

BATAVIA CITY COUNCIL CONFERENCE MEETING

**City Hall - Council Board Room
One Batavia City Centre
Monday, October 22, 2018 at 7:00 PM**

AGENDA

- I. Call to Order
- II. Invocation – Councilperson Briggs
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communications
 - a. Batavia Originals Halloween Parade – Sunday, October 28th
- VII. Council President Report
 - a. Announcement of the next regular City Council Business meeting to be held on Tuesday, November 13, 2018 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
- VIII. Presentation - Audit Report 2017/2018 by Laura Landers, Freed Maxick
- IX. Appoint Members to Various City Committees/Boards
- X. Sign Code Changes
- XI. Liberty Street Rezoning SEQR Lead Agency Designation
- XII. Liberty Street Rezoning Public Hearing
- XIII. Lead Agency to Conduct SEQR for Brooklyn Avenue
- XIV. Senator Ranzenhofer Funding Award
- XV. Police Traffic Services Grant 2019
- XVI. Watson Street/Thorpe Street Intersection Review
- XVII. City Centre Roof Replacement

- XVIII. Sexual Harassment Changes to Policy
- XIX. Approve the Sales Tax Allocation Second Amended Agreement
- XX. Executive Session...Real Property and Attorney-Client Communication
- XXI. Adjournment

Batavia's Original Halloween Parade
There are no costs from the departments.



City of Batavia
Batavia, New York 14020
(585) 345-6300

Official Use Only:

2018-33

Event Application #:

Event Application Fee - \$25.00 (non-refundable)
(A separate permit must be issued for each item requested)

Event Sponsor Batavia's Original - Kawanis

Type of Event Halloween Parade

Date of Event 10/28/18 (Sunday)

Time of Event (don't include set up time here -- just actual event time) 1:00 pm

Location of Event Start @ Dan's Tire Parking lot / end @ 500 East main

Details of Event (be as specific as possible!) parade starting @ dan's tire Batavia's take right onto Washington, left onto Ross, right onto Original east ave, Rt onto Vine, left onto Fisher, Rt onto Elm

Contact Information: cross main, enter Harvester Ave entrance to pizzeria

Name Kathy Ferrara

Phone # 585 747-5886

E-mail address bataviaoriginal@yaho.com

* Events will be posted on the City's website calendar. If there is a website you would like to include that people can visit for more information or registration, if applicable, note website here: ~~www~~ Facebook / Batavia's Original

Will there be alcohol at your event? Yes No If yes, complete the following:

Type of alcoholic beverage to be served: Liquor Wine Beer

Will you be providing alcohol to your group? Yes No

Will you be selling alcohol to your group? Yes No Insurance certificate **WILL BE** required with Liquor Legal.

Will people be allowed to bring alcohol to the event? Yes No

Who will be applying to the NYS Liquor Authority for the permit to sell? _____

It is the Applicant's responsibility to police the area during the gathering to make sure all Alcohol Beverage Control rules are followed. Also, after the event Applicant is responsible to dispose of all empty bottles and debris.

** If you are contracting with a group to sell alcohol during your event on city property, separate insurance is required from them with Liquor Legal in addition to your insurance. **

EVENT INFORMATION (required):

Set up date: 10/28/18

Set up time: 1:00 pm

Tear down date: 10/28/18

Tear down time: 3:00 pm

PLEASE LIST ALL DATES / TIMES AND CROWD INFORMATION BELOW:

Date: 10/28/18 Start time: 1:00 pm

End time: 3:00 pm

Estimated crowd size: 150

of Vendors/Displays None

WILL THE EVENT INCLUDE:

- Parade: Yes No (MAP OF DESIRED ROUTE MUST BE ATTACHED)
- Run or Walk: Yes No (MAP OF DESIRED ROUTE MUST BE ATTACHED)
- Music: Yes No (SITE DRAWING OF STAGE OR DJ LOCATION ATTACHED)
- Street Closure(s): Yes No (MAP OF CLOSED STREETS AND DROP LOCATION OF BARRICADES)
- Other: Yes No (MAP OF DESIRED ROUTE MUST BE ATTACHED)

Fireworks or Hazardous Materials? Yes No Carnival or Amusement Rides? Yes No

Name of Company Providing Above: _____ Company Contact/Representative: _____ Phone #: _____

Address, Street _____ City _____ Zip Code _____

Music: Live Group Recorded/DJ

Tom Mazerbo Tom Mazerbo 585 315-7442

Name of Company Providing Above: _____ Company Contact/Representative: _____ Phone #: _____

Address, Street _____ City _____ Zip Code _____

CITY SERVICES SUPPORT:

City Code 66-15, D-2 The City reserves the right, as part of the permitting process, to require the applicant to pay for additional operational costs of the City associated with the event.

FOR EVENTS IN CITY PARKS, GARBAGE PICK-UP WILL BE MADE ONLY TO GARBAGE CANS ON SITE. ADDITIONAL GARBAGE MUST BE BAGGED AND REMOVED FROM PREMISES BY EVENT SPONSOR.

ELECTRIC:

Will electric be needed for the event? Yes No

What will you be providing electric to? _____

Will generators be used? Yes No

If yes, INCLUDE SITE DRAWING INDICATING PLACEMENT/LOCATION OF GENERATOR

SIZE OF GENERATOR(S) _____ FUEL SOURCE - GAS - - DIESEL - - PROPANE -

TENTS/CANOPIES:

Will Tents/Canopies or other membrane structures be erected at event?
Will a bounce house or other air supported structures be erected at event?

Yes No
Yes No

Please list size(s) of Tents/Canopies or other temporary structures erected. _____

ANCHORING INTO PAVEMENT IS PROHIBITED!

If anchoring in grass, soil areas please contact the NYS Dig Safe # at: 1-800-962-7962 or 811

STREET CLOSURE(S):

ANY EVENT REQUIRING A STREET CLOSURE REQUIRES 90 DAY ADVANCE NOTICE

Will street(s) need to be closed for the event? Yes No Reason: Just police escort.

List Street(s) and Cross Street(s) that will be affected:

_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	
_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	
_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	
_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	

Will street barricades be requested from the City? Yes No How Many? _____

Will traffic cones be requested from the City? Yes No How Many? _____
(Drop off locations of requested items must be identified on the site drawing)

BANNERS / SIGNS OR OTHER DECORATIONS ARE NOT TO BE ATTACHED TO STREET BARRICADES, TRAFFIC CONES, LIGHT POLES, OR ANY OTHER CITY PROPERTY

Are there any other city materials or personnel requested for the event? Identify below: *(there may be additional costs)*

POLICE

Will City Police Officers be requested for the event? Yes No

FINAL DETERMINATION FOR NUMBER OF POLICE OFFICERS and UTILIZATION WILL BE AT THE DISCRETION OF THE CITY.

PLEASE NOTE:

1. Be as specific as possible in the description so we have the best understanding of your event. Also, be clear as to what you would like provided by the City. **Applications should be submitted at least 30 days in advance.**
2. Fire hydrants, Cross Streets/Alleys and Store Fronts **Shall Not Be Blocked** by any Vehicle or Concession at any time.
3. An Emergency Vehicle Safety Lane Must be Maintained at All times at All Locations
4. Fuel Containers Must be of an Approved type and Must be Properly Secured
5. Deep Fryers Must Be Approved. Commercial Types Require a Type "K" Portable Fire Extinguisher
6. All Food Vendors Must Have a Type ABC Fire Extinguisher. All Fire Extinguishers Must Be Inspected Within The Last Year. **A Valid Health Department Permit Must Be Displayed.**
7. No grease or substance of any kind may be discharged upon the streets, sidewalks, or into the storm drains and/or sewers
8. City Sign Ordinances Shall Be Complied With At All Times And In All Regards
9. No paint or other markings may be placed on the street surface.
10. Any overtime and/or material costs in excess of \$500, as determined by City Departments, must be paid by the event sponsor or other party
11. The application fee is due at time of submission of the application and is non-refundable.
12. If approved, a Certificate of Liability Insurance of at least \$1,000,000 naming the City of Batavia as an additional insured for at least the day(s) of the event must be submitted to the City Clerk prior to the event date.

Hold Harmless Agreement

Batavia's Original, the organizer/sponsor, shall indemnify, hold harmless, assume liability for and defend the City of Batavia, its employees, officers and agents from any and all damages, costs and expenses including but not limited to, attorney's fees, court costs, and all other sums which the City of Batavia its employees, officers and agents may pay or become obligated to pay on account of any and every demand, claim or assertion of liability, or any claim founded thereon, arising or alleged to have arisen out of the activities described in this special event application and sanctioned by the permit issued by the City of Batavia or by any act or omission of the Batavia's Original (Organizer/Sponsor), its members, agents, employees, volunteers, officers, or directors in relation to activities described in this application and sanctioned by the issuance of a special event permit.

10/2/18
Date:

Batavia's Original - Kawinis
Name of Event Sponsor:

Kathy Ferrara, owner
Authorized Signature, Title

Kathy Ferrara
Name - Printed or Typed

The rules and information contained within this application have been read and will be adhered to.

10/2/18
Date:

Kathy Ferrara
Signature of Applicant:

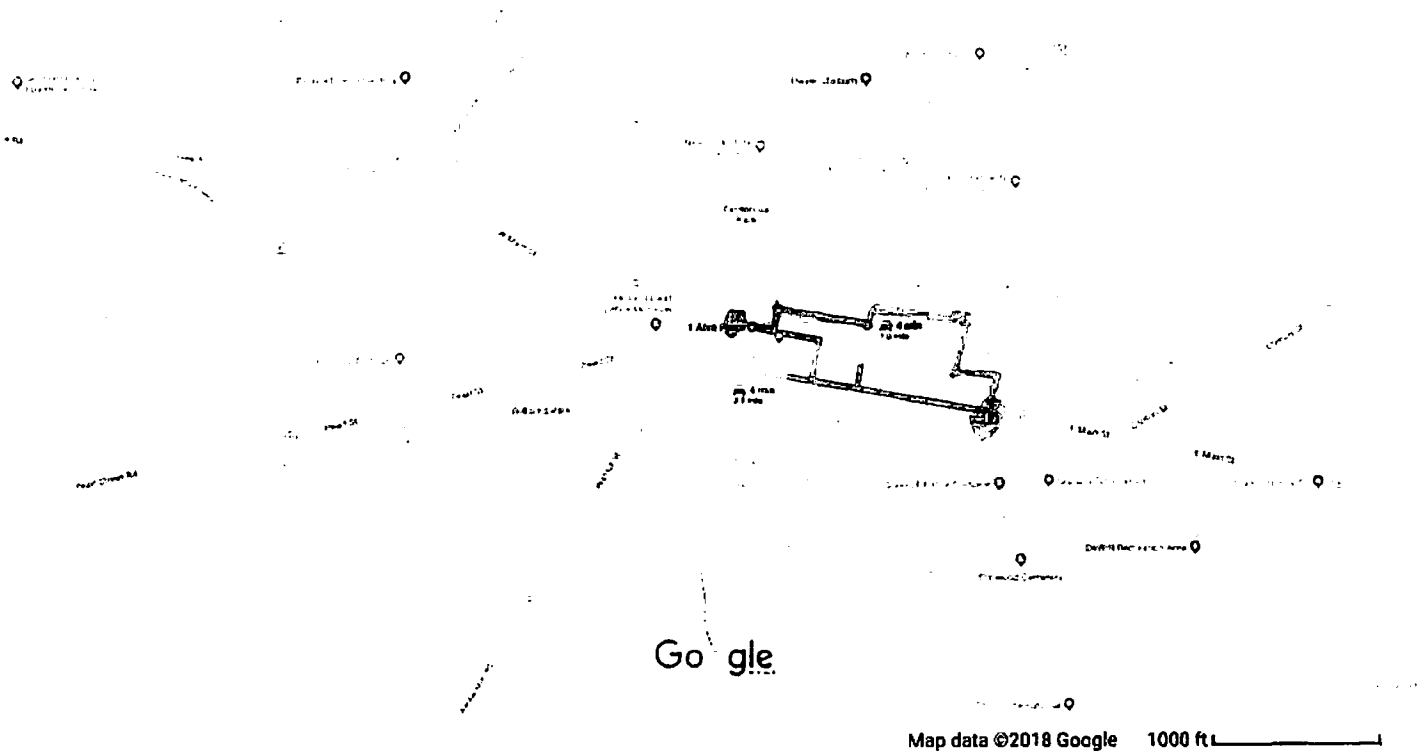
Please forward this application to:


**City Clerk's Office
Attention: Events Applications Department
One Batavia City Centre
Batavia, New York 14020**

Google Maps

1 Alva Pl, Batavia, NY 14020 to 500 E Main St #502, Batavia, NY 14020


Drive 0.9 mile, 4 min



- 


 via E Main St
 Fastest route

 4 min
 0.9 mile

- 

 via Main St

 4 min
 0.9 mile

- 

 via Washington Ave and E Main St

 4 min
 1.0 mile

#-2018

**A RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/
BOARDS**

Motion of Councilperson

WHEREAS, certain vacancies exist on various City Committees/Boards.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the following appointments be made:

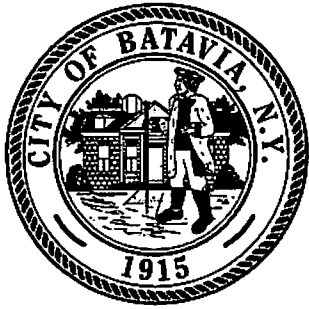
Youth Board

Kathryn Fitzpatrick

August 31, 2019

**Seconded by Councilperson
and on roll call**

DRAFT



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Matt Worth, Director of Public Works

Date: October 15, 2018

Subject: Sign Code Changes

City Council requested that the City Planning and Development Committee (PDC) review the sign code that was adopted in 2017. Upon completion of their review, the PDC has provided a report to City Council which was submitted at the October 9 council meeting.

In summary, the PDC has recommended the following:

- Expanded list of exempt signs, specifically allowing a greater use of directional signage
- Defined drive-thru menu board signs to better conform to typical uses
- Clarified some language that may have been subjective
- Expanded areas where electronic message boards may be used
- Expanded the types of appeals that may be considered by the Zoning Board of Appeals

The next steps for City Council would include: 1) Review of the recommended changes to the sign code and receive a consensus on changes 2) schedule a public hearing, and 3) adopt a local law making any changes into law.

Supporting Documentation

PDC Draft Minutes
Proposed Sign Code Changes

PLANNING & DEVELOPMENT COMMITTEE

DRAFT MINUTES

September 27, 2018

6:00 pm

Council Board Room
One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Tammy Hathaway, Robert Knipe, Duane Preston*

Members absent: Matt Gray, Marc Staley

Others present: Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer

I. Roll Call

Roll call of the members was conducted. Four members were present and Chairman Duane Preston declared a quorum.

II. Call to order

Mr. Preston called the meeting to order at 6:02 pm.

III. Previous Meeting Minutes

There were no corrections to the minutes. Mr. Preston assumed the motion and the minutes were approved as written by unanimous consent.

RESULT: Approval of August 21, 2018 meeting minutes.

IV. Proposals

A. Recommendation to the ZBA for an Area Variance: widen an existing 20' wide asphalt driveway by placing 12.58' of asphalt to the east (right) side of the existing driveway

Address: *7 Burke Dr.*

Applicant: John Bryant DeGolia (owner)

Actions: 1. Review application
2. Discussion and recommendation to the ZBA

1. Review Application

Mr. Preston read the summary of the proposal.

2. Discussion and Recommendation by the Board

Mr. DeGolia explained that in the neighborhood where he lives, no one parks on the street. Since the lower part of the driveway needs repair, he would like to widen it at the same time. Also, the fire hydrant in the middle of his front yard must be kept clear so there is no place for visitors to park. He noted that if he was able to get his truck into the driveway, it would make it easier for plows to remove snow from the street.

Mr. Flynn asked if Mr. DeGolia puts his vehicles in the garage and Mr. DeGolia said that he does.

Mr. Flynn pointed out that the space in the driveway along with the space in the garage allows for four parking places. Mr. DeGolia responded that he has three vehicles and the driveway does not allow enough space for him to park his truck in the driveway without tearing up his yard.

Mr. Flynn wanted to know why Mr. DeGolia would want to extend the driveway beyond the front of the garage. Mr. DeGolia said that he is anticipating the addition of a trailer of some sort and he would like to park it next to the garage.

The board members discussed the sharpness of the driveway and how it should be tapered instead. Mr. Flynn asked if the width could be reduced by 2' to make the total width 30'. Mr. DeGolia said that would be fine.

Mr. Knipe asked if Mr. DeGolia's intention is to make the driveway look like the driveway of the neighbor to the east, and Mr. DeGolia said yes.

MOTION: Mr. Flynn moved to recommend approval of Area Variance with the following modifications: the amount of the addition to the driveway is reduced to 10'; and, the driveway will be tapered toward the rear. The motion was seconded by Mr. Knipe, and on roll call, was approved 4-0.

RESULT: Recommendation to the ZBA for approval of the Area Variance with modifications.

B. Recommendation to City Council for a proposed zoning change for these seven parcels from R-3 (Residential) to C-3 (Commercial)

Address: *110-116 Liberty St.; 42 Central Ave.; 112-116 Liberty St.; 118-120 Liberty St.; 122 Liberty St.; 122-124 Liberty St. Rear; 124-126 Liberty St.*

Applicant: Martin Macdonald (agent for City Church)

Actions:

1. Review application
2. Public hearing and discussion
3. Recommendation to City Council

1. Review Application

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval of the proposal with modifications, which is that 124-126 Liberty St. remain in the residential district. The Comprehensive Plan update recommended that this area should be zoned as Restoration/Residential, and keeping 124-126 Liberty St. in the residential district would provide a buffer between the commercial district and the residential district.

2. Public Hearing and Discussion

MOTION: Mr. Knipe moved to open the public hearing; the motion was seconded by Mr. Flynn, and on roll call, was approved 4-0.

RESULT: Public hearing opened at 6:14 pm.

Pastor Macdonald said that the parcels are being used to provide a place for young people to gather for art, dance, music, and other activities. The current zoning does not allow for the buildings to be used for these purposes.

Mr. Flynn asked if the property will include businesses that are for profit. Mr. Randall answered that City Church intends to lease the space, so there will be some business occupancy and some assembly occupancy, which are not permitted in a residential district.

Mr. Flynn asked why the proposed change is to C-3 rather than C-1. Mr. Randall pointed out that the parcels would adjoin an area that is already zoned C-3. Mr. Flynn said that he thinks making the parcels part of a C-1 district creates a better transition between the C-3 and R-3 zones. However, Mr. Randall explained that creating a zone different from any of the surrounding zones could be considered spot zoning.

Mr. Flynn asked if a Planned Development zone had been considered. Mr. Randall responded that the C-3 district was proposed because the parcels are adjacent to the C-3 zone, which allows the uses City Church has planned for the property. This solution would be the most direct and least complicated. Mr. Flynn expressed concern over what uses the property could be put to by future owners if City Church sold it.

Ms. Hathaway suggested restricting the title. Pastor Macdonald said restrictions have already been established. Mr. Flynn asked how long the restrictions last, but Pastor Macdonald did not know.

Mr. Flynn believes that a separate zone should be created to acknowledge the transitional nature of the property and the uses to which it could be put.

There was no one present who wished to speak, and no calls, letters, or email concerning the proposal.

MOTION: Mr. Flynn moved to close the public hearing; the motion was seconded by Ms. Hathaway, and on roll call, was approved 4-0.

RESULT: Public hearing closed at 6:32 pm.

Discussion on uses within particular zones continued. Mr. Randall showed the board the section of the Batavia Municipal Code regarding zoning uses, which indicated that City Church's plans could not be realized within a C-1 district.

3. Recommendation to City Council

MOTION: Mr. Knipe moved to recommend approval of the proposed zoning change of site plan from R-3 to C-3, with the exception of 124-126 Liberty St., which should remain the same; the motion was seconded by Mr. Preston, and on roll call, the vote was 2-1-1.

Votes in favor: 2 (Robert Knipe, Duane Preston)

Votes opposed: 1 (Edward Flynn)

Votes abstained: 1 (Tammy Hathaway)

RESULT: Report results to City attorney to determine if vote is sufficient for recommendation to City Council.

- C. Sign Code Review: City Council has requested that the PDC review the recently adopted sign code to determine if the application and implementation of the new code has been satisfactorily achieved and whether the desired results have been realized. Council wishes for the PDC to make recommendations regarding potential revisions to section 190-43 of the Batavia Municipal Code

Applicant: City Council

- Actions: 1. Review application
2. Discussion and recommendation to City Council

1. Review Application

Mr. Preston asked if everyone had read the summary of the proposed changes and had comments or questions.

2. Discussion and Recommendation to City Council

Mr. Flynn observed that the wording regarding menu signs is vague and could allow for the possibility for as many as eight drive-through signs. Mr. Randall suggested to change the wording to allow for a maximum of two drive-through menu signs.

Mr. Knipe noted that the code says menu signs must be 5' from property lines. He referred to the past situation with the Dunkin Donuts on West Main St. where the drive-through runs along the property line, and asked if that meant that the menu board would not be allowed on the side of the property line where it would be most easily seen. Mr. Randall verified that a menu sign would now not be allowed in such a location.

Mr. Flynn said he thought that 42 sq.' for a menu board was too large. Ms. Hathaway pointed out that if a patron driving a truck, a large menu board is necessary. Mr. Preston and Mr. Knipe agreed that 42 sq.' seemed an appropriate size.

Mr. Flynn reported that he had checked on the codes regarding electronic message boards in residential areas for Geneva, Clarence, Lockport, and Corning. Mr. Randall said that the change is in acknowledgement of technological advances. According to Mr. Randall, the change in this section is in response to problems encountered in the past year.

MOTION: Mr. Knipe moved to recommend approval of the changes to the Sign Code to City Council; the motion was seconded by Ms. Hathaway, and on roll call, was approved 3-1-0.

Votes in favor: 3 (Tammy Hathaway, Robert Knipe, Duane Preston)

Votes opposed: 1 (Edward Flynn)

Votes abstained: 0

RESULT: Recommendation to City Council for approval of the proposed changes to the Sign Code.

V. Other/New Business/Updates: none

VI. Setting of Next Meeting: October 16, 2018

VII. Adjournment

Mr. Knipe moved to adjourn the meeting at 7:05 p.m.; the motion was seconded by Mr. Preston. All voted in favor.

Meg Chilano
Bureau of Inspection Secretary

§ 190-43 Signs.

A. **Statement of Purpose.** The purpose of this section is to promote the public health, safety and welfare of the community by regulating the placement and size of outdoor signs and advertising displays. It is intended to protect all property values by ensuring that individual signs do not detract from the overall appearance and safety of the community.

B. **Applicability.**

- (1) Permit required. It is unlawful for any person to erect, enlarge, relocate or change the copy of any sign other than those identified as exempt in this section, without first obtaining a sign permit and paying the fee therefor as provided in this section. Routine maintenance of existing signs, not involving erection, enlargement, relocation or change of copy, shall not require a permit.
- (2) All signs must be located on the same lot as the permitted use.

C. **Application for Permit.** Application shall be made in writing to the Department of Public Works on forms prescribed and provided by the City of Batavia and shall contain the following information:

- (1) Name address and telephone number of applicant and property owner.
- (2) Location of building, structure or land upon which the sign now exists or is to be erected.

(a) If a new sign is to be erected, elevation and plan drawings should be included. A clear description of the placement and appearance of the proposed sign should include the following:

- [1] Location on the premises, specifically, its position in relation to adjacent buildings, structures and property lines.
- [2] The method of illumination, and position of lighting.
- [3] Graphic design, including symbols, letters, materials, and possible color combinations.



(b) If the sign is in compliance, the Department of Public Works shall issue a permit for the proposed or existing sign. The Department of Public Works shall give written notice to the applicant if the sign application has been denied.

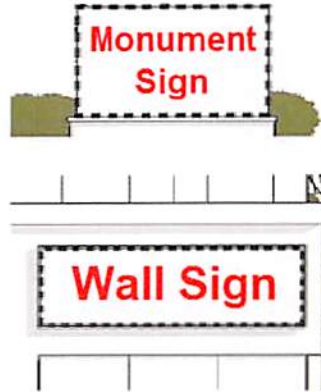
D. **Common Sign Plan.** A common sign plan must be filed with the Department of Public Works for all sites occupied by more than one tenant. After the filing of a common sign plan, all tenant signs must meet the requirements of the common sign plan.

E. **Computation of Sign Type Area.** The area of a sign type is determined as follows:

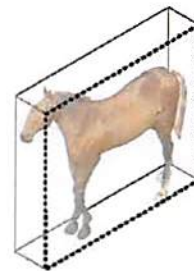
(1) For signs consisting of freestanding letters or logos, sign area is calculated as the total area of the rectangle, circle or square that fully encloses each word or logo.



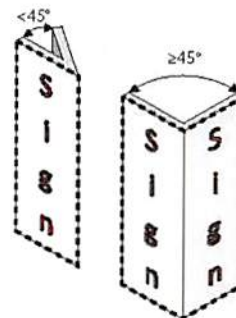
(2) For wall signs and signs on a background, the entire area of the background is calculated as sign area, including any material or color forming the sign face and the background used to differentiate the sign from the structure against which it is mounted. Sign area does not include any supports or bracing.



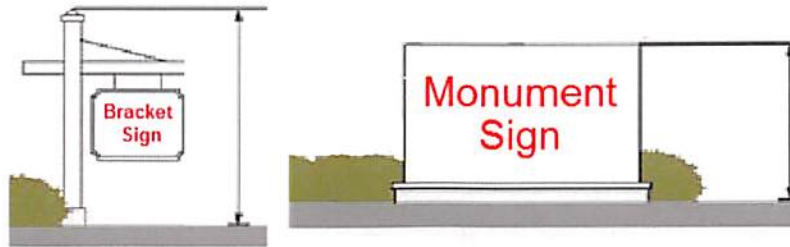
(3) The sign area of a three-dimensional sign is calculated as total area of the smallest rectangle, circle or square that fully encloses the largest profile of the three-dimensional sign.



(4) The area for a sign with more than one face is computed by adding together the area of all sign faces, except where the angle at which the two sign faces are placed does not exceed 45 degrees.



- F. **Measurement of Sign Height.** The total height of a freestanding sign is measured from the highest point of the sign or supporting structure to the adjacent grade.



- G. **Fees.** Fees for sign permits shall be as set by resolution of the City Council.
- H. **Permitted Signs.** All signs which comply with the provisions and conditions set forth in this Section and obtain a permit shall be allowed, and all signs not so compliant are specifically prohibited.
- I. **Exempt Signs.** The following signs are considered to be exempt from obtaining a permit, but not exempt from the provisions of this section. Exempt signs of a temporary nature shall not be attached to fences, utility poles or the like and shall not impair traffic visibility. **Exempt signs, not in compliance with the provisions of Subsections (1) through (5) below may not continue after the effective date of any amendment of this section.**
- (1) Historical markers, tablets and statues, memorial signs or plaques; when cut into masonry surface or when constructed of bronze, stainless steel or similar material and not exceeding six square feet.
 - (2) Flags
 - (3) Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two square feet per face.
 - (a) "Warning," "private drive," "posted" or "no trespassing" signs shall not be in excess of four feet in height and shall not be in excess of two square foot per face. A maximum of one posted, "warning" or "no trespassing" sign shall be permitted to be placed along the perimeter of property lines at intervals not less than 100 feet apart. This restriction will not apply to properties owned by public entities or utility companies.
 - (4) Three or fewer temporary signs (**banner**, window, posters, lawn, and directional) not exceeding 60 days, and per the overall area allocation in Sec. M below.
 - (5) **Open and closed signs, hours of operation, and** decorations, including lighting.
 - (6) **On-premises directional signs not exceeding four square feet in area and no more than four feet in height.**
- J. **Prohibited Signs.**
- (1) No off-premises signs shall be allowed other than those **allowed permitted by other subsections contained in this article.**
 - (2) No sign shall be illuminated by or contain flashing, rotating, scrolling, strobing, or moving lights.
 - (3) No sign shall impair or cause confusion of vehicular or pedestrian traffic, in its design color or placement.
 - (4) No sign shall be placed upon the roof of any building.
 - (5) No sign shall consist of or simulate moving, revolving or fluttering devices such as ribbons and streamers.
 - (6) No advertising message shall be extended over more than one sign placed along a street or highway.
 - (7) No signs shall be attached to utility poles in all zones of the City of Batavia. No permanent, temporary or exempt signs shall be attached, placed, painted or drawn upon fences, trees or man-made or natural features, including permanent, temporary or exempt signs.

- (8) No signs shall be placed anywhere within the City or state rights-of-way without the permission of the Department of Public Works, excepting awning signs, canopy signs, projecting signs, and shingle signs in commercial, industrial and planned development districts not exceeding six square feet and sidewalk signs not exceeding 20 square feet in commercial industrial and planned development districts. All signs must be a minimum of 18 inches inside the street line.

K. Portable Signs.

- (1) Portable signs, if powered by electric, must meet all the construction standards of the New York State Uniform Fire Prevention and Building Code.
- (2) Portable sign size shall not exceed 32 square feet and shall be limited to five feet above grade.
- (3) Portable signs must be removed after 60 days. Another portable sign permit can be applied for 30 days after removal of a portable sign.

- L. **Sign Types Allowed by District.** Signs are allowed by district as set forth below. Specific requirements for each sign are shown on the following pages.

Sign Types	Zoning Districts							
	R-1, R-1A, R-2	R-3	C-1	C-2	C-3, H-O	I-1	I-2, I-3, P-1, P-2, P-3	L
Wall Sign	●	●	●	●	●	●	●	
Awning Sign			●	●	●	●	●	
Canopy Sign			●	●	●	●	●	
Projecting Sign	●	●	●	●	●	●	●	
Shingle Sign	●	●	●	●	●	●		
Window Sign			●	●	●	●	●	
Pole Sign				●		●		
Monument Sign	●	●	●	●	●	●	●	●
Marquee Sign				□	●			
Iconic Sign			□	□	●			
Bracket Sign	●	●	●	●	●	●	●	●
Sidewalk Sign			●	●	●	●		
Drive-through Menu Board Sign (1)			●	●	●			

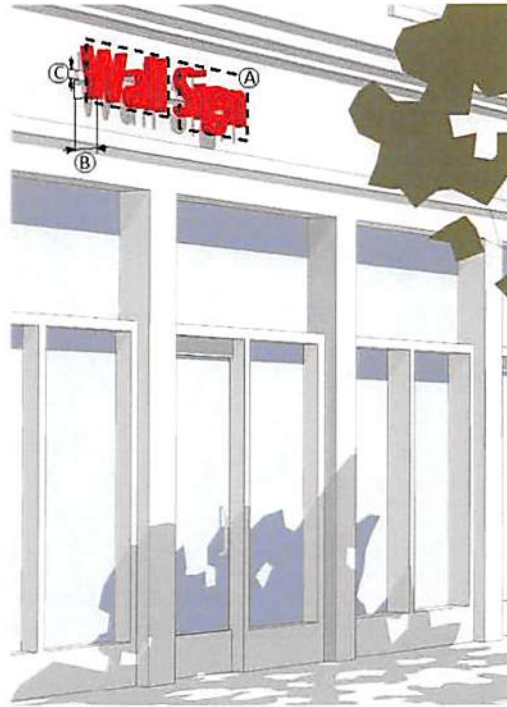
(1) No more than two drive-through menu board signs are permitted per establishment

KEY: ● = Sign type allowed □ = Sign type allowed on State highways Blank Cell = Sign type not allowed

M. **Allocation of Overall Sign Area** The maximum sign area allocation for each sign type is determined by the district and is established below. For each cell, there is a maximum sign area allocation that may be utilized with any combination and any number of signs associated with that cell, except for only one free standing sign per 200 feet of street frontage and one building mounted wall sign per establishment per building wall visible from a public right-of-way is allowed (awning and window signs excluded). The total area of wall or canopy signs shall not exceed what would be allowed on the largest wall visible from the public right-of-way. Sign area is measured in square feet or percentage of wall area and total window space for window signs.

Sign Types	Zoning Districts										
	R-1, R-1A, R-2	R-3	C-1	C-2	C-3, H-O	I-1	I-2, I-3	P-1	P-2	P-3	L
Wall Sign	2 sf	2 sf	10%	15%	15%	15%	15%	15%	15%	10%	
Awning Sign	2 sf	2 sf	15%	25%	20%	20%	20%	20%	20%	20%	
Canopy Sign			15%	25%	20%	20%	20%	20%	20%	20%	
Projecting Sign	2 sf	2 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	
Shingle Sign	2 sf	2 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	
Window Sign			25%	25%	25%	25%	25%	25%	25%	25%	
Pole Sign				40 sf		15 sf					
Monument Sign	15 sf	15 sf	15 sf	40 sf	15 sf	15 sf	15 sf	15 sf	15 sf	6 sf	6 sf
Marquee Sign				100 sf	175 sf						
Iconic Sign			15 sf	40 sf	15 sf						
Bracket Sign	2 sf	2 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	10 sf	
Sidewalk Sign			20 sf	20 sf	20 sf						
Temporary Sign	9 sf	9 sf	32 sf	32 sf	32 sf	32 sf	32 sf	32 sf	32 sf	32 sf	9 sf
Drive-through menu board sign			42 sf	42 sf	42 sf						

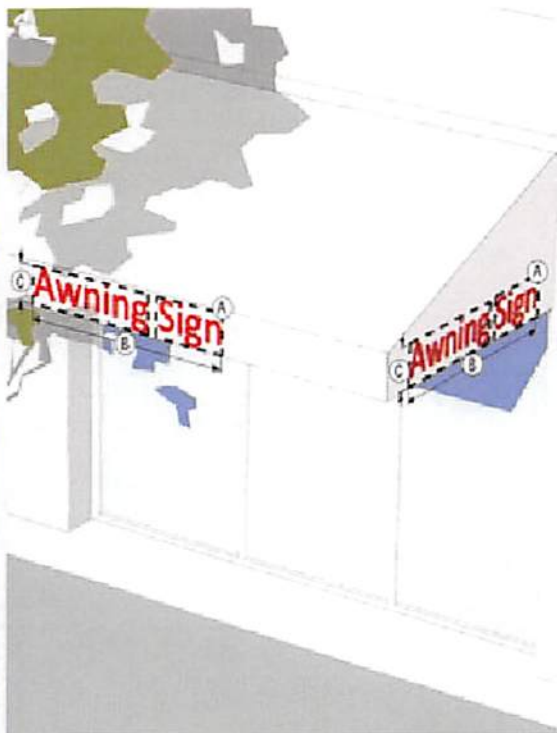
N. Wall Signs.



Description		
A sign placed or painted against a building and attached to the exterior front, rear or side so that the display surface is parallel to the plane of the wall.		
General Provisions		
<ol style="list-style-type: none"> 1. No portion of a wall sign may extend beyond the ends, above the roof line, above a parapet wall of a building with a flat roof, or above the second story in a building with more than two stories. 2. No portion of a wall sign may extend above the lower eave line of a building with a pitched roof. 3. A wall sign cannot cover windows or architectural details. 4. A wall sign may be illuminated in accordance with <u>Sec. Z</u> below. 5. As many as two drive-through menu board signs designed as wall signs shall be permitted, but in no case shall the total number of menu board signs exceed two. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above
B	Projection - measured from building facade (max)	15 in.

C	Electrical raceway (max % of letter height)	50%
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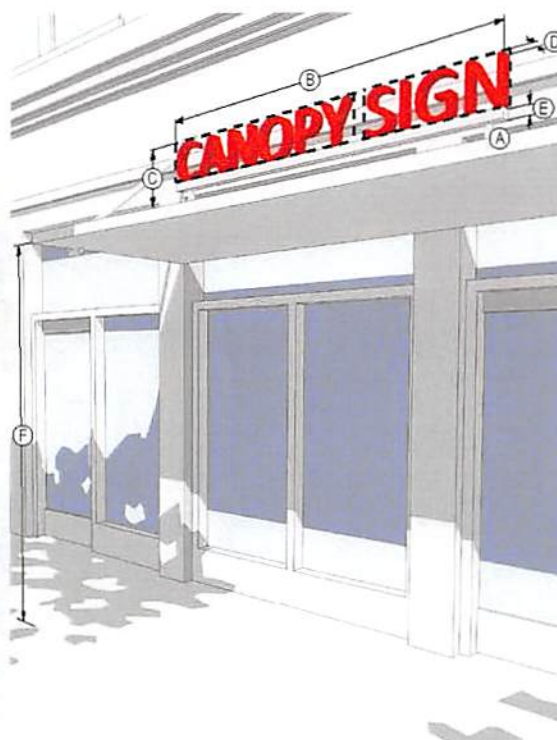
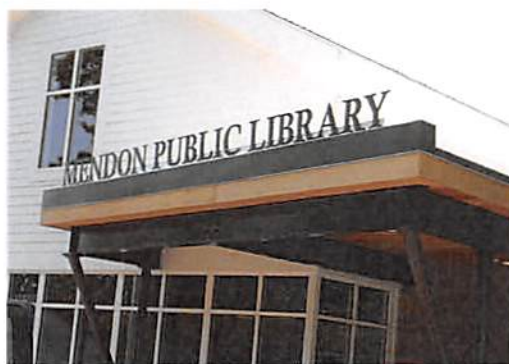
O. Awning Signs.



Description		
A sign where graphics or symbols are painted, sewn, or otherwise adhered to the awning material as an integrated part of the awning itself.		
General Provisions		
<ol style="list-style-type: none"> 1. An awning sign cannot extend outside the awning. 2. Only awnings over ground story doors or windows may contain signs. 3. A maximum of one sign is allowed per awning face per establishment. 4. Signs are only allowed in the vertical areas of the awning. 5. An awning sign may only be externally illuminated in accordance with <u>Sec. Z</u> below. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above

B	Width (max % of awning width/depth)	75%
C	Height of text and graphics on valance (max)	2 ft.

P. Canopy Signs.



Description
A sign placed on a canopy so that the display surface is parallel to the plane of the wall.
General Provisions
<ol style="list-style-type: none"> 1. A canopy sign cannot extend outside the overall length or width of the canopy. However, a canopy sign may extend above or below the canopy. 2. A maximum of one sign is allowed per canopy per establishment. 3. A canopy sign must be located over an accessible building entrance. 4. Electrical raceways are permitted for signs extending below or above the canopy. Otherwise, electrical raceways are not permitted and the sign must be flush with the canopy face. 6. A canopy sign may be illuminated in accordance with <u>Sec. Z</u> below.
Standards

A	Overall area allocation (max)	<u>Sec. M</u> above
B	Width (max % of canopy width)	75%
C	Height of text and graphics (max)	2 ft.
D	Depth (max)	1 ft.
E	Electrical Raceway (max % of letter height)	50%
F	Clear height above sidewalk (min)	10 ft.

Q. Projecting Signs.



Description

A sign attached to the building facade at a 90-degree angle, extending more than 15 inches. A projecting sign may be two or three-dimensional.

General Provisions

1. A projecting sign must be located at least 25 feet from any other projecting sign.
2. A projecting sign may be erected on a building corner when the building corner adjoins the intersection of two streets. Allocation of sign area from both streets may be used; however, in no case can the sign exceed the maximum height and width standards.
3. The top of a projecting sign can be no higher than the top of the building. However, on one story buildings, the top of a projecting sign may have a maximum of 20% of the sign height above the top of the building.
4. Buildings four stories and higher, a projecting sign must be located below the window sills of the 4th story.
7. A projecting sign may be illuminated in accordance with Sec. Z below.
8. As many as two drive-through menu board signs designed as projecting signs shall be permitted, but in no case shall the total number of menu board signs exceed two.

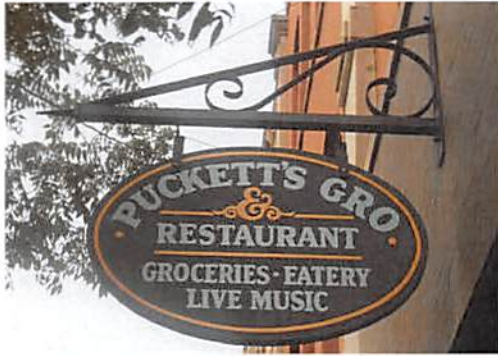
Standards

A	Overall area allocation (max)	<u>Sec. M</u> above
B	Height ⁽¹⁾ (max)	
	Mounted below 2nd floor	4 ft.
	Mounted on 2nd or 3rd floor	8 ft.
C	Spacing from building facade (min/max)	1 ft./2 ft.
D	Projection width (max)	6 ft.
E	Depth (max)	1 ft.
F	Clear height above sidewalk ⁽²⁾ (min)	10 ft.

⁽¹⁾ If a sign is mounted across two floors then the maximum height is the average of the maximum heights for each respective floor.

⁽²⁾ Drive-through menu board signs are exempt from the clear height above sidewalk requirement when not located over a pedestrian way.

R. Shingle Signs.



Description		
A small projecting sign that hangs from a bracket or support.		
General Provisions		
<ol style="list-style-type: none"> 1. A shingle sign must be located within 5 feet of an accessible building entrance. 2. The hanging bracket must be an integral part of the sign design. 3. A shingle sign must be located below the window sills of the second story on a multi-story building or below the roof line on a single-story building. 4. A shingle sign cannot be illuminated. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above
B	Height (max)	3 ft.
C	Spacing from building facade (min/max)	6 in./12 in.
D	Projection width (max)	3.5 ft.
E	Depth (max)	6 in.
F	Clear height above sidewalk (min)	10 ft.

S. Window Signs.



Description		
A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.		
General Provisions		
<ol style="list-style-type: none"> 1. Windows signs are only allowed on ground and second story windows and doors, except that second story windows signs are only allowed if for a different establishment than that of the ground story and if no other sign is attached to the building for that establishment. 2. A window sign can only be internally illuminated in accordance with <u>Sec. Z</u> below. 3. Overall area allocation shall be calculated for all windows per floor, per establishment, per side of the building. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above

T. Pole Signs.

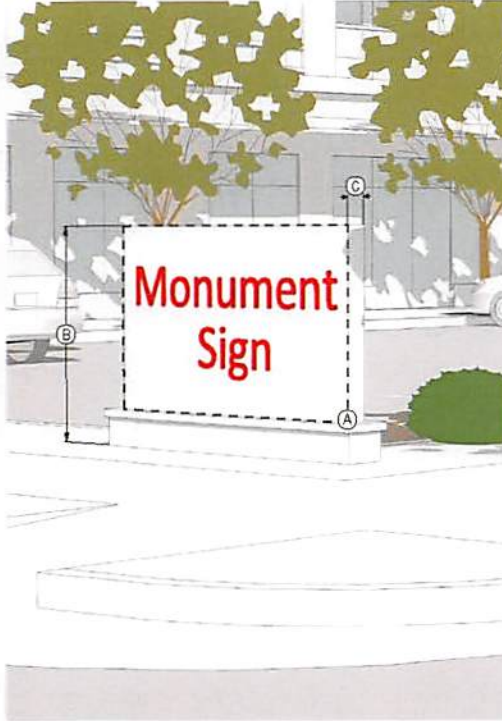


Description		
A freestanding sign constructed on a structure of one or more poles.		
General Provisions		
<ol style="list-style-type: none"> One pole sign is allowed per street frontage, except that one additional monument sign is allowed for properties with 200 feet or more of street frontage. Where more than one monument sign is permitted, signs along the same street frontage must be spaced a minimum of 150 feet apart. Additionally, as many as two drive-through menu board signs designed as pole signs shall be permitted, but in no case shall the total number of menu board signs exceed two. A pole sign must be set back at least 5 feet from any property line. A pole sign may be illuminated in accordance with <u>Sec. Z</u> below. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above
B	Height (1) (max)	25 ft. (C-2), 18 ft. (I-2)
C	Vertical clearance (2) (min/max)	10 ft./15 ft.

(1) Maximum height of drive-through menu board signs shall be 7 ft.

(2) Drive-through menu board signs are exempt from the vertical clearance requirements.

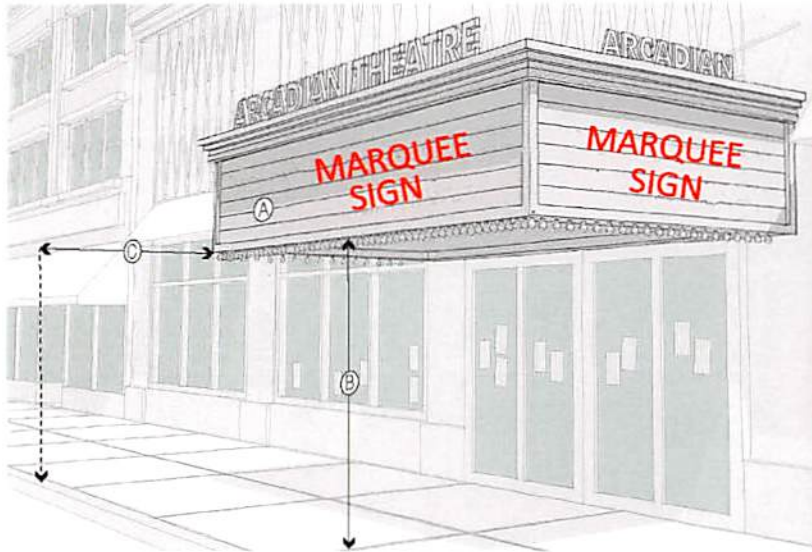
U. Monument Signs.



Description		
A freestanding sign attached to the ground along its entire length to a continuous pedestal. A monument sign is horizontally oriented or is square.		
General Provisions		
<ol style="list-style-type: none"> 1. One monument sign is allowed per street frontage, except that one additional monument free standing sign is allowed for properties with 200 feet or more of street frontage. Where more than one monument freestanding sign is permitted, signs along the same street frontage must be spaced a minimum of 150 feet apart. 2. Additionally, as many as two drive-through menu board signs designed as monument signs shall be permitted, but in no case shall the total number of menu board signs exceed two. 3. A monument sign must be set back at least 5 feet from any property line, except for signs in the Land Conservation (L) District where the sign has to be 10 feet from any property line. 4. A sign erected on a retaining wall is required to meet the standards for a monument sign. The height of the wall is included in the overall height calculation. 5. A monument sign may be illuminated in accordance with <u>Sec. Z</u> below. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above
B	Height (1) (max)	6 ft.
C	Depth (max)	18 in.

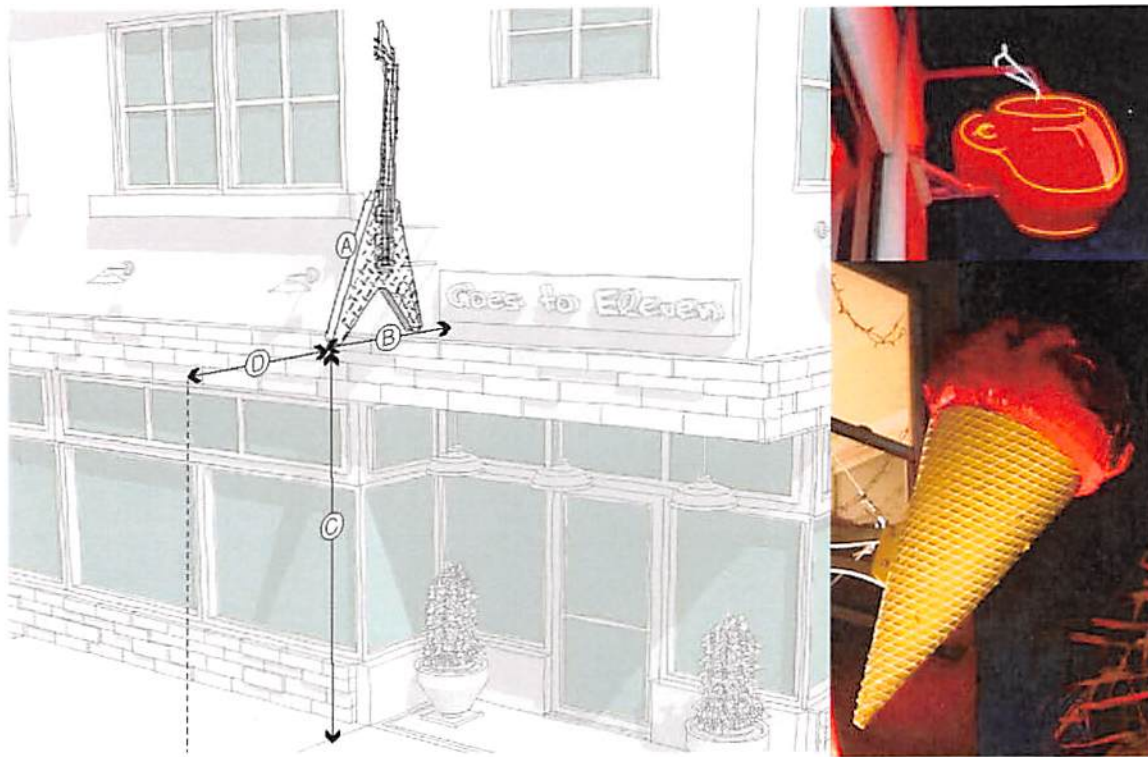
(1) Maximum height of drive-through menu board signs shall be 7 ft.

V. Marquee Signs.



Description		
A sign attached to the top or the face of a permanent roof-like structure.		
General Provisions		
<ol style="list-style-type: none"> 1. A maximum of one marquee sign is permitted per building. Only the following types of establishments may erect a marquee sign: assembly, large or small; cultural facility; school, college/university; hotel/hostel; amusement facility, indoor or outdoor; or live entertainment. 2. A marquee may be erected over a main entrance only, and may be no wider than the entrance over which it is erected, plus five feet on each side. 3. A marquee sign must be supported solely by the building to which it is attached. No exterior columns or posts are permitted as supports. 4. All marquees, including anchors, bolts, supporting rods and braces, must be constructed of non-combustible material and must be designed by a licensed design professional. 5. Water from the marquee roof must not drain, drip, or flow onto the surface of a public right-of-way. Sufficient gutters, downspouts, and drains must be installed as part of each marquee to prevent water from flowing onto the surface of a public right-of-way. 6. A marquee sign may be illuminated in accordance with Sec. Z below. 		
Standards		
A	Overall area allocation (max)	Sec. M above
B	Vertical clearance from sidewalk level (min/max)	10 ft.
C	Setback from curb line (min)	18 in.

W. Iconic Signs.



Description

A sculptural, typically three-dimensional sign whose form suggests its meaning, and which can either be building-mounted or freestanding.

General Provisions

1. A maximum of one iconic sign is permitted per establishment.
2. An iconic sign may contain only iconographical elements representing a product or service offered on site, and may not contain any other items of information.
3. The top of an iconic sign can be no higher than the top of the building. However, on one story buildings, the top of an iconic sign may have a maximum of 20% of the sign height above the top of the building.
4. Buildings four stories and higher, an iconic sign must be located below the window sills of the 4th story.
5. An iconic sign may be illuminated in accordance with [Sec. Z](#) below.
6. Additionally, as many as two drive-through menu board signs designed as iconic signs shall be permitted, but in no case shall the total number of menu board signs exceed two.

Standards

A	Overall area allocation (max)	Sec. M above
B	Projection from wall (max, including supports)	5 ft.
C	Vertical clearance from sidewalk level (1) (min)	10 ft.
D	Setback from curb line (min)	18 in.

(1) Drive-through menu board signs are exempt from the clear height above sidewalk requirement when not located over a pedestrian way.

X. Bracket Signs.



Description		
A freestanding sign attached to the ground by one or more support structures that is not higher than 5 feet and hangs from a bracket or support.		
General Provisions		
<ol style="list-style-type: none"> 1. Only one bracket sign is allowed per building. 2. A bracket sign must be located at least 25 feet from any other bracket sign. 3. The hanging bracket must be an integral part of the sign design. 4. A bracket sign can only be externally illuminated in accordance with <u>Sec. Z</u> below. 		
Standards		
A	Overall area allocation (max)	<u>Sec. M</u> above
B	Sign structure height (max)	5 ft.
C	Sign area height (max)	3 ft.
D	Sign area width (max)	3 ft.
E	Sign structure/area depth (max)	6 in.

Y. Sidewalk Signs.



Description		
A moveable sign not secured or attached to the ground or surface upon which it is located.		
General Provisions		
<ol style="list-style-type: none"> 1. Sidewalk signs do not require a permit but must be taken inside the place of business at the close of business. 2. A sidewalk sign must be located at least 25 feet from any other sidewalk sign. 3. Sidewalk signs cannot obstruct vehicular, bicycle or pedestrian traffic and must comply with ADA clearance and accessibility. 4. A sidewalk sign cannot be illuminated. 		
Standards		
A	Overall area allocation (max)	Sec. M above
B	Height (max)	5 ft.
C	Width (max)	4 ft.

Z. Sign illumination.

Illumination of signs must be in accordance with the following requirements.

(1) External Illumination

- (a) Lighting directed toward a sign must be shielded so that it illuminates only the face of the sign and does not shine directly onto public right-of-way or adjacent properties.
- (b) Projecting light fixtures used for externally illuminated signs must be simple and unobtrusive in appearance, and shall not obscure the sign.

(2) Internal Illumination

- (a) The background must be opaque or a darker color than the message of the sign.

(3) Exposed Neon

- (a) Exposed neon may be used for lettering or as an accent.

(4) Backlit Illumination

- (a) Light can be white or a color.
- (b) The background surface that the light shines onto shall not be reflective.

(5) Prohibited Light Sources.

The following light sources are not allowed:

- (a) Blinking, flashing and chasing.
- (b) Bare bulb illumination except for Marquee Signs.

(6) Electrical Raceways and Transformers

- (a) If a raceway is necessary, it cannot extend in width or height beyond the area of the sign.
- (b) A raceway must be finished to match the background wall or canopy, or integrated into the overall design of the sign.
- (c) Visible transformers are not allowed.



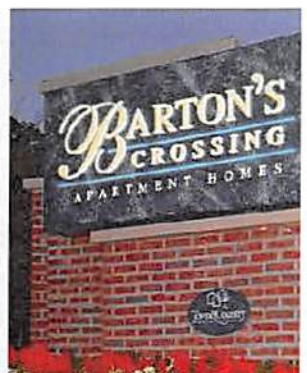
External light sources



Internally lit channel letters



Back lit channel letters



Internally lit sign with darker background

External Illumination	•	•	•	•	•	•	•	•
Internal Illumination			•	•		•	•	
Backlit Illumination			•	•	•	•	•	
Exposed Neon			•	•	•	•	•	
Electronic Message Board	•	•	•	•	•	•	•	•

(1) Electronic message boards are not permitted on parcels directly adjacent to the H-O District

KEY:

• = Allowed

Blank Cell = Not allowed

☐ = Allowed on state highways except where entire parcel is directly adjacent to the H-O District

AA. Nonconforming Signs.

- (1) Any sign not conforming to the regulation of the district in which it is located at the time of adoption of this chapter shall be nonconforming.
- (2) Any sign or other advertising structure in existence on the date this amendment to this section is enacted or the effective date of any amendment to this section may continue and shall be maintained.
- (3) An existing sign may change the face or panel of the sign that does not meet the area or height standards of this law. However, there shall be no increase in the degree of nonconformity. All new panels must conform to all illumination standards of Sec. Z above.
- (4) A sign must be brought into compliance with this law if at any time the sign is altered, repaired, restored or rebuilt to the extent that the cost exceeds 50% of the estimated replacement cost of the sign (in current dollar value). All sign permits within any 6 consecutive calendar months will be aggregated for purposes of measuring the 50% standard.
- (5) If the repair is caused by involuntary damage or casualty and not deferred maintenance, the sign may be repaired to any extent.

BB Removal of Signs. Any sign, existing on or after the effective date of this amendment to this section, which is no longer associated with the establishment upon which such a sign is located, or is unsafe shall be removed within 30 days upon written notice from the Department of Public Works. Upon failure to correct, the Department of Public Works shall remove or cause to be removed said sign and shall cause to be assessed against the property all costs and expenses incurred.

CC Maintenance. All signs shall be maintained in such a condition so as to not constitute a danger to the public health, safety or welfare. The Department of Public Works shall inspect and have the authority to order the painting, repair and alteration or removal of signs which become dilapidated or are abandoned, or which constitute physical hazard to the public safety.

DD Construction Standards. All signs shall be constructed and installed in conformance with the New York State Uniform Fire Prevention and Building Code. Separate certification may be required for illuminated signs indicating compliance with the National Electrical Code (NFPA 70). The Department of Public Works shall have the option to require a review by the City Engineer. If the City Engineer finds the mounting technique questionable, a professional review by a New York State registered engineer would be required.

EE Appeal procedures. Any person aggrieved by a decision of the Department of Public Works relative to **dimensional** provisions of this section may appeal such decision by applying for an area variance. The Department of Public Works shall refer the application to the Zoning Board of Appeals for approval or denial. In granting a variance, the Zoning Board of Appeals must determine that the sign is in harmony with the general purposes of this section, does not harm the neighborhood character, and is not detrimental to public health, safety or welfare. The Zoning Board of Appeals should also consider the benefit to the applicant versus the detriment to the community in the granting of any variance. The City Planning and Development Committee shall review and issue recommendations to the Zoning Board of Appeals for area variances for signs within the Central Commercial (C-3) District.

FF. Substitution Clause. The owner of any sign which is otherwise allowed by this law may substitute noncommercial copy in lieu of any other commercial or non-commercial copy. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

GG. Severability Clause. Should any section or provision of this law be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the law as a whole or any part thereof, other than the part so declared to be invalid.

Changes **highlighted in yellow**
Deletions designated by ~~strikeout~~
Additions designated in **bold type**

Definitions.

190-3 B Sign-

9) **Freestanding Sign-** A self-supporting sign not attached to any building, wall or fence, but in a fixed location; includes pole signs, pylon signs, and masonry wall type signs, monument signs, but does not include **drive-through menu boards and portable trailer-type signs.**


Drive-through menu board sign- A sign located outside of a building, on a route to a point of service, with or without built-in communication devices, which displays a listing of items offered. A drive-through menu board sign may be designed as a pole sign, monument sign, wall sign, projecting sign or iconic sign.



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Matt Worth, Director of Public Works 

Date: October 16, 2018

Subject: Liberty St Rezoning SEQR Lead Agency Designation

An action to rezone properties located at 42 Central Ave, 110 Liberty St, 112-116 Liberty St, 118-120 Liberty St, 122 Liberty St and 122-124 Liberty St from R-3 Residential to C-3 Commercial is before Council for review. This process includes a requirement for the SEQR process to be completed as required by New York State Law, and also requires the designation of a lead agency to make the necessary review and declaration.

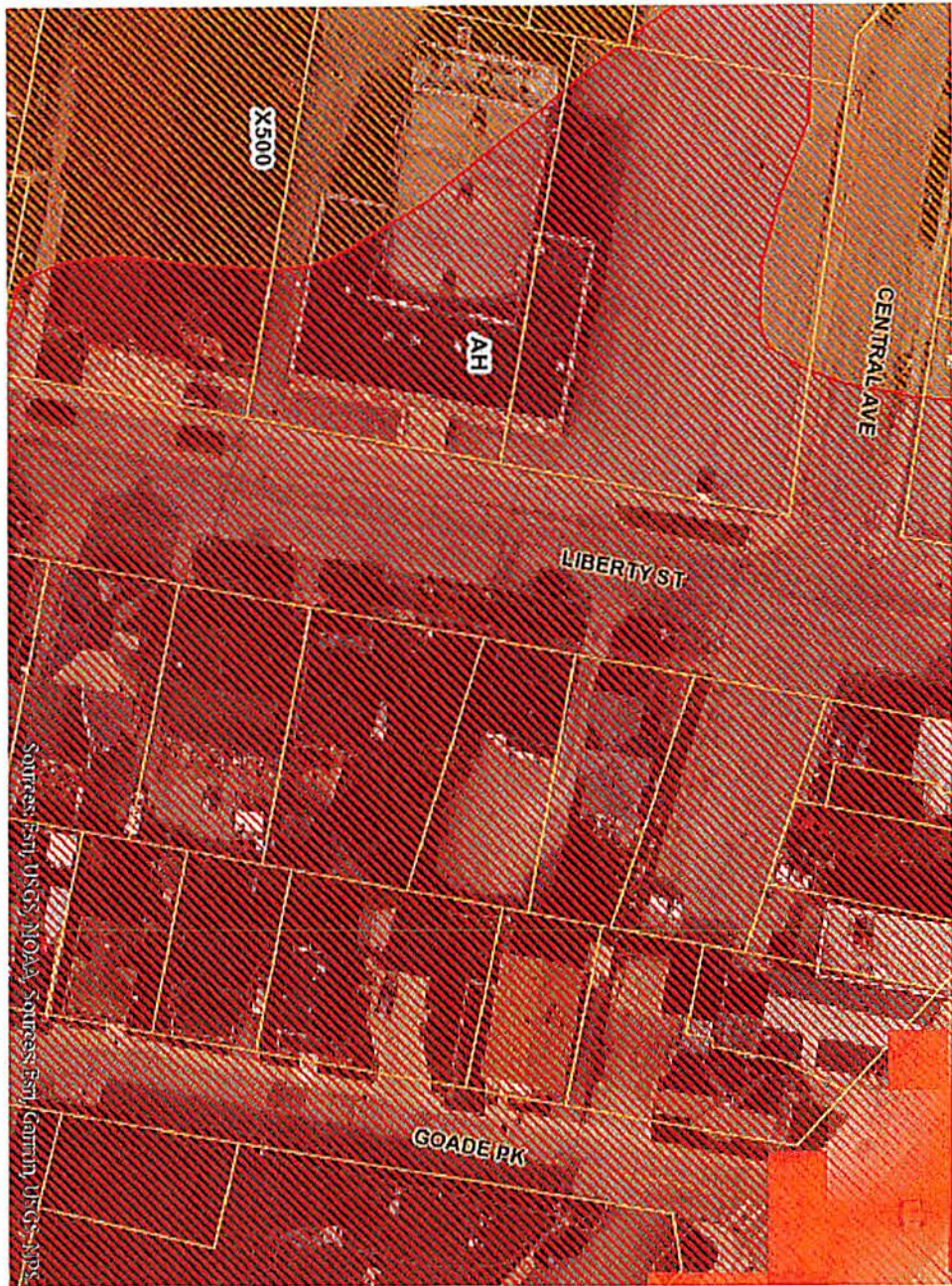
The process of rezoning lands within the City of Batavia rests solely with the City Council, and as such, it is appropriate for the City Council to be the lead agency for the SEQR process. It should be noted that staff has reviewed the Short Environmental Assessment Form provided by the petitioner, and have reviewed the Part 2 – Impact Assessment and have the opinion that there will be no, or small impact for all items listed in Part 2. Staff has noted that the Part 1 – Project Information form question #16 states that the project site is not in the 100 year flood plain, which appears to be inconsistent with current mapping (map attached). The properties being located within the 100 year flood plain, would not have any impact on the zoning or SEQR action, regardless.

Supporting Documentation:

Zoning Change Materials
Draft Short Environmental Assessment Form
Draft Resolution

Department of Public Works
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6325
Fax: 585-343-1385
www.batavianewyork.com



AH AREA INDICATES 100 YEAR FLOOD PLAIN
LIBERTY-CENTRAL AREA

PETITION TO RE-ZONE

42 Central Avenue, SBL No. 84.066-1-47
110 Liberty Street, SBL No. 84.066-1-11
112-116 Liberty Street, SBL No. 84.066-1-12
118-120 Liberty Street, SBL No. 84.066-1-13
122 Liberty Street, SBL No. 84.066-1-14
122-124 Liberty Street, SBL No. 84.066-1-15
~~124-126 Liberty Street, SBL No. 84.066-1-16~~
Batavia, New York

City Church, Inc. by Martin MacDonald, President, parcel owner, hereby submits the within Petition to Re-zone the above-referenced parcel from an R-3 use district to a C-3 use district.

Background

City Church, Inc. purchased 42 Central Avenue, 110 Liberty Street, 112-116 Liberty Street, 118-120 Liberty Street, 122 Liberty Street (front), 122-124 Liberty Street and 124-126 Liberty Street, Batavia, New York, which are all contiguous parcels of property (the "Property") from the St. Anthony's Roman Catholic Church Society of Batavia, New York (by deeds dated May 11, 2016 and recorded in the Genesee County Clerk's Office on May 20, 2016). The Property was owned in its entirety by the former St. Anthony's Roman Catholic Church. The site had been vacant for some time prior to the purchase by City Church. Originally the Property had been used as a Roman Catholic Church, Community Center, elementary/middle school and Church Rectory. We are seeking to have the City of Batavia re-zone the Property from its current R-3 use district to a C-3 use district. A copy of the existing City zoning map is attached as Exhibit A, which shows the Property, which is located along Pringle Avenue and Liberty Streets. On the north side of Central Avenue, where it intersects with Liberty Street is the C-3 use district and on the south side of Central Avenue, where the Property is located in an R-3 use district. Although, use of the Property as a school is a permitted use in an R-3 district, City Church, Inc. would like extend its offering to programs to the community beyond educational in nature, to include but, not be limited to: youth activities, youth programs, youth after school programs, dance classes, art classes, open gymnasium days to the community and other community related activities, both adult and youth orientated.

Adjoining Uses

The property is entirely within the R-3 use district and is bordered on the north by a C-3 use district.


Proposed Future Use

As stated above, City Church, Inc. would like to open the Property up to many community related activities, beyond the original use of a community center/school. Although, our concept of usage includes utilization of the facility as a Church and Community Center, where members of the community may gather for services, meetings or celebrations along the lines of original use, we envision usage beyond that to include a youth bureau and many adult and youth programs. City Church, Inc. would like to see the Property once again become the hub of activity for the south side of the City of Batavia. We intend to take steps necessary or, to see that steps are taken, regarding the existing building to bring it into compliance with all current codes for usage of the building as intended, should this rezoning be granted.

WHEREFORE, Petitioners respectfully request that the City Council of the City of Batavia amend its Zoning Ordinance for 42 Central Avenue, SBL No. 84.066-1-47; 110 Liberty Street, SBL No. 84.066-1-11; 112-116 Liberty Street, SBL No. 84.066-1-12; 118-120 Liberty Street, SBL No. 84.066-1-13; 122 Liberty Street, SBL No. 84.066-1-14; 122-124 Liberty Street, SBL No. 84.066-1-15; 124-126 Liberty Street, SBL No. 84.066-1-16, Batavia, New York from an R-3 use district to a C-3 use district.

Dated: July ¹⁹~~14~~, 2018

CITY CHURCH, INC.




By: **Pastor Martin MacDonald, President**

STATE OF NEW YORK)

COUNTY OF GENESEE) SS.:

On the ^{19th}~~14th~~ day of July, 2018, before me, personally appeared **Martin MacDonald** 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.


Notary Public

MARGARET CORDARO
NOTARY PUBLIC, State of New York
County of Genesee
My Commission Expires 7/4/2020



04/24/2018

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617.20
Appendix B
Short Environmental Assessment Form

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: CITY CHURCH, INC.				
Project Location (describe, and attach a location map): CENTRAL AVE. / LIBERTY ST. REZONE				
Brief Description of Proposed Action: REZONE REQUEST FROM R-3 TO C-3				
Name of Applicant or Sponsor: CITY CHURCH, INC.		Telephone: (585) 409-1514		
		E-Mail: ONECITY@AOL.COM		
Address: 210 EAST MAIN ST.				
City/PO: BATAVIA	State: N.Y.	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.			NO <input checked="" type="checkbox"/>	YES <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:			NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<u>2</u>	<u>1.34</u> acres	
b. Total acreage to be physically disturbed?		<u>0</u>	acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u>2</u>	<u>1.34</u> acres	
4. Check all land uses that occur on, adjoining and near the proposed action.				
<input checked="" 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				

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
	X	
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
	X	
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	YES
	X	
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>CITY CHURCH, INC.</u> <u>PASTOR MARTIN MACDONALD</u> Signature: <u>[Signature]</u> Date: <u>7/16/19</u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. 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?	X	
2. Will the proposed action result in a change in the use or intensity of use of land?	X	
3. Will the proposed action impair the character or quality of the existing community?	X	
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	X	
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?	X	
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?	X	
7. Will the proposed action impact existing:		
a. public / private water supplies?	X	
b. public / private wastewater treatment utilities?	X	
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	X	
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	X	

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	X	
11. Will the proposed action create a hazard to environmental resources or human health?	X	

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. 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.

<input type="checkbox"/> 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.	
<input type="checkbox"/> 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.	
<u>City of Batavia</u> Name of Lead Agency	_____ Date
<u>Eugene Jankowski Jr.</u> Print or Type Name of Responsible Officer in Lead Agency	<u>Council President</u> Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

#-2018

A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD AGENCY UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQR”) FOR AN AMENDMENT TO THE ZONING MAP FOR RE-ZONING A SECTION OF THE R-3 RESIDENTIAL DISTRICT TO C-3 CENTRAL COMMERCIAL DISTRICT AND DETERMINING SIGNIFICANCE UNDER SEQR

Motion of Councilperson

WHEREAS, the City of Batavia has proposed to amend the zoning map to rezone a section of land from 42 Central Avenue to 122-124 Liberty Street which includes 42 Central, 110 Liberty, 112-116 Liberty, 118-120 Liberty, 122 Liberty, and 122-124 Liberty from R-3 Residential District to C-3 Central Commercial District; and

WHEREAS, the amendment of the City’s zoning map with respect to the foregoing parcels is an Unlisted Action under SEQR; and

WHEREAS, in accordance with SEQR the City Council of the City of Batavia has declared its intent to act as lead agency for the Action; and

WHEREAS, a Short Environmental Assessment Form has been completed for the Action, a copy of which is attached hereto as Schedule A; and

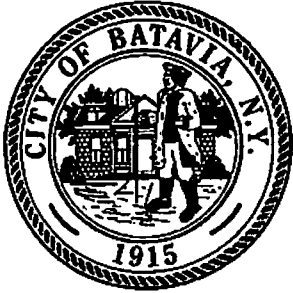
WHEREAS, the City Council has carefully reviewed the potential environmental impacts of the proposed action against the criteria set forth in 6 NYCRR 617.7(c) and has taken a hard look at the potential environmental impacts required by SEQR, and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia in accordance with SEQR and 6 NYCRR 617.6 hereby establishes itself as Lead Agency for the purpose of completing SEQR review of the amendment to the City’s zoning map; and

BE IT FURTHER RESOLVED, that the City Council having reviewed a completed Short Environmental Assessment Form and accompanying narrative which is part of the record of this Action and having considered the environmental impacts of the proposed action against the criteria in 6 NYCRR 617.7(c), finds that the proposed action will not result in any significant adverse environmental impact; and

BE IT FURTHER RESOLVED, the City Council does hereby authorize and direct the City Clerk to duly file this Negative Declaration.

**Seconded by Councilperson
And on roll call**



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Matt Worth, Director of Public Works

Date: October 16, 2018

Subject: Liberty St Rezoning Public Hearing

An action to rezone properties located at 42 Central Ave, 110 Liberty St, 112-116 Liberty St, 118-120 Liberty St, 122 Liberty St and 122-124 Liberty St from R-3 Residential to C-3 Commercial is before Council for review. This process included a review by both the City and County Planning Boards for the City Council.

The review of the planning boards included the recommendation to remove the parcel designated 124-126 Liberty St that was part of the original petition. The submission before Council and attached for the public to review as part of the Public Hearing reflects this change. All other items that are part of the original petition, and supporting documentation that was provided for the original referral to the Planning Board are still valid.

As is required by the action to introduce an ordinance to change the City of Batavia Zoning Map a public hearing is required. A public hearing is an opportunity for the public to review the proposed changes and make comments ahead of the City Council taking action.

It is recommended that a public hearing in this matter be scheduled for Tuesday November 13th at the City Council Business Meeting.

Supporting Documentation:

August 6, 2018 Memo to Council for PDC Referral

July 20, 2018 Memo to Council, Genesee County Planning, City PDC w/original petition

Comprehensive Plan Map showing Community Services for this area

Map showing proposed new C-3

Draft Resolution for Public Hearing

Draft Ordinance for Zoning Map Change

Department of Public Works
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6325
Fax: 585-343-1385
www.batavianewyork.com



City of Batavia

Memorandum

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: August 6, 2018

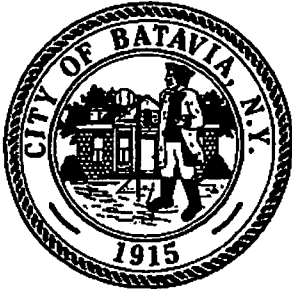
Subject: Proposed Zoning Map Amendment

The campus which contains St. Anthony's Church, Rectory, and Elementary School had been vacant for several years. In 2016 this property was purchased by City Church, Inc. in anticipation of re-utilization for community activities. These parcels were identified as Community Services Use in the most recent Comprehensive Plan, and the City Church's intention would be consistent with the plan's identified use.

The current zoning for these parcels is a R-3 district, which would allow for a residential housing complex, individual housing, and continued utilization as a private elementary school. The City of Batavia has seen a decline in the number of private schools, and it does not seem likely that this facility would ever be utilized as an elementary school again. The facility is reasonably set up to be utilized for community activities that have taken place since the facility was purchased by City Church, Inc., and are not remarkably different from activities that would have been associated with the previous St. Anthony's School.

While many of the activities that are associated with City Church at this complex are compliant with zoning regulations, there would be some ancillary activities (dance school, art school, community education classes, etc.) that could be considered a business activity and a non-conforming use in an R-3 district.

City Church, Inc. has filed a petition dated July 19, 2018 to re-zone this campus of parcels that would annex this property into the adjacent C-3 district, which would bring the property into conformance with zoning regulations. These properties are adjacent to an existing C-3 district on two sides, and the make up of the buildings would seem to fit with C-3 utilizations.



City of Batavia

It is necessary for City Council refer this item to the Planning and Development Committee for review, and public hearing and recommendation to Council regarding the re-zoning request. The action would be in accordance with Section 190-51 of the zoning ordinance

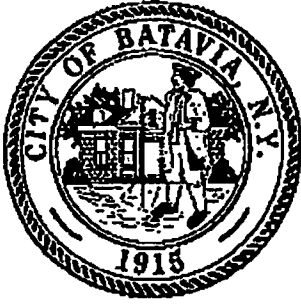
Supporting Documentation

Memo from Doug Randall Code Enforcement Officer

Comprehensive Plan Existing Conditions Map

Petition to Re-zone documents by City Church, Inc. w/support documents

Draft Resolution



City of Batavia
Department of Public Works
Bureau of Inspections

One Batavia City Center, Batavia, New York 14020 (585)-345-6345 (585)-345-1385 (fax)

To: City Council
Genesee County Planning
Planning and Development Committee

From: Doug Randall, Code Enforcement Officer

Date: 7/20/18

Re: 110 Liberty 84.066-1-11; 42 Central 84.066-1-47; 112-116 Liberty 84.066-1-12; 118-120
Liberty 84.066-1-13; 122 Liberty 84.066-1-14; 122-124 Liberty St. Rear 84.066-1-15; 124-126
Liberty 84.066-1-16

Zoning Use District: R-3

The applicant, Martin MacDonald (for City Church), has petitioned Batavia City Council to amend the zoning of the seven parcels listed above from R-3 (Residential) to C-3 (Central Commercial). The owner, City Church, would like to extend its offering of programs to include youth activities, after school programs, dance classes art classes, open gymnasium days and other community related activities for youths and adults that are not permitted principal uses in the residential use district that these properties are located in.

Review and Approval Procedures:

Batavia City Council- Pursuant to section 190-51 of the zoning ordinance, upon receipt of a petition requesting a change in district boundaries, City Council may refer the proposed amendment to the Planning and Development Committee for review and recommendation prior to Council action. If the PDC fails to provide a report within thirty days of referral, the proposed amendment is deemed approved, and City Council may proceed.

County Planning Board- Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the right of way of a state road or highway.

City Planning and Development Committee- Pursuant to section 190-51 of the zoning ordinance, City Council has requested that the Planning and Development Committee review the proposed zoning amendment, hold a public hearing and submit a report outlining their findings and recommendations to Council within thirty days of referral.

City Council will conduct an uncoordinated review of SEQR for this unlisted action.

PETITION TO RE-ZONE

42 Central Avenue, SBL No. 84.066-1-47
110 Liberty Street, SBL No. 84.066-1-11
112-116 Liberty Street, SBL No. 84.066-1-12
118-120 Liberty Street, SBL No. 84.066-1-13
122 Liberty Street, SBL No. 84.066-1-14
122-124 Liberty Street, SBL No. 84.066-1-15
124-126 Liberty Street, SBL No. 84.066-1-16
Batavia, New York

City Church, Inc. by Martin MacDonald, President, parcel owner, hereby submits the within Petition to Re-zone the above-referenced parcel from an R-3 use district to a C-3 use district.

Background

City Church, Inc. purchased 42 Central Avenue, 110 Liberty Street, 112-116 Liberty Street, 118-120 Liberty Street, 122 Liberty Street (front), 122-124 Liberty Street and 124-126 Liberty Street, Batavia, New York, which are all contiguous parcels of property (the "Property") from the St. Anthony's Roman Catholic Church Society of Batavia, New York (by deeds dated May 11, 2016 and recorded in the Genesee County Clerk's Office on May 20, 2016. The Property was owned in its entirety by the former St. Anthony's Roman Catholic Church. The site had been vacant for some time prior to the purchase by City Church. Originally the Property had been used as a Roman Catholic Church, Community Center, elementary/middle school and Church Rectory. We are seeking to have the City of Batavia re-zone the Property from its current R-3 use district to a C-3 use district. A copy of the existing City zoning map is attached as Exhibit A, which shows the Property, which is located along Pringle Avenue and Liberty Streets. On the north side of Central Avenue, where it intersects with Liberty Street is the C-3 use district and on the south side of Central Avenue, where the Property is located in an R-3 use district. Although, use of the Property as a school is a permitted use in an R-3 district, City Church, Inc. would like extend its offering to programs to the community beyond educational in nature, to include but, not be limited to: youth activities, youth programs, youth after school programs, dance classes, art classes, open gymnasium days to the community and other community related activities, both adult and youth orientated.

Adjoining Uses

The property is entirely within the R-3 use district and is bordered on the north by a C-3 use district.

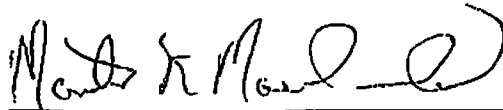
Proposed Future Use

As stated above, City Church, Inc. would like to open the Property up to many community related activities, beyond the original use of a community center/school. Although, our concept of usage includes utilization of the facility as a Church and Community Center, where members of the community may gather for services, meetings or celebrations along the lines of original use, we envision usage beyond that to include a youth bureau and many adult and youth programs. City Church, Inc. would like to see the Property once again become the hub of activity for the south side of the City of Batavia. We intend to take steps necessary or, to see that steps are taken, regarding the existing building to bring it into compliance with all current codes for usage of the building as intended, should this rezoning be granted.

WHEREFORE, Petitioners respectfully request that the City Council of the City of Batavia amend its Zoning Ordinance for 42 Central Avenue, SBL No. 84.066-1-47; 110 Liberty Street, SBL No. 84.066-1-11; 112-116 Liberty Street, SBL No. 84.066-1-12; 118-120 Liberty Street, SBL No. 84.066-1-13; 122 Liberty Street, SBL No. 84.066-1-14; 122-124 Liberty Street, SBL No. 84.066-1-15; 124-126 Liberty Street, SBL No. 84.066-1-16, Batavia, New York from an R-3 use district to a C-3 use district.

Dated: July ¹⁹~~17~~, 2018

CITY CHURCH, INC.

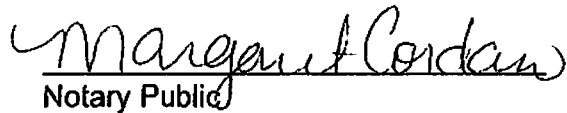


By: Pastor Martin MacDonald, President







STATE OF NEW YORK)

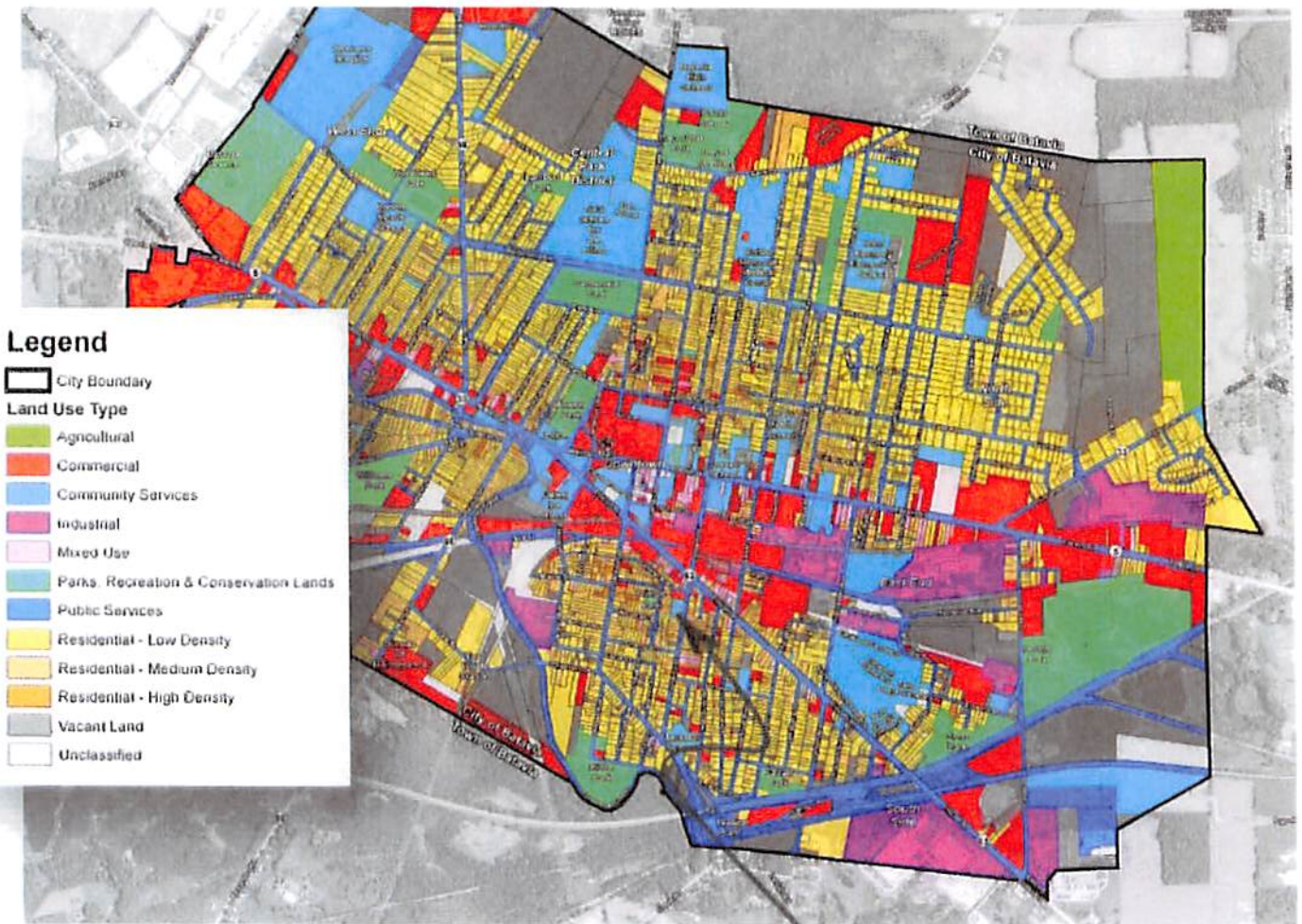
COUNTY OF GENESEE) SS.:

On the ^{19th} day of July, 2018, before me, personally appeared **Martin MacDonald** 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.

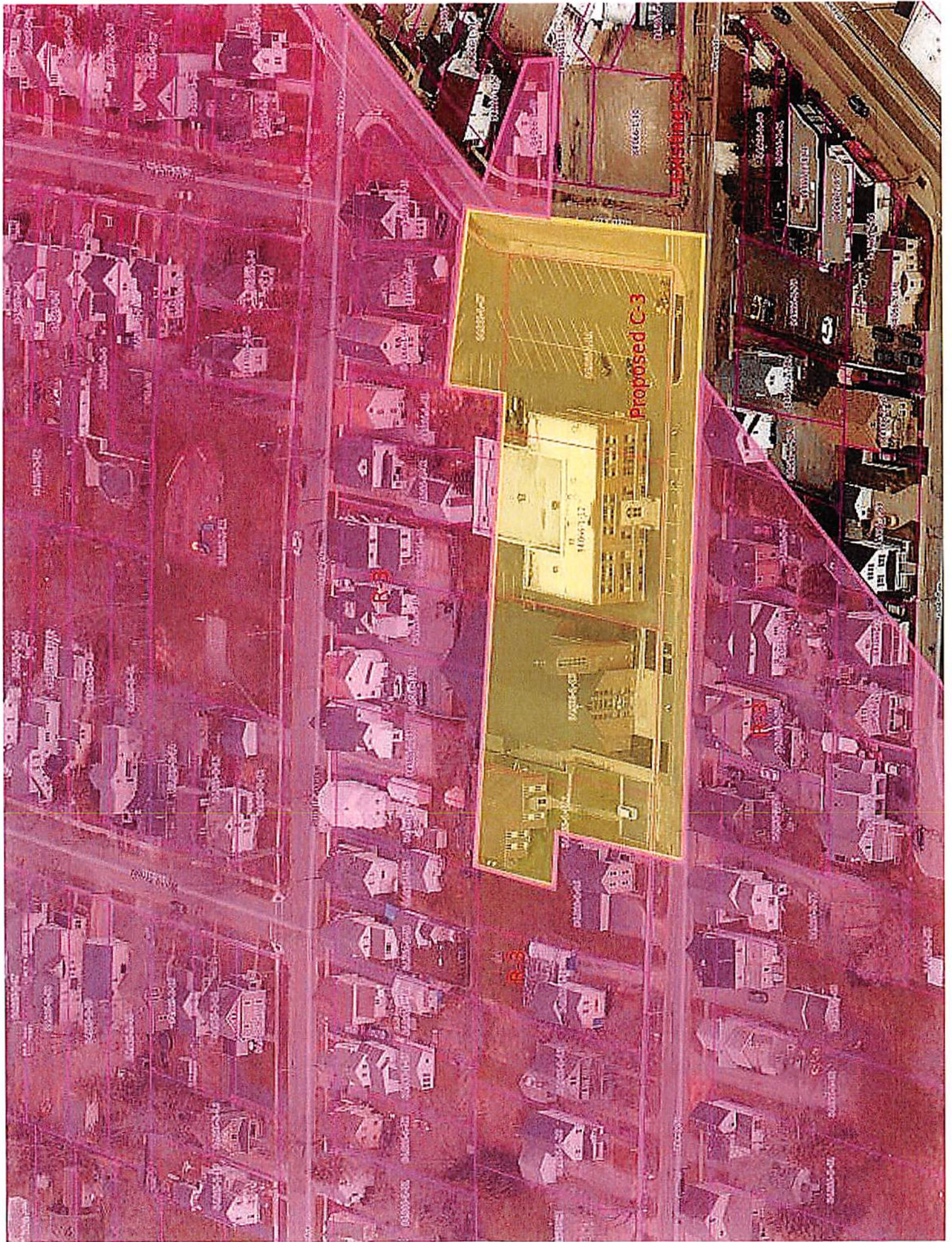

Notary Public

MARGARET CORDARO
NOTARY PUBLIC, State of New York
County of Genesee
My Commission Expires 4/4/2020

-  Residential
-  24%
Public & Community Services
-  17%
Vacant
-  11%
Commercial
-  5%
Industrial
-  5%
Parks & Conservation



COMMUNITY SERVICES



#-2018

**A RESOLUTION TO INTRODUCE AN ORDINANCE AMENDING CHAPTER
190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE
TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA AND TO
SCHEDULE A PUBLIC HEARING**

Motion of Councilperson

BE IT RESOLVED that a proposed Ordinance entitled “**AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA**” is introduced before the City Council of the City of Batavia, New York; and

BE IT FURTHER RESOLVED that copies of the aforesaid proposed Ordinance be laid upon the desk of each member of the City Council; and

BE IT FURTHER RESOLVED that the City Council hold a public hearing on said proposed Ordinance at the City Hall, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Tuesday, November 13, 2018; and

BE IT FURTHER RESOLVED that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least five days prior thereto.

**Seconded by Councilperson
and roll call**

ORDINANCE #-2018

AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "ZONING" OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA

SECTION 1. AMENDMENT OF THE ZONING MAP OF THE CITY OF BATAVIA TO REZONE PREMISES FROM A R-3 RESIDENTIAL DISTRICT TO A C-3 CENTRAL COMMERCIAL DISTRICT.

PREMISES BEING MORE RECENTLY DESCRIBED AS 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:

BEGINING at a point in the south right-of-way line of Central Avenue said point being the northwest corner of lands conveyed to The City Church, Inc., by Deed recorded in the G.C.C.O. Liber 920 of Deeds, page 913,

- 1) Easterly, along the south line of Central Avenue a distance of xxx feet to a point in the northeast corner of lands conveyed to The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,
- 2) Southerly at right angles to the west line of Liberty Street, a distance of xxx feet to a point,
- 3) Westerly at right angle, a distance of xxx feet to a point in the east line of lands conveyed to The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,
- 4) Southerly along the aforesaid west line of 124-126 Liberty Street The City Church, Inc., a distance of XXX feet to a point in the south line of 124-126 Liberty Street owned by The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,
- 5) Westerly at a right angle along the south line of lands that belong to The City Church, Inc. at 122-124 Liberty Street, a distance of xxx feet to a point,
- 6) Northerly at right angle, a distance of xxx feet to the point in the north line of 7 Pringle Avenue owned by Mark Adams by deed recorded in the G.C.C.O., Liber 704 of Deeds, Page 276
- 7) Westerly at right angle, a distance of xxx feet to a point in the east line of lands conveyed to The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,

- 8) Northerly at right angle and continuing northerly and along the west side of The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913 a distance of xxx feet to the point and place of beginning.

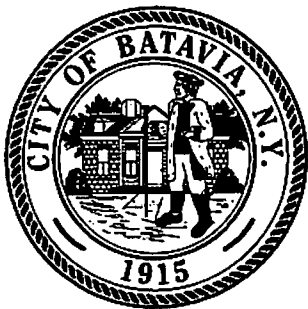
A MEETS AND BOUNDS DESCRIPTION SHALL BE PROVIDED BY THE PETITIONER PRIOR TO ADOPTION

INTENDING to describe parcels of land designated as #42 Central Avenue, #110 Liberty Street, 112-116 Liberty Street, 118-120 Liberty Street, 122 Liberty Street and #122-124 Liberty Street, City of Batavia, being further identified as SBL #084.066-1-47, SBL #084.066-1-11, SBL #084.066-1-12, SBL #084.066-1-13, SBL #084.066-1-14, and SBL #084.066-1-16.

The Zoning Ordinance of the City of Batavia, New York, dated and adopted July 25, 1973, and the Zoning Map of the City of Batavia, New York, dated and adopted September 24, 1973 (Said map being part of said Ordinance), as amended, are hereby further amended for the purpose of re-zoning the premises described above from a R-3 Residential to a C-3 District:

SECTION 2. EFFECTIVE DATE

This Ordinance shall take effect immediately after the date of passage and in accordance with law.



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Matthew Worth, Director of Public Works

Date: October 15 2018

Subject: Lead Agency to conduct SEQR for Brooklyn Avenue

The City of Batavia was awarded a Community Development Block Grant (CDBG) for 900 linear feet of water main on Brooklyn Avenue in the amount of \$333,000. Per the requirements of the funding source, New York State Environmental Quality Review (SEQR) has to be performed by a governing agency. The City of Batavia should be the lead agency for the Brooklyn Water and Storm Drainage Improvement Project. LaBella Associates, as the administrator for this project, will be completing the short form environmental assessment for this project.

Supporting Documents:

1. Resolution

#-2018

**A RESOLUTION TO BE LEAD AGENCY TO CONDUCT SEQR REVIEW OF
BROOKLYN WATER AND STORM DRAINAGE IMPROVEMENTS**

Motion of Councilperson

WHEREAS, the City of Batavia announces its intent to serve as Lead Agency to conduct an environmental review of a project to construct water and storm drainage improvements on Brooklyn Avenue and within the adjacent Williams Park in the City of Batavia, under Section 617.7 of the New York State Codes, Rules and Regulations (NYSCRR); and

WHEREAS, the City Council has determined that the proposed action is an Unlisted Action under New York State Environmental Quality Review (SEQR); and

WHEREAS, the City Council must review the Action, pursuant to General Municipal Law §239-m; and

WHEREAS, that the City Council, in its capacity of lead agency, has caused to prepare the short form Environmental Assessment Form for this project. The City Council hereby accepts the environmental assessment of the proposed project prepared by LaBella Associates, D.P.C.; and

NOW, THEREFORE, IT IS RESOLVED, that in accordance with the requirements of the funding agency, the City Council will notify the involved agencies of its intent to act as a Lead Agency for this project and will provide them with a copy of the short form Environmental Assessment Form. Comments regarding the Environmental Assessment and the City's intention to assume Lead Agency status will be received from the involved Agencies during the 30-day review period.


**Seconded by Councilperson
and on roll call**



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Shawn Heubusch, Police Chief 

Date: October 11, 2018

Subject: Senator Ranzenhofer Funding Award

On August 21, 2018 the Police Department was awarded \$13,000.00 from the office of State Senator Michael Ranzenhofer through a NYS Division of Criminal Justice Services grant for the purchase of law enforcement technology.

The grant will be utilized towards the on-going costs of the purchase of body worn cameras for the officers of the department. Body worn cameras have proven themselves to be effective in gathering of evidence, aiding in de-escalation of situations and used as a tool to protect the agency and municipality from liability.

Feel free to call with any questions you may have. Thank you.

Attachments: Award Contract
Grant Information Form
Draft Resolution

Cc: Lisa Neary, Deputy Director of Finance

Police Department
10 Main Street
Batavia, New York 14020



Phone: 585-345-6350
Fax: 585-344-1878
Records: 585-345-6303
Detective Bureau: 585-345-6370
www.batavianewyork.com



**THE SENATE
STATE OF NEW YORK
ALBANY**

**MICHAEL H. RANZENHOFER
SENATOR, 61ST DISTRICT**

**CHAIRMAN
COMMITTEE ON CORPORATIONS,
AUTHORITIES AND COMMISSIONS
DEPUTY MAJORITY LEADER
FOR ECONOMIC DEVELOPMENT**

6203 MAIN STREET
SUITE 4
WILLIAMSVILLE, NEW YORK 14221
(716) 631-8695
(585) 454-0322
(716) 634-4321 FAX
LEGISLATIVE OFFICE BUILDING
ROOM 609
ALBANY, NEW YORK 12247
(518) 455-3161
(518) 426-6963 FAX
778 GENESEE STREET
ROCHESTER, NEW YORK 14611
E-MAIL: RANZ@NYSENATE.GOV

August 21, 2018

Chief Shawn Heubusch
City of Batavia Police Department
10 West Main Street
Batavia, NY 14020

Dear Chief Heubusch,

I am pleased to inform you that I have obtained funding from the New York State Senate for the City of Batavia Police Department. The allocation in the amount of \$13,000 is being awarded to the City of Batavia Police Department for law enforcement equipment and technology.

Crime and violence are very serious problems in our communities, and I hope this funding helps in your efforts to keep our citizens safe.

Please contact me or my Chief of Staff, Kathy Donner at 716-631-8695 should you have any questions.

Sincerely,

Michael H. Ranzenhofer
State Senator – 61st District

MHR/kmd

#-2018
**A RESOLUTION TO AMEND THE 2018-2019 POLICE DEPARTMENT BUDGET TO
REFLECT THE RECEIPT OF A LEGISLATIVE AWARD FROM SENATOR
RANZENHOFER**

Motion of Councilperson

WHEREAS, the City of Batavia Police Department has received a grant in the amount of \$13,000 from the Office of Senator Michael Ranzenhofer via the New York State Division of Criminal Justice Services for the purchase of law enforcement technology and equipment; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2018-2019 budget effective November 12, 2018 to cover law enforcement technology purchases:

Increase expenditure accounts:

001.3120.0201.1176	\$ 13,000.00
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Increase revenue accounts:

1.1.3389.1176	\$ 13,000.00
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Seconded by Councilperson

and on roll call



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Shawn Heubusch, Police Chief

Date: October 11, 2018

Subject: Police Traffic Services Grant 2019

On July 30, 2018, the City Police were awarded \$11,400 from the NYS Governor's Traffic Safety Committee for the Police Traffic Safety grant. The goal of the program is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and deaths resulting from traffic crashes.

The funding received will be used to provide for special traffic details throughout the year, to include targeted enforcement efforts in the downtown corridor. The funding covers the period of October 1, 2018 thru September 30, 2019.

Feel free to call with any questions you may have. Thank you.

Attachments: Award Letter
Draft Resolution

Cc: Lisa Neary, Deputy Director of Finance

Police Department
10 Main Street
Batavia, New York 14020



Phone: 585-345-6350
Fax: 585-344-1878
Records: 585-345-6303
Detective Bureau: 585-345-6370
www.batavianewyork.com

ANDREW M. CUOMO
Governor



**Governor's Traffic
Safety Committee**

6 EMPIRE STATE PLAZA • ALBANY, NY 12228 • SafeNY.ny.gov

CHUCK DEWEESE
Assistant Commissioner

Ph: (518) 474-5111
Ph: (518) 474-5777
Fx: (518) 473-6946

July 30, 2018

Shawn Heubusch
Chief of Police
Batavia City Police Department
10 West Main St
Batavia, NY 14020

Re: PTS-2019-Batavia City PD -00315-(019)
Police Traffic Services
DMV01-T006401 -3700393
CFDA #: 20.600
EFFECTIVE DATE: October 1, 2018

Dear Chief of Police Shawn Heubusch:

On behalf of Governor Andrew M. Cuomo, I am pleased to notify you that the Batavia City Police Department has been awarded a total of \$11,400 to participate in the statewide Police Traffic Services Program. A breakdown of your grant award amount is as follows:

Category	Award Amount
Seat Belt Mobilization Enforcement	\$1,400
Regular PTS Enforcement	\$10,000
Other Than Personal Services	\$0
Grand Total	\$11,400

Our goal is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and death from traffic crashes. Please note all grants will be effective only upon final approval by the New York State Office of the State Comptroller.

Before incurring any project related expenses, login to eGrants to review your approved budget as it may have been reduced or otherwise changed from what was requested. Crucial documents regarding your grant, the claims process, equipment, and other grant related topics can be found by visiting <http://safeny.ny.gov/currentgrantees.htm>.

Thank you for participating in this very important statewide enforcement program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

Charles R. DeWeese
Assistant Commissioner

CRD:bp
Enclosure
cc: Karen Benedict
Todd Crossett



Department of
Motor Vehicles

#-2018

**A RESOLUTION TO AMEND THE 2018-2019 POLICE DEPARTMENT BUDGET TO
REFLECT THE RECEIPT OF A POLICE TRAFFIC SERVICES GRANT**

Motion of Councilperson

WHEREAS, the City of Batavia Police Department has received a grant in the amount of \$11,400 from the New York State Governor's Traffic Safety Committee to participate in the statewide Police Traffic Services Program. The goal is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and death from traffic crashes; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2018-2019 budget effective November 12, 2018 to cover various traffic enforcement details card equipment purchases:

Increase expenditure accounts:		
001.3120.0101.1175	\$	11,374.00
Increase revenue accounts:		
001.0001.4389.1175	\$	11,374.00

Seconded by Councilperson


and on roll call



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Shawn Heubusch, Police Chief 

Date: October 15, 2018

Subject: Watson Street/ Thorpe Street intersection review

Following the Council Meeting on September 10, 2018 which once again raised concerns for safety at the intersection of Watson and Thorpe Street Bureau of Maintenance Superintendent Ray Tourt, Director of Public Works Matt Worth and I met to discuss possible solutions. We discussed the following items;

- Watson Street runs east and west between Evans Street and Jackson Street with no parking on the southside of the street due to the narrow nature of the street.
- Watson Street has 32 ft ROW with 21ft of pavement and for the most part 4 ft sidewalks on both sides of the road. This does cause a problem for sign posting where we are supposed to provide a 2 ft clear edge from the road. If a stop sign is to be posted (30") it would have to be posted in the middle of the sidewalk without the ability to provide a minimum of 36" clear sidewalk. There is No Parking on Northside of street.
- Thorpe Street runs north and south between Maple Street and Watson Street with a short extension running north of Watson Street which dead ends, there is no parking on either side of Thorpe Street due to inadequate space for parking on either side.
- The specific request was to place a Stop Sign on Watson Street headed eastbound at the intersection of Thorpe Street.
- A traffic study was completed in the area, this study did not warrant a Stop Sign or other traffic control device.
- There is insufficient space on Watson Street at the intersection of Thorpe Street to erect a proper Stop Sign.
- The sightlines coming off Thorpe Street onto Watson Street to the north are severely limited due to land incursions, structures and the curve of Watson Street.
- Thorpe Street has a 20ft ROW with a pavement from 20ft to 21 ft and no sidewalks. Thorpe Street has No Parking on either side.

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City of Batavia

The following is recommended to address community concerns and change the traffic pattern in the area;

- Turn Thorpe Street between Watson Street and Maple Street into a One-Way street with the direction of travel being southbound only.
- Add permissive parking on the west side of Thorpe Street between Watson Street and Maple Street.
- Based on this information and the alignment needed for One-Way signage, they can be squeezed in on Thorpe Street at Watson without encroaching the sidewalks.
- The portion of Thorpe Street North of Watson Street would have to remain two way with a STOP control SB and parking ban on both sides.

This solution relieves the sightline issues at the Watson and Thorpe Streets intersection as there will be no northbound traffic at that intersection. This solution also allows for residents to have some on-street parking on Thorpe Street that they currently do not have. This parking is subject to the City of Batavia Parking Regulations regarding overnight parking restrictions.

If you have any questions do not hesitate to contact me directly.

Police Department
10 Main Street
Batavia, New York 14020



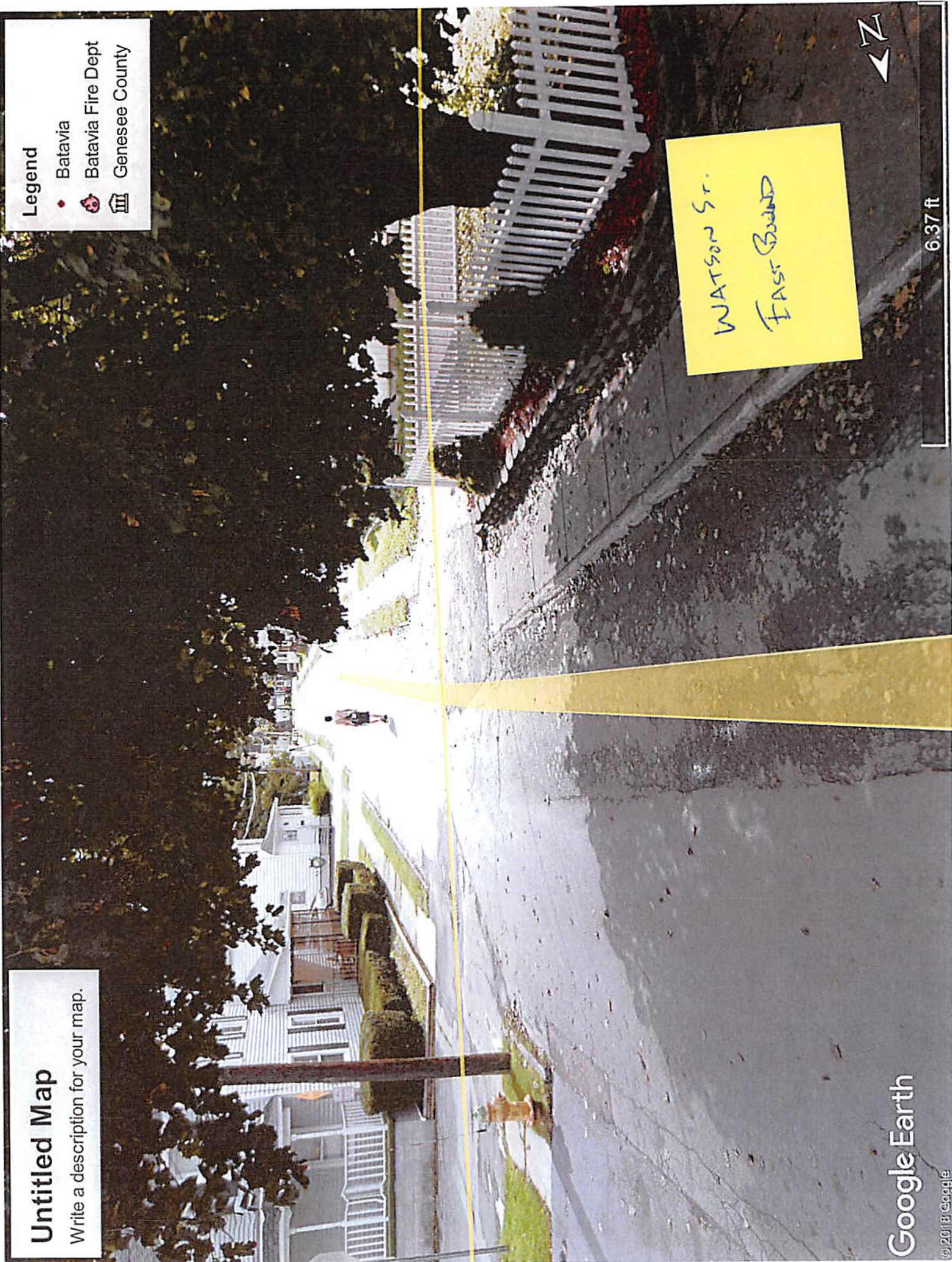
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Untitled Map

Write a description for your map.

Legend

- Batavia
- 🚒 Batavia Fire Dept
- 🏠 Genesee County



Untitled Map

Write a description for your map.

Legend

- Batavia
- 🚒 Batavia Fire Dept
- 🏠 Genesee County



THREE ST.
SOUTH BOUND

6.42 ft

Untitled Map

Write a description for your map.

Legend

- Batavia
- 🚒 Batavia Fire Dept
- 🏛️ Genesee County



4.90 ft

THORPE ST.
NORTH BOUND

Untitled Map

Write a description for your map.

WATSON ST.

WEST BOUND

Legend

- Batavia
- 🔥 Batavia Fire Dept
- 🏛️ Genesee County



Google Earth

© 2018 Google

7.56 ft



Untitled Map

Write a description for your map.

Legend

- ◆ Batavia
- 🔥 Batavia Fire Dept
- 🏛️ Genesee County



Google Earth

© 2018 Google

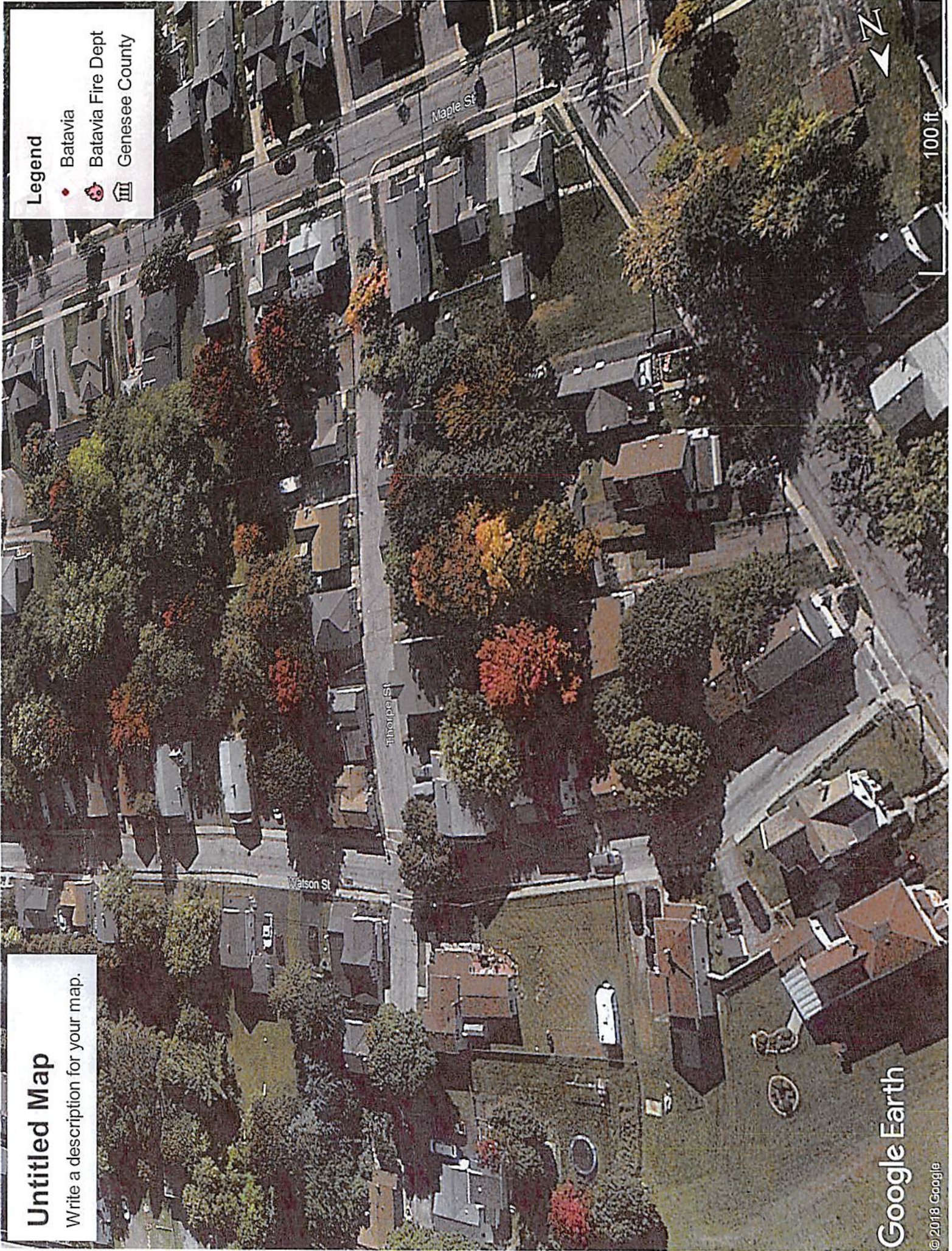
1000 ft

Untitled Map

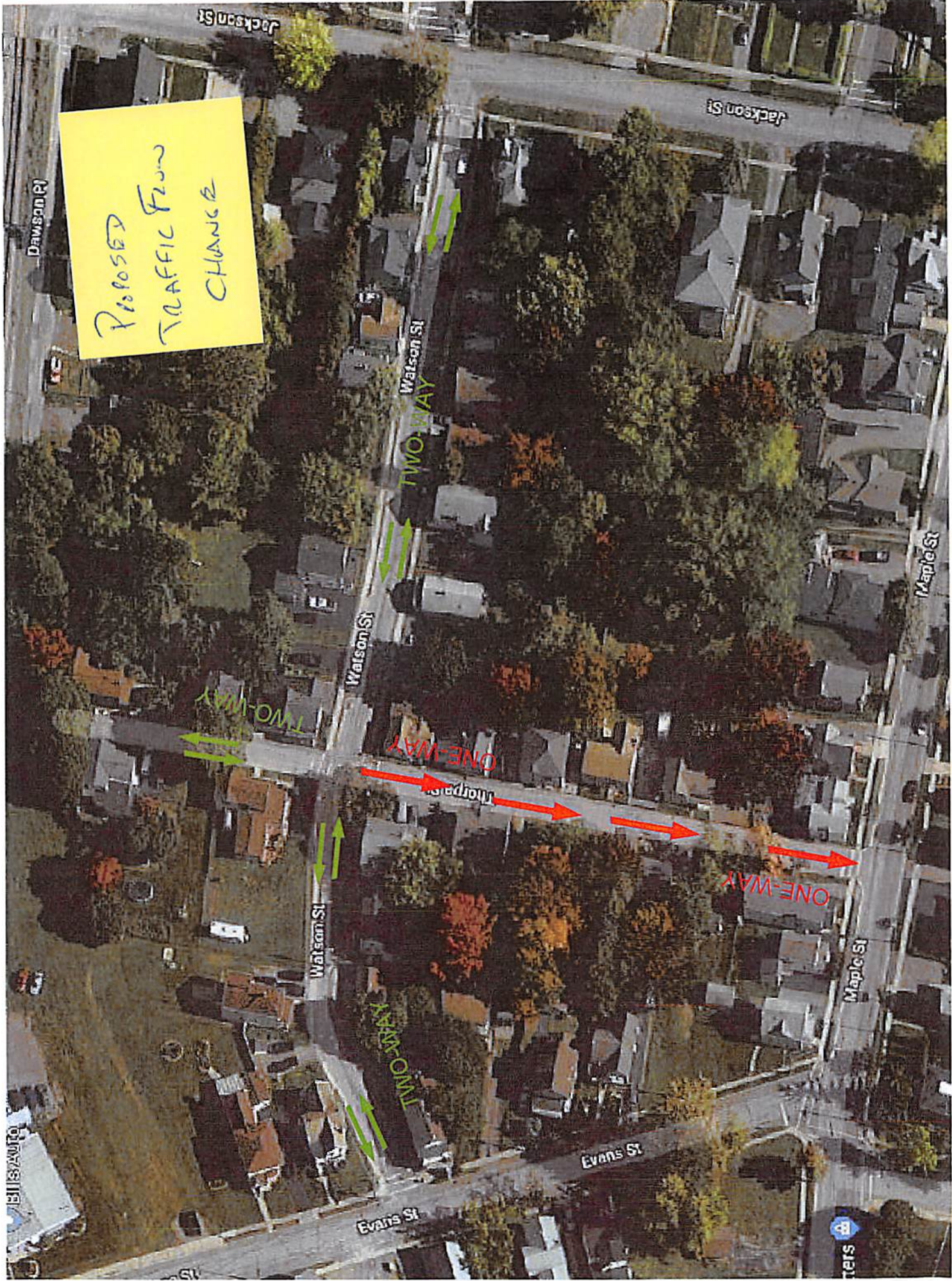
Write a description for your map.

Legend

- Batavia
- 🚒 Batavia Fire Dept
- 🏛️ Genesee County



PROPOSED
TRAFFIC FLOW
CHANGE



#-2018

A RESOLUTION TO SCHEDULE A PUBLIC HEARING TO AMEND THE CITY CODE OF THE CITY OF BATAVIA SECTION 178-5; ONE-WAY ROADWAYS

Motion of Councilperson

WHEREAS, it is the desire of the City of Batavia to make Thorpe Street a One-Way Street in order to address traffic and safety concerns; and

WHEREAS, the process for amending the City of Batavia Code is a Local Law change and therefore involves holding of a public hearing; and

WHEREAS, residents are invited to attend the hearing.

NOW THEREFORE, BE IT RESOLVED, that the City of Batavia will hold a Public Hearing on the proposed Local Law change at the City Hall, One Batavia City Centre, Batavia, NY at 7:00 p.m. on XXXXXXXX; and

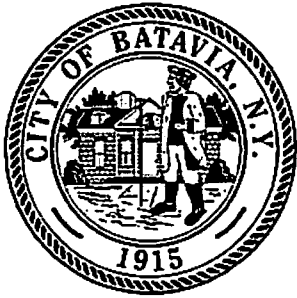
BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a Public Hearing notice in the official newspaper of the City of said Public Hearing.

**Seconded by Councilperson
and on roll call**

Amend the City Code of the City of Batavia Section 178-5; One-way Roadways

One-way roadways shall be as follows:


Name of Street	Location	Direction
Center Street [Repealed 10-14-2003]		
Hewitt Place	From East Main Street to School Street	South
Jackson Street [Repealed 10-14-2003]		
Lewis Place	From Hutchins Street to State Street	West
McKinley Avenue	From East Main Street to Harvester Avenue	South
North Spruce Street	From East Main Street to East Avenue	North
School Street	From Center Street to Liberty Street	East
Wiard Street	From East Main Street to a point 160 feet north of the north curbline of East Main Street	North
Thorpe Street	From Watson Street and Maple Street	South



City of Batavia

Memorandum

To: Martin Moore, City Manager

From: Matt Worth, Director of Public Works 

Date: October 17, 2018

Subject: Roof Repairs at City Centre – Bid Results

Bids for the replacement of two areas of flat roofs, and four entry silos at the City Centre were received and opened on October 17, 2018. The project was broken down into two projects with the flat roofs and silo roofs being able to be bid separately. The bids received were as follows:

<u>Bidder</u>	<u>EPDM Flat Roofs</u>	<u>Silo Roofs</u>
Elmer Davis Roofing	\$179,200	\$62,000
J+B Installations	\$196,500	No Bid

Upon review it is believed that the City is not receiving the best value possible for these projects and it would be in the best interest of the City of Batavia to re-bid this project as part of a larger roofing project at the City Centre in the spring of 2019. It is the recommendation of the Department of Public Works to reject the bids.

Supporting Documentation

Draft Resolution
Original Memo
Consultant Recommendation

#-2018
**A RESOLUTION TO REJECT ALL BIDS FOR CONTRACT 2018-5 FOR ROOF
REPLACEMENTS OF TWO HALLWAYS AND FOUR SILOS
IN THE BATAVIA CITY CENTRE**

Motion of Councilperson

WHEREAS, in accordance with General Municipal Law Section 103, on September 26, 2018 the City of Batavia issued a competitive bid for the replacement of the roof for the Batavia City Centre which includes the hallway roof adjacent to Sunny's restaurant, the hallway roof adjacent to City Hall and all four silo roofs; and

WHEREAS, Two (2) bids were received on October 17, 2018 and Elmer W. Davis, was the lowest responsible bidder in the amount of \$179,200.00 for the replacement of the hallway and \$62,000.00 for the silo roofs; and

WHEREAS, after review of both bids by the City's engineers and Department of Public Works it has been determined that the lowest bidder has submitted a bid higher than the estimated cost of the project; and

WHEREAS, the rejection of all bids and re-bidding of contract 2018-5 "City of Batavia Entry & EPDM Roof Repairs" is likely to result in lower contract prices and a benefit to City taxpayers; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that all bids for contract 2018-5 "City of Batavia Entry & EPDM Roof Repairs" submitted on October 17, 2018 be hereby rejected.

**Seconded by Councilperson
and on the roll call**



Architecture Unlimited, LLC

8304 Main Street
Williamsville, New York 14221
T. (716)-204-9733
www.AUbuild.net

October 18, 2018

Mr. Matt Worth, PE
Office of the City Manager
City of Batavia
One Batavia City Centre
Batavia, New York 14020

**Re: Batavia City Centre Roof Repairs & Improvements
City Contract No. 2018-8
AU Project No. 18-05**

Dear Mr. Worth,

As you are aware, we are in receipt of 2 bids for the above referenced Contract-1 'EPDM Replacement' work as follows:

1. Elmer W. Davis, Inc. Roofing - \$179,200.00
2. J&B Installation, Inc. - \$196,500.00

And as you are also aware, we are in receipt of 1 bid for the above referenced Contract-2 'Metal Roof Installations' work as follows:

1. Elmer W. Davis Inc. Roofing - \$62,000.00

In reviewing the bids, I offer the following commentary:

- A. The bids are higher than our estimates, approximately \$35-40,000 over both projects.
- B. Interviews with bidders seems to acknowledge bids are higher than normal for a variety of factors including 'full fall schedules, distance, small nature of project vs. mobilization costs, access restrictions, and suspected lack of interest by other bidders'. In summary, they seem to acknowledge that current market conditions allowed them to be only interested at a higher than normal price.
- C. Interviews with non-bidders seems to confirm same. We have acknowledgement from some non-bidders that they considered 'throwing a number at it' but declined as being too busy to take the time as well as being concerned that it would look poorly for them on the project's future opportunities.

- D. The project does not appear to have failed to have been adequately advertised and promoted. Several contractors we interviewed acknowledged they noted the bid advertisement in the normal manner. The bid from J&B Installations shows the publicized 'notice to bidder's reached as far as their location in Syracuse, NY.

In addition, our office made efforts both before and during the bid period to notify various Buffalo and Rochester contractors of the project via direct telephone calls. In hindsight, those same efforts may have signaled an awareness to contractors regarding the lack of bid interest and contributed to a sense of premium bid opportunity. Be advised such efforts were necessary since the pre-bid walkthrough conducted the week before the bid due date revealed that only 1 prospective and non-committed bidder was considering only a portion of the project work.

- E. The purpose of segmenting a small portion of the overall roof work into an earlier bid than the planned 2019 work was to show 'progress and good faith' with various stakeholders. However, the bidding has revealed the premium costs associated with such efforts are significant.
- F. With acknowledgment that another purpose for fast-tracking a portion of the work was to more quickly resolve some of the roof's active interior water leaks, the bidding has revealed that temporary repair and patch measures and/or temporary protection measures will likely be more cost-effective than the bidding premiums encountered for this year.

In summary, it is our recommendation that the bids be rejected and that the current segmented approach to the project work be abandoned.

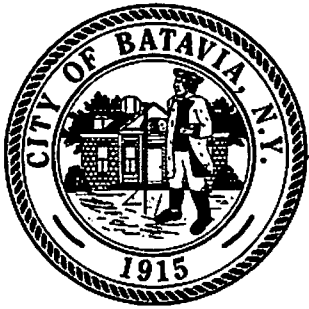
The current design, engineering and specification work will not be wasted as such work is still applicable to the overall project work intended. The scope of the design and engineering work will simply need to be supplemented to include work at the skylight systems and other building features not part of the initial segmented work.

Based on our review, it is our professional opinion that the larger overall roof repair project will be a more competitive bidding opportunity in the interests of the City. It should also be of more competitive interest to the contractors during the winter of 2018-19 when they are turning their attention to their upcoming open schedules as opposed to their current filled schedules.

Respectfully Submitted,
Architecture Unlimited, LLC



Kenneth W. Pearl, RA
President



City of Batavia

Memorandum

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: September 18, 2018

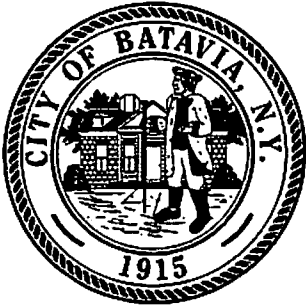
Subject: Roof Repairs at City Centre

As part of the settlement agreement with the Mall Merchants the City is obligated to make repairs and improvements to the roof, silo entry ways, and skylights. The settlement agreement requires that this work is to be completed no later than March 31, 2021 and has a total budget of \$627,000

The first stage of this work is to make improvements to the silo entries by installing a peaked cap on top of the existing silos. This will create a weathertight cover and allow for entries to be cleaned and painted on the interior. In addition, the hallway adjacent to Sunny's Restaurant and the hallway adjacent to City Hall will have roofs replaced which are the two areas with the most significant leaks.

The City has engaged the architecture firm of Architecture Unlimited, PLLC to prepare plans and specifications which are being prepared for bidding. It is expected that the project will be advertised for bid on September 26th with a bid opening date of October 17th and a recommendation for award will be presented to City Council at a special October Council Business Meeting on October 22nd if the bids are appropriate.

Supporting Documentation
Draft Resolution



City of Batavia

Memorandum

To: Honorable Batavia City Council

From: Bureau of Human Resources

Date: October 17, 2018

Subject: Revision of City's Personnel Policies Manual to Adopt NYS Sexual Harassment Prevent Policy

Earlier this year when New York State adopted the 2018-2019 budget legislation, as part of the budget a requirement was included that mandates that every employer in the State implement a Sexual Harassment Prevention Policy that applies to all employees. The legislation required that employers adopt the policy by October 9, 2018 and provide mandated training by for all employees by December 31, 2018. A couple of weeks ago the State Department of Labor adopted final guidance and a model policy for employers to use. Alternatively, employers may prepare and adopt their own policy as long as it is consistent with the requirements of Labor Law Section 201-g and the minimum standards in the State's model policy. The policy must also be distributed to all employees either in written form or electronically so that it can be printed by the employee.

The City Council has adopted the City's Personnel Policies Manual addressing a variety of topics, including an existing sexual harassment policy. The Manual was last revised in August 2011. The Bureau of Human Resources has revised the policy to include the State's model sexual harassment policy.

The DOL final guidance has pushed back the date of mandated employee training to October 9, 2019. As with the policy, the State guidance includes a model training program or mandates that employers meet minimum requirements. The training must be provided annually to existing employees and upon hiring of new employees. The Bureau is reviewing training options and will be setting up training for all City employees in early 2019.

The Bureau requests that City Council adopt the City's revised Personnel Policies Manual dated October 2018, including the State's new Sexual Harassment Prevention Policy.

#-2018

**A RESOLUTION AMENDING CITY OF BATAVIA'S PERSONNEL POLICIES
MANUAL TO ADOPT NEW YORK STATE SEXUAL HARASSMENT POLICY**

Motion of Councilperson

WHEREAS, the City of Batavia Council has adopted the City's Personnel Policies Manual maintained by the Bureau of Human Resources; and

WHEREAS, the Manual is revised from time to time by the City and the last version is August 2011; and

WHEREAS, the State of New York 2018-2019 budget legislation included a new requirements that every employer in the State of New York is required to implement sexual harassment prevention policy applicable to all employees and provide training to every employee on an annual basis; and

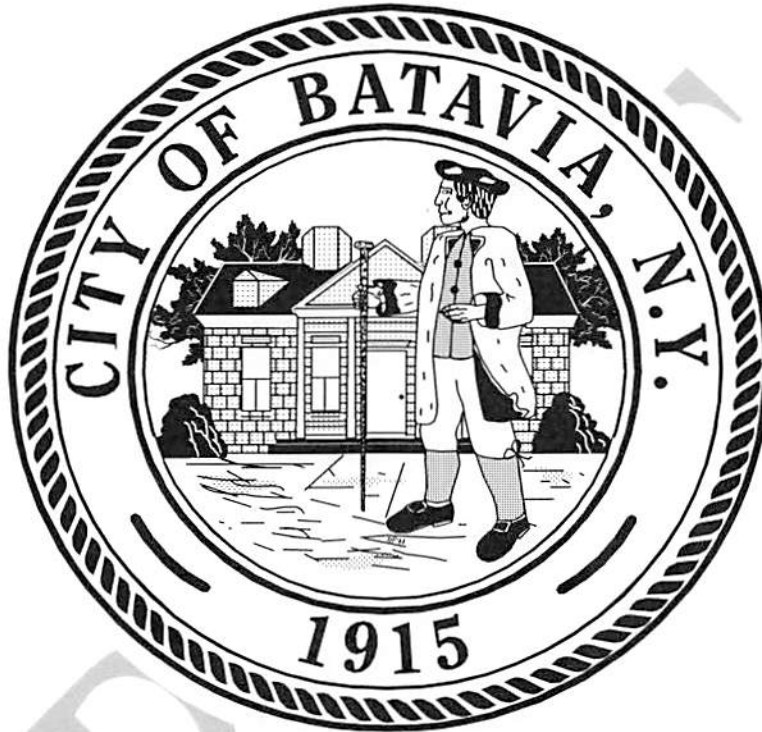
WHEREAS, employers are required to adopt the sexual harassment policy by October 9, 2018 and provide training by October 9, 2019; and

WHEREAS, the Bureau of Human Resources has revised the Personnel Policies Manual to include the required State Sexual Harassment Prevention Policy; and

NOW THEREFORE, BE IT RESOLVED, that the City Council adopts the revised Personnel Policies Manual dated October 2018.

**Seconded by Councilperson
And on Roll Call**

CITY OF BATAVIA, NEW YORK



PERSONNEL POLICIES MANUAL

MAINTAINED BY:

Bureau of Human Resources

Revision Date:

October, 2018

City of Batavia
Personnel Policies Manual

Preface

Employees: The City's most valuable asset

Whether you are a new City employee just beginning your career with the City or you are a long tenured member of the City of Batavia team, you exemplify the best of what the City has to offer. You are dedicated to providing quality public service, responsive customer service and the responsible advancement and progress of our City. We take our commitment to service seriously and, to enjoy a successful and rewarding career with the City, you must also.

You should read this manual carefully. The policies and procedures contained in this handbook constitute guidelines only and are in no way interpreted as a contract between the City of Batavia and/or any of its employees. The City of Batavia expressly reserves the right to modify or delete any of the policies contained herein without notice.

The employments of individuals in certain positions with the City of Batavia are governed by negotiated collective bargaining agreements. For such positions, the collective bargaining agreement represents the conditions of their employment. On any item on which the agreement is silent, these personnel policies will prevail. If any item in these personnel policies is in conflict with the collective bargaining agreement, the agreement will prevail.

If you need any additional information you should direct your questions to your immediate supervisor, department head or the Bureau of Human Resources.

We wish you every success in your career with the City of Batavia.

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	Article II, Preemployment Physicals
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CHAPTER 8
PERSONAL CONDUCT
ARTICLE III
Sexual Harassment

- § 8 – 11. Applicability.**
- § 8 – 12. Policy.**
- § 8 – 13. What is sexual harassment?**
- § 8 – 14. Reporting sexual harassment.**
- § 8 – 15. Supervisor responsibilities.**
- § 8 – 16. Complaint and investigation of sexual harassment.**
- § 8 – 17. Sexual harassment complaint form, City of Batavia.**

ARTICLE III – Sexual Harassment Policy – City of Batavia

§ 8 – 11 Applicability.

The City of Batavia is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of **The City of Batavia's** commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with **The City of Batavia**. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

§ 8 – 12 Policy:

1. **The City of Batavia's** policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with **The City of Batavia**. In the remainder of this document, the term "employees" refers to this collective group.

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. **The City of Batavia** will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of **The City of Batavia** who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or **The Department of Human Resources**. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject **The City of Batavia** to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. **The City of Batavia** will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. **The City of Batavia** will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. **The City of Batavia** will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to **The Department of Human Resources**.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

§ 8 – 13 What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

§ 8 – 14 Reporting Sexual Harassment:

Preventing sexual harassment is everyone's responsibility. The City of Batavia cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or The Department of Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or The Department of Human Resources.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

§ 8 – 15 Supervisory Responsibilities:

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to **The Department of Human Resources**.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

§ 8 – 16 Complaint and Investigation of Sexual Harassment:

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. **The City of Batavia** will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, **The Department of Human Resources** will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant),

as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by **The City of Batavia** but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at **The City of Batavia**, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year of the harassment**. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to **The City of Batavia** does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable

cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

§ 8 – 17 Sexual Harassment Complaint Form City of Batavia.

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it, in person, to The Human Resource Department, One Batavia City Centre, Second Floor. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit: ny.gov/programs/combating-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: Email Phone In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

#-2018

**A RESOLUTION TO APPROVE THE SALES TAX ALLOCATION SECOND
AMENDED AGREEMENT BETWEEN THE COUNTY OF GENESEE AND CITY OF
BATAVIA**

Motion of Councilperson

WHEREAS, the County of Genesee (hereinafter "County"), and the City of Batavia (hereinafter "City"), entered into an "Agreement – Sales Tax Allocation County of Genesee and City of Batavia" dated December 31, 2007 (hereinafter "2007 Agreement"), and

WHEREAS, this "2007 Agreement" provided for a division of the net proceeds of sales tax imposed by the County, by and among the County, the City and the Towns and Villages located in Genesee County, and

WHEREAS, pursuant to the Fifth Paragraph of this "2007 Agreement", the terms and conditions of the Agreement were to end on February 28, 2018, and

WHEREAS, on November 10, 2016, the County Legislature adopted a Resolution No. 416-2016 which notified the City of Batavia of its intention to terminate the "2007 Agreement", in the event that the parties did not timely enter into a new Agreement, and

WHEREAS, the City and County did subsequently enter into a "Sales Tax Allocation Amended Agreement Between the County of Genesee and the City of Batavia", dated June 19, 2017, which extended the term of the "2007 Agreement" until December 31, 2018, and

WHEREAS, the City and County have been negotiating to enter into a new Agreement for a term of 40 years, and have been advised that in order to obtain approval for an Agreement for this length of time it will be necessary to obtain special legislation from the New York State Legislature, which the parties intend to pursue, and

WHEREAS, to allow time to complete the special legislative process the City and County need to extend the "2007 Agreement" for an additional period of one year, and

WHEREAS, a Committee was formed and has convened as set forth in the Sixth Paragraph of the "2007 Agreement", in order to make a recommendation to the Legislature and the City Council as to whether or not to amend, modify or extend this "2007 Agreement" for an additional term, and

WHEREAS, this Committee has met numerous times, and has in fact recommended to the Legislature and the City Council that the "2007 Agreement" be extended for a period of 1 year, and

WHEREAS, the County Legislature intends to accept and act upon this recommendation by entering into a Second Amended Agreement to extend the termination date until December 31, 2019.

NOW, THEREFORE, BE IT RESOLVED, that the City Council President of the City of Batavia is hereby authorized and directed to execute on behalf of the City a proposed "Sales Tax Allocation Second Amended Agreement between the County of Genesee and the City of Batavia", in order to extend the term of the prior Sales Tax Allocation Agreement, dated December 31, 2007, for an additional term of 1 year to end on December 31, 2019.

**Seconded by Councilperson
and on roll call**

DRAFT

**SALES TAX ALLOCATION SECOND AMENDED AGREEMENT
BETWEEN THE COUNTY OF GENESEE AND THE CITY OF BATAVIA**

THIS AGREEMENT made the _____ day _____, 2018, by and between the County of Genesee, a municipal corporation of the State of New York, with offices located at the Old Courthouse, 7 Main Street, Batavia, New York, 14020 (hereinafter "County"), and the City of Batavia, a municipal corporation of the State of New York with offices located at One Batavia City Centre, Batavia, New York 14020 (hereinafter "City").

WITNESSETH:

WHEREAS, the Parties previously entered into an "Agreement Sales Tax Allocation County of Genesee and City of Batavia", dated December 31, 2007, (hereinafter "2007 Agreement") and

WHEREAS, the Parties subsequently entered into a "Sales Tax Allocation Amended Agreement Between the County of Genesee and the City of Batavia", dated June 19, 2017, which extended the term of the "2007 Agreement" until December 31, 2018, and

WHEREAS, the Parties desire and intend to extend the "2007 Agreement" for an additional 1 year.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. The Fifth Paragraph of the "2007 Agreement" shall be revised to extend the term for an additional period of 1 year, to end on December 31, 2019, instead of the date of December 31, 2018.
2. The parties acknowledge that the prior notice by the County to the City to terminate the Agreement pursuant to the second paragraph of the Sixth Paragraph shall remain in full force and effect; except that the termination date is extended until December 31, 2019.
3. Any and all terms and conditions set forth in the "2007 Agreement", which are not specifically revised or amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have signed this Second Amended Agreement the day and year first written above.

CITY OF BATAVIA

By: _____
Eugene Jankowski, Jr.
President, City Council

COUNTY OF GENESEE

By: _____
Robert Bausch
Chairman, County Legislature

MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson

WHEREAS, Article 7, Section 105(1)(h), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...".

WHEREAS, legal counsel for the City will have an attorney-client privileged communication that is exempt from the Open Meetings Law; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

**Seconded by Councilperson
and on roll call**