

DATE: January 17, 2006

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – VOTE ON RECONSIDERED REZONING APPLICATION – Northeast corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-C)

A public hearing was conducted for this item at the January 9, 2006 City Council meeting. A valid protest petition was submitted to the City Clerk's Office prior to the meeting, therefore the rezoning requires a 2/3 majority vote to approve.

Resolution #2006-01-003 to approve the rezoning failed because the motion did not receive a 2/3 majority.

City Council approved Resolution #2006-01-013 to suspend the Rules of Procedure for the City Council and authorize City Council to reconsider the item.

City Council approved Resolution #2006-01-014 to reconsider the item.

City Council approved Resolution #2006-01-015 to postpone the item until the January 23, 2006 City Council meeting.

Note that notice of the reconsidered item was mailed to the following:

- All owners of property within 300 feet of the subject property.
- All residents that signed the protest petition that was submitted on January 9, 2006, that did not reside within 300 feet of the subject property.
- All residents that signed the original protest petition submitted in 2005.
- Anybody who spoke on the item at the January 9, 2006 City Council meeting.

The Rezoning Protest Petition was submitted by Gerald Emanuel to the City Clerk's Office on January 9, 2006. The reason for the protest as stated on the application is "Increase in hardous (sic) traffic, unwanted increase in convenience store facilities, noise and potential loitering, negative impact on adjacent household properties". The petition was signed by twenty-eight Troy residents.

The Planning Department reviewed the Rezoning Protest Petition and determined that it is valid. The petition meets the standards of Section 03.21.07 of the City of Troy Zoning Ordinance, since it is signed by the owners of twenty

percent or more of the area of land included within an area extending outward 100 feet from any point of the boundary of the land included in the proposed change (excluding publicly owned land). While twenty-eight residents signed the petition, it is valid because it was signed by the owners of three properties (1055, 1063 and 1079 Winthrop). These three properties represent approximately 40.73 percent of the area within the 100-foot buffer surrounding the subject property.

The Planning Department provided maps to City Council on January 9, 2006 indicating that there were only two properties within the 100 foot buffer area whose owners had signed the petition (1055 and 1079 Winthrop). These two properties represented 26.54 percent of property within the 100-foot buffer therefore the petition met the 20% standard of Section 03.21.07. The Planning Department inadvertently left one property out of the calculations, as the owners of 1063 Winthrop also signed the petition. The additional property has no impact on the validity of the Protest Petition, since it was already determined that the petition was valid. The maps have been amended to add the additional property.

Attachments:

1. Rezoning Protest Petition, received by City Clerk's office on January 9, 2006.
2. Maps (indicating properties within 100-foot buffer).
3. Minutes from January 9, 2006 City Council meeting (draft).
4. Letter of opposition.
5. Memo to City Council, dated December 20, 2005.

Prepared by RBS, MFM

cc: Applicant
File (Z-479 C)

G:\REZONING REQUESTS\Z-479 C Charrington Marathon Station Sec 23\CC Agenda Item ZOTA 479C 1
23 06.doc

| | | | |
|------------------|------------------------|-----------------|--------------------------|
| DRAFTED BY: D.K. | HOUS. #: 3400 | CITY: TROY | CUSTOMER: CLARK GAS |
| CHECKED BY: JVH | STREET: ROCHESTER ROAD | COUNTY: OAKLAND | STATION ANDRAAS KATTOUAH |

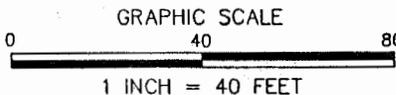
CERTIFICATE OF SURVEY

LEGEND:

- = FOUND CAPED IRON
- = SET CAPED IRON
- ⊕ = SET PK
- ⊙ = FENCE POST

NOTE:

BEARING REFERENCE TO ROCHESTER ROAD BEARING=N.00°09'20"E.



SURVEY NUMBER

03070

PREL. :

FINAL: 6-15-04

SCALE: 1"=40'

NOTE:

THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE.

WEST 1/4 CORNER SECTION 23 T2N., R11E.

LEGAL DESCRIPTION

OUTLOT 'A' OF 'DEAN ESTATES SUBDIVISION' PART OF THE S.W. 1/4 OF SECTION 23, T2N., R11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN. RECORDED IN LIBER 119, OF PLATS, PAGES 17-18, OAKLAND COUNTY RECORDS.



NORTH

NOTE:

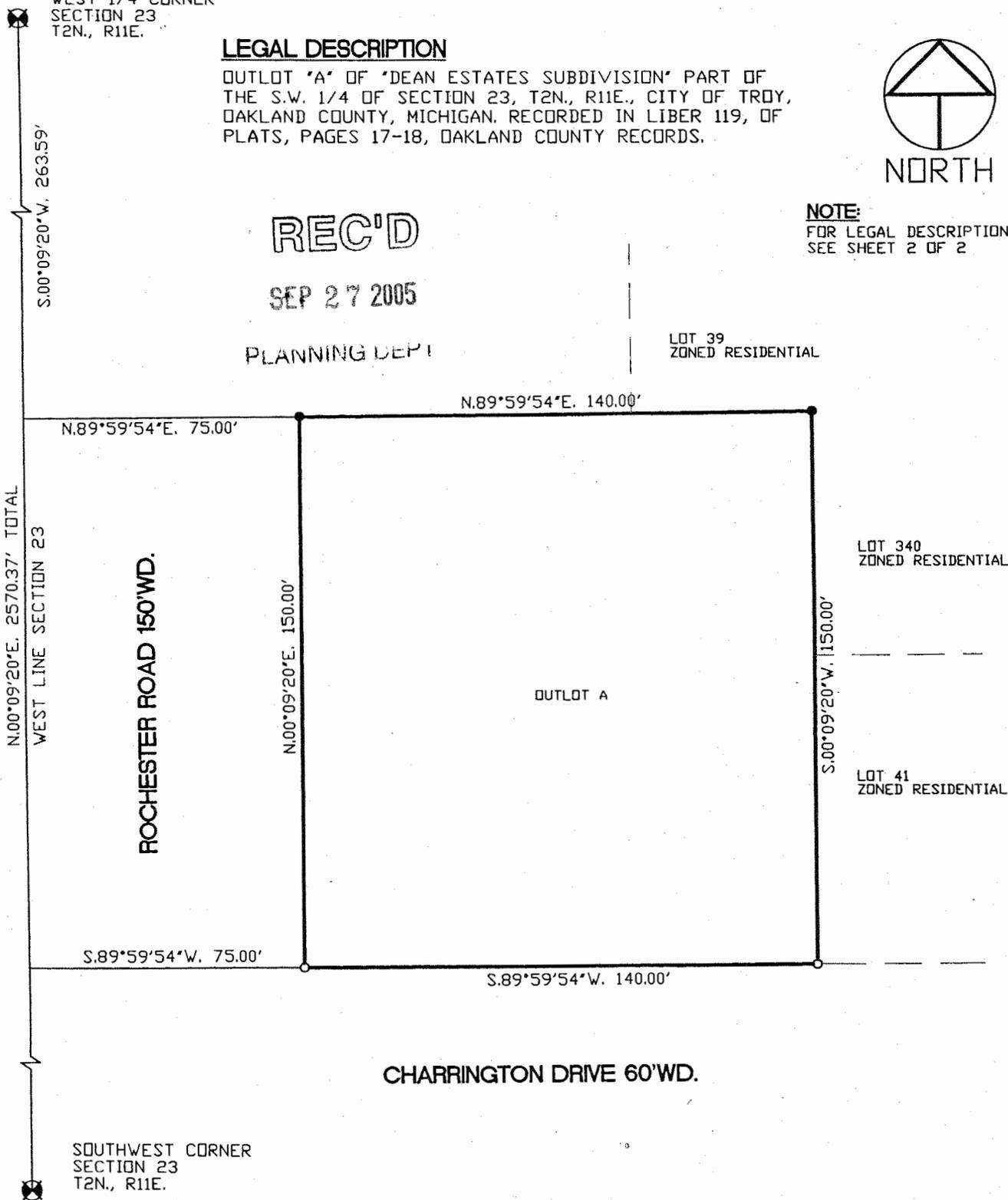
FOR LEGAL DESCRIPTIONS SEE SHEET 2 OF 2

REC'D

SEP 27 2005

PLANNING DEPT

LOT 39
ZONED RESIDENTIAL



SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE LAND ABOVE DESCRIBED HAS BEEN SURVEYED AND MAPPED BY ME OR UNDER MY DIRECT SUPERVISION; AND THAT MARKER IRONS HAVE BEEN LOCATED OR PLACED AT THE CORNERS OF THE PARCEL OR AS INDICATED IN THE ABOVE SKETCH.

LAND ENGINEERING SERVICES, INC.

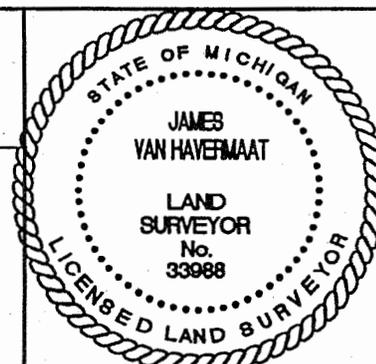
2201 12 MILE ROAD
WARREN, MI 48092
PHONE (586)582-9800
FAX (586)582-9866

Certified by

James Van Havermaat
JAMES VAN HAVERMAAT P.S. #33988

ORIGINAL: 6-15-04

REVISED:





Rezoning Protest Petition

1051

REC'D

JAN - 9 2006

PLANNING DEPT

Date: 01/07/06

RECEIVED
CITY OF TROY
2006 JAN - 9 AM 9:4

Submit this form to: City Clerk's Office
City of Troy
500 W. Big Beaver
Troy, MI 48084

Contact Person: GERALD E MANUEL
Address: 1111 CHARRINGTON DRIVE
City: TROY State: MI Zip: 48063
Telephone: 248-689-4830

Rezoning case being protested:

Case #: Z-474C Applicant Name: ANDRAOS KATTOUHAN,
OF SPACE STATION OF TROY, INC.

What is a valid rezoning protest petition?

If a valid rezoning protest petition is filed in opposition to a rezoning request, the City Council cannot approve the request unless it does so by a vote of two-thirds of all Council members. A simple majority can approve all other rezoning requests. To be considered valid, the protest petition must:

- (1) Be signed by the owner(s) of twenty percent (20%) or more of the area of land included in the proposed change **or** be signed by the owner(s) of twenty percent (20%) or more of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. **Publicly owned land shall be excluded in the calculating the twenty percent (20%) land area requirement.**
- (2) Be signed by all persons having an ownership interest in the property as represented on the property deed - i.e., both spouses, the managing partner of a partnership, etc.
- (3) Include a statement of opposition on each page of signatures at the top of the petition. The statement should be simply and clearly worded.
- (4) Be submitted to the office of the City Clerk, 500 W. Big Beaver, at or before 12:00 p.m. on the date the Rezoning is scheduled for action by the City Council.

Attach signatures to this sheet on the form provided. The signature form may be duplicated if necessary.



RECEIVED
CITY OF TROY

Rezoning Protest Petition

Case #: Z-479C

2006 JAN -9 AM 9:41
Statement of Opposition:

We, the undersigned property owners, hereby protest the proposed Rezoning from the B-1 zoning district(s) to the H-5 zoning district(s) Rezoning case identified above, applicant name ANDRAOS KATTOUAKH, OF SPACE STATION OF TROY, INC

The Rezoning is scheduled for action by the City Council on 01/09/06 (date)

The reason(s) for this protest is/are: INCREASE IN HAZARDOUS TRAFFIC, UNWANTED INCREASE IN CONVENIENCE STORE FACILITIES, NOISE AND POTENTIAL LOITERING, NEGATIVE IMPACT ON ADJACENT HOUSEHOLD PROPERTIES.

Print Name (clearly): JAMES BOLING Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-016

Signature: James Boling

Address: 1125 Charrington ✓

Print Name (clearly): Jeanette Boling Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-016

Signature: Jeanette Boling

Address: 1125 Charrington Ave ✓

Print Name (clearly): Carrie Keifer Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-014

Signature: Carrie L Keifer

Address: 1099 Charrington ✓

Print Name (clearly): JOHN MULLIGAN Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-013

Signature: John K. Mulligan

Address: 1087 CHARRINGTON ✓

Print Name (clearly): MARINA MULLIGAN Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-013

Signature: Marina Mulligan

Address: 1087 CHARRINGTON ✓

Print Name (clearly): ARLEN BELLEFI Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-301004

Signature: Arden Bellefi

Address: 1055 WILKINSON TROY 45033 ✓



RECEIVED
CITY OF TROY

Rezoning Protest Petition

Case #: Z- 479C

2006 JAN -9 AM 9:41

Statement of Opposition:

We, the undersigned property owners, hereby **protest** the proposed Rezoning from the B-1 zoning district(s) to the H-S zoning district(s) Rezoning case identified above, applicant name ANDRAOS KATTOUAKH, OF SPACE STATION OF TROY, INC

The Rezoning is scheduled for action by the City Council on 01/07/06 (date)

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Print Name (clearly): GERALD EMANUEL Date: 01/07/06
Description or Parcel # of Parcel(s) Owned: 202 330 2015
Signature: Gerald Emanuel
Address: 111 CHARRINGTON DR, TROY

Print Name (clearly): BREDA E. EMANUEL Date: 01/07/06
Description or Parcel # of Parcel(s) Owned: 202 330 2015
Signature: Breda E. Emanuel
Address: 111 CHARRINGTON DR, TROY ✓

Print Name (clearly): JAMES M. ZIELINSKI Date: 01/07/06
Description or Parcel # of Parcel(s) Owned: 20-23-301-017
Signature: James M. Zielinski
Address: 1159 WINTHROP DR ✓

Print Name (clearly): MARJAN JESIH Date: 01/07/06
Description or Parcel # of Parcel(s) Owned: 20-23-301-007
Signature: Marjan Jesih
Address: 1079 WINTHROP TROY ✓

Print Name (clearly): Marja Jesih Date: 1-7-06
Description or Parcel # of Parcel(s) Owned: 20-23-301-007
Signature: Marja Jesih
Address: 1079 WINTHROP Troy MI. 48063 ✓

Print Name (clearly): EDITH P. CONNELLY Date: 1-7-06
Description or Parcel # of Parcel(s) Owned: 20-23-301-008
Signature: Edith P. Connelly
Address: 1087 WINTHROP ✓



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Print Name (clearly): BRANDON KANE Date: 01-07-06

Description or Parcel # of Parcel(s) Owned: 20-23-301-009

Signature: [Signature]

Address: 1095 WINTHROP DR TROY MI ✓

Print Name (clearly): MARK VANBODEGOM SMITH Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-301-013

Signature: [Signature]

Address: 1127 WINTHROP DR. ✓

Print Name (clearly): Cleora J. De Kay Date: 1/07/06

Description or Parcel # of Parcel(s) Owned: 20-23-302-004

Signature: Cleora J. De Kay

Address: 1134 WINTHROP ✓

Print Name (clearly): RENE H. WELLMAN Date: 11/07/06

Description or Parcel # of Parcel(s) Owned: 20-23-303-002

Signature: Rene H. Wellman

Address: 1060, CHARRINGTON DR TROY MI, 48083 ✓

Print Name (clearly): RICHARD STACHO Date: 1-7-06

Description or Parcel # of Parcel(s) Owned: 20-23-303-005

Signature: Richard Stacho

Address: 1096 CHARRINGTON DR. ✓

Print Name (clearly): WILLIAM DENNIS Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-301-011

Signature: William Dennis

Address: 1111 WINTHROP TROY MI 48083 ✓



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Rezoning Protest Petition

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Statement of Opposition:

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Print Name (clearly): Trudy Dennis Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-301-011

Signature: Trudy Dennis

Address: 1111 Winthrop Troy MI 48083 ✓

Print Name (clearly): Fedora Mazurek Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-021

Signature: Fedora Mazurek

Address: 1187 Charrington Troy MI ✓

Print Name (clearly): JULIANA ARZHAM Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-303-004

Signature: J. Arzham

Address: 1084 Charrington Troy ✓

Print Name (clearly): JANICE R. PETRIE Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-001

Signature: Janice Petrie

Address: 1111 Winthrop Troy MI 48083 ✓

Print Name (clearly): ARSON KORA Date: 1-8-2006

Description or Parcel # of Parcel(s) Owned: 20-23-303-009

Signature: Arson Kora

Address: 1144 CHARRINGTON TROY MI 48083 ✓

Print Name (clearly): NANCY McCullen Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-303-010

Signature: Nancy McCullen

Address: 1156 Charrington ✓



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Rezoning Protest Petition

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2006 JAN -9 AM 9:41

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Print Name (clearly): ROBERT McCullen Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-303-010

Signature: Robert McCullen

Address: 1156 Charrington Troy 48083 ✓

Print Name (clearly): WILLIAM R. CARSON Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-019

Signature: William R. Carson

Address: 1163 CHARRINGTON DR. TROY 48083 ✓

Print Name (clearly): NANCY L. CARSON Date: 1-8-06

Description or Parcel # of Parcel(s) Owned: 20-23-302-019

Signature: Nancy L. Carson

Address: 1163 CHARRINGTON DR. TROY 48083 ✓

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____



RECEIVED
CITY OF TROY

Rezoning Protest Petition

Case #: Z- 479C

2006 JAN -9 AM 9:41

Statement of Opposition:

We, the undersigned property owners, hereby protest the proposed Rezoning from the B-1 zoning district(s) to the H-S zoning district(s) Rezoning case identified above, applicant name ANDRAOS KATTOUAKH, OF SPACE STATION OF TROY, INC

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Print Name (clearly): Pellumb Gega Date: _____

Description or Parcel # of Parcel(s) Owned: 20-23-301-005

Signature: Pellumb Gega

Address: 1063 Watkop Dr.

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

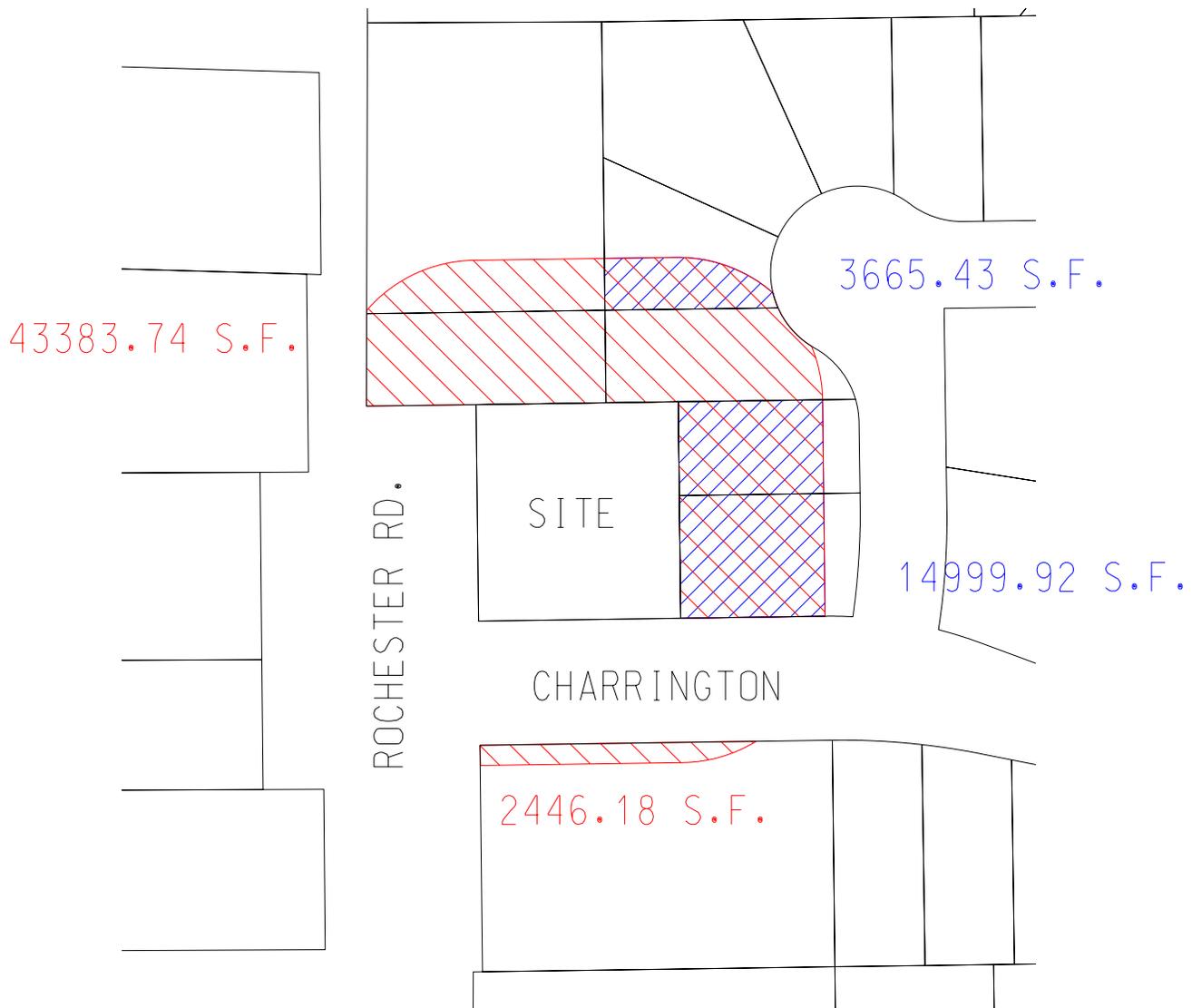
Address: _____

Print Name (clearly): _____ Date: _____

Description or Parcel # of Parcel(s) Owned: _____

Signature: _____

Address: _____



KEY



COUNTABLE 100 FT. BUFFER AREA



COUNTABLE BUFFER AREA OWNED BY PETITION SIGNERS

PETITION MEETS 20% REQUIREMENT

TOTAL AREA OF 100 FT. BUFFER = 45829.92

20% OF 100 FT. BUFFER = 9165.98

AREA OF BUFFER OWNED BY PETITION SIGNERS = 18665.35

% OF BUFFER OWNED BY PETITION SIGNERS = 40.73%

Parcel D: Lot 1 except the West 14.95 feet of Supervisor's Plat No. 23, a subdivision of part of the SE ¼ of Section 29, T2N R11E, City of Troy, Oakland County, Michigan, as recorded in Liber 15 of Plats, Page 58, Oakland County Records.

Parcel B: The Southerly 22.50 feet of the Westerly 80.00 feet of Lot 27 of "Supervisor's Plat No. 23", a subdivision of part of the SE ¼ of Section 29, T2N R11E, City of Troy, Oakland County, Michigan, as recorded in Liber 15 of Plats, Page 58, Oakland County Records.

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: Broomfield

C-3 Rezoning Application – Northeast Corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-C)

Resolution #2006-01-003
Moved by Fleming
Seconded by Beltramini

RESOLVED, That the B-1 to H-S rezoning request, located on the northeast corner of Rochester and Charrington, Section 23, part of parcel 88-20-23-301-003, being 0.48 acres in size, is described in the following legal description and illustrated on the attached Certificate of Survey drawing:

T2N, R11E, SW ¼ of Section 23

Outlot "A" of Dean Estates Subdivision (Liber 119, Pages 17-18, of Oakland County Records) being more particularly described as: Commencing at the West ¼ corner of Section 23, thence S 00°09'20" W, 263.59 ft. along the west line of Section 23; thence N 89°59'54" E, 75.00 ft. to the Point of Beginning; thence N 89°59'54" E, 140.00 ft.; thence S 00°09'20" W, 150.00 ft.; thence S 89°59'54" W, 140.00 ft.; thence N 00°09'20" E, 150.00 ft. to the Point of Beginning. Containing 0.48 ac., more or less, and subject to easements and restrictions of record.

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

Yes: Fleming, Howrylak, Stine, Beltramini
No: Lambert, Schilling
Absent: Broomfield

MOTION FAILED

BE IT FURTHER RESOLVED, That the revision to the Personnel Rules & Regulations for Classified personnel is hereby **APPROVED**, as recommended by City Management and the Personnel Board; a copy shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7

F-6 Election Precincts and Polling Locations

Resolution #2006-01-012

Moved by Broomfield

Seconded by Beltramini

RESOLVED, That City Council hereby **APPROVES** the elimination of Precinct 31, Oakland Park Towers, with the voters to be absorbed into Precinct 30 located at St. George Antiochian Orthodox Church at 2160 E. Maple, effective with the August 8, 2006 Primary Election.

Yes: Lambert, Stine, Schilling, Beltramini, Broomfield, Fleming

No: Howrylak

MOTION CARRIED

Vote on Resolution to Suspend Rules of Procedure for the City Council, Rule #11 – Reconsideration of Questions.

Resolution #2006-01-013

Moved by Broomfield

Seconded by Beltramini

RESOLVED, That City Council **SUSPEND** Rules of Procedure for the City Council, Rule #11 - Reconsideration of Questions and **AUTHORIZE** City Council to reconsider agenda item, C-3 Rezoning Application – Northeast Corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-C).

Yes: All-7

Vote on Resolution to Reconsider Rezoning Application – Northeast Corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-C)

Resolution #2006-01-014

Moved by Broomfield

Seconded by Fleming

RESOLVED, That Resolution #2006-06-003, Moved by Fleming and Seconded by Beltramini, as it appears below be **RECONSIDERED** by City Council:

RESOLVED, That the B-1 to H-S rezoning request, located on the northeast corner of Rochester and Charrington, Section 23, part of parcel 88-20-23-301-003, being 0.48 acres in size, is described in the following legal description and illustrated on the attached Certificate of Survey drawing:

T2N, R11E, SW ¼ of Section 23

Outlot "A" of Dean Estates Subdivision (Liber 119, Pages 17-18, of Oakland County Records) being more particularly described as: Commencing at the West ¼ corner of Section 23, thence S 00°09'20" W, 263.59 ft. along the west line of Section 23; thence N 89°59'54" E, 75.00 ft. to the Point of Beginning; thence N 89°59'54" E, 140.00 ft.; thence S 00°09'20" W, 150.00 ft.; thence S 89°59'54" W, 140.00 ft.; thence N 00°09'20" E, 150.00 ft. to the Point of Beginning. Containing 0.48 ac., more or less, and subject to easements and restrictions of record.

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

Yes: Fleming, Howrylak, Stine, Beltramini
No: Lambert, Schilling
Absent: Broomfield

MOTION FAILED

Yes: All-7

Vote on Resolution to Postpone

Resolution #2006-01-015
Moved by Howrylak
Seconded by Stine

RESOLVED, That the reconsidered *Rezoning Application – Northeast Corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-C)* be **POSTPONED** until the Regular City Council meeting scheduled for Monday, January 23, 2006.

Yes: All-7

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings: No Announcements Submitted

G-2 Green Memorandums:

a) Community Center Recreation Pass Fee Recommendations for 2006
Noted and Filed

Paula P Bratto

From: Karl Keifer [ckeifer@comcast.net]
Sent: Saturday, January 14, 2006 7:39 PM
To: Paula P Bratto
Subject: rezoning of gas station from B-1 to H-S

I was just wondering how many times a rezoning proposal gets to be voted on--until it is passed????

This will be the THIRD time for the proposal to be up for a vote. The first TWO times it was defeated. This is absolutely ridiculous! As a home owner on Charrington Drive, I believe our property values would be grossly effected if this issue were to pass and the gas station would be made larger. There are plenty of gas station/convenience stores along Rochester Road. We DO NOT need another one! There is enough traffic along Charrington Drive as it is. They zoom up and down our street at all hours of the day and night. A "convenience store" at the corner would only make this worse.

Please defeat this issue for once and for all!

Carrie Keifer
1099 Charrington Dr.
248-689-6922

December 20, 2005

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – PUBLIC HEARING – REZONING APPLICATION
– Northeast corner of Rochester Road and Charrington Road,
Section 23 – B-1 to H-S (Z 479-C)

RECOMMENDATION

The application is consistent with the Future Land Use Plan and compatible with the existing zoning districts and land uses.

The applicant is proposing to redevelop the existing service station and improve the site. Considering the uses permitted in the H-S district, service stations are one of the least demanding in terms of land area. Because of the small size of the subject property, the development potential is limited in terms of potential land uses.

The site is an appropriate location for a service station given its location on a major thoroughfare, and further given its proximity to other service stations and other automobile-oriented uses.

Prudent site planning suggests that consolidation of adjacent properties is desirable; however, the property to the east is a residential neighborhood and expansion of commercial zoning district into this neighborhood is undesirable and unlikely.

The Planning Commission recommended approval of this item at the November 29, 2005 public hearing. City Management agrees with the Planning Commission and recommends approval of the rezoning request.

PARCEL HISTORY

On June 28, 2004, the applicant submitted an application to rezone the subject property from B-1 to H-S. The application was denied by City Council on January 10, 2005. The applicant has submitted a new rezoning application for consideration.

GENERAL INFORMATION

Name of Owner / Applicant:

The application lists the applicant and owner of the property as Andraos Kattouah of Space Station of Troy, Inc.

Location of Subject Property:

The property is located on the northeast corner of Rochester Road and Charrington Road, in Section 23.

Size of Subject Parcel:

The parcel is approximately 21,000 square feet in area.

Current Use of Subject Property:

The property is currently used as a Marathon gas station, which received site plan approval and was constructed in 1966 and is a legal non-conforming use. The abutting houses to the east were constructed in 1968.

Current Zoning Classification:

B-1 Local Business.

Proposed Zoning of Subject Parcel:

H-S Highway Service.

Proposed Uses and Buildings on Subject Parcel:

The applicant is proposing to expand the convenience store. The gasoline pump islands and overhead canopy are to remain as is.

Current Use of Adjacent Parcels:

North: Tax accountant and single-family residence.

South: Restaurant.

East: Single-family residence.

West: Fast food restaurant and tire sales.

Zoning Classification of Adjacent Parcels:

North: B-1 Local Business and R-1C One Family Residential.

South: B-2 General Business.

East: R-1C One Family Residential.

West: B-3 General Business.

ANALYSIS

Range of Uses Permitted in the Proposed H-S Highway Service Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Retail establishments to service the needs of the highway traveler including such facilities as: drug stores, convenience food stores, gift shops, and restaurants other than those of the drive-in or open front store type.

Bus or transit passenger stations, taxicab offices and dispatching centers, and emergency vehicle or ambulance facilities. Sleeping accommodations may be provided in conjunction with ambulance facilities.

Parking garages and off-street parking areas.

New and used automobile salesroom, showroom or office.

Sales, showrooms, and incidental repairs of recreational vehicles.

Banks, savings and loan associations, and credit unions which may consist solely of drive-up facilities.

Public utility buildings and sub-stations.

Accessory structures and uses customarily incident to the above permitted uses.

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Drive-up windows or service facilities, as an accessory to restaurants permitted within this district.

Drive-up service facilities, as accessory to principal permitted uses within H-S districts, apart from restaurants.

Outside seating of twenty (20) seats or less for restaurants, or other food service establishments.

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

Automobile service stations for the sale of engine fuels, oil, and minor accessories only, and where no repair work is done, other than incidental service, but not including, steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work and other such activities whose external effects could adversely extend beyond the property lines.

Auto washes where engine fuels are sold as a significant part of the operation.

Auto washes, not including the sale of engine fuels, when the entire operation is completely enclosed within a building or structure.

Uses, other than those specified in Section 23.20.06, wherein drive-up service facilities are the sole use of the property.

Business in the character of a drive-in restaurant.

Motel or hotel.

Outdoor sales space for exclusive sale or lease of new or second hand automobiles, trucks, mobile homes, trailers, or recreational vehicles.

Automobile repair garages, provided all activities are conducted within a completely enclosed building.

Outside seating areas, in excess of twenty (20) seats, for restaurants, or other food service establishments.

Vehicular and Non-motorized Access:

The parcel fronts both Rochester Road and Charrington Road.

Potential Storm Water and Utility Issues:

The applicant will have to provide on-site storm water detention and all other utilities.

Natural Features and Floodplains:

The Natural Features Map indicates there are no significant natural features located on the property.

Compliance with Future Land Use Plan:

The parcel is classified on the Future Land Use Plan as Non-Center Commercial. The Non-Center Commercial designation has a Primary Correlation with the B-3 General Business Zoning District and a Secondary Correlation with the H-S Highway Service Zoning District. The rezoning application is therefore consistent with the City of Troy Future Land Use Plan.

Compliance with Location Standards

The Location Standards for the H-S District in Article 23.40.01 of the Zoning Ordinance provides the following:

The H-S (Highway Service) District may be applied when the application of such a classification is consistent with the intent of the Master Land Use plan and policies related thereto, or with other land use policies of the City of Troy, and therefore, on a limited basis, may involve the following types of areas:

23.40.02 Areas indicated on the Master Land Use Plan for non-center commercial use.

23.40.03 Areas within broader areas generally designated for Light Industrial use, where the City has established, through rezoning, areas to provide commercial and service uses for the surrounding Light Industrial area.

The application is consistent with the Location Standards for the H-S District.

Attachments:

1. Maps.
2. Minutes from November 29, 2005 Planning Commission Regular Meeting.
3. Letter from petitioner dated September 21, 2005.
4. Letter from petitioner's attorney, dated September 26, 2005.
5. Letters of opposition (2).

Prepared by RBS, MFM

cc: Applicant
File (Z-479 C)

G:\REZONING REQUESTS\Z-479 C Charrington Marathon Station Sec 23\CC Public Hearing ZOTA 279C 1
9 06.doc

| | | | |
|------------------|------------------------|-----------------|--------------------------|
| DRAFTED BY: D.K. | HOUS. #: 3400 | CITY: TROY | CUSTOMER: CLARK GAS |
| CHECKED BY: JVH | STREET: ROCHESTER ROAD | COUNTY: OAKLAND | STATION ANDRAAS KATTOUAH |

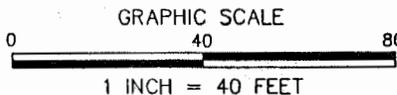
CERTIFICATE OF SURVEY

LEGEND:

- = FOUND CAPED IRON
- = SET CAPED IRON
- ⊗ = SET PK
- ⊙ = FENCE POST

NOTE:

BEARING REFERENCE TO ROCHESTER ROAD BEARING=N.00°09'20"E.



SURVEY NUMBER

03070

PREL. :

FINAL: 6-15-04

SCALE: 1"=40'

NOTE:

THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE.

WEST 1/4 CORNER SECTION 23 T2N., R11E.

LEGAL DESCRIPTION

OUTLOT 'A' OF 'DEAN ESTATES SUBDIVISION' PART OF THE S.W. 1/4 OF SECTION 23, T2N., R11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN. RECORDED IN LIBER 119, OF PLATS, PAGES 17-18, OAKLAND COUNTY RECORDS.



NORTH

NOTE:

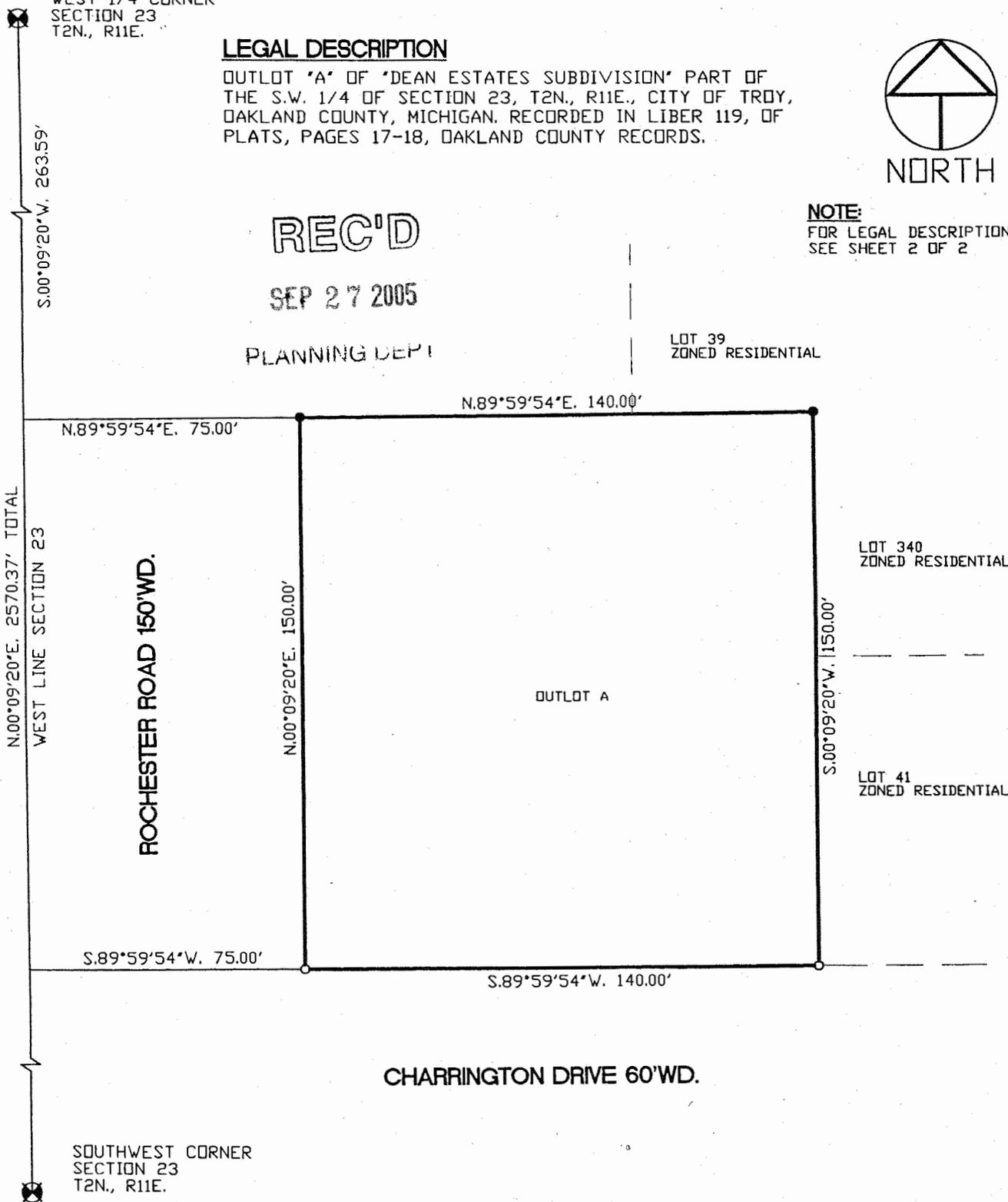
FOR LEGAL DESCRIPTIONS SEE SHEET 2 OF 2

REC'D

SEP 27 2005

PLANNING DEPT

LOT 39
ZONED RESIDENTIAL



SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE LAND ABOVE DESCRIBED HAS BEEN SURVEYED AND MAPPED BY ME OR UNDER MY DIRECT SUPERVISION; AND THAT MARKER IRONS HAVE BEEN LOCATED OR PLACED AT THE CORNERS OF THE PARCEL OR AS INDICATED IN THE ABOVE SKETCH.

LAND ENGINEERING SERVICES, INC.

2201 12 MILE ROAD
WARREN, MI 48092
PHONE (586)582-9800
FAX (586)582-9866

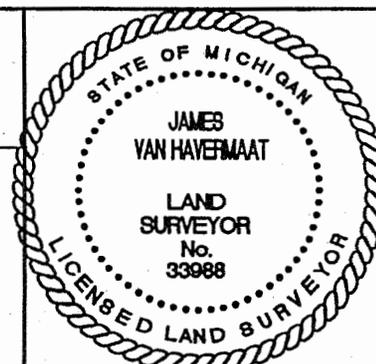
Certified by

James Van Havermaat

JAMES VAN HAVERMAAT P.S. #33988

ORIGINAL: 6-15-04

REVISED:



CITY OF TROY



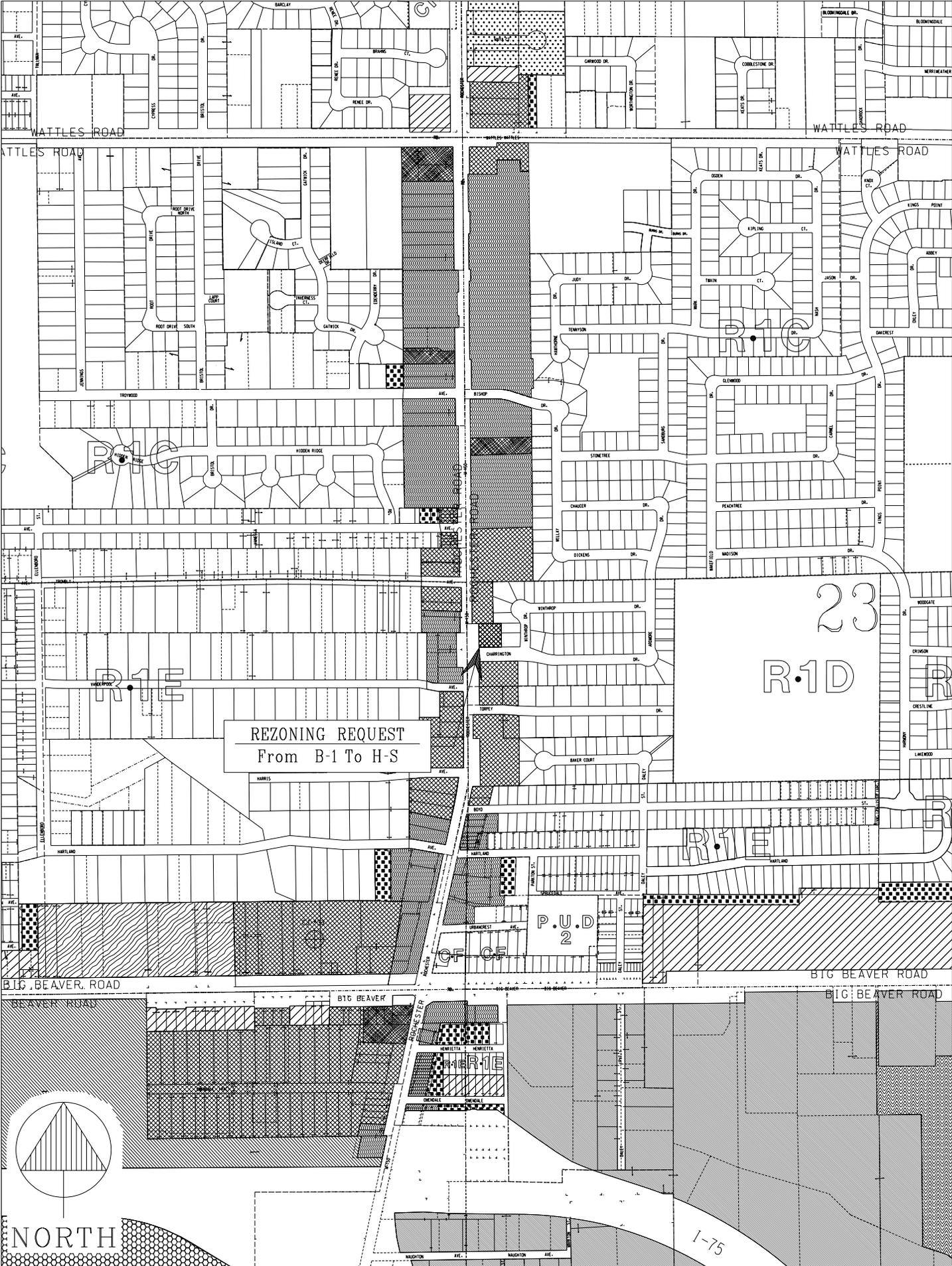
REZONING REQUEST
EXISTING GAS STATION
FROM B-1 TO H-S
NE CORNER ROCHESTER RD. & CHARRINGTON
SEC. 23 (Z-479 C)

REZONING REQUEST
FROM B-1 TO H-S



0 100 200 400 Feet

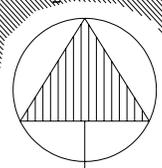




REZONING REQUEST
From B-1 To H-S

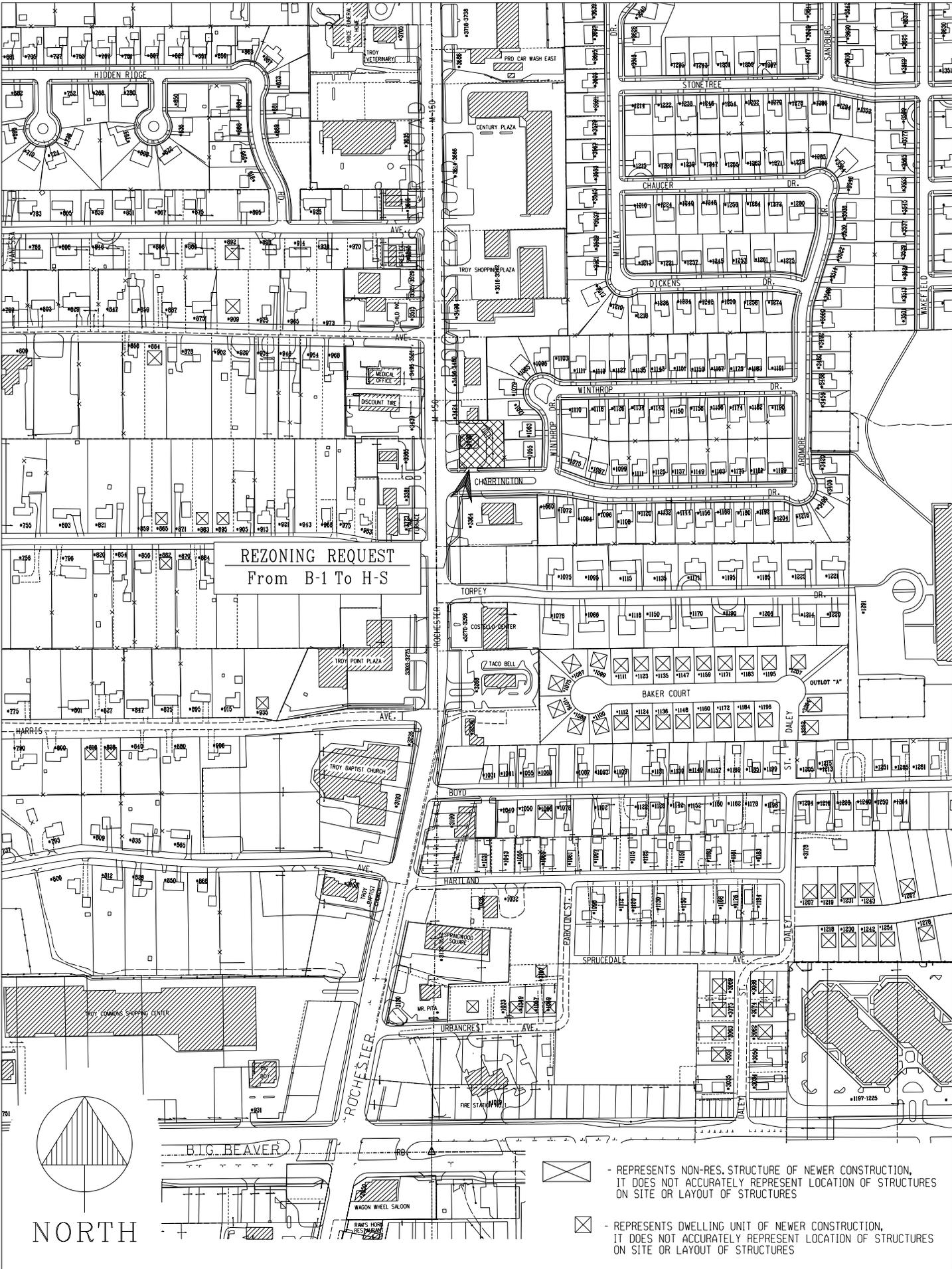
23
R-1D

P.U.D.
2

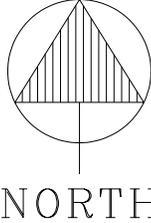


NORTH

I-75



REZONING REQUEST
From B-1 To H-S



-  - REPRESENTS NON-RES. STRUCTURE OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES
-  - REPRESENTS DWELLING UNIT OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES

22

23

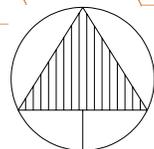
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REZONING REQUEST
From B-1 To H-S

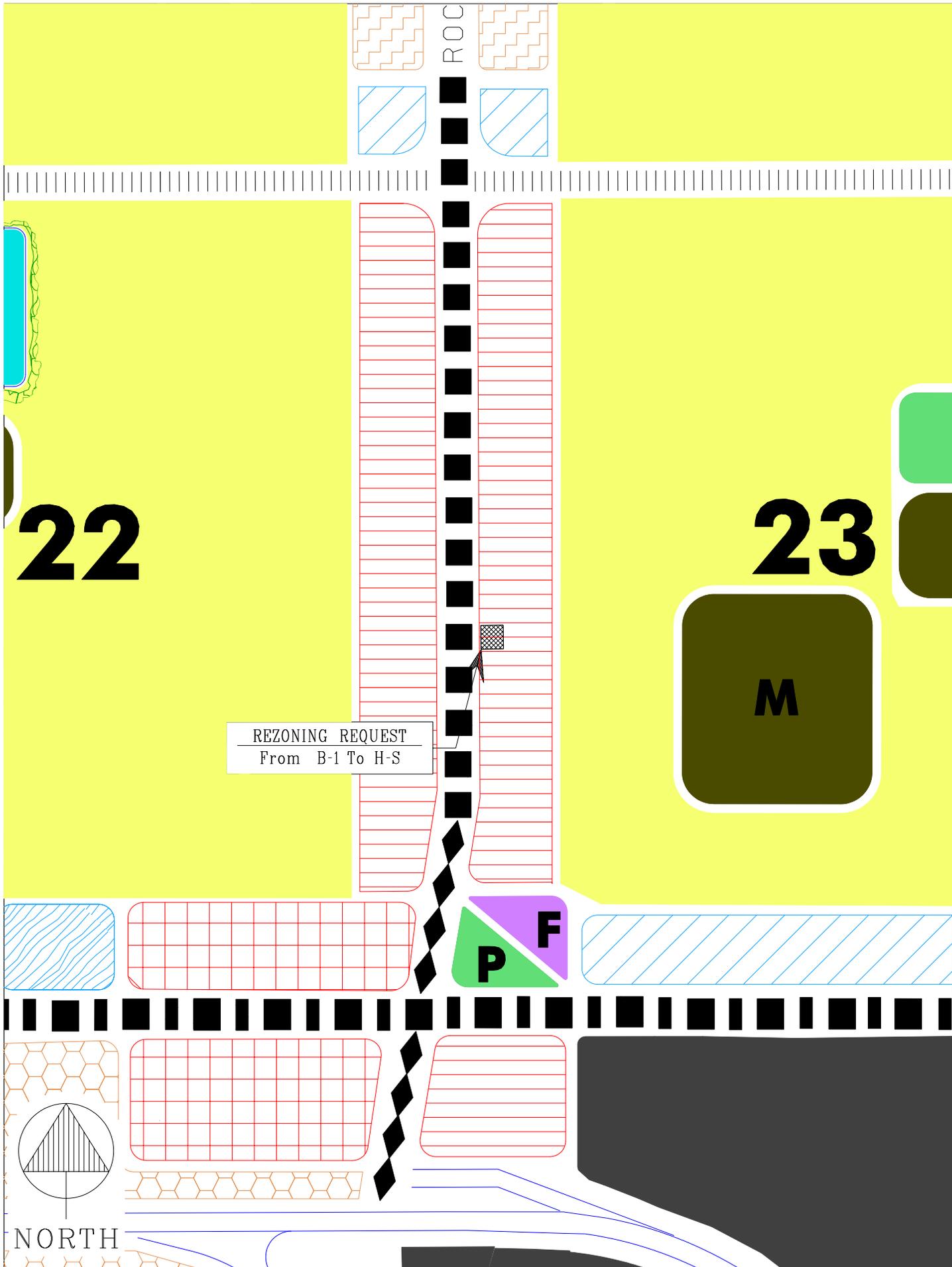
ROC

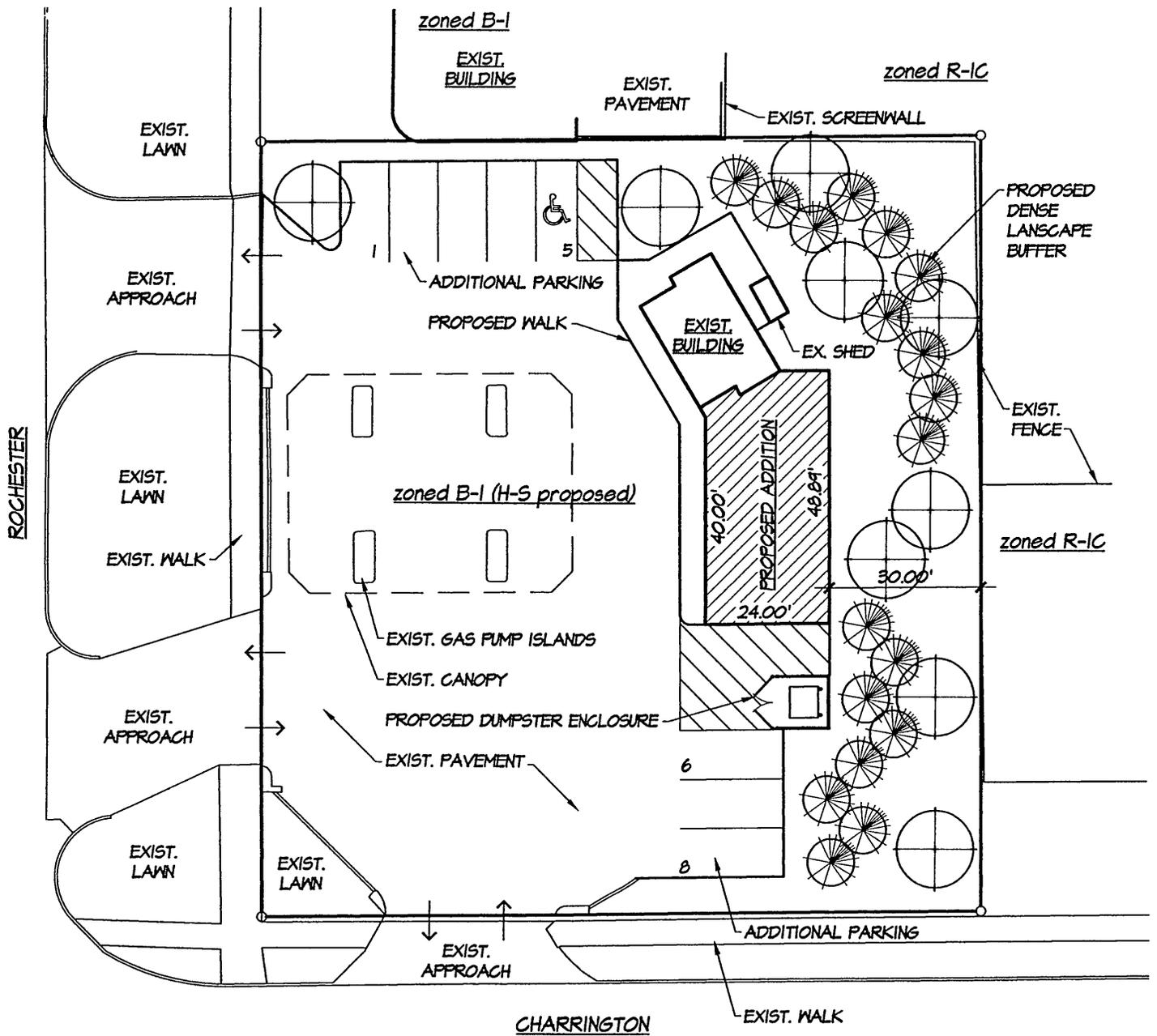
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NORTH





Preliminary Site Plan

Scale: 1"=30'

REFERENCE 'CERTIFIED BOUNDARY SURVEY' AND 'LOCATION MAP' FOR ADDITIONAL INFORMATION



sda

SDA ARCHITECTS, INC.
2201 Twelve Mile Road
Warren, MI 48092
(586) 751-9629
Fax (586) 751-9641

Proposed Rezoning for
3400 Rochester Road
Troy, MI

REC'D

SEP 27 2005

PLANNING DEPT.

PROJECT DESCRIPTION:

IT IS PROPOSED TO REZONE THE EXISTING B-1 (LOCAL BUSINESS) PROPERTY TO H-S (HIGHWAY SERVICE) TO ALLOW THE EXISTING NON-CONFORMING USE TO EXPAND. THE EXISTING 420 S.F. SALES BUILDING WOULD EXPAND TO APPROXIMATELY 1544 S.F. TO PROVIDE ADDITIONAL FLOOR SPACE FOR THE SALE OF GOODS SUCH AS NON-ALCOHOLIC BEVERAGES, CANDY, SNACKS, ETC.

6. PUBLIC HEARING – PROPOSED REZONING (Z 479-C) – Existing Gas Station, Northeast corner of Rochester Road and Charrington Drive, Section 23 – From B-1 (Local Business) to H-S (Highway Service)

Chair Strat advised the petitioner that five (5) affirmative votes are required for a recommendation of approval of the rezoning request, and the petitioner has the option to postpone his item prior to his presentation to the Planning Commission.

The petitioner indicated he would like to go forward.

Mr. Savidant presented a summary of the Planning Department report for the proposed rezoning and reported it is the recommendation of the City Manager to approve the rezoning request.

Dennis Szokolay of 26021 Southfield Road, Lathrup Village, was present to represent the petitioner. Mr. Szokolay said expansion and improvement to the service station would enable the owner to sell a larger inventory of convenience items and would provide for a more aesthetically pleasing landscaped area. He asked the members to look favorably on the rezoning request.

Mr. Waller said improvements to the building and landscaping would enhance the appearance at this location. He asked that consideration be given to the limited size of the property in terms of the site plan, noting property has been taken for the expansion of Rochester Road.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2005-11-182

Moved by: Chamberlain

Seconded by: Wright

RESOLVED, That the Planning Commission hereby recommends to the City Council that the B-1 to H-S rezoning request, located on the northeast corner of Rochester and Charrington, within Section 23, being approximately 21,000 square feet in size, be granted.

Yes: All present (6)

No: None

Absent: Khan, Littman, Vleck

MOTION CARRIED

SPACE STATION OF TROY

3400 Rochester Road

Troy, MI 48084

248-689-7806

September 21, 2005

City of Troy Planning Department
500 W. Big Beaver
Troy, MI 48084

REC'D

SEP 27 2005

PLANNING DEPT.

RE: Proposed Rezoning of 3400 Rochester Road, Troy, Michigan

Dear Commissioners:

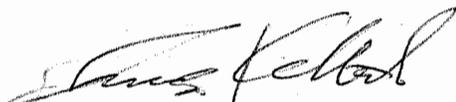
We are respectfully requesting that the subject property at 3400 Rochester Road be rezoned from B-1 to H-S. As you are aware, the current property use is an automotive service station with a small sales building. Because the current use is a non-conforming use in a B-1 zoning district, it cannot be expanded. The purpose of the rezoning request would change the property to H-S (which is the correct zoning for the current use) and allow the existing sales building to be expanded. The existing fuel pumps, islands and canopy would remain as-is.

Because of the very competitive nature of automotive fuel sales, the current trends are to provide generous amounts of merchandise and goods similar to a neighborhood style convenience store (7-11 style) which allows for the sales of these types of items to support the fuel sales portion of the business. The existing location is extremely small and only a very small inventory can be maintained. If the rezoning cannot be accomplished and the sales area not expanded, it is almost impossible to maintain the fuel-sales only business. It is very difficult and costly to redevelop old automotive service station properties into other uses and if the current business were to close, it would potentially create an eyesore in the neighborhood.

The proposed expansion would not be detrimental to the existing neighborhood because it will provide a convenience store in close proximity to residential subdivisions in the area. The closest convenience store is over one mile from the current location. The expansion of the existing location would allow the residents nearby to have a convenient place to obtain small items. The expanded building and upgraded landscaping would also provide a better buffer between the fuel pumps and the residences to the east. Because of this, the proposed expansion would be beneficial to the owner and the community.

We are requesting that you understand our position and consider the benefits to everyone involved. Thank you in advance for your consideration and time.

Sincerely,


ANDDRAOS G. KATTOUAH
President

DENNIS SZOKOLAY
Attorney at Law
26021 Southfield Road, Suite 101
Lathrup Village, Michigan 48076
(248) 557-4287
fax (248) 557-2402

September 26, 2005

City of Troy Planning Commission
500 West Big Beaver Road
Troy, Michigan 48084

Re: Space Station of Troy, Inc.
3400 Rochester Road
Troy, Michigan 48084

REC'D

SEP 27 2005

PLANNING DEPT.

Dear Commissioners,

I represent Space Station of Troy, Inc. My client respectfully requests the re-zoning of the above referenced property from B-1 to H-S. This property is a former Clark Gas Station which has been converted to Marathon. The building was built forty years ago when unleaded regular sold at a lower price than regular gas and an attendant did the pumping for the customers.

The current zoning is for B-1, however, the current use of the premises is a non-conforming use and the correct zoning would be H-S. As such, my client is not able to rebuild or expand the existing structure to suit its needs.

As can be seen from the enclosed materials, the existing structure would be expanded with an addition which will provide approximately 1000 additional square feet of space for office and retail sales of non-alcoholic convenience items. Construction is expected to go very quickly as the building is of a simple design and easy to integrate into the structural scheme. Extensive landscaping is also planned for the property including the introduction of several shrubs and trees in the newly created green areas.

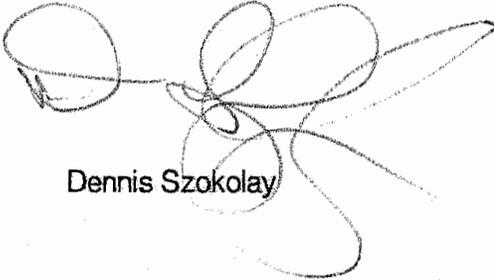
There is no other convenience store located within a mile of the location so the expanded business will benefit the surrounding neighborhood as well as passing motorists. The hours of operation will also be of benefit to the community.

A change in zoning as requested would bring about the renovation of the existing business making it more functional to the community as well as aesthetically pleasing. It will provide the neighborhood with convenient shopping and provide passing motorists with a more pleasant place in

which to do their business. .

Thank you for your kindness in considering my request.

Sincerely Yours,



Dennis Szokolay

Ds/sc

Paula P Bratto

From: Gerald Emanuel [gemanuel@wideopenwest.com]
Sent: Wednesday, November 30, 2005 3:24 PM
To: Paula P Bratto
Subject: Rezoning B-1 to H-S, Gas Station, Rochester Rd at Charrington Drive.

Planning Commissioners,

This is to express our opposition to the subject rezoning proposal which we and a number of concerned residents in the immediate neighborhood intend to protest at the City Council hearing. We are well aware that this same proposal by the same petitioner was rejected by the Council several months ago for valid reasons which took into account our collective objections at that time. We have no reason to believe that any circumstances have changed in the meantime which could possibly support a reversal of the Council decision. We believe that this rezoning proposal should be denied again, hopefully with some finality.

Would you please register this message in connection the matter.

Sincerely,

Gerald and Breda Emanuel.
1111 Charrington Dr,
Troy, Mi, 48083.

11/30/2005

Paula P Bratto

From: jjboling [jjboling@wideopenwest.com]
Sent: Sunday, November 27, 2005 10:08 PM
To: Paula P Bratto
Subject: Rezoning at Charring Drive and Rochester Road

Planning Commissioners;

We are writing in opposition to rezoning from B-1 to H-S. Our reasons remain as the same as a few months ago when the partitioner requested the same rezoning. Your commission approved but the City Council denied this rezoning.

Simply put, it will create more traffic congestion; it will definitely impact our neighborhood for the worse since it backs directly on residential property: it is not needed (you have just approved of a Buscemi Party Store only two blocks away); the site will require many variances; it will cause drainage problems because on a elevation at the rear of the property. Our neighborhood protest will take place at the City Council level.

We received a site plan for the proposed change from the Planning Dept. We thought no one can take into account for site plans when considering a zoning change. We may be wrong.

Sincerely, James and Jeanette Boling 1125
Charrington Drive Troy 48083