

DATE: February 14, 2006

TO: John Szerlag, City Manager

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

SUBJECT: AGENDA ITEM – ANNOUNCEMENT OF PUBLIC HEARING
(MARCH 6, 2006) – ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 214) – Article IV and X, Group Child Care Homes in the R-1A
through R-1E Districts

PLANNING COMMISSION RECOMMENDATION

At the December 13, 2005 Regular meeting, the Planning Commission approved the following resolution:

Resolution # PC-2005-12-197

Moved by: Vleck
Seconded by: Chamberlain

WHEREAS, The State of Michigan as provided by Public Act 207 of 1921 and Public Act 285 of 1931 and subsequent changes thereto provides for city planning and authorizes Planning Commissions and their powers; and

WHEREAS, The City of Troy Planning Commission is empowered by the City of Troy Zoning Ordinance to approve matters coming before it and to make recommendations to City Council, where the Council holds the approval power for themselves.

THEREFORE, IT IS RESOLVED, That the Planning Commission does not recommend to the City Council the changing of Articles IV and X, pertaining to Group Day Care Homes in the R-1A through R-1E Districts, for the following reasons:

WHEREAS, It has been demonstrated by public input, letters and photos that family and group day care homes do have a negative impact on the neighboring property owners.

WHEREAS, According to City of Troy Assistant Attorney, Allan Motzny, and City of Troy Director of Building & Zoning, Mark Stimac, any building or structure or portion thereof that is used for the education, supervision or personal care services for more than five (5) children older than 2-1/2 years of age would be classified as a Group E occupancy. This has significant implications on the ability of the structure to comply with

building code requirements such as automatic sprinklers in basements, Michigan barrier-free design and the Federal Americans with Disabilities Act.

WHEREAS, There is nothing within the child care licensing law that exempts these facilities from the Michigan Building Code provisions.

WHEREAS, The current ordinance allows for family day care homes but limits enrollment thus permitting a needed service while minimizing the intrusion and negative impact on neighboring properties.

BE IT ALSO ADVISED TO CITY COUNCIL, That if the current zoning is revised, the Planning Commission makes the following recommendations:

10.25.02 Family Day Care Homes, as defined in Section 04.20.60, subject to the following conditions:

- A. The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed six (6).
- B. The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01 shall not apply to Family Day Care Homes.
- C. The resident-operator of the Family Day Care Home shall be licensed in accordance with applicable State Law.
- D. To maximize the safety and the privacy for the neighboring properties, there shall be no dropping off of children between the hours of 10:00 p.m. and 6:00 a.m.
- E. To maximize the safety and the privacy for the neighboring properties, if the outdoor play area is located on the premises, the play area shall be fenced or screened with a 6-foot high privacy fence.
- F. No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.
- G. No sign shall be used on the premises to identify the Family Day Care Home.
- H. Family Day Care Homes with vehicular access on a major or secondary thoroughfare shall be required to have a circular drive or an unobstructed turnaround to allow for the safe egress of vehicles.

10.30.10 Group Day Care Homes, as defined in Section 04.20.69, subject to the following conditions:

- A. To maximize the safety and the privacy and to minimize noise for the neighboring properties, Group Day Care Homes shall be

allowed on properties greater than one-half acre in size and having a minimum side yard setback of 20 feet.

- B. The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed twelve (12).
- C. The resident-operator of the Group Day Care Home shall be licensed in accordance with applicable State Law.
- D. To maximize the safety and the privacy for the neighboring properties, there shall be no dropping off of children between the hours of 10:00 p.m. and 6:00 a.m.
- E. No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.
- F. No sign shall be used on the premises to identify the Group Day Care Home.
- G. The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01, shall not apply to Group Day Care Homes.
- H. Group Day Care Homes with vehicular access on a major thoroughfare shall be required to have a circular drive or an unobstructed turnaround area to allow for the safe egress of vehicles.
- I. The Planning Director may waive any required site plan information provided it can be determined that the application meets the Group Day Care Home requirements of Section 10.30.10 and the general Special Use Approval standards of Section 03.31.05.
- J. To maximize the safety and the privacy for the neighboring properties, if the outdoor play area is located on the premises, the play area shall be fenced or screened with a 6-foot high privacy fence.
- K. The licensee shall register with the City upon commencing operation and on an annual basis each January thereafter, and the licensed premises shall be subject to a fire and building department inspection and shall provide a smoke detector in all daytime sleeping areas and otherwise comply with applicable building and fire codes.
- L. The applicant shall identify the entrance(s) for drop-offs and pickups. The parking and drop-off areas shall be designed to maximize safety and privacy for the neighboring properties.
- M. To prevent the commercialization of residential districts, Group Day Care Homes shall be not be located within 1,000 feet of another state licensed residential facility.

Discussion on the motion on the floor.

Mr. Miller questioned if the condition to require a circular drive or unobstructed turnaround area could be placed on Family Child Care Homes that have vehicular access on a major or secondary thoroughfare.

Mr. Motzny, upon further review, said he believed it is a valid condition should the Planning Commission reason that it is a public health, safety and welfare concern.

At the request of Ms. Drake-Batts, Mr. Vleck provided a brief overview of the motion.

Ms. Drake-Batts said the proposed requirements with respect to the one-half acre lot size and the 1,500-foot distance between licensed facilities would make the existence of Group Child Care Homes almost impossible. She said, however, that the Commission owes it to the residents to get the matter up to City Council for a final decision. Ms. Drake-Batts said she would vote in favor of the motion even though she does not agree with a lot of the proposed conditions.

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

MOTION CARRIED

CITY MANAGEMENT COMMENTS

City Management has not taken a position on the issue of Group Child Care Homes, based on an understanding that the regulation of Group Child Care Homes within single-family residential neighborhoods is a community values issue. Issues regarding community values should be made by City Council, following consideration of a recommendation by the Planning Commission. While not providing specific recommendations, City Management has a responsibility to consider options, cause and effect and home rule. The following issues related to the Planning Commission recommended draft of ZOTA 214 have been raised by City Management:

1. The Michigan Building Code should be changed to permit Family Child Care Homes with up to six children without requiring significant physical improvements to the home.
2. The requirement that Family and Group Child Care Homes require fenced or screened play areas could create equity issues for Group Child Care Homes within homes with deed restrictions or

- neighborhoods with bylaws prohibiting fences. This would create legal non-conforming structures.
3. The requirement that Group Child Care Homes must register annually with the City seems unreasonable, since they require license renewal with the State of Michigan every two years. Few businesses in the City require annual registration.
 4. Since every use in the City must comply with Michigan Building Code requirements, including requirements for fire and building department inspection is unnecessarily repetitive.
 5. The requirement that a Group Child Care Home shall not be located within 1,000 feet of another state licensed residential facility would be impossible to meet for 12 of the 20 Group Child Care Homes presently licensed in the City (see attached table). This would create legal non-conforming structures.
 6. The one-half acre minimum lot size requirement exceeds the minimum lot size requirements in all of the single-family residential zoning districts. This would be impossible to meet for 16 of the 20 existing Group Child Care Homes presently licensed in the City (see attached table). This would create legal non-conforming structures.
 7. The 20-foot side yard setback requirement, which exceeds the minimum lot size requirement for all of the single-family residential zoning districts, would be difficult for many homes to meet. This would create legal non-conforming structures.

HISTORY OF ZOTA 214

ZOTA 214 was initiated by the Planning Commission during the May 4, 2004 Special/Study meeting, with the following resolution:

Resolution # PC-2004-05-052

Moved by: Shultz
Seconded by: Khan

RESOLVED, That the Planning Commission request from the Building Department a written confirmation that, based upon the Planning Commission's attempts to move forward with zoning ordinance changes, the notice of violation for the day care home located at 5593 Mandale Drive be held in abeyance, as was communicated to the homeowner.

Discussion on the motion.

Mr. Strat suggested that Ms. Schafer provide a written communication to the Building Department, with a copy to the Planning Department, detailing her interpretation of the Building Department's pending action.

Vote on the motion.

Yes: All present (7)
No: None
Absent: Chamberlain, Wright

MOTION CARRIED

The Planning Commission began the process of considering a proposed text amendment following this meeting.

The attached Planning Commission Actions on ZOTA 214 lists the meetings at which ZOTA 214 was an agenda item. Note that four public hearings were held in 2005 to solicit public comment on the group day care home issue: August 9, September 27, October 25 and December 13. Minutes for these four meetings are attached.

On October 3, 2005, City Council adopted a resolution requesting that the Planning Commission set a public hearing to consider a proposed amendment that would allow for Group Child Care Homes in the R-1A through R-1E districts on a temporary basis. This would permit Group Child Care Homes on a temporary basis, until after the City Council conducts a public hearing on proposed ordinance revisions. City Council approved this text amendment on November 21, 2005. This temporary text amendment shall be rescinded at the same time that the new provisions related to Group Child Care Homes are adopted.

The following definitions are provided by the Family Independence Agency of the State of Michigan:

Family Child Care Home – “A private residence that the child care provider lives in and cares for up to six unrelated children for more than 4 weeks in a year when the children’s parents/guardians are not immediately available”.

Group Child Care Home – “A private residence that the child care provider lives in and cares for up to 12 unrelated children for more than 4 weeks in a year when the children’s parents/guardians are not immediately available”.

Child Care Center - A facility, other than a private residence, where child care is provided for 1 or more children whose parents/guardians are not immediately available. Centers must be licensed if they provide care for more than 2 consecutive weeks per year. Centers include public and private preschools, nursery schools, parent cooperative preschools, full-day child care centers and drop in centers.

The text amendment approved by City Council on November 21, 2006 that permitted Group Day Care Homes on a temporary basis also included new definitions for Group Day Care Homes and Family Day Care Homes. The State licensing regulations were recently amended and the uses are now referred to as Group Child Care Homes and Family Child Care Homes. City Management recommends that the Zoning Ordinance be modified so that all references to these uses are consistent with State regulations.

Presently there are 42 Family Child Care Homes in Troy, which represents a capacity of 252 children (see table). There are 19 Group Child Care Homes, which represents a capacity of 228 children. There are 48 Child Care Centers with a capacity of 3,621 children. Combined, there is presently a capacity of 4,101 children in State licensed daycare facilities in the City of Troy. If Group Child Care Homes are not permitted, it would have the effect of eliminating licensed daycare capacity for 114 children, as each of the 19 Group Child Care Homes would only be able to accommodate 6 children rather than 12. The 2000 US Census indicated there were 4,991 children under 5 years of age in the City of Troy.

A City Council Public Hearing will be held on this item on March 6, 2006.

Attachments:

1. Planning Commission Actions on ZOTA 214.
2. Minutes from May 4, 2004 Planning Commission Special/Study meeting.
3. Minutes from August 9, 2005 Planning Commission Public Hearing.
4. Minutes from September 27, 2005 Planning Commission Public Hearing.
5. Minutes from October 25, 2005 Planning Commission Public Hearing.
6. Minutes from December 13, 2005 Planning Commission Public Hearing.
7. Minutes from November 21, 2005 City Council meeting.
8. Table: Existing Group Child Care Homes, dated 1/12/06.
9. Table: Child Care Centers and Child Care Homes in Troy.
10. Map of State licensed care facilities, dated January 9, 2006.

Prepared by RBS/MFM

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**Planning Commission Actions on
ZOTA 214 Group Daycare Homes
in the R-1 Residential Zoning Districts**

MEETING DATE	TYPE OF MEETING	ACTION
April 27, 2004	Study Meeting	Potential Ordinance Revision Discussion and Presentation by Ms. Schafer
May 4, 2004	Study Meeting	Potential Ordinance Revision Discussion followed by Resolution #PC-2004-05-052 - Request for written confirmation that the Building Dept. violation at 5593 Mandale be held in abeyance while PC attempts to move forward with ZOTA, MOTION APPROVED
July 27, 2004	Study Meeting	Potential Ordinance Revision Discussion
Sept. 28, 2004	Study Meeting	Potential Ordinance Revision Discussion
March 1, 2005	Study Meeting	Brief Discussion after Planning & Zoning Report
June 7, 2005	Study Meeting	Zoning Ordinance Text Amendment Discussion followed by Resolution #PC-2005-06-094, directing the Planning Dept. not to extend any more effort on ZOTA 214, and to look into applicability of the State Building Code for family daycare homes to see if anything should be done in the City Ordinances to clear up potential legalities, MOTION FAILED
June 28, 2005	Study Meeting	Zoning Ordinance Text Amendment Discussion followed by Resolution #PC-2005-06-108, that a Public Hearing on ZOTA 214 be scheduled for August 9, 2005 and notices be sent to residents within 300 ft. of the existing 19 group daycare homes and that City Management provide a memo outlining pros and cons on the matter and that additional Special Use criteria be developed, MOTION APPROVED
July 12, 2005	Regular Meeting	During Good of the Order comments, Mr. Motzney provided an explanation to his memo addressing the Public Hearing for ZOTA 214
August 2, 2005	Study Meeting	Discussion of House Bill 4398 including Sec. 206 (4) the requirement to permit conditionally group day care homes in residential districts
August 9, 2005	Regular Meeting	Public Hearing, followed by Resolution #PC-2005-08-131, Planning Commission shall take no further action related to group day care homes until State Legislature and Governor have taken final action on House Bill 4398, MOTION APPROVED

**Planning Commission Actions on
ZOTA 214 Group Daycare Homes
in the R-1 Residential Zoning Districts**

August 23, 2005	Study Meeting	During Good of the Order comments, Chair Strat notified members that City Manager notified him that the State legislature is not going forward with modifications regarding group day care homes in House Bill 4398 and that Mr. Szerlag requested they resume action on ZOTA 214
September 13, 2005	Regular Meeting	During Good of the Order comments, Mr. Miller notified members that City Council adopted a resolution requesting the Planning Commission take action on ZOTA 214 at the September 27, 2005 Public Hearing
September 27, 2005	Study Meeting	Resolution #PC-2005-09-150 rescinding resolution PC-2005-08-131, MOTION APPROVED. Planning Commission then held a Public Hearing followed by Resolution #PC-2005-09-152 that the Planning Commission hold a Public Hearing for ZOTA 214 at the Planning Commission Regular Meeting in December, MOTION APPROVED.
October 4, 2005	Study Meeting	Mr. Miller notified members that City Council adopted a resolution requesting the Planning Commission have a public hearing to consider an amendment that would temporarily allow for child group day care homes, which are State licensed, to be located in the R-1 Zoning Districts until 15 days after the Troy City Council has had the opportunity to conduct a public hearing on ZOTA 214. Discussion of ZOTA 214 B (Group Daycare Homes on a Temporary Basis) followed by Resolution #PC-2005-10-158, that a Public Hearing for ZOTA 214 B (Group Daycare Homes on a Temporary Basis) be held at the Planning Commission Study Meeting of October 25, 2005, MOTION APPROVED. Discussion of ZOTA 214, no resolution passed.
October 11, 2005	Regular Meeting	Discussion of ZOTA 214, no resolution passed.
October 25, 2005	Study Meeting	Public Hearing on ZOTA 214 B (Group Daycare Homes on a Temporary Basis) followed by Resolution #PC-2005-10-171, recommending approval of ZOTA 214 B - Group Daycare Homes on a Temporary Basis, MOTION APPROVED. Discussion of ZOTA 214, no resolution passed.

**Planning Commission Actions on
ZOTA 214 Group Daycare Homes
in the R-1 Residential Zoning Districts**

November 1, 2005	Study Meeting	Discussion of ZOTA 214, no resolution passed.
November 29, 2005	Regular Meeting	Discussion of ZOTA 214, no resolution passed.
December 13, 2005	Regular Meeting	Public Hearing, followed by Resolution #PC-2005-12-197, recommending denial of ZOTA 215 and furthermore recommending that if the City Council revises the Ordinance they consider a list of standards for Family Child Care Homes and Group Child Care Homes, MOTION APPROVED.

7. POTENTIAL ORDINANCE REVISION DISCUSSION – Group Day Care Homes in R-1 Districts

The potential ordinance revision relating to group day care homes and the Planning Commission discussion at its April 27, 2004 Special/Study Meeting were reviewed by Chair Waller and Mr. Miller.

Mr. Savidant briefly reviewed regulations of family day care homes and group day care homes in selected southeast Michigan communities.

Sharon Schafer of 5593 Mandale, Troy, was present.

Kim Duford, 3141 McClure, Troy, was present. Ms. Duford, President of the Oakland County Child Care Association (OCCCA), said she represents 400 children in day care homes licensed by the State of Michigan. Ms. Duford said she would like to see the City ordinance brought up-to-date from its inception in 1968/1970. Ms. Duford indicated that during her years with the OCCCA, there have been no home day care incidences relating to City regulations.

Chair Waller opened the floor for discussion. Information was shared on the following:

- Definitions of family day care and group day care
- Requirement(s) for the number of caregiver(s)
- Differences between city and township regulations
- State licensing and regulations
- State home inspections
- Traffic and parking concerns
- Restrictions (i.e., designated drop-off and pick-up times)
- Public education of day care in homes
- Accreditation from the National Association for Family Child Care
- Food program
- Hours of operation

Chair Waller asked Mses. Schafer and Duford to provide a written summary of tonight's discussion to the Planning Department as a reference for future discussion on the matter.

Mr. Schultz voiced concern with respect to legalizing boarding houses in which children would be boarded for more than a 24-hour period.

Chair Waller distributed copies of *Child Care Today*, a publication of the Oakland County Child Care Council provided by Ms. Schafer.

There was a brief discussion on the status of Ms. Schafer's notice of violation. Ms. Schafer said the Building Department indicated the notice of violation would be held in abeyance as long as she was diligently pursuing a change in the ordinance.

Mr. Motzny reported the Commission could pass a resolution to request an abeyance of the notice of violation, but noted the Building Department would not be obligated to honor the resolution.

Resolution # PC-2004-05-052

Moved by: Shultz
Seconded by: Khan

RESOLVED, That the Planning Commission request from the Building Department a written confirmation that, based upon the Planning Commission's attempts to move forward with zoning ordinance changes, the notice of violation for the day care home located at 5593 Mandale Drive be held in abeyance, as was communicated to the homeowner.

Discussion on the motion.

Mr. Strat suggested that Ms. Schafer provide a written communication to the Building Department, with a copy to the Planning Department, detailing her interpretation of the Building Department's pending action.

Vote on the motion.

Yes: All present (7)
No: None
Absent: Chamberlain, Wright

MOTION CARRIED

7. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 214) – Article XXVIII, Group Day Care Homes in the R-1A through R-1E Districts

Mr. Miller outlined the material provided to the members in addition to their regular meeting packet information.

Chair Strat stated the intent of the Public Hearing and reported that notices of the Public Hearing were sent to residents within 300 feet of group day care home locations. Chair Strat announced guidelines that would be utilized for the Public Hearing due to the size of the audience and the possible number of people who might wish to speak: a time limit of 3 minutes would be set for each person who wishes to speak, repetitive comments would be discouraged, and no clapping. Chair Strat designated Vice Chair Schultz as the timekeeper.

Chair Strat asked the members for a vote of confidence on the guidelines established for the Public Hearing.

Roll Call

Yes: All present (9)
No: None

Mr. Khan provided an explanation and apologized for his lateness to the meeting. Mr. Khan said one of the purposes of the Public Hearing is to receive comments from neighbors of the existing 19 group day care homes to determine the impact, whether negative or positive, the homes might have on the neighbors.

PUBLIC HEARING OPENED

Nichol Childs of 1931 Atlas Court, Troy, was present. She said the issue is heartfelt because it is about our children. Ms. Childs is a group day care home provider and a parent of 3 small children under the age of 6. She said she is sad to see the “City of Tomorrow Today” taking a stance of not recommending such an important issue. She addressed the service provided and said it is from their hearts and not a money-making standpoint. She said child care providers must be patient, loving and kind and are tested on a daily basis. Providers must enjoy what they are doing. Ms. Childs has a degree in early childhood development. She said she called the City of Troy before opening her day care. The Zoning Department informed her that the City allows what the State requires. Ms. Childs said that either people in the office should have the knowledge to give correct information, or should be held accountable for information provided. Ms. Childs addressed the charts provided by the Planning Department that were included in their notebook under tab 2. The charts list which cities permit and do not permit group day care homes. Ms. Childs said she personally called the cities and received contrary information. She said there are 8 cities that allow group day care homes. Ms. Childs said group day care home providers have been in Troy

for 32 years, and the City has yet to formulate a real problem associated with the homes. She said she has a problem with members of the commission who appear not to be open-minded and have their minds made up. Ms. Childs referenced a conversation with Mr. Miller in which he said the City does not need to provide a service such as day care homes just because there is a need for it. Ms. Childs said children are not commodities, such as oil refineries to which Mr. Miller said would not be permitted in back yards should there be a need for them.

Don Dandenbergh of 4856 Kings Row, Shelby, was present. Mr. Dandenbergh, principal of Wass Elementary School, said he sees a need for more home care for children in the neighborhood because in this day and age both parents work outside of the home. Mr. Dandenbergh personally knows Sharon Schafer, a group day care home provider, and said she provides an excellent service. He asked the members to consider the needs of children and their parents, and to vote from their hearts in order to provide what is best for the children.

Ken Shepherd of 45538 Sterritt, Utica, was present. Mr. Shepherd is a former Council person and mayoral candidate for the City of Utica and an ordained minister. Mr. Shepherd's two children attend Sharon Schafer's day care home. He said they receive the best of care and learn more than they would if they were to attend a licensed day care facility that can care for more than 12 children. Mr. Shepherd said he and his wife looked very hard to find the best day care provider for their children. Mr. Shepherd said he understood the difficult choices the Planning Commission members face. He referenced a particular challenge that the City of Utica faced as relates to the safety of children. Mr. Shepherd asked that the members consider what is best for both the children and the city.

Sharon Manning of 2651 E. Square Lake Road, Troy, was present. Ms. Manning has been a child care provider in the City of Troy for 12 years. She indicated Ms. Drake-Batts has been to her child group day care home. Ms. Manning addressed personal property taxes, and asked why the City would collect personal property taxes on her group child care home if they were opposed to the home-based business. Ms. Manning believes child care service should be grandfathered into the City ordinance. She said a child care provider service is no different than those services that sell computer services, hair services, flower services, lawn services, vehicle garage repairs, in-home maid services, etc. She asked if those services have a special ordinance and are monitored. She asked if the City collects personal property taxes on other home-based businesses. Ms. Manning said child care providers are in compliance, audited, monitored and licensed by the State of Michigan, as well as monitored and audited by Oakland County Child Care Association. She said additional taxes in a single dealt service would be additionally burdensome whereby the reduction to a family size home would substantially reduce and even eliminate some livelihoods, to a point where child care could not be provided. Ms. Manning asked the City to stand by their motto and not increase unemployment, or reduce or eliminate quality

educational child care for Troy's pre-schoolers and elementary age students after school.

Michael Upton of 1267 Hartland, Troy, was present. Mr. Upton addressed changing society and the economy with respect to working parents. He said the City would lose valuable, non-replaceable workers, business owners and residents by denying or limiting working parents' options for child care. Mr. Upton said group day care homes provide personalized child care that offers unmatched attention to a child's needs, individual stimulation, education and development. He said they offer more structured and disciplined programs and more flexibility for working parents (i.e., drop off/pick up times, special parental requests and special children needs). Mr. Upton said home child care providers have little or no staff changes and are able to bond with children on a consistent basis. Mr. Upton said home child care providers offer lower child care rates and focus more on the development of a child, instead of the physical care such as feeding, diaper changing, or sanitation. Mr. Upton said no one could replace the love he has for his daughter, and asked that the option be his to choose a day care provider that gives his daughter the next best thing, and that is his group day care home provider.

Jill Gelder of 152 MacLynn, Troy, was present. Ms. Gelder is a 15-year resident of Troy who worked at Honeybee Child Care for 7 years. She addressed the changing society and the closeness that is established in a group day care home for both children and parents. Ms. Gelder said she still talks to the parents and children that she cared for 7 years ago. Ms. Gelder said child care centers are sterile, cold and impersonal. She said group day care homes accommodate expectant mothers. She addressed pick-up/drop off times and noted the standard hours between 7:30 and 9:30 a.m. generate little traffic. Ms. Gelder said she loved working at Honeybee Child Care, she loved the parents and children, and asked the members to reconsider its decision.

F. M. Sheridan, M.D., of 1930 Atlas Court, Troy, was present. Dr. Sheridan is a retired Emeritus pediatrician on the staff of Beaumont Hospital. Dr. Sheridan lives across the street from Nichol Childs, a group day care provider. He said he knows Ms. Childs personally and knows the place she runs. Dr. Sheridan thinks it is great. He said he has dealt with kids for 45 years; he knows mothers and kids, and said group child care providers are a needed service.

Syed Mohiuddin of 6150 Country Ridge, Troy, was present. Mr. Mohiuddin and his wife operate a group day care center from their home. Mr. Mohiuddin submitted a petition of 22 neighbors in the Crescent Ridge West subdivision who attested they are aware of and are not adversely or negatively affected by the day care center at 6150 Country Ridge.

Angela Andrews of 13133 Concord, Sterling Heights, was present. Ms. Andrews stated that the group day care center operated by herself and her mother in

Sterling Heights received approval by the City's zoning board on June 3, 2004. She said the city recognizes its obligation to protect the availability of day care openings because of the increase in the number of families seeking day care. Ms. Andrews said they had no opposition from their neighbors, and indicated one neighbor considers it as a neighborhood watch. Ms. Andrews said the hours of operation at their day care are as early as 4:30 a.m. for parents working at factory positions, and later evening hours than provided at commercial centers to accommodate parents when necessary.

Bernie LaBute of 636 Vanderpool, Troy, was present. Mr. LaBute addressed the special needs of his daughter. He chose to move to Troy from Ohio because of the excellent school system and child care providers. He said after a short period of time at Mrs. Kay's child care facility, his daughter's skills improved. His daughter is able to sign several sentences, her wants and needs, and is a happier child. Mr. LaBute said his daughter has reached levels of development that were once thought unapproachable, and he attributes it to the warm and caring environment of the child care provider.

Shannon Hougenid of 1715 Gardenia, Royal Oak, was present. Ms. Hougenid is a child care provider and the daughter of a child care provider. Ms. Hougenid's mother stayed home during her father's illness to help put her and her sister through school, as well as provide care for 12 children. Ms. Hougenid said home day centers provide good values and morals to children of dual income parents and separated families. Ms. Hougenid said employees at corporate day care centers are not allowed to hug children under their care. She addressed the delight that many neighbors experience with children in the neighborhood; i.e., Halloween parade, dandelion bouquets, etc.

Kathleen Peterson of 1175 Garwood, Troy, was present. Ms. Peterson has been a group day care provider for over 12 years and a family day care provider for 6 years. She said the difference between group day care and family day care is phenomenal. Ms. Peterson said there is a waiting list for parents seeking home child day care because providers have a proven track record, are licensed by the State and are competitive with commercial providers. She cited businesses such as Ford, Visteon, and EDS who utilize their services. Ms. Peterson referenced an e-mail message she received from a parent voicing the negative impact should the City not allow group child care providers. Ms. Peterson said she has lived in three different homes in Troy and has never had any complaint from a neighbor.

Kevin Brown of 1079 Rochelle Park, Rochester, was present. Mr. Brown works in Troy. He addressed commercial day care centers with respect to the inconsistency of care, employee turnover, and violations. He encouraged the members to compare the violations cited against commercial day care providers and group and family day care providers. Mr. Brown said home day care providers accommodate the siblings; commercial day care does not. He said Ms.

Duford of Honeybee Child Care creates and maintains a file on each child in terms of development, interaction with other children, following directions, etc.; commercial day care do no child evaluations.

Amanda Sanday of 51472 Merowske, Shelby Twp, was present. Ms. Sanday has been a group day care employee in Troy for approximately three years. She said the low employee turnover rate of group day care homes provide a comfort to the children. The kids come in every morning and know Ms. Amanda, Ms. Nicole and Mr. Curtis are there to take care of them. Ms. Sanday said child care homes are the eyes and ears of the neighbors who are at work and, in essence, provide a neighborhood watch. Ms. Sanday asked what the members would tell the 100 plus families should day care homes not be permitted, and where would the families go for child care.

Hung Dam of 4104 Livernois, Troy, was present. Mr. Dam is currently a group day care provider in Centerline and would like to open a group day care home in Troy. The home would specialize in the care of children who cannot speak English.

Roberta Rapp of 930 John R, Troy, was present. Ms. Rapp addressed the change in society and her reaction to news stories of children who are unsupervised and uncared for. Ms. Rapp said day care providers who are willing to give children the type of care similar to what they receive at home should be supported. She is very much in favor of group day care homes.

Karen M. Kriscovich-Mukalla of 3784 Forge Drive, Troy, was present. Ms. Kriscovich-Mukalla operates Mrs. Kay's group day care home and has been in business for 26 years. She asked the record to reflect that she never had a complaint from any of her neighbors; neighbors located on either side of her, older neighbors, or newer neighbors. Ms. Kriscovich-Mukalla said the operative word in day care is "care" and asked the City to look at the real issue -- the care of our children. She asked the rationale in not permitting group day care homes because of one complaint related to traffic, whereas a biting dog is given three chances before action is taken. Ms. Kriscovich-Mukalla said child care providers answer to parents and must always put forth their best. She said good care cannot be faked, and if a provider were not good at what he/she does, then parents would opt to go elsewhere, or the State would close down the home.

Lenique Gibson of 685 E. Maple, Troy, was present. Ms. Gibson operates God's Precious Creations group day care. She is married with 5 children, and has been in business for approximately one year. Ms. Gibson says she provides child care because that is where her heart is, and not for the money. Ms. Gibson relayed a story of a client whose child suffers epileptic seizures triggered from stress. The child's parent has seen an improvement in the child's behavior and amount of seizures. Ms. Gibson said the children of today are going to be sitting in the

seats of the members in a few years. She fully supports group day care and asked the members to allow it.

Suzanne and Chris DeNeen of 3639 Coseyburn, Waterford, were present. A Troy group day care provider cares for Mr. and Mrs. DeNeen's son. Mrs. DeNeen asked if an actual study has been undertaken on traffic in areas where there are group day care homes. Mr. DeNeen said he drops off and picks up his son and has never experienced any problems relating to parking or traffic. Mr. DeNeen is a teacher in Troy, and Mrs. DeNeen is a General Motors employee. Mrs. DeNeen said they do their jobs well because their son is in a good day care home.

Chair Strat asked the audience, by a show of hands, (1) how many people in the audience would approach the podium with similar comments as those that have been heard so far; (2) how many in attendance live in Troy; and (3) how many in attendance do not live in Troy. Chair Strat said the Planning Commissioners recognize the value and importance of day care whether it is limited to 6 children or 12 children.

Curtis Childs of 1931 Atlas Court, Troy, was present. Mr. Childs addressed the "cons" of group day care that were identified by City Management, as follows: (1) Additional Neighborhood Traffic - There might be an increase in traffic but it is a public road, and the public has a right to use those roads. (2) Potential Parking Problems - There has been one parking complaint, the one that started this issue. (3) Increase in Non-residential Activity in Neighborhoods - What is more residential than caring for children? (4) Potential Increase in Traffic on Major Thoroughfares - Public roads cannot be regulated and the public has the right to use them. (5) Result from Freedom of Information Act (FOIA) Request related to 19 Group Day Care Homes - One barking dog complaint, which could apply to any house.

Mr. Childs addressed the City of Troy's Vision and Value Statement, as follows: (1) "Externally focused on customers" - Child care providers are your customers. (2) "Aggressive in our efforts to improve service delivery by using the best means available" - Group day care is one of the best means available. (3) "We value honesty, courtesy, responsiveness, diversity, lifelong learning, ethical behavior, quality, cooperation, accessibility, dedication, loyalty and excellence." Individual terms addressed were: "Honesty" - Ms. Childs called Troy and was told group day care was permitted. "Diversity" - Group day care is an option. "Lifelong Learning" - Starts in a home and continues in group day care. "Accessibility" - If you eliminate group day care as an option, you are not providing access. "Dedication", "Loyalty", and "Excellence" - Each child care provider here tonight is dedicated and loyal to the families and children and provides an excellent service.

Mr. Childs said the Michigan Municipal League (MML) strongly supports House Bill 4398, and provided a list of communities and contact persons from communities that permit group day home providers. Mr. Childs believes that incorrect information was provided to the members on both respects. Mr. Childs said the members should consider the needs of the City and the residents, and the issue should not be a personal preference.

Sharon Schafer of 5593 Mandale, Troy, was present. Ms. Schafer said group day care homes are not usually full and that gives flexibility to family day care providers should a mother become pregnant. Ms. Schafer clarified that she did not knowingly or intentionally open her group day care home without contacting the City. In 1990, when she applied for her license, the State did not say anything about making contact with the municipality, and Internet access was not available at that time. Ms. Schafer referenced an acceptance speech given by President Bush in New York City on September 2, 2004, and quoted a phrase made in the statement: "To build a more hopeful America, we must help our children as far as their vision and character can take them." Ms. Schafer said she believes the service provided to working families by day care homes helps the children and their parents reach as far as their vision and character can take them. She asked for support of group day care in the "City of Tomorrow Today". She asked that Troy give working families all the options available so children of today will have a sound foundation to build a better tomorrow for Troy. Ms. Schafer said a copy of the book prepared by child day care providers and distributed to Planning Commissioners would be available in the City library.

Walter Ladouceur of 3376 Alpine Drive, of Troy, was present. Mr. Ladouceur is a parent of three children and his wife is a day care home provider. Mr. Ladouceur addressed the concerns of parking and traffic. He noted that Alpine is used for easier egress around Somerset Collection, and curious people are attracted to the monster garage site. The people have free access to "his" street and there is nothing he can do to stop it. Mr. Ladouceur encouraged members to visit a day care home provider. An employee of his wife's child care home, and one of three teenagers in her family, said there is constant activity at her house with cars pulling in and out and parking on site. Mr. Ladouceur asked the members to balance traffic and parking from child care home providers with other home-based activities, such as prayer groups, bible studies, accountants, and monster garages.

Michelle Sinutko of 2331 Cumberland Drive, Troy, was present. Ms. Sinutko is a licensed family day care home provider. She is the parent of three children under the age of 7 and occasionally cares for her two nieces and nephew. Ms. Sinutko brought to the attention of the members that, according to State law and licensing rules, she could have a total of 9 children under her care. The State does not include in their total count children under the age of 7 who are related to the family day care home provider. Ms. Sinutko also addressed traffic with respect to the location of the day care home provider.

Deborah Reynolds of 1285 W. Wattles, Troy, was present. Ms. Reynolds was a group day home provider in Troy for over 20 years. She believes group day care homes are the best option for children outside of the home. Ms. Reynolds completed her Master's Degree in Special Education at Wayne State University and is pursuing a specialty in early childhood autism. She offered her professional perspective on the positives of group day care home providers and cited several quotes. Ms. Reynolds concluded that a move to prohibit group day care homes in the City would violate the expressed mission of the City and its dedication and commitment to children and their families.

Michelle Lambert of 1903 Alexander Drive, Troy, was present. Ms. Lambert is a stay-at-home mom who uses a group day care home. She lives within 300 feet of the group day care home operated by Nicole Childs. Ms. Lambert said she was not aware of Ms. Childs' group day care home until after one year of living in the neighborhood. She did not notice any extra traffic as a result of the home, and said she is outside with her two children most of the day.

George Porretta of 3583 Bellows Court, Troy, was present. Mr. Porretta's two children attended group day care homes for a combined 8 years. He addressed the members as a businessman, not a child care home provider or resident living within 300 feet of one. Mr. Porretta said the Troy School District does an outstanding job in promoting its schools, and attracting and retaining new families to Troy. Mr. Porretta said Troy's population and tax base would be affected should group day care homes be prohibited, and asked the members to do what is right for the children and future citizens of Troy.

Mary Ellen Ladouceur of 3376 Alpine Drive, Troy, was present. Ms. Ladouceur has been a family care provider for 4 years. She has a Master's Degree in early childhood education. Ms. Ladouceur challenged the members to read 300 to 400 pages of research on early childhood, brain development, attachment issues, and the higher occurrence of autism in children who are warehoused versus children who are cared for in homes. She said State law requires her to have an assistant because 100% of the children she cares for are under the age of 2. Ms. Ladouceur said they are minutes away from foreclosure if they do not provide care for children in their home. Ms. Ladouceur's credits the training and education of her 12-year old daughter to the family environment provided her by Honeybee Child Care. Ms. Ladouceur is a convert from commercial child care providers to the family environment provided by home child care providers. She considers the parking concern is a non-issue. Ms. Ladouceur said her staff takes early childhood classes at Athens High School, and have indicated a preference to send their children to home day care providers.

Ms. Kriscovich-Mukalla addressed the City Management's "con" that group day care homes result in an increased use of emergency services. She cited one incident in which she used emergency services.

Kim Duford of 3141 McClure, Troy, was present. Ms. Duford has operated Honeybee Child Care for 13 years and has lived on McClure for 22 years. She has the sponsorship of Ford Motor Company, an accreditation received by meeting a standard of excellence in providing care to children. Ms. Duford stated that Oakland County is the third highest county in Michigan for the number of parents in the work force, and Troy is the largest city in Oakland County with an employment population of approximately 100,000 people. Ms. Duford said Troy is out of date with its child care choices, noting that parents of young children need to have more than two options for child care. Studies have proven that the first five years of a child's life are the most important years. She quoted a statement made by Mark Sullivan, Executive Director of the Michigan Child Care Council: "When parents can't find child care, they can't work." Ms. Duford referenced a common phrase: Michigan works when child care works. Ms. Duford cited an article published in the summer 2004 edition of the Planning Commission Journal that addressed child care solutions for a growing city and family child care homes as a key element in strengthening a neighborhood. Ms. Duford said locating child care homes near areas of high employment centers could contribute to reduce commutes and cross town traffic. Ms. Duford cited the growing numbers of best companies to work for that offer in-house child care (statistics obtained from Fortune Magazine). She asked that the Planning Department be creative in providing day care options as it has been in providing the City with housing, restaurants, places to worship, shopping and education. In conclusion, she said there would not be a traffic problem if the City would stop taking away lots that formerly housed single family residences and putting up developments that house 500 people.

Tony Anderanin of 3777 Root, Troy, was present. Mr. Anderanin asked the members' consideration in allowing group day care homes. He and his wife both work, and said it was difficult to find a child care provider who provides the love that he cannot give while he is at work. He said it is not fair to not have an opportunity to choose. Mr. Anderanin addressed neighborhood security and the open door policy of a child care home provider.

Jacqueline Taliaferro of 2714 Dover Drive, Troy, was present. Ms. Taliaferro's three grandchildren are cared for in a group day care home. Ms. Taliaferro said her grandchildren receive quality individual care, and languages and computer skills are among many subjects taught. She said it is her children's prerogative to place their children in a group environment. Ms. Taliaferro said her lifestyle would change should group day care homes not be permitted. She has worked hard all of her life and raised her children and now wants to live her own life.

Chris Thornton of 2978 Wessels, Troy, was present. Mr. Thornton formerly lived at 1590 Crestline and 1821 Flemington. He said that a visit to a group day care center would let one see that it provides the best of both worlds. They provide structure and consistency in its employees. Mr. Thornton encouraged members to look at every option. He said every child and every parent who has a child

attending group day care would inevitably be ousted should the homes not be permitted,

Barbara Webb of 787 Marengo Drive, Troy, was present. Ms. Webb, a recent retiree from the Troy School District, has a degree in elementary education with a specialty in early childhood. Ms. Webb asked that group day care homes be allowed to exist in Troy. She said that would allow the professionally trained people who love to care for children the opportunity to do so. Ms. Webb said she would be pleased if someone bought the house that is for sale next to her and opened a child care home. She would rather have the traffic and noise that would be generated from the day care home as opposed to the semi's and trucks that currently go up and down her street – the street that she and her neighbors paid to have paved 15 years ago.

Justina Dixon of 4791 Liberty Court, Sterling Heights, was present. Ms. Dixon was a group day care provider for 13 years. Ms. Dixon indicated she started as a family day care provider until the number of children increased with the care of siblings. Ms. Dixon currently works for the food program that monitors and regulates the food provided in day care homes. As coordinator from Macomb County Child Care Providers Association, Ms. Dixon was present to show support to the Troy group. She commented that Mr. Chamberlain has been sleeping and should be paying more attention, and corrected the reference to “centers” as opposed to child care home providers. Ms. Dixon indicated that the State of Michigan recognizes family and group day care homes as residential use of property. She noted that there are several agency representatives present should the members have any questions of them.

David Schafer of 5593 Mandale, Troy, was present. Mr. Schafer addressed the “cons” listed by City Management; i.e., traffic, noisy children, increase need for emergency services, and called them a red herring. Mr. Schafer noted that there have been group day care homes in Troy for decades, and the number of family and group day care homes and the number of commercial day care centers has each been determined by the marketing dynamics of supply and demand. He said to suggest there is a pent-up demand for more of any one of the kinds of day care and that traffic and noise would increase is not logical. He said their research disclosed that there were no noise or traffic complaints of any kind. Mr. Schafer said it is logical that there would be fewer calls from day care homes for emergency services because of the State requirements; smoke detectors, fire extinguishers, fire drills, first aid and CPR training. Mr. Schafer said the real question is whether or not the members support the children of Troy. Mr. Schafer said that tonight's comments exhibited facts, emotion, persuasion and personal experiences and he believes that any of the commissioners listening tonight with an honest open mind would feel that approval of the Zoning Ordinance text amendment is right for the City of Troy.

Chair Strat requested a recess at 10:00 p.m.

The meeting reconvened at 10:08 p.m.

Sue O'Connor of 2104 Lakeside Drive, Troy, was present. Ms. O'Connor said there would be no place to care for mentally disabled children should child day care homes not be permitted. She stated commercial day care centers do not accommodate the mentally disabled. Ms. O'Connor said Sharon Schafer cared for her daughter two days a week so she could work.

Mark Swolem of 23832 Palace, Hazel Park, was present. He said the next best thing to being cared for by mom and dad is being cared for by a child care home provider. He said the City has a jewel and he cannot imagine why the City would think of taking it away.

PUBLIC HEARING CLOSED

Mr. Schultz offered the following resolution based upon the pending House Bill 4398 and the volume and input, both fact and opinion, provided by the public this evening and in the past. Mr. Schultz said he felt it would be premature and inappropriate to put a recommendation forward to City Council at this time.

Resolution # PC-2005-08-131

Moved by: Schultz
Seconded by: Wright

RESOLVED, That the City of Troy Planning Commission shall take no further action related to group day care homes until such time as both houses of the State legislature and the Governor's office has taken final action on House Bill 4398, or its corresponding Senate Bill.

Discussion on the motion on the floor.

Ms. Drake-Batts addressed concern in taking no action should the passage of the House Bill be detained. She asked if day care providers would be allowed to continue in the interim. Ms. Drake-Batts suggested that the Resolution be tabled to a certain date so the item could come back to the Commission should the House Bill be delayed or not passed.

Mr. Khan suggested the 19 group day care home providers currently operating in the City should maintain status quo but no new group day care providers should be permitted.

Chair Strat said it is his understanding that the existing day care home providers have been notified that it is a status quo situation.

Mr. Miller confirmed that the Building Department sent notifications to the existing group day care homes informing them of the current situation and that active enforcement would not be occurring. Mr. Miller provided clarification of the Zoning Ordinance with respect to family day care homes and group day care homes. He noted that group day care homes are not being withdrawn from the ordinance, but they have never been included in the ordinance and therefore not permitted. Mr. Miller said a newly initiated group day care home provider would not be in compliance with the current Zoning Ordinance.

A brief discussion followed on the closing of current, existing child day care homes.

Mr. Miller said it is his understanding that City Management would not be providing full enforcement. He said, however, that he does not make the enforcement decision, so he would have to clarify City Management's position at a later date.

Mr. Littman explained the procedure followed for proposed zoning ordinance text amendments. City Council would have final approval, at which time the public would have another opportunity to speak. Mr. Littman said there has been no proposed language drafted for a vote at this time. He noted that should the proposed zoning ordinance text amendment go before City Council, a recommendation from City Management would accommodate the City Council report. Mr. Littman said it is on record that City Management is opposed to any text change. Mr. Littman expects the House Bill to pass and he feels it would be advantageous for the City to be prepared for it.

Mr. Khan said approximately 36 people spoke tonight in favor of group day care homes. He said there appears to be a misconception that the members are trying to close group day care homes. Mr. Khan said from the onset of Ms. Schafer's approach, the Planning Commission requested additional information before taking any action. He said he does not remember anyone on the board requesting to close group day care homes.

Mr. Wright questioned the inconsistencies between the two lists provided by the Planning Department as relates to the regulations of group day care homes in neighboring communities. He asked for a definitive resolution on the lists.

Mr. Miller explained that the most recent list comprises the research and actual reading of ordinance language from neighboring communities. The first list comprised of information received over the phone.

Vote on the motion on the floor.

Yes: Chamberlain, Khan, Schultz, Strat, Vleck, Waller, Wright

No: Drake-Batts, Littman

MOTION CARRIED

Ms. Drake-Batts said she has publicly supported group day care homes. She said she would have preferred a date on the Resolution to protect the group day care home providers. She said if the State does not pass the Bill, or the Bill gets stuck some place, then group day care homes would be in limbo. Ms. Drake-Batts said it is important to start working on the language now.

Mr. Littman said his previous comments expressed why he voted no on the Resolution. He stated that City Manager and staff work for City Council.

Chair Strat provided an explanation of the Resolution passed this evening. He said nothing would happen to existing day care home providers but new day care home providers would have to adhere by the current Zoning Ordinance; in essence not be permitted. Chair Strat said that Ms. Schafer would be okay.

Ms. Schafer said she would like to hear from Mark Miller that she would not be cited with another violation until passage of the Bill. Ms. Schafer noted that there are members on the Planning Commission who said they were dead set against group day care homes.

Mr. Miller said he unfortunately could not give Ms. Schafer the assurance for which she is asking because the Planning Department does not have jurisdiction on enforcement issues. He said he would guarantee to get an opinion and direction from City Management based upon tonight's decision. Mr. Miller provided clarification with respect to a City Council action relating to day care centers in the O-S-C, R-C and O-M districts.

ZONING ORDINANCE TEXT AMENDMENT

7. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 214) – Articles 04.20.00 and 10.30.00, Group Day Care Homes in the R-1A through R-1E Districts**

Resolution # PC-2005-09-150

Moved by: Vleck
Seconded by: Schultz

RESOLVED, That the Planning Commission hereby rescinds Resolution #PC-2005-08-131, which resolved that the Planning Commission take no further action on ZOTA 214 until the State Legislature and the Governor have taken final action on HB 4398.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

Ms. Drake-Batts questioned proposed language relating to a minimum square footage requirement for outdoor play areas.

Chair Strat said the members have not had an opportunity to discuss in detail the proposed verbiage provided by the Planning Department.

Mr. Vleck explained the procedure normally followed by the Planning Commission to reach consensus on proposed zoning ordinance text amendments. Mr. Vleck said the members have not had time to reach a consensus on proposed verbiage for consideration and approval by the City Council, and noted that tonight's Public Hearing was at the request of the City Council.

Chair Strat addressed the chart of Planning Commission actions, prepared by the Planning Department. He said the chart could be misleading to the City Council in that it appears the Planning Commission studied the verbiage in detail and at great length.

A brief discussion continued on the time the Planning Commission studied proposed verbiage.

Mr. Khan asked why City Management changed its stance to a position of neutrality on group day care homes.

Mr. Miller said initially City Management recommended that group day care homes not be permitted in residential areas because traffic statistics indicate that

the impact of traffic generated from the number of trips to/from a group day care home would be beyond what normally occurs in a residential area. After further study, City Management determined that although the traffic would have an affect on the health, safety and welfare of residents, it would not be an immediate or dangerous affect. City Management decided group day care homes is a community value that needs to be determined via a recommendation from the Planning Commission and an ultimate decision by the City Council.

Mr. Schultz said it is unfortunate that City Management had not shared their change of position on the matter prior to this evening in which the Planning Commission was dictated to have a Public Hearing and requested to send a recommendation to the City Council.

Mr. Khan agreed.

Mr. Miller reviewed the number of responses received by the Planning Department in favor and in opposition to the proposed zoning ordinance text amendment since the August 9, 2005 Regular Meeting.

Mr. Vleck emphasized the procedure followed by the Planning Commission for proposed zoning ordinance text amendments, and indicated the members have not had sufficient time to discuss the proposed text on group day care homes. Mr. Vleck said, in his opinion, the members can either table the matter for further discussion and draft proposed text or send to the City Council a recommendation of no change to the Zoning Ordinance. He stated he has read all the public comment provided to him by the Planning Department, and will read all public comment received thereafter.

Mr. Schultz concurred with Mr. Vleck's comments, and asked speakers at tonight's Public Hearing to not repeat the same comments and information that was heard at the previous Public Hearing.

Chair Strat announced guidelines that would be utilized for the Public Hearing due to the size of the audience and the possible number of people who might wish to speak: (1) a time limit of 3 minutes for each speaker and limited to speaking once; (2) repetitive comments are discouraged; (3) maintain professional image; and (4) no clapping. Chair Strat designated Vice Chair Schultz as the timekeeper.

Chair Strat asked the members for a vote of confidence on the guidelines established for the Public Hearing.

Resolution # PC-2005-09-151

Moved by: Wright

Seconded by: Waller

RESOLVED, To approve the procedures set forth for the Public Hearing.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

Mr. Khan asked speakers to address specifically the proposed options and text prepared by City Management.

Mr. Waller asked everyone to consider that tonight's Public Hearing was called by City Management, not the Planning Commission; and reminded everyone that it was discussed at the August 9, 2005 Regular Meeting how the Planning Commission members were not prepared to vote on any proposed text.

Chair Strat commented on the professional booklet received by child care providers and the information received both in support and opposition of the proposed zoning ordinance text amendment. He said it is his opinion that the Zoning Ordinance would be amended, but it is necessary to review in detail the options prepared by City Management and regulations as relates to group day care homes. Chair Strat asked speakers to address those issues.

PUBLIC HEARING OPENED

David Schafer of 5593 Mandale, Troy, was present. Mr. Schafer noted that the Planning Commission members have asked speakers to limit their comments to the proposed language, with no assurances that the proposed amendment would go forward. He said that it is most likely that the Planning Commission members would still hear comments from speakers on the efficacy, validity and value of day care in Troy.

Nichol Childs of 1931 Atlas Court, Troy, was present. Ms. Childs highlighted statistics obtained from surveys distributed to group day care homes in Troy with respect to the number of families utilizing group day care, Troy residency, proximity to residency, and outdoor play areas. Ms. Childs said the State requires a total of 400 square feet for outdoor play areas, not 400 square feet per child. She cited several quotes of the Mayor relating to existing and future jobs, future plans and redevelopment and diversification of existing land uses.

Curtis Childs of 1931 Atlas Court, Troy, was present. Mr. Childs highlighted a recent U.S. Department of Treasury report relating to the composition of the labor force. He addressed a Public Hearing held by the City of Farmington Hills Planning Commission with respect to day care providers, and quoted a comment from the City of Farmington Hills chairman, "Child care truly is not a business, it

is a requirement of modern society.” Mr. Childs commented on the City Management options as follows: Option 2 is good; Option 3 is reasonable other than the required 400 square feet of outdoor play area per child; and Option 4 should not even be an option. Mr. Childs cited statistics from the Michigan State Police relating to crashes on major thoroughfares within the City of Troy.

Kelsey Ciccone of 1336 Lamb Drive, Troy, was present. Ms. Ciccone, 12 years old, and her sister attended the group day care home operated by Sharon Schafer, from birth to a year ago. She asked the City to not take away the opportunity from other kids to have the love and attention that she and her sister had growing up at the Schafer home.

Tom Mason of 929 E. Third Street, Royal Oak, was present. Mr. Mason spoke in support of group day care homes. His children attend a home day care in Troy, and he and his wife are considering moving to Troy to be closer to the day care provider.

Sharon Schafer of 5593 Mandale, Troy, was present. Ms. Schafer addressed the options prepared by City Management, and noted that Option 1 is to stay “status quo” which would mean that group day care homes would be closed down. She shared the accomplishments of her three children that she believes is a reflection to friends, neighbors, day care families and the Troy school district. Ms. Schafer asked the City of Troy to have the vision to be leaders in the State of Michigan and show other cities that group day care homes are good for the State.

Patricia Rencher of 208 Mack Avenue, Detroit, was present. Ms. Rencher is the Vice President of Programs with the Detroit Urban League. Ms. Rencher said the program is administered by the State of Michigan through the U.S. Department of Agriculture to insure proper nutrition is followed by the 200-plus licensed day care providers. She noted that it is also their obligation to observe and report through announced and un-announced visits any violation of health and safety. Ms. Rencher expressed support for group day care homes as a viable choice to parents.

April Orselli of 894 Sylvanwood, Troy, was present. Ms. Orselli spoke in favor of group day care homes. She said allowing group day care homes would promote the City’s motto.

Kim Duford of 3141 McClure, Troy, was present. Ms. Duford addressed the original proposed zoning ordinance text amendment, and said it was simple and should remain simple. Ms. Duford said child care providers responded to the Planning Commission’s request for information in the form of a booklet based on facts and statistics that answered most of the Commission’s questions and concerns. She noted that the Commission has heard from Troy residents who use child care services, Troy businesses, teachers, doctors and neighbors.

Kara White of 22640 Wildwood, St. Clair Shores, was present. Ms. White, Vice President of a Troy business, said it is very important for the City of Troy to have group day care providers as a day care option for businesses. She indicated parents like to have their children cared for near their workplace.

Syed Mohiuddin of 6150 Country Ridge Drive, Troy, was present. Mr. Mohiuddin spoke in support of home day care providers. He said home day care providers are not like typical commercial businesses, and have been recognized as legitimate home businesses by both the State and Federal governments.

Sharon Manning of 2651 E. Square Lake Road, Troy, was present. Ms. Manning said there is a need for quality day care, and suggested that existing group day care homes be grandfathered in. Ms. Manning asked that the proposed language address personal property taxes. She informed the members that she is the only group day care provider who is assessed personal property taxes.

Kathy McDonald of 196 Birchwood, Troy, was present. Ms. McDonald addressed group day care homes in comparison to adult foster care homes with respect to traffic, employees, and noise.

Deane Castilloux of 90 Chopin, Troy, was present. Ms. Castilloux, a family day care provider, is strongly against grandfathering in existing group day care homes because it would eliminate her option to expand into a group day care provider, and could potentially jeopardize her business with respect to fees charged for care.

Chris Komasa of 5287 Windmill, Troy, was present. Mr. Komasa compared traffic concerns related to group day care homes to the traffic generated from public schools located within residential subdivisions. Mr. Komasa spoke in support of group day care homes.

[Mr. Wright stated that the City has no control over public schools and cannot control the locations of public schools.]

[Mr. Miller noted that the Zoning Ordinance requires schools to be located on major thoroughfares, but public schools are exempt from the Zoning Ordinance.]

Barb Webb of 787 Marengo, Troy, was present. It is her understanding that there is a 14% greater demand for infant child care in Oakland County than there are centers to care for infants. Ms. Webb asked that the members vote in favor of group day care homes.

Ramzi Daloo of 2016 Connolly Drive, Troy, was present. Mr. Daloo informed the members that his niece and nephew operate a day care center for approximately 110 children in Farmington Hills. His niece and nephew are very much in support

of group day care homes. Mr. Daloo asked that consideration be given to the young families moving into the City of Troy, as older residents choose to leave.

John Bjelobrk of 5581 Mandale Drive, Troy, was present. Mr. Bjelobrk, a neighbor of a home day care provider, asked that home day care providers respect the space, feelings, lifestyle and freedom of their neighbors.

PUBLIC HEARING CLOSED

Mr. Vleck indicated he is not in receipt of information he requested from the State Building Department and Human Resources Department, and would like to study the item further. Mr. Vleck said a Study Session, not a formal Public Hearing, is the proper format for review and discussion of the item.

Mr. Khan addressed concerns with proposed language with respect to the requirement for outdoor play areas, employees, and site plan waivers. Mr. Khan said he is not ready to vote on the item.

Chair Strat said he personally is in favor of group day care homes, but recognizes that regulations must be stipulated in the Zoning Ordinance. Chair Strat said the item is of priority and would be more appropriately studied at an informal Study Session.

Resolution # PC-2005-09-152

Moved by: Vleck
Seconded by: Wright

WHEREAS, The State of Michigan as provided in Public Act 207 of 1921 and Public Act 285 of 1931 and subsequent changes thereto provides for city planning and authorizes Planning Commissions and their powers; and

WHEREAS, The City of Troy Planning Commission is empowered by the City of Troy Zoning Ordinance to approve matters coming before it and recommend to City Council, where City Council holds that approval power for themselves.

THEREFORE BE IT RESOLVED, To hold a Public Hearing for ZOTA 214 at the Planning Commission Regular Meeting in December and to expedite necessary actions to study this item in the next Planning Commission Study Session in October due to the following reasons:

WHEREAS, This Public Hearing was not initiated by the Planning Commission.

WHEREAS, This Planning Commission is not ready to send any recommendations to the City Council regarding ZOTA 214.

WHEREAS, Staff prepared the verbiage for the proposed ZOTA and the Planning Commission has had very limited discussion on the verbiage of the proposed ZOTA and a consensus as to any necessary changes to the ordinance language has not yet been reached by the Planning Commission.

WHEREAS, Although there may be intent, the status of House Bill No. 4398 has not changed.

WHEREAS, The previous Public Hearing held for by this Body was to get public information from both group day care operations and the neighbors within 300 feet from the existing group day care homes and use that information to help in the formation of any proposed ZOTA language.

WHEREAS, According to the City of Troy Assistant Attorney, Allan Motzny, City of Troy Director of Building and Zoning, Mark Stimac, and the State of Michigan Construction Codes and Fire Safety Department, any building or structure or portion thereof that is used for education, supervision or personal care services for more than five children older than 2-1/2 years of age would be classified as a Group E occupancy and would require the inspection by a State or City Building Inspector before that building could be used for that purpose.

WHEREAS, There is nothing within the child care licensing law that exempts these facilities from the Michigan Building Code provisions.

AND WHEREAS, we would request that the Building Department will hold in abeyance any enforcement of the zoning laws regarding the existence of the group day care homes that are currently licensed and operating in the City until this matter has been resolved by the Planning Commission and the City Council.

Discussion on the motion on the floor.

Mr. Waller stated for clarification that the Public Hearing in December would be a new Public Hearing because the Chair tonight officially closed the Public Hearing.

Chair Strat said the intent of the Public Hearing would be to get public input on detailed items relating to the proposed language.

Mr. Waller said publication of the Public Hearing notice should carry with it all the language that has been developed to that point by the Planning Commission in their Study Sessions.

Vote on the motion on the floor.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

Chair Strat explained the procedure that would be followed by the Planning Commission for its Study Session and Public Hearing in December. He said the proposed draft language would be prepared in advance of the December Public Hearing so the public could comment on the proposed language. Chair Strat asked that public comment be limited at the Study Session so members can focus on the proposed language.

Chair Strat opened the floor for comments and questions. He addressed specific questions and comments posed by Syed Mohiuddin of 6150 Country Ridge, Troy; Curtis and Nichol Childs of 1931 Atlas Court, Troy; and Michael Upton of 1267 Hartland, Troy.

Mr. Miller said the proposed draft language that is arrived at by a consensus of the Planning Commission would be made available to those who request it prior to the Public Hearing in December.

Mr. Schultz addressed the two Public Comment portions listed on every Planning Commission agenda.

ZONING ORDINANCE TEXT AMENDMENT

9. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 214-B) – Articles 04.20.00 and 10.30.00, Group Day Care Homes in the R-1A through R-1E Districts on a Temporary Basis

Mr. Miller reviewed the Resolution adopted by City Council on October 3, 2005 that requested the Planning Commission to set a Public Hearing on a proposed zoning ordinance text amendment that would allow group day care homes in the R-1A through R-1E districts on a temporary basis. He said the amendment would essentially legalize the approximate 20 group day care homes currently licensed and existing at the time the amendment is adopted by City Council.

Discussed at length were the following two conditions of the proposed amendment:

- The date of final action by City Council that would affect the existing group day care homes.
- The timeframe the temporary basis would be in affect after City Council takes final action.

Mr. Motzny said consideration and approval of the proposed amendment should be based on whether the members believe a public purpose would be served.

PUBLIC HEARING OPENED

John Bjelobrk of 5581 Mandale, Troy, was present. Mr. Bjelobrk asked how many members of the Planning Commission live next door to or within 300 feet of a family or group day care home. He also asked if any member of the Planning Commission has a friend or relative who operates a day care center. Mr. Bjelobrk said he would be willing to swap houses with Chair Strat so he would have the opportunity to experience living next to a group day care home. He voiced concern with the City procedure to notify only those residents living within 300 feet of existing group day care homes, and said the issue should be placed on a city-wide ballot. Mr. Bjelobrk voiced concern that a fire in a group day care home would jeopardize his family's safety and affect the cost of his insurance coverage. He asked that group day care homes not be grandfathered. Mr. Bjelobrk addressed traffic, noise, and parking concerns, and encouraged parents to raise their own children.

Curtis Childs of 1931 Atlas Court, Troy, was present. Mr. Childs said approximately 800 homes have been receiving the Public Hearing notices and very few negative responses have come forward.

PUBLIC HEARING CLOSED

Resolution # PC-2005-10-

Moved by: Drake-Batts
Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles IV and X, pertaining to Group Day Care Homes in the R-1A through R-1E Zoning Districts on a Temporary Basis, be amended as follows:

1. To remove “[Date of Final Action by City Council]” and replace and substitute it with “[The Approval of ZOTA 214-B by City Council]”.

Discussion on the motion on the floor.

Mr. Waller asked that the Resolution be amended to change all entries of 10 days to 100 days, with reference to the timeframe of the temporary basis after the Troy City Council has had the opportunity to conduct a Public Hearing and take final action.

A brief discussion followed on the wording of the zoning ordinance text amendment.

Mr. Motzny suggested a recess to prepare the appropriate wording of the Resolution.

Chair Strat requested a recess at 8:50 p.m.

The meeting reconvened at 9:02 p.m.

Ms. Drake-Batts withdrew the motion on the floor. Mr. Littman was in agreement with the withdrawal.

Resolution # PC-2005-10-171

Moved by: Drake-Batts
Seconded by: Littman

RESOLVED, That group day care homes as defined in Section 04.20.69, licensed by the State of Michigan and in operation as of *the date of approval of ZOTA 214-B by City Council*, shall be permitted to continue on a temporary basis not to exceed thirty (30) days after the Troy City Council has had the opportunity to conduct a Public Hearing and take final action on any proposed revisions to Charter 39, Article X, related to the regulation of group day care homes as set forth in ZOTA 214.

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

MOTION CARRIED

Mr. Wright said the Planning Department has received several letters from neighbors who are opposed to group day care homes because of traffic, parking, and noise. Mr. Wright said he personally thinks a group day care home is a commercial enterprise that should not exist in a residential zone.

ZONING ORDINANCE TEXT AMENDMENT**8. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 214) – Article 10.25.02 and 10.30.10, Family Child Care Homes and Group Child Care Homes in the R-1A through R-1E Districts**

Mr. Miller reported City Management is neutral on the issue and has not issued a recommendation. Mr. Miller said City Management has the responsibility to consider options, recognize certain cause and effect, and insure that the Planning Commission makes a recommendation to City Council, who in turn will make the community value decision regarding Group Child Care Homes.

Mr. Miller briefly discussed four items in the proposed zoning ordinance text amendment: (1) Fencing or screening regulations; (2) Registration with the City Clerk's office; (3) Compliance with Michigan Building Code; and (4) a 1,500-foot distance requirement from any State residential licensed facility. He displayed a map that demonstrated the 1,500-foot distance requirement and noted that only 5 of the 20 existing group child care homes would meet the requirement. Mr. Miller referenced the list of existing licensed group child care homes which are less than 1,500 feet from a State licensed residential facility.

Brief discussion followed on:

- 1,500-foot distance requirement in relation to the City and Village Zoning Act.
- Anticipated legislative action.
- Michigan Building Code inspections.

Chair Strat announced guidelines that would be utilized for the Public Hearing; specifically, a time limit of 3 minutes per speaker, no redundancy, and comments limited to the four points discussed by the Planning Director. Chair Strat designated Mr. Savidant as the timekeeper.

PUBLIC HEARING OPENED

David Schafer of 5593 Mandale, Troy, was present. Mr. Schafer addressed the proposed requirements with respect to fencing, license registration, and a 1,500-foot distance from other State residential licensed facilities. He concurs with City Management that the requirements are not necessary. Mr. Schafer said that should the City determine a distance is necessary between licensed facilities, a reduction in the distance should be considered. He encouraged the members to send a recommendation to the City Council so the matter could be resolved.

An attorney was present to represent Chan Chung of 1189 Garwood, Troy. The attorney addressed concerns of Mr. Chung as a neighbor of a group child care home facility. A handout was distributed to the members that detailed concerns of noise, privacy, aesthetics, traffic, parking and safety. Mr. Chung, a professor

at Lawrence Tech University, teaches in the evening and is home during the day. The attorney pointed out that 50% of the residents in the subdivision are Oriental and because of the language barrier, they might be intimidated to voice their opinions on the matter.

Syed Mohiuddin of 6150 Country Ridge, Troy, was present. Mr. Mohiuddin addressed the proposed requirements on fencing and a 1,500-foot distance between licensed facilities. He noted that his subdivision does not allow fences. Mr. Mohiuddin supports the position of City Management.

Curtis Childs of 1931 Atlas, Troy, was present. Mr. Childs agrees with City Management that the proposed requirements should be eliminated. Mr. Childs addressed State inspections, the intent of proposed language in House Bill 4398, traffic, and noise. He said group child care homes are not commercializing neighborhoods; they look like residential homes. Referencing a comment that some residents might not voice their opinions, Mr. Childs, a police officer by profession, said people are not afraid to make complaints.

Carol McBratnie of 1130 Larkmoor Blvd., Berkley, was present. Ms. McBratnie asked for clarification on the type of fencing that would be required. Ms. McBratnie addressed the 1,500-foot distance between licensed facilities and asked if a grandfather clause would be considered for the group child care homes currently in existence.

Barbara Webb of 787 Marengo, Troy, was present. Ms. Webb agrees with the comments of City Management. Ms. Webb asked that the members take into consideration individuals who care for one or two children of a friend or relative and individuals who receive assistance from the State (FIA).

Tony Anderanin of 3777 Root, Troy, was present. Mr. Anderanin asked for a favorable recommendation to change the zoning ordinance language to allow group child care homes in residential areas.

Nancy Regan of 120 Gordon, Troy, was present. Ms. Regan spoke in support of group child care homes.

PUBLIC HEARING CLOSED

Mr. Miller clarified the difference between the Michigan Building Code requirements and the State licensing requirements.

Mr. Wright said it appears that the State is not enforcing some of its own requirements; i.e., the 1,500-foot distance between licensed facilities. Mr. Wright said he is not in favor of recommending any changes to City Council to the Zoning Ordinance to allow commercial enterprises to operate in residential

zoning. Mr. Wright addressed the State requirement of additional employee(s) for the operation of a group child care home. He said a change like that would place the City's home occupation ordinance in jeopardy. Mr. Wright said he could hire someone to help him prepare tax returns in his home, or his neighbor could hire a secretary to assist him in his law practice in his home, and either one of those operations would generate less traffic and noise than a group child care home. Mr. Wright said an ordinance change to allow group child care homes could have a devastating impact on the City's residential zoning ordinance.

Mr. Chamberlain said public hearings sometimes draw only the people who are in support of a particular ordinance change. Mr. Chamberlain said he feels the Planning Commission owes it to the residents who bought a home in a residential neighborhood to keep the residential character of that neighborhood.

Mr. Vleck said his concern is not the traffic that is generated in the neighborhood, but the potential impact that a group child care home has on the direct neighboring properties. Mr. Vleck said his goals are to get a recommendation to City Council and to provide City Council with as much information as possible on the research undertaken by the Planning Commission.

Resolution # PC-2005-12-197

Moved by: Vleck
Seconded by: Chamberlain

WHEREAS, The State of Michigan as provided by Public Act 207 of 1921 and Public Act 285 of 1931 and subsequent changes thereto provides for city planning and authorizes Planning Commissions and their powers; and

WHEREAS, The City of Troy Planning Commission is empowered by the City of Troy Zoning Ordinance to approve matters coming before it and to make recommendations to City Council, where the Council holds the approval power for themselves.

THEREFORE, IT IS RESOLVED, That the Planning Commission does not recommend to the City Council the changing of Articles IV and X, pertaining to Group Day Care Homes in the R-1A through R-1E Districts, for the following reasons:

WHEREAS, It has been demonstrated by public input, letters and photos that family and group day care homes do have a negative impact on the neighboring property owners.

WHEREAS, According to City of Troy Assistant Attorney, Allan Motzny, and City of Troy Director of Building & Zoning, Mark Stimac, any building or structure or portion thereof that is used for the education, supervision or personal care services for more than five (5) children older than 2-1/2 years of age would be

classified as a Group E occupancy. This has significant implications on the ability of the structure to comply with building code requirements such as automatic sprinklers in basements, Michigan barrier-free design and the Federal Americans with Disabilities Act.

WHEREAS, There is nothing within the child care licensing law that exempts these facilities from the Michigan Building Code provisions.

WHEREAS, The current ordinance allows for family day care homes but limits enrollment thus permitting a needed service while minimizing the intrusion and negative impact on neighboring properties.

BE IT ALSO ADVISED TO CITY COUNCIL, That if the current zoning is revised, the Planning Commission makes the following recommendations:

10.25.02 Family Day Care Homes, as defined in Section 04.20.60, subject to the following conditions:

- A. The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed six (6).
- B. The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01 shall not apply to Family Day Care Homes.
- C. The resident-operator of the Family Day Care Home shall be licensed in accordance with applicable State Law.
- D. To maximize the safety and the privacy for the neighboring properties, there shall be no dropping off of children between the hours of 10:00 p.m. and 6:00 a.m.
- E. To maximize the safety and the privacy for the neighboring properties, if the outdoor play area is located on the premises, the play area shall be fenced or screened with a 6-foot high privacy fence.
- F. No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.
- G. No sign shall be used on the premises to identify the Family Day Care Home.
- H. Family Day Care Homes with vehicular access on a major or secondary thoroughfare shall be required to have a circular drive or an unobstructed turnaround to allow for the safe egress of vehicles.

10.30.10 Group Day Care Homes, as defined in Section 04.20.69, subject to the following conditions:

- A. To maximize the safety and the privacy and to minimize noise for the neighboring properties, Group Day Care Homes shall be allowed on

- properties greater than one-half acre in size and having a minimum side yard setback of 20 feet.
- B. The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed twelve (12).
 - C. The resident-operator of the Group Day Care Home shall be licensed in accordance with applicable State Law.
 - D. To maximize the safety and the privacy for the neighboring properties, there shall be no dropping off of children between the hours of 10:00 p.m. and 6:00 a.m.
 - E. No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.
 - F. No sign shall be used on the premises to identify the Group Day Care Home.
 - G. The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01, shall not apply to Group Day Care Homes.
 - H. Group Day Care Homes with vehicular access on a major thoroughfare shall be required to have a circular drive or an unobstructed turnaround area to allow for the safe egress of vehicles.
 - I. The Planning Director may waive any required site plan information provided it can be determined that the application meets the Group Day Care Home requirements of Section 10.30.10 and the general Special Use Approval standards of Section 03.31.05.
 - J. To maximize the safety and the privacy for the neighboring properties, if the outdoor play area is located on the premises, the play area shall be fenced or screened with a 6-foot high privacy fence.
 - K. The licensee shall register with the City upon commencing operation and on an annual basis each January thereafter, and the licensed premises shall be subject to a fire and building department inspection and shall provide a smoke detector in all daytime sleeping areas and otherwise comply with applicable building and fire codes.
 - L. The applicant shall identify the entrance(s) for drop-offs and pickups. The parking and drop-off areas shall be designed to maximize safety and privacy for the neighboring properties.
 - M. To prevent the commercialization of residential districts, Group Day Care Homes shall be not be located within 1,000 feet of another state licensed residential facility.

Discussion on the motion on the floor.

Mr. Miller questioned if the condition to require a circular drive or unobstructed turnaround area could be placed on Family Child Care Homes that have vehicular access on a major or secondary thoroughfare.

Mr. Motzny, upon further review, said he believed it is a valid condition should the Planning Commission reason that it is a public health, safety and welfare concern.

At the request of Ms. Drake-Batts, Mr. Vleck provided a brief overview of the motion.

Ms. Drake-Batts said the proposed requirements with respect to the one-half acre lot size and the 1,500-foot distance between licensed facilities would make the existence of Group Child Care Homes almost impossible. She said, however, that the Commission owes it to the residents to get the matter up to City Council for a final decision. Ms. Drake-Batts said she would vote in favor of the motion even though she does not agree with a lot of the proposed conditions.

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

MOTION CARRIED

Mr. Littman agreed that a recommendation should go to the City Council. Mr. Littman said Group Child Care Homes should be provided for, and the basic part of the Resolution is a recommendation against them.

C-4 Zoning Ordinance Text Amendment (ZOTA 214-B) – Article IV and X, Approval of Group Child Care Homes on a Temporary Basis in the R-1A through R-1E Districts

Resolution #2005-11-521

Moved by Broomfield

Seconded by Fleming

RESOLVED, That Article IV (DEFINITIONS) and Article X (ONE FAMILY RESIDENTIAL DISTRICTS) of the City of Troy Zoning Ordinance, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 214-B: Temporary Approval of Group Child Care Homes), as recommended by the Planning Commission and City Management.

Yes: All-5

No: None

Absent: Beltramini, Howrylak

Existing Group Child Care Homes

Parcel NO.	FACILITY	Address	Parcel Size in Acres	Site Able to Meet Proposed Requirements	Parcel 1/2 Acre or Less	Within 1000 ft. of Group Daycare Home	Within 1000 ft. of Family Daycare Home	Within 1000 ft. of Adult Foster Care Family Home	Within 1000 ft. of Adult Foster Care Home Small Group
88-20-01-476-088	MANNING GROUP DAY CARE HOME	2651 E SQUARE LAKE	0.39	NO	X				
88-20-03-226-037	ZIEHM, JENNIFER	731 LOVELL	1.34	NO			X		X
88-20-05-353-012	SUNSHINE HOME DAY CARE	6150 COUNTRY RIDGE	0.31	NO	X				
88-20-08-104-005	DOYLE, JOYCE	1834 FARBROOK	0.34	NO	X		X		X
88-20-10-308-002	COLLINS, JUDITH	5410 HERTFORD	0.31	NO	X				
88-20-12-152-027	SCHAFFER, SHARON	5593 MANDALE	0.19	NO	X				
88-20-14-226-004	DEPAUW, MARLA	1830 E LONG LAKE	1.11	YES					
88-20-14-351-072	PETERSON, KATHLEEN	1175 GARWOOD	0.23	NO	X				
88-20-17-276-047	HAQUE, TALAT ARA	1033 REDDING	0.55	NO					X
88-20-20-226-090	REYNOLDS, DEBORAH	1285 W WATTLES	0.97	YES					
88-20-20-227-032	JOHNSTON, BONNIE	1510 BOULAN	0.50	NO	X		X		
88-20-20-402-030	DUFORD, KIMBERLY	3141 MCCLURE	0.83	NO			X	X	
88-20-22-401-083	BEST OF CARE	543 VANDERPOOL	0.45	NO	X		X	X	
88-20-23-430-016	SAIDE, JANICE	1865 CRIMSON	0.26	NO	X		X		X
88-20-24-180-001	KRISCOVICH, KAREN	3784 FORGE	0.23	NO	X		X		
88-20-25-179-010	GEORGIYEVA, NATALIYA & VALENTINA	2320 ISABELL	0.24	NO	X		X		
88-20-25-402-029	CHILDS, CURTIS & NICHOL	1931 ATLAS	0.21	NO	X				X
88-20-27-451-056	GOD'S PRECIOUS CREATIONS	685 E MAPLE	0.50	NO			X		X
88-20-35-352-037	KIECA, DOREEN	151 KENYON	0.14	NO	X	X			
88-20-35-355-020	FULLER, PAULETTE	301 REDWOOD	0.14	NO	X	X			

CHILD CARE CENTERS AND CHILD CARE HOMES IN TROY		
Facility	Number	Capacity
Child Care Centers	48	3,621
Group Child Care Homes	19	228
Family Child Care Homes	42	252
Total	109	4,101

Source: State of Michigan, Department of Human Services (website), January 24, 2006.

Child Day Care

Day Care Family Home

"Family day care home" means a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

Day Care Group Home

"Group day care home" means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

Child Day Care Center

"Child care center" or "day care center" means a facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day.

Adult Foster Care

Adult Foster Care - Family Home - Capacity 1 - 6 licensee resides on-site

Adult Foster Care - Small Group - Capacity 1 - 6 may reside off-site

Adult Foster Care - Large Group - Capacity 13 - 20

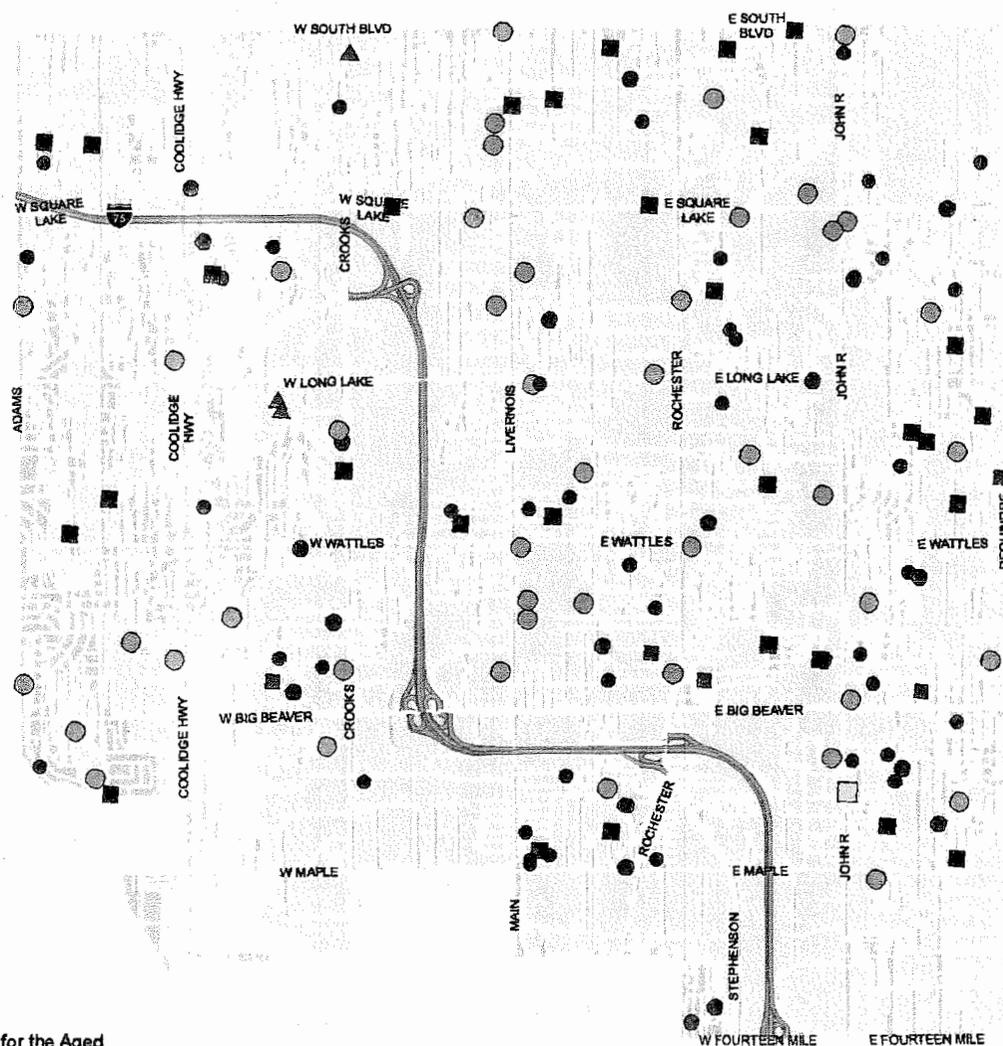
Home for the Aged

A supervised personal care facility, that provides room, board, and supervised personal care to 21 or more unrelated non-transient, individuals 60 years of age or older.

Source: Michigan Department of Human Services

Legend

- | | | | | | |
|---|----------------------|---|------------------------------------|---|-------------------|
| ● | Day Care Family Home | ■ | Adult Foster Care Family Home | ▲ | Home for the Aged |
| ● | Day Care Group Home | ■ | Adult Foster Care Small Group Home | | |
| ● | Day Care Center | ■ | Adult Foster Care Large Group Home | | |



DATE: February 14, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Application of the Michigan Building Code
Pertaining to Day Care Group Homes

In order to understand the building code implications of allowing Day Care Group Homes (7-12 children) in single-family residential structures, it is imperative to understand the theory behind the development of the requirements of the building codes as they relate to the different uses of buildings and structures.

The Michigan Building Code is adopted by the State of Michigan and per the requirements of Public Act 230 of 1972, as amended, applies throughout the State without exception. This code is based primarily on requirements of the International Building Code. The International Building Code is promulgated by the International Code Council (ICC) through a consensus process and is published every three years. The current edition is the 2003 edition with the 2006 edition soon to be published.

The requirements of the Building Code are developed on the theory of, as I call it, "an equivalent level of minimum safety" in all buildings. That is to say that depending on the types of construction materials used, the use of the building, and other factors such as the availability of fire suppression, fire detection, and fire alarm systems, that all buildings will meet a minimum level of safety for the occupants. In order to establish this equivalent level, the size of buildings and number of stories are regulated by the code based upon these variables. The two most important factors in determining this minimum level of safety are the construction type of the building and the occupancy group of the uses that will take place inside.

Certain building materials have an inherently greater resistance to the effects of fire than other materials. Reinforced concrete is less likely to fail under exposure to fire than ordinary lumber. Building materials can also have additional protection applied to them to increase their resistance to the effects of fire. Steel, sprayed with a fire resistant coating, or encased in layers of gypsum board, has shown through testing to have a resistance to fire equal to that of concrete.

These “types of construction” are broken down into nine different categories 1A through 5B. Type 1A construction is one where the structural members are designed and tested to withstand a fire for up to three hours. Type 5B construction, at the other end of the spectrum, includes unprotected wood frame construction typically found in single-family homes. With buildings used for the same purpose, as the fire resistance of the structure increases, the allowable size for the building increases as well.

The other factor greatly affecting the allowable size for a building is what the building is going to be used for. Certain uses, because of the number of people involved and the activities that they are engaged in, are more hazardous than others. In others, the condition of the occupants, such as being asleep, anesthetized, restrained or having reduced mobility because of age or mental capacity affects the level of safety of the building. The Building Code divides the different uses of a building into ten basic use group categories. It further breaks those categories down into 26 sub-categories.

In establishing this equivalent level of safety the building code looks at a combination of the construction type of the building and the use group classification for the intended uses of the building. It then establishes a maximum height and area for those buildings also taking into account the availability of fire suppression, as well as the provision for access to the building for fire fighting purposes. In buildings constructed of heavily protected construction the areas and heights are unlimited. Other uses are not permitted at all in the unprotected wood frame buildings.

In terms of the question directly at hand, a single-family residence is classified as an occupancy group R-3 (Residential). A building in this occupancy group can be built of unprotected wood frame construction to an unlimited size up to three stories in height. A child day care facility for up to five children also fits within this same group and restrictions. When a day care facility provides care for more than five children then it is classified as an occupancy group E (Educational). Under this occupancy group in order to obtain that same “equivalent level of minimum safety” the code limits the area of the building built of unprotected wood construction to 9,500 square feet and limits the height to a maximum of one story above grade. The area can be increased to 28,500 square feet and the height can be increased to two stories if the building is provided with a fire suppression (commercial fire sprinkler) system.

If the children cared for are very young (under 2 ½ years of age) and not capable of self-preservation, the code places the facility into a higher group classification of an I-4 (Institutional) use group. These uses are limited to one story and 9,000 square feet and are required to have fire suppression. However, there is an exception if all of the rooms used for the day care are on the ground floor and have a door directly to the outside. Under those conditions the facility would still be classified as an E use group.

If these facilities include rooms or spaces that are below grade (basements) that are used as part of the child care facility, those basements must be provided with an exterior stairway leading to the ground, or openings on at least one side of the building

that are above the ground and at least 20 square feet of area, or they must be provided with a fire suppression system.

While the typical single family home is not subject to the requirements for handicap accessibility, facilities that care for more than five children are. The code does not require that the entire home be designed to meet these standards, but it does require that the portion of the home used for day care meet the accessibility standards. This would include accessible parking spaces (the signs are not required for five or fewer parking spaces), accessible building approach, accessible entrances, accessible hardware and accessible plumbing facilities. The City of Troy does not enforce the requirements of the American's with Disabilities Act (ADA), but the ADA does indicate that a day care center is a public accommodation covered under that act.

There is another code that has been adopted by the State of Michigan that may have some application in these cases. The State has developed and adopted the Michigan Rehabilitation Code for Existing Buildings. This code has provisions that could be used for reviewing applications for the alteration of existing buildings. The establishment of a Day Care Group Home in an existing single-family residence is considered to be a change of occupancy classification. As previously discussed, the occupancy classification for at least a portion of the structure will change from an R-3 to an E classification. Chapter 8 of the Rehabilitation Code establishes the minimum requirements when such a change takes place.

The application of this code requires a case-by-case analysis of the structure and the areas involved. While the use of this code may eliminate the need for a fire suppression system or modifications to existing stairways, it still would require that the building comply with the general height and area limitations of the Michigan Building Code as well as the accessibility requirements for the areas involved.

Prepared by: Mark Stimac, Director of Building and Zoning