURES HEARING SET FOR NOVEMBER 14, 2017**

**SPECIAL MEETING/TRAINING**

Ms. Teague made a motion set date for Special Meeting/Training for October 24, 2017 in the BZA office. Support by Ms. Ross

Affirmative: Mr. Weed, Calzada  
Ms. Johnson, Ross, Moore, Teague

Negative:

**SPECIAL MEETING/TRAINING SET FOR NOVEMBER 24, 2017**

**CASE NO.:** 26-17 (aka BSE&ED 30-16)

**APPLICANT:** Adam MacDonald

**LOCATION:** 15831 Mack Between: Berkshire Rd. and Buckingham Rd. B4 Zone (General Business District). – Council District #3

**LEGAL DESCRIPTION OF PROPERTY:** N MACK 100 THRU 102 EXC MACK AVE AS WD E DETROIT DEVELOPMENT COS SUB NO 1 L36 P19 PLATS, W C R 21/427 70.83 X 72.90AG

**PROPOSAL:** Adam MacDoanld requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing 2,900 square foot building which was APPROVED with conditions in (BSEED 30-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use or a Religious Institution. The proposed use is within 1,000 radial feet of one (1) Controlled Use (Devonshire Liquor & Drugs) located at 16003 Mack – 399' ft. away, and one (1) Religious Institutions (Spirit of Love MBC) located at 15635 Mack Ave. – 864' ft. away. Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code. (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses- Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

Ms. Johnson recused herself from the case at the prior hearing and it stands during the re-hearing request.

**ACTION OF THE BOARD** Mr. Calzada made a motion to Grant Re-Hearing Request due to new and pertinent information. Support by Ms. Teague.

Affirmative: Mr. Calzada, Thomas  
Ms. Teague

Negative: Mr. Weed  
Ms. Ross, Moore

**MOTION FAILS/RE-HEARING REQUEST DENIED**

ADVISEMENTS CONTINUED INDEFINITELY UNTIL FURTHER NOTICE.

\*\*\*\*\*

There being no further business to be transacted, Board Member Calzada motioned that the meeting be adjourned. Board Member Teague seconded this motion which was unanimously carried and the meeting adjourned at 2:05 p.m.

RESPECTFULLY SUBMITTED

*James W. Ribbron*

JAMES W. RIBBRON  
DIRECTOR

JWR/atp





The Application of Appeal from this decision was received, numbered and placed on the Calendar of the Board on

After notices of the hearing were mailed on SEPTEMBER 12, 2017 to those persons whose name and mailing address appeared in the last assessment roll as owners of property within 300 foot radius of the exterior boundaries of the property under consideration, to the occupants of all single and two-family dwellings within 300 feet of the property and to all neighborhood improvement associations known to exist within at least 300 feet of the premises in question, a Public Hearing on the above case was held to consider the application and appeal in the Auditorium of the City-County Building, 2 Woodward Avenue, on Tuesday, OCTOBER 10, 2017 at which time the Board AFFIRMED THIS LOCATION IS WITHIN A DRUG FREE ZONE. Case was adjourned on Adjourned from October 11, 2016 & February 14, 2017

**IMPORTANT  
YOU MUST READ THIS DECISION**

That field inspections of the property in question were made; reports of which were given at the hearing.

WHEREAS, at said hearing, all those who desired to be heard were heard and their testimony was recorded.

WHEREAS, all correspondence and petitions received up to the time of the above hearing on behalf of the applicant, or against the applicant's petition to the Board for consideration in this case.

WHEREAS, all testimony has been carefully considered and the facts and findings determined by the Board of Zoning Appeals are as follows:

- (1) The Jazz Club c/o George Brikho appeals the decision of the Buildings Safety Engineering and Environmental Department's Administrative Review and Correction Order dated August 3, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District).
- (2) BSEED Letter stated that City of Detroit BSEED has received and completed its investigation of the request for an Administrative Review dated August 3, 2016.
- (3) BSEED letter also stated that The Jazz Club 2 at 16890 Telegraph has been identified as being in a Drug Free Zone based on its proximity to Rouge Valley Parkway at 16950 W. Riverdale.
- (4) BSEED letter further stated that they have that City owned Rouge Valley Parkway is currently part of an active park system. The Detroit Recreation Department is in the preliminary stages of creating a greenway that would connect said River Rouge Parkway to Eliza Howell Park and potentially extend northward. This greenway will be a wide walk/bike path that will have benches and garbage cans spaces occasionally throughout the area, at which time completed will become part and parcel of Eliza Howell Park. Therefore, because said Jazz Club 2 is approximately 818 linear feet within Rouge Valley Parkway radius, it is affirmed in a DFZ.

- (5) Petitioner also testified that they were operating before the ordinance was in effect and the restrictions were not in place.
- (6) Petitioner further testified that this location is miles away from Eliza Howell and Rouge Park. BSEED contends that it is within 1000 feet of a greenway which is not a restriction per the Detroit Ordinance.
- (7) Support testified that they rely on this center for their much needed medical needs and the facility is safe and convenient.
- (8) Support testified that he lives behind the subject property and can testify that the greenway is virtually abandoned. Which draws negative activity to the greenway.
- (9) Opposition for the proposed use testified that the Board should support the ordinance and deny this appeal.
- (10) Opposition testified that she lives in apartment just north of the subject property and contends the greenway is a part of the park and with the scheduled improvements more residents would utilize the greenway.

#### BOARD FINDINGS

The Board Members, after listening to all of the sworn testimony from the petitioner and the opposition, and after weighing all the land Use Factors in this case, made the following findings and Decisions:

- (1) The Board found that the based on testimony and evidence presented by the BSEED it has been determined that the property is within 1000 feet of proposed Rogue Valley Parkway at 16950 W. Riverdale.
- (2) The Board also found that the petitioner has not presented compelling evidence that they are not located within 1000 feet of the Rogue Valley Parkway.

The Board, therefore in accord with its Rules of Procedure, and in order that the spirit, intent and purpose of the Zoning Ordinance shall be observed and substantial justice done, resolved that this appeal from the mandatory actions on the part of the Department of Buildings and Safety Engineering Department Administrative Review and Correction Order dated May 16, 2018, which states; Discontinue use of premises as a Medical Marijuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District).

**ORDER IS HEREBY DENIED, THEREBY AFFIRMING THE BSEED DECISION THAT THE PROPERTY IS IN FACT IN A DRUG FREE ZONE.**

BOARD OF ZONING APPEALS

This Decision and Order is validated by the Michigan Zoning Enabling Act, that being 125.3605 Decision as final; appeal to circuit court, Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.125.3606 Circuit court; review; duties, Sec. 606(3)(a).

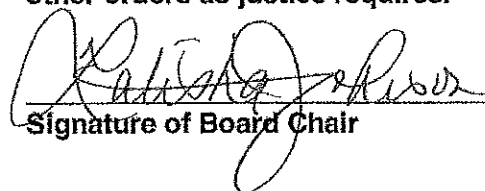
AND

Sec. 61-2-59. Appeals from the Board.

Any decision of the Board may be appealed to Circuit Court as specified in Sections 605 and 606 of the Michigan Zoning Enabling Act, being MCL 125.3605 and 125.3606.

An appeal from a decision of the Board shall be filed within 30 days after the Board issues its decision in writing signed by the chairperson.

The court may affirm, reverse, or modify the decision of the Board. The court may make other orders as justice requires.

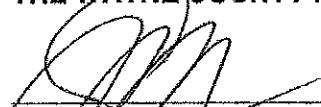


Signature of Board Chair

12-5-17

Date of Entry (30 DAYS BEGINS)

CERTIFIED COPY FROM THE BOARD OF ZONING APPEALS, CITY OF DETROIT FOR THE WAYNE COUNTY REGISTRAR OF DEEDS.

  
James W. Ribbron, Director - Board of Zoning Appeals

PREPARED BY APRIL T. PUROFOY



# CORRECTION ORDER

CITY OF DETROIT

Property Maintenance Division

Buildings, Safety Engineering, and Environmental Department

Room 412, Coleman A. Young Municipal Center

Detroit, Michigan 48226

Case Number: ANN2004-04097

Location: 16890 TELEGRAPH

Inspector:

Supervisor

Legal Occupancy: NIGHT CLUB

Tenant: THE JAZZ CLUB

Sector: 8 District: 79

Use Group: A2

Zoning District: B4

Telephone: 313-224-BSED (2733)

Telephone inquiries may be made between 8:00 am and 4:00 pm, Monday through Friday.

February 08, 2018

TELEGRAPH MUSICAL COMPANY LLC

16980 TELEGRAPH

DETROIT, MI 48219

The Property Maintenance Branch inspected the above premises on 1/25/2018.

Violations of the Detroit **Property Maintenance Code** and/or **Official Zoning Ordinance** were found to exist and corrections shall be made on or before **2/6/2018**.

### Violations

- 1 Secure the required annual "Certificate of Compliance" from this department. (Sec. 9-1-36a)
- 2 For compliance you are required to pay the prescribed inspection fee, in addition to complying any existing violations. (Sec 9-1-35)
- 3 Discontinue use of these premises as MEDICAL MARIJUANA FACILITY. No permit has been issued for the present use of this property. ("Unlawful change of use of building or land") Sec.61-5-14(9), Sec.9-1-42
- 4 Secure permit(s) from the City of Detroit's Building & Safety Engineering Department for: any interior/exterior renovations and or alterations & signs. (Sec. 9-1-10)
- 5 Remove all obsolete signage from property. (Sec 3-5-3 & 3-5-4)
- 6 Obtain a DAH Clearance

**NOTE: YOU ARE REQUIRED TO OBTAIN A CERTIFICATE OF COMPLIANCE FOR YOUR PROPERTY. UNDER CERTAIN CONDITION YOU MAY BE ENTITLED TO RECEIVE A TEMPORARY CERTIFICATE OF COMPLIANCE WHILE CORRECTIONS ARE IN PROGRESS.**

**TO RECEIVE THE REQUIRED CERTIFICATE OF COMPLIANCE FOR INSPECTION OR MAINTENANCE OF GRANT CONDITIONS, YOU MUST PERFORM THE FOLLOWING:**

1. CORRECT ALL OF THE DEFICIENCIES LISTED ABOVE.
2. PAY THE REQUIRED INSPECTION FEES AS INVOICED.
3. CALL (313) 628-2451 FOR A RE-INSPECTION AFTER CORRECTION OF DEFICIENCIES AND PAYMENTS OF THE FEES AS INVOICED.

**YOUR FAILURE TO COMPLY WITH THE ABOVE WILL RESULT IN THE ISSUANCE OF ONE OR MORE TICKETS WHICH WILL BE HEARD AT THE CITY OF DETROIT, DEPARTMENT OF ADMINISTRATIVE HEARINGS, WHICH IS LOCATED AT 1004 COLEMAN A. YOUNG MUNICIPAL CENTER, DETROIT, MICHIGAN 48226.**

(Regular)

Form C of D-8-DE  
(Rev. 3-61)

November 20, 1961

CASE NO.

869-61 B2 in RM4

STATE OF  
MICHIGAN

In Re: 16890 TELEGRAPH, e.s. bet. McNichols and Dehner  
In Re: Appeal of PAUL PYRROS, 20111 Mansfield, #21 (owner)

COUNTY OF  
WAYNE

CITY OF  
DETROIT

For permission to: erect a one-story, 79' x 103' 1/4", cocktail  
District Map lounge and restaurant, as per plan, also  
No. 73 to use front, side and rear yards for off-  
street parking in a RM4 District.

The application for Permit was denied by the Department of Buildings and Safety Engineering on

because October 17, 1961,  
the proposed use would not be  
permitted in this district and  
would be considered a B2 use  
in a RM4 zone.

The application of appeal from this decision was received, numbered, and placed on the Calendar of the Board on  
October 17, 1961.

After publication of notice of time and place of Hearing in the Detroit Legal News, and due notice to parties in interest, a Public Hearing on the above case was held on October 31, 1961, and was adjourned by the Board to November 14, 1961.

Based upon the information obtained and evidence presented, the following is a brief of some of the more important facts and findings determined by the Board in this case:

1. That District Zoning Map No. 73 shows the premises to be in a RM4 District.
2. That on January 10, 1961, the Board granted appellant permission to erect a 40' x 100' cocktail lounge and restaurant on this property.
3. That appellant now proposes to increase the size of this proposed structure to 79' x 103' 1/4" and also to use front, side and rear yards for off-street parking purposes.
4. The Board found that Telegraph Road is a highly traveled national highway and for all practical purposes it is a business or a commercial street; that this use is a compatible use to the other uses on the street, and to be zoned RM4 and restricted to that use alone, would be an injustice to the owners of the property.
5. The Board found that the proposed use will not change the essential character of the neighborhood.
6. That there are commercial gas stations located on the extreme south end of the block and on the extreme north end of the block.
7. The Board found that the owner of the property had tried unsuccessfully for many years to sell the property for a conforming use.
8. The Board found practical difficulty and unnecessary hardship.
9. The Board found that the proposed construction and uses would not have an injurious or harmful effect on the contiguous property or be detrimental to the surrounding neighborhood.
10. That no protesting property owners in interest appeared at the Hearing and one letter of consent was submitted to the Board.
11. That field inspections of the premises were made, reports of which were given at the Hearing.

(SEE NEXT  
PAGE)



CASE NO.:

869-61 - Continued

The Board, therefore, in accord with its Rules of Procedure, and in order that the spirit, intent, and purpose of the Zoning Ordinance shall be observed and substantial justice done, resolved that this appeal from the mandatory action on the part of the Department of Buildings and Safety Engineering to

erect a one-story, 79' x 103' 1/4", cocktail lounge and restaurant, as per plan, also to use front, side and rear yards for off-street parking in a RM4 District,

be hereby

GRANTED, subject to the following conditions:

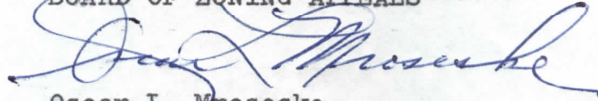
- (a) A Building Permit covering this grant MUST be secured from the Department of Buildings and Safety Engineering.

~~1. The permit must be secured AT ONCE because the changes approved by this grant have already been made.~~

- 2. The permit must be secured BEFORE STARTING any new construction, alterations, additions, change of use or change of occupancy. Failure to obtain such Building Permit within six (6) months after the date of the grant will thereby invalidate and terminate this grant.

- (b) Any decision of the Board will remain valid only as long as the information or data relating thereto are found to be correct and the conditions upon which the resolution was based are maintained.

BOARD OF ZONING APPEALS



Oscar L. Mroseske,  
Secretary

olm

jp

DATE OF ENTRY: 11-20-61.

DATE MAILED: 11-20-61.

STATE OF MICHIGAN  
CITY OF DETROIT  
BOARD OF ZONING APPEALS  
DECISION AND ORDER

CASE NO.

169-77

DATED: April 29, 1977

In Re: Appeal of Petitioner:

MOHAMED RAHAL  
5663 Middlesex  
Dearborn, Michigan 48126 (owner)

Address and legal description:

16890 TELEGRAPH, e.s., between W. McNichols  
and Dehner; AKA Lot 8, in Riverdale Park  
Subdivision.

District Map  
No. 73

Petitioner's proposal: To add an arcade use to an existing  
Class "C" Bar, as per lot plot, in  
an R5 District.

The Application for Permit was denied by the Department of Buildings and Safety Engineering on  
March 28, 1977,  
because this use would not be permitted in this  
district and would be considered a B3  
use in an R5 district; also, permission  
of this Board is required to increase the  
use of a nonconforming building.

The Application of Appeal from this decision was received, numbered and placed on the Calendar of the  
Board on March 28, 1977.

After publication of notice of time and place of hearing in the Detroit Legal News, and after notices of  
the hearing were mailed on March 31, 1977, to those persons whose names and mailing  
addresses appeared in the last assessment roll as owners of property within a 300-foot radius of the  
exterior boundaries of the property under consideration, to the occupants of all single and two-family  
dwellings within 300 feet of the property under consideration and to all neighborhood improvement  
associations known to exist within at least 300 feet of the premises in question, a Public Hearing on the  
above case was held to consider the application and appeal in the Board Room, of the Water Board Build-  
ing, 735 Randolph Street, on Tuesday, April 26, 1977.

That field inspections of the property in question were made, reports of which were given at the hearing.

WHEREAS, at said hearing, all those who desired to be heard were heard and their testimony was  
recorded.

WHEREAS, all correspondence and petitions received up to the time of the above hearing on behalf of  
the applicant, or against the applicant's petition, were presented to the Board for consideration in this  
case.

(SEE NEXT  
PAGE)



WHEREAS, all testimony has been carefully considered and the *facts and findings* determined by the Board of Zoning Appeals are as follows:

- (1) That MOHAMED RAHAL requests permission to add an arcade use to an existing Class "C" Bar, as per lot plot.
- (2) Testimony was presented to show that this property is developed with a one-story restaurant having a Class "C" Bar License and a parking lot.
- (3) It was further testified that the petitioner presently has six (6) coin-operated gaming machines in the building.
- (4) One (1) person appeared in support of this appeal and one (1) person appeared in opposition. The Board also received four (4) letters in opposition to the petitioner.
- (5) The petitioner testified that his present operation is from 7:00 p.m. to 2:00 a.m. but proposes to operate from 4:00 p.m. to 2:00 a.m. and that only adults are allowed in this building.
- (6) The objector testified that there is presently a nuisance to the area and that beer bottles and cans are being thrown around the area.
- (7) The Board found that to permit the addition of an arcade use to this existing bar and restaurant on a temporary basis for a period of three (3) years, with certain conditions so as to safeguard the surrounding area, would not be injurious or detrimental to the neighborhood and would not change the essential character of the neighborhood.

The Board, therefore, in accord with its Rules of Procedure, and in order that the spirit, intent and purpose of the Zoning Ordinance shall be observed and substantial justice done, resolved that this appeal from the mandatory action on the part of the Department of Buildings and Safety Engineering to

add an arcade use to an existing Class "C" Bar, as per lot plot, in an R5 District.

ORDER be hereby GRANTED for a period of three (3) years; terminating on APRIL 26, 1980, subject to the following conditions:

(a) That the appellant agrees to abide by and comply with all of the ordinances of the City of Detroit and the regulations of every lawful agency or public authority now or hereafter in force, it being understood that this grant only authorizes a variance or exception of the regulations of the Zoning Ordinance and is not intended to waive the provisions of any other existing statute, ordinance, rule or regulation.

(b) Any decision of the Board will remain valid only as long as the information or data relating thereto are found to be correct and the conditions upon which the resolution was based are maintained.

(SEE NEXT PAGE)

CASE NO

169-77

- (c) That a Building Permit covering this grant MUST be secured from the Department of Buildings and Safety Engineering, 4th Floor, City-County Building This grant shall automatically become null and void if this permit is not secured by JUNE 26, 1977.
- (d) Acceptance, of these conditions, in writing by the owner or the petitioner.
- (e) That the construction, additions, alterations or use shall be in accordance with the plot plan submitted on the date of the hearing
- (f) That before the Director of Buildings and Safety Engineering Department shall issue a building permit for this use, the appellant, MOHAMED RAHAL, shall record this grant with the Wayne County Register of Deeds Office.
- (g) The appellant shall maintain the building in a good state of repair and appearance at all times, and shall maintain the entire parcel clean and free of rubbish, debris and weeds, including the public area adjoining.
- (h) The appellant shall take all steps necessary to see that persons do not loiter in or around the building.
- (i) The appellant shall not have more than eight (8) gaming machines at this location.
- (j) The appellant shall keep all windows clean and free of posters and pasted-up advertising materials.
- (k) The appellant shall comply with all applicable provisions of Fire Prevention Ordinance 733-F and Public Assembly Ordinance 529-F.
- (l) The appellant shall operate this facility in such a manner that no nuisance of any kind is created to the surrounding neighborhood.
- (m) That the Board of Zoning Appeals retains jurisdiction in this matter, so that in the event a nuisance is created by this operation, or if conditions are not complied with, the Board will have the right to order a show cause hearing, and if necessary, revoke the grant.
- (n) That petitioner desiring to continue this use upon the expiration of this grant, must file a new application and appeal with the Buildings & Safety Engineering Department & the Board of Zoning Appeals sixty (60) days prior to the expiration of this grant.

BOARD OF ZONING APPEALS

*William Levin*  
 William Levin  
 Executive Secretary

WL-PJC: hrl

DATE OF ENTRY: 4/29/77.

Date \_\_\_\_\_

I acknowledge that I have received and read my grant under Case No. 169-77, and agree to abide by all of the conditions contained therein.

Signature \_\_\_\_\_

Address \_\_\_\_\_