

**CITY OF BATAVIA**  
100 N. Island Avenue, Batavia, IL 60510  
(630) 454-2000 <http://cityofbatavia.net>

**Committee of the Whole Agenda**

Tuesday, March 15, 2016  
7:30 PM Council Chambers 1st Floor

1. Roll Call
2. Approve Minutes For February 16, And March 1, 2016

Documents: [COW 16-02-16M.PDF](#), [COW 16-03-01M.PDF](#), [COW 16-03-01M.PDF](#)

3. Items Removed/Added/Changed
4. Matters From The Public (For Items NOT On Agenda)
5. Consent Agenda:

(The consent agenda is made up of items recommended by city staff that require recommendation to the full City Council by the COW. This agenda is placed as a separate item on the COW agenda. The items on the consent agenda are usually minor items, already budgeted, standard non-policy activities or outgrowths of earlier meetings and are voted on as a "package" in the interest of saving time on non-controversial issues. However, any council member may, by simple request, have an item removed and placed on the "regular" agenda.)

- a. Resolution 16-30-R Approving Contract with Asplund Tree Expert Co. for the 2016 Electric Tree Trimming Program for an Amount Not To Exceed \$130,000 (Brian Bettin 3/4/16) PU
- b. Ordinance 16-15: Annexing Island 183B in the Fox River (Scott Buening 3/7/16) CD

Documents: [RES 16-30-R 2016 TREE TRIMMING CONTRACT\\_ASPLUNDH.PDF](#), [ORD 16-15 ISLAND183B ANNEX.PDF](#)

6. Discussion: Homes For Changing Region Community Land Trust (Continued) (Scott Buening 1/26/16) CD

Documents: [COMMUNITY LAND TRUST COMBINED REP.PDF](#)

7. Ordinance 16-14: Annex Part Of BNR ROW Burlington Northern Railroad Right-Of-Way (Scott Buening 2/29/16) CD

Documents: [ORD 16-14 ANNEX PART OF BNSF RAILROAD.PDF](#)

8. Discussion: Implementing Contractor Registration In The City Of Batavia (Continued) (SCB 2/10/16) CS

Documents: [CONTRACTOR REGISTRATION COMBINED REP-2016.PDF](#)

9. Ordinances 16-09 And 16:10: Variances And Conditional Use For A Drive Through Eating Establishment – Dunkin Donuts/Shell Gas Station, 108 N. Batavia Avenue (Joel Strassman 3/10/16) CD

Documents: [ORD 16-09 16-10 DUNKINDONUTS-SHELL.PDF](#)

10. Project Status
11. Other
12. Closed Session:
  - a. Setting the Price of Land for Sale (SB)
  - b. Purchase and Sale of Electric Power
13. Adjournment

**MINUTES**  
**February 16, 2016**  
**Committee of the Whole**  
**City of Batavia**

Please **NOTE:** These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

Chair Brown called the meeting to order at 7:30pm.

**1. Roll Call**

**Members Present:** Ald. Brown, Russotto, Stark, Wolff, Fischer, O'Brien, Callahan, Mueller (entered at 7:33pm), Botterman, Cerone, and McFadden

**Members Absent:** Ald. Atac, Chanzit, and Hohmann

**Also Present:** Bill McGrath, City Administrator; Gary Holm, Director of Public Works; Glen Autenrieth, Batavia Police Department; and Jennifer Austin-Smith, Recording Secretary

**2. Approve Minutes for February 2, 2016**

**Motion:** To approve the minutes for February 2, 2016

**Maker:** Stark

**Second:** McFadden

**Voice Vote:** 10 Ayes, 0 Nays, 4 Absent  
Motion carried.

**3. Items to be Removed/Added/Changed**

There were no items to be removed, added or changed.

**4. Matters From The Public (For Items NOT on Agenda)**

There were no matters from the public for items not on the agenda at this time.

**5. Consent Agenda**

(The Consent Agenda is made up of items recommended by city staff that requires recommendation to the full City Council by the COW. This agenda is placed as a separate item on the COW agenda. The items on the Consent Agenda are usually minor items, already budgeted, standard non-policy activities or outgrowths of earlier meetings and are voted on as a "package" in the interest of saving time on non-controversial issues. However, any council member may, by simple request, have an item removed and placed on the "regular" agenda.)

**a. Community Development Quarterly Report**

**Motion:** To approve the Consent Agenda as presented

**Maker:** Stark

**Second:** Russotto  
**Voice Vote:** 10 Ayes, 0 Nays, 4 Absent  
Motion carried.

\*Alderman Mueller entered the meeting at 7:33pm

**6. Ordinance 16-12: Amending Title 8 of the Batavia Municipal Code Relating to Electric Service Regulations and Rates (Gary Holm 2/9/16) PU**

Holm discussed the amendments in the code. He explained totalizing of the rate class, demand meters, demand charge, Purchase Power Adjustment Factor (PPAF), separating out the rate classes and rate stabilization funds. O'Brien asked about the funds and McGrath stated that he would send out some examples of real bills for better understanding. Wolff stated that he would like to have the examples so that the Committee could answer what would happen to resident's bills. Holm noted that the base and how much rate stabilization we use would affect residents bills. The use of the rate stabilization fund would ultimately affect the bills. Right now we are saying that we need to raise the base a little bit so that we could have the cushion of a rate stabilization fund. Holm stated that staff would distribute rate examples for the Committee to review.

The Committee discussed the amendments to the code, market-based rates, and the difference between the Power Factor Adjustment and the Purchase Power Adjustment Factor. Brown asked what advantages are there to the customer with the amendments. Holm stated that there are several components of this that are meant to retain existing large customers and attract new large customers. Holm explained that if the largest customers would leave Batavia, that would be the percentage that needs to be picked up by the City and its residents. We want to stay as competitive as we can to help retain our large customers. Holm discussed the energy cost adjustment and how that helps the City stay competitive and serve the role of the aggregator. Fischer asked to have Colby address the Committee on how she ran the formulas. McGrath stated that the policy is for staff to keep things as stable as we can for the residents and to attract industrial users. These are tools that we are using to try to do both. Our customers are very important and they are appreciative that the City is coming up with these tools. McGrath stated that the Council could undo any of these changes whenever they would want to.

**Motion:** To recommend approval of Ordinance 16-12: Amending Title 8 of the Batavia Municipal Code Relating to Electric Service Regulations and Rates  
**Maker:** O'Brien  
**Second:** Fischer  
**Voice Vote:** 11 Ayes, 0 Nays, 3 Absent  
Motion carried.

**7. Resolution 16-20-R: Requesting a Permit from IDOT for the Closure of Various Roadways for 2016 Loyalty Day Parade (Gary Holm 2/12/16) CS**

Holm reported that this is the same resolution used every year for the Loyalty Day Parade. It closes Route 25 and is granting City staff the ability to submit to IDOT for permission of closure of the road.

**Motion:** To recommend approval of Resolution 16-20-R: Requesting a Permit from IDOT for the Closure of Various Roadways for 2016 Loyalty Day Parade

**Maker:** Wolff

**Second:** Stark

**Voice Vote:** 11 Ayes, 0 Nays, 3 Absent  
Motion carried.  
CONSENT AGENDA

## 8. Fox River Issues CD

McGrath reported on they are meeting with the Conservation Foundation regarding Thompson Farm and the larger scope of the river project. The Conservation Foundation may be a partner when working with the Army Corps of Engineers. Holm is preparing an RFQ for engineers to work on erosion.

## 9. Project Status

Bill reported on the following:

- Staff is having more conversation on the pedestrian crossings and the concern of efficacy and understanding. The state put more signage out, such as advance warning signs. The McKee Street crossing is of special concern. Speed studies will be done on the avenue and combine that with the fact that we do have the crossings at that location and our lanes are nonstandard lanes. McGrath will report back to the Committee on the study. There may be a need to ask IDOT to have the speed on North Batavia Avenue reduced. Callahan asked if there any issues on Route 25. There were no issues stated by staff. McGrath suggested having a traffic stop on McKee Street to educate and raise awareness of the pedestrian crossing.
- The City Engineer would spearhead the speed studies.
- The City used to be a member of the Narcotics Task Force but had to dedicate a full-time officer to that task force. The City could not continue on the task force after the recession.
- The Electric Manager candidate interviews went well. There will be one interview this Friday. Updates will be coming soon.
- Staff met with the owner of the Campana building today regarding redevelopment to get some protection to the historic structure. Aiston will see if we could come up with some design solution that would satisfy the Historic Preservation Commission (HPC) regarding the glass block windows.
- Staff is looking into a new location for the food pantry in order to expand the wastewater treatment plant. A solution needs to be found quickly and a commitment to find a new location needs to be made.
- Staff will meet with Batavia Enterprises (BEI) tomorrow regarding backfilling the Walgreen's space. A consultant is working on the analysis.
- Chris Aiston is working on finding a new restaurant space for a potential new restaurant to come into town.
- The audits for the pension funds are being worked on.
- The franchise agreements are out with Comcast.
- Staff is working on identifying revenue sources for the March 8<sup>th</sup> meeting and will try to put out materials before that if we can.

- Community signs will be discussed next week.

#### **10. Other**

Stark asked about the Campana building. She asked if it was designated as a historical landmark and if we could not do anything to the building. McGrath stated that the issue is this, either you do something with that building or in twenty years it may not be there. Stark stated that it may be an upgrade to the building to have some of those block windows removed. When she was on the HPC there was discussion on how the blocks do not match. McGrath explained the history of how the building was on the national register of historic places. One of the aldermen filed the first petition to ask that the building be protected and Council protected the building from redevelopment. The building structure was important and the view corridor on the corner was considered important. McGrath stated that in order to save this building we might have to look at the view corridor in a different way. McGrath gave the example of Bellvue Place with the view corridor in the front and having nice townhomes around it.

#### **11. Adjournment**

There being no other business to discuss, Chair Brown asked for a motion to adjourn the meeting at 8:53pm; Made by O'Brien; Seconded by Stark. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith

**MINUTES**  
**March 1, 2016**  
**Committee of the Whole**  
**City of Batavia**

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Brown called the meeting to order at 7:30pm.

**1. Roll Call**

**Members Present:** Chair Brown; Ald. Russotto, Atac, Stark, Chanzit, Wolff, Fischer, O'Brien, Callahan, Hohmann, Botterman, Cerone, and McFadden

**Members Absent:** Ald. Mueller

**Also Present:** Mayor Schielke; Chief Schira, Batavia Police Department; Bill McGrath, City Administrator; Roman Seckel, City Attorney; Rahat Bari, City Engineer; Jeff Albertson, Building Commissioner; Scott Buening, Director of Community Development; Joel Strassman, Planning and Zoning Officer; John Dillon, Water/Sewer Superintendent; Mustafa Kahvedzic, Project Engineer; and Jennifer Austin-Smith, Recording Secretary

**2. Items to be Removed/Added/Changed**

The Closed Session portion was removed from the agenda.

**3. Matters From The Public (For Items NOT on Agenda)**

There were no matters from the public for items not on the agenda.

**4. Resolution 16-24-R: Approval of 2016 Zoning Map (SCB 2-19-16) CD**

**Motion:** To recommend approval of Resolution 16-24-R: Approval of 2016 Zoning Map

**Maker:** O'Brien

**Second:** Russotto

**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent

Motion carried.

CONSENT AGENDA

**5. Ordinance 16-09: Variances for Dunkin' Donuts Drive Through at Shell Gas Station and Discussion for Conditional use for Drive Through – 108 North Batavia Ave. (JLS 2/24/16) CD**

Strassman reported in January, the Zoning Board of Appeals and Plan Commission held a joint hearing to consider variances and a conditional use to add a drive through to the Shell gas station on Batavia Avenue and Houston Street. Variance requests were for:

- Separation of the subject property and the drive through lane from residential property and residences (both of these variances are needed for conditional use approval)
- The drive through lane being narrower than required
- Additional wall and monument sign area, and for canopy sign projection
- Reduced parking geometry and allowing wheel stops
- Adding pavement in 50 foot Batavia Avenue setback to add parking

Several members of the public spoke. The owner and a resident of the adjacent property to the north cited concerns with increased noise and traffic, refuse storage odors, longer hours of operation, adding parking close to the house, and potential damage to this property's fence with snow removal. Other speakers commented that the changes to the aesthetics of the building would be an improvement, drive through traffic would increase air pollution, and there would be potential for debris discarded by Dunkin' Donuts customers accumulating in the neighborhood.

The Zoning Board of Appeals recommended against the two variances needed for conditional use approval, which are the ones for the separations from the property to the north. The Board found that the property can yield a reasonable return without the proposed drive through and that the drive through would negatively impact the property to the north. The Board recommended against the drive through lane width again finding that the property can yield a reasonable return without the drive through. The Board also recommended against the increase for the monument sign area finding that there are no unique circumstances warranting an increase in sign area to an already nonconforming sign, it would have no effect on the property being able to yield a reasonable return, and approving the variance would constitute a grant of special privilege. These recommendations are consistent with staff's conclusions and its recommendation to the Board. With the Board's recommendation against the 2 variances needed for conditional use approval, the Plan Commission effectively recommended denial of the conditional use. The Commission continued its consideration of design review until after Council action.

Ordinance 16-09 is drafted consistent with Board's recommendations, and consistent with staff's recommendations. While this Ordinance is drafted to approve the variances for wall and canopy signs, parking geometry and wheel stops, and pavement in the Batavia Avenue setback, approval of the Ordinance would effectively result in the project being unable to move forward. Again, the 2 variances needed for consideration of, and approval of the conditional use would not be approved as the Ordinance is drafted.

If the Committee reaches a conclusion that the project should be approved, the Committee would need to give direction to staff to revise draft Ordinance 16-09 accordingly, and to draft an ordinance approving the conditional use. The Committee may direct staff to include in the conditional use ordinance conditions of approval for specific site improvements such as landscaping, sign and retaining wall design, and inclusion of a bicycle path, and operational restrictions such store hours and refuse collection and fuel delivery hours. Staff would present the revised variance ordinance and the draft conditional use ordinance at a Committee meeting later this month. Stark noted that there would be a need for a supermajority vote by Council to pass.

Atac asked staff how the reasonable return was calculated. Wolff added that it is bad in the fuel sales market and without another supporting enterprise he does not know how you could support the business as just a gas station. Wolff explained that he is in this field and he does not know how the reasonable return determination was found. There are two stations in the area that have closed who just relied on fuel sales alone. He does not agree that you could make enough money by just selling gas alone. Strassman answered that the reasonable return was based upon the tenure of the ownership of the current owner.

Steve Vasilion, Vasilion Architects, presented on the project to the Committee. He introduced the representatives with him tonight: Harry and Anecia Meta, owners; John Green, Civil Engineer; Jim Derr, representing the Dunkin' Donuts franchisee; and Steve Colbert, Dunkin' Donuts architect.

Vasilion stated that this project involves the addition of a new tenant, Dunkin' Donuts and the subsequent need for building signage, monument signage, and a drive-through. The building façade and canopy would undergo much-needed facelifts and parking would be added and reconfigured to accommodate the new tenant. Landscaping is also being redesigned. Vasilion stated that the impetus of this project is that the presence of Randall Road has directly affected this gas station. The improvements are needed to help this gas station be viable, as Alderman Wolff had mentioned. Vasilion commented on the reasonable return. The Meta's are the fourth owners since 2012 speaks volumes as to the viability of this station. It has been closed for three months at one time. The evidence has been presented on how the sales have declined. From peaks of 120-150,000 gallons of sales per month, it had dropped down to 70,000 gallons. Since the purchase of the gas station it has dropped to only 50-60,000 gallons. The site used to receive five tankards of gasoline per week, now there is only two. There used to be multiple weekly trash pick-ups and now there is only one. There has been a similar drop of inside sales. Vasilion stated that a neighbor presented at the Zoning Board meeting about increased traffic concerns. Vasilion stated that we would be fortunate if the addition of Dunkin' Donuts would increase the traffic levels and service levels to the levels it was when the neighbor originally purchased his property. The schedules of costumers, deliveries, and trash pick up have been carefully considered to avoid site congestion.

Vasilion listed the positive impacts of this project:

- Façade improvements
- ADA Accessibility
- Elimination of the steep slope near the front entry
- Providing all new landscaping
- New trash enclosure, much smaller than the size of the existing one
- Improve the appearance of the canopy and monument sign
- Upgrades inside the convenience store
- Increasing the amount of parking to comply with the current zoning requirements
- Bike and pedestrian friendly (addition of a patio and bike rack)
- This project would be a nice complement to the Houston Street renovation
- Generating sales tax revenue to the City
- No public funding requested

- Creation of jobs (2-3 Shell employees and 12 Dunkin' Donut employees)
- Dunkin' Donuts is a great supporter of local events.

Vasilion reported on the hours of operation. He stated that when the station functioned at its peak of sales, it was a 24-hour operation. It started closing at 11pm when Philips 66 took over. When our applicant purchased the gas station, the hours were 4:30am to 11pm, Monday through Friday, and 6am to 11pm on Saturday and 6am to 10pm on Sunday. Currently, the hours were extended from 11pm to midnight. The proposed hours of operation are 4am to midnight. Hours of operation are going to fluctuate to reflect the anticipated business. The applicant has obtained 500 signatures of Batavia residents who support this business plus over 100 signatures of non-residents.

Vasilion discussed the variances with the Committee. He explained that the drive-through width requested is identical to the approved Walgreen's drive-through width and they both do not have an escape lane. The monument sign itself predates the zoning ordinance and was modified and approved in 2012. Reducing the height would block visibility for traffic coming up Houston Street and looking to turn. Vasilion noted that some of the zoning ordinances are not business friendly. For a project that has a couple of legitimate variance items, such as this one does, there are additional variances that automatically happen resulting in an excessive amount of variance requests.

Jon Green, President of Engineering Resource Associates, went over the civil engineering and site plan with the Committee. The engineering site plan was displayed for the Committee to view and Green discussed the site circulation, curbed islands, parking, landscaping, menu board location (moved to eliminate any noise pollution to the surrounding properties), pick up window location, retaining wall (with flash on the top to block any headlights), lighting, and the masonry refuse area. Green noted that the refuse area would be half the size of the existing refuse area. Green reported that a traffic report was completed and the site is suitable for a drive-through location. An auto-turn analysis was completed and staging for deliveries on the site was set for non-peak hours. Green stated that site plans received approval by the Historic Preservation Commission. The proposed retaining wall would have a decorative stone and areas available to display artwork.

Brian Fornek, 439 Waubensee, addressed the Committee. He stated that he thinks this is workable and reasonable plan and that it should be approved. He stated that the hardship that the owners are facing is real and it cannot be questioned. He added that even he finds himself refueling on Randall Road. He stated that if the Committee says no to this, you are sending a message to the business community that the City is not business friendly. He noted that the property has as a permitted use, a restaurant, under the zoning. The traffic circulation, odors, and trash could happen as a matter of right. He suggested that the setback be measured from the pick up window itself. He reasoned that once you get your food you are like any other customer leaving that location. He asserted that the design is well done in the effort to minimize any impacts that the drive-through may have. He does not see any headlight impact until you are leaving the property itself.

Tom Brown, 118 North Batavia Avenue, stated that he lives right next door and 4am to midnight is long hours with deliveries. The headlights are an issue. Aside from his personal issues, this is a good plan and he is sorry that the business is not viable. He feels that they are trying to fit too much onto a small site. He encouraged the Committee to look at the property. They are projecting two million a year in revenues and six to seven hundred transactions per day. He expressed his concern with traffic backing up onto Route 31. He asked the Committee to look into the volume of traffic. If a drive-through was really going to save a business, than look at Burger King and Hardees, having a drive through did not help those businesses. He concluded that his biggest concerns are the hours of operation and the traffic.

Jim Warwick, owner of 118 North Batavia Avenue, shared that he bought the two flat ten years ago. The gas station closed at 9pm and it was nice and peaceful. There was very little traffic at night. All three of the bedrooms face the gas station. He built a six-foot fence between the property and the gas station for privacy and a noise buffer. When Harry bought the gas station, business hours were extended from 5am and midnight. When asked, he said he needed the extra money and the business could not survive. Warwick asked if there are business hour regulations in downtown Batavia. He had to install black out curtains on the two flat. His tenants need to be able to sleep and should be entitled to that. He is worried about tenants moving out because the increased noise by their bedrooms. The tenants have a right to privacy and the parking is too close to their bedroom windows. He was told that the drive-through would close at 9pm at night but what is to keep him from extending those hours. He asked what is to keep them from being open 24/7 or adding a Baskin Robbins.

Warwick discussed his concerns about the dumpster. He expressed that the new dumpster and corral are way too small. However, if it were any bigger it would be an eyesore for his tenants. He listed his concern with the dumpster pick up noise from the garbage trucks, odor, pests, and how the dumpster and drive-through could hurt his business. Warwick listed other concerns such as trash, proper grease removal, car exhaust and fumes, snow removal, site safety with the storage tanks underneath the ground in conjunction with the excess weight on the property, and the safety of bicyclists and pedestrians walking to the site around the corner of his six-foot fence. He asserted that there are already a lot of donut places in town and the opening of Dunkin' Donuts might affect Dimple Donuts business. He asked the Council to protect his property, his business and his tenants. He thanked the Committee for their time.

Callahan asked how long he has owned the property. Warwick responded ten years. Callahan questioned how many units he has and if he is one hundred percent occupied. Warwick answered two units and they both are occupied. Callahan asked if he has been one hundred percent occupied the entire time and Warwick answered he has.

Laura Williams, 244 North Batavia Avenue, addressed the Committee. She stated that she currently works at the Shell gas station that is being discussed tonight. She has worked there since 2014 and the job helped her save up money to buy a used car. She does not want to see another shuttered business in the downtown. She can't see how it would be good for the person next door's business to live next to a shuttered business nor would it be good for downtown Batavia in general. The façade improvements are well needed. Customers have asked her if there is a bike rack or patio available as well as how close the nearest Dunkin' Donuts is. We have

declining sales and we have interest in this gas station and this is a viable option. It would not make any sense to close this gas station and this project would provide more jobs for the community. As long as the neighbor owned the property, there has been a gas station next door.

Don Gregory, 124 North Batavia Avenue, shared that he read an article in the Chronicle this morning and is disappointed with the alderman who represent the fifth ward. They should have talked to us and maybe then they would not have been so excited to have a Dunkin' Donuts at this location. He would not mind one in Batavia but not next door. He is only 65 feet away from the gas station.

Linda Brown, 118 North Batavia Avenue, shared that she used to work for the previous owner of this gas station. At that time, the hours were from 6am to 9:30pm. She is concerned about the longer hours and the noise and the constant annoyance it would cause. In addition, she does not think a drive-through would properly fit at this location. She added that there is no place to put the snow, even with the current configuration. She asked if they plan to move the vacuum cleaner in the parking lot. The owner stated that it would not be removed or moved.

Vasilion stated that the parking stalls along the north property line are existing and are not new parking stalls. The garbage pick up used to be three time per week and now it is down to one. They do not plan on exceeding the previous three times per week garbage pick up. He noted that the current enclosure has a small dumpster in a much too large enclosure. We are reducing the size of the enclosure. The hours of operation used to be 24/7 and we are not approaching that. A grease trap would be provided in the building to collect grease. This location and this proximity of the business has been here for a very long time.

Stark asked that since this will be primarily a drive-through function, would that provide for less trash than a sit down restaurant. Vasilion stated that it would be less trash than a sit down restaurant. At the absolute maximum the trash pick up would be three days a week. Stark asked if there would be an eat-in option. The response was that there would be seating for twelve. O'Brien asked about the snow removal. Vasilion answered that there would be a contracted snow removal service. O'Brien asked about the safety of pedestrians while exiting the site. Green stated that the cars will be pushed fourteen to fifteen feet south, further away from the north lot line so that the driver would have a wider perspective, which will actually increase the safety that exists today. O'Brien asked, to be a good neighbor, if the scheduling could be shared. Vasilion stated that they would be happy to share the schedules they have established. If we could tweak that to better accommodate him and his tenants they would be happy to do so. Brown asked if there are any regulations for hours of business. Strassman stated that there are none in the City Code that would apply here but through the conditional use you can assign particular hours. Brown asked if a six-foot fence permitted all the way up to the sidewalk. Strassman answered that it is not permissible. Wolff commented on the traffic study and 44% of the customers only use the drive-through.

Strassman commented that Walgreen's does have an escape lane that is ten feet wide and drive through lane that is ten feet drive through. He added that a canopy edge that is white is not considered signage, a canopy that has corporate branding or colors is signage. Strassman stated that the flashing on the retaining wall would not be the most attractive option but it would serve

the purpose of blocking out the headlights. Strassman stated that if the Committee feels that the property can yield a reasonable rate of return it would be acceptable to consider granting variance for the width of the drive-through lane because that was the only Finding of Fact that could not be met, thus creating the recommendation of denial. Strassman explained how staff measures the setbacks with the Committee. Buening added that there are several drive throughs in the area without an escape way which were constructed prior to the changes in the code.

O'Brien asked about the flashing on the retaining wall to reduce headlights and if they could make that wall higher. Vasilion stated that it is 32 inches of concrete with a metal panel on to of that to block the headlights. O'Brien suggested a more attractive options, such as a preformed wall. Callahan stated that it is a priority of the community to help the downtown area. It is commendable that he is doing these improvements to the business. Botterman asked if the fire department has any concerns with the absence of an escape way. Strassman stated that the fire department did not express a concern. Callahan asked how many time has a car gotten stuck in a drive-through. Bari stated that he is not aware of any car being stuck in the drive-through lane. Bari reported on the traffic count to the Committee and how the stacking of cars is planned on the plan itself.

**Motion:** To recommend approval of Ordinance 16-09: Variances for Dunkin' Donuts Drive Through at Shell Gas Station and Discussion for Conditional Use for Drive Through  
**Maker:** Brown  
**Second:** Callahan

Vasilion asked if a super-majority vote is required at the Committee level. Stark answered no. Stark clarified the motion and stated that if you would like to have the ordinance amended and brought back to staff to be revised you would vote nay. O'Brien added that amending it would be for allowing the drive-through. Brown stated that it is important to recognize all the residents who spoke tonight and the business owner for trying to do this project. They all made very valid points. Personally, he would like to see this project happen. The only thing he does not like about this project is the location of the dumpster but unfortunately there is no other place for it to go. He does not believe that it would be allowed to build up with garbage because that would be detrimental to their business. He noted that this used to be a full service gas station, which fixed cars at all hours of the night. It used to be a three bay gas station and if it were to return to that function he is not sure that would be the best for the neighboring residents either. He is in favor of what they are looking to do and hope that it moves forward and that everyone works together to make it the best it can possibly be. Callahan asked if there are any code violations for trash. Stark stated that it is written in the code that there cannot be any overflowing trash. Callahan stated that this could be enforced as a violation of the zoning code. Buening stated that if there is a problem they would address it. O'Brien likes the civil design of this. This is an old river town and the streets are small and narrow. We as a Council need to be more flexible with our ordinances to make things work. This business owner is making an investment in his business. O'Brien stated that he will be an advocate for this project. He stated that this would add value to our City and hopefully this project will help establish this business.

**Roll Call Vote:** Aye: Chanzit

**Nay:** Brown, Russotto, Atac, Stark, Wolff, Fischer, O'Brien, Callahan, Hohmann, Botterman, Cerone, McFadden  
1-12 Vote, 1 Absent, Motion carried.

Staff was directed to rewrite the ordinance so that it allows for the drive-through as long as it meets the criteria. Buening stated that staff would return in two weeks with a revised ordinance and a conditional use ordinance. A list of conditions would be assembled.

#### **6. Fox River Issues CD**

There were no updates at this time.

#### **7. Resolution 16-25-R: Police Authorized Tow Contract (GJS 2/25/16) GS**

Chief Schira referred the Committee to the February 25<sup>th</sup> memo. This would be the third three-year contract with Police Authorized Tows. The City sent out twenty-nine RFPs and five responded back. We are recommending that three be selected which are the three we are using now and plug in a fourth in case one of the three has some deficiencies so that we continue to have a choice of three. The companies are rotated per tow due to State Legislation. This is at no cost to the City. The Resolution has the option that if everything goes well in 2016 the Police Chief would have the option to extend it for 2017 and 2018. This is similar to what we have done twice already, with a three-year contract.

**Motion:** To recommend approval of Resolution 16-25-R: Police Authorized Tow Contract

**Maker:** O'Brien

**Second:** Callahan

**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.

CONSENT AGENDA

#### **8. Resolution 16-26-R: Authorizing Task Order #19 with RJN Group for Engineering Study of the First St. Sewer Basin (JD 2/25/16) PU**

Dillon reported that this task order is with RJN Group from Wheaton Illinois who we have done work with in the past on issues related to the sewer collection system. The first basin is a major lift station for the City and has sub-basins that are a tributary to First Street. This proposal is to help prevent basements and sewer back ups from overflowing. We are proposing to start off with flow monitoring.

This proposal includes six meters that would be monitor the areas and another meter would be put in for the gravity flows. This will help us identify the areas that contribute the most in flow so that you could target those neighborhoods for further investigation. Within this proposal, the City is proposing to buy a couple of meters that could be used on an ongoing, annual basis. These would be placed in areas on VanNortwick at the Colonial Village basin. We know that there are excess flows at that basin and we want to quantify where the flow is coming from. Another meter would be placed on Harrison Street, where there is an area on Blaine and Morton where there are combined sewers. Purchasing the meters will be an advantage to the City in regards to data collection. The RJN personnel will train our personnel on the meters.

Wolff asked for a map showing which way the different basins flow. O'Brien agreed that it would be helpful. Dillon stated that all the GIS maps have directional flow and he could provide that to the Committee. Cerone asked if this is all in the budget for this year. Dillon stated that it is, it is under collection systems. O'Brien discussed the twelve scope items with Dillon.

**Motion:** To recommend approval of Resolution 16-26-R: Authorizing Task Order #19 with RJN Group for Engineering Study of the First St. Sewer Basin  
**Maker:** Stark  
**Second:** Fischer  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

**9. Resolution 16-27-R: Award of Contract for NE and SE Substation Maintenance to Siemens Industries, Inc. (Mustafa Kahvedzic 2/25/16)**

Kahvedzic reported that these two substations enforce all the NERC requirements for the protection system. We received a quote from Siemens and we have worked with them before and were happy with their work. The amount of this project was approved in the 2016 budget for the substation maintenance. Staff is recommending that the agreement be entered with Siemens Industry. O'Brien asked about the pricing per mile. Kahvedzic answered that this is specialized work and is usually completed in two weeks. The price is estimated, it could be less but it would not be exceeded. Wolff added that they have to bring out so much specialized equipment to do this project and that is why it is not a typical mileage charge. O'Brien asked if this is a T&M project. Kahvedzic answered yes. He stated that our guys would be there along with them at the substation. O'Brien noted that just for clarity sake, the City employees would be at the substation working along with this company so that it costs more than what is written in the memo. Kahvedzic stated that our alignments are not included in this work.

**Motion:** To recommend approval of Resolution 16-27-R: Award of Contract for NE and SE Substation Maintenance to Siemens Industries, Inc.  
**Maker:** McFadden  
**Second:** Cerone  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

**10. Presentation: Process to Decrease Size of City Council**

City Attorney Seckel reported on his memo and the four different options: 1) citizen-driven (getting signatures and getting a referendum on the ballot), 2) the City Council could take the initiative to do that, 3) wait until the census in 2020 and under that statute create an ordinance to reduce the number of aldermen down, or 3) since Batavia is home rule you could place an advisory referendum on the ballot and if it does pass then the number of aldermen could be reduced based upon the referendum. Seckel stated that it is really up to the discretion of the Council.

Hohmann stated that we have one of the largest councils for the surrounding communities and our size range. He continued that studies have shown that the ideal working group is no more than ten people, it fosters better communication and questions and more conversations. There is a cost savings though it would not be a lot of money. The cost savings could be used towards a communications position that we have been looking to fund. Staff has commented in the past that there is so many of us around the table that it is difficult to communicate with us. Some of the citizens feel that it would be an acceptable thing to happen. Overall, he envisioned going down to ten aldermen, drawing four wards, and having two aldermen per ward, and having two elected at large from the whole population from the City. There has been uncontested races and prodding to fill the seats. Hopefully there would be some contested races if the size went down.

Callahan agrees that there is value of having a discussion on this. We disagree on format because he would like to keep the ward system and is not in favor of at large. He would suggest waiting for the next census but if residents really felt strongly about it they should know what their options are. Callahan stated that the Council should not decide on anything without the full understanding on what the community wants.

Botterman stated that just reducing the amount of aldermen but keeping the wards as they are might be more appropriate for a referendum. One of the aspects of reducing the wards to four is that each of the four wards would have a portion of the downtown, which would be beneficial. This would need more of an extensive discussion. For tonight's point, we should have a consensus on whether we want a referendum or wait until the 2020 census and building a plan based on those numbers.

Brown proposed a third option, which is not to do anything. Brown stated that he sees the pros and cons on each of the options. Brown continued if we are concerned about small committees, then we should go back to the committee structure. If he were to vote on it tonight he would leave it alone.

Stark stated that as our population increases it is odd to her that we would consider decreasing their representation. We spend a lot of time talking about how the residents of the town don't want it to seem that there is a select and small group of people making decisions for the City. Atac stated that there has to be a compelling reason why we would want to do this to make a change at this time. She does not feel that we have identified this reason.

Wolff stated that he does not want to see us go to an at-large committee. Wolff expressed concern with voter turn out for a referendum. Wolff agreed with Atac and would like to see a compelling argument as to why. He feels that the larger number leads to better discussions and better decisions.

Russotto stated that alderman at large or changing the wards would cause more people to vote. He is doubtful that changes to the system would create contested races.

Fischer stated that the only compelling reason he heard was to save some money. He agreed with Wolff, if it went to a reduction he would like to see it kept with wards and not at-large but he does not see a compelling enough reason.

McFadden stated that there are good arguments for and against. He is in favor of maintaining the ward system as opposed to the at-large. He likes that there is someone in your area to go to. This is not something that we should drive through referendum at this point. It makes sense to wait until the 2020 census and if there is interest or a compelling reason then that is the time to reopen the discussion again.

Botterman stated that this ought to be citizen driven.

O'Brien stated that there needs to be a compelling reason to do it. We should have more in-depth discussions on things as a COW now. O'Brien stated that he is an advocate for the small committee structure because topics could be covered in more detail with a smaller group of people. However, everyone is invited to attend the Committee meetings and could be represented. The discussions were detailed and a lot of people talked and there were more interaction with staff and wrap our heads around issues because we have time to do it. Tonight we have sixteen items and we are not wrapping our heads around this. We are not doing a service to the people we represent because of the COW structure.

Brown asked if any option would be a big cost to the City. McGrath answered it would not be. Mayor Schielke stated that he has seen all different compilations of the Council. With his past knowledge he asserted that it is best to have as much representation as we have had. There are a lot of different viewpoints on items. With our City growing in size and the amount of issues our City faces, reducing the number would put a lot more responsibility onto the ten aldermen. Our City has a strong Council and weak mayor form of government. When you get elected as an alderman here, you have a lot of responsibility. If it were made as at-large there is the potential to not have representation in certain areas in town so he would caution against that structure. Mayor Schielke expressed his support of the current structure as it is today.

Brown opened the floor for public comment.

Joyce Keane, 2030 Wagner Road, stated that she wrote the COW an email regarding this subject. She stated from a citizen's perspective she empathizes knowing and feeling that you are doing the best possible job. As a citizen, she read through the Municipal Code. For Batavia, once you hit the 20,000 threshold you go to fourteen alderman. But if within a year the City says they want to do something else (like Geneva, St. Charles and Naperville) you could but Batavia didn't do it. From a citizen standpoint, there are two reasons why she is addressing the Committee. One is a quote from Steve Heronymous "productivity of groups more than ten declines." There is forty percent more of you that need to discuss anything at any point of time. Another is the fairness to the citizens. There should be contested elections in order to give residents choices. Keane calculated that 73% of all aldermen elected in Batavia over the last fifteen years were uncontested. She advocated for having at least two people running for office in order to give people choices.

Wolff asked if we reduced the size of the Council that would motivate more people to run. He stated that if they do not want to run now, why would they run with a reduced Council. Keane responded that at least if the two aldermen from each ward ran against each other then the citizens could at least look at the issues. Keane concluded that if you dilute the stock of potential aldermen you take democracy out of the process. There is a lot of inefficiency in a group over ten. Callahan stated that he would like to inspire more people to run. The most that he would like to run in this seat is eight years. We need find two people out of five thousand to run in each ward.

The discussion was tabled until there is a need for further discussion.

**11. Discussion: Implementing Contractor Registration in the City of Batavia (Continued)  
(SCB 2/10/16) CS**

Due to the late hour, this discussion was tabled and would be brought back to the Committee in two weeks.

**12. Discussion: Science Bridge Sculpture (WRM 2/23/16) GS**

Due to the late hour, this discussion was tabled and would be brought back to the Committee in two weeks.

**13. Project Status**

Bill McGrath reported on the following:

- Walgreen's plans to open on April 11, 2016
- Community Land Trust Meeting on March 14<sup>th</sup> in St. Charles City Council Hall

Mayor Schielke reported on the possibility of the Federal Tiger Grants. Mayor Schielke stated that he would be meeting with Congressman Hultgren on whether or not Batavia would be a good applicant for a Tiger grant to fund the construction of railroad crossing gates on the southeast side of the seven crossings where the trains to through town in the middle of the night. Mayor Schielke would report back to the Committee. Mayor Schielke asked if there was anyone on the Council opposed to exploring this further. There was no objection.

**14. Closed Session**

- a. Purchase and Sale of Electric Power**
- b. Purchase and Sale of Real Property**

This item was removed from the agenda.

**15. Adjournment**

There being no other business to discuss, Brown asked for a motion to adjourn the meeting at 10:59pm; Made by O'Brien; Seconded by Hohmann. Motion carried.

Committee of the Whole  
March 1, 2016  
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Minutes respectfully submitted by Jennifer Austin-Smith

**MINUTES**  
**March 1, 2016**  
**Committee of the Whole**  
**City of Batavia**

Please **NOTE:** These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

Brown called the meeting to order at 7:30pm.

**1. Roll Call**

**Members Present:** Chair Brown; Ald. Russotto, Atac, Stark, Chanzit, Wolff, Fischer, O'Brien, Callahan, Hohmann, Botterman, Cerone, and McFadden

**Members Absent:** Ald. Mueller

**Also Present:** Mayor Schielke; Chief Schira, Batavia Police Department; Bill McGrath, City Administrator; Roman Seckel, City Attorney; Rahat Bari, City Engineer; Jeff Albertson, Building Commissioner; Scott Buening, Director of Community Development; Joel Strassman, Planning and Zoning Officer; John Dillon, Water/Sewer Superintendent; Mustafa Kahvedzic, Project Engineer; and Jennifer Austin-Smith, Recording Secretary

**2. Items to be Removed/Added/Changed**

The Closed Session portion was removed from the agenda.

**3. Matters From The Public (For Items NOT on Agenda)**

There were no matters from the public for items not on the agenda.

**4. Resolution 16-24-R: Approval of 2016 Zoning Map (SCB 2-19-16) CD**

**Motion:** To recommend approval of Resolution 16-24-R: Approval of 2016 Zoning Map

**Maker:** O'Brien

**Second:** Russotto

**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent

Motion carried.

CONSENT AGENDA

**5. Ordinance 16-09: Variances for Dunkin' Donuts Drive Through at Shell Gas Station and Discussion for Conditional use for Drive Through – 108 North Batavia Ave. (JLS 2/24/16) CD**

Strassman reported in January, the Zoning Board of Appeals and Plan Commission held a joint hearing to consider variances and a conditional use to add a drive through to the Shell gas station on Batavia Avenue and Houston Street. Variance requests were for:

- Separation of the subject property and the drive through lane from residential property and residences (both of these variances are needed for conditional use approval)
- The drive through lane being narrower than required
- Additional wall and monument sign area, and for canopy sign projection
- Reduced parking geometry and allowing wheel stops
- Adding pavement in 50 foot Batavia Avenue setback to add parking

Several members of the public spoke. The owner and a resident of the adjacent property to the north cited concerns with increased noise and traffic, refuse storage odors, longer hours of operation, adding parking close to the house, and potential damage to this property's fence with snow removal. Other speakers commented that the changes to the aesthetics of the building would be an improvement, drive through traffic would increase air pollution, and there would be potential for debris discarded by Dunkin' Donuts customers accumulating in the neighborhood.

The Zoning Board of Appeals recommended against the two variances needed for conditional use approval, which are the ones for the separations from the property to the north. The Board found that the property can yield a reasonable return without the proposed drive through and that the drive through would negatively impact the property to the north. The Board recommended against the drive through lane width again finding that the property can yield a reasonable return without the drive through. The Board also recommended against the increase for the monument sign area finding that there are no unique circumstances warranting an increase in sign area to an already nonconforming sign, it would have no effect on the property being able to yield a reasonable return, and approving the variance would constitute a grant of special privilege. These recommendations are consistent with staff's conclusions and its recommendation to the Board. With the Board's recommendation against the 2 variances needed for conditional use approval, the Plan Commission effectively recommended denial of the conditional use. The Commission continued its consideration of design review until after Council action.

Ordinance 16-09 is drafted consistent with Board's recommendations, and consistent with staff's recommendations. While this Ordinance is drafted to approve the variances for wall and canopy signs, parking geometry and wheel stops, and pavement in the Batavia Avenue setback, approval of the Ordinance would effectively result in the project being unable to move forward. Again, the 2 variances needed for consideration of, and approval of the conditional use would not be approved as the Ordinance is drafted.

If the Committee reaches a conclusion that the project should be approved, the Committee would need to give direction to staff to revise draft Ordinance 16-09 accordingly, and to draft an ordinance approving the conditional use. The Committee may direct staff to include in the conditional use ordinance conditions of approval for specific site improvements such as landscaping, sign and retaining wall design, and inclusion of a bicycle path, and operational restrictions such store hours and refuse collection and fuel delivery hours. Staff would present the revised variance ordinance and the draft conditional use ordinance at a Committee meeting later this month. Stark noted that there would be a need for a supermajority vote by Council to pass.

Atac asked staff how the reasonable return was calculated. Wolff added that it is bad in the fuel sales market and without another supporting enterprise he does not know how you could support the business as just a gas station. Wolff explained that he is in this field and he does not know how the reasonable return determination was found. There are two stations in the area that have closed who just relied on fuel sales alone. He does not agree that you could make enough money by just selling gas alone. Strassman answered that the reasonable return was based upon the tenure of the ownership of the current owner.

Steve Vasilion, Vasilion Architects, presented on the project to the Committee. He introduced the representatives with him tonight: Harry and Anecia Meta, owners; John Green, Civil Engineer; Jim Derr, representing the Dunkin' Donuts franchisee; and Steve Colbert, Dunkin' Donuts architect.

Vasilion stated that this project involves the addition of a new tenant, Dunkin' Donuts and the subsequent need for building signage, monument signage, and a drive-through. The building façade and canopy would undergo much-needed facelifts and parking would be added and reconfigured to accommodate the new tenant. Landscaping is also being redesigned. Vasilion stated that the impetus of this project is that the presence of Randall Road has directly affected this gas station. The improvements are needed to help this gas station be viable, as Alderman Wolff had mentioned. Vasilion commented on the reasonable return. The Meta's are the fourth owners since 2012 speaks volumes as to the viability of this station. It has been closed for three months at one time. The evidence has been presented on how the sales have declined. From peaks of 120-150,000 gallons of sales per month, it had dropped down to 70,000 gallons. Since the purchase of the gas station it has dropped to only 50-60,000 gallons. The site used to receive five tankards of gasoline per week, now there is only two. There used to be multiple weekly trash pick-ups and now there is only one. There has been a similar drop of inside sales. Vasilion stated that a neighbor presented at the Zoning Board meeting about increased traffic concerns. Vasilion stated that we would be fortunate if the addition of Dunkin' Donuts would increase the traffic levels and service levels to the levels it was when the neighbor originally purchased his property. The schedules of costumers, deliveries, and trash pick up have been carefully considered to avoid site congestion.

Vasilion listed the positive impacts of this project:

- Façade improvements
- ADA Accessibility
- Elimination of the steep slope near the front entry
- Providing all new landscaping
- New trash enclosure, much smaller than the size of the existing one
- Improve the appearance of the canopy and monument sign
- Upgrades inside the convenience store
- Increasing the amount of parking to comply with the current zoning requirements
- Bike and pedestrian friendly (addition of a patio and bike rack)
- This project would be a nice complement to the Houston Street renovation
- Generating sales tax revenue to the City
- No public funding requested

- Creation of jobs (2-3 Shell employees and 12 Dunkin' Donut employees)
- Dunkin' Donuts is a great supporter of local events.

Vasilion reported on the hours of operation. He stated that when the station functioned at its peak of sales, it was a 24-hour operation. It started closing at 11pm when Philips 66 took over. When our applicant purchased the gas station, the hours were 4:30am to 11pm, Monday through Friday, and 6am to 11pm on Saturday and 6am to 10pm on Sunday. Currently, the hours were extended from 11pm to midnight. The proposed hours of operation are 4am to midnight. Hours of operation are going to fluctuate to reflect the anticipated business. The applicant has obtained 500 signatures of Batavia residents who support this business plus over 100 signatures of non-residents.

Vasilion discussed the variances with the Committee. He explained that the drive-through width requested is identical to the approved Walgreen's drive-through width and they both do not have an escape lane. The monument sign itself predates the zoning ordinance and was modified and approved in 2012. Reducing the height would block visibility for traffic coming up Houston Street and looking to turn. Vasilion noted that some of the zoning ordinances are not business friendly. For a project that has a couple of legitimate variance items, such as this one does, there are additional variances that automatically happen resulting in an excessive amount of variance requests.

Jon Green, President of Engineering Resource Associates, went over the civil engineering and site plan with the Committee. The engineering site plan was displayed for the Committee to view and Green discussed the site circulation, curbed islands, parking, landscaping, menu board location (moved to eliminate any noise pollution to the surrounding properties), pick up window location, retaining wall (with flash on the top to block any headlights), lighting, and the masonry refuse area. Green noted that the refuse area would be half the size of the existing refuse area. Green reported that a traffic report was completed and the site is suitable for a drive-through location. An auto-turn analysis was completed and staging for deliveries on the site was set for non-peak hours. Green stated that site plans received approval by the Historic Preservation Commission. The proposed retaining wall would have a decorative stone and areas available to display artwork.

Brian Fornek, 439 Waubensee, addressed the Committee. He stated that he thinks this is workable and reasonable plan and that it should be approved. He stated that the hardship that the owners are facing is real and it cannot be questioned. He added that even he finds himself refueling on Randall Road. He stated that if the Committee says no to this, you are sending a message to the business community that the City is not business friendly. He noted that the property has as a permitted use, a restaurant, under the zoning. The traffic circulation, odors, and trash could happen as a matter of right. He suggested that the setback be measured from the pick up window itself. He reasoned that once you get your food you are like any other customer leaving that location. He asserted that the design is well done in the effort to minimize any impacts that the drive-through may have. He does not see any headlight impact until you are leaving the property itself.

Tom Brown, 118 North Batavia Avenue, stated that he lives right next door and 4am to midnight is long hours with deliveries. The headlights are an issue. Aside from his personal issues, this is a good plan and he is sorry that the business is not viable. He feels that they are trying to fit too much onto a small site. He encouraged the Committee to look at the property. They are projecting two million a year in revenues and six to seven hundred transactions per day. He expressed his concern with traffic backing up onto Route 31. He asked the Committee to look into the volume of traffic. If a drive-through was really going to save a business, than look at Burger King and Hardees, having a drive through did not help those businesses. He concluded that his biggest concerns are the hours of operation and the traffic.

Jim Warwick, owner of 118 North Batavia Avenue, shared that he bought the two flat ten years ago. The gas station closed at 9pm and it was nice and peaceful. There was very little traffic at night. All three of the bedrooms face the gas station. He built a six-foot fence between the property and the gas station for privacy and a noise buffer. When Harry bought the gas station, business hours were extended from 5am and midnight. When asked, he said he needed the extra money and the business could not survive. Warwick asked if there are business hour regulations in downtown Batavia. He had to install black out curtains on the two flat. His tenants need to be able to sleep and should be entitled to that. He is worried about tenants moving out because the increased noise by their bedrooms. The tenants have a right to privacy and the parking is too close to their bedroom windows. He was told that the drive-through would close at 9pm at night but what is to keep him from extending those hours. He asked what is to keep them from being open 24/7 or adding a Baskin Robbins.

Warwick discussed his concerns about the dumpster. He expressed that the new dumpster and corral are way too small. However, if it were any bigger it would be an eyesore for his tenants. He listed his concern with the dumpster pick up noise from the garbage trucks, odor, pests, and how the dumpster and drive-through could hurt his business. Warwick listed other concerns such as trash, proper grease removal, car exhaust and fumes, snow removal, site safety with the storage tanks underneath the ground in conjunction with the excess weight on the property, and the safety of bicyclists and pedestrians walking to the site around the corner of his six-foot fence. He asserted that there are already a lot of donut places in town and the opening of Dunkin' Donuts might affect Dimple Donuts business. He asked the Council to protect his property, his business and his tenants. He thanked the Committee for their time.

Callahan asked how long he has owned the property. Warwick responded ten years. Callahan questioned how many units he has and if he is one hundred percent occupied. Warwick answered two units and they both are occupied. Callahan asked if he has been one hundred percent occupied the entire time and Warwick answered he has.

Laura Williams, 244 North Batavia Avenue, addressed the Committee. She stated that she currently works at the Shell gas station that is being discussed tonight. She has worked there since 2014 and the job helped her save up money to buy a used car. She does not want to see another shuttered business in the downtown. She can't see how it would be good for the person next door's business to live next to a shuttered business nor would it be good for downtown Batavia in general. The façade improvements are well needed. Customers have asked her if there is a bike rack or patio available as well as how close the nearest Dunkin' Donuts is. We have

declining sales and we have interest in this gas station and this is a viable option. It would not make any sense to close this gas station and this project would provide more jobs for the community. As long as the neighbor owned the property, there has been a gas station next door.

Don Gregory, 124 North Batavia Avenue, shared that he read an article in the Chronicle this morning and is disappointed with the alderman who represent the fifth ward. They should have talked to us and maybe then they would not have been so excited to have a Dunkin' Donuts at this location. He would not mind one in Batavia but not next door. He is only 65 feet away from the gas station.

Linda Brown, 118 North Batavia Avenue, shared that she used to work for the previous owner of this gas station. At that time, the hours were from 6am to 9:30pm. She is concerned about the longer hours and the noise and the constant annoyance it would cause. In addition, she does not think a drive-through would properly fit at this location. She added that there is no place to put the snow, even with the current configuration. She asked if they plan to move the vacuum cleaner in the parking lot. The owner stated that it would not be removed or moved.

Vasilion stated that the parking stalls along the north property line are existing and are not new parking stalls. The garbage pick up used to be three time per week and now it is down to one. They do not plan on exceeding the previous three times per week garbage pick up. He noted that the current enclosure has a small dumpster in a much too large enclosure. We are reducing the size of the enclosure. The hours of operation used to be 24/7 and we are not approaching that. A grease trap would be provided in the building to collect grease. This location and this proximity of the business has been here for a very long time.

Stark asked that since this will be primarily a drive-through function, would that provide for less trash than a sit down restaurant. Vasilion stated that it would be less trash than a sit down restaurant. At the absolute maximum the trash pick up would be three days a week. Stark asked if there would be an eat-in option. The response was that there would be seating for twelve. O'Brien asked about the snow removal. Vasilion answered that there would be a contracted snow removal service. O'Brien asked about the safety of pedestrians while exiting the site. Green stated that the cars will be pushed fourteen to fifteen feet south, further away from the north lot line so that the driver would have a wider perspective, which will actually increase the safety that exists today. O'Brien asked, to be a good neighbor, if the scheduling could be shared. Vasilion stated that they would be happy to share the schedules they have established. If we could tweak that to better accommodate him and his tenants they would be happy to do so. Brown asked if there are any regulations for hours of business. Strassman stated that there are none in the City Code that would apply here but through the conditional use you can assign particular hours. Brown asked if a six-foot fence permitted all the way up to the sidewalk. Strassman answered that it is not permissible. Wolff commented on the traffic study and 44% of the customers only use the drive-through.

Strassman commented that Walgreen's does have an escape lane that is ten feet wide and drive through lane that is ten feet drive through. He added that a canopy edge that is white is not considered signage, a canopy that has corporate branding or colors is signage. Strassman stated that the flashing on the retaining wall would not be the most attractive option but it would serve

the purpose of blocking out the headlights. Strassman stated that if the Committee feels that the property can yield a reasonable rate of return it would be acceptable to consider granting variance for the width of the drive-through lane because that was the only Finding of Fact that could not be met, thus creating the recommendation of denial. Strassman explained how staff measures the setbacks with the Committee. Buening added that there are several drive throughs in the area without an escape way which were constructed prior to the changes in the code.

O'Brien asked about the flashing on the retaining wall to reduce headlights and if they could make that wall higher. Vasilion stated that it is 32 inches of concrete with a metal panel on to of that to block the headlights. O'Brien suggested a more attractive options, such as a preformed wall. Callahan stated that it is a priority of the community to help the downtown area. It is commendable that he is doing these improvements to the business. Botterman asked if the fire department has any concerns with the absence of an escape way. Strassman stated that the fire department did not express a concern. Callahan asked how many time has a car gotten stuck in a drive-through. Bari stated that he is not aware of any car being stuck in the drive-through lane. Bari reported on the traffic count to the Committee and how the stacking of cars is planned on the plan itself.

**Motion:** To recommend approval of Ordinance 16-09: Variances for Dunkin' Donuts Drive Through at Shell Gas Station and Discussion for Conditional Use for Drive Through  
**Maker:** Brown  
**Second:** Callahan

Vasilion asked if a super-majority vote is required at the Committee level. Stark answered no. Stark clarified the motion and stated that if you would like to have the ordinance amended and brought back to staff to be revised you would vote nay. O'Brien added that amending it would be for allowing the drive-through. Brown stated that it is important to recognize all the residents who spoke tonight and the business owner for trying to do this project. They all made very valid points. Personally, he would like to see this project happen. The only thing he does not like about this project is the location of the dumpster but unfortunately there is no other place for it to go. He does not believe that it would be allowed to build up with garbage because that would be detrimental to their business. He noted that this used to be a full service gas station, which fixed cars at all hours of the night. It used to be a three bay gas station and if it were to return to that function he is not sure that would be the best for the neighboring residents either. He is in favor of what they are looking to do and hope that it moves forward and that everyone works together to make it the best it can possibly be. Callahan asked if there are any code violations for trash. Stark stated that it is written in the code that there cannot be any overflowing trash. Callahan stated that this could be enforced as a violation of the zoning code. Buening stated that if there is a problem they would address it. O'Brien likes the civil design of this. This is an old river town and the streets are small and narrow. We as a Council need to be more flexible with our ordinances to make things work. This business owner is making an investment in his business. O'Brien stated that he will be an advocate for this project. He stated that this would add value to our City and hopefully this project will help establish this business.

**Roll Call Vote:** Aye: Chanzit

**Nay:** Brown, Russotto, Atac, Stark, Wolff, Fischer, O'Brien, Callahan, Hohmann, Botterman, Cerone, McFadden  
1-12 Vote, 1 Absent, Motion carried.

Staff was directed to rewrite the ordinance so that it allows for the drive-through as long as it meets the criteria. Buening stated that staff would return in two weeks with a revised ordinance and a conditional use ordinance. A list of conditions would be assembled.

#### **6. Fox River Issues CD**

There were no updates at this time.

#### **7. Resolution 16-25-R: Police Authorized Tow Contract (GJS 2/25/16) GS**

Chief Schira referred the Committee to the February 25<sup>th</sup> memo. This would be the third three-year contract with Police Authorized Tows. The City sent out twenty-nine RFPs and five responded back. We are recommending that three be selected which are the three we are using now and plug in a fourth in case one of the three has some deficiencies so that we continue to have a choice of three. The companies are rotated per tow due to State Legislation. This is at no cost to the City. The Resolution has the option that if everything goes well in 2016 the Police Chief would have the option to extend it for 2017 and 2018. This is similar to what we have done twice already, with a three-year contract.

**Motion:** To recommend approval of Resolution 16-25-R: Police Authorized Tow Contract  
**Maker:** O'Brien  
**Second:** Callahan  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

#### **8. Resolution 16-26-R: Authorizing Task Order #19 with RJN Group for Engineering Study of the First St. Sewer Basin (JD 2/25/16) PU**

Dillon reported that this task order is with RJN Group from Wheaton Illinois who we have done work with in the past on issues related to the sewer collection system. The first basin is a major lift station for the City and has sub-basins that are a tributary to First Street. This proposal is to help prevent basements and sewer back ups from overflowing. We are proposing to start off with flow monitoring.

This proposal includes six meters that would be monitor the areas and another meter would be put in for the gravity flows. This will help us identify the areas that contribute the most in flow so that you could target those neighborhoods for further investigation. Within this proposal, the City is proposing to buy a couple of meters that could be used on an ongoing, annual basis. These would be placed in areas on VanNortwick at the Colonial Village basin. We know that there are excess flows at that basin and we want to quantify where the flow is coming from. Another meter would be placed on Harrison Street, where there is an area on Blaine and Morton where there are combined sewers. Purchasing the meters will be an advantage to the City in regards to data collection. The RJN personnel will train our personnel on the meters.

Wolff asked for a map showing which way the different basins flow. O'Brien agreed that it would be helpful. Dillon stated that all the GIS maps have directional flow and he could provide that to the Committee. Cerone asked if this is all in the budget for this year. Dillon stated that it is, it is under collection systems. O'Brien discussed the twelve scope items with Dillon.

**Motion:** To recommend approval of Resolution 16-26-R: Authorizing Task Order #19 with RJN Group for Engineering Study of the First St. Sewer Basin  
**Maker:** Stark  
**Second:** Fischer  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

**9. Resolution 16-27-R: Award of Contract for NE and SE Substation Maintenance to Siemens Industries, Inc. (Mustafa Kahvedzic 2/25/16)**

Kahvedzic reported that these two substations enforce all the NERC requirements for the protection system. We received a quote from Siemens and we have worked with them before and were happy with their work. The amount of this project was approved in the 2016 budget for the substation maintenance. Staff is recommending that the agreement be entered with Siemens Industry. O'Brien asked about the pricing per mile. Kahvedzic answered that this is specialized work and is usually completed in two weeks. The price is estimated, it could be less but it would not be exceeded. Wolff added that they have to bring out so much specialized equipment to do this project and that is why it is not a typical mileage charge. O'Brien asked if this is a T&M project. Kahvedzic answered yes. He stated that our guys would be there along with them at the substation. O'Brien noted that just for clarity sake, the City employees would be at the substation working along with this company so that it costs more than what is written in the memo. Kahvedzic stated that our alignments are not included in this work.

**Motion:** To recommend approval of Resolution 16-27-R: Award of Contract for NE and SE Substation Maintenance to Siemens Industries, Inc.  
**Maker:** McFadden  
**Second:** Cerone  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

**10. Presentation: Process to Decrease Size of City Council**

City Attorney Seckel reported on his memo and the four different options: 1) citizen-driven (getting signatures and getting a referendum on the ballot), 2) the City Council could take the initiative to do that, 3) wait until the census in 2020 and under that statute create an ordinance to reduce the number of aldermen down, or 3) since Batavia is home rule you could place an advisory referendum on the ballot and if it does pass then the number of aldermen could be reduced based upon the referendum. Seckel stated that it is really up to the discretion of the Council.

Hohmann stated that we have one of the largest councils for the surrounding communities and our size range. He continued that studies have shown that the ideal working group is no more than ten people, it fosters better communication and questions and more conversations. There is a cost savings though it would not be a lot of money. The cost savings could be used towards a communications position that we have been looking to fund. Staff has commented in the past that there is so many of us around the table that it is difficult to communicate with us. Some of the citizens feel that it would be an acceptable thing to happen. Overall, he envisioned going down to ten aldermen, drawing four wards, and having two aldermen per ward, and having two elected at large from the whole population from the City. There has been uncontested races and prodding to fill the seats. Hopefully there would be some contested races if the size went down.

Callahan agrees that there is value of having a discussion on this. We disagree on format because he would like to keep the ward system and is not in favor of at large. He would suggest waiting for the next census but if residents really felt strongly about it they should know what their options are. Callahan stated that the Council should not decide on anything without the full understanding on what the community wants.

Botterman stated that just reducing the amount of aldermen but keeping the wards as they are might be more appropriate for a referendum. One of the aspects of reducing the wards to four is that each of the four wards would have a portion of the downtown, which would be beneficial. This would need more of an extensive discussion. For tonight's point, we should have a consensus on whether we want a referendum or wait until the 2020 census and building a plan based on those numbers.

Brown proposed a third option, which is not to do anything. Brown stated that he sees the pros and cons on each of the options. Brown continued if we are concerned about small committees, then we should go back to the committee structure. If he were to vote on it tonight he would leave it alone.

Stark stated that as our population increases it is odd to her that we would consider decreasing their representation. We spend a lot of time talking about how the residents of the town don't want it to seem that there is a select and small group of people making decisions for the City. Atac stated that there has to be a compelling reason why we would want to do this to make a change at this time. She does not feel that we have identified this reason.

Wolff stated that he does not want to see us go to an at-large committee. Wolff expressed concern with voter turn out for a referendum. Wolff agreed with Atac and would like to see a compelling argument as to why. He feels that the larger number leads to better discussions and better decisions.

Russotto stated that alderman at large or changing the wards would cause more people to vote. He is doubtful that changes to the system would create contested races.

Fischer stated that the only compelling reason he heard was to save some money. He agreed with Wolff, if it went to a reduction he would like to see it kept with wards and not at-large but he does not see a compelling enough reason.

McFadden stated that there are good arguments for and against. He is in favor of maintaining the ward system as opposed to the at-large. He likes that there is someone in your area to go to. This is not something that we should drive through referendum at this point. It makes sense to wait until the 2020 census and if there is interest or a compelling reason then that is the time to reopen the discussion again. Botterman stated that this ought to be citizen driven.

O'Brien stated that there needs to be a compelling reason to do it. We should have more in-depth discussions on things as a COW now. O'Brien stated that he is an advocate for the small committee structure because topics could be covered in more detail with a smaller group of people. However, everyone is invited to attend the Committee meetings and could be represented. The discussions were detailed and a lot of people talked and there were more interaction with staff and wrap our heads around issues because we have time to do it. Tonight we have sixteen items and we are not wrapping our heads around this. We are not doing a service to the people we represent because of the COW structure.

Brown asked if any option would be a big cost to the City. McGrath answered it would not be. Mayor Schielke stated that he has seen all different compilations of the Council. With his past knowledge he asserted that it is best to have as much representation as we have had. There are a lot of different viewpoints on items. With our City growing in size and the amount of issues our City faces, reducing the number would put a lot more responsibility onto the ten aldermen. Our City has a strong Council and weak mayor form of government. When you get elected as an alderman here, you have a lot of responsibility. If it were made as at-large there is the potential to not have representation in certain areas in town so he would caution against that structure. Mayor Schielke expressed his support of the current structure as it is today.

Brown opened the floor for public comment.

Joyce Keane, 2030 Wagner Road, stated that she wrote the COW an email regarding this subject. She stated from a citizen's perspective she empathizes knowing and feeling that you are doing the best possible job. As a citizen, she read through the Municipal Code. For Batavia, once you hit the 20,000 threshold you go to fourteen alderman. But if within a year the City says they want to do something else (like Geneva, St. Charles and Naperville) you could but Batavia didn't do it. From a citizen standpoint, there are two reasons why she is addressing the Committee. One is a quote from Steve Heronymous "productivity of groups more than ten declines." There is forty percent more of you that need to discuss anything at any point of time. Another is the fairness to the citizens. There should be contested elections in order to give residents choices. Keane calculated that 73% of all aldermen elected in Batavia over the last fifteen years were uncontested. She advocated for having at least two people running for office in order to give people choices.

Wolff asked if we reduced the size of the Council that would motivate more people to run. He stated that if they do not want to run now, why would they run with a reduced Council. Keane responded that at least if the two aldermen from each ward ran against each other then the citizens could at least look at the issues. Keane concluded that if you dilute the stock of potential aldermen you take democracy out of the process. There is a lot of inefficiency in a group over ten. Callahan stated that he would like to inspire more people to run. The most that he would like

to run in this seat is eight years. We need find two people out of five thousand to run in each ward.

The discussion was tabled until there is a need for further discussion.

**11. Discussion: Implementing Contractor Registration in the City of Batavia (Continued)  
(SCB 2/10/16) CS**

Due to the late hour, this discussion was tabled and would be brought back to the Committee in two weeks.

**12. Discussion: Science Bridge Sculpture (WRM 2/23/16) GS**

Due to the late hour, this discussion was tabled and would be brought back to the Committee in two weeks.

**13. Project Status**

Bill McGrath reported on the following:

- Walgreen's plans to open on April 11, 2016
- Community Land Trust Meeting on March 14<sup>th</sup> in St. Charles City Council Hall

Mayor Schielke reported on the possibility of the Federal Tiger Grants. Mayor Schielke stated that he would be meeting with Congressman Hultgren on whether or not Batavia would be a good applicant for a Tiger grant to fund the construction of railroad crossing gates on the southeast side of the seven crossings where the trains to though town in the middle of the night. Mayor Schielke would report back to the Committee. Mayor Schielke asked if there was anyone on the Council opposed to exploring this further. There was no objection.

**14. Closed Session**

- a. Purchase and Sale of Electric Power**
- b. Purchase and Sale of Real Property**

This item was removed from the agenda.

**15. Adjournment**

There being no other business to discuss, Brown asked for a motion to adjourn the meeting at 10:59pm; Made by O'Brien; Seconded by Hohmann. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith

# CITY OF BATAVIA

---

**DATE:** March 04, 2016  
**TO:** Committee of the Whole  
**FROM:** Brian Bettin  
**SUBJECT:** RESOLUTION 16-30-R; AWARDING CONTRACT TO ASPLUNDH TREE  
EXPERT CO. FOR AN AMOUNT NOT TO EXCEED \$ 130,000 FOR THE 2016  
TREE TRIMMING CONTRACT.

## **Summary**

Enter into agreement with Asplundh Tree Expert Company for the 2016 Batavia Municipal Electric Utility Annual Tree Trimming Contract

## **Background**

This years' bid for electrical line clearance is for the entire West section of the City, including our fiber optic cables. For the past many years we have performed line clearance on one- half of the City every other year. Staff believes that this bi-yearly trimming has served to keep the lines clear, safe and has resulted in less of a visual impact on our customers and increased our system reliability. Our process has greatly reduced the number of outages caused by tree contact with the power lines.

A comprehensive bid packet was posted on the City of Batavia's Web site and the Invitation to Bid was posted in the Dailey Herald. We requested each bidder supply us with hourly wages for a manual crew (for rear lot power lines) and a bucket crew. Bidders were also to supply us with equipment used, and the pricing per hour.

We will conduct our Tree Trimming contract under the premises of maintenance work: trimming trees from existing power lines and removal of trees, if needed, due to the compromised integrity of the tree on a case-by-case basis.

Asplundh Tree Expert Co. was the lowest and only bidder. Asplundh completed our 2015 Tree Trimming Contract with satisfactory results. We have allocated \$130,000 in the 2016 Budget for tree trimming (21-64-6357). Comparisons between bids from 2015 and 2016 show only a slight increase in wages and no increase in equipment cost. Therefore, I am comfortable with the bid received from Asplundh.

## **Staff Recommendation:**

Award the 2016 Tree Trimming Contract to Asplundh Tree Expert Company as Resolution 16-30-R.

## **Recommended Committee Action:**

Motion to City Council for approval of Resolution #16-30-R, 2016 Tree Trimming Contract with Asplundh Tree Expert Company.

## **Required Action by City Council:**

Approval of Resolution #16-30-R, 2016 Tree Trimming Contract with Asplundh Tree Expert Company.

c: Mayor Schielke  
Bill McGrath

City Council  
Gary Holm

Kevin Drendel  
Heidi L. Wetzel

Public Utilities Committee-Jeanette Armbrust  
03/15/2016 COMMITTEE OF THE WHOLE  
03/21/2016 CITY COUNCIL

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**CITY OF BATAVIA  
RESOLUTION 16-30-R**

**APPROVING CONTRACT WITH ASPLUNDH TREE EXPERT CO.  
FOR 2016 TREE TRIMMING**

**WHEREAS**, the City of Batavia is in need of conducting tree trimming and line clearance following the project description as outlined in the City of Batavia Municipal Electric Utility 2016 Tree Trimming Contract.

**WHEREAS**, it is necessary, at this time, to secure a contractor to perform work as described in the above contract and follow the City of Batavia Arboricultural Specifications Manual and the Batavia Municipal Electric Utility Line Clearance Tree Pruning Specification, performing work in a specified time and cost and

**WHEREAS**, bids were sought and received from qualified companies and following bid review, it was determined that Asplundh Tree Expert Co. has submitted the lowest responsible bid, and further, that Asplundh Tree Expert Co. has the experience and qualifications necessary to provide the work in a satisfactory and safe manner; and

**WHEREAS**, it is in the best interests of the City of Batavia that the bid from Asplundh Tree Expert Co. be accepted, and a Contract with Asplundh Tree Expert Co. be executed;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

**SECTION 1:** That the Mayor and City Clerk are hereby authorized to enter into the Contract with Asplundh Tree Expert Co. for Tree Trimming in an amount not-to-exceed \$130,000 – said Contract being attached hereto as Exhibit #1.

**PRESENTED** to the City Council of the City of Batavia, Illinois, on the 21<sup>st</sup> day of March, 2016

**PASSED** by the City Council of the City of Batavia, Illinois, on the 21<sup>st</sup> day of March, 2016

CITY OF BATAVIA RESOLUTION 16-30-R

**APPROVED** by me as Mayor of said City of Batavia, Illinois, on the 21st day of March, 2016

\_\_\_\_\_  
Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Thelin Atac				
6	Cerone					Russotto				
7	McFallen					Brown				
Mayor Schielke										
VOTE:		Ayes	0 Nays	Absent	0 Abstention(s) counted as _____					
Total holding office: Mayor and 14 aldermen										

ATTEST:

\_\_\_\_\_  
Heidi L. Wetzel, City Clerk

EXHIBIT I

**AGREEMENT**  
**The City of Batavia**  
**2016 Batavia Tree Trimming Contract**

This AGREEMENT, made on the 21st day of March, 2016 by and between the City of Batavia (referred to in the Contract Documents as “Owner”) and the Asplundh Tree Expert Company (referred to in the Contract Documents as “Contractor”)

- A. Description of Work:  
2016 Batavia Tree Trimming Contract

<b>For the purpose of this bid, a MANUAL CREW will be defined as:</b> 1- Foreman 3-Climbers/Trimmers 1- Split Dump 1-Chipper					
LABOR	Per Hour	Overtime/Hr	Double OT/Hr	EQUIPMENT	Per Hour
Foreman	51.37	73.97		Truck	9.25
Climber/Trimmer #1	46.87	67.49		Chipper/Dump	4.75
Climber/Trimmer #2	41.02	59.07			
Climber/Trimmer #3	41.02	59.07			

<b>For the purpose of this bid, a BUCKET TRUCK CREW will be defined as:</b> 1- Foreman 1-Climber/Trimmer 1- Bucket/Split Dump 1-Chipper					
LABOR	Per Hour	Overtime/Hr	Double Time/Hr	EQUIPMENT	Per Hour
Forman	51.37	73.97		Truck	16.00
Climber/Trimmer #1	46.87	67.49		Chipper/Dump	4.75

- B. Owner shall pay Contractor for the performance of the Work, in accordance with the General Conditions, the unit prices.
- C. Adjustment Unit Price: Adjustment Unit Prices that will be used for increases or decreases in the Contract Price, along with the associated units of work listed on Bid Page shall be valid until December 31, 2016.
- D. Contract Time: Time is of the essence of this Agreement. The Work shall be carried out continuously and at such a rate that will ensure full completion thereof within the Contract Time. The Contract Time is reasonable in consideration of the ordinary delays and hindrances usually encountered in the performance of such work.
- E. 2016 City of Batavia Tree Trimming Contract amount to be paid not-to-exceed \$130,00.00

**The Contract Time is as follows: The Work shall be completed before December 31, 2016**

If Contractor should neglect, refuse, or fail to complete all Work within the time set forth above, or any proper extension thereof granted by Owner, Contractor shall pay \$500 to Owner for each and every day Contractor is in default in accordance with the General Conditions.

AGREEMENT: (Continued)

F. Execution: This Agreement is executed in (4) four copies, each of which shall be deemed original.

In faith whereof, witness the signature of both parties:

**CONTRACTOR**

ASPLUNDH TREE EXPERT CO.

By \_\_\_\_\_  
\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**OWNER**

THE CITY OF BATAVIA

By \_\_\_\_\_  
\_\_\_\_\_ Jeffery D. Schielke \_\_\_\_\_

Title \_\_\_\_\_ Mayor \_\_\_\_\_

Date \_\_\_\_\_

**ATTEST**

By \_\_\_\_\_  
\_\_\_\_\_ Heidi L. Wetzel \_\_\_\_\_

Title \_\_\_\_\_ City Clerk \_\_\_\_\_

Date \_\_\_\_\_

**END OF AGREEMENT**

# CITY OF BATAVIA

---

**DATE:** March 7, 2016  
**TO:** Committee of the Whole-CD  
**FROM:** Scott Buening, Community Development Director  
**SUBJECT:** Ordinance 16-15 Annexing Island 183B in the Fox River

1. **Summary:** Annexation of Island 183B in the Fox River.
2. **Background:** The City acquired Island 183B in the Fox River by tax sale in November 2015. A property tax exemption was filed shortly after acquisition. This property is not within the City limits, but is contiguous and can be annexed. The parcel is about 17,000 square feet in size, and is contiguous to the City limits on the north, east and west sides. The property will be zoned R0 upon annexation, and no rezoning is contemplated at this time.

The City Council will need to pass the attached Ordinance in order to annex the property into the City limits.

3. **Alternatives, including no action if viable:**

- Annex the property
- Do not annex the property

- **Pros** Annexing the property will square off the City boundary and will bring this City-owned parcel into the City limits.
  - **Cons** There are no cons associated with this proposal.
  - **Budget Impact** The plat of annexation and recording costs will be approximately \$325.00.
  - **Staffing Impact** No impact on staffing.
4. **Timeline for actions:** If the Ordinance is passed by the City Council, the annexation would be effective upon recording the Ordinance.
  5. **Staff recommendation:** Staff recommends approval of Ordinance 16-15 Annexing Island 183B in the Fox River.

**Attachments:**

1. Ordinance 16-15 Annexing Island 183B in the Fox River.
2. Plat of Annexation.

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-15**

**AN ORDINANCE ANNEXING AND ZONING ISLAND 183B IN THE FOX RIVER TO  
THE CITY OF BATAVIA, KANE AND DUPAGE COUNTIES, ILLINOIS**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
\_\_\_\_ DAY OF \_\_\_\_\_, 2016**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This \_\_\_\_ day of \_\_\_\_\_, 2016

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-15**

**AN ORDINANCE ANNEXING AND ZONING ISLAND 183B IN THE FOX RIVER TO THE  
CITY OF BATAVIA, KANE AND DUPAGE COUNTIES, ILLINOIS**

**WHEREAS**, the City of Batavia, Kane and DuPage Counties, Illinois, has acquired a parcel of land known as Island 183B in the Fox River to be used for utilities and open space; and

**WHEREAS**, the City of Batavia (“City”) desires to annex this parcel into the City limits; and

**WHEREAS**, the property is designated by PIN 12-33-203-002 and is legally described in **EXHIBIT “A”** and the Plat of Annexation is attached as **EXHIBIT “B”** (“Territory”); and

**WHEREAS**, the said Territory is not within the corporate limits of any municipality but is contiguous to the City of Batavia; and

**WHEREAS**, the City is desirous of having this property annexed into the City of Batavia; and

**WHEREAS**, legal notices regarding the intention of the City to annex said Territory have been sent to all public bodies required to receive such notice by State Statute including the Fire District Trustees, the Township Supervisor, Clerk and Trustees and the Corporate Authorities of Kane County; and

**WHEREAS**, all petitions, documents, and other necessary legal requirements are in full compliance with the terms of said annexation, the Statutes of the State of Illinois, specifically 65 ILCS 5/7-1-9, and the requirements of the Batavia Municipal Code; and

**WHEREAS**, it is in the best interest of the City of Batavia that the Territory described and depicted in **EXHIBITS “A” and “B”** be annexed thereto and the territory be zoned R0 Single Family pursuant to the City of Batavia Municipal Code;

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois as follows:

**SECTION 1:** That the Territory described as attached hereto on **EXHIBITS “A” and “B”** is hereby annexed to the City of Batavia, Kane and DuPage Counties, Illinois.

**SECTION 2:** That said Territory described as attached on **EXHIBITS “A” and “B”** is hereby zoned R0 Single Family, under the terms and conditions of the Batavia Municipal Code.

**SECTION 3:** That the City Clerk is hereby directed to record with the Kane County Recorder and to file with the County Clerk a certified copy of this Ordinance, together with an accurate map of the Territory annexed appended to said Ordinance.

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-15

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**SECTION 4:** That the official zoning map of the City of Batavia is hereby amended in conformance with the terms of this Ordinance.

**SECTION 5:** This Ordinance 16-15 shall be in full force and effect upon its passage, presentation and approval according to law.

**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this \_\_\_ day of \_\_\_\_\_, 2016.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Thelin Atac				
6	Cerrone					Rusotto				
7	McFadden					Brown				
Mayor Schielke										
<b>VOTE:</b>		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

\_\_\_\_\_  
Heidi Wetzal, City Clerk

# MAP OF TERRITORY TO BE ANNEXED TO THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS.

DESCRIPTION OF PROPERTY HEREBY ANNEXED:

ISLAND 183B LOCATED IN THE FOX RIVER IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOWNSHIP OF BATAVIA, KANE COUNTY, ILLINOIS.

====LEGEND====

-  Boundary of property annexed
-  Indicates existing City of Batavia corporate limits

P.I.N. 12-33-203-002

Scale 1"=100'



STATE OF ILLINOIS     )  
                                   )SS  
 COUNTY OF DEKALB    )

THIS IS TO CERTIFY THAT I, SHAWN R. VanKAMPEN, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710 HAVE PREPARED THE ATTACHED PLAT FOR ANNEXATION PURPOSES AND THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID ANNEXATION.

DATED AT DEKALB, ILLINOIS THIS 17TH DAY OF FEBRUARY, 2016.

FOR: CITY OF BATAVIA  
 JOB NO. WES 13384E

SHAWN R. VanKAMPEN  
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710  
 LICENSE EXPIRATION DATE: NOVEMBER 30TH, 2016

Prepared by:  
 William E. Hanna Surveyors  
 508 Pine Street  
 DeKalb, Illinois 60115  
 (815) 756-2189  
 Fax 748-2532  
 info@hannasurveyors.com  
 License # 1842807

EXHIBIT A

ISLAND 183B LOCATED IN THE FOX RIVER IN THE WEST HALF OF THE  
NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 8 EAST OF  
THE THIRD PRINCIPAL MERIDIAN, TOWNSHIP OF BATAVIA, KANE COUNTY,  
ILLINOIS.

# MAP OF TERRITORY TO BE ANNEXED TO THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS.

DESCRIPTION OF PROPERTY HEREBY ANNEXED:

ISLAND 183B LOCATED IN THE FOX RIVER IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOWNSHIP OF BATAVIA, KANE COUNTY, ILLINOIS.

P.I.N. 12-33-203-002

Scale 1" = 100'

==LEGEND==

-  Boundary of property annexed
-  Indicates existing City of Batavia corporate limits



STATE OF ILLINOIS )  
 COUNTY OF DEKALB )SS

THIS IS TO CERTIFY THAT I, SHAWN R. VanKAMPEN, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710 HAVE PREPARED THE ATTACHED PLAT FOR ANNEXATION PURPOSES AND THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID ANNEXATION.

DATED AT DEKALB, ILLINOIS THIS 17TH DAY OF FEBRUARY, 2016.

*Shawn R. VanKampen*  
 SHAWN R. VanKAMPEN  
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710  
 LICENSE EXPIRATION DATE: NOVEMBER 30TH, 2016



Prepared by:  
 William E. Hanna Surveyors  
 508 Pine Street  
 DeKalb, Illinois 60115  
 (815) 756-2189  
 Fax 748-2532  
 info@hannasurveyors.com  
 License # 1842807

FOR: CITY OF BATAVIA  
 JOB NO. WES 13384E

# CITY OF BATAVIA

---

**DATE:** January 26, 2016  
**TO:** Committee of the Whole-CD  
**FROM:** Scott Buening, Community Development Director  
**SUBJECT:** Discussion and Direction Regarding Home for a Changing Region Project-Community Land Trust

1. **Summary:** Discussion and direction on whether to further study creating a subregional Community Land Trust.
2. **Background:** In 2015 the City approved of a Housing Study that was done jointly with the Cities of St. Charles and Geneva, the Village of North Aurora and CMAP. As part of this study there were a series of recommendations for future actions to take in regards to housing needs in the region. The *Regional Priorities* were reviewed with the Committee on April 14, 2015. The first priority was to *Encourage Employer Assisted Housing*. We have had a jointly hosted seminar to promote this idea and will be returning with other activities to support this goal.

The second priority was to *Create a Community Land Trust*. A meeting was facilitated by the City of St. Charles to further discuss this goal and to determine next steps. A presentation was made by Betsy Lassar of Business and Professional People for the Public Interest (BPI), who helped work on the Highland Park Land Trust (Community Partners for Affordable Housing), which is the oldest and most successful Community Land Trust in our region, serving several adjoining communities. During this presentation, she went over some of the ideas and issues that can come up as part of a Land Trust, many of which involved how to handle future resale of property and how to own land held in the Trust.

In considering whether a Community Land Trust should be created, a detailed study would need to be done to determine whether it is feasible, what parameters it would follow if created and establishing the goals and objectives of such a Land Trust. This would follow a two step analysis that is outlined in more detail on the attached memorandum. The first step, Phase 1, would involve studying the concept and determining if the project is feasible. Phase 2 would only come later which would be to implement the Community Land Trust.

Phase 1 is anticipated to cost \$12,000 and would be split between all four (4) of the Homes for a Changing region communities. However, we would also contact Kane County to see if there are any grant funds that could offset some of the costs of this study such as Riverboat Funds or CDBG funds. The study would take several months to complete.

Before we proceed further, the group wanted to gauge the support of each municipality to further consider this concept. While the Committee of the Whole seemed to support this in April 2015, we will probably need to provide some funding for the further analysis. We are presenting this to you now for consideration, with a desire to report back to the housing group by April.

It should be noted that if we find that this program does not fit the goals and needs of the community, we can opt out at any time. Doing the Phase 1 study does not commit Batavia,

or any of the other partner communities, to participating in a Community Land Trust. Staff does feel that the idea has merit, and that we should participate in this study at this time.

One thing that will need to be considered is if we wish to proceed, how this will potentially affect remaining developable parcels of land. While a Community Land Trust can encompass new housing, it can also include rehabbed existing housing or redevelopment of properties. We have been getting more inquiries about development of many of the remaining vacant parcels, so we will need to keep this in mind as development proposals come forward.

**3. Alternatives, including no action if viable:**

- **Direct staff to proceed with the further study of the Community Land Trust with funding up to \$3,000 (to come back for budget amendment)**

- **Direct staff to proceed with the further study of the Community Land Trust with no funding support**

- **Do not support the further study of the Community Land Trust**

- **Pros:** The study would determine the feasibility of creating a Community Land Trust, and what parameters and limitations should be considered as part of the program. Creating a Community Land Trust would allow for the creation of additional attainable/affordable housing units, but only under the parameters established by the City.
- **Cons:** The initial study could cost up to \$12,000, less if grant funds are secured for the study.
- **Budget Impact:** Up to \$3,000 in finding may be required, which has not been budgeted this year.
- **Staffing Impact:** City staff will participate in the data collection and assist with coordination of this project.

**4. Timeline for actions:** The housing committee has asked for responses from the communities by April 2016.

**5. Staff recommendation:** Staff recommends proceeding with the Phase 1 study with a funding participation level not to exceed \$3,000.00.

**Attachments:**

1. Memorandum on Creating a Central Fox Valley Community Land Trust.
2. Memo to Committee of the Whole dated April 9, 2015.

## MEMORANDUM

To: Bob Dean and Berenice Vallecillos  
From: Betsy Lassar, BPI  
Date: January 14, 2016  
Re: **Proposal for creating a Central Fox Valley Community Land Trust**

In the summer of 2014, the communities of Batavia, Geneva, North Aurora, and St. Charles adopted the Central Fox Valley *Homes for a Changing Region* housing policy plan. One of the key recommendations in the plan is for the communities to consider collaborating on the creation of a community land trust (CLT).

We propose pursuing this recommendation in a two-phase process, as outlined below. In Phase 1, the participating communities would convene a steering committee to consider big-picture issues that would allow the communities to develop a deeper understanding of how a CLT would help them address their affordable housing needs and determine what parameters should guide the formation of a CLT. Participating communities could then make an educated decision whether to proceed to establish a CLT. A decision to embark on Phase 2 would require specific, meaningful actions by the participating communities to create a CLT. The thrust of Phase 2 would be to undertake the work necessary to establish a CLT. A detailed proposal for Phase 2 would await the outcome of Phase 1.

### **Phase 1: Exploring the creation of a Central Fox Valley CLT**

#### Goal

Determine the organizational framework for initiating the creation of a CLT and identify the next steps for the participating local governments.

#### Key Focus

The Phase 1 exploration would be designed to answer the following key questions:

- What should be the mission/purpose of the CLT?
- What population should the CLT serve?
- What geographic area should it serve?
- What program activities should the CLT be empowered to undertake?
- Should the CLT be established as an independent 501(c)(3), as a program or subsidiary that would be operated by an existing not-for-profit, or as a quasi-governmental entity or program of the local governments?
- Should it be a membership organization?
- How should the CLT be governed?
  - Who should be represented on the Board of Directors? Should it be structured to meet CHDO requirements?
  - What role should participating local governments have?
- How will the start-up of the CLT be funded?

#### Participants and Responsibilities

*Steering Committee.* The Steering Committee will develop a set of recommendations that would guide the creation of CLT. The Steering Committee could consist of the representatives of the four municipalities responsible for implementing the central Fox Valley *Homes for a Changing*

*Region* plan, a representative from each of the existing not-for-profits that provide housing-related services in central Fox Valley, and a representative from Kane County's Office of Community Reinvestment.

*CMAP, Metropolitan Mayors Caucus (MMC) and Metropolitan Planning Council (MPC).* CMAP and MMC will facilitate the Phase 1 process – e.g., coordinate meeting logistics and arrangements, provide recaps of steering committee meetings, and conduct or assist with community-related research that may be necessary. MPC will assist as a resource and adviser.

*BPI.* BPI will serve as the primary consultant for Phase 1. It will

- Jointly with CMAP and MMC, determine what housing related work is already being done by existing organizations and agencies serving the central Fox Valley.
- Conduct research relating to CLTs. The research will include reviewing publications and reports, interviewing national experts, and interviewing appropriate representatives of existing CLTs. Through the CLT Network and others, BPI will identify 6-10 CLTs to learn about in greater depth. The CLTs to be studied in depth will offer good examples of different approaches in relation to the key questions the group will consider and will include examples of independent not-for-profits, a program of existing not-for-profits, CLTs initiated by multiple communities, and ones that are active in high cost areas.
- Prepare a report for the Steering Committee based on the research, including case studies of other CLTs, that will be used to help it develop a set of framework recommendations around the key questions.
- Facilitate a meeting of the Steering Committee to discuss the research and develop a set of framework recommendations for consideration by the governing bodies of the participating municipalities. BPI would write up the final recommendations and next steps that emerge from the discussion.
- Plan an educational workshop on CLTs, if desired. (See below.)

### Meetings

Phase 1 would require approximately 4 meetings with the Steering Committee, including an optional workshop, as well as a meeting or presentation in each of the four communities.

- An initial meeting. The purpose of the meeting would be (i) for BPI and the Steering Committee to meet each other, (ii) for BPI to hear from each of the participating communities what their interest is in exploring the creation of a CLT and learn about the capacity of the local governments and the not-for-profit housing sector in relation to affordable housing in the initiating communities, and (iii) to discuss the proposed process and get feedback and buy-in from the group.
- One to two meetings to review the report, develop recommendations around the key questions, and identify next steps.
- If the group thinks it would be worthwhile, BPI would plan a workshop involving one or more CLT experts to educate elected and appointed officials and staff from the initiating municipalities about the CLT model and answer questions. This type of workshop could occur at the beginning of the Phase 1 process or at the end, as a bridge to Phase 2.
- A meeting or presentation in each of the municipalities to review the recommendations of the Steering Committee.

## Outcome

At the end of Phase 1, the initiating local governments could adopt a resolution that would:

- Approve the organizational framework for the CLT
- Commit the local governments to work together to establish a CLT within the parameters of the approved organizational framework by moving to Phase 2.
- Commit the local governments to support the Phase 2 process in specific ways. While the specifics would be guided by the framework recommendations, the following represent examples of the kinds of commitments that would be needed:
  - Establish a CLT organizing committee charged with establishing a CLT
  - Provide seed money for the CLT to hire a consultant and other needed professional expertise
  - Provide staff support to manage and coordinate the Phase 2 process
  - Commit to provide funding for the CLT's operating expenses during a 3-year start-up period

## **Phase 2: Establishing a Central Fox Valley CLT**

### Goal

The goal of Phase 2 would be to launch a Central Fox Valley CLT. Although a detailed plan for proceeding with Phase 2 would depend to a large extent on the recommendation for organizational structure that emerges from Phase 1, assuming the recommendation is to create a new not-for-profit entity (the most common outcome based on experience), a possible roadmap for proceeding with Phase 2 is briefly outlined below.

### Key Focus

Phase 2 would be designed to make the CLT operational within the parameters of the framework recommendations in Phase 1. The process would focus on preparing the requisite organizational documents (e.g., articles of incorporation, bylaws, application for tax exempt status, ground lease); a plan for initial program, staffing and funding, including a budget and job description for an executive director; and a plan for educating and building support for the CLT among key constituencies and the larger community.

### Participants and Responsibilities

*CLT Organizing Committee.* The initiating communities would convene an organizing committee whose members would be broadly representative of the relevant stakeholders and committed to the creation of a CLT. Members could include some or all of the members of the Steering Committee, other not-for-profit housing providers, Kane County and other public agencies, employers, lenders, foundations, social service agencies, potential CLT homebuyers, etc. The CLT Organizing Committee would be responsible for making the CLT operational.

*Local Staff.* Staff from one or more of the initiating communities, possibly in conjunction with CMAP, would staff the CLT Organizing Committee. This would entail working closely with other consultants and professionals. [Note: This is a key opportunity to develop deeper capacity within the local governments that would be important to continued local government support for the CLT and its long-term success.]

*CMAP, MMC, MPC.* CMAP and MMC, possibly in conjunction with staff from one or more of the initiating communities, could staff the CLT Organizing Committee.

*CLT Consultant.* The CLT consultant would be responsible for framing the key decisions that the CLT Organizing Committee would need to make and providing the relevant background information to enable it to make knowledgeable, thoughtful decisions tailored to local conditions. The division of labor between the CLT Consultant and local staff and the specific outputs desired from the consultant would be determined during the proposal development process. The lead consultant for this phase should be an individual with extensive CLT experience. Burlington Associates is the leading national CLT consultant.

*Legal Counsel and/or Accountant.* Professionals would provide advice related to incorporation and legal requirements relating to not-for-profits and assistance in preparing an application for tax-exempt status.

*BPI.* What role, if any, BPI might play could be explored at the conclusion of Phase 1.

#### Outcome

At the end of Phase 2, the Central Fox Valley CLT would be ready to launch. The CLT Organizing Committee would report to the initiating local governments which in turn could adopt appropriate resolutions of support. An initial board of directors would then begin to operate the CLT – e.g , adopt by-laws, authorize the filing of the necessary legal documents, engage an executive director and begin its work.

#### **Project Timing and Cost**

BPI estimates that Phase 1 will require 4 to 6 months and cost \$12,500.

# CITY OF BATAVIA

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**DATE:** April 9, 2015  
**TO:** Committee of the Whole  
**FROM:** Scott Buening, Community Development Director  
Drew Rackow AICP, Planner  
**SUBJECT:** Discussion of Implementation Priorities of the Homes for a Changing Region Housing Policy Plan

**Summary:** The Homes for a Changing Region Housing Policy Plan for the Central Fox Valley was approved by the Batavia City Council on October 5, 2014. Participants for the Central Fox Valley Region Plan are Batavia, Geneva, North Aurora and St. Charles. It was subsequently approved by our partner communities and printed by the Chicago Metropolitan Agency for Planning (CMAP) in December. The Plan is available on the [city's website](#) and published copies are available in the Community Development Department office. The Plan includes both regional and local implementation strategies. Staff is seeking direction from the Committee of the Whole on priorities for local implementation.

**Background:** ***Regional Priorities:*** The Plan's Regional Strategies identified a number of items that the four communities could work collaboratively on addressing. Steering Committee meetings occurred in December 2014 and February 2015 to discuss shared priorities of our communities. While plan implementation will progress over the next two years, two immediate priorities were selected through consensus. These two are addressed in detail, below. Other priorities may require budgeting for additional studies or acquisition of funding (ex. proactively address resident desires to age in place). While others require additional work amongst the partners before implementing (ex. Increase Transit Supportive Land Uses along Specific Corridors will require completion of the Primary Transportation Network Study (PTN) as part of the Long Range Transportation Plan).

***PRIORITY ONE: Encourage Employer Assisted Housing:*** Batavia hosted a Steering Committee meeting in February to discuss Employer Assisted Housing. The Metropolitan Mayor's Caucus presented an information session explaining the typical operation of Employer Assisted Housing programs, outreach methods, and state and other agency financing programs. For additional information regarding Employer Assisted Housing, please see the Metropolitan Planning Council's [informational website](#).

Generally, interested employers will work with a local non-profit coordinator who is funded through participating employer contributions. The coordinator assists in processing program paperwork and accessing state program funds. Employers define the terms for their own programs. Employers benefit through retaining employees (employees commit to a minimum time frame through participation in these programs) reducing their training and recruiting costs.

Employees benefit through reduced housing costs, shorter commutes, and living in the community where they work. The coordinator also directs employees to other programs they may be eligible for, such as those for first time home buyers.

This particular program was selected as a priority due to the number of large employers in the communities that could benefit. As noted in the Plan, it also can be implemented swiftly without a significant amount of additional resources.

Batavia and the other municipal participants, along with our local Chambers of Commerce, will organize an informational event for large employers that may benefit from such a program. Information will also be sent to employers with more than 100 employees that may not be part of the local Chambers.

***PRIORITY TWO:*** *Consider Creating a Community Land Trust:* This particular strategy was cited as a priority due to the significant amount of work that will be required to investigate whether it is the appropriate fit for our four communities. It also could have significant long term benefits if successful. Early action steps are focused on data collection and evaluation. The Plan notes that this particular strategy would be difficult for any one City to implement on its own. A Community Land Trust would acquire and sell properties to eligible persons, but would retain ownership in the land. As the land ownership is not included in a mortgage, the price of the home is lower. Covenants on the property require that when a Land Trust resident moves, the home is either bought back by the trust or sold to another eligible person. This model has been implemented successfully in the region in Lake County.

***Local Priorities:*** Staff has evaluated and ranked the Local Priorities within the Plan. Below is a proposed ranking by staff along with commentary for each. Each Local Priority again will have individual steps that will be implemented regardless of their overall priority.

1. *Meet forecasted increases in housing demand through a combination of targeted redevelopment and annexation.*

Staff views this as an ongoing implementation strategy. Residential projects presented by applicants will continually need to be evaluated within the context of this Plan and the Housing Element of the Comprehensive Plan. As part of meeting this strategy staff will have a priority task item of analyzing remaining undeveloped parcels and key redevelopment (ex. downtown and infill) parcels within the context of housing availability. Annexation agreements will provide opportunities to meet targeted goals in some instances. Additionally, staff will present our evaluation of incorporation of existing unincorporated parcels. Overall, this strategy may also facilitate achieving goals for other priorities of the Plan.

2. *Create a downtown arts and culture overlay zone to promote affordable live/work units.*

This particular strategy is consistent with existing elements of the Comprehensive and Strategic Plans to facilitate commerce and redevelopment of the downtown. Staff believes that elements of this priority may be achieved through evaluation and modification of the DMU – Downtown Mixed Use Zoning District. This effort can be accomplished by staff. Recommendations included in the CMAP Downtown Arts and Culture Toolkit are cited in the Homes Plan. Staff

will review the recommended changes for consistency with our overall goals for the downtown area and suggest revisions based on the Toolkit. Revisions could include expansion of zoning allowances for live work units on the first floor as an example.

3. *Create affordability incentives in key areas of the city.*

This strategy addresses incentives on several fronts. In the immediate term goals would be to inform developers of Kane County Transportation Impact Fee discounts that may be applicable for certain types of development (ex. residential uses proximate to bus routes). The Plan also advises review of the CMAP Parking Strategies to Support Livable Communities Report, which outlines strategies for downtown areas. Strategies generally recommend assuring that parking is not overbuilt in the downtown and centralized to reduce onsite parking requirements.

It would also be appropriate to conduct a review of policies for instances where the City Council would be receptive to provide discounts or waivers from City fees when affordability goals would be met. Creating a policy prior to any prospective development would enable staff to effectively use the incentive in early agreement negotiation, or they could be adopted as part of the City Code.

4. *The City should adopt optional form-based code overlays for the Downtown Mixed Use and Mixed-Use Districts.*

While our Zoning Code does include regulation to encourage more traditional downtown building types, a form based code can be parcel specific, outlining desired structure types and forms. A form based Code typically will define particular building envelopes, but may be even more specific, such as required entrance locations on a prominent corner. Form based Code may be written to allow code relief through the full zoning process. CMAP has developed a guide for Form Based Codes that explain approaches that could be taken. A benefit of a Form Code, particularly for Downtown residential would be added certainty for approval of Multi-Family projects and/or shortened zoning processes. Due to the design oriented nature of Form-Based Codes, outside assistance by an architectural or urban design consultant may be sought to prepare design standards, describing the building forms, design patterns and other documentation of a Form Based Code. Staff would use these documents in reviewing projects.

5. *Expand the existing rental property licensing program.*

The Plan recommends an expansion of the Residential Property Licensing Program, potentially broadening the program to single family rental units. The Plan recommends adoption of a program consistent with the Metropolitan Planning Council's White Paper on Single Family Residential Housing Inspection programs. Staff believes that such an expansion would be worthwhile and consistent with the Comprehensive Plan's goals to improve our rental housing stock. However, staff recognizes that such an expansion of the program will require additional inspection and administrative staffing. For this reason, program expansion is a lower priority. In the interim, staff will continue to review the ability to gradually expand the licensing program on an annual basis in cooperation with the Police Department with existing staffing levels.

6. *Reaffirm the City's commitment to be an open community.*

This Priority encourages the City to address people of all backgrounds and levels of mobility in its online housing information and to adopting the design standards of the Fair Housing Act for new multifamily development. Portions of this strategy can be achieved quickly. The Plan recommends including information on how to file housing discrimination complaints along with language noting that the community is open to people of all backgrounds. This information may be added with the implementation of the new website.

The Priority also encourages broader improvements to accessibility standards. Discussion is underway regarding the ADA Coordinator role among staff, as raised at a previous COW meeting. The staff review of 2015 International Building Code series is also in progress, which will include a review of the proposed Codes with required Accessibility Codes. Overall, staff views this as an ongoing strategy that should shape decision making at all levels.

7. *Adopt a Kirk Road transit overlay zone.*

As noted in the review of regional strategies, parts of this particular local strategy are subject to completion of the County's Long Range Transportation Plan. Once completed, this priority calls for the presentation of the Primary Transportation Network strategy to the Plan Commission and City Council. Portions of this action item, include potential modification of Zoning Districts along Kirk Road will need to consider overall development goals with increasing housing availability along transit corridors. Development of key parcels along Kirk Road will need to consider these goals in the interim.

8. *Consider partnering with a non-profit to provide or refer a range of social services through a location near existing affordable housing.*

This particular priority ranked lower due to the potential requirement to oversee and manage such a program, along with the need to locate the appropriate local not-for-profit. Staff envisions that this strategy may require additional staff time to implement successfully. As noted in the Plan there is opportunity to work with the Townships to direct residents to existing services.

- **Pros:** Providing a prioritization of the strategies of the Homes for a Changing Region Plan will provide staff with clearer direction of the Council's priorities for implementing this Plan. Prioritization of the strategies recommendations will increase the overall likelihood of success in fully implementing the Homes for a Changing Region Plan locally. Prioritization is a logical method of addressing the number of recommendations of the Plan.
- **Cons:** Prioritization may cause some observers to believe that certain goals of the Plan are not being pursued or accomplished.
- **Budget Impact:** Prioritization will not have an immediate impact. By placing certain priorities higher, it may require more immediate budget activity.

- **Staff Impact:** Implementation of certain priorities may require the need for future additions of staff as part of the budgeting process.

**Recommendation:** Staff recommends the Council consider the regional and local prioritizations as described in this memo. We would request consensus for the priorities as presented by staff, or in the alternative provide direction as to the desired strategy prioritization.

- c Department Heads  
Media

# CITY OF BATAVIA

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**DATE:** February 29, 2016  
**TO:** Committee of the Whole-CD  
**FROM:** Scott Buening, Community Development Director  
**SUBJECT:** Ordinance 16-14—Annexing the Eastern section of the Burlington Northern Railroad Right-of-Way

**Summary:** Ordinance annexing the eastern portion of the Burlington Northern Railroad Right-of-Way (ROW).

**Background:** The City has annexed properties that surround the eastern portion of the Burlington Northern Railroad ROW, located east and west of Kirk Road. The City limits are directly abutting the north, south and west sides of this property. The eastern end is bounded by the Mahoney Creek. Under State Statutes, this property is considered “surrounded” and since it is under 60 acres in size, can be annexed to the City. Staff did try to make an initial contact with the railroad about annexation back in late 2014. However, we received no response to the request for annexation.

This property traverses both sides of Kirk Road. The majority of this ROW is not located in any fire district, including the intersection of Kirk Road and the Railroad ROW. Thus technically there would be no responsible fire department/district that would respond to an accident at this location. While that would not happen in reality, we feel that the area should be annexed so that the City can provide fire/rescue and police services to this important location. In addition, the annexation would give the City the ability to control other land uses such as billboards on this property.

In order to proceed with the annexation, staff felt that an “involuntary” annexation would be the best way to annex the property in question. A plat of annexation is attached showing the area to be annexed. The annexation will put this property into the City limits and allow us to provide emergency services within the property annexed. The property will initially be zoned R0, but we will rezone the property to (a) more appropriate zoning district(s) in the future.

## **Alternatives:**

- a. **Pros-** This annexation more closely rounds out the City boundaries at the northeast part of the community, and allows the City to provide emergency services within the property annexed.
- b. **Cons-** There are no negatives to this annexation as the property has a \$0.00 tax obligation.
- c. **Budget Impact-** The property is and will remain tax exempt as a railroad property, so there is no effect on property taxes. The plat of annexation and recording costs will be approximately \$250.00.

**d. Staffing Impact-** No staffing impact.

**Timeline for actions:** Due to the public notice requirements, a public hearing on the annexation is required. This is scheduled in front of the City Council on March 21, 2016 at 7:30 PM.

**Staff recommendation:** Staff recommends the Committee approve of Ordinance 16-14 Annexing the the eastern portion of the Burlington Northern Railroad Right-of-Way.

**Attachments:**

1. Ordinance 16-14 Annexing the eastern portion of the Burlington Northern Railroad Right-of-Way.
2. Public Notice.
3. Plat of Annexation.
4. Area Map.

Cc: Mayor & City Council  
File

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-14**

**AN ORDINANCE ANNEXING AND ZONING PART OF THE BURLINGTON NORTHERN  
RAILROAD RIGHT-OF-WAY TO  
THE CITY OF BATAVIA, KANE AND DUPAGE COUNTIES, ILLINOIS**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
\_\_\_ DAY OF \_\_\_\_\_, 2016**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This \_\_\_ day of \_\_\_\_\_, 2016

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-14**

**AN ORDINANCE ANNEXING AND ZONING PART OF THE BURLINGTON NORTHERN  
RAILROAD RIGHT-OF-WAY TO  
THE CITY OF BATAVIA, KANE AND DUPAGE COUNTIES, ILLINOIS**

**WHEREAS**, the City of Batavia, Kane and DuPage Counties, Illinois, has found a portion of the Burlington Northern Railroad Right-of-Way along Kirk Road is completely surrounded by the City limits of Batavia and a creek and is under 60 acres in size; and

**WHEREAS**, the property is designated by PINs 12-23-501-004, 12-24-501-001 and 12-13-501-001 (part), is legally described in **EXHIBIT “A”** and the Plat of Annexation is attached as **EXHIBIT “B”** (“Territory”); and

**WHEREAS**, the said Territory is not within the corporate limits of any municipality but is contiguous to and surrounded by the City of Batavia; and

**WHEREAS**, the City is desirous of having this property annexed into the City of Batavia as the City provides police and fire services to all properties that surround this property; and

**WHEREAS**, legal notices regarding the intention of the City to annex said Territory have been sent to all public bodies required to receive such notice by State Statute including the Fire District Trustees, the Township Supervisors, Clerks and Trustees and the Corporate Authorities of Kane County; and

**WHEREAS**, publication of the proposed annexation has occurred at least 10 days prior to the annexation as required by Statute; and

**WHEREAS**, a public hearing on the annexation to take testimony on the proposed annexation was conducted on March 21, 2016; and

**WHEREAS**, all petitions, documents, and other necessary legal requirements are in full compliance with the terms of said annexation, the Statutes of the State of Illinois, specifically 65 ILCS 5/7-1-13, and the requirements of the Batavia Municipal Code; and

**WHEREAS**, it is in the best interest of the City of Batavia that the Territory described and depicted in **EXHIBITS “A” and “B”** be annexed thereto and the territory be zoned R0 Single Family pursuant to the City of Batavia Municipal Code;

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois as follows:

**SECTION 1:** That the Territory described as attached hereto on **EXHIBITS “A” and “B”** is hereby annexed to the City of Batavia, Kane and DuPage Counties, Illinois.

**SECTION 2:** That said Territory described as attached on **EXHIBITS “A” and “B”** is hereby zoned R0 Single Family, under the terms and conditions of the Batavia Municipal Code.

**SECTION 3:** That the City Clerk is hereby directed to record with the Kane County Recorder and to file with the County Clerk a certified copy of this Ordinance, together with an accurate map of the Territory annexed appended to said Ordinance.

**SECTION 4:** That the official zoning map of the City of Batavia is hereby amended in conformance with the terms of this Ordinance.

**SECTION 5:** This Ordinance 16-14 shall be in full force and effect upon its passage, presentation and approval according to law.

**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2016.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-14

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Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Thelin Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
<b>VOTE:</b>		Ayes	Nays	Absent	Abstention(s)					
Total holding office: Mayor and 14 aldermen										

ATTEST:

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Heidi Wetzel, City Clerk

## **PUBLIC NOTICE**

**PUBLIC NOTICE** is hereby given to all persons concerned that on the 21st day of March, 2016 at 7:30 p.m., in the City Council Chambers of the Municipal Building, at 100 North Island Avenue, Batavia, Illinois, there will be held a Public Hearing wherein the City Council of the City of Batavia will conduct a Public Hearing on a proposed involuntary annexation of land, pursuant to 65 ILCS 5/7-1-13 of the Illinois Compiled Statutes. The property being considered for annexation is completely surrounded by the City limits of Batavia and a creek, is approximately 4.82 acres in size and is legally described as follows:

See Exhibit A

The property, which is the subject matter of the Public Hearing, is part of the Burlington Northern Railroad located east and west of Kirk Road. The property will be zoned R0 Single family residential after annexation.

All persons interested in this matter are invited to attend and speak at the Public Hearing. The Public Hearing may be continued to a further date, time and place without further notice or publication such as this notice.

Heidi Wetzel, City Clerk  
City of Batavia

Exhibit "A"

DESCRIPTION OF PROPERTY HEREBY ANNEXED:

THAT PART OF THE NORTHEAST QUARTER OF SECTION 23, THE NORTHWEST QUARTER OF SECTION 24 AND THE SOUTHWEST QUARTER OF SECTION 13, ALL IN TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 11 OF PRAIRIE LANDS SUBDIVISION, SAID POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF THE CHICAGO, BURLINGTON AND QUINCY RAILROAD; THENCE SOUTHERLY, ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 104.1 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE NORTHEASTERLY, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 2,922.00 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE 2,100.00 FEET; THENCE NORTHWESTERLY, AT RIGHT ANGLE TO SAID SOUTHERLY RIGHT OF WAY LINE, 100.0 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE SOUTHWESTERLY, ALONG SAID NORTHERLY RIGHT OF WAY LINE, 2,100.00 FEET; THENCE SOUTHEASTERLY, AT RIGHT ANGLE TO SAID NORTHERLY RIGHT OF WAY LINE, 100.0 FEET TO THE POINT OF BEGINNING, ALL IN BATAVIA TOWNSHIP, KANE COUNTY, ILLINOIS.



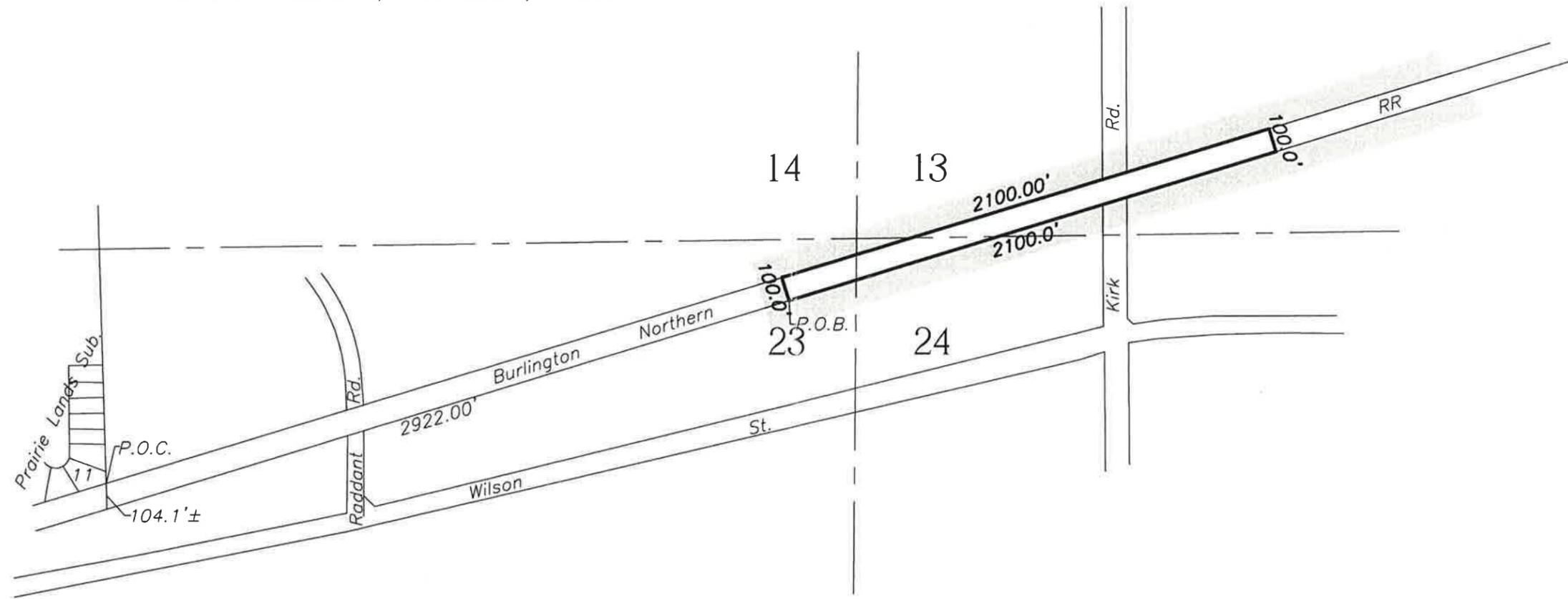
SOURCE: ESRI, AIR PHOTO, GEAC, INC., DIGITAL TOPOGRAPHIC, GROUNDWATER, USGS, USGS, ALEX, GEOSPATIAL, AERIAL, D.C., 2013, SW 55030, 2010, THE CITY OF FORT WORTH

# MAP OF TERRITORY HEREBY ANNEXED TO THE CITY OF BATAVIA, ILLINOIS.

DESCRIPTION OF PROPERTY HEREBY ANNEXED:  
THAT PART OF THE NORTHEAST QUARTER OF SECTION 23, THE NORTHWEST QUARTER OF SECTION 24 AND THE SOUTHWEST QUARTER OF SECTION 13, ALL IN TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 11 OF PRAIRIE LANDS SUBDIVISION, SAID POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF THE CHICAGO, BURLINGTON AND QUINCY RAILROAD; THENCE SOUTHERLY, ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT, 104.1 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE NORTHEASTERLY, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 2922.00 FOR THE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 2100.00 FEET; THENCE NORTHWESTERLY, AT RIGHT ANGLE TO SAID SOUTHERLY RIGHT OF WAY LINE, 100.0 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE SOUTHWESTERLY, ALONG SAID NORTHERLY RIGHT OF WAY LINE, 2100.00 FEET; THENCE SOUTHEASTERLY, AT RIGHT ANGLE TO SAID NORTHERLY RIGHT OF WAY LINE, 100.0 FEET TO THE POINT OF BEGINNING, ALL IN BATAVIA TOWNSHIP, KANE COUNTY, ILLINOIS.



Not to scale



====LEGEND====  
—— Boundary of property hereby annexed  
▭ Indicates existing corporate limits

STATE OF ILLINOIS )  
                          )SS  
COUNTY OF DEKALB )

THIS IS TO CERTIFY THAT I, SHAWN R. VANKAMPEN, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710 HAVE PREPARED THE ATTACHED PLAT FOR ANNEXATION PURPOSES. ALL DISTANCES SHOWN IN FEET AND DECIMALS THEREOF.

DATED AT DEKALB, ILLINOIS THIS 8TH DAY OF DECEMBER, 2015.

*Shawn R. Van Kampen*  
SHAWN R. VANKAMPEN  
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710  
LICENSE EXPIRATION DATE: NOVEMBER 30TH, 2016



Prepared by:  
William E. Hanna Surveyors  
License No. 1842807  
508 Pine Street  
DeKalb, Illinois 60115  
(815) 756-2189  
Fax 748-2532  
info@hannasurveyors.com ©

FOR: CITY OF BATAVIA  
JOB NO. WES 13384C

# CITY OF BATAVIA

---

**DATE:** February 10, 2016  
**TO:** Committee of the Whole-CS  
**FROM:** Scott Buening, Community Development Director  
**SUBJECT:** Continued Discussion: Implementing Contractor Registration in the City of Batavia

1. **Summary:** Continued discussion regarding beginning a contractor registration program in the City.
2. **Background:** City staff raised the idea of contractor registration back on May 26, 2015. The Committee discussed this and determined it was something that they did not want to proceed with at that time, but wanted staff to bring this back in a year. During some conversations at a recent COW meeting, several aldermen brought up contractor registration again. They indicated that they had been approached by local business owners that were interested in having the City implement this program. They felt that the program would help protect local businesses and residents from less reputable contractors.

Staff is now bringing this program forward again for further committee discussion. We have provided the information presented previously as a way to restart the discussion about this program. In summary, staff was suggesting the following:

- Registration for contractors would be required for any work that requires a permit.
- Annual Fee for any contractor (general or subcontractor) would be \$100.00. Registration would be renewed on January 1 of each year.
- We would prorate initial registrations on a quarterly basis (i.e. applications from October-December would pay 25% or \$25.00 fee).
- \$10,000 Surety Bond would be required.
- \$1,000,000 in general liability insurance would be required.
- Workers Compensation and Auto Liability would need to follow State Law (we would not require anything additional).
- Roofing, plumbing and irrigation contractors that are licensed by the State would pay a discounted \$25.00 annual registration fee. These contractors would need to provide proof of license and bonding from the State.
- We would include an allowance to revoke the registration and prohibit work within the City. The registration would be revocable for violations of local or State laws, or violations of building code. An appeal process to the City Council would be developed if the existing process under the building code does not apply.
- First year of implementation would be free to get applicants to sign up.

- Homeowners doing work on their own principal residence would be exempted from the registration requirement.

Staff would like to have the Committee discuss the proposal to implement a contractor registration program, and provide direction on whether or not to begin drafting an ordinance to put the program in place.

**3. Alternatives, including no action if viable:**

- **Pros:** Contractor registration allows the City to be aware of who is doing work in the City. It allows the homeowner or property owner the peace of mind that the City will be able to ensure quality work by contractors and that they will likely not “skip town” with their money. The program would provide incremental revenues to the City, but this is not intended to be a substantial revenue source for the City.
- **Cons:** The program will make the cost of doing work in the City slightly more expensive. The program will make Batavia the first of the tri-cities to implement a registration program. The program may seem “business unfriendly” due to the additional paperwork and costs contractors will incur.
- **Budget Impact:** We have an estimated 150 contractors (about 50 roofing/plumbing) that do work in the City annually. This would translate approximately to an additional \$11,250 in revenues annually. We do not intend to hire additional staff for this program, therefore there would be no negative effect on the budget.
- **Staffing Impact:** No impact on staffing as we are not intending to hire staff for this program.

**4. Timeline for actions:** There is no specific timeline as this has been a continuing internal discussion for some time.

**5. Staff recommendation:** Staff recommends that the Committee review the contractor registration program and provide direction to staff on whether or not to draft an Ordinance that would implement this program.

**Attachments:**

1. Staff memo and attachments on May 20, 2015.
2. Staff supplemental memo of May 26, 2015.
3. Minutes of May 26, 2015 COW meeting.

# CITY OF BATAVIA

---

**DATE:** May 20, 2015  
**TO:** Committee of the Whole-CS  
**FROM:** Scott Buening, Community Development Director  
**SUBJECT:** Discussion: Implementing Contractor Registration in the City of Batavia

1. **Summary:** Discussion regarding beginning a contractor registration program in the City.
2. **Background:** City staff has been exploring the idea of implementing a contractor registration program for a number of years. Many towns in the area already have a registration program in place including Aurora, Sugar Grove, West Chicago, North Aurora and South Elgin, among others. Staff has investigated these programs and we feel the time is right to begin our own contractor registration program. The program would consist of the following parameters:
  - Registration for contractors would be required for any work that requires a permit.
  - Annual Fee for any contractor (general or subcontractor) would be \$100.00. Registration would be renewed on January 1 of each year.
  - We would prorate initial registrations on a quarterly basis (i.e. applications from October-December would pay 25% or \$25.00 fee).
  - \$10,000 Surety Bond would be required.
  - \$1,000,000 in general liability insurance would be required.
  - Workers Compensation and Auto Liability would need to follow State Law (we would not require anything additional).
  - Roofing, plumbing and irrigation contractors that are licensed by the State would pay a discounted \$25.00 annual registration fee. These contractors would need to provide proof of license and bonding from the State.
  - We would include an allowance to revoke the registration and prohibit work within the City. The registration would be revocable for violations of local or State laws, or violations of building code. An appeal process to the City Council would be developed if the existing process under the building code does not apply.
  - First year of implementation would be free to get applicants to sign up.
  - Homeowners doing work on their own principal residence would be exempted from the registration requirement.

We have attached a table showing a survey that was done by another community showing what towns in the western metro area do in regards to contractor registration. While Geneva

and St. Charles most notably do not register contractors at this time, many other communities in the areas do and have done so for many years.

The primary motivation for this is not for revenue. The main reason to implement such a program is for the protection of home and property owners. The City generally does not know who is doing work in the community, and when things go wrong (i.e. faulty work, taking deposits and not doing work, etc.) there is little recourse for the homeowner or City to take. This program would require contractors that wish to do work in the City to be registered prior to issuance of a building permit. If they are not registered they cannot do work within the City limits. The City would have the ability to revoke a registration for cause and then that contractor would not be entitled to work within the City. In addition, there would be a surety bond and insurance on file which would give the homeowner/property owner a financial recourse in the event something goes wrong and is not remedied.

The revenues generated would offset the additional staff time needed to monitor and enforce the program. While there would be additional work required as part of the start up of the program, we do not anticipate that we will need additional staff to continually enforce the program. Renewals would be in January every year which would coincide with the annual decrease in building permits. New registrations would occur in conjunction with a new building permit so little additional work would be necessary by staff on an ongoing basis.

Staff would like to have the Committee discuss the proposal to implement a contractor registration program, and provide direction to begin the process of drafting an ordinance to put the program in place.

### 3. Alternatives, including no action if viable:

- **Pros** Contractor registration allows the City to be aware of who is doing work in the City. It allows the homeowner or property owner the peace of mind that the City will be able to ensure quality work by contractors and that they will likely not “skip town” with their money. The program would provide incremental revenues to the City, but this is not intended to be a substantial revenue source for the City.
- **Cons** The program will make the cost of doing work in the City slightly more expensive. The program will make Batavia the first of the tri-cities to implement a registration program. The program may seem “business unfriendly” due to the additional paperwork and costs contractors will incur.
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- **Staffing Impact** No impact on staffing as we are not intending to hire staff for this program.

### 4. Timeline for actions: There is no specific timeline as this has been a continuing internal discussion for some time.

5. **Staff recommendation:** Staff recommends that the Committee direct staff to proceed with drafting an Ordinance Implementing Contractor Registration in the City of Batavia as noted above, and to return to the Committee for a vote on the Ordinance.

**Attachments:**

1. Community Survey.

CONTRACTOR REGISTRATION SURVEY

Insurance

<u>MUNICIPALITY</u>	<u>Registration</u>	<u>Fee</u>	<u>Type</u>	<u>Bond</u>	<u>Gen Liab</u>	<u>WC</u>	<u>Auto</u>	<u>Other</u>
<b>RECOMMENDATION</b>	YES	\$150	ANY WHOSE WORK REQUIRES PERMIT ALL, but painters/flooring/indscp maint	\$10,000 EACH, EXC PL	\$1,000,000	IL LAW - no proof	IL LAW - no proof	LIC FOR ROOF, PL, IRRIG, ALL PAY OR DON'T ONLY NIC PL AND EL, ALARM & SPRINKLER TO CK W/FIRE TOO
<b>SUGAR GROVE</b>	YES	\$165	GC, Sign, HVAC, Elect, Roof	\$20,000 GC; \$10,000 ONLY HV & CARP	\$2,000,000	IL Law	\$1,000,000	License for roofing/plumbing/electric/irrigation
Aurora	Yes	\$200 new, then \$100		20000	\$1,000,000	IL Law	none	
Arlington Heights	Yes	\$130 or \$60	All but no E, PL, Alarm	only Dem & Swr	none	none	none	Background check by PD & crime ?
Bartlett	Yes	\$100 GC; \$50 Subs	All	10000	\$1,000,000	IL Law	none	License for Electrician, roofing, plumbing
Barrington	Yes	\$75	All	none	only GC			License for Electrician, roofing, plumbing
Batavia	No							
Bolingbrook	Yes	\$260 GC; \$160 Subs	All	\$20,000 or 10%	\$300,000	none	none	License for Electrician, roofing, Irrigation
Channahon	Yes	\$150 GC; \$100 Subs	All	none	\$300,000	IL Law	none	License for Electrician, roofing, Irrigation & plumbing
Carol Stream	No							
Crystal Lake	No but requires bond	\$0	Certain trades	10000	none	none	none	State license for roofing & plumbing
DeKalb	Yes	\$250 then \$50	Elect/Plumb/HVAC/ROW only	10000	none	none	none	
Downers Grove	Only Electrical	\$0						
Elburn	No							License for roofing & plumbing
Elgin	No-license only			\$20,000 for HVAC & Sewer	none	none	none	License for Electrician, roofing, plumbing, fire sprinkler & hvac
Geneva	No		Only ROW		\$1,000,000			State license for roofing & plumbing
Huntley	Yes	\$25 +\$10 for ea trade	1/2 after July 15th for all trades	\$10,000 for row or easements	\$1,000,000			
Lemont	Yes	\$200 GC; \$75 Subs	All (no chg for pl, elect, alarm indscp)	\$25,000*	250000 injury	not <\$100,000	none	\$100,000 prop damage ins; License for Elect, roof, Irrig, plum
Liste	No				yes certificate nothing else specified			License for Electrician, roofing, plumbing - no charge
Montgomery	Yes	\$125	All	none				

Insurance

CONTRACTOR REGISTRATION SURVEY

MUNICIPALITY	Registration	Fee	Type	Bond	Gen Liab	WC	Auto	Other
Morris	Yes	\$200	GC	20000	\$300,000	IL Law	\$300,000	
		\$100 Elec\$50; PL\$25;RO W\$30	All Subs	10000	\$300,000	IL Law	\$300,000	
Naperville	Yes		Elect/Plumb/ROW only	\$10,000 Elect only	Only Elect		none	License for Elec, plumbing and Engineer approval for ROW
New Lenox	Yes	\$150	All but no chg for pl or sprinkler	10000	\$1,000,000	500000	none	License for roofing, plumbing & sprinkler
		\$150; \$25 if state license			yes certificate nothing else specified			License required for Electrician, plumbing, roofing, sprinkler
North Aurora	Yes	\$250	All	20000	\$2,500,000	500000	\$500,000	
Oswego	Yes	\$100	GC	20000	\$1,500,000	500000	\$200,000	License required for Electrician, plumbing, roofing
			All Subs	10000	\$1,000,000	none	none	License required for Electrician, plumbing, roofing sprinkler
Plainfield	Yes	\$50	All but no chg for pl or sprinkler	GC & roofer \$10,000	\$1,000,000	none	none	
Plano	No							
Romeoville	Yes	\$150 GC; \$75 Subs; no pl	All	\$10,000 except pl	\$300,000inj	1000000	none	\$25,000 prop damage ins; License for Elect, roof, plumber plumbing
Sandwich	No							
South Elgin	No		Only state license copies					
St. Charles	No							
Sycamore	No	only \$ for elect test	Elect City test & PI 055/058 & PL #					
			Elect/Roofers only	\$5,000 Elect.	yes			License required for Electrician and roofing
Warrenville	Yes	Only Elec \$35 \$195 Initial; \$145 Renewal						
West Chicago	Yes	\$25	All	10000	\$250,000	1000000		\$100,000 property damage insurance cert
Wheaton	Yes		All except pl, alarm, roofing, sprinklr or elect	10000	\$1,000,000**			**Ins Cert for Irrig, ROW, house moving
Wilmington	Yes	\$100	All but no chg for pl, sprinkler or roofer	none	yes certificate for liability & WC only			License required for plumber and roofer
Winfield	Yes	\$250 GC; 1/2 after 8/1		20000	\$1,000,000	IL Law	\$500,000	All renew 1/31 annually
Yorkville	No	\$100 sub; 1/2 after 8/1	All but elect \$25; HVAC \$40 and 0 if other license	\$10000 except pl	\$500,000	IL Law	\$500,000	All renew 1/31 annually

\* requires specific language in their bond.



# CITY OF BATAVIA

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**JEFFERY D. SCHIELKE**  
Mayor

## MEMORANDUM

**DATE:** May 26, 2015

**TO:** Committee of the Whole

**FROM:** Scott Buening, Community Development Director

**SUBJECT:** Contractor Registration-Supplemental Information

After posting of the staff report in regards to Contractor Registration, we received several questions regarding the program. Below are the questions raised and our responses to each:

**Question 1:** Why is there a need for this? Can you provide actual examples of something that happened if this were in place and what actions would or could have taken place?

**Answer 1:** We have examples that happen regularly where this policy would be useful. In some cases contractors take deposits and walk away before doing any work. In other cases the work is substandard or incomplete, and the hired contractor does not fix the problems. Thus the homeowner must hire another contractor (and pay again) to fix the work, or do the repairs themselves. This is required before the City will pass their final inspections on the work in question. This program is intended as something that will help protect the homeowner. Many homeowners have no idea how to select a “good” contractor, and are not knowledgeable about the construction process. This program would help protect them in the event something should go awry. In addition, the program would keep out contractors that are less reputable or are just plain fraudulent.

We often get a number of “out of town” contractors that flock into town after bad hail or windstorms. These folks often go door to door soliciting work and stating to the homeowners that they can sometimes persuade the insurance companies to pay for roofing or siding work. However, there are occasions when they just walk away with the deposits or do not pay their material suppliers after the work is done. This then causes the material supplier to file a lien on the homeowner’s property, making the homeowner responsible for double payment (once for the contractor and a second time for the material contractor), and possibly a third time to actually get the work done. Since these are transient contractors, they often disappear, having no one to go to after the fact, sticking the homeowner with the bill and no results.

**Question 2:** Can you provide a count of how many times a year this situation has risen where the policy would have an effect?

**Answer 2:** We have five (5) active situations just this year (ten if you count the multiple issues with one contractor alone) where contractor registration (and the requisite bond and insurance) would have helped various home owners. These are as follows (names and specific addresses are not provided for privacy):

- a. Paving contractor paved a half dozen driveways without permits. While a judgment was obtained against them, the driveways are already deteriorating. The judgment provides a penalty to the contractor, but no assistance to the homeowners. We would have been able to file claims on their insurance and bonds to provide some restitution to the property owners. We could have then revoked their contractors registration, preventing them from working in the City.
- b. A home improvement company was hired by a resident on the northeast side. This company started but did not complete roofing work and gutters. The resident had to hire a new contractor at their expense to finish the work. This contractor is a habitual one to do this kind of work, and has been banned in other communities with registration programs. The City also could have filed claims against this company and revoked their registration.
- c. Another contractor working on the east side refuses to complete certain roofing work as stipulated in their contract. This case is in adjudication, but the homeowner will need to hire a new contractor to complete the work. Even with a judgment, the homeowner will not see any money from the contractor to resolve their issue.
- d. A fence company doing work on the northeast part of the City refuses to provide certain fence materials required for a required pool fence. The homeowner has to hire a separate company to complete this at their cost. This case is also in adjudication.
- e. On the southeast side, a restoration company installed siding on a house. This installation caused damaged to part of the house and the company has refused to make the needed repairs. The homeowner will need to hire a replacement contractor, and will not see restitution for the damages. This case is also in adjudication.

As you can see, the situations where it would be beneficial to have a registration requirement happen regularly. These are active cases that have happened just in the last few months.

**Question 3:** How many times a year has a homeowner or business contacted the City to complain about a contractor skipping town or providing bad work?

**Answer 3:** This varies from year to year, and we have not tracked the complaints in a formal manner. However, suffice it to say we have had at least 5 complaints of this nature in the last year.

**Question 4:** If we required contractors to be registered would the City provide the list to residents as a list of contractors to choose from?

**Answer 4:** Yes this list would be available to the public as a reference guide to be able to choose contractors. This would not be an exhaustive list of all contractors, just those that are currently registered (and thus in good standing) with the City. We would not be providing any recommendations on contractors, this is no different than our current policy.

If you should have questions on any of this information, please do not hesitate to contact me or Jeff Albertson. Thank you.

based on the discussion with IDOT and will return to the COW with recommendations once finalized. McGrath added that staff would have a meeting with the Bike Commission between the time the documents are finalized and the following COW. Atac asked if property owners would be contacted and McGrath answered that staff would contact them as well.

**8. Resolution 15-61-R: Award of Directional Boring Contract with Archon Construction for an amount not-to-exceed \$178,795.00 (Mustafa Kahvedzic 5/19/15)**

Chanzit reported that the City has worked with Archon Construction before and this is a continuation of previous boring contracts. He asked if anyone had any questions. The Committee discussed the budget, contractual costs, and directional boring. Holm noted that some of the cost would be reimbursed as part of customer costs for the development of Speedway.

**Motion:** To recommend approval of Resolution 15-61-R: Award of Directional Boring Contract with Archon Construction for an amount not-to-exceed \$178,795.00  
**Maker:** Wolff  
**Second:** Hohmann  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

**9. Resolution 15-53-R: Authorizing Execution of an Easement Agreement with Bethany Lutheran Church – Language Modification (John Dillon 5/21/15)**

Chanzit reported that this was already approved but the church had requested some language changes. The church would like to tap into the system for water sometime in the future.

Wolff asked about the charge for taps. Holm explained that the customer would still have to pay for attaching it to their building. The connection fee is a common fee to waive when negotiating a land swap. Holm noted that another item in the contract is that if a tree were to be damaged due to directional boring within the next three years the City would cover the cost of the removal of the tree. Holm stated that directional boring typically saves trees and the arborist reviewed the trees and they all appear very healthy.

**Motion:** To recommend approval of Resolution 15-53-R: Authorizing execution of an easement agreement with Bethany Lutheran Church – Language Modification  
**Maker:** Wolff  
**Second:** Fischer  
**Voice Vote:** 13 Ayes, 0 Nays, 1 Absent  
Motion carried.  
CONSENT AGENDA

**10. Discussion: Contractor Registration (Scott Buening 5/20/15)**

Buening stated that staff wanted to open discussion on contractor registration and how it may be a benefit to homeowners in the City. Buening explained that this would provide some level of protection for the homeowners. The registration would be required for anything that has a permit. The fee would be \$100 and would be renewable every year. There would be a security bond

required, liability insurance and following the state law requirements for workers compensation and auto liability. Any contractor licensed by the state would only pay a \$25 discounted registration fee and they would not be required to have additional liability or bonding since those are required by the state. Buening noted that a supplemental memo was sent to the Committee regarding this program. He added that this is not a revenue generator for the City. This protocol is to safeguard our residents from contractors who are untraceable. The City has had five incidents, ten incidents if including a driveway contractor, in which residents were misled by contractors. Many of those are in adjudication but it does not provide restitution for the homeowners.

The Committee discussed the contractor list, the implications of adding an additional bureaucracy, liability, and if this would make a difference in finding trustworthy contractors. Hohmann suggested that the City offer contractors the ability to be placed on a City of Batavia contractor list that would be available to the public. Contractors could then voluntarily be added to the list and supply all of the necessary information to become a registered contractor in the City of Batavia. The residents could then choose someone off this list or choose their own contractor. Saam noted that through her experience, contractor registration is quite common and not an issue. She added that several cities have the ability to register online and it only takes a short amount of time to do so.

Botterman asked if the City shares information on contractors found in violation on the website. Botterman stated that if we were looking to establish this process, it would be beneficial to post frequent offenders because it is public information and would be one way of helping consumers. Buening stated that he would have a conversation with legal counsel to verify if that information could be included. Wolff asked staff to look into this further, gather more data and return back to the Committee.

**11. Closed Session: Purchase and Sale of Electric Power  
Setting the Price of Land for Sale  
Personnel**

**Motion:** To enter into closed session for setting the price of land for sale and personnel

**Maker:** Stark

**Second:** Cerone

**Roll Call Vote:** **Aye:** Brown, Russotto, Atac, Stark, Chanzit, Fischer, Callahan, Hohmann, Saam, Botterman, Cerone, McFadden

**Nay:** Wolff

12-1 Vote, 1 Absent, Motion carried.

The Committee entered into Closed Session at 8:40pm and resumed the regular session portion of the meeting at 9:25pm.

**12. Project Status**

There was no project status to report at this time.

# CITY OF BATAVIA

---

**DATE:** March 10, 2016  
**TO:** Committee of the Whole  
**FROM:** Joel Strassman, Planning and Zoning Officer  
**SUBJECT: Ordinances 16-09 and 16-10:** Variances and Conditional Use for a Drive Through Dunkin Donuts at the Shell Gas Station, 108 North Batavia Avenue  
Jon P. Green, PE, CFM, Engineering Resources Associates Inc., applicant

**Summary:** At its March 1, 2016 meeting, the Committee of the Whole (COW) considered recommendations from the Zoning Board of Appeals (ZBA) and Plan Commission that would allow the addition of a Dunkin' Donuts drive through to the Shell gas station at the northeast corner of Batavia Avenue and Houston Street. Please refer to the [February 24 staff memorandum](#) for complete information on the proposal and ZBA/Commission actions.

At the March 1<sup>st</sup> COW meeting, representatives for the project reiterated several points in support of the proposal raised at the ZBA/Commission public hearing. Among the points the representatives noted were:

- ZBA and Commission recommendations for denial were based on staff recommendations
- After years of reduced fuel sales, the proposed drive through would return levels of site activity to those of times with better fuel sales
- Delivery/trash pick-up can be scheduled to minimize conflicts
- The size of the trash receptacle would remain the same with pick-up 2-3 times per week; the size of the refuse enclosure would be reduced
- 12 seats at tables inside are provided
- Additional parking to meet Code is proposed
- Hours of operation would be 4am to 12am
- Drive-through width/lack of escape lane mimics Walgreens' facility
- The monument sign predates the current Zoning Code and was altered pursuant to City approval in 2012
- Ordering area is opposite residences – noise from ordering would not affect nearby residents
- All building lights would be shielded fixtures directing light down only
- Landscaping would be added along the north property line and elsewhere on site

Neighbors' statements of support included:

- The current owner's attention to maintaining the site
- Providing employment opportunity in downtown Batavia
- Keeping an existing business open
- Potential of enticing fuel sales away from Randall Road

Statements of concern, including from a resident of and the owner of the property immediately north included:

- Lengthened business hours affect one's ability to sleep – bedroom windows face the subject property
- Increased traffic and potential pedestrian/bike conflicts
- Increased air pollution
- Increased noise from more frequent deliveries and trash removals
- Increased odors, debris and fluids from moving the refuse enclosure closer to the residence while adding food waste
- Lack of study on potential effects of increased noise, odors, and air pollution
- Potential damage from snow storage to the fence on the property to the north
- Tenant retention may be difficult
- Omission of information on the site plan showing conditions on the property to the north
- Parked cars affect refuse removal
- Improper application of Zoning Code requirements

COW members asked the owner of the property to the north how long he has owned the property; the owner stated he owned the property for 10 years. COW members noted that signage to alert pedestrians of traffic can be added,

and that the additional curbs will help direct traffic. The COW questioned if vendors will conform to limited delivery/pick-up times, if the retaining wall can be raised in lieu of adding the metal headlight blocking panel, and if the owner has talked with the neighbors. In response to the question of vendors' activity and retaining wall height, project representatives stated that they can share their fuel delivery schedule and the metal panel can be removed in favor of increasing the wall's height. It was revealed that the business owner had not recently talked with the neighbors.

The COW questioned staff on how it arrived at the variance finding addressing reasonable return on the property. Staff responded that throughout the time period of declining fuel sales, a gas station has continuously operated. No information was submitted that focused on the current's owners 2 years of operation to conclude that attaining a reasonable return without a drive through was impossible. Staff also noted that "reasonable return" is not limited to the profitability of the current a business on a property, and the applicant would need to prove that there is no viable alternative use.

In response to the project representatives and COW identifying other drive through facilities in Batavia that do not have 20 foot lanes and/or by-pass lanes, staff noted that these facilities were built before the codes required these specifications. The new downtown Walgreens does have a narrow drive through lane, but it has an escape lane. Staff stated that the Fire Department reviewed the proposal and noted that it would not direct their vehicles into the drive through lane. Staff stated that the applicant's traffic report concluded that with the drive through, 50 trips into and leaving site per hour would occur during the 4-5 hour morning peak time. Staff added that a wider sidewalk on Batavia Avenue can facilitate bicycle use. The other Batavia drive through locations do not have retaining walls and are defined with curbs and landscape strips than may be mounted in emergencies.

COW discussion noted the significant proposed investment for this business. The owner of the property to the north has already made accommodations through window treatments to block lights. There remains concern about the effect of the proposed refuse storage. Overall, the downtown area has challenging topography and the City needs to be flexible in applying its Code to encourage private investment in properties.

**COW Action:** By a vote of 1-11, the COW failed to recommend approval of Ordinance 16-09. The COW directed staff to revise the Ordinance to reflect the discussion and vote, and to draft the companion conditional use Ordinance similarly.

**Alternatives:** Attached Ordinance 16-09 has been revised per the COW's direction. If approved by a 2/3 majority vote of the City Council (required due to negative ZBA recommendations), the Ordinance would grant all the requested variances and would allow for action on attached Ordinance 16-10 for the required conditional use. Approval (by a simple majority Council vote) of Ordinance 16-10 would grant the conditional use, subject to the conditions as listed in Section 1 of the Ordinance. These Ordinances include staff recommendations for conditions of approval that would be imposed by Council approval of the Ordinances.

The COW can recommend approval of the Ordinances as presented, add or remove approval conditions, recommend denial, or continue its review with direction to staff for further revisions.

- **Pros:** Approval of revised Ordinance 16-09 and ordinance 16-10 that grants all requested variances and the required conditional use, allowing the drive through that would increase commerce (sales tax revenue) on the property. The Ordinances include site improvement and operational conditions to enhance the appearance of the site and lessen its impact to neighboring residents.
- **Cons:** Adding a drive through on this property will increase site activity in close proximity to residential use. The type of increased site activity would impact this residence. The drive-through operation adds complexity and potential conflicts to the internal circulation of the site. This has not been adequately addressed in the information presented to date.
- **Budget Impact:** Other than the cost of staff time expended for the remainder of the entitlement and building permit processes, there is potential for increased revenue from additional sales tax.
- **Staff Impact:** Staff time has and would be used to complete the entitlement process and throughout the building permit processes.

**Timeline for Actions:** If the COW recommends approval of Ordinances 16-09 and 16-10, the Ordinances would go to the City Council for final action on April 4. The Plan Commission must still approve design review; this is tentatively scheduled for the Commission meeting on April 6, with expectation that City Council approval of the Ordinances follows the COW recommendations.

**Recommendation:** Both attached Ordinances have been drafted per direction given by COW on March 1. Staff therefore recommends approval of Ordinances 16-09 and 16-10 as presented.

\*LATE ADDITION TO THIS REPORT – After drafting the attached Ordinances and this report and sending them to the applicant’s representatives pursuant to their request to receive the draft Ordinances in advance, staff received the attached response to the approval conditions in the draft Ordinances. The COW may address these responses at the March 15 meeting.

Attachments:

1. Draft Ordinance 16-09
2. Draft Ordinance 16-10
3. Vasilion Response to Draft Ordinances 16-09 and 16-10

- c Mayor and City Council
- Department Heads
- Jon P. Green, applicant
- Harry Mehta, Shell owner
- Media

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-09**

**GRANT OF VARIANCES FOR DUNKIN' DONUTS-SHELL**

**Harry Mehta, HM1 Batavia, LLC, Property Owner  
(108 North Batavia Avenue)**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 21<sup>st</sup> DAY OF MARCH, 2016**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 22<sup>nd</sup> day of March, 2016

Prepared by:  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-09**

**GRANT OF VARIANCES FOR DUNKIN' DONUTS-SHELL  
(108 North Batavia Avenue)**

**WHEREAS**, HM1 Batavia, LLC owns the property located at 108 North Batavia Avenue, and has authorized Jon P. Greene to submit an application, on its behalf, for variances to the City of Batavia Zoning Code for property legally described as:

- Parcel 1: Lots 4 and 5 in Block 3 in Joseph Orr McKee's Addition to Batavia, in the City of Batavia, Kane County, Illinois (PIN 12-22-132-018); and
- Parcel 2: Lot 10 in Assessor's Third Addition to Batavia, in the City of Batavia, Kane County, Illinois (PIN 12-22-132-024); and

**WHEREAS**, said application requests relief from various Sections of the Batavia Zoning Code, to allow site and building improvements for consideration of approval of a conditional use for the addition of a drive-through eating establishment to a fuel and retail facility, for the following:

1. Section 4.205.E – to allow a drive through business less than 50 from property designated for residential use in the Comprehensive Plan;
2. Section 4.506 – to allow a drive through aisle to be at least 100 feet from away from residentially designated property;
3. Section 4.209.A.1 – to allow a drive through lane less than 20 feet wide;
4. Section 4.407.B.1.e(2) – to allow an increase in wall sign area up to an additional 41 square feet on the south wall and up to 46 square feet on the west wall;
5. Section 4.407.B.2a(3) – to allow a monument sign area in excess of the allowed 32 square feet by adding approximately 27 square feet to the existing sign;
6. Section 4.407.B.2.f(3) – to allow canopy sign elements to project more than 2 inches from the canopy edge;
7. Table 4.205.A – to allow parallel parking stalls to be 9 feet wide and perpendicular spaces to be 18 feet long;
8. Zoning Code Section 3.303.B – to omit landscaping within 50 feet of Batavia; and
9. Section 4.203.Q to allow wheel stops; and

**WHEREAS**, notice was duly executed and the Batavia Zoning Board of Appeals held a public hearing on January 20, 2016; and

**WHEREAS**, following said hearing, the Zoning Board of Appeals made the following positive findings for the above variances numbered 4, 6, 7, 8, and 9:

1. There are unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, where strict application of the Zoning Code would create a hardship or other practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district;
2. Unique circumstances exist that were not created by the current or previous owners or applicant;

3. The property cannot yield a reasonable return or be reasonably used for the purpose intended by the Zoning Code under the regulations in the district in which it is located;
4. The variance, if granted, would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;
5. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general; and

**WHEREAS**, following said hearing, the Zoning Board of Appeals did not make positive findings for the above variances numbered 1, 2, 3, and 5 and subsequently did not recommend that variances numbered 1, 2, 3, and 5 be granted; and

**WHEREAS**, following said hearing, the Zoning Board of Appeals recommended that the variances numbered 4, 6, 7, 8, and 9 as listed above be granted, with conditions as noted:

1. For variances numbers 4 and 6, no added illuminated elements are allowed to the north canopy; and
2. For variance number 7:
  - a. Additional landscaping be added adjacent to the north parking spaces, with design review approval;
  - b. A curb be added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what's proposed for the south parking and inside this area should be suitable landscaping, including a tree, with design review approval;
  - c. That the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree, with design review approval; and
3. For variance number 9, the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree, with design review approval; and

**WHEREAS**, on March 1 and 15, 2016, the Batavia City Council's Committee of the Whole reviewed the application and record of the hearing, and the findings and actions of the Zoning Board of Appeals; and

**WHEREAS**, the Committee of the Whole determined that, with appropriate site and building improvements and business operational restrictions, the proposed drive through and associated building and site improvements can balance providing an opportunity for increased commerce with limiting impacts to neighboring properties and adjacent street traffic; and

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois as follows:

**SECTION 1:** That the application for the below listed variances, submitted on behalf of property owner Harry Mehta, HM1 Batavia, LLC, to allow site and building improvements for consideration of approval of a conditional use for the addition of a drive-through eating establishment to a fuel and retail facility at 108 North Batavia Avenue, with conditions for approval as specified herein, and compliance with all other codes and ordinances, and in substantial conformance to the Exhibits attached hereto, with Plan Commission design review approval, is approved.

1. Section 4.205.E – to allow a drive through business at 0 feet from property designated for residential use in the Comprehensive Plan rather than the required 50 feet;
2. Section 4.506 – to allow a drive through aisle approximately 47 feet from residentially designated property rather than the required 100 feet;
3. Section 4.209.A.1 – to allow a drive through lane having varying widths as little as 10 feet, less than the required 20 feet, as shown on Exhibit B herein;

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-09

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4. Section 4.407.B.1.e(2) – to allow an increase in wall sign area up to an additional 41 square feet on the south wall and up to 46 square feet on the west wall, with the condition that no added illuminated elements are allowed to the north canopy;
5. Section 4.407.B.2a(3) – to allow a monument sign area in excess of the allowed 32 square feet by adding approximately 27 square feet to the existing sign, with lowering the overall height to not exceed 20 feet above grade;
6. Section 4.407.B.2.f(3) – to allow canopy sign elements to project 4 inches from the canopy edge rather than the allowed 2 inches, with the condition that no added illuminated elements are allowed to the north canopy edge;
7. Table 4.205.A – to allow parallel parking stalls to be 9 feet wide and perpendicular spaces to be 18 feet long, subject to the following conditions and Plan Commission design review approval:
  - a. Additional landscaping be added adjacent to the north parking spaces;
  - b. A curb be added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what’s proposed for the south parking and inside this area should be suitable landscaping, including a tree;
  - c. That the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree;
8. Zoning Code Section 3.303.B – to omit landscaping within 50 feet of Batavia Avenue with the condition that the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree, with Plan Commission design review approval; and
9. Section 4.203.Q to allow parking wheel stops.

<b>Exhibit</b>	<b>Plan</b>	<b>Dated</b>	<b>Prepared by</b>
<b>A</b>	Plat of Survey	9/12//12	Todd Surveying
<b>B</b>	Concept Plan	1/11/16	Engineering Resources, Inc.
<b>C</b>	Landscape Plan	Revised 12/16/15	Wingren Landscape
<b>D</b>	Exterior Elevations/Wall Signs	1/21/16	Kolbrook Design
<b>E</b>	Monument Sign	11/2/15	“
<b>F</b>	Canopy Edge Design	-	Shell International Petroleum Co.

**SECTION 2:** That this Ordinance 16-09 shall be in full force and effect upon its presentation, passage and publication according to law.

**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this 21<sup>st</sup> day of March, 2016.

**APPROVED** by me as Mayor of the City of Batavia, Illinois, this 21<sup>st</sup> day of March, 2016.

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-09

---

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

---

Heidi Wetzel, City Clerk

# A.L.T.A \ A.C.S.M. LAND TITLE SURVEY

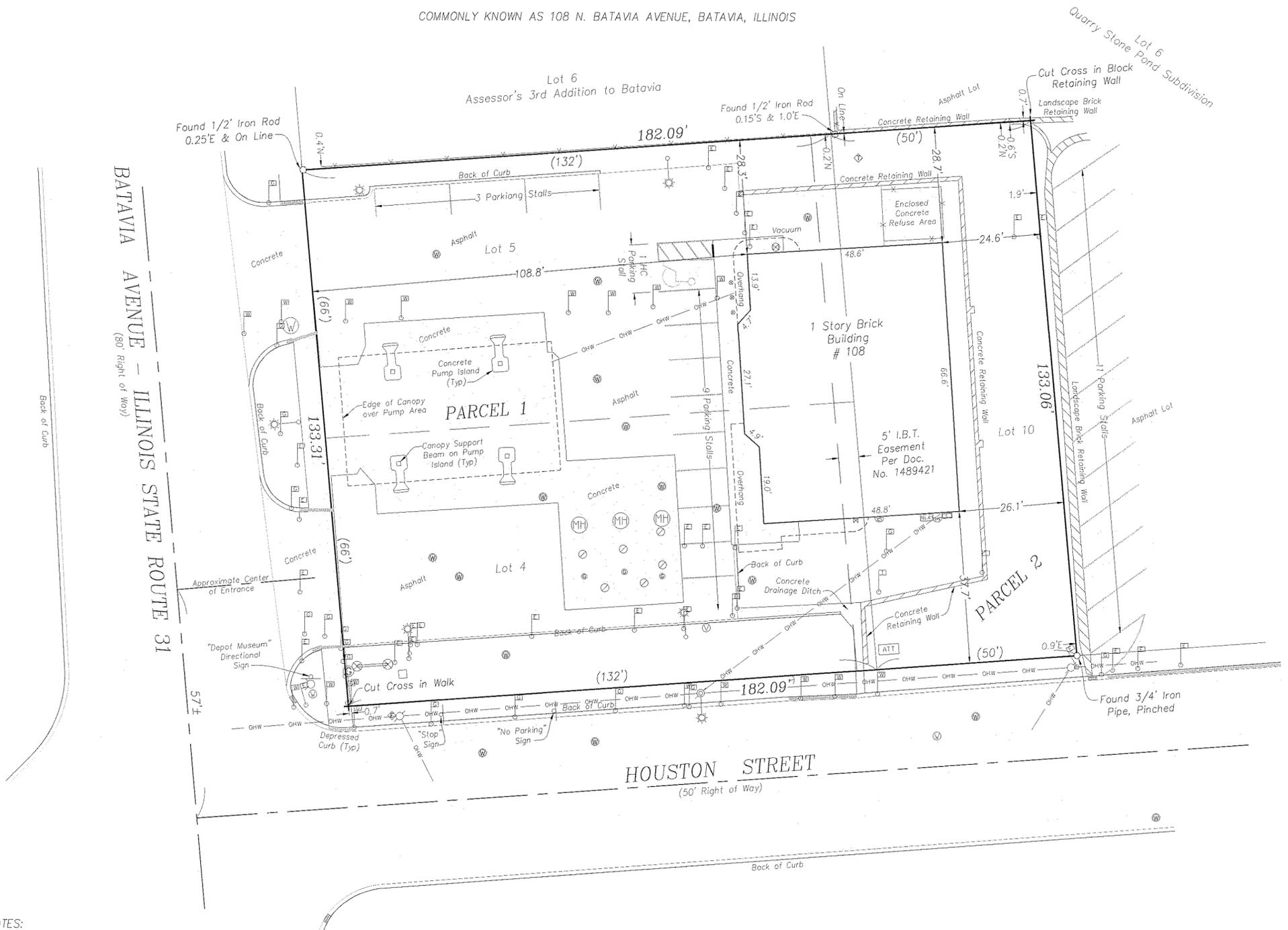
P.I.N.'s  
12-22-132-018  
12-22-132-024

## Exhibit A

PARCEL 1: LOTS 4 AND 5 IN BLOCK 3 IN JOSEPH ORR MCKEE'S ADDITION TO BATAVIA, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS

PARCEL 2: LOT 10 IN ASSESSOR'S THIRD ADDITION TO BATAVIA, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS

COMMONLY KNOWN AS 108 N. BATAVIA AVENUE, BATAVIA, ILLINOIS



NOTES:  
1. DECLARATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

2. THE LOCATION AND/OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE UNKNOWN AND ARE NOT SHOWN.

3. NO ATTEMPT HAS BEEN MADE AS A PART OF THIS SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES OR FACILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.

4. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.

5. THE LOCATIONS OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES. BEFORE EXCAVATIONS ARE BEGUN, THE FOLLOWING OFFICES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS: TELEPHONE, ELECTRIC, WATER, SEWER, STORM, AND CABLE T.V.

6. THIS IS AN ALTA/ACSM SURVEY. IT IS NOT INTENDED TO BE USED AS THE BASIS FOR ENGINEERING/STRUCTURAL DESIGN.

7. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR. ALL INFORMATION REGARDING RECORD EASEMENTS, ADJOINERS, AND OTHER DOCUMENTS WHICH MIGHT AFFECT THE QUALITY OF TITLE TO TRACT SHOWN HEREON WAS GAINED FROM TITLE COMMITMENT NO. 008873903 PREPARED BY CHICAGO TITLE INSURANCE COMPANY WITH AN EFFECTIVE DATE OF MAY 22, 2012. THE FOLLOWING COMMENTS CORRESPOND TO THE ITEMS NUMBERED IN THE ABOVE REFERENCED COMMITMENT.

SCHEDULE B, ITEM L:

IN OUR OPINION, AN EASEMENT GRANTED TO ILLINOIS BELL TELEPHONE COMPANY RECORDED JANUARY 2, 1979 AS DOCUMENT 1489421, DOES AFFECT THIS PROPERTY, TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF. (PLOTTED)

TABLE A, ITEM 4:

GROSS LAND AREA - 24,248.40 SQ.FT.  
- 0.557 ACRES, MORE OR LESS

TABLE A, ITEM 9:

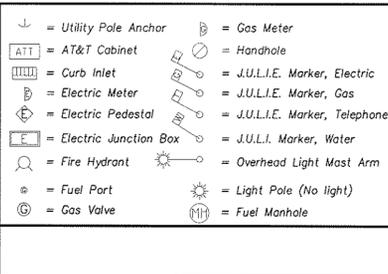
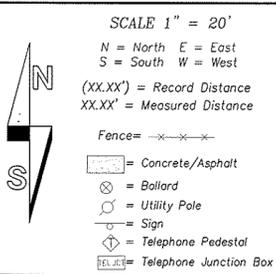
PARKING STALLS - 12  
HANDICAP PARKING STALL - 1  
TOTAL PARKING STALLS - 13

TO: WAHEED ULLAH;  
TALLWOOD PROPERTIES, INC.;  
CHICAGO TITLE INSURANCE COMPANY;

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 4, 7(a), 8, 9, 11(a), 14 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON AUGUST 8, 2012.

DATED AT YORKVILLE, ILLINOIS ON SEPTEMBER 12, 2012.

*Eric C. Pokorny*  
ERIC C. POKORNY  
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3818



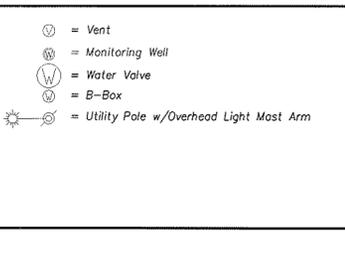
MICHEL C. ENSALADO P.L.S. 2768 EXP. 11/30/2012  
ERIC C. POKORNY P.L.S. 3818 EXP. 11/30/2012

# TODD SURVEYING

PROFESSIONAL LAND SURVEYING SERVICES

SITE SURVEYING, INC.  
1304 SUNSET AVENUE, SUITE E  
YORKVILLE, ILLINOIS 60560  
PHONE 630-892-1309 FAX 630-892-5544

Survey is valid only if original seal is shown in red.



Client: Tallwood Properties, Inc.

Book #: 2151 Drawn By: PM.EP/Plat #: 08/08/12

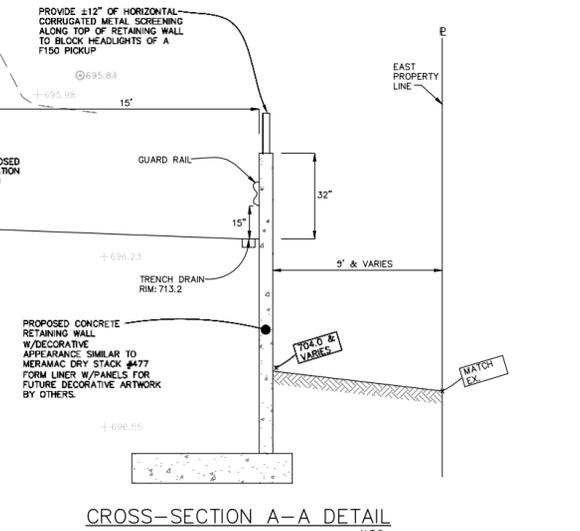
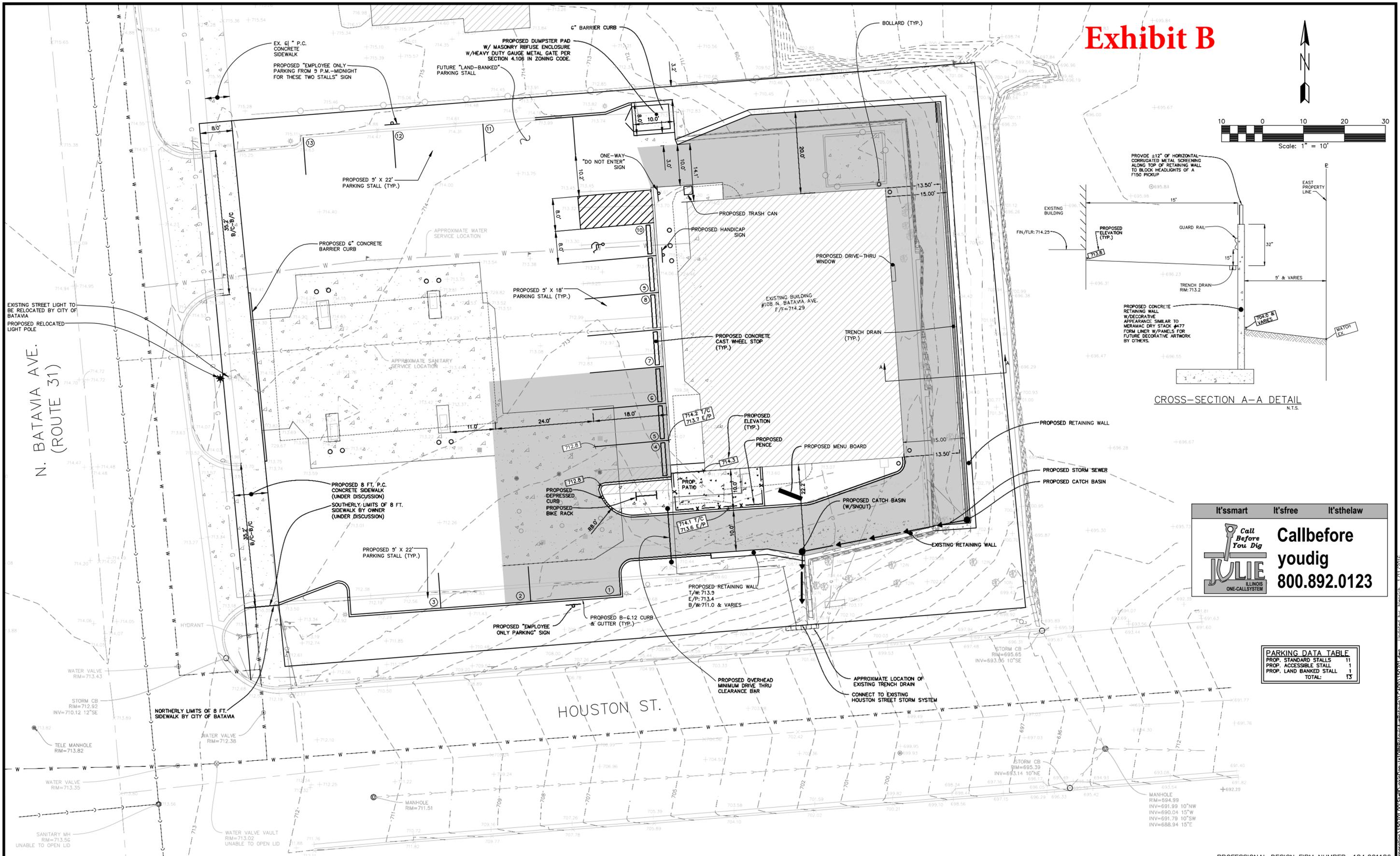
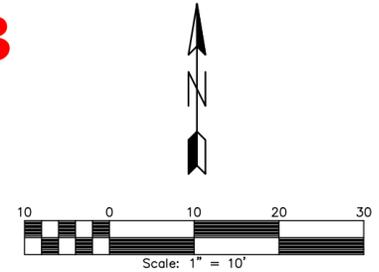
Reference:

Field Work Completed: 08/08/12

Rev. Date	Rev. Description

Project Number: 2012-0592

# Exhibit B



It'ssmart It'sfree It'sthelaw

Call Before You Dig  
**JULIE**  
 ILLINOIS ONE-CALL SYSTEM

**Call before you dig**  
 800.892.0123

**PARKING DATA TABLE**

PROP. STANDARD STALLS	11
PROP. ACCESSIBLE STALL	1
PROP. LAND BANKED STALL	1
<b>TOTAL:</b>	<b>13</b>

**REVISIONS:**

DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

**ENGINEERING RESOURCE ASSOCIATES, INC.**  
 CONSULTING ENGINEERS, SCIENTISTS & SURVEYORS

3570 WEST AVENUE, SUITE 150  
 WARRENVILLE, ILLINOIS 60055  
 PHONE: (630) 393-3060  
 FAX: (630) 393-2152

105 RIVERSIDE PLAZA, SUITE 875  
 CHICAGO, ILLINOIS 60606  
 PHONE: (312) 474-7841  
 FAX: (312) 474-6099

2416 GALENDRIVE  
 CHAMPAIGN, ILLINOIS 61821  
 PHONE: (217) 351-6268  
 FAX: (217) 355-1902

**HM1 CORPORATION**

**TITLE:** CONCEPT PLAN SHELL OF BATAVIA BATAVIA, ILLINOIS

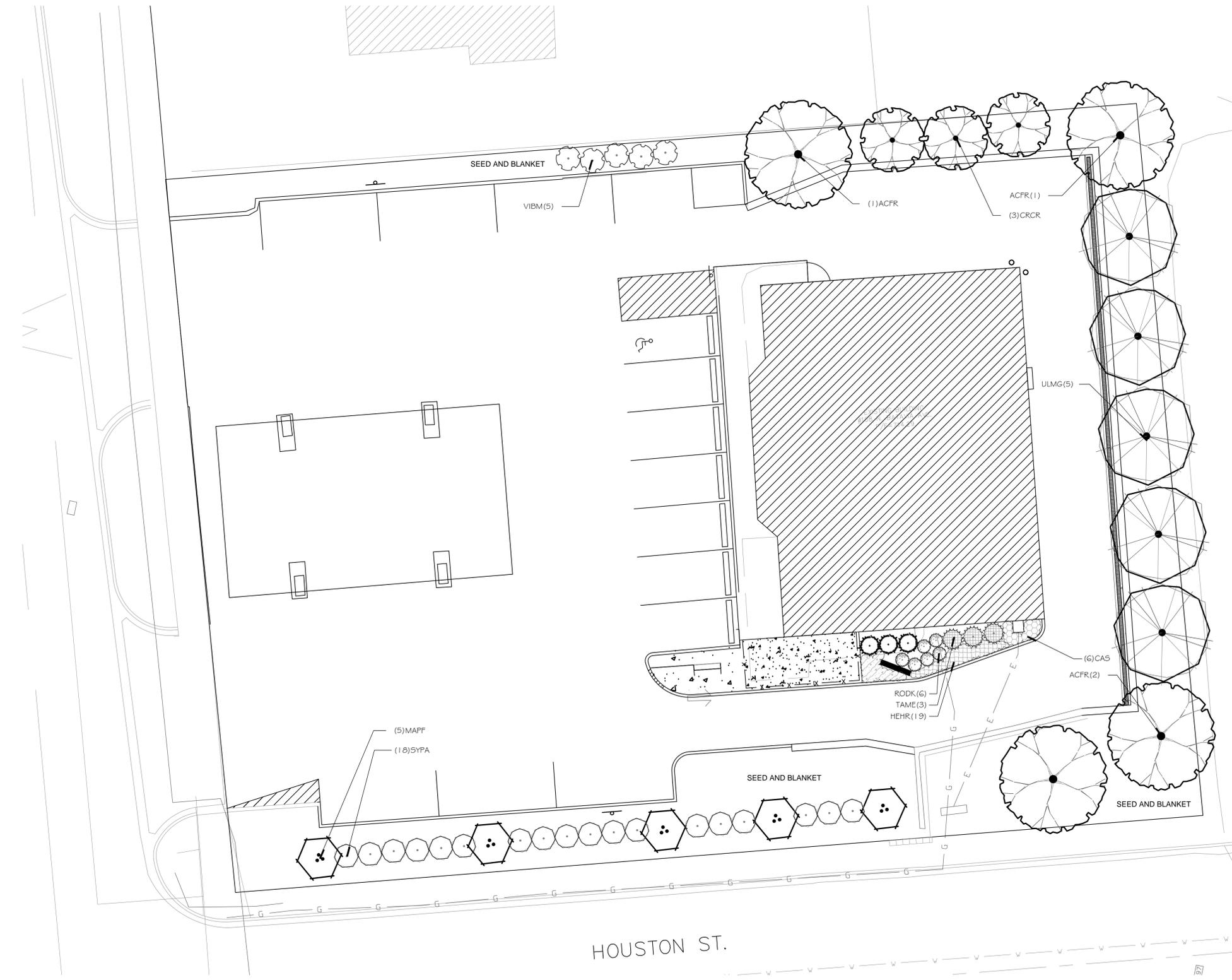
PROFESSIONAL DESIGN FIRM NUMBER: 184.001186

SCALE: 1" = 10'  
 DATE: 01/11/16  
 JOB NO: 150701  
 SHEET 1 OF 1

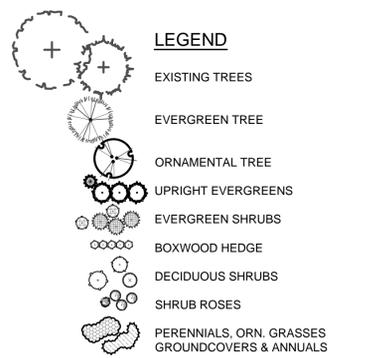
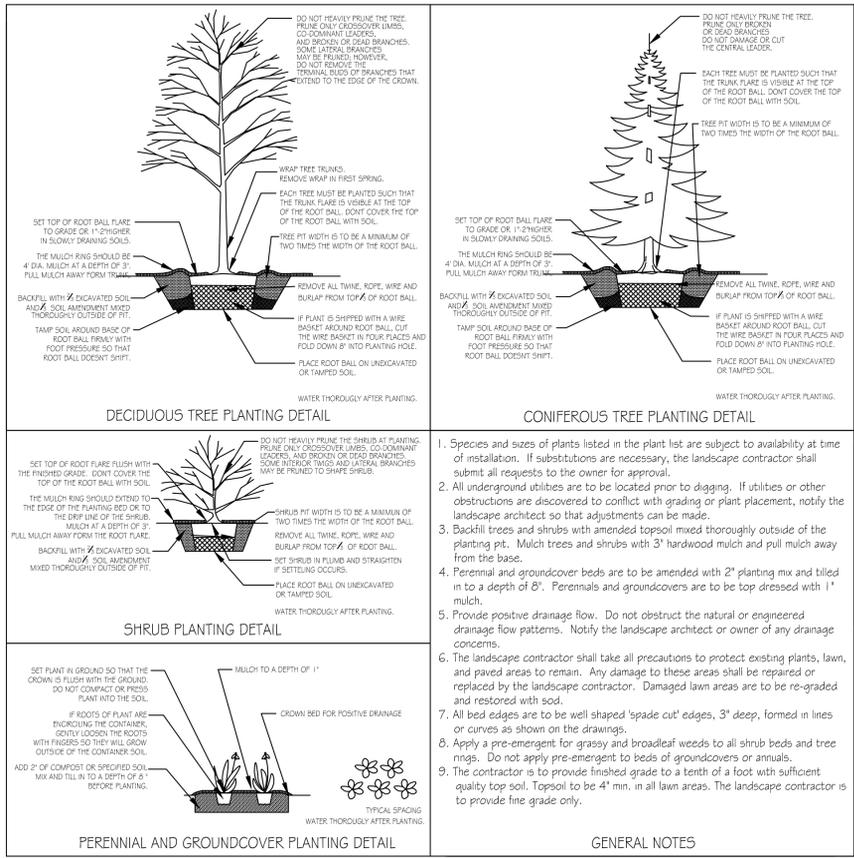
Updated by: Bieprich 7/17/2016  
 V:\Production\150701\001\Sheets\Concepts\BataVIA\BataVIA.dwg (CAD) 150701.dwg

All base information & dimensions are approximate only. All layout to be verified in the field.

# Exhibit C

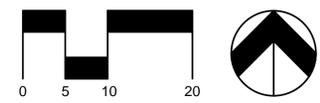


TREES	Quantity	Botanical	Common	Size
ACFR	4	Acer freemanii 'Jeffersred' TM	Autumn Blaze Maple	2.5' BB
CRCR	3	Crataegus crugallii var. inermis TM	Thornless Cockspur Hawthorn	6' BB
MAPF	5	Malus hybrid 'Prairiefire'	Prairiefire Crab	6' BB
ULMG	5	Ulmus x Morton Glossy TM	Triumph Elm	2.5' BB
EVERGREEN TREES				
THOC	3	Thuja occidentalis 'Mission or Tectny'	Mission or Tectny Arborvitae	6' Ht.
SHRUBS				
RODK	6	Rosa hybrids 'Double Knockout'	Knockout Rose	3 gal
SYPA	18	Syringa pabula 'Miss Kim'	Miss Kim Lilac	30" BB
VIBM	5	Viburnum dentatum 'Blue Muffin'	Southern Arrowwood	5 gal
GROUND COVERS				
GEHR	13	Geranium hybrid 'Rozanne' TM	Hybrid Cranesbill	1 gal 18" o.c.
HEHR	19	Hemerocallis hybrid 'Happy Returns'	Happy Returns Daylily	1 gal 18" o.c.



LANDSCAPE PLAN

SCALE: 1" = 10'-0"



**WINGREN LANDSCAPE**  
ALL THINGS OUTDOOR

5126 Walnut Ave.  
Downers Grove, IL 60515  
TEL 630.759.8100  
www.wingrenlandscape.com

Copyright Wingren Landscape, all rights reserved. The design and any and all ideas contained herein are the sole property of Wingren Landscape. Reproduction of the design or concept embodied herein in any form, in whole or in part, without the consent of Wingren Landscape is prohibited.

**Dunkin' Donuts**  
Batavia, IL

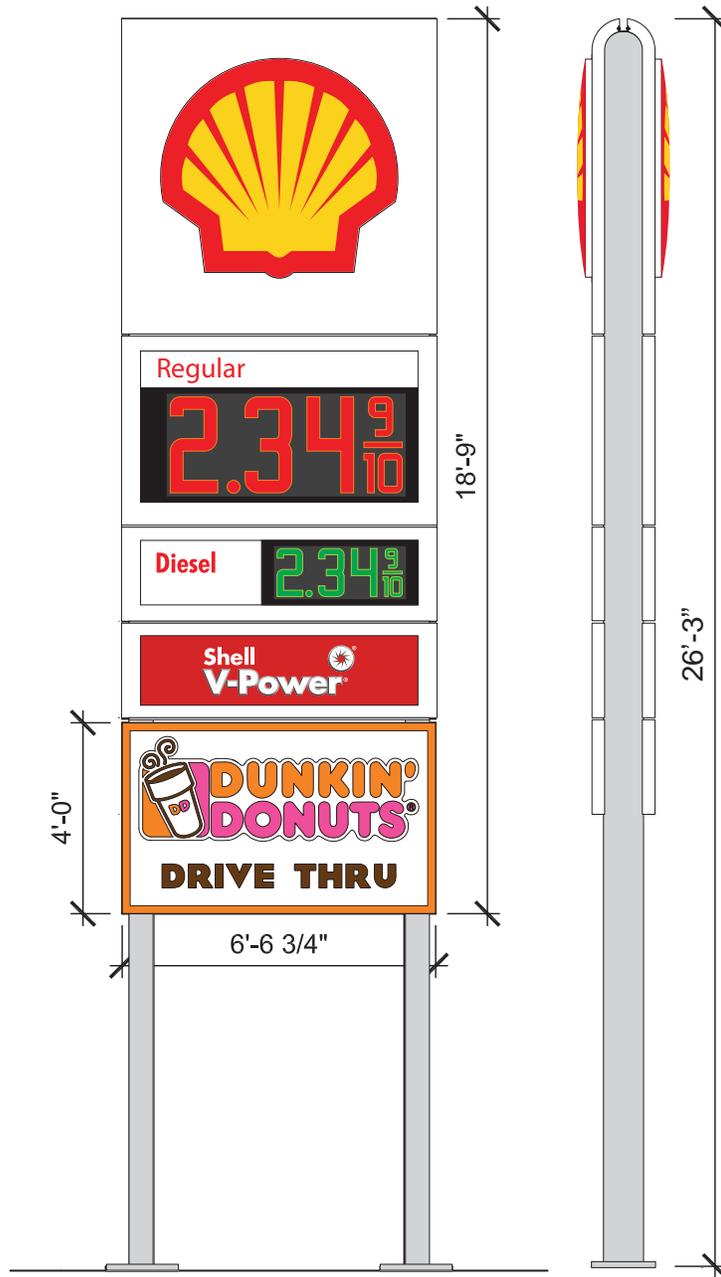
REVISIONS:
REVISION NUMBER, DATE, COMMENTS
12.16.15

SHEET TITLE:  
**LANDSCAPE PLAN**

DATE: 10.28.15  
JOB: P-  
SCALE: 1"=10'  
BY: JZ, EB  
SHEET **L1** OF 1



# Exhibit E



PROPOSED PYLON SIGN OPTION  
123.05 SF. (39.79 SF. ADDITIONAL)

1 PYLON SIGN ELEVATION  
SCALE: 1/4" = 1'-0"

ARCHITECT:



828 DAVIS STREET  
SUITE 300  
EVANSTON, IL 60201  
Ph 847.492.1992

PROJECT:

**Dunkin Donuts - Batavia**

108 North Batavia Ave.  
Batavia, IL 60510

Job No.

1425.038

Issue Date

11/02/2015

Project Area

# Exhibit F

## 2.2.5 LEVEL 1 FASCIA

### LEVEL 1

Level 1 is intended for all NTIs and KDRs unless prohibited by local legislation. Level 1 is also intended for all primary and strong secondary competitive conversion sites.

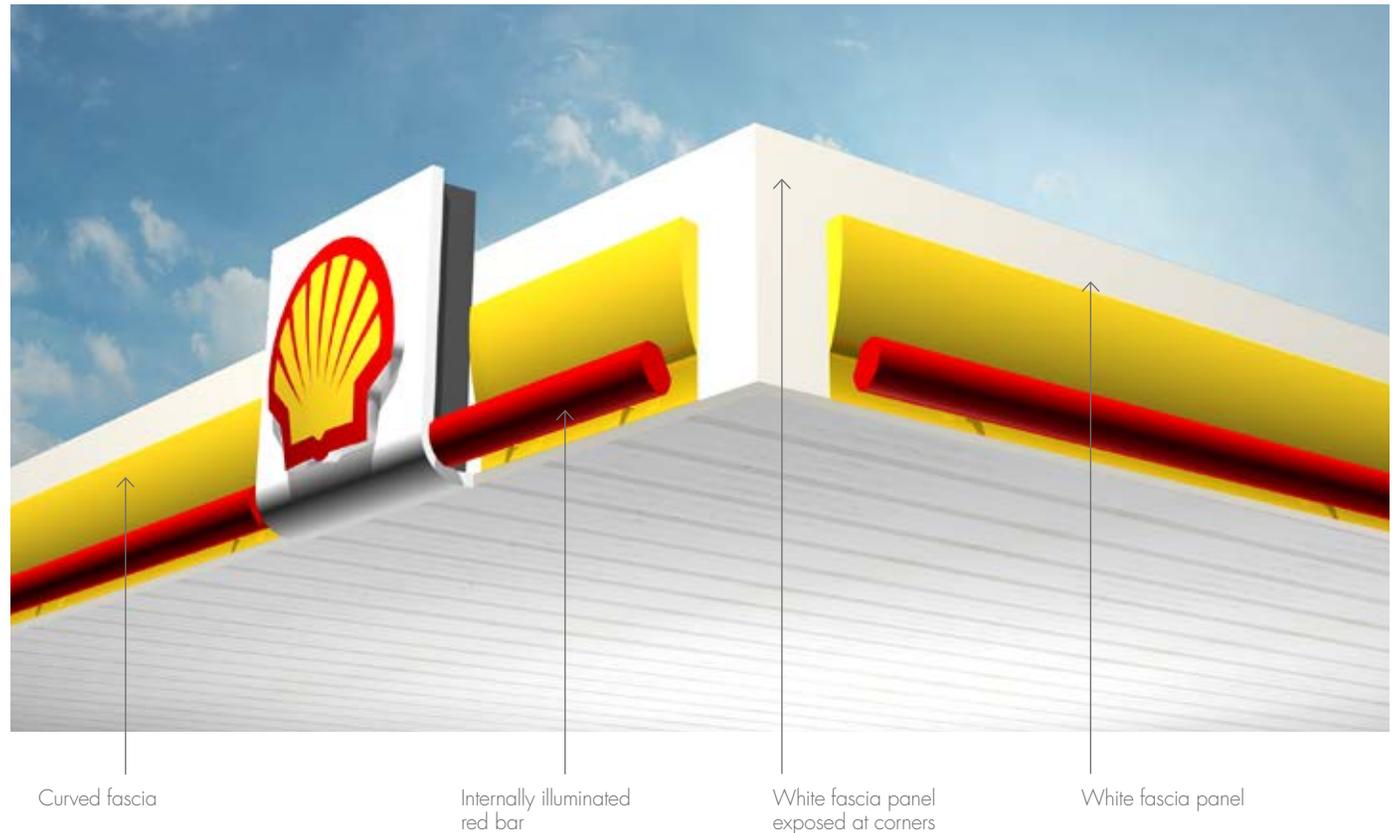
The Level 1 fascia should be used on the most prominent sides, usually the front and most visible sides. The Level 2 fascia should be applied to the less visible sides.

### CANOPY FASCIA

The Level 1 canopy edge treatment consists of a Shell Yellow curved fascia panel attached to a Shell White flat fascia, while an internally illuminated LED Shell Red bar provides both red illumination to the bar and face illumination to the yellow field.

### PECTEN PANEL ILLUMINATION

The illumination of the Pecten is mandatory on all levels.



**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-10**

**CONDITIONAL USE PERMIT FOR AN  
EATING ESTABLISHMENT WITH  
DRIVE-THROUGH IN THE  
DMU DOWNTOWN MIXED USE DISTRICT**

**Harry Mehta, HM1 Batavia, LLC, Property Owner  
(108 North Batavia Avenue)**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 21<sup>st</sup> DAY OF MARCH, 2016**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 22<sup>nd</sup> day of March, 2016

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 16-10**

**CONDITIONAL USE PERMIT FOR AN  
EATING ESTABLISHMENT WITH  
DRIVE-THROUGH IN THE  
DMU DOWNTOWN MIXED USE DISTRICT**

Harry Mehta, HM1 Batavia, LLC, Property Owner  
(108 North Batavia Avenue)

**WHEREAS**, HM1 Batavia, LLC owns the property located at 108 North Batavia Avenue, and has authorized Jon P. Greene to submit an application for a Conditional Use Permit to the City of Batavia Zoning Code for property legally described as:

Parcel 1: Lots 4 and 5 in Block 3 in Joseph Orr McKee's Addition to Batavia, in the City of Batavia, Kane County, Illinois; and

Parcel 2: Lot 10 in Assessor's Third Addition to Batavia, in the City of Batavia, Kane County, Illinois; and

**WHEREAS**, said Applicant is requesting a Conditional Use Permit to allow the operation of an eating establishment with drive through in the DMU Downtown Mixed Use District concurrent with requests for variances that would address key requirements for drive through use; and

**WHEREAS**, notice was duly executed and the Batavia Plan Commission held a public hearing on January 20, 2016; and

**WHEREAS**, the Batavia Zoning Board of Appeals, after conducting a public hearing and not reaching findings needed for variance approvals, did not recommend City Council approval of the key variances needed for the conditional use approval; and

**WHEREAS**, following said Plan Commission hearing, the Plan Commission failed to find in the affirmative for the following findings:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties; and

**WHEREAS**, after failing to find in the affirmative for the required findings, the Plan Commission failed to recommended that the City Council approve the Conditional Use Permit; and

**WHEREAS**, on March 1 and March 15, 2016, the City Council's Committee of the Whole reviewed the application, the record of the public hearing, and the actions and findings of the Plan Commission; and

**WHEREAS**, the Committee of the Whole determined that, with appropriate building, sign, and site improvement requirements and business operational allowances and restrictions, it was in the best interests of the City of Batavia to allow the addition of said drive through facility; and

**WHEREAS**, on March 15, 2016, the City Council's Committee of the Whole recommended approval of the Conditional Use Permit to allow the operation of an eating establishment with drive through with the following conditions:

1. Additional landscaping is added adjacent to the north parking spaces, with Plan Commission design review approval;
2. A curb is added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what is proposed for the south parking; inside this area shall be suitable landscaping, including a tree, with Plan Commission design review approval;
3. The area south and west of the west end curb for the new south parking spaces shall be suitably landscaped, including a tree, with Plan Commission design review approval.
4. No illuminated elements are allowed to be added to the north canopy edge;
5. Replace and/or widen the Batavia Avenue sidewalk with an 8 foot wide sidewalk;
6. The owner/applicant shall be responsible for relocating any City utility in the Batavia Avenue right-of-way necessary for completion of the project;
7. Removal of the proposed metal panel on top of the proposed retaining wall and increasing the height of the retaining wall by approximately 1 foot, with Plan Commission design review approval of the wall's decorative finish;
8. Refuse pick-up shall be limited to between the hours of 7:00 am and 10:00 pm, and shall be conducted a minimum of 2 times per week, and may be limited further at staff direction;
9. Fuel deliveries shall be limited to between the hours of 7:00 pm and 10:00 pm and may be limited further at staff direction;
10. Drive through operation hours shall be limited to between the hours of 5:00 am and Midnight. The owner/applicant may request City Council approval of alternate hours without requiring an amendment to this conditional use, provided such request is accompanied by approval of the owner of the property to the north;
11. A water faucet shall be added to the exterior of the building in close proximity to the proposed refuse enclosure;
12. The site plan shall identify, and signs shall be installed on site for employee only parking to facilitate fuel deliveries and refuse pickups;
13. Stairs shall be built from the Houston Street sidewalk to the entrance area of the drive through lane;

14. The owner/applicant shall dedicate ten (10) feet of right-of-way along the south property line for future improvements to Houston Street upon request by the City of Batavia. The City may alternately request an easement in lieu of dedication; and
15. The owner/applicant shall have the Illinois Bell utility easement (Document #1489421) that crosses the building vacated or relocated prior to issuance of any permits.

**WHEREAS**, the City Council of the City of Batavia has considered the recommendations of both the Plan Commission and the Committee of the Whole.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

**SECTION 1:** The application for a Conditional Use Permit submitted on behalf of property owner Harry Mehta, HM1 Batavia, LLC, to allow the operation of an eating establishment with drive through in the DMU Downtown Mixed Use District, under City Code Title 10, Chapter 5.4, in substantial conformance as reflected in the Exhibits listed below, is hereby approved with the following conditions:

1. Additional landscaping is added adjacent to the north parking spaces, with Plan Commission design review approval;
2. A curb is added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what is proposed for the south parking; inside this area shall be suitable landscaping, including a tree, with Plan Commission design review approval;
3. The area south and west of the west end curb for the new south parking spaces shall be suitably landscaped, including a tree, with Plan Commission design review approval.
4. No illuminated elements are allowed to be added to the north canopy edge;
5. Replace and/or widen the Batavia Avenue sidewalk with an 8 foot wide sidewalk;
6. The owner/applicant shall be responsible for relocating any City utility in the Batavia Avenue right-of-way necessary for completion of the project;
7. Removal of the proposed metal panel on top of the proposed retaining wall and increasing the height of the retaining wall by approximately 1 foot, with Plan Commission design review approval of the wall's decorative finish;
8. Refuse pick-up shall be limited to between the hours of 7:00 am and 10:00 pm, and shall be conducted a minimum of 2 times per week, and may be limited further at staff direction;
9. Fuel deliveries shall be limited to between the hours of 7:00 pm and 10:00 pm and may be limited further at staff direction;
10. Drive through operation hours shall be limited to between the hours of 5:00 am and Midnight. The owner/applicant may request City Council approval of alternate hours without requiring an amendment to this conditional use, provided such request is accompanied by approval of the owner of the property to the north;
11. A water faucet shall be added to the exterior of the building in close proximity to the proposed refuse enclosure;
12. The site plan shall identify, and signs shall be installed on site for employee only parking to facilitate fuel deliveries and refuse pickups;

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-10

---

13. Stairs shall be built from the Houston Street sidewalk to the entrance area of the drive through lane;
14. The owner/applicant shall dedicate ten (10) feet of right-of-way along the south property line for future improvements to Houston Street upon request by the City of Batavia. The City may alternately request an easement in lieu of dedication;
15. The owner/applicant shall have the Illinois Bell utility easement (Document #1489421) that crosses the building vacated or relocated prior to issuance of any permits; and
16. The development of the property shall be in substantial compliance with the plans per the Exhibits as follows:

<b>Exhibit</b>	<b>Plan</b>	<b>Dated</b>	<b>Prepared by</b>
<b>A</b>	Plat of Survey	9/12//12	Todd Surveying
<b>B</b>	Concept Plan	1/11/16	Engineering Resources, Inc.
<b>C</b>	Landscape Plan	Revised 12/16/15	Wingren Landscape
<b>D</b>	Exterior Elevations/Wall Signs	1/21/16	Kolbrook Design
<b>E</b>	Monument Sign	11/2/15	“
<b>F</b>	Canopy Edge Design	-	Shell International Petroleum Co.

**SECTION 2:** That this Ordinance 16-10 shall be in full force and effect upon its presentation, passage and publication according to the law.

**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this 21<sup>st</sup> day of March, 2016.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this 21<sup>st</sup> day of March, 2016.

---

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
<b>VOTE:</b>		Ayes	Nays	Absent	Abstention(s)					
Total holding office: Mayor and 14 aldermen										

ATTEST:

---

Heidi Wetzel, City Clerk

# A.L.T.A \ A.C.S.M. LAND TITLE SURVEY

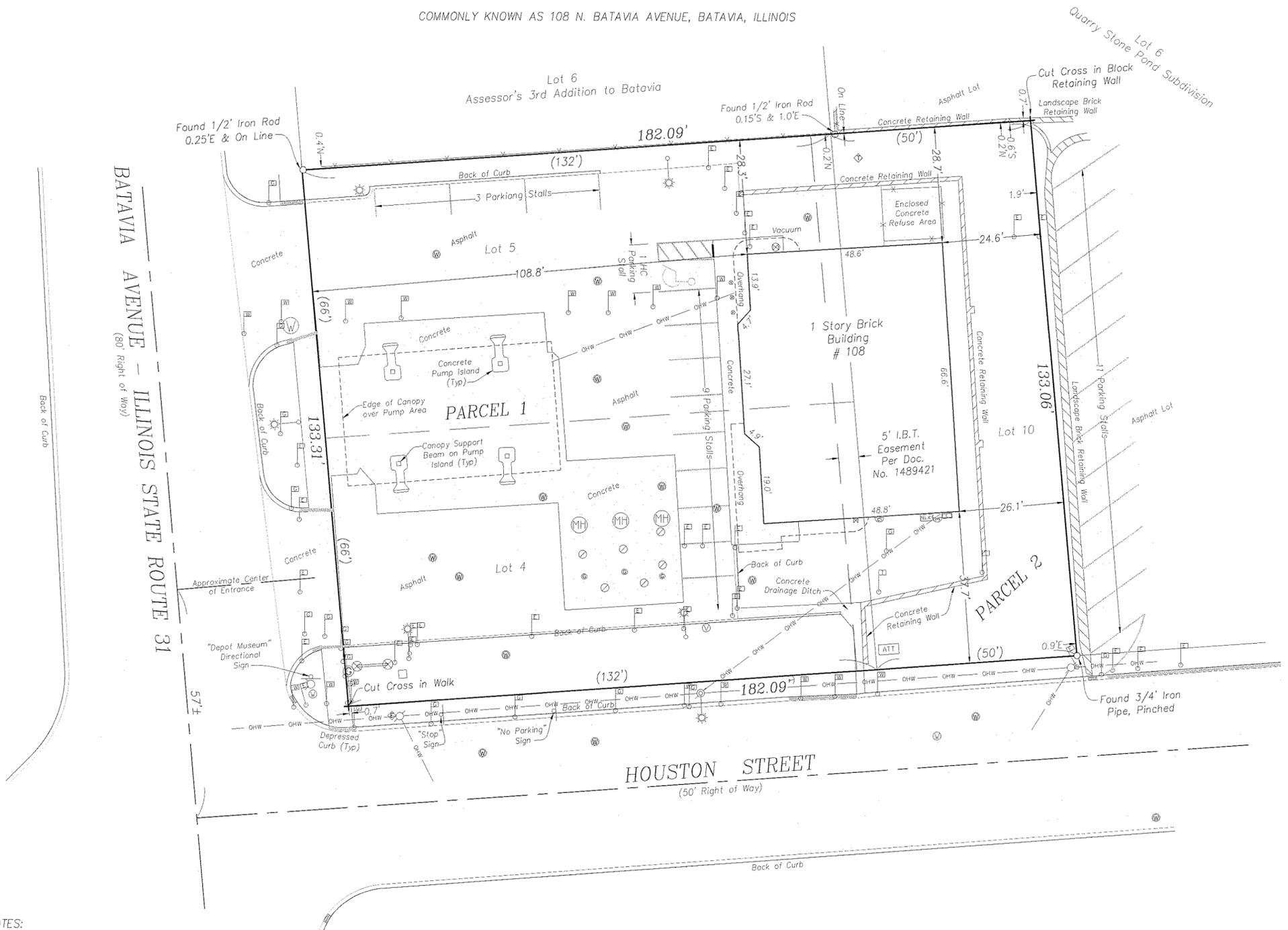
P.I.N.'s  
12-22-132-018  
12-22-132-024

## Exhibit A

PARCEL 1: LOTS 4 AND 5 IN BLOCK 3 IN JOSEPH ORR MCKEE'S ADDITION TO BATAVIA, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS

PARCEL 2: LOT 10 IN ASSESSOR'S THIRD ADDITION TO BATAVIA, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS

COMMONLY KNOWN AS 108 N. BATAVIA AVENUE, BATAVIA, ILLINOIS



- NOTES:
- DECLARATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
  - THE LOCATION AND/OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE UNKNOWN AND ARE NOT SHOWN.
  - NO ATTEMPT HAS BEEN MADE AS A PART OF THIS SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES OR FACILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.
  - SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.
  - THE LOCATIONS OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES. BEFORE EXCAVATIONS ARE BEGUN, THE FOLLOWING OFFICES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS: TELEPHONE, ELECTRIC, WATER, SEWER, STORM, AND CABLE T.V.
  - THIS IS AN ALTA/ACSM SURVEY. IT IS NOT INTENDED TO BE USED AS THE BASIS FOR ENGINEERING/STRUCTURAL DESIGN.

7. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR. ALL INFORMATION REGARDING RECORD EASEMENTS, ADJOINERS, AND OTHER DOCUMENTS WHICH MIGHT AFFECT THE QUALITY OF TITLE TO TRACT SHOWN HEREON WAS GAINED FROM TITLE COMMITMENT NO. 008873903 PREPARED BY CHICAGO TITLE INSURANCE COMPANY WITH AN EFFECTIVE DATE OF MAY 22, 2012. THE FOLLOWING COMMENTS CORRESPOND TO THE ITEMS NUMBERED IN THE ABOVE REFERENCED COMMITMENT.

SCHEDULE B, ITEM L:

IN OUR OPINION, AN EASEMENT GRANTED TO ILLINOIS BELL TELEPHONE COMPANY RECORDED JANUARY 2, 1979 AS DOCUMENT 1489421, DOES AFFECT THIS PROPERTY, TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF. (PLOTTED)

TABLE A, ITEM 4:

GROSS LAND AREA - 24,248.40 SQ.FT.  
- 0.557 ACRES, MORE OR LESS

TABLE A, ITEM 9:

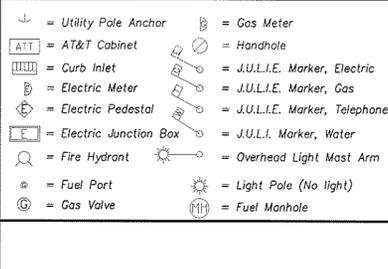
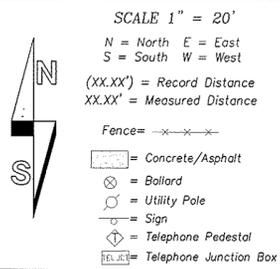
PARKING STALLS - 12  
HANDICAP PARKING STALL - 1  
TOTAL PARKING STALLS - 13

TO: WAHEED ULLAH;  
TALLWOOD PROPERTIES, INC.;  
CHICAGO TITLE INSURANCE COMPANY;

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 4, 7(a), 8, 9, 11(a), 14 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON AUGUST 8, 2012.

DATED AT YORKVILLE, ILLINOIS ON SEPTEMBER 12, 2012.

*Eric C. Pokorny*  
ERIC C. POKORNY  
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3818



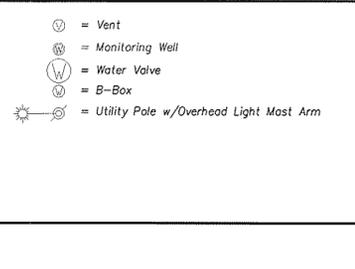
MICHEL C. ENSALADO P.L.S. 2768 EXP. 11/30/2012  
ERIC C. POKORNY P.L.S. 3818 EXP. 11/30/2012

## TODD SURVEYING

PROFESSIONAL LAND SURVEYING SERVICES

SITE SURVEYING, INC.  
1304 SUNSET AVENUE, SUITE E  
YORKVILLE, ILLINOIS 60560  
PHONE 630-892-1309 FAX 630-892-5544

Survey is valid only if original seal is shown in red.



Client: Tallwood Properties, Inc.

Book #: 2151 Drawn By: PM.EP/Plat #: 08/08/12

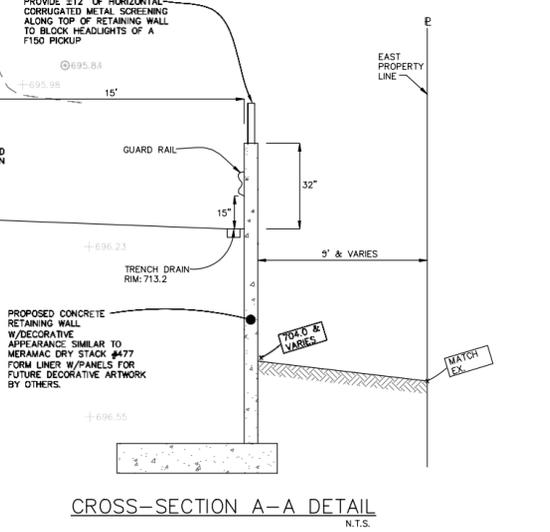
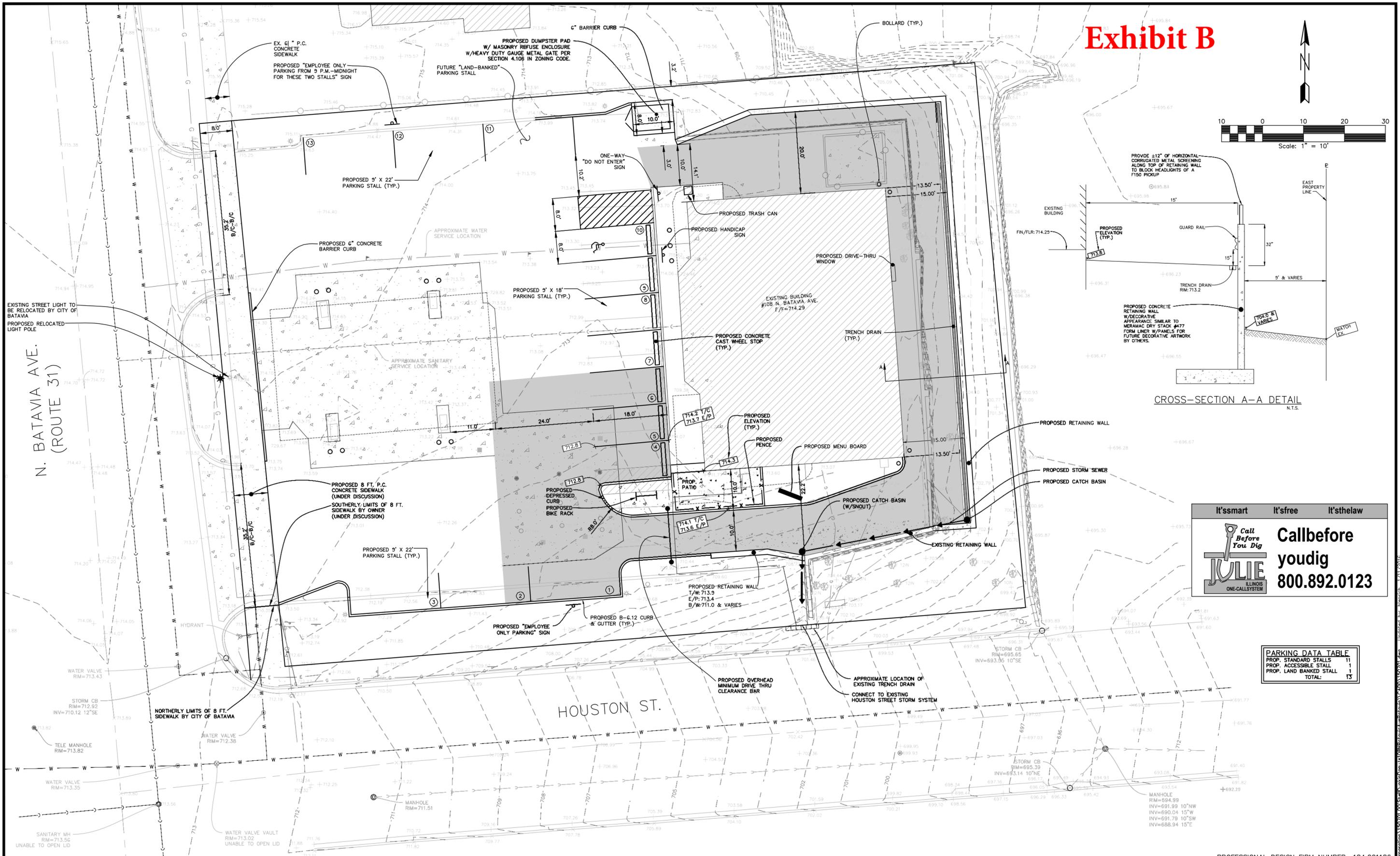
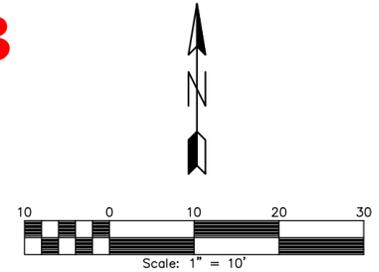
Reference:

Field Work Completed: 08/08/12

Rev. Date	Rev. Description

Project Number: 2012-0592

# Exhibit B



It'ssmart It'sfree It'sthelaw

Call Before You Dig  
**JULIE**  
 ILLINOIS ONE-CALL SYSTEM

**Call before you dig**  
 800.892.0123

**PARKING DATA TABLE**

PROP. STANDARD STALLS	11
PROP. ACCESSIBLE STALL	1
PROP. LAND BANKED STALL	1
<b>TOTAL:</b>	<b>13</b>

**REVISIONS:**

DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

**ENGINEERING RESOURCE ASSOCIATES, INC.**  
 CONSULTING ENGINEERS, SCIENTISTS & SURVEYORS

3570 WEST AVENUE, SUITE 150  
 WARRENVILLE, ILLINOIS 60055  
 PHONE: (630) 393-3060  
 FAX: (630) 393-2152

105 RIVERSIDE PLAZA, SUITE 875  
 CHICAGO, ILLINOIS 60606  
 PHONE: (312) 474-7841  
 FAX: (312) 474-6099

2416 GALENDRIVE  
 CHAMPAIGN, ILLINOIS 61821  
 PHONE: (217) 351-6268  
 FAX: (217) 355-1902

**HM1 CORPORATION**

**TITLE:** CONCEPT PLAN SHELL OF BATAVIA BATAVIA, ILLINOIS

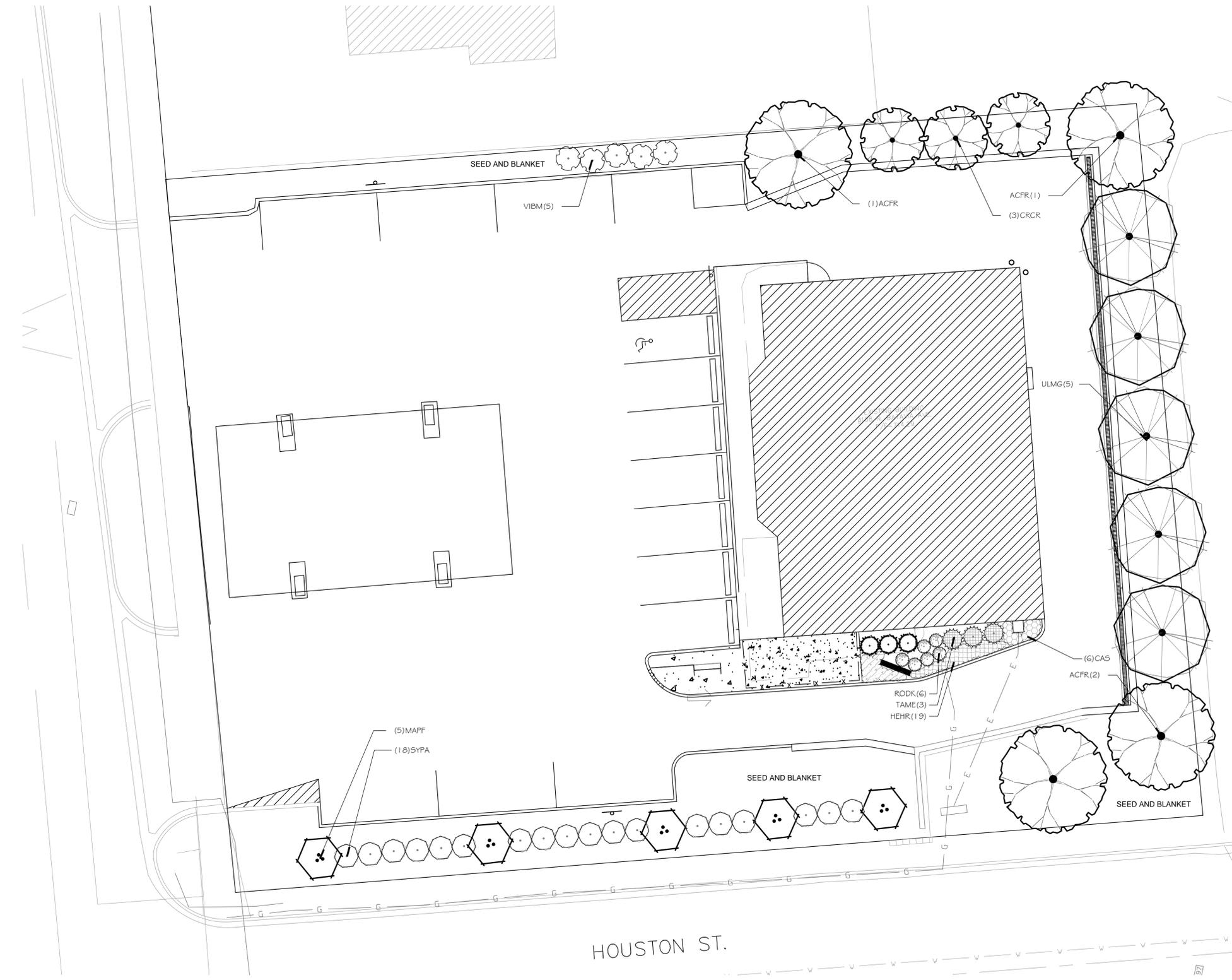
PROFESSIONAL DESIGN FIRM NUMBER: 184.001186

SCALE: 1" = 10'  
 DATE: 01/11/16  
 JOB NO: 150701  
 SHEET 1 OF 1

Updated by: Bieprich 7/17/2016  
 C:\Users\Bieprich\Documents\BataVIA\BataVIA.dwg

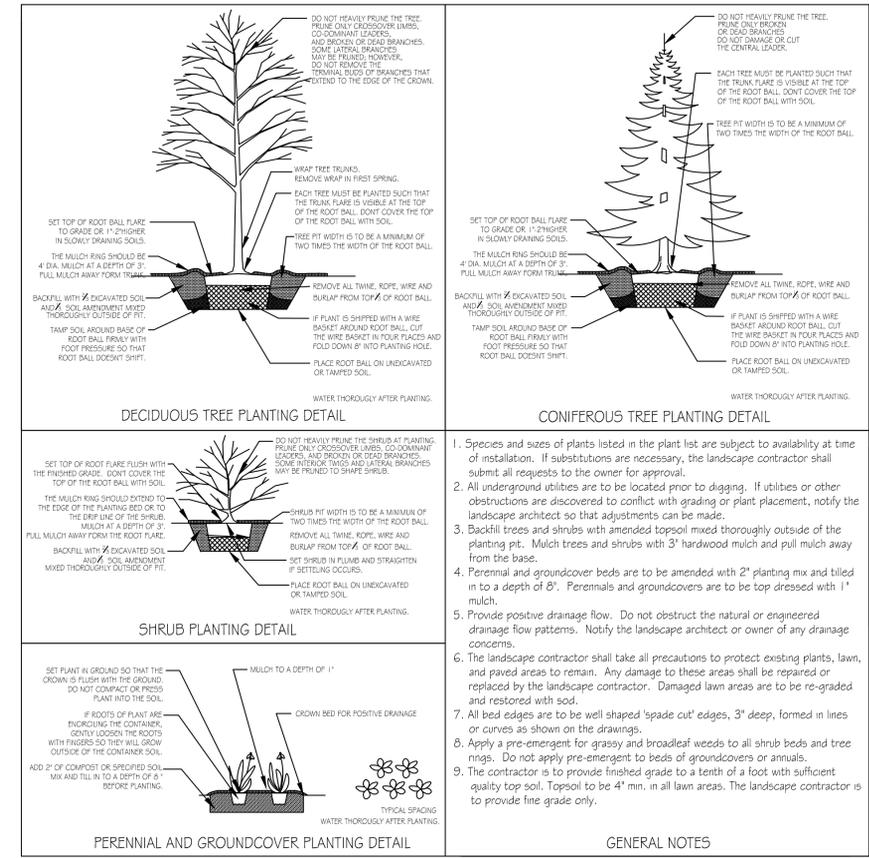
All base information & dimensions are approximate only. All layout to be verified in the field.

# Exhibit C

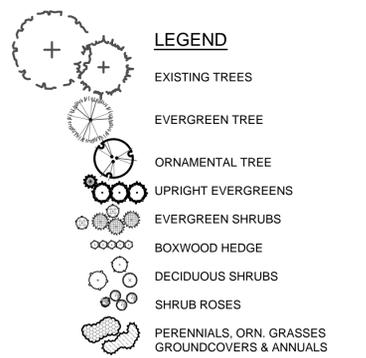


TREES	Quantity	Botanical	Common	Size
ACFR	4	Acer freemanii 'Jeffersred' TM	Autumn Blaze Maple	2.5' BB
CRCR	3	Crataegus crusgalli var. inermis TM	Thornless Cockspur Hawthorn	6' BB
MAPF	5	Malus hybrid 'Prairiefire'	Prairiefire Crab	6' BB
ULMG	5	Ulmus x Morton Glossy TM	Triumph Elm	2.5' BB
EVERGREEN TREES				
THOC	3	Thuja occidentalis 'Mission or Tectny'	Mission or Tectny Arborvitae	6' Ht.
SHRUBS				
RODK	6	Rosa hybrids 'Double Knockout'	Knockout Rose	3 gal
SYPA	18	Syringa pabula 'Miss Kim'	Miss Kim Lilac	30" BB
VIBM	5	Viburnum dentatum 'Blue Muffin'	Southern Arrowwood	5 gal
GROUND COVERS				
GEHR	13	Geranium hybrid 'Rozanne' TM	Hybrid Cranesbill	1 gal
HEHR	19	Hemerocallis hybrid 'Happy Returns'	Happy Returns Daylily	1 gal

Spacing  
18" o.c.

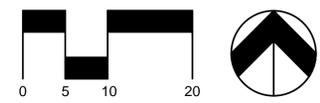


- ### GENERAL NOTES
- Species and sizes of plants listed in the plant list are subject to availability at time of installation. If substitutions are necessary, the landscape contractor shall submit all requests to the owner for approval.
  - All underground utilities are to be located prior to digging. If utilities or other obstructions are discovered to conflict with grading or plant placement, notify the landscape architect so that adjustments can be made.
  - Backfill trees and shrubs with amended topsoil mixed thoroughly outside of the planting pit. Mulch trees and shrubs with 3" hardwood mulch and pull mulch away from the base.
  - Perennial and groundcover beds are to be amended with 2" planting mix and tilled in to a depth of 8". Perennials and groundcovers are to be top dressed with 1" mulch.
  - Provide positive drainage flow. Do not obstruct the natural or engineered drainage flow patterns. Notify the landscape architect or owner of any drainage concerns.
  - The landscape contractor shall take all precautions to protect existing plants, lawn, and paved areas to remain. Any damage to these areas shall be repaired or replaced by the landscape contractor. Damaged lawn areas are to be re-graded and restored with sod.
  - All bed edges are to be well shaped 'spade cut' edges, 3" deep, formed in lines or curves as shown on the drawings.
  - Apply a pre-emergent for grassy and broadleaf weeds to all shrub beds and tree rings. Do not apply pre-emergent to beds of groundcovers or annuals.
  - The contractor is to provide finished grade to a tenth of a foot with sufficient quality top soil. Topsoil to be 4" min. in all lawn areas. The landscape contractor is to provide fine grade only.



## LANDSCAPE PLAN

SCALE: 1" = 10'-0"



**WINGREN LANDSCAPE**  
ALL THINGS OUTDOOR

5126 Walnut Ave.  
Downers Grove, IL 60515  
TEL 630.759.8100  
www.wingrenlandscape.com

Copyright Wingren Landscape, all rights reserved. The design and any and all ideas contained herein are the sole property of Wingren Landscape. Reproduction of the design or concept embodied herein in any form, in whole or in part, without the consent of Wingren Landscape is prohibited.

**Dunkin' Donuts**  
Batavia, IL

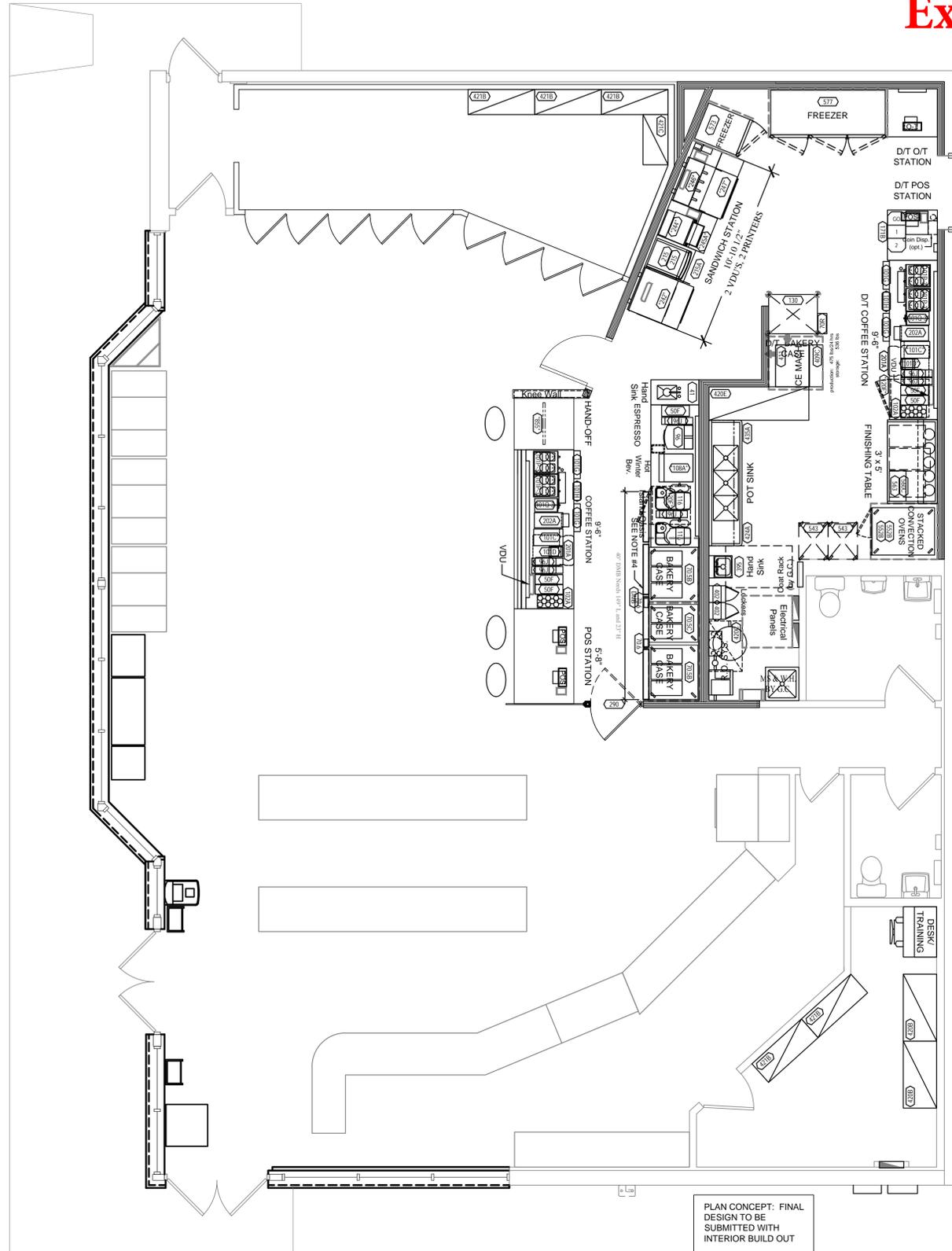
REVISIONS:
REVISION #   DATE   DESCRIPTION

SHEET TITLE:  
**LANDSCAPE PLAN**

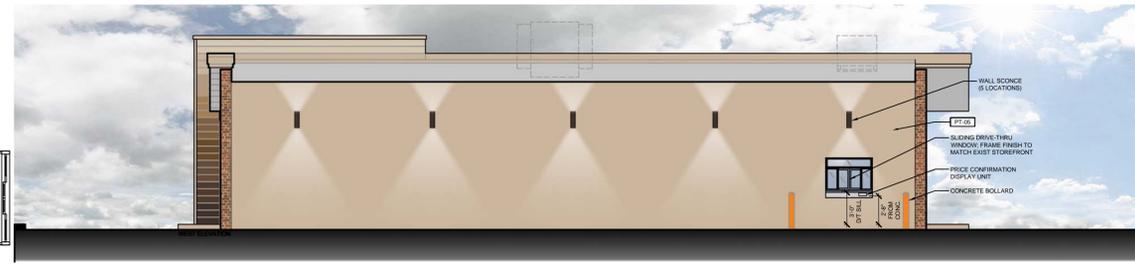
DATE: 10.28.15  
JOB: P-  
SCALE: 1"=10'  
BY: JZ, EB  
SHEET **L1** OF 1

# Exhibit D

ELEVATION CONCEPTS:  
FINAL DESIGN TO BE  
SUBMITTED WITH  
INTERIOR BUILD OUT



1 PROPOSED FLOOR PLAN  
SCALE: 1/4" = 1'-0"



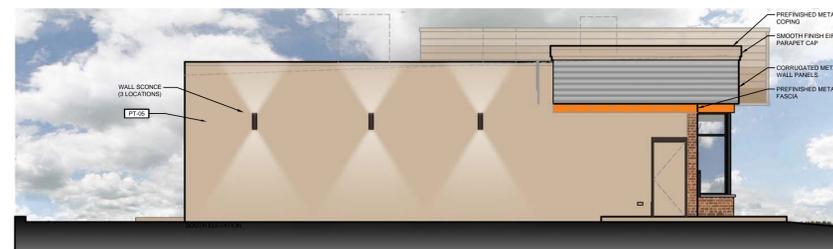
2 EAST ELEVATION  
SCALE: 1/8" = 1'-0"



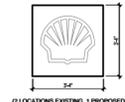
3 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



4 WEST ELEVATION  
SCALE: 1/8" = 1'-0"

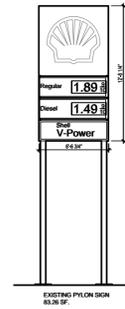


5 NORTH ELEVATION  
SCALE: 1/8" = 1'-0"



6 LOCATIONS EXISTING & PROPOSED  
SCALE: 1/16" = 1'-0" (IF APPLICABLE)

6 PECTEN LOGO  
SCALE: 1/8" = 1'-0"



7 EXISTING SIGN ELEVATION  
SCALE: 1/8" = 1'-0"



8 PYLON SIGN ELEVATION  
SCALE: 1/8" = 1'-0"

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ISSUE		
NO	DESCRIPTION	DATE
1	CONCEPT PROPOSAL	09/30/2015

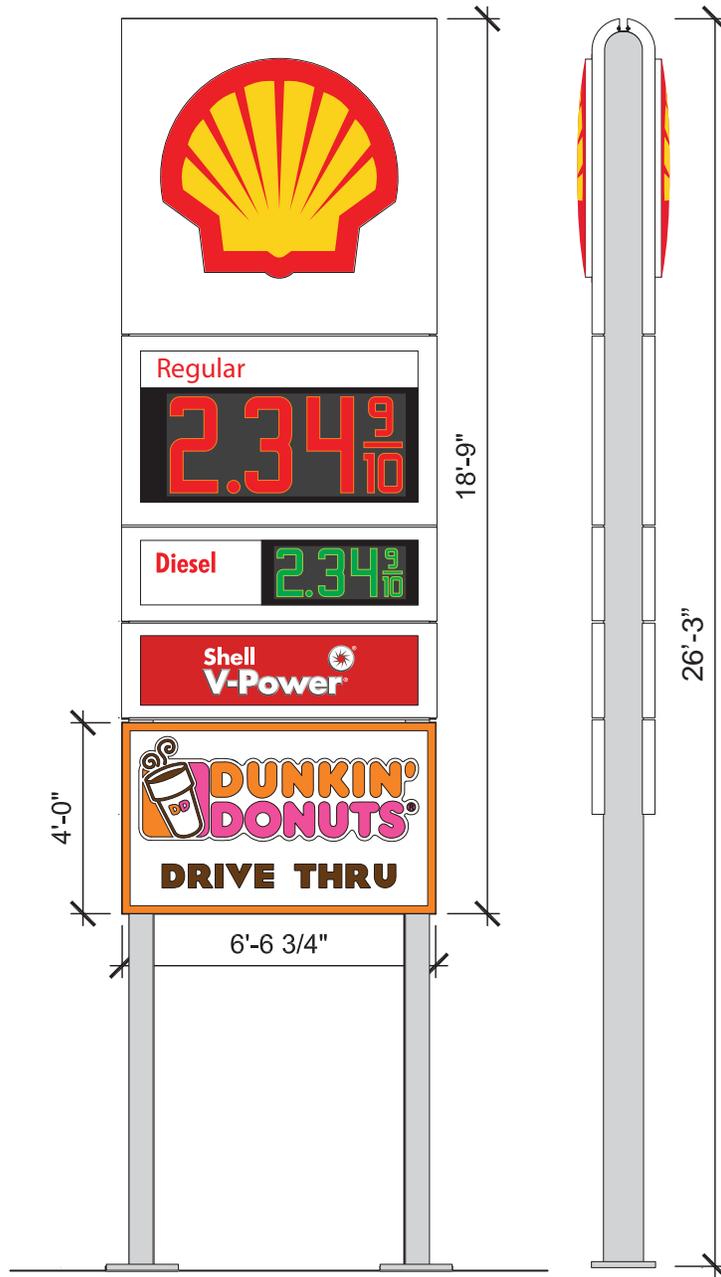
ARCHITECT:  
  
 828 DAVIS STREET  
 SUITE 300  
 EVANSTON, IL 60201  
 Ph 847.492.1992  
 Copyright © 2015 Kolbrook Design, Inc.



DUNKIN DONUTS CONCEPT PLAN  
 BATAVIA SHELL  
 108 N. BATAVIA AVE.  
 BATAVIA, IL 60510

Job No.	1425.038
Issue Date	01/21/2016
Project Area	TBD.
SHEET: 1 OF 1	

# Exhibit E



PROPOSED PYLON SIGN OPTION  
123.05 SF. (39.79 SF. ADDITIONAL)

1 PYLON SIGN ELEVATION  
SCALE: 1/4" = 1'-0"

ARCHITECT:



828 DAVIS STREET  
SUITE 300  
EVANSTON, IL 60201  
Ph 847.492.1992

PROJECT:

**Dunkin Donuts - Batavia**

108 North Batavia Ave.  
Batavia, IL 60510

Job No.

1425.038

Issue Date

11/02/2015

Project Area

# Exhibit F

## 2.2.5 LEVEL 1 FASCIA

### LEVEL 1

Level 1 is intended for all NTIs and KDRs unless prohibited by local legislation. Level 1 is also intended for all primary and strong secondary competitive conversion sites.

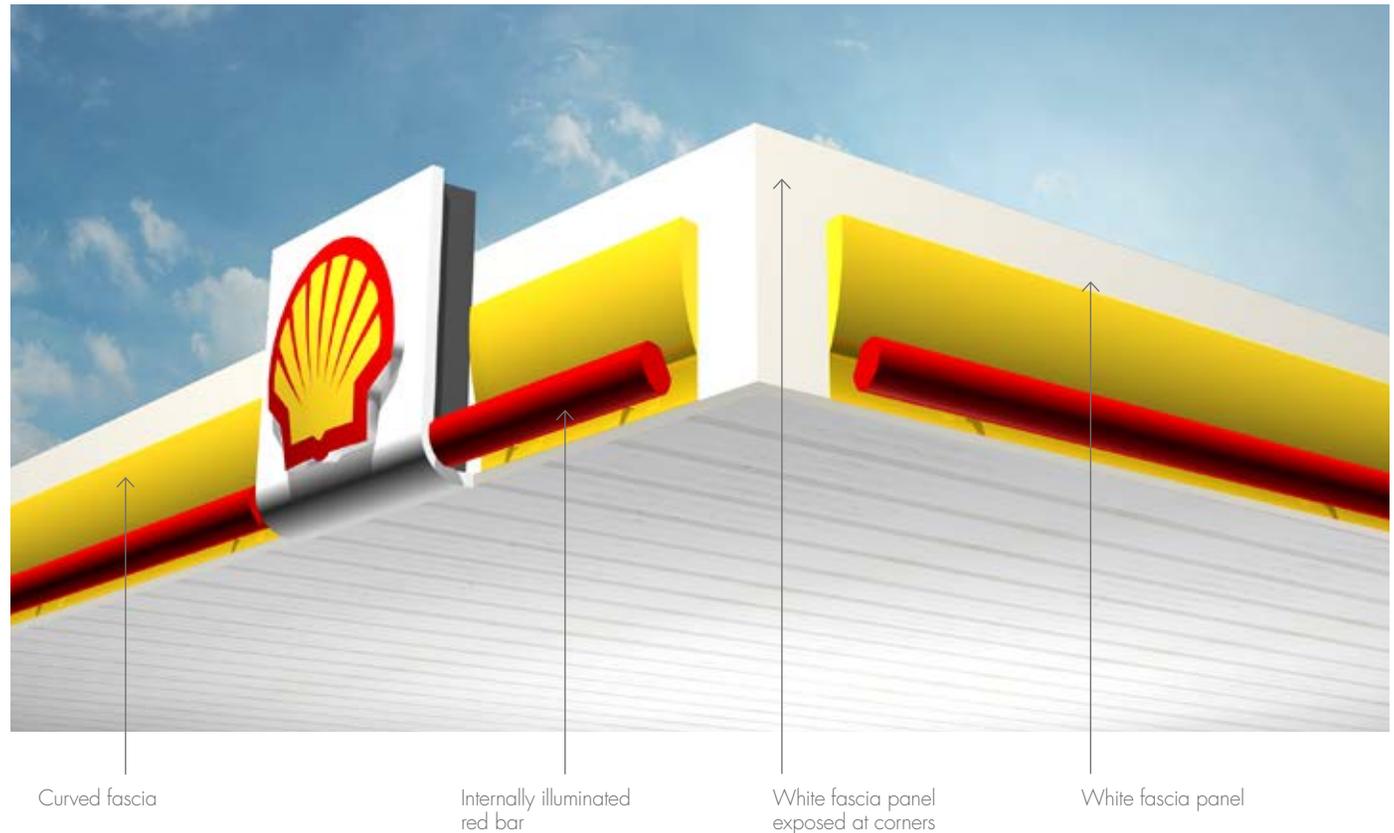
The Level 1 fascia should be used on the most prominent sides, usually the front and most visible sides. The Level 2 fascia should be applied to the less visible sides.

### CANOPY FASCIA

The Level 1 canopy edge treatment consists of a Shell Yellow curved fascia panel attached to a Shell White flat fascia, while an internally illuminated LED Shell Red bar provides both red illumination to the bar and face illumination to the yellow field.

### PECTEN PANEL ILLUMINATION

The illumination of the Pecten is mandatory on all levels.





28 s water street, suite 303  
batavia, illinois, 60510  
tel: 630.406.8880  
www.vasilion.com

March 8, 2016

**Granting of Variances and Condition Use Permit  
Dunkin Donuts / Shell Station  
108 North Batavia Avenue**

Enclosed herein are our responses to the conditions attached by staff to Ordinances 16-09 and 16-10.

There are numerous instances where returning for Plan Commission design review approval is mentioned. We are not clear whether this is an ordinance requirement as opposed to a staff recommendation. In either case, we are also not clear if this is an item that can be waived by the city council. Our concerns are two-fold: First, we would be returning to a body which already gave a negative recommendation to our project and second, we would be further lengthening our review and approval process. Please advise and provide the appropriate code reference(s).

Rather than arguing each of these fifteen items before the city council (which gave clear instructions to "make this project happen") we would like to see the ordinances modified as follows:

**1. Additional landscaping is added adjacent to the north parking spaces, with Plan Commission design review approval;**

This is not acceptable. This was not a requirement from ZBA, HPC, nor the COW.

**2. A curb is added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what is proposed for the south parking; inside this area shall be suitable landscaping, including a tree, with Plan Commission design review approval;**

We agree to provide the curb and landscaping, but object to the tree requirement. We believe this will potentially obstruct views of vehicles entering or exiting this facility.

**3. The area south and west of the west end curb for the new south parking spaces shall be suitably landscaped, including a tree, with Plan Commission design review approval.**

We agree to provide the curb and landscaping, but object to the tree requirement. We believe this will potentially obstruct views of vehicles entering or exiting this facility.

**4. No illuminated elements are allowed to be added to the north canopy edge;**

We respectfully request that this requirement be deleted. We acknowledge that we previously agreed to the ZBA's recommendation to delete the lighting on this face. Our reasoning is that there would be zero additional illumination being spread from this indirect fixture. Compare the two photographs we' have enclosed with this response. Further, leaving this face dark will look like there are burnt-out bulbs

and not be attractive. Additionally, the Shell logo on the north canopy is already illuminated and will not be removed nor unlit. This request is also consistent with Shell's corporate branding requirements.

**5. Replace and/or widen the Batavia Avenue sidewalk with an 8 foot wide sidewalk;**

This is not acceptable. This was not a requirement from ZBA, HPC, nor the COW. We also objected to this requirement in our previous meeting with staff and our drawings indicated that this item was under discussion. Further, we maintain that since we are not requesting any TIF assistance and this work is not directly related to the creation of the drive-thru that this cost should be borne by the City of Batavia or be removed from the scope of this project.

**6. The owner/applicant shall be responsible for relocating any City utility in the Batavia Avenue right-of-way necessary for completion of the project;**

This is not acceptable. This was not a requirement from ZBA, HPC, nor the COW. Further, we maintain that since we are not requesting any TIF assistance and this work is not directly related to the creation of the drive-thru that this cost should be borne by the City of Batavia or be removed from the scope of this project.

**7. Removal of the proposed metal panel on top of the proposed retaining wall and increasing the height of the retaining wall by approximately 1 foot, with Plan Commission design review approval of the wall's decorative finish;**

This is not acceptable. We previously agreed to provide a wall detail and design to block headlights up to a height of 44" above the pavement. However, there was no specific directive provided by HPC, ZBA, or the COW to eliminate the proposed metal panel or further raise the height of the retaining wall. Additionally, the existing parking lot to the immediate NE of Harry's property has no such wall requirements.

**8. Refuse pick-up shall be limited to between the hours of 7:00 am and 10:00 pm, and shall be conducted a minimum of 2 times per week, and may be limited further at staff direction;**

This is not acceptable. We are not comfortable with staff being able to set minimum number of trash pickups nor to further limit delivery times. Also, the issue of site cleanliness and maintenance is already controlled by ordinances and the code enforcement officer. Lastly, please provide references indicating where you have made this a requirement for other businesses.

**9. Fuel deliveries shall be limited to between the hours of 7:00 pm and 10:00 pm and may be limited further at staff direction;**

This is not acceptable. Harry's current deliveries occur up until midnight and has been so for many years. This project is about a drive-thru, not about changing fuel tanker delivery times. We are not comfortable with staff being able to further limit delivery times. This was not a requirement of ZBA, HPC, or the COW approvals. Also, please provide references indicating where you have made this a requirement for other businesses.

- 10. Drive through operation hours shall be limited to between the hours of 5:00 am and Midnight. The owner/applicant may request City Council approval of alternate hours without requiring an amendment to this conditional use, provided such request is accompanied by approval of the owner of the property to the north;**

This is not acceptable. This item has not previously occurred in any staff comments, nor was it required by ZBA, HPC, or COW directive. Under no circumstances does the property owner to the north have the right to approve or determine our hours of operation.

- 11. A water faucet shall be added to the exterior of the building in close proximity to the proposed refuse enclosure;**

This is not acceptable. This item has not previously occurred in any staff comments, nor was it required by ZBA, HPC, or COW directive. There is an existing faucet on the south face of the building that can be used as necessary.

- 12. The site plan shall identify, and signs shall be installed on site for employee only parking to facilitate fuel deliveries and refuse pickups;**

We have previously agreed to this item and said signage is already included on our preliminary development plans.

- 13. Stairs shall be built from the Houston Street sidewalk to the entrance area of the drive through lane;**

This is not acceptable. We have determined that such a sidewalk, placed cross-wise to the steeply sloping sidewalk on Houston Street could create a safety hazard. Additionally, it would require patrons to cross the drive-thru lane. Further, this was not a requirement of ZBA, HPC, or COW approvals.

- 14. The owner/applicant shall dedicate ten (10) feet of right-of-way along the south property line for future improvements to Houston Street upon request by the City of Batavia. The City may alternately request an easement in lieu of dedication; and**

This is not acceptable. The 2015 right-of-way improvements have already been completed in the current dedicated right-of-way. We see no reason to have to dedicate this property at this time, nor accommodate an easement in lieu of dedication. Lastly, this was not a requirement of ZBA, HPC, or COW approvals.

- 15. The owner/applicant shall have the Illinois Bell utility easement (Document #1489421) that crosses the building vacated or relocated prior to issuance of any permits.**

This is not acceptable. This property has changed hands numerous times in the past several decades. It has not been required in any of those title transactions and we see no reason to be required to do so now. Further, this was not a comment in any prior staff review, nor in ZBA, HPC, or the COW approvals.

**END OF RESPONSE**