

# **AGENDA**

**Regular Meeting of the**

## **CITY COUNCIL OF THE CITY OF TROY**

**OCTOBER 24, 2005**

**CONVENING AT 7:30 P.M.**

**Submitted By  
The City Manager**

TO: The Honorable Mayor and City Council  
Troy, Michigan

FROM: John Szerlag, City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

This booklet provides a summary of the many reports, communications and recommendations that accompany your Agenda. Also included are suggested or requested resolutions and/or ordinances for your consideration and possible amendment and adoption.

Supporting materials transmitted with this Agenda have been prepared by department directors and staff members. I am indebted to them for their efforts to provide insight and professional advice for your consideration.

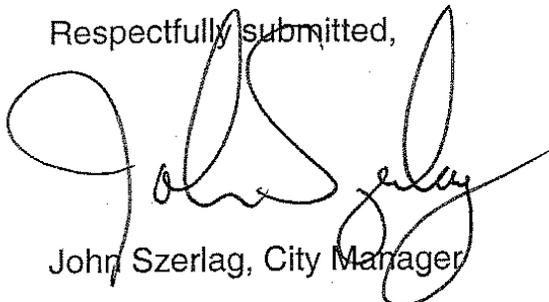
Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration are on course with these goals.

### **Goals**

1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

As always, we are happy to provide such added information as your deliberations may require.

Respectfully submitted,



John Szerlag, City Manager



## CITY COUNCIL

### AGENDA

October 24, 2005 – 7:30 PM  
Council Chambers  
City Hall - 500 West Big Beaver  
Troy, Michigan 48084  
(248) 524-3317

**CALL TO ORDER:** 1

**INVOCATION & PLEDGE OF ALLEGIANCE:** Pastor A.C. Phipps – Evanswood Church of God 1

**ROLL CALL:** 1

**CERTIFICATES OF RECOGNITION:** 1

A-1 Presentations: No Presentations 1

**CARRYOVER ITEMS:** 1

B-1 No Carryover Items 1

**PUBLIC HEARINGS:** 1

C-1 Proposed Amendment to the Boundaries of the Downtown District of the Downtown Development Authority (DDA) 1

**POSTPONED ITEMS:** 2

D-1 Zoning Ordinance Text Amendment (ZOTA 216) – Additional Retail Along Major Thoroughfares in the M-1 (Light Industrial) Zoning District 2

D-2 Appointments to Boards and Committees: City Council Appointments: Ethnic Issues Advisory Board 3

**CONSENT AGENDA:** **3**

E-1a Approval of "E" Items NOT Removed for Discussion 4

E-1b Address of "E" Items Removed for Discussion by City Council and/or the Public 4

E-2 Approval of City Council Minutes 4

E-3 Proposed City of Troy Proclamations: None Submitted 4

E-4 Standard Purchasing Resolutions: None Submitted 4

**PUBLIC COMMENT: Limited to Items Not on the Agenda** **4**

**REGULAR BUSINESS:** **4**

F-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments Scheduled; b) City Council Appointments: No Appointments Scheduled 5

F-2 Marshall Field's Fireworks Permit Application 5

F-3 Resolution in Support of a Constitutional Amendment to Narrowly and Clearly Define the Term "Public Use" 5

**MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:** **7**

G-1 Announcement of Public Hearings: None Submitted 7

G-2 Green Memorandums: None Submitted 7

**COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda** **7**

H-1 No Council Referrals 7

**COUNCIL COMMENTS:** **7**

I-1 No Council Comments 7

**REPORTS: 7**

J-1 Minutes – Boards and Committees: None Submitted 7

J-2 Department Reports: 7

    a) Report on Available Property for Sale at 1660 Square Lake Road..... 7

J-3 Letters of Appreciation: None Submitted 7

J-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted 7

J-5 Calendar 7

**STUDY ITEMS: 7**

K-1 No Study Items Submitted 7

**PUBLIC COMMENT: Address of “K” Items 7**

**CLOSED SESSION: No Closed Session Requested 8**

**ADJOURNMENT 8**

**SCHEDULED CITY COUNCIL MEETINGS: 8**

Monday, November 14, 2005 Regular City Council ..... 8

Monday, November 21, 2005 Regular City Council ..... 8

Monday, November 28, 2005 Regular City Council ..... 8

Monday, December 5, 2005 Regular City Council ..... 8

Monday, December 19, 2005 Regular City Council ..... 8

Monday, January 9, 2006 Regular City Council ..... 8

Monday, January 23, 2006 Regular City Council ..... 8



**CALL TO ORDER:****INVOCATION & PLEDGE OF ALLEGIANCE: Pastor A.C. Phipps –  
Evanswood Church of God****ROLL CALL:**

Mayor Louise E. Schilling  
Robin Beltramini  
Cristina Broomfield  
David Eisenbacher  
Martin F. Howrylak  
David A. Lambert  
Jeanne M. Stine

**CERTIFICATES OF RECOGNITION:**

---

**A-1 Presentations: No Presentations**

**CARRYOVER ITEMS:**

---

**B-1 No Carryover Items**

**PUBLIC HEARINGS:**

---

**C-1 Proposed Amendment to the Boundaries of the Downtown District of the  
Downtown Development Authority (DDA)**

Attached are memoranda from Miller Canfield, bond counsel, and financial advisor Bendzinski & Co. Representatives from these firms will also be in attendance to discuss the mechanics of modifying the physical boundaries of the Downtown Development Authority District, as well as the financial implications of removing the proposed Monarch Development from the district. Additionally, enclosed are memoranda from City Management relative to donors vs. consumers of municipal services, and other DDA-related issues.

**Proposed Resolution – Version A**Suggested Resolution

Resolution #2005-10-

Moved by

Seconded by

RESOLVED, That the City of Troy City Council **RECOMMENDS** moving forward with the proposed amendments to the boundaries of the Downtown District of the Downtown Development Authority of the City of Troy and **AUTHORIZES** the City Administration to draft an

---

ordinance to **AMEND** the boundaries of the Downtown Development Authority and **PLACE** on a future City Council meeting not less than 60 days after the public hearing.

Or

**Proposed Resolution – Version B**

Suggested Resolution

Resolution #2005-10-

Moved by

Seconded by

RESOLVED, That the City of Troy City Council **REFER** this matter to the Downtown Development Authority for their **RECOMMENDATION** on an amendment to the Downtown Development Plan Area boundaries.

Yes:

No:

**POSTPONED ITEMS:**

---

**D-1 Zoning Ordinance Text Amendment (ZOTA 216) – Additional Retail Along Major Thoroughfares in the M-1 (Light Industrial) Zoning District**

Pending Resolution

Resolution #2005-10

Moved by Beltramini

Seconded by Lambert

RESOLVED, That Article XXVIII (M-1 LIGHT INDUSTRIAL DISTRICT), of the Zoning Ordinance, Option A, be **ADOPTED**, as recommended by the Planning Commission, with the caveat that City Staff is **DIRECTED** to provide a report in six months on other areas where this retail use might be expanded and City Staff is further **DIRECTED** to provide a report by the end of this year listing the functional relationship as defined by the approvals from the Planning Commission.

Yes:

No:

**Or One of the Following Substitute Amendments:**

**Proposed Substitute Amendment A – Planning Commission Version**

Suggested Resolution

Resolution #2005-10-

Moved by

Seconded by

RESOLVED, That Article XXVIII (M-1 LIGHT INDUSTRIAL DISTRICT), of the Zoning Ordinance, Version A, be **ADOPTED**, as recommended by the Planning Commission.

Or

**Proposed Substitute Amendment B – City Management Version**

Suggested Resolution  
Resolution #2005-10-  
Moved by  
Seconded by

RESOLVED, That Article XXVIII (M-1 LIGHT INDUSTRIAL DISTRICT), of the Zoning Ordinance, Version B, be **ADOPTED**, as recommended by City Management.

Yes:  
No:

---

**D-2 Appointments to Boards and Committees: City Council Appointments: Ethnic Issues Advisory Board**

**(b) City Council Appointments**

Pending Resolution  
Resolution #2005-10-  
Moved by Beltramini  
Seconded by Lambert

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

**Ethnic Issues Advisory Board**

Appointed by Council (9) – (4) 3 year terms & (5) 2 year terms

Reuben T. Ellis

Unexpired Term 09/30/07

Yes:  
No:

**CONSENT AGENDA:**

*The Consent Agenda includes items of a routine nature and will be approved with one motion. That motion will approve the recommended action for each item on the Consent Agenda. Any Council Member may ask a question regarding an item as well as speak in opposition to the recommended action by removing an item from the Consent Agenda and have it considered as a separate item. Any item so removed from the Consent Agenda shall be considered after other items on the consent portion of the agenda have*

*been heard. Public comment on Consent Agenda Items will be permitted under Agenda Item 9 "E".*

---

**E-1a Approval of "E" Items NOT Removed for Discussion**

Suggested Resolution

Resolution #2005-10-

Moved by

Seconded by

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item(s) \_\_\_\_\_, which shall be considered after Consent Agenda (E) items, as printed.

Yes:

No:

---

**E-1b Address of "E" Items Removed for Discussion by City Council and/or the Public**

---

**E-2 Approval of City Council Minutes**

Suggested Resolution

Resolution #2005-10-

RESOLVED, That the Minutes of the 6:00 PM Special-Joint DDA Meeting and the 7:30 PM Regular City Council Meeting of October 17, 2005 be **APPROVED** as submitted.

---

**E-3 Proposed City of Troy Proclamations: None Submitted**

---

**E-4 Standard Purchasing Resolutions: None Submitted**

**PUBLIC COMMENT: Limited to Items Not on the Agenda**

*Public comment limited to items not on the Agenda in accordance with the Rules of Procedure of the City Council, Article 16 - Members of the Public and Visitors.*

**REGULAR BUSINESS:**

*Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 11"F" of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you*

*are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.*

---

**F-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments Scheduled; b) City Council Appointments: No Appointments Scheduled**

---

**F-2 Marshall Field's Fireworks Permit Application**

Suggested Resolution

Resolution #2005-10-

Moved by

Seconded by

RESOLVED, That a fireworks permit be **ISSUED** to Zambelli Fireworks, Inc., of New Castle, PA, for the display of fireworks at the Oakland Mall on November 11, 2005.

Yes:

No:

---

**F-3 Resolution in Support of a Constitutional Amendment to Narrowly and Clearly Define the Term "Public Use"**

Suggested Resolution

Resolution #2005-10-

Moved by

Seconded by

WHEREAS, The right of an individual to own property without the threat that his/her government will take their property and give it to a private entity for a non-public use is fundamental to democracy in the United States; and

WHEREAS, Eminent domain is the power of a government to take private property for public use; the 5<sup>th</sup> Amendment of the US Constitution and articles in many state constitutions allow this practice provided that fair compensation is made; and

WHEREAS, Historically eminent domain has been used for public uses such as roads, parks, schools and other governmental functions; and

WHEREAS, In 1954, the United States Supreme Court began to erode individual property rights when it determined in *Berman vs. Parker* that government's power of eminent domain could be used to seize property in order to remove "blighted" areas; and

WHEREAS, The definition of a "blighted" area has become so expansive that in 1981 the Michigan Supreme Court allowed the City of Detroit to condemn a stable neighborhood called Poletown to make way for a General Motors plant; and

WHEREAS, In 2004, the Michigan Supreme Court overturned the “Poletown” decision when it ruled on *The County of Wayne v. Hathcock et al*, and noted that: “...if one’s ownership of private property is forever subject to the government’s determination that another private party would put one’s land to better use, then the ownership of real property is perpetually threatened by the expansion plans of any large discount retailer, “megastore”, or the like.”; and

WHEREAS, The Michigan Supreme Court also noted in 2004 that: “...we must overrule *Poletown* in order to vindicate our Constitution, protect the people’s property rights, and preserve the legitimacy of the judicial branch as the expositor – not creator – of fundamental law.”; and

WHEREAS, On June 23, 2005, the United States Supreme Court, in a 5-4 decision, ruled in the case, *Kelo vs. City of New London, Connecticut*, that government may use eminent domain for the benefit of developers; and

WHEREAS, United States Supreme Court Justice Sandra Day O’Connor said in her dissent to the *Kelo* decision: “All private property is now vulnerable to being taken and transferred to another private owner, so long as it might be upgraded. The specter of condemnation hangs over all property. Nothing is to prevent (local governments) from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory.”; and

WHEREAS, Even though the Michigan Supreme Court, through a strict constitutional interpretation, reversed the *Poletown* decision and placed Michigan property owners in a more secure position for the immediate future than property owners in many other states, a future Michigan Supreme Court could reverse the current ruling, once again allowing the condemnation of private property for private developers where no public use is involved; and

WHEREAS, During the 23 years the *Poletown* decision was the law of the land in the State of Michigan, many of Michigan’s residential and small business property owners were let down by their government as it, with little thought or care for their long term interests, took their property and gave it to private developers for the sole purpose of increasing the government’s tax base; and

WHEREAS, United States Supreme Court Justice John Paul Stevens, in writing for the majority on the *Kelo* decision, pointed out that the Constitution does not preclude individual states “from placing further restrictions (on) the exercise of the taking power”.

NOW, THEREFORE, BE IT RESOLVED, That Troy City Council **URGES** the Michigan Legislature to place an amendment to the State of Michigan Constitution on the ballot for the sole purpose of narrowly and clearly defining “public use” in a manner that is consistent with the 2004 Michigan Supreme Court ruling (*County of Wayne vs. Hathcock et al*) on eminent domain that overturned the 1981 *Poletown* decision; and

BE IT FURTHER RESOLVED, That the Troy City Council **COMMENDS** the Michigan Supreme Court for their just and bold ruling in 2004 (*County of Wayne vs. Hathcock et al*) that overturned the *Poletown* decision; and

BE IT FINALLY RESOLVED, That copies of this resolution **BE FORWARDED** to the Michigan Supreme Court, Governor Jennifer Granholm, the Oakland County legislative contingent in Lansing, and the Michigan Association of Counties.

Yes:

No:

## MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

---

**G-1 Announcement of Public Hearings: None Submitted**

---

**G-2 Green Memorandums: None Submitted**

---

## COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

---

**H-1 No Council Referrals**

---

## COUNCIL COMMENTS:

---

**I-1 No Council Comments**

---

## REPORTS:

---

**J-1 Minutes – Boards and Committees: None Submitted**

---

**J-2 Department Reports:**

**a) Report on Available Property for Sale at 1660 Square Lake Road**

---

**J-3 Letters of Appreciation: None Submitted**

---

**J-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted**

---

**J-5 Calendar**

---

## STUDY ITEMS:

---

**K-1 No Study Items Submitted**

---

## PUBLIC COMMENT: Address of “K” Items

*Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 18 of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is*

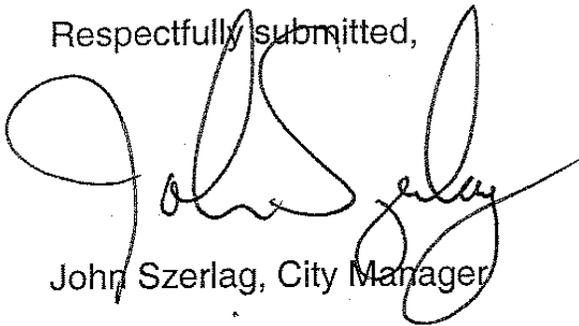
---

*brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.*

**CLOSED SESSION:** No Closed Session Requested

**ADJOURNMENT**

Respectfully submitted,

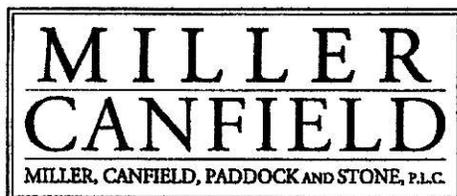


John Szerlag, City Manager

**SCHEDULED CITY COUNCIL MEETINGS:**

- Monday, November 14, 2005 ..... Regular City Council
- Monday, November 21, 2005 ..... Regular City Council
- Monday, November 28, 2005 ..... Regular City Council
- Monday, December 5, 2005 ..... Regular City Council
- Monday, December 19, 2005 ..... Regular City Council
- Monday, January 9, 2006 ..... Regular City Council
- Monday, January 23, 2006 ..... Regular City Council

Founded in 1852  
by Sidney Davy Miller



MICHIGAN: Ann Arbor  
Detroit • Grand Rapids  
Howell • Kalamazoo  
Lansing • Monroe  
Saginaw • Troy

---

New York, NY  
Pensacola, FL  
Washington, DC

**PATRICK F. MCGOW**  
TEL: (313) 496-7684  
FAX: (313) 496-8450  
E-MAIL: [mcgow@millercanfield.com](mailto:mcgow@millercanfield.com)

150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
TEL: (313) 963-6420  
FAX: (313) 496-7500  
[www.millercanfield.com](http://www.millercanfield.com)

CANADA: Windsor, ON  
POLAND: Gdynia  
Katowice • Warsaw

October 19, 2005

Lori Grigg Bluhm, Esq.  
City Attorney  
City of Troy  
500 W. Big Beaver  
Troy, MI 48084-5285

Re: Downtown Development Authority of the City of Troy

Dear Ms. Bluhm:

You have asked us to address various issues relating to a proposed amendment to the boundaries of the Downtown District of the Downtown Development Authority of the City of Troy (the "DDA"). You have specifically asked us whether the DDA Act, Act 197, Public Acts of Michigan, 1975, as amended ("Act 197"), existing documents relating to the DDA's outstanding bonds and its Development Plan and Tax Increment Financing Plan (the "Plan") prohibit the City of Troy (the "City") and the DDA from amending the boundaries of the DDA District to remove four parcels of property that are currently in the Downtown District and the Development Area.

### **Background**

It is our understanding that the City Council has called a public hearing for October 24, 2005 for the purpose of amending the DDA District boundaries to remove several contiguous parcels of property (the "Property"). The current assessed value of the Property is less than the initial assessed value of the Property when the Plan was originally approved in 1993. The Property is being proposed as the site of a new mixed-use development that is expected to substantially increase the value of the Property when constructed and placed on the tax rolls.

**DDA Act Requirements for Amendment to DDA District Boundaries**

Section 3 of Act 197 sets forth the requirements for the creation of, and amendments to, the boundaries of a DDA District. MCL 125.1653. Section 3(5) states that the City Council “*may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.*” MCL 125.1653(5).

The provisions in Act 197 for creating a DDA, or amending the DDA boundaries, require the City Council to hold a public hearing prior to adopting an ordinance designating the boundaries of the DDA. Notice of the public hearing must be given in the following manners between 20 and 40 days before the date of the hearing: published twice in a newspaper of general circulation in the City, mailed to the property taxpayers of record in the proposed district, mailed by certified mail to the governing body of each taxing jurisdiction that would be subject to capture and posted in at least 20 conspicuous and public places in the proposed district. MCL 125.1653(2). In order to amend the boundaries, the City Council is required to adopt an ordinance designating the boundaries of the DDA District or amending the original ordinance designating the boundaries; however the ordinance cannot be adopted in less than 60 days after the public hearing. MCL 125.1653(3). The procedures for amendment to the boundaries of the DDA downtown district do not require the consent or approval of the DDA Board as part of the amendment process.

As was the case with the initial establishment of the DDA downtown district, the amended boundaries of the DDA District must continue to satisfy the requirements of a “downtown district” under Act 197, which requires it to be “*part of an area in a business district.*” MCL 125.1651(k). A “business district” is defined as “*an area in the downtown of a municipality zoned and used principally for business.*” MCL 125.1651(e).

**Alternative Option is Amendment to DDA Development Area Boundaries**

Instead of amending the DDA District boundaries, another option by which the City could achieve a similar effect to exclude the future value of the Property from capture would be to amend the boundaries of the Development Area of the DDA to remove the Property, rather than amending the DDA District boundaries. The Development Area is the area designated in the Plan from which the DDA is authorized to capture tax increment revenues. The Development Area does not need to be as large as the DDA District, but property in the Development Area is required to be included

Lori Grigg Bluhm, Esq.

-3-

October 19, 2005

within the Downtown District. Typically, an amendment to a DDA downtown district to remove property from a downtown district would also be accompanied by an amendment to the Plan to make the corresponding change to the development area.

In order to amend the Development Area, the City would follow the procedures set forth in Sections 18 and 19 of Act 197. Section 19 requires amendments to the Plan to be submitted by the DDA to the City Council and approved or rejected by ordinance based on the considerations enumerated in Section 19. MCL 125.1669. Before adopting an ordinance approving or amending the Plan, the City Council is required to hold a public hearing pursuant to Section 18. Notice of the public hearing must be given in the following manners between 20 and 40 days before the date of the hearing: published twice in a newspaper of general circulation in the City, mailed to the property taxpayers of record in the proposed district, mailed by certified mail to the governing body of each taxing jurisdiction that would be subject to capture and posted in at least 20 conspicuous and public places in the proposed district. MCL 124.1668. The procedures for an amendment to the Plan requires the DDA Board to initiate the process by submitting the proposed Plan amendment to the City.

The benefit to the City to a Development Area amendment is that, unlike the procedures for the creation of a DDA District or an amendment to the DDA District boundaries in Section 3 of Act 197, there is no 60 day waiting period after the public hearing before adopting an ordinance amending the Plan and there is no opt out right by other taxing units for a Plan amendment. This provides the City more flexibility on the timing of the ordinance. Furthermore, if the City ever decided to add the Property back into the Development Area of the DDA, it would only be necessary to do another Plan amendment, which would not allow any taxing unit to opt out of capture. However, if the City were to proceed with removing the Property from the DDA District under Section 3, in order to add the Property back into the DDA the City would need to follow the procedures in Section 3 to amend the District boundaries thereby allowing taxing units to opt out of capture. The City would also need to do a Plan Amendment to make the corresponding change to the Development Area boundaries.

Thus, the City could achieve the same result of preventing the capture of tax increment revenues from the Property, but preserving future flexibility and protecting against an opt out by other taxing units, by amending the Development Area boundaries through a Plan amendment pursuant to Section 18 and 19 of Act 197 rather than an amendment to the boundaries of the DDA pursuant to Section 3 of Act 197.

## **DDA Bond Document Covenants**

### **1995 Bonds**

In 1995, the DDA issued two series of bonds to finance infrastructure improvements relating to the development of the Somerset North mall. Our firm served as Bond Counsel to the DDA in connection with the \$10,100,000 1995 Development Bonds, Series A and \$6,955,000 1995 Development Bonds, Series B, which were dated as of June 1, 1995 (together, the "1995 Bonds") and issued pursuant to a Trust Indenture between the DDA and Old Kent Bank, as trustee (the "Trust Indenture"). The 1995 Bonds were payable solely and only from tax increment revenues of the DDA, without the full faith and credit pledge of the City, and were further secured by a reserve fund and a municipal bond insurance policy issued by Asset Guaranty Insurance Company ("Asset Guaranty").

In connection with the issuance of the 1995 Bonds, as required by Asset Guaranty, Section 601(d) of the Trust Indenture contained a covenant by the DDA that "*The Authority shall not amend the Plan to alter the boundaries of the Development Area (as described in the Plan) in a manner that would reduce the tax increment revenues therefrom without the prior written consent of 100% of the Bondholders.*" The Trust Indenture provides that it shall be in effect until final payment of the 1995 Bonds or the defeasance of the 1995 Bonds in accordance with the terms of the Trust Indenture.

The DDA entered into a Development Agreement with Frankel/Forbes-Cohen Associates and the City, dated as of January 25, 1995 (the "Development Agreement") relating to various obligations of the parties in connection with the Somerset North mall and infrastructure development. Section 4.3 of the Development Agreement provides "*The City agrees that it will not cause the TDDA to be dissolved, or the Tax Increment Plan to be amended in any manner that would impair the time of payment or the amount of the Reimbursable Amount as provided under Section 2.2 hereof at any time after the date of this Development Agreement unless and until the Reimbursable Amount has been paid to the extent required hereunder.*" It is our understanding that the Reimbursable Amount, which refers to the DDA's purchase of the parking structure, was paid to the Developer in 1999 and this provision would no longer apply.

### **2001 Bonds**

In 2001, the DDA issued its \$24,000,000 Development and Refunding Bonds, Series 2001 (the "2001 Bonds") for the purpose of providing funds for new projects and

to advance refund all of the outstanding 1995 Bonds, Series A. Our firm did not represent the DDA in connection with the 2001 Bonds, however we have reviewed the resolution authorizing the 2001 Bonds and the Official Statement relating to the 2001 Bonds. The 2001 Bonds are payable solely and only from tax increment revenues of the DDA, without the full faith and credit pledge of the City, and are further secured by a reserve fund and a municipal bond insurance policy issued by MBIA Insurance Corporation ("MBIA"). The resolution authorizing the 2001 Bonds indicates that one of the purposes of the 2001 Bonds is to advance refund all of the outstanding 1995 Bonds, Series A, while simultaneously defeasing all of the outstanding 1995 Bonds, Series B, and *"to provide for the defeasance and termination of the security pledged with respect to the Prior Bonds including the lien of the Indenture and the Prior Resolutions."*

The resolution authorizing the 2001 Bonds contains a limitation on the issuance of additional bonds which allows additional bonds of the DDA pledging tax increment revenues of equal standing and priority of lien with the 2001 Bonds so long as the tax increment revenues for the last preceding audited fiscal year of the DDA is at least 1.4 times the maximum annual debt service on any outstanding senior lien bonds.

According to the transcript documents relating to the 2001 Bonds, all of the 1995 Bonds have been legally defeased and the Trust Indenture relating to the 1995 Bonds is no longer in effect. The DDA did not enter into a new trust indenture in connection with the 2001 bonds, and in our review of the resolution authorizing the 2001 Bonds and description of the documents in the Official Statement relating to the 2001 Bonds, we did not find any covenants of the DDA relating to amendments of the Development Area or DDA District. Thus, the covenant promising not to alter the boundaries of the DDA in the Trust Indenture is no longer in effect.

### 2002 Bonds

In 2002, the DDA issued its \$9,700,000 Community Center Facilities Bonds, Series 2002 (the "2002 Bonds") for the purpose of providing funds for the Community Center of the City. Our firm did not represent the DDA in connection with the 2002 Bonds, however we have reviewed the resolution authorizing the 2002 Bonds and the Official Statement relating to the 2002 Bonds. The 2002 Bonds are senior lien bonds of equal standing with the 2001 Bonds, payable solely and only from tax increment revenues of the DDA, without the full faith and credit pledge of the City, and are further secured by a reserve fund and a municipal bond insurance policy issued by MBIA. In our review of the resolution authorizing the 2002 Bonds we did not find any covenants of the DDA relating to amendments of the Development Area or DDA District.

2003 Bonds

In 2003, the DDA issued its \$4,025,000 Community Center Facility Junior Lien Bonds, Series 2003 (the "2003 Bonds") for the purpose of providing funds for the Community Center of the City and related infrastructure. Our firm did not represent the DDA in connection with the 2003 Bonds, however we have reviewed the resolution authorizing the 2003 Bonds and the Official Statement relating to the 2003 Bonds. The 2003 Bonds are junior lien bonds, junior in standing to the lien of the 2001 Bonds and 2002 Bonds, payable solely and only from tax increment revenues of the DDA, without the full faith and credit pledge of the City, and are further secured by a reserve fund. In our review of the resolution authorizing the 2003 Bonds we did not find any covenants of the DDA relating to amendments of the Development Area or DDA District.

Summary of Bond Document Covenants

Based on our review of the documents relating to the issuance of bonds by the DDA, there are no existing covenants of the DDA or the City which limit the ability of the DDA or the City to amend the boundaries of the DDA District or the DDA Development Area. The Trust Indenture relating to the 1995 Bonds contained limitations on the amendment to the boundaries of the Development Area, but that document is no longer in effect. The documents relating to the issuance of the 2001 Bonds, 2002 Bonds and 2003 Bonds (together, the "Outstanding Bonds") are still in effect. The existing documents relating to the Outstanding Bonds contain limitations on the ability of the DDA to issue additional debt of equal standing and priority of lien with the existing 2001 Bonds and 2002 Bonds. However, such additional bonds tests do not limit the ability to take actions impacting the tax increment revenues such as amending the DDA District or Development Area.

We have been informed by the City's financial advisor and Finance Department that the current tax increment revenues of the DDA are substantially less than the projected tax increment revenues which were included in the Official Statements for the outstanding bonds. This is due to a variety of factors resulting in less growth in the Development Area of the DDA than originally projected. Since each series of the outstanding Bonds are payable solely from the tax increment revenues of the DDA and a reserve fund, holders of the outstanding Bonds and MBIA, as the insurer of the 2001 Bonds and 2002 Bonds, may be sensitive to any actions taken by the DDA or City that negatively impact the tax increment revenues of the DDA. Since we were not involved with the issuance of the Outstanding Bonds, we do not know what statements were made to the Bondholders or MBIA regarding amendments to DDA District boundaries or

Development Area boundaries. We do not know what documents were provided to MBIA or the subject of any conversations between the City, DDA and MBIA regarding potential future changes to the DDA District. In the event of a shortfall of tax increment revenues to pay debt service on the Outstanding Bonds or other substantial diminution of tax increment revenues due to actions of the City or DDA, it is possible that holders of the Outstanding Bonds or MBIA might challenge actions by the City or DDA which impair their security. Since the Outstanding Bonds are payable solely from tax increment revenues, without the City's general fund as backup security, MBIA and the holders of the Outstanding Bonds may be negatively affected if the actions of the City result in a shortfall of tax increment revenues to pay debt service on the Outstanding Bonds. We understand that the City has requested its financial advisor to review the financial impact of the proposed boundary change. We have not reviewed the tax increment revenue projections and therefore no opinion is expressed by us as to the financial impact of the proposed boundary changes.

### **Conclusion**

Under Act 197, the City Council is authorized to amend the boundaries of the DDA District. The procedures relating to the amendment of boundaries requires a public hearing by the City Council and a waiting period of at least 60 days after the public hearing before the ordinance amending the boundaries can be adopted. The City could achieve the same result of preventing the capture of tax increment revenues from the Property, but preserve future flexibility and protect against an opt out by other taxing units by amending the Development Area boundaries through an amendment to the Plan rather than an amendment to the boundaries of the DDA.

Based on our review of the documents relating to the bonds issued by the DDA, there are no express prohibitions against the City and DDA amending the Plan or the boundaries of the DDA which are currently in effect. The covenants of the DDA and City in the Development Agreement and Trust Indenture prohibiting Plan amendments or boundary changes, which were made around the time of the issuance of the 1995 Bonds, are no longer effective. However, since the Outstanding Bonds are payable solely and only from tax increment revenues, in the event of a shortfall of tax increment revenues to pay debt service on the Outstanding Bonds or other substantial diminution of tax increment revenues due to actions taken by the City or DDA, it is possible that holders of the Outstanding Bonds or MBIA might challenge actions by the City or DDA which results in an inability to be paid from tax increment revenues as an impairment of their security. We understand that the City has requested its financial advisor to review the tax

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Lori Grigg Bluhm, Esq.

-8-

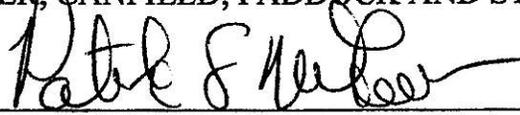
October 19, 2005

increment revenue projections of the DDA and no opinion is expressed by us as to the financial impact of the proposed boundary changes.

We would be happy to discuss this matter with you further at your convenience. If you have any further questions, please give me a call.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

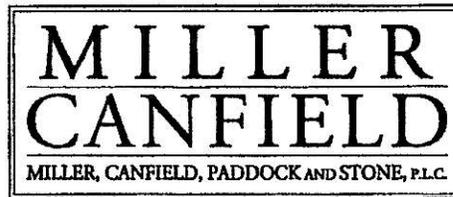
By: 

Patrick F. McGow

cc: John Szerlag, City Manager  
John Lamerato, Assistant City Manager  
Joel Piell, Esq.  
Robert C. Bendzinski

DELIB:2663823.4091096-00010

Founded in 1852  
by Sidney Davy Miller



MICHIGAN: Ann Arbor  
Detroit • Grand Rapids  
Howell • Kalamazoo  
Lansing • Monroe  
Saginaw • Troy

New York, NY  
Pensacola, FL  
Washington, DC

CANADA: Windsor, ON  
POLAND: Gdynia  
Katowice • Warsaw

PATRICK F. MCGOW  
TEL: (313) 496-7684  
FAX: (313) 496-8450  
E-MAIL: mcgow@millercanfield.com

150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
TEL: (313) 963-6420  
FAX: (313) 496-7500  
[www.millercanfield.com](http://www.millercanfield.com)

October 20, 2005

Lori Grigg Bluhm, Esq.  
City Attorney  
City of Troy  
500 W. Big Beaver  
Troy, MI 48084-5285

Re: Downtown Development Authority of the City of Troy Questions

Dear Ms. Bluhm:

You have asked us to address various questions which arose at the October 17<sup>th</sup> City Council meeting relating to the Downtown Development Authority of the City of Troy (the "DDA").

**Question 1: Can the DDA be expanded to include the Maple Road corridor and/or the Stephenson Road corridor? If so, what is the process for doing so?**

As we discussed in our opinion dated October 19, 2005 regarding the DDA, the City Council has the authority to amend the boundaries of the DDA pursuant to the requirements of the DDA Act, Act 197, Public Acts of Michigan, 1975, as amended ("Act 197"). Section 3(5) states that the City Council "*may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.*" MCL 125.1653(5).

In order to expand the DDA boundaries, the City Council must determine that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation in its business district and promote economic growth through the expansion of the DDA district. The expansion area must satisfy the requirements of Act 197 to be included in a DDA downtown district as was the case with the initial establishment of the DDA downtown district.

The City Council would need to determine that the new area to be added is part of the City's "downtown district" and satisfies the requirements of a "downtown district" under Act 197, which requires it to be "*part of an area in a business district*." MCL 125.1651(k). A "business district" is defined as "*an area in the downtown of a municipality zoned and used principally for business*." MCL 125.1651(e). Thus, a majority of the property to be added must be both zoned for business and used for business (i.e. commercial, industrial, etc.) as opposed to residential property.

In addition, Section 3(1) of Act 197 implies that property value deterioration must exist within the proposed DDA district in order for that City to include the territory as part of the DDA district. Although there has been no judicial determination that property value deterioration is a condition precedent to the formation of a DDA and if so the required extent of such property value determination, the Attorney General of Michigan has opined in the instance of the creation of a Tax Increment Finance Authority which is formed pursuant to Act 450 of the Public Acts of 1980, as amended, that a Tax Increment Finance Authority may not be incorporated unless there is (1) an actual decline in property tax valuation and (2) that a significant number of parcels or property in the area of the municipality must be found to be declining in property value in order to warrant the establishment of an Authority. OAG 6335, dated January 16, 1986. By OAG 6558, dated January 18, 1989, the Attorney General's office extended this reasoning to the creation of a DDA pursuant to Act 197. Neither opinion of the Attorney General speaks to the number of parcels or the percentage of parcels within a district that must be found to have property value deterioration, but the opinions do indicate that one or two parcels will not suffice and that the number of parcels in their totality must be significant.

Finally, there can only be one DDA district in the City under current law. Any additions to the DDA must be contiguous with the existing DDA district boundaries. So, in order to add the Maple Road corridor and/or the Stephenson Road corridor it would be necessary to connect those additions with the existing DDA district boundaries along Big Beaver Road.

We have not had the opportunity to review the details of a proposed addition to the DDA boundaries along Maple Road or Stephenson Road to determine whether the proposed addition satisfies the above requirements for inclusion as part of the DDA district. It would be necessary to review assessment records relating to property valuation as well as the appropriate zoning and use maps to determine whether the proposed additions satisfies the requirements of a business district.

The procedures for amending the DDA boundaries require the City Council to hold a public hearing prior to adopting an ordinance designating the boundaries of the DDA. Notice of the public hearing must be given in the following manners between 20 and 40 days before the date of the hearing: published twice in a newspaper of general circulation in the City, mailed to the property taxpayers of record in the proposed district, mailed by certified mail to the governing body of each taxing jurisdiction that would be subject to capture and posted in at least 20 conspicuous and public places in the proposed district. MCL 125.1653(2). In order to amend the boundaries, the City Council is required to adopt an ordinance designating the boundaries of the DDA District or amending the original ordinance designating the boundaries; however the ordinance cannot be adopted in less than 60 days after the public hearing. MCL 125.1653(3).

**Question 2: Since the City of Troy has not pledged its credit for payment on the outstanding DDA bonds, what happens if the DDA is not able to make the bond payments on its own accord? Are assets of the DDA at risk?**

The resolutions relating to the Outstanding DDA Bonds (as described in our October 19, 2005 opinion) indicate that the Outstanding DDA Bonds are secured solely by the collection of tax increment revenues and all moneys in the Bond Funds of the DDA for repayment of the Outstanding DDA Bonds and the Reserve Funds relating to each series of the Outstanding DDA Bonds, and all investment income derived from moneys in such funds. The resolutions also provide that the Outstanding DDA Bonds are not a general obligation of the DDA or the City and shall never constitute or give rise to a charge against the general credit of the DDA or the general credit or taxing powers of the City.

If the annual tax increment revenues are not sufficient to pay principal and interest on all of the Outstanding DDA Bonds, the DDA would be required to apply the tax increment revenues captured in previous years which are in its Bond Fund or other funds and accounts. The first priority is to pay the 2001 Bonds and 2002 Bonds which are senior in standing to the 2003 Bonds. If there are insufficient tax increment revenues to pay debt service, the DDA would be required to draw on funds in the Reserve Fund for the series of Bonds which has a shortfall, which would be the Series 2003 Bonds. It should also be noted that the DDA has the authority to levy an ad valorem property tax on all taxable property in the DDA District. Act 197 authorizes the DDA to levy a tax of up to 2 mills with the approval of City Council.

Technically, the only assets of the DDA pledged for payment of the Outstanding DDA Bonds are the tax increment revenues and moneys derived from tax increment

revenues in the various funds and accounts of the DDA. The DDA has not pledged any other property or assets as security for the Outstanding DDA Bonds. There is no mortgage or lien on the infrastructure improvements or Community Center financed with the Outstanding DDA Bonds.

If the DDA exhausts all available funds in the Reserve Fund for the 2003 Bonds and cannot pay the principal and interest, then it is possible the holders of the 2003 Bonds would initiate a lawsuit against the DDA (and possibly the City). Since there is no judicial precedent, it is unclear what remedial actions a judge would order in the event of a default by the DDA on payment on the Outstanding DDA Bonds, although it is unlikely that infrastructure improvements or buildings would be seized on behalf of bondholders.

**Question 3: Is there a way to “bill back” or otherwise provide money to the City’s general fund if it is determined that the DDA is a burden to the tax base?**

The DDA cannot generally pay money to the City’s general fund if it is determined to be a burden to the tax base. The DDA is only permitted to use tax increment revenues to pay for improvements and activities which are described in the DDA’s Development Plan and Tax Increment Financing Plan and authorized under Act 197. Act 197 does permit the City to charge the DDA for administrative items such as costs of handling funds and audits. MCL 125.1678.

**Question 4: How will the DDA be required to modify its current board structure if the Monarch project is added to the DDA in order to accommodate the residential representatives? Will the addition of a resident to the DDA Board require an amendment to the Development Plans?**

Section 4(1) of Act 197 sets forth the requirements for the composition of the DDA Board which includes a requirement that “*Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it.*” MCL 125.1654(1). It is our understanding that the DDA Board currently is made up of 13 members, which is the maximum permitted by Act 197. Thus, once it is determined that there are 100 or more residents within the DDA District, the Mayor should appoint (with the approval of the City Council) a resident of the DDA District to the next open seat or vacancy on the DDA Board.

It should not be necessary to amend the Development Plan and Tax Increment Financing Plan of the DDA in order to appoint a new Board member who is a resident of the downtown district.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Lori Grigg Bluhm, Esq.

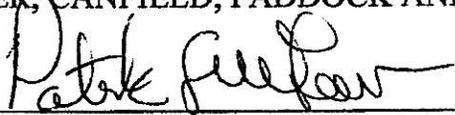
-5-

October 20, 2005

We would be happy to discuss this matter with you further at your convenience. If you have any further questions, please give me a call.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: 

Patrick F. McGow

cc: John Szerlag, City Manager  
John Lamerato, Assistant City Manager  
Joel Piell, Esq.  
Robert C. Bendzinski

DELIB:2670604.1\091096-00012



October 20, 2005

Mr. John Szerlag, City Manager  
City of Troy  
500 W. Big Beaver Road  
Troy, Michigan 48084-5285

RE: Impact of Reducing the Boundaries of the Troy Downtown Development Authority

Dear Mr. Szerlag:

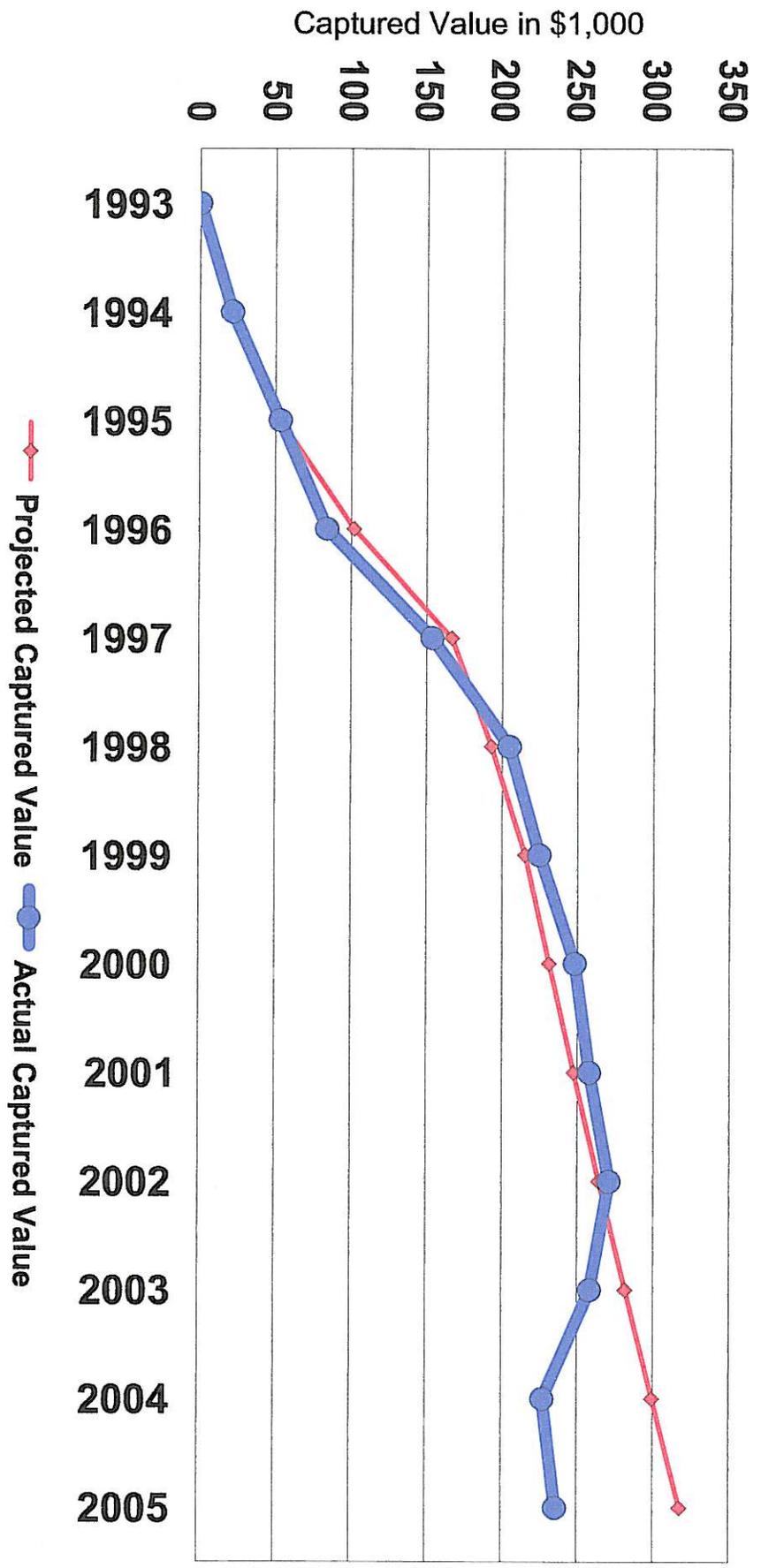
You have asked us to review the financial impact of changing the boundaries of the Troy Downtown Development Authority (the "DDA") by eliminating lots 90 through 93, except the South 42 feet of lots 90 and 92 of Muer's Garden Farms Subdivision in the City of Troy, more commonly known as the proposed Monarch Development.

#### BACKGROUND

When the City established the DDA and its boundaries by ordinance on July 12, 1993, the State Equalization Valuation of all real and personal property within the District was \$429,278,530. The Downtown Development Authority Act (the "DDA Act") requires that the City and the DDA prepare a Development Plan and Tax Increment Financing Plan (the "Plan") which established the boundaries of a "development area" within which the DDA would exercise its powers. The Plan, amongst other things, **froze the State Equalized Valuation (the "Initial Assessed Valuation") within the development area for the benefit of the various taxing jurisdictions** and made projections of the "growth" in State Equalized Valuation, (later to become Taxable Value with the passage of Proposal A in 1994) within the DDA area. The growth projections were based on the historical growth that had taken place within the DDA district and the expected growth as a result of the development of Somerset North in accordance with a Development Agreement between the DDA, the City and Frankel/Forbes Cohen Associates (the "Development Agreement"). This growth is called "Captured Value". A comparison of the "projected" Captured Value to the "actual growth" in valuations from 1993 through 2005 is set forth in Table 1 on page 2. All of the taxing jurisdictions, **including the City,**

607 Shelby • Suite 600 • Detroit, Michigan 48226-3282  
(313) 961-8222 • FAX (313) 961-8220  
e-mail • [bencomfa@bendzinski.com](mailto:bencomfa@bendzinski.com)

**Table 1**  
**Actual Vs. Projected Captured Values within the DDA District**



**Bendzinski & Co.**

Mr. John Szerlag, City Manager

October 20, 2005

Page 3

continue to levy and collect taxes based on the Initial Assessed Valuation for along as the DDA continues to exist. Those taxes are used by the taxing jurisdictions for general operating and debt purposes, just as all other taxes collected by them.

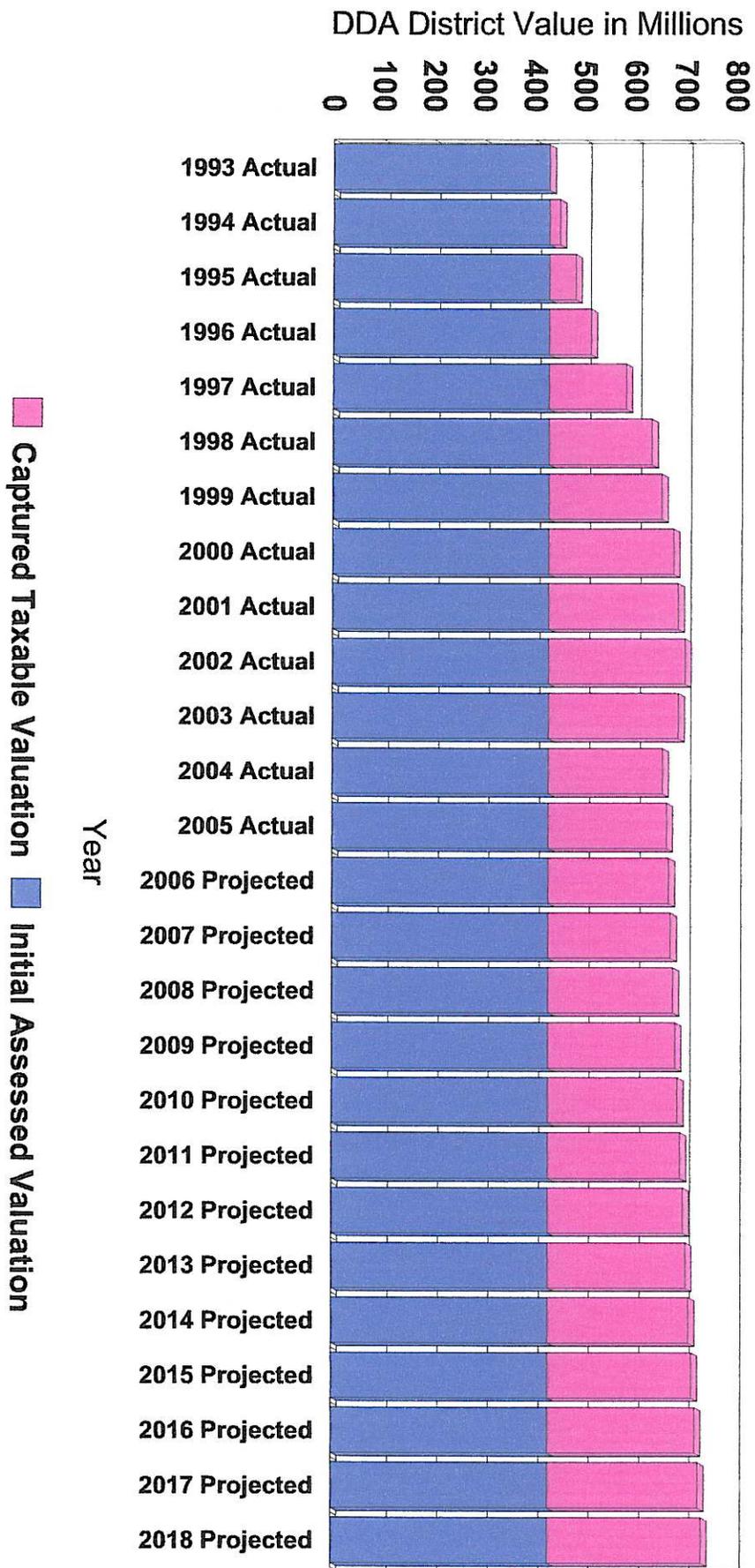
The Authority is only permitted to levy and collect taxes for DDA purposes on the Captured Value over and above the Initial Assessed Valuation. In other words, the taxing jurisdictions are “guaranteed” the Initial Assessed Valuation as “their tax base” within the DDA as long as the DDA continues to exist - NO MATTER WHAT HAPPENS TO THE VALUATIONS WITHIN THE DDA DISTRICT. A comparison of the “Initial Assessed Valuation” for City and the Captured Value for DDA is setforth in Table 2 on page 4. Please note that the City’s Initial Assessed Valuation has remained unchanged while the DDA’s Captured Value did initially increase and then declined in 2001 as a result of economic factors including vacancies, personal property reduction and unfavorable property tax appeals. **The current ratio of valuations within the DDA District is City 66% - DDA 33%.** In other words the City will receive 66% of the tax revenues (using the 2005 City Tax rate) generated within the DDA district and the DDA receives approximately 33% for the 2005 tax year.

Based upon the above valuations and utilization of the 2005 tax rate for the City the tax revenues generated within the DDA District as are follows:

Governmental Unit	Tax Rates	Initial Assessed Valuation in	Captured Value	Amount
City of Troy	\$9.45	\$429,278,530.00	\$0.00	\$4,056,682.11
Troy DDA	\$9.45	\$0.00	\$235,652,270.00	\$2,226,913.95

As you can see based upon the 2005/06 fiscal years, the City of Troy is receiving approximately twice as much in tax revenues as the DDA.

**Table 2**  
**City of Troy DDA Historical and Projected Valuations**



A history of taxes collected within the DDA district is set forth on Table 3, page 6.

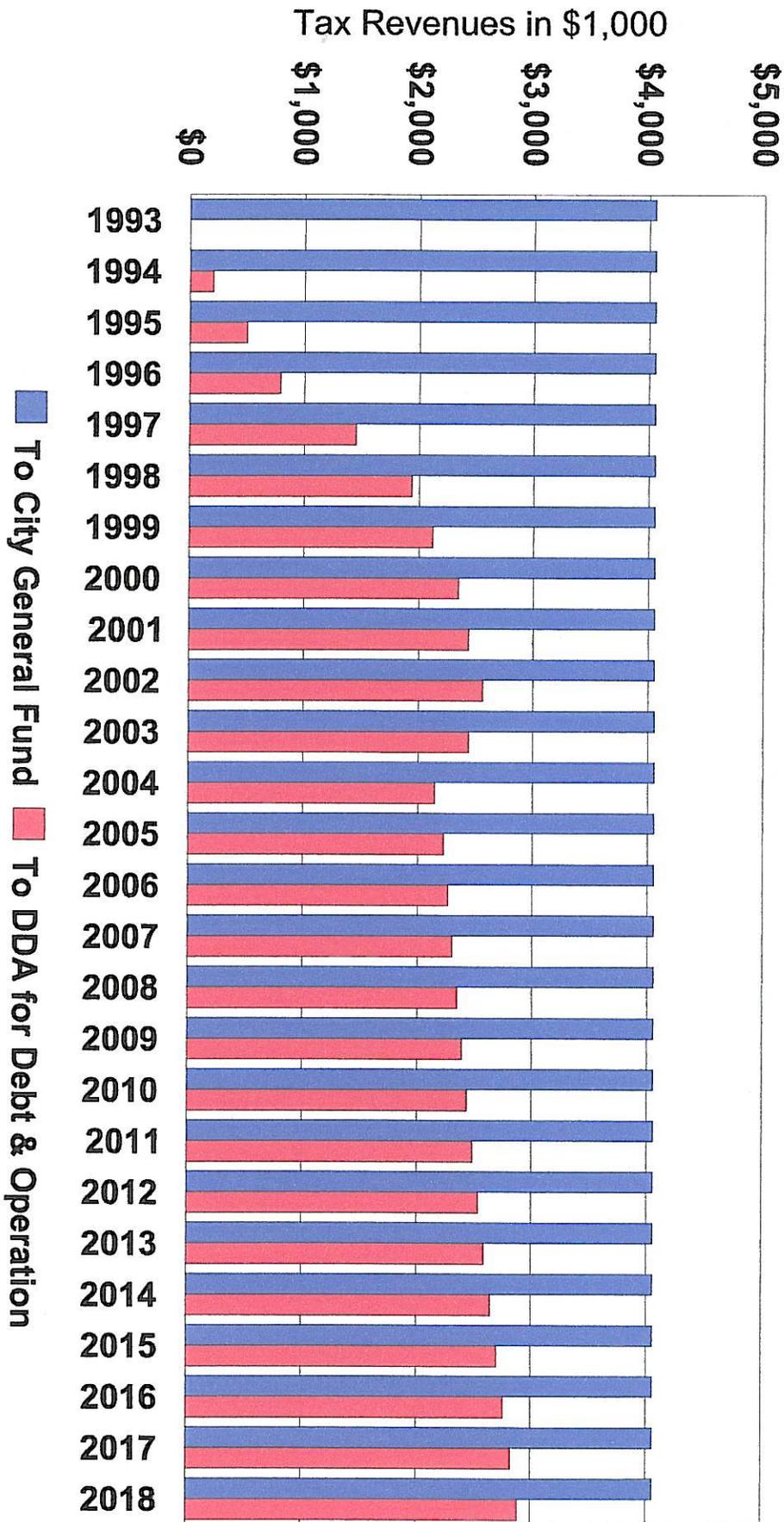
### ISSUANCE OF BONDS

When the DDA was formed in 1993, it was formed for the initial expressed purpose of providing a revenue source to the City in order to comply with a Court judgment permitting the developers to build Somerset North despite the fact that they did not have the parking spaces required to provide parking for the proposed Somerset North as required by the City's zoning ordinance, as well as, provide improvements to Big Beaver Road to handle the anticipated increase in traffic. As part of the process to meet the City's obligation, the City agreed to establish the DDA, which it did on July 12, 1993.

The DDA, represented by the City Manager, City Attorney, Assistant City Manager of Finance, Bendzinski & Co and Special Legal Counsel, then entered into negotiations with Developer to come up with the Development Agreement. After long good faith negotiations with the Developer and the signing of the Development Agreement, the DDA entered negotiations with municipal bond insurers, rating agencies and the underwriter to issue DDA Revenue Bonds using ONLY the Tax Increment Revenues resulting from the Captured Value within the DDA District for the payment of the debt service obligations of the DDA Revenue Bonds. These negotiations were required because the then City Council was **NOT willing to pledge its full faith and credit** as secondary credit for payment of the bonds. The lack of the City's pledge of credit and the fact that the DDA had not been in existence for, at least 5 years, resulted in numerous agreements and documents having to be negotiated, including but are not limited to, the following:

1. The Development Agreement;
2. A Trust Indenture; and,
3. Insurance Commitment

**Table 3**  
**Taxes Collected Within the DDA Districts**



**Bendzinski & Co.**

Mr. John Szerlag, City Manager

October 20, 2005

Page 7

In 1995 the DDA issued two Series of DDA Revenue Bonds, which were given ratings of AAA as a result of the purchase of municipal bond insurance. The insurance was secured after long negotiations with the Insurer and the Rating Agencies and based on the credit worthiness of the Developer and other major taxpayers within the Development District. Part of the documentation provided the Rating Agencies and the Insurance Companies included the Development Plan and Tax Increment Financing Plan, as well as the items listed above. Some of the highlights of those documents include:

- The Development Agreement provided and the City and the DDA agreed that the DDA would not change the boundaries of the Development Area so long as the bonds are outstanding.
- In the Trust Indenture, the DDA specifically agreed that it **would not change the boundaries of the District, so long as the bonds are outstanding**. In 2001 the Authority defeased the Series B Bonds and refinanced the Series A Bonds through the issuance of Refunding Bonds. The bondholders based their investment decision on the representations in the DDA Plan, which included a statement that the debt service requirements of the DDA would not be more than 80% of the captured revenues of the DDA, or in other words, the Captured Revenues are “expected” to be 125% of the annual debt service requirements. If you look at the 2005-06 fiscal year budget for the DDA, after deducting the operating expenses of the DDA, the debt service is currently at 113% of the net tax revenues of the DDA. In other words, in stead of having coverage of 125 %, the coverage is only 113%.
- In order to secure bond insurance on the 2002 DDA Revenue Bonds, we had to negotiate with the insurer of the 2001 bonds a change in the coverage factor for all future bonds of the DDA. The bond insurer required a debt service coverage ratio of 140% rather the Plan coverage of 125%.

**Bendzinski & Co.**

Mr. John Szerlag, City Manager

October 20, 2005

Page 8

We have prepared Table 4 on page 9 which shows the various coverage requirements made to sell the 1995 bonds, 2001 refunding bonds, the 2002 bonds and the 2003 junior lien bonds.

**CONCLUSIONS**

While Bond Counsel is of the opinion that many of the original conditions for the issuance of the 1995 DDA Revenue Bonds lapsed with the issuance of the Refunding Bonds, it is our opinion that the City and the DDA have:

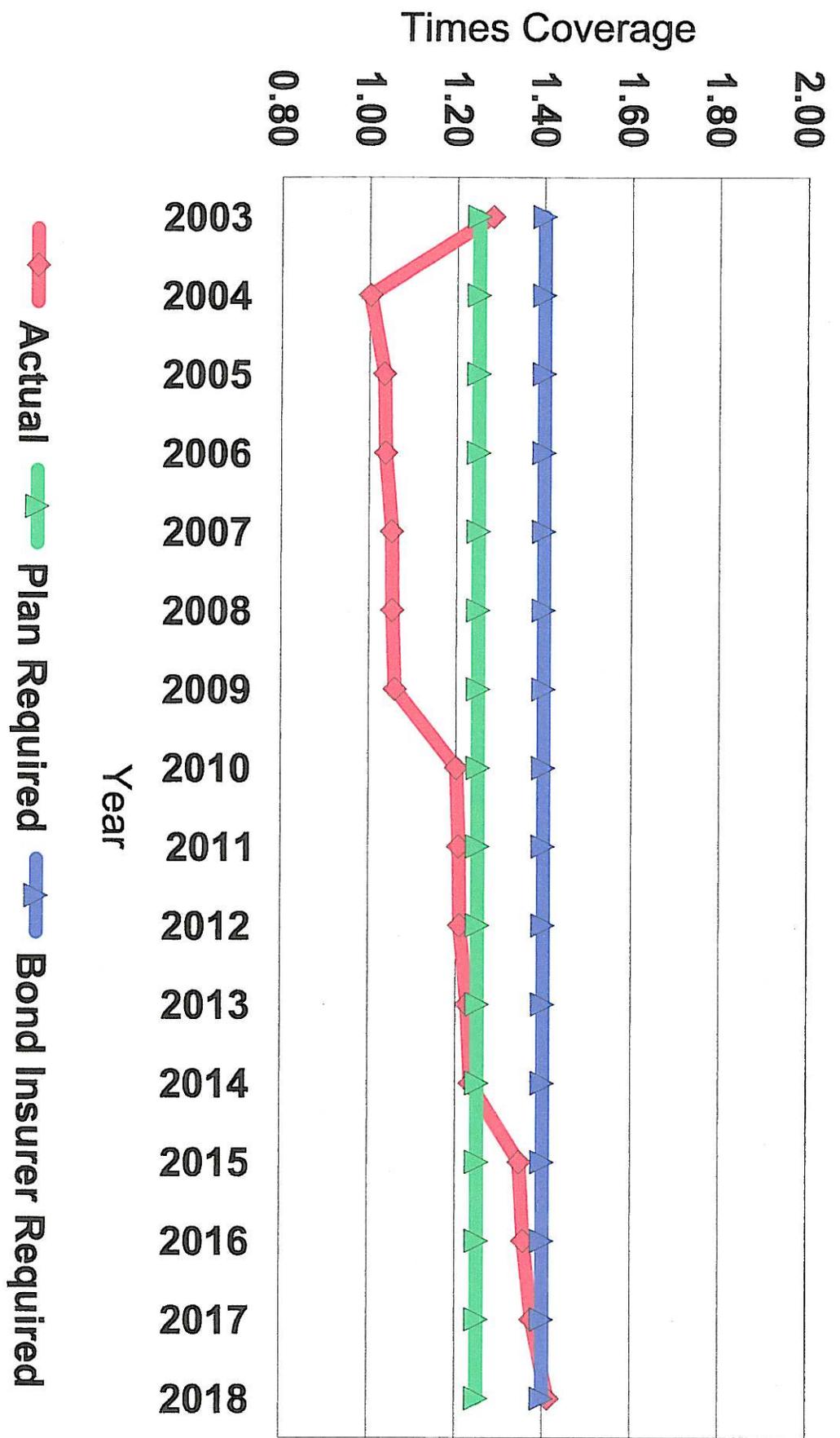
- A **“moral obligation” to bondholders** to continue, at a minimum, the boundaries of the DDA in as much as the “refunding bonds” are a continuation of the 1995 bonds ONLY at lower interest rates.
- While we realize that significant factors have affected the Captured Value within the DDA, including vacancies, personal property reductions and unfavorable property tax appeals, it is our opinion that the City and the DDA’s initial projections as to the anticipated growth within the DDA District have not been met, and therefore should not change the boundaries of the district.
- The debt service coverage was based on projections of growth in the Captured Value. The current debt service coverage has not met the requirements of neither the Plan (which was the City’s and the DDA representations based on the then existing law) nor the Insurance Commitments (which was a condition of securing the AAA rating on the 2002 bonds that resulted in a lower interest rates on those bond). By changing the boundaries of the district the City would be acting in bad faith to its bondholders.
- The DDA and the City would, in our opinion, have to make a “Disclosure of a Material Event to all bondholders, Bond Insurer’s and the rating agencies if they would to change the boundaries of the district ”, as required under the DDA’s and the City’s Continuing Disclosure Agreements.

**607 Shelby • Suite 600 • Detroit, Michigan 48226-3282**

**(313) 961-8222 • FAX (313) 961-8220**

**e-mail • [bencomfa@bendzinski.com](mailto:bencomfa@bendzinski.com)**

**Table 4**  
**Comparison of Actual Debt Service Coverage**



**Bendzinski & Co.**

Mr. John Szerlag, City Manager

October 19, 2005

Page 10

- The City and the DDA would most likely face a reduction in the City's outstanding credit rating of AAA and the DDA's outstanding credit rating of AA.

We believe that this provides you with an indication of our concerns about changing the boundaries of the DDA and should you have any questions, or require any additional information, please do not hesitate to call upon us..

Sincerely,

**BENDZINSKI & CO.**  
**Municipal Finance Advisors**

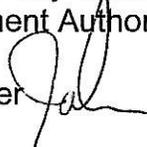
  
Robert C. Bendzinski, Chairman

RCB\cam

S:\lwpdocs\City\Troy\Troy DDA Ltr

October 18, 2005

TO: The Honorable Mayor and City Council Members  
Troy Downtown Development Authority Members

FROM: John Szerlag, City Manager 

SUBJECT: Donors vs. Consumers of Municipal Services

The attached memoranda from Assistant City Manager/Services Brian Murphy, and City Assessor Nino Licari indicate that when it comes to municipal services, business properties are donors, and residential properties are consumers. And please know that this relationship is not specific to the City of Troy, it's pretty much universal. This is why it's important to nurture a strong business base because it enables a high level of service at a low overall property tax rate.

I hope this matter clarifies some issues that were brought up at your joint meeting, and as always, I'll be happy to answer any comments or questions you may have.

JS/mr\2005\To M&CC and DDA Members

c: Lori G. Bluhm, City Attorney  
John M. Lamerato, Assistant City Manager/Finance & Administration  
Nino Licari, City Assessor  
Brian P. Murphy, Assistant City Manager/Services  
Douglas J. Smith, Real Estate & Development Director

October 18,

To: John Szerlag, City Manager

From: Nino Licari, City Assessor 

Re: DDA Agenda Item – Report & Communication, Donor Taxpayers

Questions arose at the joint meeting between the City council and the Downtown Development Authority (DDA) of October 17, 2005.

Specifically, there was confusion over the status of Residential or Commercial/Industrial properties (C&I) being donor taxpayers, in other words, which class of property uses the most governmental services, yet pays less for them.

Attached is a chart which details several analysis' of taxes paid, and services used.

Residential property accounts for 74.25% of the total acreage in the City (exclusive of roads), and as of 2005, pays 54.95% of the total taxes. This leaves C&I property with 25.75% of the remaining acreage, and paying 45.05% of the total taxes.

The same percentages of taxes holds true for the portions of the City millage rate made up of Operating, Capital, and Debt.

The Refuse portion of the City tax rate is a different story. While the Residential class pays 54.95% of the Refuse millage, they use 100% of the service. Conversely, the C&I class is paying 45.05% of the Refuse tax, and receiving no benefit, or use, from it.

The County and Transportation taxes are split at the 54.95% and 45.05% ratios for Residential and C&I respectively. However, the County millage rate is made up of Parks and Recreation, and a Huron Clinton Metropolitan Authority, of which the C&I properties do not use.

The local School taxes paid by the Residential class amount to 39.20% of the total local School taxes paid by the property owners of the City of Troy. Thus the C&I properties pay 60.80% of the total local School taxes in the City.

It should also be pointed out that not all of the School taxes paid by the C&I class (essentially Non-Homestead) properties stay in the local schools. This money is pooled, and redistributed to all school districts in equal installments. Essentially, the C&I properties are donor taxpayers to other school districts in the State.

The Intermediate School District (ISD), the Community College, and the Local School Debt millages create the same ratio of tax payments by the Residential (54.95%) and C&I (45.05%) classes in the City. Yet, once again, while contributing 45.05% of the funding to these entities, the C&I properties receive none of the services offered by them.

There are 325.04 miles of road in the City of Troy. Of these, 269.27 miles are Local (mainly Residential) roads. This leaves the C&I class with 55.77 miles of roads. The Local roads account for 82.84% of the total, and leaving 17.16% of the roadways as Major roads. The City maintains all of this mileage.

While Residential subdivisions are responsible for installing their own roads, sewer, water, sanitary, and utilities, these infrastructures become the responsibility of the City after construction is complete.

Major road construction and expansion is funded through Federal and State dollars (think TIP), and are not funded through the General Fund (other than additional Right of Way purchases).

And while many of the major trunk lines for sewer and water and drainage were installed with general obligation bonds, any construction along these trunks brings a charge to the development to cover the cost of the initial installation. Additionally, fees charged for the service cover maintenance for all users.

Between January 1, 2003 and October 11, 2005, there were 295 fire runs to structures. Of these, 229, or 77.36% were to Residential properties. This leaves 67 runs, at 22.64% for C&I properties.

Bearing in mind that certain properties (such as the Malls) do require more than normal Police service, most C&I properties are not accessible 24 hours a day, seven days a week. Most high rise, and newer C&I properties have sprinkler systems. Most have alarm systems. Many have either their own security, or video surveillance. This cuts back dramatically on service calls.

While there is much more data available to support the conclusion to be drawn, time did not allow for the reporting of it here.

It does seem very clear that the C&I class is the donor class, and the Residential class is the user of City services.

**City of Troy - Assessing Department**  
**Comparison of Residential and Commercial/Industrial Taxes (2004 Millages)**

<b>Res Acres</b>	14,762.08	<b>C&amp;I Acres</b>	5,119.06	<b>Total Acres</b>	19,881.14
<b>% Res Acres</b>	74.25	<b>% C&amp;I Acres</b>	25.75	<b>% Total</b>	100.00
<b>Total Res T/V</b>	2,892,925,590.00	<b>Total C&amp;I T/V</b>	2,371,425,960.00	<b>Total T/V</b>	5,264,351,550.00
<b>% Res T/V</b>	54.95	<b>% C&amp;I T/V</b>	45.05	<b>% Total T/V</b>	100.00
<b>Total Res City Taxes</b>	27,338,146.83	<b>Total C&amp;I City Taxes</b>	22,409,975.32	<b>Total City Taxes</b>	49,748,122.15
<b>% Total Res City Tax</b>	54.95	<b>% Total C&amp;I City Tax</b>	45.05	<b>% Total City Tax</b>	100.00
<b>Res Tax/Acre</b>	1,851.92	<b>C&amp;I Tax Acre</b>	4,377.75	<b>Avg Tax/Acre</b>	2,502.28
<b>Res Refuse Tax</b>	2,401,128.24	<b>C&amp;I Refuse Tax</b>	1,968,283.55	<b>Total Refuse Tax</b>	4,369,411.79
<b>% Res Refuse Tax</b>	54.95	<b>% C&amp;I Refuse Tax</b>	45.05	<b>% Total Refuse Tax</b>	100.00
<b>% Res Refuse Use</b>	100.00%	<b>% C&amp;I Refuse Use</b>	0.00%	<b>% Total Refuse Tax</b>	100.00
<b>Res Operating Tax</b>	18,804,016.34	<b>C&amp;I Operating Tax</b>	15,414,268.74	<b>Total Operating Tax</b>	34,218,285.08
<b>Res Capital Tax</b>	4,686,539.46	<b>C&amp;I Capital Tax</b>	3,841,710.06	<b>Total Capital Tax</b>	8,528,249.52
<b>Res Debt Tax</b>	1,446,462.80	<b>C&amp;I Debt Tax</b>	1,185,712.98	<b>Total Debt Tax</b>	2,632,175.78
<b>% Res Taxes</b>	54.95	<b>% C&amp;I Taxes</b>	45.05	<b>% Total Op,Cap, Dbt</b>	100.00
<b>Res County Tax</b>	13,445,160.97	<b>C&amp;I County Tax</b>	11,021,439.29	<b>Total County Tax</b>	24,466,600.26
<b>Res Transp Tax</b>	1,724,762.24	<b>C&amp;I Trans Tax</b>	1,413,844.16	<b>Total Trans Tax</b>	3,138,606.40
<b>% Res Tax Co. Trans</b>	54.95	<b>% C&amp;I Tax Co. Trans</b>	45.05	<b>% Total Co. Trans</b>	100.00
<b>Res School Tax</b>		<b>C&amp;I School Tax</b>		<b>Total School Tax</b>	
<b>Homestead</b>	32,887,797.47	<b>Homestead</b>	11,990.75	<b>Total Homestead</b>	32,899,788.22
<b>Non-Homestead</b>	3,799,553.59	<b>Non-Homestead</b>	56,890,365.79	<b>Total Non- Hmstd</b>	60,689,919.38
<b>Total Res School</b>	36,687,351.06	<b>Total C&amp;I School</b>	56,902,356.54	<b>Total School</b>	93,589,707.60
<b>% Res School</b>	39.20	<b>% C&amp;I School</b>	60.80	<b>% Total</b>	100.00
<b>% Res School Use</b>	100.00	<b>% C&amp;I School Use</b>	0.00	<b>% Total School Use</b>	100.00
<b>Res ISD Tax</b>	9,774,906.28	<b>C&amp;I ISD Tax</b>	8,012,811.18	<b>Total ISD Tax</b>	17,787,717.46
<b>% Res ISD Tax</b>	54.95	<b>% C&amp;I ISD Tax</b>	45.05	<b>% Total ISD Tax</b>	100.00
<b>% Res ISD Use</b>	100.00	<b>% C&amp;I ISD Use</b>	0.00	<b>% Total ISD Use</b>	100.00
<b>Res CommColl Tax</b>	4,596,569.47	<b>C&amp;I CommColl Tax</b>	3,767,958.71	<b>Total CommColl Tax</b>	8,364,528.18
<b>% Res Comm Coll</b>	54.95	<b>% C&amp;I CommColl</b>	45.05	<b>% Total CommColl</b>	100.00
<b>% Res C.C. Use</b>	100.00	<b>% C&amp;I C.C. Use</b>	0.00	<b>% Total C.C. Use</b>	100.00
<b>Res School Debt Tax</b>	11,947,782.69	<b>C&amp;I School Debt Tax</b>	9,793,989.21	<b>Total School Debt Tax</b>	21,741,771.90
<b>% Res Sch Debt Tax</b>	54.95	<b>% C&amp;I Sch Debt Tax</b>	45.05	<b>% Total Sch Debt Tax</b>	100.00
<b>% Res Sch Debt Use</b>	100.00	<b>% C&amp;I Sch Debt Use</b>	0.00	<b>% Total Sch Debt Use</b>	100.00
<b>Miles Local Road</b>	269.27	<b>*Miles Major Road</b>	55.77	<b>Total Miles Road</b>	325.04
<b>% Local Road</b>	82.84	<b>% Major Road</b>	17.16	<b>% Total</b>	100.00
* Major Road construction is covered by Federal TIP funding Sanitary and Water are billed to C&I at Time of Construction					
<b>Res Fire Runs</b>	229.00	<b>C&amp;I Fire Runs</b>	67.00	<b>Total Fire Runs</b>	296.00
<b>% Res Fire Runs</b>	77.36	<b>% C&amp;I Fire Runs</b>	22.64	<b>% Total Fire Runs</b>	100.00

10/18/2005

October 19, 2005

TO: John Szerlag, City Manager

FROM: Doug Smith, Real estate and Development Director 

SUBJECT: AGENDA ITEM - Information for Council Public Hearing on DDA Boundaries

A number of issues were raised at the Monday night, October 17<sup>th</sup> Joint Council and DDA meeting and at the Wednesday, October 20<sup>th</sup> DDA meeting. Following is simply a list of the issues that may help Council as they deliberate on considering boundary changes for the DDA.

**Purpose:**

The underlying purpose of the DDA is simply to accelerate the pace and amount of growth in a principal business district by investing in public infrastructure, the increased tax revenue from the district for a period not to exceed 30 years.

In Troy's case, the Big Beaver Corridor is the primary business district and is critical to attracting companies to Troy even though they end up in the Northfield business district or along Maple and Stephenson Highway.

**Authority for DDA:**

- The DDA is a creation of Troy's ordinance Number 78, which was adopted on July 12, 1993.
- Troy's ordinance directs you to the state statute (MCL 125.1651 et. Seq.), which was adopted in 1975.
- The state statute grants broad powers to the DDA Board.
- There is a termination provision in Ordinance 78-December 31, 2024 OR upon the retirement of all bonded debt, whichever occurs last.

**Ordinance/Determination of Necessity; Purpose:**

"An act to provide for the establishment of a downtown development authority; to prescribe its power and duties; to correct and prevent

deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials.” (Troy Ordinance #78)

### **Powers of the DDA:**

MCL 125.1657 – the Board may:

- Prepare an analysis of economic changes in the downtown district.
- Stud the impact of metro growth on the downtown district.
- Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation or reconstruction of a PUBLIC facility, an existing building or a multiple-family dwelling when necessary to aid in the economic growth of the district.
- Plan, propose and implement an improvement to a public facility within the development area for a barrier free design.
- Develop long range plans designed to halt the deterioration of property values in the downtown district & to promote growth of the district – and to take steps to persuade property owners to implement the plans.
- Implement any plan of development in accordance with the purposes of the act and the powers granted by the act.
- Contract for the exercise of powers and performance of duties,
- Acquire land (eminent domain) when reasonably necessary to achieve the purposes of the act.
- Improve land and construct, reconstruct, rehabilitate and restore, preserve, equip, improve, maintain, repair, and operate any building and any appurtenances thereto, within the downtown district (includes multiple family dwellings) for any public or private person or corporation.
- Fix, charge, collect fees, rents, and charges for the use of any building or property under its control and pledge the fees, rents, etc. for payment of revenue bonds issued by the authority.
- Lease any building or property.
- Accept grants and donations of property.
- Acquire and construct public facilities.

**Leverage:**

The DDA district is permitted to collect tax increment from the County and Community College so the DDA leverages 40% of its total captured taxes for public infrastructure from other than city sources, benefiting the general capital budget of the city.

**Membership:**

The members are appointed by the Mayor with concurrence by City Council.

When creating the Troy Downtown Development Authority, section 7 of Troy's ordinance required the Mayor to appoint the Board of Directors, subject to Council approval. The 13 Member Board of Directors includes the Mayor and twelve other members, each serving a term of four years. A majority of the Directors are required to have an interest in property located in the Downtown District.

In addition, if the DDA District has 100 or more residents in it, then at least one of the 13 Directors shall be a resident of the DDA district. If and when residences are constructed in the TDAA, then one of the residents would be appointed as a Director of the TDAA, in accordance with the ordinance and also state statute. In addition, the statutory requirement to create a Development Area Citizens Council when there are 100 or more residents in a development area would also need to be satisfied. This Development Area Citizens Council would be a separate entity of up to 9 members who are representative of the development area, and would serve as an advisory body to the City Council and also the TDAA in the adoption of development or tax increment financing plans.

**Budget:**

The DDA budget is approved annually by the City Council.

**Investments:**

		1	2
1994	Somerset North parking deck	\$17.1m	(\$22m)
1994	Big Beaver reconstruction Cunningham to I-75	\$ 3.1m	(\$17 m)
1999	Rochester Road expansion – I-75 to Torpey	\$ 5.6m	(\$18.7 m)
2001	Big Beaver I-75 – Rochester Road	\$14.3m	(\$15.9m)
2002	Troy Community Center	\$13.7m	(\$26.5m)

**MEGA Local Matches:**

2000 Kmart Data Center  
2002 Axel Tech  
2002 HTC Global

Ongoing: Maintenance of Big Beaver Corridor – Cunningham to I-75

1. DDA contribution
2. Total project cost

October 18, 2005

To: John Szerlag, City Manager

From: Brian Murphy, Assistant City Manager/Services *BPM*

RE: Cost for Services, Residential v Commercial

As requested, I compared the cost for providing services in residential districts and commercial districts with similar taxable valuation. Specifically, staff compared the costs for maintaining roads and public safety calls for service. This memorandum concludes with a review of the cost of residential rubbish collection in the residential sections examined.

To account for geographic anomalies, information was collected from two commercial areas (within Section 8 and Section 19), and three residential areas (within Sections 22, 24 and 6).

While the cost to maintain the roads in the commercial areas are more expensive on a lane-mile basis, the number of lane miles is much greater in the residential comparatives. The cost ratio to maintain the residential streets to commercial streets is 2.4:1. Maintenance is defined as road patching/slab replacement, crack sealing, street sweeping and ice and snow control operations.

The public safety call for service records, for calendar year 2003, indicate that the ratio of residential calls for service to calls for service from the commercial districts ran 2.6:1. Breaking down the residential districts, we find:

- Section 24: 34.7 calls per 100 households
- Section 22: 45.5 calls per 100 households
- Section 6: 57.9 calls per 100 households

While rubbish collection is not truly a comparative, as the city does not provide service to the commercial districts, the cost for residential rubbish collection service in:

- Section 24: \$59,353
- Section 22: \$48,372
- Section 6: \$45,592

The review is a snapshot of data within parts of five sections of the City of Troy. Given additional time, additional information could be collected and presented, if directed.

## Mary F Redden

---

**From:** John Szerlag  
**Sent:** Friday, October 14, 2005 2:23 PM  
**To:** 'Louise Schilling'  
**Cc:** Douglas J Smith; Brian P Murphy; John M Lamerato; Mary F Redden  
**Subject:** RE: Troy Downtown Development Authority

Hi Louise:

The e-mail below will be part of the Public Hearing packet for the meeting of Oct 24.

Have a nice weekend.

John

-----Original Message-----

**From:** Louise Schilling [mailto:000schilling@ameritech.net]  
**Sent:** Thursday, October 13, 2005 4:55 PM  
**To:** John Szerlag  
**Cc:** Douglas J Smith; Brian P Murphy; John M Lamerato  
**Subject:** Fw: Troy Downtown Development Authority

----- Original Message -----

**From:** "James McIntire" <MCINTJD@kellyservices.com>  
**To:** <000schilling@ameritech.net>  
**Sent:** Thursday, October 13, 2005 3:11 PM  
**Subject:** Troy Downtown Development Authority

> Dear Mayor Schilling:

>

> As you know, Kelly Services' world headquarters is within the boundaries

> of

> the DDA. As the Council reviews the DDA's current boundaries, it would be

> unfortunate if that issue became intertwined with any single proposed

> development. The DDA as a tool is more important than any one project.

>

> As Council conducts its appropriate review, I also hope the issue will not

> become the existence of the DDA itself. The demise of the DDA would raise

> serious legal issues with respect to payments on existing bond, and would

> indeed cost the City revenue that would be lost to the County and the the

> community colleges. But most important, it would deprive the City of an

> extremely effective economic development tool that has demonstrated both

> its utility and value in making and keeping Troy a good place to live and

- > to do business.
- >
- > Even Troy, with all it has to offer, faces increased competition from
- > neighboring municipalities. Especially in today's Michigan economic
- > climate, no jurisdiction can afford to be complacent in the effort to
- > maintain and improve its tax base.
- > Others will be aggressively and creatively making full use of DDA's or
- > tax
- > increment financing. It would be a strategic error with long term
- > consequences if Troy were to unilaterally deprive itself of such a
- > development tool.
- >
- > Thank you for your consideration.
- >
- > Jim McIntire
- > Vice President, Public Affairs
- > Kelly Services, Inc.
- > 248-244-5370
- >
- >

October 19, 2005

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services  
Douglas J. Smith, Director of Real Estate and Development  
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – TABLED ITEM – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 216) – Additional Retail Along Major Thoroughfares in the M-1 (Light Industrial) Zoning District

### **RECOMMENDATION**

Two versions have been prepared for your consideration, the Planning Commission Version (Version A) and the City Management Version (Version B). Both versions require a functional relationship with the attached industrial use. The Planning Commission Version does not require common ownership. The City Management Version requires that the retail uses must sell only products that are manufactured, fabricated or stored in the industrial portion of the building. In addition, the retail and industrial uses must have common ownership. These issues were brought up after the Planning Commission made a recommendation to City Council.

In addition, City Council has an active motion that was postponed from the October 17, 2005 Regular Meeting.

The Planning Commission held a public hearing on this item on July 12, 2005 and recommended approval of Version A. City Management recommends approval of Version B. The salient difference between the two versions is Version B (City Management Version) requires that there be a clearly defined functional relationship and common ownership between the industrial and retail uses; Version A (Planning Commission Version) does not include this requirement.

### **BACKGROUND**

The concept of permitting limited retail uses in the M-1 Light Industrial Zoning District initiated from three directions. City Management was charged by the City Manager, with the task of attacking blight and improving the economic sustainability of the industrial sector of the City. At the same time the Planning Commission identified the City's industrial sector is in need of reinvigoration and revitalization. Finally, there are industrial land owners, such as Arie Leibovitz of Ari-El Enterprises, Inc., who approached City Management and the Planning Commission looking for alternatives for M-1 property located on Maple Road. The subject property had interest from a sporting goods store, who wanted to locate a warehouse, corporate office and retail store in one location. The building in question was typical of the Maple Road properties. That is, there is a building with two distinct physical layouts, an office portion located on Maple Road and the industrial portion, behind the office.

City Management and Planning Commission studied the issue and investigated the situation, and it became apparent that the Maple Road properties have a presence from a marketing standpoint. There is logical basis for the desirability to locate retail uses on Maple Road. However, this is an experiment. City Management suggests that limited retail uses be permitted on major thoroughfares and then studied for at least 12 months to determine if it should be expanded.

The intent of the proposed ZOTA is to permit up to 25% of the gross floor area of industrial buildings in the M-1 district to be used for retail purposes. This will provide more opportunities for reuse of vacant industrial buildings along major thoroughfares, with minimal negative impacts. The most significant issue associated with retail and industrial uses sharing buildings will be the availability of adequate parking. City Management and the Planning Commission recognize that industrial properties will have challenges in achieving the retail parking requirements. These issues will be resolved on an individual property basis with the site plan approval process.

There is concern over expanding retail uses to the entire M-1 district. Rental rates for property in the M-1 District are significantly lower than in retail districts. According to City records, industrial buildings lease for approximately \$4 per square foot. This is significantly lower than lease rates for strip retail plaza space (\$12 to \$14 per square foot) and the Somerset Collection (\$40 to \$100 per square foot). This discrepancy creates an unfair advantage for M-1 property owners over established retail properties, which much pay significantly higher rent. Furthermore, it would encourage random retail uses of a low quality throughout the M-1 District. This could have a detrimental effect on established retail and industrial properties.

There are approximately 659 acres of property in the City zoned B-1, B-2, B-3 or H-S. While, there are 1961 acres of M-1 property in the City. If you eliminate four large properties totaling approximately 167 acres that are used for non-industrial purposes (Cambridge Crossing, Homewood Suites Hotel, Midtown Square and Oakland Executive Airport), the total area of M-1 property is 1793 acres. There is approximately three times more area zoned M-1 than B-1, B-2, B-3 and H-S in the City. The potential impacts of permitting uncontrolled retail uses in M-1 on the established business districts could be devastating. The following table summarizes the pros and cons of permitting retail uses throughout the M-1 Light Industrial Zoning District:

<b>Pros and Cons Permitting Retail Uses Throughout the Entire M-1 District</b>	
<b>Pros</b>	<b>Cons</b>
Re-use of vacant buildings throughout the entire City.	Unfair competition because of lower rental rates, compared to commercial properties.
	Increased traffic above and beyond industrial levels.
	Creation of commercial nodes competing with established commercial centers.
	Promotes random retail uses in second-class locations.
	Potential elimination of M-1 property.

The total area of M-1 property on major thoroughfares is 757 acres. If you eliminate the 64 acres used by the Oakland Executive Airport, the total area of M-1 property on major thoroughfares is 693 acres. This is only slightly more area than all of the property in the City zoned B-1, B-2, B-3 or H-S. It seems logical to permit retail on major thoroughfares initially and have an opportunity to study the impacts before permitting retail in all M-1 districts. The following table summarizes the pros and cons of requiring that M-1 properties with 25% retail uses must be located on a major thoroughfare:

<b>Pros and Cons Requiring 25% Retail in M-1 on Major Thoroughfares Only</b>	
<b>Pros</b>	<b>Cons</b>
Keeps increased traffic to major thoroughfares, which are designed for significant traffic volumes.	Retail would not be permitted on internal streets.
The Sign Ordinance (Chapter 85) permits additional signs on major thoroughfares.	Potential elimination of industrial sites.
Limits the scope of retail uses in M-1.	
Provides exposure on major thoroughfares for retail uses in M-1.	

City Management recommends that a functional relationship be defined as retail uses selling only those products, or products directly accessory, that are manufactured, fabricated or stored in the industrial portion of the building. This will ensure a clear relationship between the two uses. Without a clear definition, there could be questionable claims of a functional relationship between retail and industrial uses. For example, the industrial portion of the building could be used to manufacture flooring. The retail portion could be a shoe store, with the workers walking on the installed flooring as they sold shoes.

This definition would not eliminate the potential for selling accessory items related to the primary item being sold. For example, if a tile manufacturer sold tiles that were manufactured in the back of the building, the manufacturer could sell glue, grout and trowels. If accessory sales are permitted, they should be limited to products clearly accessory to the product that is manufactured, fabricated or stored in the industrial portion of the building.

It should be noted that there are ongoing projects that will have the effect of assisting with internal M-1 vacancies. There is a City Council Public Hearing scheduled for November 14, 2005 for ZOTA-201. If approved, this text amendment would permit commercial indoor recreation uses throughout the M-1 Light Industrial Zoning District. In addition it is anticipated that the ongoing Maple Road Corridor Study will identify opportunities for vacant industrial properties.

Attachments:

1. Draft ZOTA 216 Planning Commission Version (Version A).
2. Draft ZOTA 216 City Management Version (Version B).
3. Minutes from July 12, 2005 Planning Commission meeting.

Prepared by RBS, MFM

cc: File/ ZOTA 216

G:\ZOTAs\ZOTA 216 Commercial Uses in M-1\CC Public Hearing Memo 10 24 05.doc

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 39 OF THE CODE  
OF THE CITY OF TROY  
CITY COUNCIL PUBLIC HEARING DRAFT  
Version A - Planning Commission Version

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2 – Amendment to Article III of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new section 28.30.09 permitting retail uses subject to Special Use Approval in the M-1 Light Industrial District, to read as follows:

28.30.09 Retail uses, subject to the following:

- A. The retail use occupies no more than twenty-five percent (25%) of the gross floor area of a building that is otherwise used for industrial purposes.
- B. There shall be a functional relationship between the retail use and the industrial use.
- C. The building shall front on a major thoroughfare as classified on the City of Troy Transportation Plan.

28.30.109 Other uses of a similar character to those permitted above, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.

### Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

### Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

### Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Louise Schilling, Mayor

---

Tonni Bartholomew, City Clerk

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 39 OF THE CODE  
OF THE CITY OF TROY  
CITY COUNCIL PUBLIC HEARING DRAFT  
Version B – City Management Version

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2 – Amendment to Article III of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new section 28.30.09 permitting retail uses subject to Special Use Approval in the M-1 Light Industrial District, to read as follows:

28.30.09 Retail uses, subject to the following:

- A. The retail use shall not exceed twenty-five percent (25%) of the gross floor area of a building that is used for industrial purposes.
- B. There shall be a functional relationship between the retail use and the industrial use, as determined by one of the following:
  - i. The retail use sells only products, or products directly accessory thereto, that are manufactured or fabricated in the industrial portion of the building.
  - ii. The retail use sells only products, or products directly accessory thereto, that are stored in the industrial portion of the building.
- C. The industrial and retail uses shall have common ownership.
- D. The building shall front on a major thoroughfare as classified on the City of Troy Transportation Plan.

28.30.109 Other uses of a similar character to those permitted above, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.

### Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

### Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

### Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

---

Louise Schilling, Mayor

---

Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 216 Commercial Uses in M-1\ZOTA 216 CC Public Hearing Draft City Mgt  
Version 10 17 05.doc

13. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 216) – Article 28.00.00 Additional Retail Along Major Thoroughfares in the M-1 (Light Industrial) Zoning District

Mr. Miller presented a summary of the proposed zoning ordinance text amendment relating to additional retail along major thoroughfares in the M-1 zoning district. Mr. Miller reported that City Management recommends approval of ZOTA 216 as printed on the draft ZOTA dated June 27, 2005.

Mr. Wright pointed out a typographical error in Section 28.30.09 (A). The word “is” should be deleted.

PUBLIC HEARING OPENED

Arie Leibovitz of Ari-El Enterprises, 29548 Southfield Road, Southfield, was present. Mr. Leibovitz identified himself as the interested party who brought the matter to the attention of the City as a desire and need to accommodate flexibility in properties along the major arteries. Mr. Leibovitz, owner of numerous buildings along the Maple Road corridor, encouraged the members to support the text amendment that would revitalize some of the buildings that are becoming dysfunctional for the industrial use along the corridor.

PUBLIC HEARING CLOSED

**Resolution # PC-2005-07-122**

Moved by: Schultz  
Seconded by: Wright

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that Article 28.30.09, pertaining to additional retail uses along major thoroughfares in the M-1 Light Industrial Zoning District, be amended as printed on the Proposed Planning Commission Public Hearing Draft Zoning Ordinance Text Amendment, subject to the correction of one typographical error in item A of the proposed text.

Yes: Chamberlain, Khan, Littman, Schultz, Strat, Wright  
No: Drake-Batts  
Absent: Vleck, Waller

**MOTION CARRIED**

Ms. Drake-Batts said the proposed amendment is too restrictive and should not be limited to major thoroughfares.

A Special-Joint Meeting of the Troy City Council and the Troy Downtown Development Authority was held Monday, October 17, 2005, in the Council Chambers of the City Hall, 500 W Big Beaver, Troy, Michigan 48084. Mayor Schilling called the Meeting to order at 6:00 PM.

**ROLL CALL:**

**CITY COUNCIL PRESENT:**

Mayor Louise E. Schilling  
Robin E. Beltramini  
Cristina Broomfield  
David Eisenbacher  
Martin F. Howrylak (Absent)  
David A. Lambert  
Jeanne M. Stine

**DOWNTOWN DEVELOPMENT AUTHORITY:**

Chairman Alan M. Kiriluk  
Michael W. Culpepper (Absent)  
Stuart Frankel (Absent)  
David R. Hay  
Michele Hodges  
William Kennis  
Daniel MacLeish  
Carol A. Price (Absent)  
Ernest C. Reschke  
Louise E. Schilling  
Douglas J. Schroeder  
Harvey Weiss  
G. Thomas York

**ALSO PRESENT:**

John Szerlag  
Lori Grigg-Bluhm  
Brian Murphy  
Doug Smith  
Nino Licari  
Mark Miller  
Tonni Bartholomew

Mayor Schilling provided an opening statement on behalf of the City of Troy.

Chairman Kiriluk added comments on behalf of the Downtown Development Authority

Consensus was reached by a vote by voice to follow simple ground rules as described by John Szerlag.

John Szerlag moderated an interest-based discussion with the City Council and Planning Commission on accessory building footprint ratios, garage door height and commercial vehicle regulations.

**PUBLIC COMMENT**

The meeting **ADJOURNED** at 7:09 PM.

---

Louise E. Schilling, Mayor

---

Tonni L. Bartholomew, City Clerk

A Regular Meeting of the Troy City Council was held Monday, October 17, 2005, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:32 PM

Pastor Vince Messina of Woodside Bible Church gave the Invocation and the Pledge of Allegiance to the Flag was given.

**ROLL CALL:**

Mayor Louise E. Schilling  
Robin Beltramini  
Cristina Broomfield  
David Eisenbacher  
Martin F. Howrylak (Absent)  
David A. Lambert  
Jeanne M. Stine

---

**Vote on Resolution to Excuse Council Member Howrylak**

Resolution #2005-10-470  
Moved by Stine  
Seconded by Lambert

RESOLVED, That Council Member Howrylak’s absence at the Special-Joint DDA meeting and the Regular City Council meeting of October 17, 2005 is **EXCUSED** due to being out of the county.

Yes: All-6  
No: None  
Absent: Howrylak

**CERTIFICATES OF RECOGNITION:**

---

**A-1 Presentations:** No Presentations Scheduled

**CARRYOVER ITEMS:**

---

**B-1 No Carryover Items**

**PUBLIC HEARINGS:**

---

**C-1 Zoning Ordinance Text Amendment (ZOTA 216) – Additional Retail Along Major Thoroughfares in the M-1 (Light Industrial) Zoning District**

Resolution  
Moved by Beltramini  
Seconded by Lambert

RESOLVED, That Article XXVIII (M-1 LIGHT INDUSTRIAL DISTRICT), of the Zoning Ordinance, Option A, be **ADOPTED**, as recommended by the Planning Commission, with the caveat that City Staff is **DIRECTED** to provide a report in six months on other areas where this retail use might be expanded and City Staff is further **DIRECTED** to provide a report by the end of this year listing the functional relationship as defined by the approvals from the Planning Commission.

### **Vote on Resolution to Postpone**

Resolution #2005-10-471

Moved by Lambert

Seconded by Broomfield

RESOLVED, That Zoning Ordinance Text Amendment (ZOTA 216) – Additional Retail Along Major Thoroughfares in the M-1 (Light Industrial) Zoning District be **POSTPONED** until the Regular City Council Meeting scheduled for Monday, October 24, 2005.

Yes: All-6

No: None

Absent: Howrylak

---

### **C-2 Rezoning Application – North Side of Maple Road, West of Blaney, Section 29, M-1 to B-3 (Z 708)**

Resolution #2005-10-472

Moved by Stine

Seconded by Eisenbacher

RESOLVED, That the M-1 to B-3 rezoning request, located on the north side of Maple Road, west of Blaney, Section 29, being approximately 1.687 acres in size, is described in the following legal description and illustrated on the attached drawing:

T2N, R11E, SE ¼ of Section 29

Lots 8, 20, 21, and 22, and Outlot "A" of Supervisors Plat No. 23, (Liber 15, page 58, of Oakland County Plats). Containing ±1.687 ac. more or less, and subject to restrictions and easements of record.

BE IT FINALLY RESOLVED, That the proposed rezoning is hereby **GRANTED**, as recommended by City Management and the Planning Commission.

Yes: All-6

No: None

Absent: Howrylak

---

### **C-3 Rezoning Application – South Side of Woodslee Street, East of Rochester Road, Section 27, M-1 to R-2 (Z 709)**

Resolution #2005-10-473  
 Moved by Eisenbacher  
 Seconded by Beltramini

RESOLVED, That the M-1 to R-2 rezoning request, located on the south side of Woodslee Street, east of Rochester Road, Section 27, being 600 square feet in size, is described in the following legal description and illustrated on the attached drawing:

T2N, R11E, SE ¼ of Section 27

Commencing at the southeast corner of said Section 27; thence N 00°08'14" E, 899.83 ft. (recorded as N 01°32'25"E); thence N 89°41'56" W, 166.92 ft. (recorded as N 89°41'56" W) to a point on the east line of Stumpf's Beech Grove Subdivision (Liber 32, pages 11 & 12 of Oakland County Plats); thence along said east line N 00°00'00" W, 123.01 ft. (recorded as N 01°24'11" E) to the Point of Beginning; thence continuing N 00°00'00" W, 120.00 ft.; thence S 89°45'00" E, 5.00 ft.; thence S 00°00'00"E, 120.00 ft.; thence N 89°45'00" W, 5.00 ft. to the Point of Beginning. Containing 600 sq. ft. of land, more or less, and subject to restrictions and easements of record.

BE IT FINALLY RESOLVED, That the proposed rezoning is hereby **GRANTED**, as recommended by City Management and the Planning Commission.

Yes: All-6  
 No: None  
 Absent: Howrylak

## POSTPONED ITEMS:

---

### D-1 Standard Purchasing Resolution 3: Option to Renew – Banquet Services

Resolution #2005-10-474  
 Moved by Lambert  
 Seconded by Beltramini

WHEREAS, On October 21, 2002, a three-year contract to provide Banquet Services with an option to renew for three additional years was awarded to the highest scoring bidder, The San Marino Club (Resolution #2002-10-570-E-9).

WHEREAS, The San Marino Club agrees to exercise the option to renew the contract for three additional years.

NOW, THEREFORE, BE IT RESOLVED, That the additional three-year option to renew the contract is hereby **EXERCISED** with the San Marino Club under the same contract prices, terms, and conditions expiring on August 31, 2008, at a per plate cost including gratuity of \$39.00 for the two (2) appreciation banquets and \$20.00 for the employee holiday party.

Yes: All-6  
 No: None  
 Absent: Howrylak

---

**CONSENT AGENDA:**

---

**E-1a Approval of "E" Items NOT Removed for Discussion**

Resolution #2005-10-475  
Moved by Stine  
Seconded by Beltramini

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Items E-6 and E-7, which shall be considered after Consent Agenda (E) items, as printed.

Yes: All-6  
No: None  
Absent: Howrylak

---

**E-2 Approval of City Council Minutes**

Resolution #2005-10-475-E-2

RESOLVED, That the Minutes of the Regular City Council Meeting of October 3, 2005 be **APPROVED** as submitted.

---

**E-3 Proposed City of Troy Proclamations: None Proposed**

---

**E-4 Standard Purchasing Resolutions****a) Standard Purchasing Resolution 3: Exercise Renewal Option – Mosquito Control**

Resolution #2005-10-475-E-4a

WHEREAS, On April 12, 2004, a two-year contract with an option to renew for one additional year to provide mosquito control was awarded to the low bidder, Advanced Pest Management Co. Inc. of Fenton, MI, (Resolution #2004-04-187-E6); and

WHEREAS, Advanced Pest Management Co. Inc., has agreed to exercise the option to renew for one additional year under the same terms and conditions at 2005 prices;

NOW, THEREFORE, BE IT RESOLVED, That the option to **RENEW** the contract is hereby **EXERCISED** with Advanced Pest Management Co. Inc., to provide mosquito control to various sites under the same terms and conditions at 2005 prices, to expire December 31, 2006.

**b) Standard Purchasing Resolution 2: Bid Award – Lowest Bidder Meeting Specifications – Tandem-Axle Dual Wheel Trailer – 12-Ton Capacity**

Resolution #2005-10-475-E-4b

RESOLVED, That a contract to purchase one (1) Felling Tandem-Axle Dual Wheel Trailer Model FT-24-2 is hereby **AWARDED** to the lowest bidder meeting specifications, AIS Construction Equipment of Lenox, MI for an estimated total cost of \$13,300.00, as detailed in the bid tabulation opened August 24, 2005, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

c) **Standard Purchasing Resolution 4: State of Michigan MiDEAL Program – Large Capacity Riding Rotary Mower with Cozy Cab ROPS**

Resolution #2005-10-475-E-4c

RESOLVED, That a contract to purchase one (1) large capacity riding rotary mower from Spartan Distributors is hereby **APPROVED** through the State of Michigan MiDEAL Program (formerly the Extended Purchasing Program) at an estimated cost of \$58,452.75.

BE IT FURTHER RESOLVED, That the purchase of the Cozy Cab ROPS with windshield wiper, defroster, emergency flashers, heater, headlights, and air conditioner from Spartan Distributors is **AUTHORIZED** at an estimated cost of \$8,064.00.

d) **Standard Purchasing Resolution 1: Award to Low Bidder – Type “K” Copper Tubing**

Resolution #2005-10-475-E-4d

RESOLVED, That a contract to purchase Type “K” Copper Tubing is hereby **AWARDED** to the low bidder SLC Meter Service, Inc. of Davisburg, MI, for an estimated total cost of \$48,066.00, at unit prices contained in the bid tabulation opened October 10, 2005, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**E-5 Private Agreement for T.G.I. Friday’s – Project No. 05.918.3**

Resolution #2005-10-475-E-5

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and Drury Inns, Inc., is hereby **APPROVED** for the installation of water main, storm sewer, paving and soil erosion controls on the site and in the adjacent right of way, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**E-8 Announcement of Public Hearing – Community Development Block Grant (CDBG) Year 2002 Project Description Amendment**

Resolution #2005-10-475-E-8

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on November 14<sup>th</sup>, 2005 at 7:30 PM, or as soon thereafter as the agenda will permit, for the purpose of hearing public comments on the Community Development Block Grant (CDBG) Year 2002 Project Description Amendment.

---

**E-9 Private Agreement for National Electrical Contractors Association – Project No. 05.902.3**

Resolution #2005-10-475-E-9

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and National Electrical Contractors Association, S.E. Michigan Chapter, is hereby **APPROVED** for the installation of water main, paving and sidewalk on the site and in the adjacent right of way, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**E-10 Approval of Conveyance of Easement from City of Troy to Detroit Edison Company and Authorization for Signatures – Sidwell #88-20-13-100-051 – Police Fire Training Center**

Resolution #2005-10-475-E-10

RESOLVED, That the Permanent Easement for underground utilities from the City of Troy to Detroit Edison Company, being part of property having Sidwell #88-20-13-100-051, is hereby **APPROVED**, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the document, copies of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**E-11 Gerback, as Member of 300 Park Venture, LLC v Troy**

Resolution #2005-10-475-E-11

RESOLVED, That the City Attorney is hereby **AUTHORIZED AND DIRECTED** to represent the City of Troy in the matter of James Gerback, as Member of 300 Park Venture, LLC v City of Troy and to pay all expenses and to **RETAIN** any necessary expert witnesses to adequately represent the City.

---

**E-1b Address of “E” Items Removed for Discussion by City Council and/or the Public**

---

**E-6 Announcement of Public Hearing – Request to Reprogram and Waive Recapture CDBG 2003 Funds**

Resolution #2005-10-476-E-6

Moved by Stine

Seconded by Eisenbacher

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on November 14<sup>th</sup>, 2005 at 7:30 PM, or as soon thereafter as the agenda will permit, for the purpose of hearing public comments on the addition of Water Sewer Improvements for Charnwood Subdivision Area, Section 6 to the list of CDBG projects for 2003; the re-programming of program year 2003 unspent funds from Flood Drain Improvements to Water Sewer Improvements, and to waive the recapture of 2003 CDBG funds.

Yes: All-6  
No: None  
Absent: Howrylak

---

**E-7 Announcement of Public Hearing – Community Development Block Grant (CDBG) 2006 Application**

Resolution #2005-10-476-E-7  
Moved by Stine  
Seconded by Eisenbacher

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on November 14<sup>th</sup>, 2005 at 7:30 PM, or as soon thereafter as the agenda will permit, for the purpose of hearing public comments on the adoption of the Community Development Block Grant 2006 application in the amount of \$166,316.00.

Yes: All-6  
No: None  
Absent: Howrylak

**PUBLIC COMMENT: Limited to Items Not on the Agenda**

**REGULAR BUSINESS:**

---

**F-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments Scheduled; b) City Council Appointments: Advisory Committee for Persons with Disabilities; Cable Advisory Committee and Youth Council**

**(a) Mayoral Appointments – No Appointments Scheduled**

**(b) City Council Appointments**

Resolution  
Moved by Beltramini  
Seconded by Lambert

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

**Advisory Committee for Persons with Disabilities**

Appointed by Council (9 Regular Members; 3 Alternates) – 3 years

Jeffrey Stewart

Term Expires 11/01/08

**Cable Advisory Committee**

Appointed by Council (7) – 3 years

Lisa Martinico Term Expires 11/30/08

**Ethnic Issues Advisory Board**

Appointed by Council (9) – (4) 3 year terms & (5) 2 year terms

Reuben T. Ellis Unexpired Term 09/30/07

**Youth Council**

Appointed by Council - (13) – 1 year

Joseph Niemiec Unexpired Term 06/01/06

**Vote on Resolution to Postpone**

Resolution #2005-10-477  
Moved by Lambert  
Seconded by Eisenbacher

RESOLVED, That the proposed appointment to the Ethnic Issues Advisory Board be **POSTPONED** until the Regular City Council meeting scheduled for Monday, October 24, 2005.

Yes: All-6  
No: None  
Absent: Howrylak

**(b) City Council Appointments**

Resolution #2005-10-478  
Moved by Beltramini  
Seconded by Lambert

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

**Advisory Committee for Persons with Disabilities**

Appointed by Council (9 Regular Members; 3 Alternates) – 3 years

Jeffrey Stewart Term Expires 11/01/08

**Cable Advisory Committee**

Appointed by Council (7) – 3 years

Lisa Martinico Term Expires 11/30/08

**Youth Council**

Appointed by Council - (13) – 1 year

Joseph Niemiec Unexpired Term 06/01/06

Yes: All-6  
No: None  
Absent: Howrylak

---

**F-2 Vacation of Consent Judgment – Troy Long Lake, L.L.C.**

Resolution #2005-10-479  
Moved by Beltramini  
Seconded by Lambert

RESOLVED, That the Stipulated Order for Vacation of Consent Judgment in the matter of Troy Long Lake, L.L.C., a Michigan Corporation, and the Successor in Interest to Three Plus Corporation, a Michigan Corporation v. City of Troy, et. al., (Oakland County Circuit Court Case No. 87-340985 AW) is hereby **APPROVED CONTINGENT UPON** satisfactory proof that Troy Long Lake, L.L.C. is the owner of the property; the Mayor and Clerk are **AUTHORIZED TO EXECUTE** the document on behalf of the City of Troy, and a copy of the Consent Judgment shall be **ATTACHED** to the original Minutes of this meeting.

IT IS FURTHER RESOLVED, That the Assistant City Attorney is **AUTHORIZED TO SIGN** the Stipulated Order for Vacation of Consent Judgment and **ENTER** it with the Court but only after such time as Troy Long Lake, L.L.C. presents evidence acceptable to the City Attorney that it is the owner of the property.

Yes: All-6  
No: None  
Absent: Howrylak

---

**F-3 Application for Transfer of Class C License for Daawat Indian Cuisine****(a) License Transfer**

Resolution #2005-10-480a  
Moved by Eisenbacher  
Seconded by Stine

RESOLVED, That the request from RAHI ENTERPRISE, INC., to transfer ownership of a 2005 Class C licensed business with official permit (food), entertainment permit, and new Specially Designated Merchant (SDM), to be located at 3875-3877 Rochester Rd, Troy, MI 48098, Oakland County, from Auburn Hills Entertainment, INC. (A Delaware Corporation) “above all others” be **CONSIDERED** for **APPROVAL**.

It is the consensus of this legislative body that the application **BE RECOMMENDED** “above all others” for issuance.

Yes: All-6  
No: None  
Absent: Howrylak

**(b) Agreement**

Resolution #2005-10-480b  
Moved by Eisenbacher  
Seconded by Stine

WHEREAS, The City Council of the City of Troy deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **APPROVES** an agreement with RAHI ENTERPRISE, INC., to transfer ownership of a 2005 Class C licensed business with official permit (food), entertainment permit, and new Specially Designated Merchant (SDM), to be located at 3875-3877 Rochester Rd, Troy, MI 48098, Oakland County, from Auburn Hills Entertainment, INC. (A Delaware Corporation) "above all others", and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6  
No: None  
Absent: Howrylak

---

**F-4 Traffic Committee Recommendations – September 21, 2005**

Resolution #2005-10-481  
Moved by Stine  
Seconded by Beltramini

**a) No Changes at Sandshores and Walker**

RESOLVED, That **NO CHANGES** be made at Sandshores and Walker.

**b) Parking be Prohibited on the East Side of English from 30 Feet South of the 5350 Driveway to the 2687 Driveway, Between 7 a.m. and 4:00 p.m. School Days Only; and Parking be Prohibited on the East Side of Blair North of the Driveway at 2680 to English, Between 7 a.m. and 4:00 p.m. School Days Only**

RESOLVED, That parking **BE PROHIBITED** on the east side of English from 30 feet south of the 5350 driveway to the 2687 driveway, between 7 a.m. and 4 p.m. school days only;

RESOLVED, That parking **BE PROHIBITED** on the east side of Blair north of the driveway at 2680 to English, between 7 a.m. and 4 p.m. school days only.

**c) No Installation of 3-WAY STOP Signs at Heatherwood and Northfield Parkway, but Installation of an ADVISORY Sign on Southbound Northfield Parkway Indicating a Hidden Intersection Ahead in a Location North of the Intersection**

RESOLVED, That 3-way STOP signs **NOT BE INSTALLED** at Heatherwood and Northfield Parkway, but an advisory sign **BE INSTALLED** on southbound Northfield Parkway indicating

that there is a hidden intersection ahead, in a location north of the intersection to be determined by the traffic engineer.

**d) No Changes be Made to the Intersection at Glyndeboune/Chalgrove/Dalesford**

RESOLVED, That **NO CHANGES** be made to the Glyndebourne/Chalgrove/Dalesford intersection.

**e) Establishment of Fire Lanes/Tow Away Zones at Cambridge Crossing 1, Maple Road**

RESOLVED, That fire lanes/tow away zones shown in the attached sketch **BE ESTABLISHED** at Cambridge Crossing 1, Maple Road.

**f) Establishment of Fire Lanes/Tow Away Zones at Regents Park - Alisop**

RESOLVED, That fire lanes/tow away zones shown in the attached sketch **BE ESTABLISHED** at Regents Park – Alisop.

**g) Establishment of Fire Lanes/Tow Away Zones at Regents Park - Melcombe**

RESOLVED, That fire lanes/tow away zones shown in the attached sketch **BE ESTABLISHED** at Regents Park – Melcombe.

**h) Establishment of Fire Lanes/Tow Away Zones at Rochester Commons Condos**

RESOLVED, That fire lanes/tow away zones shown in the attached sketch **BE ESTABLISHED** at Rochester Commons Condos.

Yes: All-6  
No: None  
Absent: Howrylak

---

**F-5 Dispatch, Lock-Up, and Animal Control Services Agreement with the City of Clawson**

Resolution #2005-10-482  
Moved by Lambert  
Seconded by Stine

RESOLVED, That the agreement between the City of Troy and the City of Clawson for dispatch, lock-up, and animal control services be **APPROVED**, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the agreement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6  
No: None  
Absent: Howrylak

**F-6 Contract Ratification – Troy Police Officers Association (TPOA) and City of Troy**

Resolution #2005-10-483

Moved by Beltramini

Seconded by Stine

RESOLVED, That a Collective Bargaining Agreement between the City of Troy and TPOA for the period July 1, 2005 through June 30, 2008 is hereby **RATIFIED** by the City Council of the City of Troy, and the Employer, the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the final agreement.

Yes: All-6

No: None

Absent: Howrylak

---

**F-7 Proposed Amendment – Long Lake Crossings**

Resolution #2005-10-484

Moved by Beltramini

Seconded by Stine

RESOLVED, That the Second Amendment to the Consent Judgment in the matter of Transwestern Commercial Services, Successors in Interest to Zahav Investment Company, Plymouth Investment Company, and Biltmore Properties Company v. City of Troy, (Oakland County Circuit Court Case No. 82-238690 CZ) is hereby **APPROVED**, the Mayor and Clerk are **AUTHORIZED TO EXECUTE** the document on behalf of the City of Troy, and a copy of the Consent Judgment shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6

No: None

Absent: Howrylak

---

**MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:****G-1 Announcement of Public Hearings:**

- a) Zoning Ordinance Text Amendment (ZOTA 201) – Article 28.30.00 Commercial Indoor Recreation in the M-1 Light Industrial Zoning District – November 14, 2005  
Noted and Filed
- 

**G-2 Green Memorandums: No Memorandums Submitted**

**COUNCIL REFERRALS:** Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

---

**H-1 No Council Referrals****COUNCIL COMMENTS:**

---

**I-1 No Council Comments****Vote on Resolution to Suspend Rules of Procedure for the City Council, Rule #6 – Order of Business, Article 15 I.**

Resolution #2005-10-485

Moved by Beltramini

Seconded by Stine

RESOLVED, That City Council **SUSPEND** Rules of Procedure for the City Council, Rule #6 Order of Business, Article 15-I. Council Comments and **AUTHORIZE** City Council to discuss and take action on an item that does not appear on the agenda.

Yes: All-6

No: None

Absent: Howrylak

**Vote on Resolution to Schedule a Study Session**

Resolution #2005-10-486

Moved by Beltramini

Seconded by Stine

RESOLVED, That City Council hereby **DIRECTS** City Management to **SCHEDULE** a Study Session at the earliest opportunity to discuss the merits of appointing an *Audit Committee* for the City of Troy.

Yes: All-6

No: None

Absent: Howrylak

**REPORTS:**

---

**J-1 Minutes – Boards and Committees:**

- a) Library Board/Final – June 2, 2005
- b) Troy Historic Commission/Final – June 28, 2005
- c) Troy Daze Advisory and Festival Committee/Draft – August 23, 2005
- d) Troy Youth Council/Final – August 24, 2005
- e) Advisory Committee for Persons with Disabilities/Final – September 7, 2005
- f) Building Code Board of Appeals/Final – September 7, 2005
- g) Troy Daze Advisory and Festival Committee/Draft – September 7, 2005
- h) Liquor Advisory Committee/Draft – September 12, 2005
- i) Planning Commission Regular/Final – September 13, 2005

- j) Planning Commission Special/Study/Draft – September 27, 2005
  - k) Troy Youth Council/Draft – September 28, 2005
- Noted and Filed

---

**J-2 Department Reports:**

- a) Memo from the IT Department Regarding Wireless Access at Community Center and Library
- b) Mayor Pro Tem Beltramini's Travel Expense Report for the MML Annual Convention
- c) Building Department – Permits Issued During the Month of September, 2005
- d) Mayor Pro Tem Beltramini's Travel Expense Report for the National League of Cities Finance, Administration and Intergovernmental Relations Committee Meeting
- e) Purchasing Department Report – Auction Vehicle Sale on September 17, 2005 and BidNet Sale on August 14, 2005
- f) Development Report – October, 2005
- g) Memo from Parks and Recreation Regarding Civic Center Priority Task Force (CCPTF) Pathways

Noted and Filed

---

**J-3 Letters of Appreciation:**

- a) Letter of Thanks to Cindy Stewart and Staff from Tom Duszynski, Chair of Photo Contest, In Appreciation for the Support Provided at Troy Daze
- b) Letter of Thanks to John Szerlag from Karry Rieth, Thanking the City of Troy and Vicki Richardson for Hosting Oakland County's Community Development Block Grant Annual Application Workshop
- c) Letter of Appreciation to Captain Mayer from Terry Nerbonne, In Appreciation of the Cooperation with the Ferris State Internship Program
- d) Letter of Thanks to Cindy Stewart from Paul Scobie, In Appreciation of Her Contribution at the Troy Youth Assistance Annual Breakfast Meeting
- e) Letter of Thanks to Sergeant Robert Kowalski from Cathy Killian, Thanking the Troy Police Department for the Support During the Dr. Janet Jopke Memorial Fun Walk
- f) Letter of Thanks to Chief Craft from Vickie Lamerato, Troy Sports Center, In Appreciation of the Troy Police Department

Noted and Filed

---

**J-4 Proposed Proclamations/Resolutions from Other Organizations:**

- a) Miscellaneous Resolution #05172 from the Oakland County Board of Commissioners In Support of a Constitutional Amendment for the Sole Purpose of Narrowly and Clearly Defining the Term "Public Use"
- b) Miscellaneous Resolution #05231 from the Oakland County Board of Commissioners Proclaiming the Month of October as Domestic Violence Awareness Month

Noted and Filed

---

**J-5 Calendar**

Noted and Filed

---

**J-6 New Election Voting M-100 Optical Scan**

Noted and Filed

---

**J-7 Letter from Oakland County Board of Commissioners Regarding Reimbursement of Expenses for Mosquito Control**

Noted and Filed

**STUDY ITEMS:**

---

**K-1 No Study Items Submitted**

**PUBLIC COMMENT: Address of "K" Items**

**CLOSED SESSION:**

---

**L-1 Closed Session – No Closed Session Requested**

The meeting **ADJOURNED** at 9:23 PM.

---

Louise E. Schilling, Mayor

---

Tonni L. Bartholomew, City Clerk

October 14, 2005

TO: John Szerlag, City Manager

FROM: William Nelson, Fire Chief *WLN*  
David Roberts, Assistant Fire Chief *DR*

SUBJECT: Marshall Field's Fireworks Permit Application

### BACKGROUND

Marshall Field's at Oakland Mall along with Zambelli Fireworks, Inc., of New Castle, Pennsylvania, have submitted a permit application for a public fireworks display. Michigan's Fireworks Law requires that any person or group that would like to conduct a fireworks display must apply to the local unit of government for a permit. The law defines local unit of government as the council or commission of a city or village, or the township board of a township.

Marshall Field's and Zambelli Fireworks, Inc., are requesting the Troy City Council to grant a permit for a fifteen-minute public fireworks display to occur on Friday, November 11, 2005, at 7:00 PM (or potentially Saturday, November 12<sup>th</sup> in the event of inclement weather) in their west parking lot. This is both parties' first application for a public fireworks display. City Council has previously granted permission for fireworks displays at the annual Troy Daze festival. This application appears similar in nature, with the following general exceptions:

- Four inch aerial shells in addition to three inch
- Fewer barrage cakes (ground displays)

It appears the west parking lot will accommodate the necessary distances required for three and four inch aerial shells. The permit application has been modified from what was initially proposed to delete five-inch aerial shells and to change the start time from 6:00 PM to 7:00 PM.

The Fire Department will arrange to have Fire Station #4 on standby at the event along with the necessary number of Fire Prevention Division staff members. The Police Department has indicated they can handle any traffic and crowd concerns that may arise with on-duty personnel. Oakland Mall Security will provide the necessary security for the site. Alliance Mobile Health (EMS) has been contacted and will be on-hand for standby as required.

### RECOMMENDATION

Staff recommends that City Council issue a fireworks permit to Zambelli Fireworks, Inc., for a public fireworks display. Enclosed for Council's review is the permit application and permit to be signed and issued. If there are any questions regarding this matter, please contact the Fire Department.



OUTDOOR SPECIAL EVENT APPLICATION

CITY OF TROY
DEPARTMENT OF BUILDING INSPECTIONS
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
248-524-3344

RECEIVED

OCT 11 2005

BUILDING DEPT.

OUTDOOR SPECIAL EVENT

Date: 10/7/05

Outdoor Special Events are permitted by the Zoning Ordinance, Chapter 39, Section 41.16.00. Please provide the information requested below and return it to the City of Troy Building Department, 500 West Big Beaver, Troy, MI 48084. Your application will then be reviewed for compliance with the Ordinance. If you have questions or need assistance, please call 248-524-3581.

NAME OF THE EVENT: HOLIDAY FIREWORKS

LOCATION OF EVENT: MARSHALL FIELD'S OAKLAND MALL

SIDWELL (Property ID) NUMBER: 500 WEST 1/4 MILE ROAD TROY, MI 48083

NAME OF APPLICANT: RONNIE BLASZCZYK, MARSHALL FIELD'S

ADDRESS OF APPLICANT: 21500 NORTH WESTERN HWY

CITY: SFLD STATE: MI ZIP: 48075

PHONE NUMBER: 248.443.6247 FAX: 248.443.4501

DATE(S) OF EVENT: FRIDAY, NOV. 11 FROM: 6:00 TO: 6:15 p.m.

WILL TENTS BE ERECTED? (FEE IS \$30) YES: NO: X

(IF YES, SEE ATTACHMENT FROM FIRE DEPARTMENT)

WILL FOOD BE SOLD/SERVED TO PUBLIC? YES: NO: X
(IF YES, CALL OAK. CNTY. HLTH. DIV. AT 248-424-7190)

TEMPORARY LIGHTING OR ELECTRICAL? (MIN. FEE IS \$25) YES: NO: X

(IF YES, OBTAIN ELECT. PERMIT & ARRANGE INSPECTION)

ADDITIONAL SIGNS? (FEE IS \$30) YES: NO: X
(IF YES, OBTAIN SIGN PERMIT)

In addition to the above information, please include a brief written description of the proposed event, including what activities will take place, your plan to handle traffic control, litter, restrooms needs, etc. Also, attach 2 copies of a detailed site plan, drawn to scale, showing where on site the special event will take place, location of existing buildings, parking, access lanes, tents and signs.

APPROVED BY: DATE:

**“Most Magical Place” Holiday Event at Marshall Field’s Oakland  
Friday, November 11, 6-8 pm**

**Event Overview:**

Marshall Field’s will host an event at our Oakland store to kickoff the holidays, and to introduce our Old Fashioned Toy Store which will be in place throughout the holiday season.

**Event Elements:**

**6-6:15pm** Fireworks in Marshall Field’s parking lot. Note-Zambelli is the company that provides the July 4<sup>th</sup> fireworks display on the Detroit riverfront every year.

**6:15 pm** Santa arrives via convertible following fireworks finale, drives through mall lot and stops in front of Marshall Field’s door, waves to crowd, Merry Christmas to all, enters store, proceeds to Kids department for visits with Santa.

**6:20-8pm** Holiday-themed refreshments served throughout store, holiday carolers, holiday cooking demos, Santabear costumed characters, balloon twisters, face painters, etc.

**Advertising:**

- Marshall Field’s events website
- In-store signage
- Marshall Field’s Circular
- 2 x 7 ROP, Detroit News/Free Press
- Press release, pre-publicity campaign

Addendum to Holiday Event at Marshall Field's Oakland, November 11, 2005

- Time change for fireworks display, from 6-6:15pm to 7-7:15pm.
- Fireworks shell size change, largest shell used will be 4" aerial shell.

RECEIVED

OCT 11 2005

BUILDING DEPT.

Post-it* Fax Note	7671	Date	# of pages ▶ 1
To	MARK STIAC	From	Ronnie B
Co./Dept.		Co.	MARSHALL FIELD
Phone #		Phone #	
Fax #		Fax #	

# APPLICATION

## FOR FIREWORKS DISPLAY PERMIT

Act 358, P.A. 1968

DATE OF APPLICATION  
**9/30/2005**

1. TYPE OF DISPLAY:       Public Display       Agricultural Pest Control

2. APPLICANT

NAME OF PERSON <b>MARSHAL FIELDS</b>	ADDRESS <b>21500 NORTH WESTERN HWY SOUTHFIELD, MI 48075</b>	AGE: Must be 21 or over
IF A CORPORATION: Name of President	ADDRESS	

3. PYROTECHNIC OPERATOR

NAME <b>ROBERT MAYS</b>	ADDRESS <b>1709 W. WASHINGTON STREET NEW CASTLE, PA 16101</b>	AGE: Must be 21 or over <b>32</b>
EXPERIENCE:		
NUMBER OF YEARS <b>12+</b>	NUMBER OF DISPLAYS <b>200+</b>	WHERE <b>THROUGHOUT UNITED STATES</b>

NAMES OF ASSISTANTS:

NAME <b>TO BE DETERMINED</b>	ADDRESS	AGE
NAME	ADDRESS	AGE

4. NON-RESIDENT APPLICANT

NAME	ADDRESS	
Name of Michigan Attorney or Resident Agent	ADDRESS	TELEPHONE NUMBER

5. EXACT LOCATION OF PROPOSED DISPLAY

**PARKING LOT @ OAKLAND MALL, TROY, MI - MAP ATTACHED**

DATE <b>11/11/05 (11/12/05 RAIN DATE)</b>	TIME <b>6:00 PM</b>
--	------------------------

6. NUMBER AND KINDS OF FIREWORKS TO BE DISPLAYED

3" AERIAL SHELLS	1350	<i>420'</i>
4" AERIAL SHELLS	468	<i>500'</i>
5" AERIAL SHELLS	425	<i>700'</i>
BARRAGE CAKES	18	

MANNER & PLACE OF STORAGE PRIOR TO DISPLAY

**DELIVERED ON DAY OF DISPLAY ON ZABELLI COMPANY TRUCK**

(Subject to Approval of Local Fire Authorities)

7. FINANCIAL RESPONSIBILITY

A. AMOUNT OF BOND OR INSURANCE (to be set by municipality)	<b>\$ 10,000,000</b>
B. BONDING CORPORATION OF INSURANCE COMPANY: NAME <b>ALLIED SPECIALTY INSURANCE</b>	ADDRESS <b>10451 GULF BOULEVARD TREASURE ISLAND, FL 33706</b>

# PERMIT

## FOR FIREWORKS DISPLAY Act 358, P.A. 1968

This permit is not transferable. Possession of this permit by the herein named person will authorize him to possess, transport and display fireworks in the amounts, for the purpose, and at the place listed below only.

TYPE OF DISPLAY:       Public Display       Agricultural Pest Control

ISSUED TO:  
NAME  
**ZAMBELLI FIREWORKS MFG. CO., INC.**  
ADDRESS  
**PO BOX 1463    NEW CASTLE, PA 16103**      AGE

REPRESENTING:  
NAME OF ORGANIZATION, GROUP, FIRM OR CORPORATION  
**MARSHAL FIELDS**  
ADDRESS  
**21500 NORTH WESTERN HWY    SOUTHFIELD, MI 48075**

NUMBER & TYPES OF FIREWORKS:			
3" AERIAL SHELLS	1350	BARRAGE CAKES	18
4" AERIAL SHELLS	468		
5" AERIAL SHELLS	425		

DISPLAY:  
EXACT LOCATION  
**PARKING LOT @ OAKLAND MALL    TROY, MI**

CITY, VILLAGE, TOWNSHIP	DATE	TIME
	<b>11/11/05 (11/12/05 RAIN DATE)</b>	<b>6:00 PM</b>

BOND OR INSURANCE FILED:       Yes       No      AMOUNT  
**\$10,000,000**

ISSUED BY:

Issued by action of the \_\_\_\_\_  
(council, commission, board)

of the \_\_\_\_\_ of \_\_\_\_\_  
(city, village, township)      (name of city, village, township)

on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

\_\_\_\_\_  
(signature & position of council, commission or board representative)

**CERTIFICATE OF INSURANCE**

PRODUCER:

**Allied Specialty Insurance**  
 10451 Gulf Blvd  
 Treasure Island, FL 33706  
 1-800-237-3355

Issue Date MM/DD/YY  
 10/12/05

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**COMPANIES AFFORDING COVERAGE**

INSURED:

**ZAMBELLI FIREWORKS MFG.CO. INC.**  
 ZAMBELLI FAMILY PARTNERSHIP  
 20 SOUTH MERCER  
 NEW CASTLE, PA 16103-1463

COMPANY A T.H.E. INSURANCE COMPANY  
 LETTER  
 COMPANY B REVISED CERTIFICATE #10064 10-12-05  
 LETTER  
 COMPANY C  
 LETTER  
 COMPANY D  
 LETTER

**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONT PROT	M5MF5226	2/1/05	2/1/06	GENERAL AGGREGATE \$3,000,000 PRODUCTS-COMP/OP AGG \$1,000,000 PERSONAL & ADV INJURY \$1,000,000 EACH OCCURENCE \$1,000,000 FIRE DAMAGE (any one fire) \$50,000 MED EXP (any one person) \$NA
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	M5MF5226	2/1/05	2/1/06	COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY \$ (per person) BODILY INJURY \$ (per accident) PROPERTY DAMAGE \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> _____				AUTO ONLY -EA ACCIDENT \$ OTHER THAN AUTO ONLY: \$ EACH ACCIDENT \$ AGGREGATE \$
A	<b>EXCESS LIABILITY</b> <input type="checkbox"/> UMBRELLA FORM <input checked="" type="checkbox"/> OTHER THAN UMBRELLA FORM	M5XF5227	2/1/05	2/1/06	EACH OCCURENCE \$1,000,000 AGGREGATE \$1,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYEES' LIABILITY</b> THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input checked="" type="checkbox"/> EXCL	WC045069	12/30/04	12/30/05	<input type="checkbox"/> STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	<b>OTHER EXCESS LIABILITY</b> HIRED PHYSICAL DAMAGE	M5XF5228 M5MF5226	2/1/05 2/1/05	2/1/06 2/1/06	EACH OCCURENCE \$5,000,000 AGGREGATE \$5,000,000 LIMIT \$100,000 \$2,500 Ded.

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS**

DISPLAY DATE: 11-11-05 or alternate date as per contract. LOCATION: Oakland Mall (Parking Lot) Troy, Michigan  
 THE FOLLOWING ARE NAMED AS ADDITIONAL INSURED AS RESPECTS COMMERCIAL GENERAL LIABILITY INSURANCE PERTAINING TO THE OPERATIONS OF THE NAMED INSURED ONLY: The City of Troy, Michigan, Marshal Fields and Oakland Mall as their interests may appear. Copy of CG 20 26 (07/04) attached.

*Handwritten:* 10/12/05

CERTIFICATE HOLDER  
 The City of Troy, Michigan

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*Handwritten Signature:* Richard A. [unclear]

POLICY NUMBER: 00M5MF5226

COMMERCIAL GENERAL LIABILITY  
CG 20 26 07 04

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – DESIGNATED  
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)
" PER CERTIFICATES OF INSURANCE ON FILE WITH THE COMPANY"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

THE MICHIGAN PENAL CODE (EXCERPT)  
Act 328 of 1931

**750.243b Permit for use or sale of fireworks.**

Sec. 243b. (1) The council or commission of a city or village or the township board of a township, upon application in writing, on forms provided by the director of the department of state police, may grant a permit for the use of fireworks otherwise prohibited by section 243a, within their political jurisdiction, manufactured for outdoor pest control or agricultural purposes, or for public display by municipalities, fair associations, amusement parks, or other organizations or groups of individuals approved by the city, village, or township authority, if the applicable provisions of this act are complied with. The permits shall be on forms provided by the director of the department of state police. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection shall not be transferable, nor shall a permit be issued to a person under the age of 18 years.

(2) The council or commission of a city or village or the township board of a township, upon application in writing, may grant a permit, on forms provided by the director of the department of state police, to a resident wholesale dealer or jobber to have in his possession within the political jurisdiction, fireworks otherwise prohibited by section 243a, for sale only to holders of permits as provided in this section. A permit granted under this subsection is not transferable, nor shall a permit be issued to a person under the age of 18 years.

(3) Before a permit for a pyrotechnic display is issued, the person, firm, or corporation making application therefor shall furnish proof of financial responsibility by a bond or insurance in an amount deemed necessary by the local governing authority to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation, or an agent or employee thereof, in the amount, character, and form the local authority determines necessary for the protection of the public.

(4) A permit shall not be issued under this act to a nonresident person, firm, or corporation for conduct of a pyrotechnic display in this state until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be his legal representative upon whom all process in an action or proceeding against him may be served.

(5) The local governing authority shall rule on the competency and qualifications of operators of pyrotechnic displays, as the operator has furnished in his application form, and on the time, place, and safety aspects of the displays before granting permits.

**History:** Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1972, Act 14, Imd. Eff. Feb. 19, 1972;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976.

# Oakland Mall LLC

October 11, 2005

Ms. Ronnie Blaszczyk  
Marshall Field's Special Events  
500 W. 14 Mile Rd.  
Troy, MI 48083

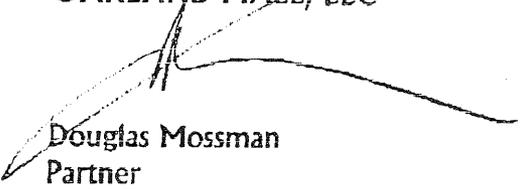
Dear Ms. Blaszczyk:

This letter shall serve as Landlord's approval of your request to conduct your Santa Arrival event, which includes a fireworks display, in the Oakland Mall parking lot on Friday, November 11, 2005 from 6-8 p.m. subject to the return of one fully executed copy of the attached Hold Harmless.

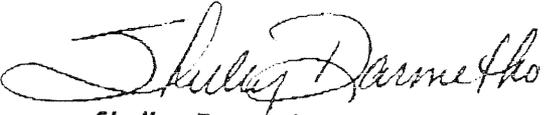
All permits, approvals, fees and costs pertaining to the above mentioned event will be the responsibility of Marshall Field's. Further, an insurance certificate will be required from your exhibitor which names Oakland Mall LLC, Oakland Mall Merchants Association, Sears, Marshall Field's and JCPenney as additional insured prior to the event date.

Sincerely,

OAKLAND MALL, LLC

  
Douglas Mossman  
Partner

OAKLAND MALL MERCHANTS ASSN.

  
Shelley Darnetko  
Marketing Director

SD:sb

Enclosures

**Executive Offices**  
39577 Woodward Ave.  
Suite 110  
Bloomfield Hills  
MI 48304  
248.647.3838 phone  
248.647.6231 fax

**Mall Offices**  
412 W. 14 Mile Road  
Troy, MI 48083  
248.585.4114 phone  
248.585.2440 fax  
www.oaklandmall.com

Jay M. Kogan  
Douglas S. Mossman

Joy S. Powell, CMD, CSM  
Mall Manager

Charles Miller  
Director of Construction

Launie Fielder  
Controller

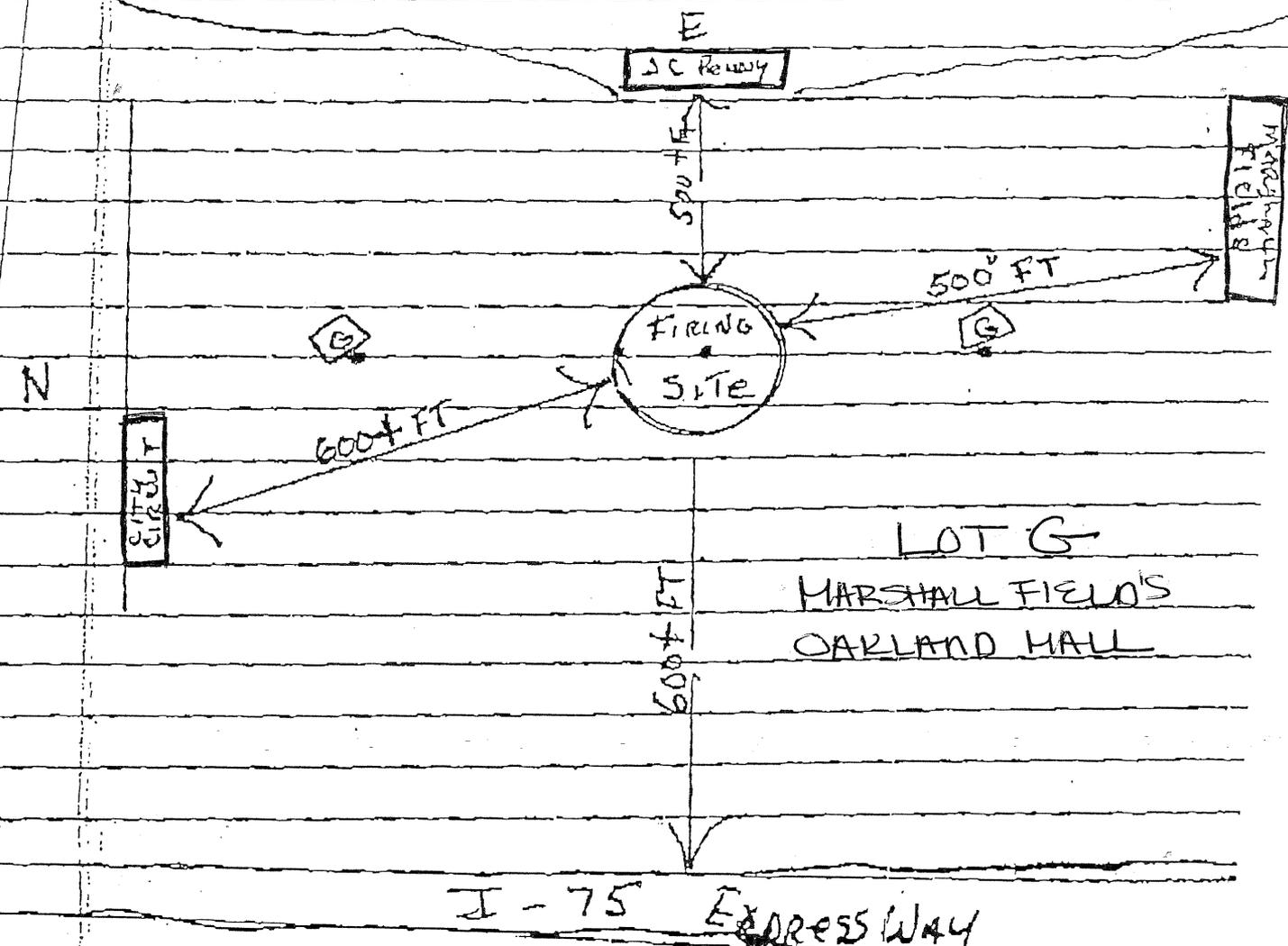
RECEIVED  
OCT 11 2005  
BUILDING DEPT.

MARCY! <sup>(1)</sup> OAKLAND MALL Nov 11 2005

Ronnie BLASZCZYK

6:30 P.M

LAYOUT FOR MARSHALL FIELDS DISPLAY.  
BLACK TOP PARKING LOT.  
CENTER OF LOT ROW G



REVIEWED  
CITY OF TROY  
FIRE PREVENTION DIVISION  
DATE 9/23/05 BY MLR

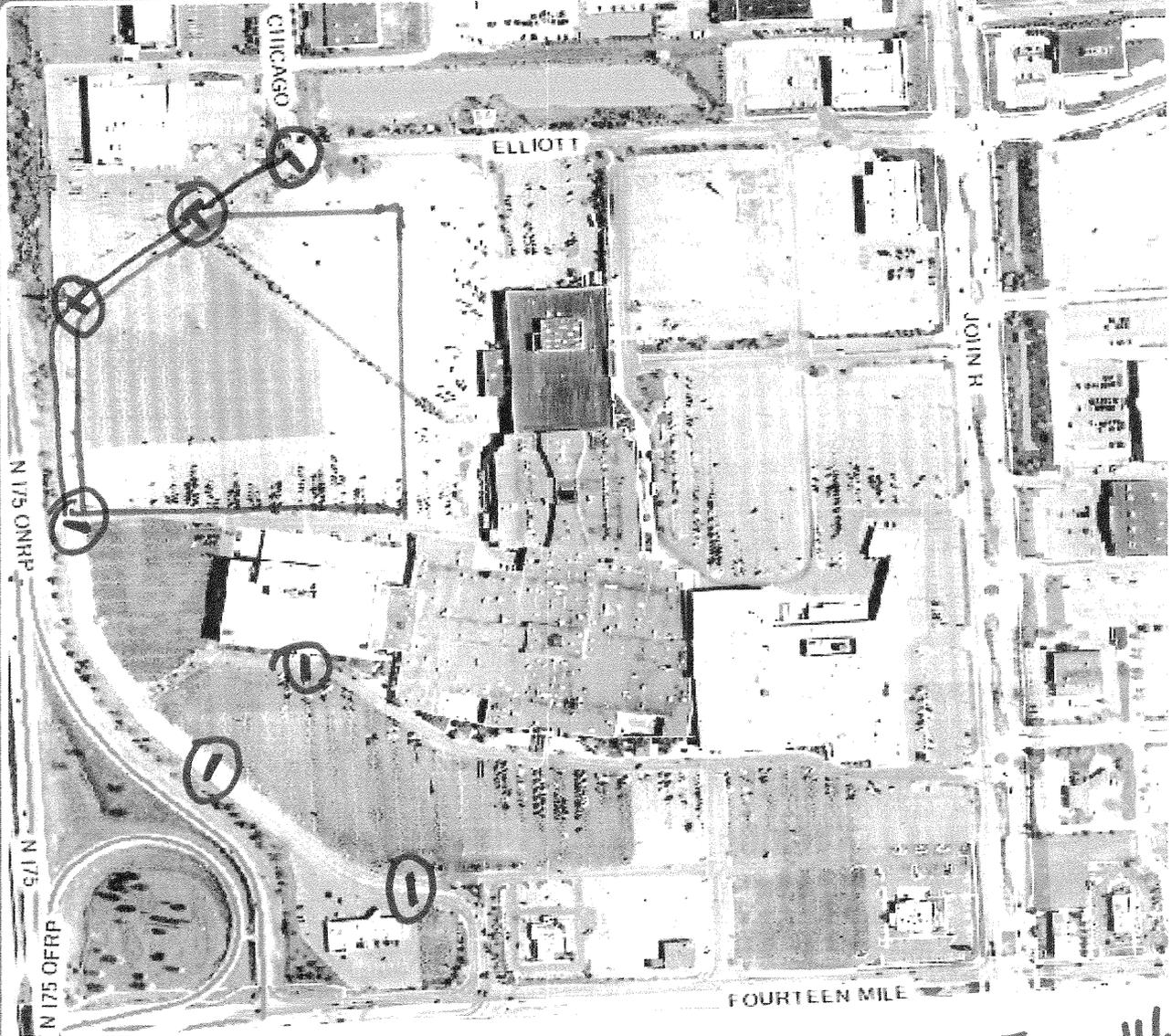
SEE ATTACHED REQUIREMENTS

- VIEWING AREA/PARKING  
LOT OF OAKLAND MALL  
(OTHER THAN SECTION  
SHOWN ON MAP)

- AREA WILL BE BARRICADED/  
NO ONE ALLOWED INSIDE  
SHOOTING AREA  
(OTHER THAN ZAMBELLI

City of **TROY** Geographical Information System  
 Online

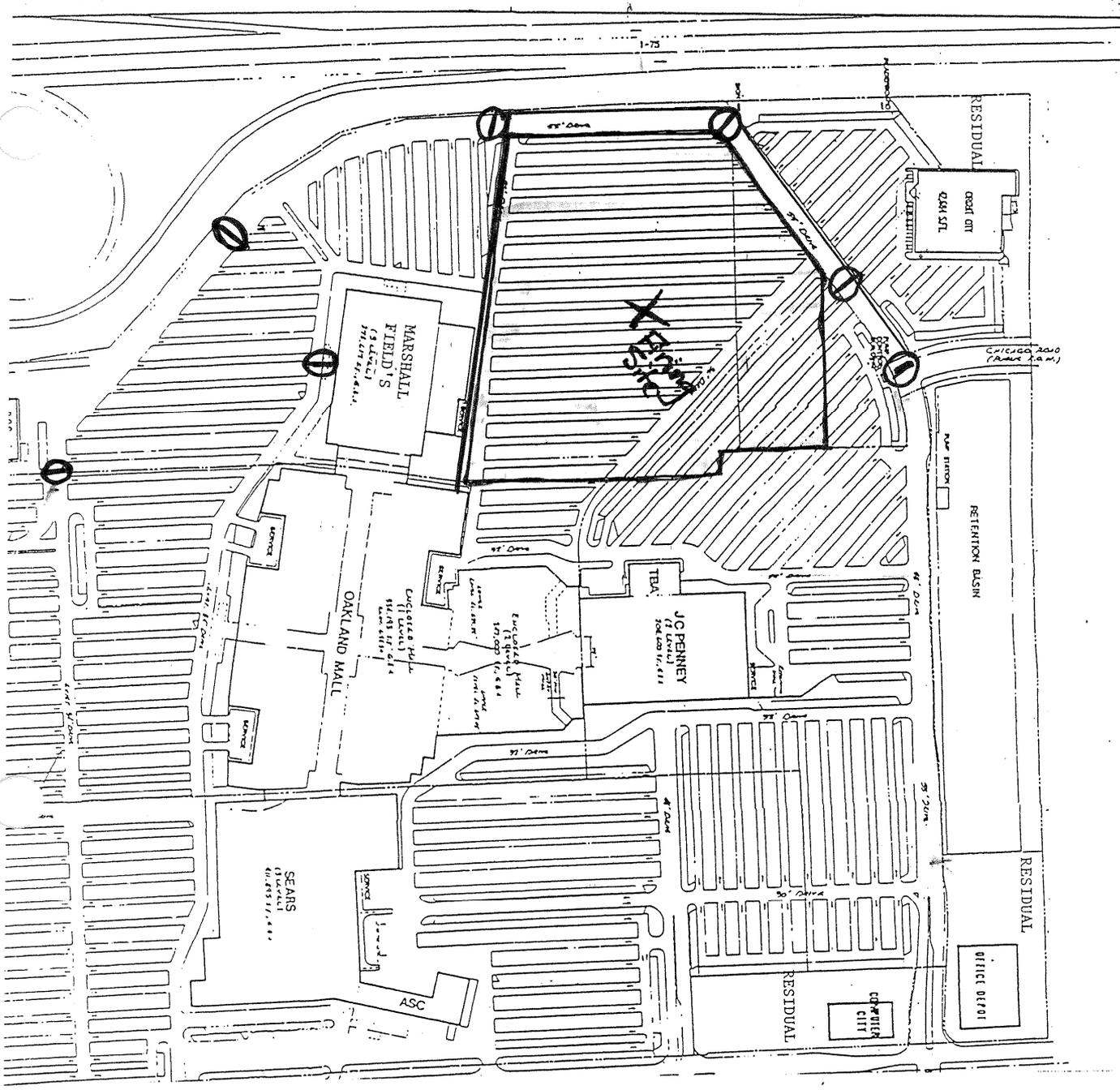
CITY HALL • 300 W. BIG BEAVER • TROY, MI 48065 • 313.594.3300



© 2005 City of Troy, Michigan. All rights reserved.

⊖ = security 5 p.m. 11/11  
 - = closes from 6 p.m. - 7:20  
 - = barricades in place @ 3 AM 11/11

**Notice:**  
 The information provided by this application has been compiled from recorded deeds, plats, tax maps, survey other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified the source information represented should be consulted for verification.



Site Plan



OAKLAND MALL  
SHOPPING CENTER  
TROY, MICHIGAN

- ⊗ = Security @ Sp<sup>m</sup>
- = closes from bpm
- = barricades in place!

October 19, 2005

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services  
Doug Smith, Real Estate & Development Director

RE: AGENDA ITEM - Available Property for Sale at 1660 Square Lake Road

Councilman Lambert has raised the issue of the 1.2-acre property for sale on Square Lake Road across from Kensington Church. City-owned property previously acquired for the eventual establishment of a park and bike trail surrounds this property. The City also owns the property directly across Square Lake (north side).

The property currently has a single-family structure on it, and has a listing price of \$254,900. Our Assessing Department has attributed to it a market value of \$294,899.

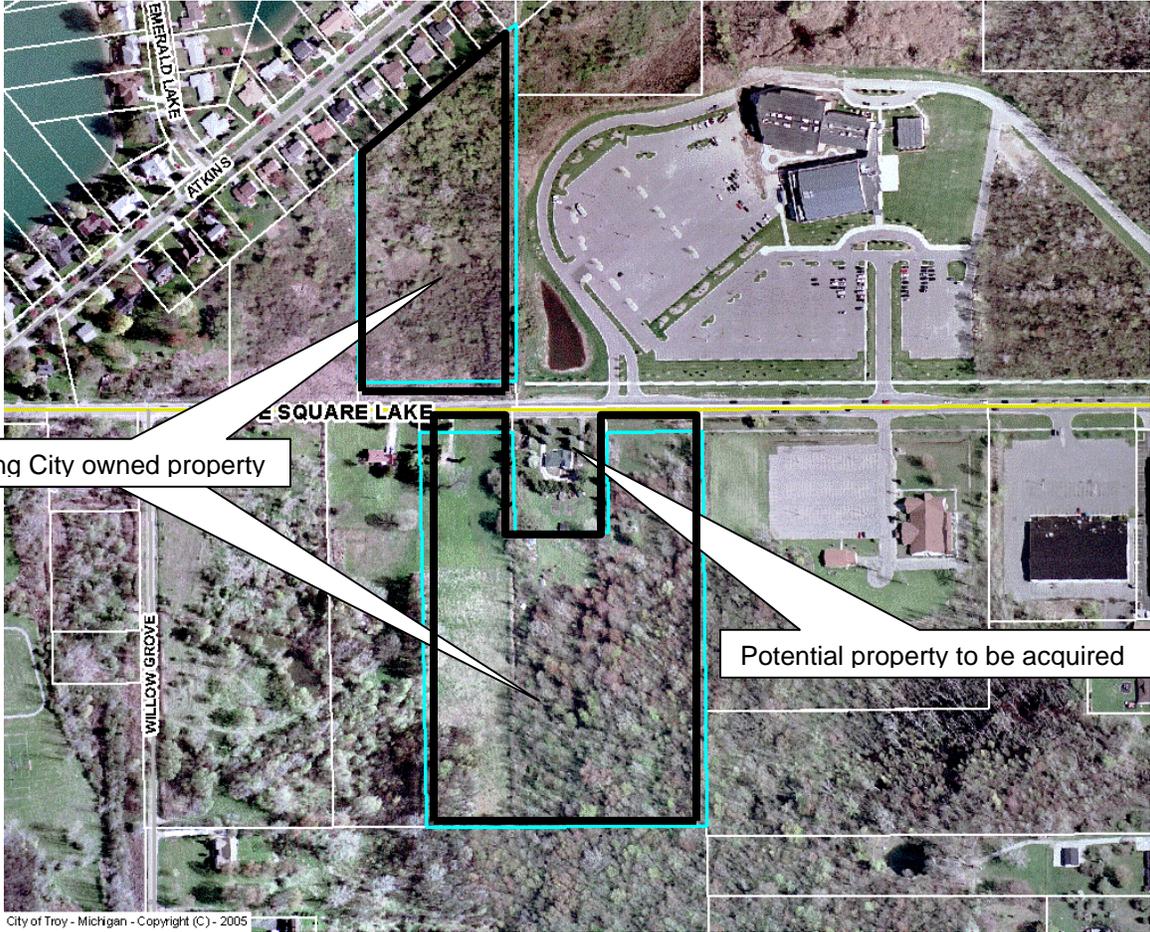
### **Pros**

Acquisition of this parcel would square off our land with this property and as a larger parcel would be a more functional and valuable property. The total acreage of the City-owned land south of Square Lake would increase from 13.1 to 14.3 acres. Attached is a map of a proposed layout of a park before adding this parcel.

### **Cons**

- City has very limited capital to expand for these purposes; likely something else budgeted would have to be eliminated.
- The City would have to maintain the parcel, although as open space in the short term grass cutting may be the only expense.
- House will have to be demolished.

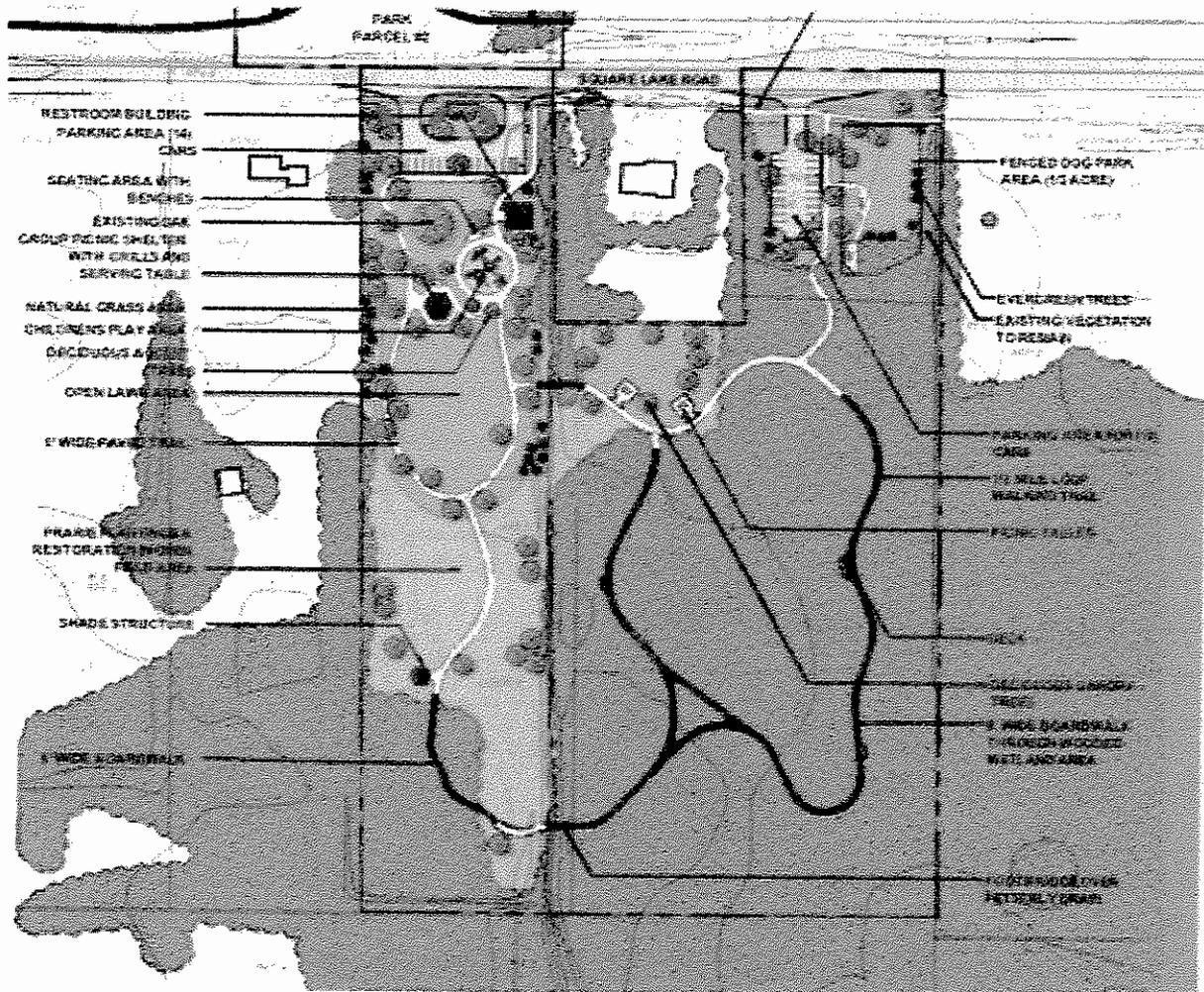
1660 East Square Lake Road  
Sidwell #88-20-11-201-022



Existing City owned property

Potential property to be acquired

City of Troy - Michigan - Copyright (C) - 2005



**CONCEPT PLAN**  
**PARKS MASTER PLANNING**

PARCEL #3 - SECTION 11 - 11.20.20

SCALE: 1" = 400'

DATE: 11/11/2020

PROJECT: PARKS MASTER PLAN - SECTION 11

DESIGNED BY: [Firm Name]

DRAWN BY: [Firm Name]

# October 2005

October 2005						
S	M	T	W	T	F	S
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November 2005						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					October 1
					2
					3
7:30pm City Council-Regular (Council Chambers)	7:30pm Planning Commission-Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L)  7:00pm ADVISORY COMMITTEE FOR	10:00am Senior Advisory Board meeting (Comm Ctr conf rm)  7:00pm COTHA Candidates Forum (Council Ch		7
					8
					9
					10
	7:30pm Planning Commission-Regular (Council Chambers)		7:30pm Park Board meeting (Comm Ctr conf rm)		14
					15
					16
					17
6:00pm City Council-Special Joint with DDA (Council Chambers)  7:30pm City Council-Regular (Council Chambers)	7:30pm BZA (Chambers)  7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)	12:00pm Brownfield Redevelopment Authority Meeting (Conference Room C)		21
					22
					23
					24
7:30pm City Council-Regular (Council Chambers)	7:30pm Planning Commission-Study (Council Boardroom)				28
					29
					30
					31

PH Nov. 14; (ZOTA-201) M-1 Lt. Ind. Zoning Dist.  
 PH Nov. 14; Req. Waive/Recapture CDBG '03 Funds  
 PH Nov. 14; CDBG '06 App.  
 PH Nov. 14; CDBG '02 Project Amend.

# November 2005

November 2005							December 2005						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5			1	2	3		
6	7	8	9	10	11	12	4	5	6	7	8	9	10
13	14	15	16	17	18	19	11	12	13	14	15	16	17
20	21	22	23	24	25	26	18	19	20	21	22	23	24
27	28	29	30				25	26	27	28	29	30	31

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
	November 1	2	3	4	5
	7:30pm Planning Commission-Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L) 7:00pm ADVISORY COMMITTEE FOR PERSONS WITH	10:00am Senior Advisory Board meeting (Comm Ctr conf rm)		
7	8	9	10	11	12
	<b>City General Election</b>		7:30pm Park Board meeting (Comm Ctr conf rm)		
14	15	16	17	18	19
7:30pm City Council-Regular (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			
21	22	23	24	25	26
7:30pm City Council-Regular (Council Chambers)			<b>City Hall Closed</b> <b>THANKSGIVING</b>		
28	29	30			
7:30pm City Council-Regular (Council Chambers)	7:30pm Planning Commission-Regular (Council Chambers)				

# December 2005

December 2005

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

January 2006

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
			December 1	2	3
			10:00am Senior Advisory Board meeting (Comm Ctr conf rm)		4
					5
5	6	7	8	9	10
7:30pm City Council-Regular (Council Chambers)	7:00pm Tree Lighting Ceremony - City Hall 7:30pm Planning Commission-Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L) 7:00pm ADVISORY COMMITTEE FOR PERSONS WITH			11
					12
12	13	14	15	16	17
	12:00pm Updated: Assessing Board of Review (Conference Room D) 7:30pm Planning Commission-Regular (Council Chambers)				18
					19
19	20	21	22	23	24
7:30pm City Council-Regular (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)		City Hall Closed	25
					26
26	27	28	29	30	31
City Hall Closed				City Hall Closed	