



**BATAVIA CITY COUNCIL
SPECIAL CONFERENCE MEETING**
(Before the Business Meeting)

**City Hall - Council Board Room
One Batavia City Centre
Monday, February 13, 2017**


AGENDA

- I. Call to Order**
- II. Council President Presentations**
 - a. Recognition Award – Brooks Hawley
- III. CDBG Public Hearing**
- IV. PDC Re-zoning Referral**
- V. A Resolution of Support AIM**
- VI. A Resolution of Support VLT**
- VII. A Resolution of Arterial Reimbursement Aid**
- VIII. Update Current Litigation Regarding Mall Concourse**
- IX. Adjournment**



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: February 8, 2017

Subject: CDBG Public Hearings

The City of Batavia has successfully completed two grant programs funded by the New York State Community Development Block Grant (CDBG) program. One grant program provided \$400,000 to renovate 17 homes occupied by low to moderate income households and another grant program provided \$200,000 to assist seven businesses that benefitted low to moderate income owners and employees. Prior to closing out both programs the City is required to hold a public hearing to provide residents with information regarding the results of the CDBG programs.

It is requested that the public hearing be conducted in February to close out the program. Attached is a draft resolution to be considered at the February 13th Council meeting to conduct the public hearing at the February 27th Council meeting.

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**Office of the City Manager
One Batavia City Centre
Batavia, New York 14020**

**TDD 800-662-1220
Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com**

#17-2017

**A RESOLUTION TO SCHEDULE A PUBLIC HEARING TO PROVIDE
INFORMATION TO THE PUBLIC ON THE COMMUNITY DEVELOPMENT
BLOCK GRANT (CDBG) PROGRAM**

Motion of Councilperson

WHEREAS, the City of Batavia has successfully completed two grant programs funded by the New York State Community Development Block Grant (CDBG) program; and

WHEREAS, one grant program provided \$400,000 to renovate 17 homes occupied by low to moderate income households; and

WHEREAS, another grant program provided \$200,000 to assist seven businesses that benefitted low to moderate income owners and employees; and

WHEREAS, the New York State Office of Community Renewal requires municipalities to hold a public hearing following completion CDBG grant to provide residents with information about the results of the CDBG program;

NOW THEREFORE, BE IT RESOLVED, that the City of Batavia will hold a Public Hearing on the CDBG program at the City Hall, One Batavia City Centre, Batavia, NY at 7:00 p.m. on Monday, February 27, 2017; and


BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a Public Hearing notice in the official newspaper of the City of said Public Hearing.

**Seconded by Councilperson
and on roll call**



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: February 8, 2017

Subject: Zoning Amendment – 661,665 and 679 East Main Street

Attached please find a memo to the Planning & Development Committee providing background and support for a zoning map amendment regarding the above referenced properties. In addition, to the Petition for Re-zoning of 661 and 665 East Main Street, City staff is recommending that 679 East Main Street be included in the re-zone. Currently 679 East Main Street is zoned R-2 however the current use is considered a non-conforming use. Changing the zoning to R-3 would bring the property into a conforming use.

Section 190-51 of the Batavia Municipal Code provides that the City Council may from time to time make zoning map amendments after review and report by the City's Planning and Development Committee. If the Planning and Development Committee fails to file a report within 30 days after referral from City Council, the proposed amendment is deemed approved, and the City Council may proceed in addressing the re-zoning request.

Therefore it is recommended that the City Council refer the matter to the Planning and Development Committee for consideration and recommendation to the City Council.

If you have any questions please feel free to contact me.

#18-2017

**A RESOLUTION TO REFER A PROPOSED AMENDMENT OF THE ZONING
MAP OF THE CITY OF BATAVIA TO THE PLANNING AND DEVELOPMENT
COMMITTEE**

Motion of Councilperson

WHEREAS, the City of Batavia has received the attached Petition to amend the zoning map of the City of Batavia at 661 East Main Street (SBL No. 85.013-1-22), 665 East Main Street (SBL No. 85.013-1-23), from the current zoning of I-1 Industrial District to R-3 Residential District; and

WHEREAS, after review by City staff it is recommended that the zoning map of the City of Batavia be further amended at 679 East Main Street (SBL No. 85.013-1-24) from the current zoning of R-2 Residential District to R-3 Residential District; and

WHEREAS, Section 190-51 of the Batavia Municipal Code provides that the City Council may from time to time make zoning map amendments after review and report by the City's Planning and Development Committee; and

WHEREAS, in accordance with Section 190-51 if the Planning and Development Committee fails to file a report within 30 days after referral from City Council, the proposed amendment is deemed approved, and the City Council may proceed in addressing the re-zoning request; and

BE IT RESOLVED that the Petition and additional request to amend the zoning map related to 661, 665 and 679 East Main Street is referred to the Planning and Development Committee for review, analysis and recommendation; and

BE IT FURTHER RESOLVED that the Planning and Development Committee shall report back to the Council on its recommendation regarding the proposed amendment to the zoning district map; and


BE IT FURTHER RESOLVED that the Planning and Development Committee shall take necessary steps to review and report back to Council regarding this matter within thirty days of the date of this referral.

**Seconded by Councilperson
and on rollcall**



City of Batavia

To: City Planning & Development Committee

From: Jason Molino, City Manager 

Date: February 8, 2017

Subject: Petition for Rezoning of Property at 661, 665 & 679 East Main Street

Background: DePaul Properties, Inc. (the "DePaul") is the developer for the proposed DePaul Batavia Square project to be located at 661 & 665 East Main Street (SBL 85.013-1-22 & 85.013-1-23 respectively) in the City of Batavia. DePaul has entered into purchase agreements with the current property owners with the contingency that the proposed redevelopment of the project obtain all necessary permits and approvals. Both parcels are located in an I-1 Industrial District ("I-1") and DePaul is requesting a re-zoning of both parcels to an R-3 Residential District ("R-3"). As outlined in DePaul's Petition to Re-Zone, adjacent property (679 East Main Street) to the east is a multi-family apartment development in the R-2 Residential District ("R-2"). City records indicate that this multi-family apartment development was constructed in 1962 under a B-3 Business Use District. B-3 zoning districts were eliminated shortly after the project was completed and after the City's last Comprehensive Master Plan and land use adoption, the parcel was rezoned to R-2. Currently the parcel is considered a non-conforming use in the R-2 zoning district. The City of Batavia is proposing to rezone the adjacent 679 East Main Street to R-3 Residential District, which is consistent with DePaul's request for re-zoning.

Current Zoning – Current zoning within the project area is I-1. Permitted uses do not allow for residential development. In addition, the industrial zoning is not consistent with existing land use patterns in this area. As referenced above the adjacent parcel east of the project area is considered a non-conforming use. Furthermore, 34% of properties in the immediate I-1 district are non-conforming. This includes two multi-family apartment complexes within 700 feet of the proposed development site. The remainder of the parcel uses in that immediate I-1 district is a combination of retail store, wholesale and service operations.

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City of Batavia

Current Comprehensive Plan Update – In September 2015 the City began the process of updating the City's 1997 Comprehensive Master Plan. Throughout this process extensive discussions have involved potential rezoning of various areas within the City limits that may better fit future development and redevelopment patterns and encourage sustainable growth in the City. The proposed development area has been one of several areas under consideration. As the majority of current uses are similar to modern day commercial use that provide daily goods and services for nearby neighborhoods and on a sub-regional basis, as well as providing local employment opportunities, new land use policies should call for the enhancement of these areas. Coordinated site planning and design, pedestrian access and amenities, development of coordinated parking, and the efficient infill and intensification of commercial uses will add to the already existing uses. While not finalized, a Commercial Neighborhood district is being strongly considered for this area that fit the above criteria. DePaul Batavia Square, a multi-family apartment complex, like those that already exist at 627 and 679 East Main Street, fit within the Commercial Neighborhood district and add enhancement to the existing uses in the immediate area.

Additional focuses of the City's Comprehensive Plan Update discussions have include improvements to the City's entrances, or "Gateway's", encourage more resilient and renewable energy technologies and enhance the City's pedestrian network. The location of the proposed project sits less than 500 feet from the City's east gateway. The conceptual drawings included with DePaul's Petition for Rezoning will have a meaningful impact on the visual character of the east gateway while providing for high-quality housing that integrates best practices sustainable technologies. The drawings outline multiple solar fields/panels, green roofs and a community garden for tenants. This, in addition to the project area, is also located adjacent to the Ellicott Trail to be constructed this spring. The residents of DePaul Batavia Square will be more likely to utilize the trail than would some form of industrial use at this site.

Recommendation – While the proposed Petition of Rezoning by DePaul is only for 661 & 665 East Main Street, City staff recommends the addition of 679 East Main Street. All three properties are recommended for R-3. This rezone would provide for the proposed project to be completed as well as change the adjacent multi-family apartment complex, currently a non-conforming use, to a conforming use.

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Petition for Rezoning of Property at 661, 665 & 679 East Main Street



February 8, 2017

Address Points

Roads (Large Scale)

Active Railroads (Large Scale)

Streams (Large Scale)

2016 Tax Parcels

Water (Large Scale)

Towns

City & Villages (Large Scale)

Counties (Large Scale)

Red: Band_1

Green: Band_2

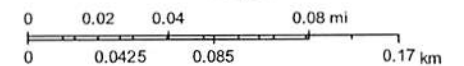
Blue: Band_3

Red: Band_1

Green: Band_2

Blue: Band_3

1:2,257



Sources: Esri, DeLorme, USGS, NPS
Sources: Esri, USGS, NOAA

Web AppBuilder for ArcGIS
Sources: Esri, USGS, NOAA | Sources: Esri, DeLorme, USGS, NPS |

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information							
Name of Action or Project: Zoning amendment							
Project Location (describe, and attach a location map): 679 East Main St., Batavia, NY 14020							
Brief Description of Proposed Action: Change the zoning use district designation of this existing large scale multi-family development parcel from R-2 (residential) to R-3 (residential).							
Name of Applicant or Sponsor: Jason Molino, City Manager for City of Batavia		Telephone: (585) 345-6333					
		E-Mail: jmolino@batavianewyork.com					
Address: One Batavia City Centre							
City/PO: Batavia		State: NY	Zip Code: 14020				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">NO</td> <td style="padding: 2px;">YES</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">NO</td> <td style="padding: 2px;">YES</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input type="checkbox"/>						
3.a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres							
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland							

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	N/A <input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	<input type="checkbox"/> NO <input type="checkbox"/> YES		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Jason Molino, City Manager for City of Batavia</u> Date: <u>2/8/17</u> Signature: _____		

Project: Zoning amendment (679 East Main)

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

 Name of Lead Agency

 Date

 Print or Type Name of Responsible Officer in Lead Agency

 Title of Responsible Officer

 Signature of Responsible Officer in Lead Agency

 Signature of Preparer (if different from Responsible Officer)

Project: Zoning amendment (679 East Main)

Date:

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Batavia City Council

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)



NIXON PEABODY LLP
ATTORNEYS AT LAW
NIXONPEABODY.COM
@NIXONPEABODYLLP

Jonathan Penna
Partner
T 585-263-1388
jpenna@nixonpeabody.com

1300 Clinton Square
Rochester, NY 14604-1792
585-263-1000

February 1, 2017

VIA FEDERAL EXPRESS OVERNIGHT

City of Batavia City Council
1 Batavia City Ctr.,
Batavia NY, 14020

**RE: Petition for Rezoning of Property at 661 & 665 East Main Street Identified as Tax
Map Parcel Numbers 85.013-1-22 and 85.013-1-23, in the City of Batavia
LETTER OF INTENT**

Dear Council Members:

This office represents DePaul Properties Inc. (the "Applicant"), developer of the proposed DePaul Batavia Square project. We hereby submit this Letter of Intent and attached petition under Batavia Municipal Code § 190-51 for a rezoning of the real property located at 661 and 665 East Main Street in the City of Batavia (the "City"), identified as Tax Map Parcel Numbers 85.013-1-22 and 85.013-1-23 (together, the "Property"), from the I-1 Industrial District ("I-1") to the R-3 Residential District ("R-3") (the "Rezoning"). We understand that the City Council may also rezone the adjacent property at 679 East Main Street, known as Batavia Gardens, from R-2 Residential District ("R-2") to R-3 on its own motion.

There is a small manufacturing building at 665 East Main Street and a house at 661 East Main Street that are currently zoned for industrial use. The Applicant is under contract to purchase both 661 and 665 East Main Street, which total approximately five acres. The existing manufacturing building on the Property is used as a glass workshop and does not fit with the neighboring residential areas. Moreover, the existing home at 661 East Main Street does not conform to the I-1 zoning designation.

The Batavia Gardens multi-family housing development is adjacent to the Property to the east. The proposed Rezoning will create a uniform R-3 district suitable for the mix of existing and proposed residential uses on the north side of East Main Street.

The Applicant is proposing to build approximately 80 new housing units in multi-family buildings and townhouse clusters. There will be Parking areas and other related improvements are also planned on the Property, as conceptually shown on the attached plans. The Applicant

looks forward to working closely with the City of Batavia to design a final site plan that is appropriate for the site.

It is our understanding that the Property is currently located in the I-1 district. In contemplation of the proposed conceptual development, the Rezoning will amend the zoning district designation of the Property to the zoning district (R-3) that most closely reflects and conforms to the project.

Thus, please accept this letter and the following exhibits as the Applicant's petition for rezoning:

- Exhibit A: Petition for Rezoning;
- Exhibit B: Short Environmental Assessment Form;
- Exhibit C: Legal descriptions of the Property
- Exhibit D: 11x17 copies of plans depicting the conceptual proposed development at the Property.

The City of Batavia is currently undertaking a revision to the Comprehensive Plan. The proposed Rezoning and development project, however, will advance numerous important goals set forth in the City of Batavia Comprehensive Master Plan adopted on February 2007 (the "**Comprehensive Plan**"). Specifically, the project will leverage state and federal funding through low income housing tax credits. The Comprehensive Plan also recognizes that R-3 zones provide a valuable transition between lower density residential neighborhoods. The Rezoning will provide a buffer between commercial and industrial uses along East Main Street and the residential neighborhoods to the north.

The project depends on an award of New York State funding. The application for State funding must be submitted by April 2017, and the City Council approval of the Rezoning is a critical factor in the State's evaluation of the project for funding purposes. We are therefore respectfully requesting an expedited review of this application and consideration at the City Council's next available meeting.

City Council
February 1, 2017
Page 3

NIXON PEABODY LLP
ATTORNEYS AT LAW

NIXONPEABODY.COM
@NIXONPEABODYLLP

Pursuant to City Code § 190-51, this application shall be referred to the City of Batavia Planning and Development Committee and to Genesee County Planning pursuant to Gen. Mun. Law 239-m, upon receipt of this letter. We also respectfully request that at its next available meeting, the Planning and Development Committee declare its intent to act as lead agency for SEQRA review, hold a public hearing, and make a recommendation to the City Council.

In the meantime, if you have any questions, please do not hesitate to contact me.

Thank you.

Sincerely,



Jonathan Penna

JP/dfb

Enclosures

Exhibit

A

PETITION TO RE-ZONE
661 and 665 East Main Street, SBL Nos. 85.013-1-22 and 85.013-1-23
Batavia, New York

DePaul Properties, Inc. ("Petitioner") as real estate contract vendee, hereby submits the within Petition to Re-zone the above-referenced parcels from Industrial District ("I-1") to R-3 Residential District ("R-3").

Background

Petitioner is seeking to have the City of Batavia re-zone two parcels located at 661 and 665 East Main Street, Batavia, NY 14020. Upon information and belief, the 661 East Main Street parcel is currently owned by William J. Moore, Stephen J. Moore, and Robert G. Moore, and the 665 East Main Street parcel is currently owned by 665 East Main Street, LLC. Petitioner has entered into purchase agreements with the current property owners with the contingency that the proposed redevelopment of the project obtain all necessary permits and approvals. Upon information and belief, the property at 661 East Main Street was most recently used as a residence, and the property at 665 East Main Street was most recently used as a glass facility. Upon information and belief, each parcel contains one primary building.

Adjoining Uses

The parcels are entirely within the I-1 district and are bordered to the north by a R-1A use district. Upon information and belief, the adjacent property to the west is a residence in the I-1 use district, and the adjacent property to the east is a multi-family housing development in the R-2 use district. The proposed rezoning is consistent with the adjacent land uses.

Proposed Future Use

Petitioner intends to purchase the property to build multi-family housing.

Petitioner intends to demolish the existing buildings on the properties in compliance with all applicable municipal and state codes and regulations.

WHEREFORE, Petitioner respectfully request that the City Council of the City of Batavia amend the zoning for 661 and 665 East Main Street, SBL Nos. 85.013-1-22 and 85.013-1-23, Batavia, New York to R-3 use district.

DATED: January 31, 2017

Nixon Peabody LLP as attorneys and agents for Petitioner DePaul Properties, Inc.


By: Jonathan Penna, Esq.

STATE OF NEW YORK)

COUNTY OF MONROE) SS.:

On the 1 day of ~~January~~ ^{February}, 2017, before me, personally appeared Jonathan Penna, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

DANIEL F. BRENNAN
Notary Public, State of New York
Qualified in Monroe County
No. 02BR6311509
Commission Expires May 19, 2018


Notary Public

Exhibit

B

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

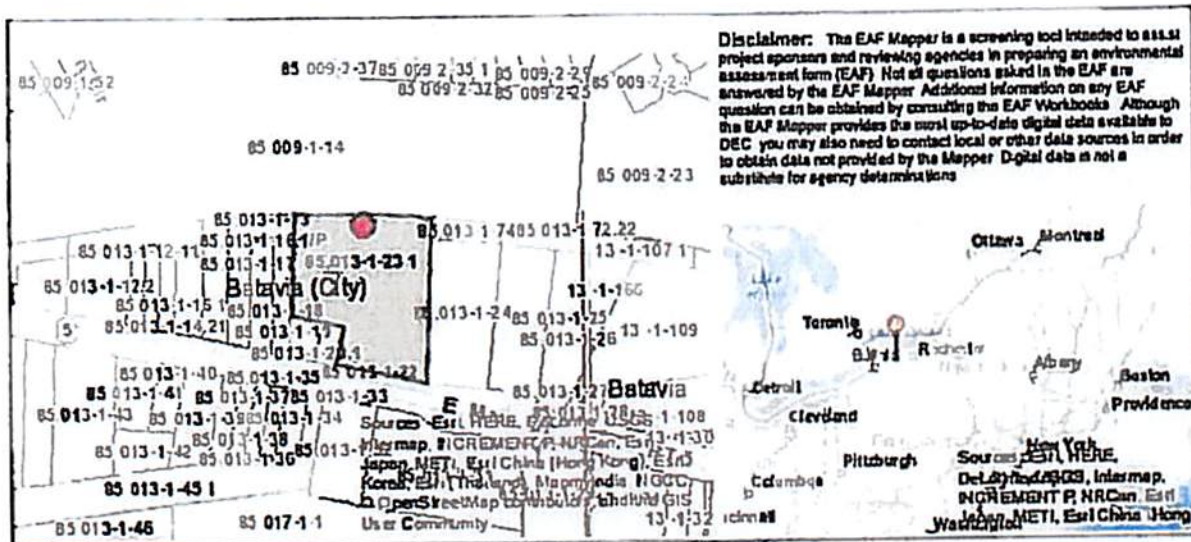
Part 1 - Project and Sponsor Information							
Name of Action or Project: Rezoning of 661 & 665 East Main Street Batavia							
Project Location (describe, and attach a location map): 661 & 665 East Main St., Batavia, NY							
Brief Description of Proposed Action: Rezoning of 661 & 665 East Main Street from I-1 to R-3.							
Name of Applicant or Sponsor: DePaul Properties Inc.		Telephone: 585-426-8000					
		E-Mail:					
Address: 1931 Buffalo Road							
City/PO: Rochester		State: NY	Zip Code: 14624				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: City of Batavia Planning Board, Genesee County Planning Board			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3.a. Total acreage of the site of the proposed action?		4.62 acres					
b. Total acreage to be physically disturbed?		0 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		4.62 acres					
4. Check all land uses that occur on, adjoining and near the proposed action.							
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland							

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	N/A <input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ <small>Adjoining property - 34 Clinton St./Ex-Eaton, code V00677 Remedial investigation began in 2004, Initiatives began in 2008, and floor drains and storm sewers were cleaned in 2010. Quantity and type of remediated materials is not disclosed</small>	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Mark H. Fuller, President</u> Date: <u>01/25/17</u>		
Signature: <u>Mark H. Fuller</u>		

EAF Mapper Summary Report

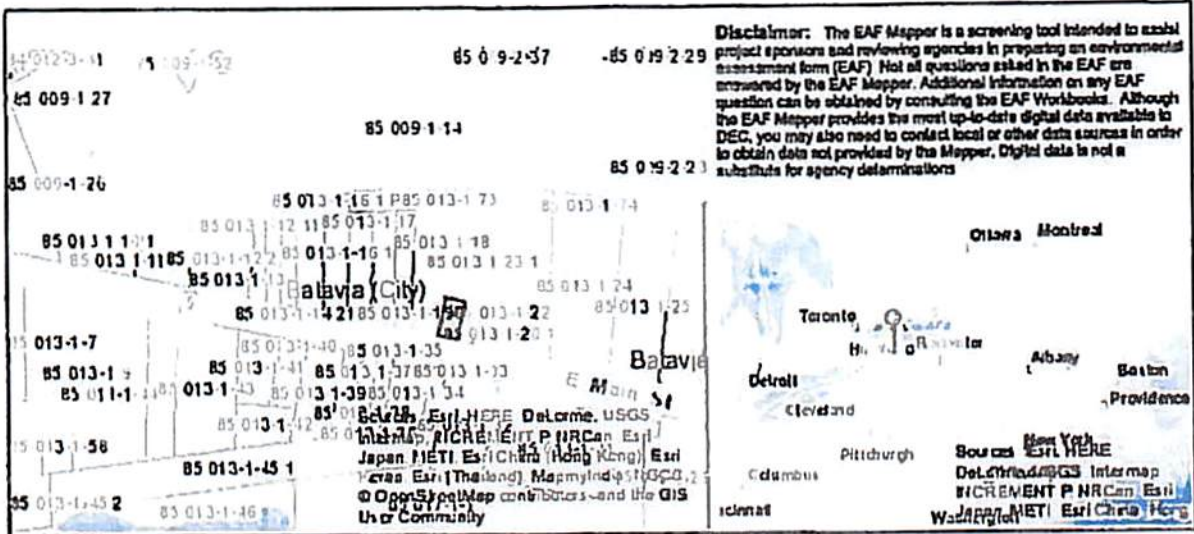
Monday, January 23, 2017 11:28 AM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
Part 1 / Question 20 [Remediation Site]	Yes

EAF Mapper Summary Report

Wednesday, January 25, 2017 9:04 AM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
Part 1 / Question 20 [Remediation Site]	Yes

Exhibit

C

January 31, 2017

DESCRIPTION OF A PARCEL OF LAND
DESIGNATED AS #661 EAST MAIN STREET & #665 EAST MAIN STREET
DEPAUL – ELLICOTT TRAIL APARTMENTS
CITY OF BATAVIA

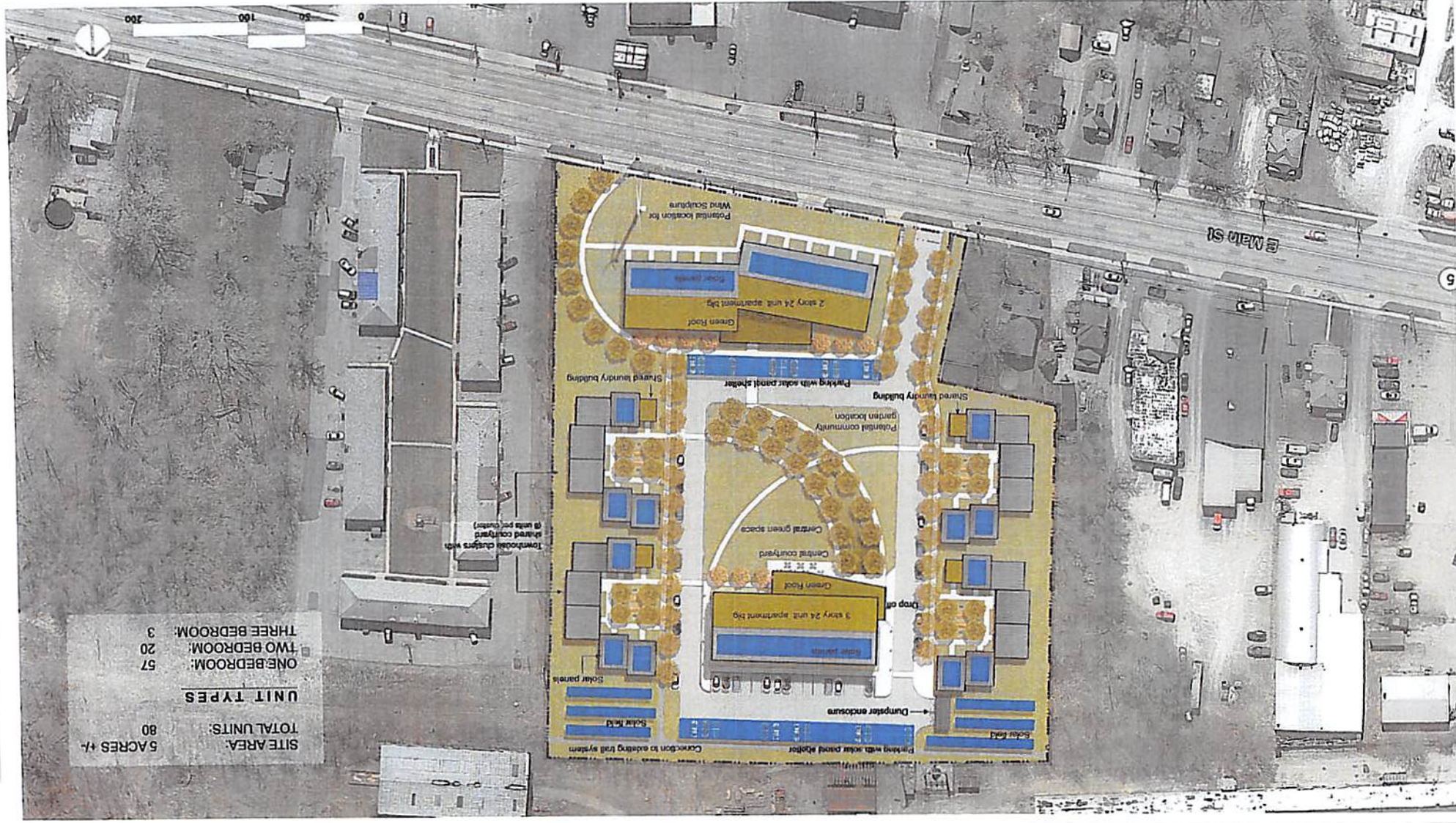
All that tract or parcel of land situate in the City of Batavia, County of Genesee, and State of New York and is more particularly described as follows,

Beginning at a point in the north right-of-way line of East Main Street (NYS Rte #5) said point being the southeast corner of lands conveyed to P r & D Automotive Wholesalers of Genesee County, by Deed recorded in the G.C.C.O. Liber 498 of Deeds, Page 277, Said point also being the intersection formed by the aforesaid north right-of-way of E. Main Street and the westerly line of lands conveyed to Batavia Gardens Association,

- Thence, 1 - Westerly, along the north line of East Main Street a distance of 366.30 feet to a point in the southwest corner of lands conveyed to William Moore by deed recorded in the G.C.C.O., Liber 901 of Deeds, Page 420,
- Thence, 2 - Northerly at right angles to the north line of East Main Street, a distance of 121.77 feet to a point,
- Thence, 3 - Westerly at right angle to the previous course and parallel to East Main Street, a distance of 104.98 feet to a point in the east line of lands conveyed to Michael Boorum by deed recorded in the G.C.C.O., Liber 602 of Deeds, Page 307,
- Thence, 4 - Northerly along the aforesaid east line of Broomon, a distance of 246.60 to a point in the south line of the Consolidated Rail Corporation - Attica Branch, and continuing north an additional 66± feet to a point in the north line of said Rail Corporation lands, which forms a combined distance of 312.6± feet,
- Thence, 5 - Easterly along the north line of lands of belong to the Consolidated Rail, a distance of 450± feet to a point,
- Thence, 6 - Southerly through lands of the Consolidated Rail and continuing southerly and along the west line of lands of the Batavia Gardens Association, a distance of 518.73 feet to the point and place of beginning.

Intending to describe parcels of land designated as #661 East Main Street and #665 East Main Street, City of Batavia, being further identified as SBL# 085.130-01-23.1 & SBL# 085.130-01-22

Exhibit D




SITE AREA:	
TOTAL UNITS:	
ONE BEDROOM:	57
TWO BEDROOM:	20
THREE BEDROOM:	3
UNIT TYPES	
TOTAL UNITS:	
80	
5 ACRES +/-	



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: February 9, 2017

Subject: Resolutions of Support

Attached are three resolutions of support for additional funding from the State of New York. Each resolution addresses a specific area of State aid the City receives. Despite increased costs, in particular unfunded State mandates, such as retirement costs, the State aid has not increased on parallel tracks. Also, the City's Video Lottery Terminal aid has been proposed to be reduced in the 2017/18 Executive Budget.

These resolutions were put together in cooperation with the New York Conference of Mayors (NYCOM) in support of increasing aid to Cities, as well as encourage mandate relief with the upcoming State budget deliberations.

It is recommended that these resolutions of support be considered at the February 13th meeting so that they can be sent to our local State representatives prior to State budget discussions.

If you have any questions please feel free to contact me.

This institution is an equal opportunity provider and employer. If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov

**Office of the City Manager
One Batavia City Centre
Batavia, New York 14020**

**TDD 800-662-1220
Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com**

#19-2017

A RESOLUTION IN SUPPORT OF INCREASING AID AND INCENTIVES TO MUNICIPALITIES FOR CITIES, VILLAGES AND TOWNS AND PROVIDE MANDATE RELIEF FOR LOCAL GOVERNMENTS

Motion of Councilperson

WHEREAS, the 2017-18 Executive Budget proposes no increase in funding in Aid and Incentives to Municipalities providing \$715 million for cities, villages and towns, and continues to exclude New York City; and

WHEREAS, Cities wrestle with aging infrastructure, blighted housing, abandoned commercial sites, brownfields and increased crime rates; and

WHEREAS, Cities have high concentration of senior citizens and low-income families and have many important community structures – churches, courthouses, schools and other public buildings – that do not pay taxes, shifting the tax burden for those sites to other residents in the City; and

WHEREAS, the 2017-18 Executive Budget proposes an increase in school aid by nearly \$1 billion; and

WHEREAS, the total AIM appropriation is contingent upon the Legislature passing the Governor's proposed Countywide Shared Services Property Tax Savings Plan that would require each county outside of New York City to prepare a plan for shared, coordinated and efficient services among the units of local governments contained within the county, excluding school districts; and

WHEREAS, AIM appropriation has not increased since 2008, while unfunded State mandates, such as retirement expenditures have increase exponentially over the same period of time; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Batavia call on Governor Andrew Cuomo and the State Legislature to adopt a fair formula for AIM funding, recognizing increases in State mandated costs and provide much needed mandate relief for all local governments, allowing for real tax relief for residents; and

BE IT FURTHER RESOLVED, that the City Clerk shall forward copies of this resolution to Governor Andrew M. Cuomo, Senator Michael Ranzenhofer, Assemblyman Steve Hawley and all others deemed necessary and proper.

**Seconded by Councilperson
and on roll call**

#20-2017

A RESOLUTION TO RESTORE VIDEO LOTTERY TERMINAL (VLT) AID

Motion of Councilperson

WHEREAS, under current law, 17 municipalities – including the City of Batavia receive State aid to help offset a portion of the costs associated with being a “host community” for video lottery gaming operations; and

WHEREAS, the proposed 2017-18 Executive Budget would eliminate this funding for a town and county that are no longer eligible, and reduce the funding for everyone else, with the exception of the City of Yonkers, by a total of \$250,000, which would be allocated proportionately among all recipients; and

WHEREAS, this funding would be is reduced again in the State’s 2018-19 fiscal year, but the decrease would be \$200,000 in total as opposed to \$250,000; and

WHEREAS, if the proposed 2017-18 Executive Budget were approved it would result in the City of Batavia receiving \$11,868 less aid in 2017-2018 fiscal year and \$9,494 less aid in 2018-2019 fiscal year, despite increases in unfunded mandates such retirement expenditures; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Batavia call on Governor Andrew Cuomo and the State Legislature to not decrease existing VLT aid negatively impact existing host communities and provide additional funding for new host communities from existing State shares of VLT revenues; and

BE IT FURTHER RESOLVED, that the City Clerk shall forward copies of this resolution to Governor Andrew M. Cuomo, Senator Michael Ranzenhofer, Assemblyman Steve Hawley and all others deemed necessary and proper.

**Seconded by Councilperson
and on roll call**

#21-2017

**A RESOLUTION SUPPORTING THAT THE STATE BUDGET RAISE THE
ARTERIAL REIMBURSEMENT FORMULA TO \$1.77 PER SQUARE YARD AND
INDEX IT ANNUALLY TO CPI**

Motion of Councilperson

WHEREAS, 38 cities, include the City of Batavia, have arterial maintenance agreements with the State of New York in which the Cities maintain certain designated State-owned arterial highways and the State compensates those Cities for this service; and

WHEREAS, the City of Batavia maintains 204,588 square yards, or approximately 7 miles of State highway throughout the City and those services include, but are not limited to, street cleaning, snow and ice control, pothole patching, traffic signal maintenance and signage and pavement marking; and

WHEREAS, since its inception in 1951, the arterial reimbursement agreement has been a very effective and efficient shared service model for maintenance of State highways, as it has relieved the State of maintenance responsibilities and provided municipalities a certain amount of autonomy of how roads are maintained; and

WHEREAS, the reimbursement rate of \$.85 per square yard paid to Cities has not increased since 1987, however the Cities have continued our shared service responsibility in a prompt and efficient manner and the updating of the share service agreement with the State of New York has not been parallel with local government efforts; and

WHEREAS, material costs alone, excluding labor, healthcare and retirement costs, such as salt for roadways has increased 167% from \$29.90/ton in 2006 to \$49.97/ton in 2016, asphalt has increase 213% from \$32.20/ton in 2005 to \$68.60/ton in 2016 and the cost of concrete has increased 142% from \$87.50/cubic yard to \$125/per cubic yard in 2016; and

WHEREAS, given the fact that these maintenance costs, like almost every other municipal expense, are on the rise, and clearly have experienced substantial increases during the last 28 years, the amount of money that Cities are currently receiving for this service is well below what we expend; and

WHEREAS, the City of Batavia, like most Cities in the State, have made a vigilant effort to maximize municipal resources and lessen the tax burden on tax payer by actively engaging in, and seeking shared service models when practically possible, shared service agreements can only be successful when all parties involved receive meaningful benefits in return; and

NOW, THEREFORE BE IT RESOLVED, the City of Batavia supports the New York Conference of Mayors request that the State Budget raise the reimbursement formula to \$1.77 per square yard, a rate which reflects the Consumer Price Index (CPI) increase since 1987, and index it annually to CPI; and

BE IT FURTHER RESOLVED, that the City Clerk shall forward copies of this resolution to Governor Andrew M. Cuomo, Senator Michael Ranzenhofer, Assemblyman Steve Hawley and all others deemed necessary and proper.

**Seconded by Councilperson
and on roll call**