AGENDA

Regular Meeting of the

CITY COUNCIL
OF THE CITY OF TROY

MARCH 6, 2006

CONVENING AT 7:30 P.M.

Submitted By
The City Manager

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at clerk@ci.troy.mi.us at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John Szerlag, City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

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

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

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

Goals

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

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

Respectfully submitted,

John Szerlag, City Manager

CITY COUNCIL

AGENDA

March 6, 2006 – 7:30 PM
Council Chambers
City Hall - 500 West Big Beaver
Troy, Michigan 48084
(248) 524-3317

CALL TO ORDER: 1

INVOCATION & PLEDGE OF ALLEGIANCE: Pastor Jim Loller – First Baptist Church1

ROLL CALL: 1

CERTIFICATES OF RECOGNITION: 1

A-1 Presentations: No Presentations 1

CARRYOVER ITEMS: 1

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PUBLIC HEARINGS: 1

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C-2 Zoning Ordinance Text Amendment (ZOTA 214) – Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts - A Continuation of the Public Hearing is Scheduled for the Regular City Council Meeting on Monday, March 20,

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D-2 Rezoning Application – Proposed Binson's Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z 180-B) 3

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Monday, May 22, 2006 Regular City Council 15
Monday, June 5, 2006 Regular City Council 15
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CALL TO ORDER:

INVOCATION & PLEDGE OF ALLEGIANCE: Pastor Jim Loller – First Baptist Church

ROLL CALL:

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

CERTIFICATES OF RECOGNITION:

A-1 Presentations: No Presentations

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 Zoning Ordinance Text Amendment (ZOTA 218) – Article 10.30.03, Permit Child Care Centers by Special Use Approval in the R-1A through R-1E Zoning Districts - **A Continuation of the Public Hearing is Scheduled for the Regular City Council Meeting on Monday, March 20, 2006 so a Full Complement of Council will be in Attendance (Resolution #2006-02-113)**

C-2 Zoning Ordinance Text Amendment (ZOTA 214) – Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts - **A Continuation of the Public Hearing is Scheduled for the Regular City Council Meeting on Monday, March 20, 2006 so a Full Complement of Council will be in Attendance (Resolution #2006-02-113)**

POSTPONED ITEMS:

D-1 Approval of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road

(a) New License

POSTPONED Resolution
Resolution
Moved by Stine
Seconded by Broomfield

RESOLVED, That the request from White Star Entertainment, Inc. to transfer ownership of a 2005 Class C-SDM licensed business with Entertainment Permit and Official Permit (food) at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; be **CONSIDERED FOR APPROVAL**.

(b) Agreement

POSTPONED Resolution
Resolution
Moved by Stine
Seconded by Broomfield

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

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **APPROVES** an agreement with White Star Entertainment, Inc. to transfer ownership of a 2005 Class C-SDM licensed business with Entertainment Permit and Official Permit (food) at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

POSTPONED Amendment Resolution
Resolution
Moved by Stine
Seconded by Broomfield

RESOLVED, That the Resolution to approve the of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road be **AMENDED** by **INSERTING** "with dance permit" **AFTER** "Official Permit (food)" in resolutions (a) and (b).

PROPOSED RESOLUTION TO AMEND AMENDMENT BY SUBSTITUTION
Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

RESOLVED, That the Resolution to amend the Resolution of approval the of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road be **AMENDED** by **SUBSTITUTION** by **STRIKING** the amendment in its entirety and inserting the following:

> RESOLVED, That the Resolutions to approve the of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road be **AMENDED** by **SUBSTITUION** by **STRIKING** Resolutions (a) and (b) in their entirety and inserting the following:
>
> **(a) New License**

RESOLVED, That the request from White Star Entertainment, Inc. to transfer ownership of 2005 Class C-SDM licensed business with dance permit, at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; and request new entertainment permit, **BE CONSIDERED FOR APPROVAL**.

It is the consensus of this legislative body that the application be **RECOMMENDED** for issuance.

(b) Agreement

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

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **APPROVES** an agreement with White Star Entertainment, Inc. to transfer ownership of 2005 Class C-SDM licensed business with dance permit, at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; and request new entertainment permit; and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That if the Michigan Liquor Control Commission approves White Star Entertainment, Inc. application to transfer ownership of 2005 Class C-SDM licensed business with dance permit, at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc; and request new entertainment permit, the City Council for the City of Troy, not less than 30 days before the expiration of said transferred license, **SHALL CONDUCT** a due process hearing and determine whether it should file an objection to the renewal of said license with the Michigan Liquor Control Commission.

Yes:
No:

D-2 Rezoning Application – Proposed Binson's Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z 180-B)

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

Proposed Resolution A (Denial)

RESOLVED, That the R-C to O-1 rezoning request, located on the northwest corner of Rochester and Marengo, Section 3, being 39,000 square feet in size, is hereby **DENIED** for the following reasons, as recommended by City Management and the Planning Commission:

1. The application does not comply with the Future Land Use Plan.
2. Making a recommendation that is contrary to the Future Land Use Plan would weaken the validity of the Plan and make it more difficult to defend future zoning decisions.
3. Rezoning this parcel to B-1 would result in the enlargement of an undesirable commercial "spot zone" along an area along the Rochester Road corridor that is planned for medium density use.
4. Approval of the rezoning request could open the door for further commercial rezoning applications along the Rochester Road corridor.

Or Proposed Resolution B (Approval)

RESOLVED, That the R-C to O-1 rezoning request, located on the northwest corner of Rochester and Marengo, Section 3, being 39,000 square feet in size, is hereby **APPROVED**.

Or Proposed Resolution C (Postponement)

RESOLVED, That the R-C to O-1 rezoning request, located on the northwest corner of Rochester and Marengo, Section 3, being 39,000 square feet in size, is hereby **POSTPONED** to the first Regular City Council meeting in August, 2006, to provide City Management and the Planning Commission with an opportunity to amend the Future Land Use Plan.

Yes:
No:

D-3 Appointment to Cable Advisory Committee

Postponed Resolution
Resolution #2006-03-
Moved by Broomfield
Seconded by Lambert

RESOLVED, That the following person is hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Board and Committee as indicated:

Cable Advisory Committee
Appointed by Council (7) – 3 Year Terms

Brian Wattles Term Expires 02/28/09

Yes:
No:

CONSENT AGENDA:

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

Agenda shall be considered after other items on the consent portion of the agenda have been heard. Public comment on Consent Agenda Items will be permitted under Agenda Item 9 "E".

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

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

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

Yes:
No:

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

E-2 Approval of City Council Minutes

Suggested Resolution
Resolution #2006-03-

RESOLVED, That the Minutes of the 5:30 PM Special City Council Meeting of February 23, 2006, the 7:30 PM Regular City Council Meeting of February 27, 2006 and the 7:30 PM Special-Joint City Council Meeting of February 28, 2006 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamations: None Submitted

E-4 Standard Purchasing Resolutions

a) Standard Purchasing Resolution 1: Award to Low Bidder - Topsoil

Suggested Resolution
Resolution #2006-03-

RESOLVED, That a two-year contract to provide topsoil with an option to renew for one additional year is hereby **AWARDED** to the low bidder, Sterling Topsoil and Grading, Inc. of Sterling Heights, MI, for an estimated total cost of $35,700.00, at the unit prices contained in the bid tabulation opened February 7, 2006, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

b) Standard Purchasing Resolution 3: Exercise Renewal Option – Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses

Suggested Resolution
Resolution #2006-03-

WHEREAS, On April 4, 2005, a one-year contract with an option to renew for one (1) additional year to provide fertilization services at both City Golf Courses was awarded to the lowest bidder meeting specifications, Turfgrass, Inc. of South Lyon, MI (Resolution #2005-04-149-E17);

WHEREAS, Turfgrass, Inc. has agreed to exercise the one-year option to renew the contract under the same prices, terms and conditions;

NOW, THEREFORE, BE IT RESOLVED, That the option to renew the contract is hereby **EXERCISED** with Turfgrass, Inc., to provide fertilization services at the City Golf Courses for an estimated total cost of $34,140.00 under the same pricing structure, terms, and conditions as the original contract, expiring December 31, 2006.

c) Standard Purchasing Resolution 2: Bid Award – Lowest Bidder Meeting Specifications – Tennis Court Reconstruction

Suggested Resolution
Resolution #2006-03-

RESOLVED, That a contract to reconstruct the east and west tennis courts at Boulan Park, is hereby **AWARDED** to the lowest bidder meeting specifications, ABC Paving Company, of Trenton, MI, for an estimated total cost of $116,452.00, at prices contained in the bid tabulation opened on February 8, 2006, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon vendor submission of properly executed bid and contract documents, including insurance certificates, bonds, and all other specified requirements; and if additional work is required, due to unforeseen circumstances, such work is **AUTHORIZED** in an amount not to exceed 10% of the total project cost or $11,645.00.

d) Standard Purchasing Resolution 1: Award to Low Bidder – Mosquito Control

Suggested Resolution
Resolution #2006-03-

RESOLVED, That a one-year contract for mosquito control in the residential curb storm drains is hereby **AWARDED** to the low bidder, Invaders Pest Control of Lincoln Park, MI for an estimated total cost of $19,500.00, at the unit price contained in the bid tabulation opened February 10, 2006, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

e) Standard Purchasing Resolution 3: Exercise Renewal Option – Transit Mixed Concrete

Suggested Resolution
Resolution #2006-03-

WHEREAS, On April 18, 2005, one-year contracts with an option to renew for one additional year to provide transit mixed concrete were awarded to the sole bidder, Nagy Ready Mix, Inc. of Utica, MI, the primary supplier; and Clawson & Killins Concrete Company of Novi, MI, the secondary supplier, as a result of an informal quote process (Resolution # 2005-04-183-E4f);

WHEREAS, Both awarded bidders have agreed to exercise the one-year option to renew under the same prices, terms, and conditions.

NOW, THEREFORE, BE IT RESOLVED, That the options to renew the contracts are hereby **EXERCISED** with Nagy Ready Mix, Inc. of Utica, MI, the primary supplier and Clawson & Killins Concrete Company of Novi, MI, the secondary supplier, to provide transit mixed concrete for an estimated total cost of $166,554.00, under the same contract prices, terms, and conditions expiring April 30, 2007.

E-5 Announcement of Public Hearing – Community Development Block Grant (CDBG) Re-programming of Year 2003 Funds

Suggested Resolution
Resolution #2006-03-

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on Monday, March 20, 2006 at 7:30 PM or as soon thereafter as the agenda will permit for the purpose of hearing public comments on the re-programming of program year 2003 unexpended funds from Flood Drain Improvements Account to the Sewer Benefit Fee (Special Assessment) Account and the addition of Sewer Benefit Fee (Special Assessment) for Charnwood Subdivision Area, Phase #1, Section 6 to the list of CDBG projects for 2003.

E-6 Announcement of Public Hearing – Community Development Block Grant (CDBG) Re-programming of Year 2004 Funds

Suggested Resolution
Resolution #2006-03-

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on Monday, March 20, 2006 at 7:30 PM or as soon thereafter as the agenda will permit for the purpose of hearing public comments on the re-programming of program year 2004 unexpended funds from Flood Drain Improvements Account to the Sewer Benefit Fee (Special Assessment) Account and the addition of Sewer Benefit Fee (Special Assessment) for Charnwood Subdivision Area, Phase #1, Section 6 to the list of CDBG projects for 2004.

E-7 Load Restrictions

Suggested Resolution
Resolution #2006-03-

RESOLVED, That axle load limits of 6,000 pounds per axle and 8,500 pounds per tandem assembly are hereby **ESTABLISHED** and **IMPOSED** upon vehicles traveling upon streets and roads of the City of Troy, during periods prescribed in Chapter 94, Axle Load Ordinance, of the Code of the City of Troy for "frost law" limitations, which streets are listed in Attachment "A" of a report from the Public Works Director dated February 16, 2006, a copy of said report and attachments shall be **ATTACHED** to the original Minutes of this meeting.

E-8 Summer Maintenance Agreement – R.C.O.C.

Suggested Resolution
Resolution #2006-03-

RESOLVED, That the Summer Maintenance Agreement between the Board of County Road Commissioners of the County of Oakland and the City of Troy, which becomes effective on April 1, 2006, with payment by the Road Commission for Oakland County to the City of Troy in the amount of $35,077.72, is hereby **APPROVED**, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

PUBLIC COMMENT: Limited to Items Not on the Agenda

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

REGULAR BUSINESS:

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

NOTE: Any item selected by the public for comment from the Regular Business Agenda shall be moved forward before other items on the regular business portion of the agenda

have been heard. Public comment on Regular Agenda Items will be permitted under Agenda Item 11 "F".

F-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments Scheduled b) City Council Appointments: Advisory Committee for Persons with Disabilities; Advisory Committee for Senior Citizens; Historic District Commission; Liquor Advisory Committee; Municipal Building Authority; Traffic Committee; and Troy Daze

The appointment of new members to all of the listed board and committee vacancies will require only one motion and vote by City Council. Council members submit recommendations for appointment. When the number of submitted names exceed the number of positions to be filled, a separate motion and roll call vote will be required (current process of appointing). Any board or commission with remaining vacancies will automatically be carried over to the next Regular City Council Meeting Agenda.

The following boards and committees have expiring terms and/or vacancies. Bold black lines indicate the number of appointments required:

(a) Mayoral Appointments – No Appointments Scheduled

(b) City Council Appointments

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

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

Advisory Committee for Persons with Disabilities
Appointed by Council (9 Regular Members; 3 Alternates) – 3 Year Terms

Term Expires 07/01/06 **(Student)**

(Alternate) Unexpired Term Expires 11/01/06

Advisory Committee for Senior Citizens
Appointed by Council (9) – 3 Year Terms

Unexpired Term 04/30/06

Historic District Commission
Appointed by Council (7) – 3 Year Terms

One member, an architect if available
Two members, chosen from a list submitted by a duly organized history group or groups

Term Expires 07/01/06 **(Student)**

Liquor Advisory Committee
Appointed by Council (7) – 3-Year Terms

_____ Term Expires 01/31/09

_____ Term Expires 01/31/09

Municipal Building Authority
Appointed by Council (5) – 3 Year Terms

_____ Term Expires 01/31/09

_____ Term Expires 01/31/09

Traffic Committee
Appointed by Council (7) – 3 Year Terms

_____ Term Expires 01/31/09

Troy Daze
Appointed by Council (9) – 3 Year Terms

_____ Unexpired Term 11/30/07

Yes:
No:

F-2 Compensation for City Attorney

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

RESOLVED, That the annual compensation of Council appointee Lori Grigg Bluhm, City Attorney, is **INCREASED** to _____, **EFFECTIVE** January 1, 2006.

Yes:
No:

F-3 Traffic Committee Recommendations – January 18, 2006

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

(a) Installation of Signs – Right Turn Only, Westbound Traffic Use Next Crossover East, Do Not Enter and Do Not Enter from Shopping Center Driveway – Troy Marketplace

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for installation of signs placed at the west driveway of Troy Marketplace for exiting traffic, indicating RIGHT TURN ONLY and WESTBOUND TRAFFIC USE NEXT CROSSOVER EAST. At the median, to be seen only by driveway traffic, signs will indicate DO NOT ENTER and DO NOT ENTER FROM SHOPPING CENTER DRIVEWAY (see attached illustration).

(b) Establishment of Fire Lanes/Tow Away Zones at 888 West Big Beaver Road

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 888 West Big Beaver Road.

Yes:
No:

F-4 Traffic Committee Recommendations – February 15, 2006

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

(a) Establishment of Fire Lanes/Tow Away Zones at 100 East Maple Road

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 100 East Maple Road.

(b) Establishment of Fire Lanes/Tow Away Zones at 272 Minnesota

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 272 Minnesota.

(c) Establishment of Fire Lanes/Tow Away Zones at 230 West Maple Road

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 230 West Maple.

(d) Establishment of Fire Lanes/Tow Away Zones at 400 West Maple Road

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 400 West Maple.

Yes:
No:

F-5 Papadelis v. City of Troy

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

RESOLVED, That the City Attorney is **AUTHORIZED TO APPEAL** the Oakland County Circuit Court decision in the *Papadelis v. City of Troy* lawsuit, and **TO PAY** all costs and expenses necessary for the appeal.

Yes:
No:

F-6 Fehribach v. City of Troy – Political Sign Case

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

NOW, THEREFORE, BE IT RESOLVED, That the City Attorney is **DIRECTED TO FINALIZE** the *Fehribach v. City of Troy* lawsuit, by agreeing as to form an order to pay attorney fees and reimbursable costs in an amount of up to $31,285.22.

Yes:
No:

F-7 Scheduling Second Budget Study Session

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

RESOLVED, That a second budget study session is **SCHEDULED** for Monday, May 1, 2006 at 7:30 PM in the Council Board Room of Troy City Hall, 500 W. Big Beaver, Troy, Michigan 48084.

Yes:
No:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings: No Announcements Submitted

G-2 Green Memorandums: No Memorandums Submitted

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

H-1 No Council Referrals Advanced

COUNCIL COMMENTS:

I-1 No Council Comments Advanced

REPORTS:

J-1 Minutes – Boards and Committees:

a) Library Advisory Board/Final - December 8, 2005
b) Downtown Development Authority/Final – December 21, 2005
c) Election Commission/Final – January 9, 2006
d) Troy Daze Advisory Committee/Draft – January 24, 2006
e) Ethnic Issues Advisory Board/Draft – February 7, 2006
f) Planning Commission Special/Study/Final – February 7, 2006
g) Planning Commission/Draft – February 14, 2006
h) Election Commission/Draft – February 27, 2006

J-2 Department Reports:

a) Purchasing Department – Final Reporting – BidNet On-Line Auction and Mid-Thumb Auctioneering, LLC
b) Assessing Department – Delphi Tax Abatement Status Report

J-3 Letters of Appreciation:

a) Letter of Thanks to Chief Craft from the Troy Middle School Health Teachers in Appreciation of Officer Nickie Kaptur
b) Letter of Thanks to Chief Nelson from L. Brooks Patterson, Oakland County Executive, Regarding the Troy Fire Department's Participation in the Southfield Downs Trailer Park Urban Search and Rescue Deployment Exercise
c) Letter of Appreciation to Chief Nelson from Jeffrey Schleuning, Everdry Waterproofing, Regarding the Efforts of Lt. Perry
d) Letter of Appreciation to Chief Craft from Ella Bully-Cummings, Detroit Chief of Police, Regarding the Assistance with Super Bowl XL
e) Letter of Appreciation to Carol Anderson from John Castle Regarding the Parks and Recreation Staff

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

J-5 **Calendar**

J-6 **Correspondence from Lynn Drake-Batts Regarding Zoning Ordinance Text Amendment 214 – Group Child Care Homes**

J-7 **Correspondence from Sharon M. Schafer and David A. Schafer Regarding Zoning Ordinance Text Amendment 214 – Group Child Care Homes**

STUDY ITEMS:

K-1 **No Study Items Submitted**

PUBLIC COMMENT: Address of "K" Items

Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 18 of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.

CLOSED SESSION:

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

RECESSED

RECONVENED

ADJOURNMENT

Respectfully submitted,

John Szerlag, City Manager

SCHEDULED CITY COUNCIL MEETINGS:

Monday, March 20, 2006..... Regular City Council
Monday, March 27, 2006..... Regular City Council
Monday, April 3, 2006 ..... Regular City Council
Monday, April 17, 2006 ..... Regular City Council
Monday, April 24, 2006 (Budget Study Session)..... Regular City Council
Monday, May 8, 2006..... Regular City Council
Monday, May 15, 2006..... Regular City Council
Monday, May 22, 2006..... Regular City Council
Monday, June 5, 2006..... Regular City Council
Monday, June 19, 2006..... Regular City Council

DATE: February 28, 2006

TO: John Szerlag, City Manager

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

SUBJECT: AGENDA ITEM – PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA–218) – Article 10.30.03, Permit Child Care Centers by Special Use Approval in the R-1A through R-1E Zoning Districts.

RECENT ACTIONS

At the February 27, 2006 Regular meeting, City Council passed the following resolution (draft):

Vote on Resolution to Set a Date Certain for the Continuation of Public Hearings for Zoning Ordinance Text Amendments: ZOTA 218 and ZOTA 214

Resolution #2006-02-113
Moved by Schilling
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **SETS A DATE CERTAIN** for the continuation of Public Hearings for Zoning Ordinance Text Amendment (ZOTA 218) – Article 10.30.03, Permit Child Care Centers by a Special Use Approval in the R-1A through R-1E Zoning Districts and Zoning Ordinance Text Amendment (ZOTA 214) – Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts **TO THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MONDAY, MARCH 20, 2006.**

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City **S**taff to **REPUBLISH** the *Notice of Public Hearing* in the official newspaper of record and **RENOTICE** those members of the public that previously received notice by first class mail.

Yes: All-7

The Public Hearing will be continued to the March 20, 2006 City Council Regular meeting.

RECOMMENDATION

The Planning Commission held a Public Hearing on this item at the September 13, 2005 Planning Commission Regular meeting, and recommended approval. City Management agrees with the Planning Commission recommendation and supports this proposed amendment. ZOTA 218 is tie-barred with ZOTA 214 (Group Day Care Homes) to eliminate confusion.

BACKGROUND

A Montessori school in the R-1C district has expressed interest in adding a child care center. Child care centers are permitted by special use approval in the R-1A through R-1E districts, provided the center is "located adjacent to a multiple family residential, office or commercial District, or within a previously established church complex (Article 10.30.03.B). Schools are not included, even though child care services are presently provided in all elementary schools within the Troy School District. The proposed amendment would permit child care centers in public and private schools in the R-1A through R-1E One Family Residential Districts.

Note that Article 10.30.03.B also requires that these uses shall not be permitted in the interior of any residential block. Public schools in Michigan are not required to comply with local zoning laws, consequently many public schools and their accessory day care centers in Troy are located in the interior of residential blocks. Private schools are not exempt from local zoning regulations, therefore accessory child care centers will be required to be located on a major thoroughfare.

Attachments:

1. Draft Zoning Ordinance Text Amendment, dated 01/10/06.
2. Minutes from September 13, 2005 Planning Commission Regular meeting.

cc: File/ZOTA 218

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CITY OF TROY
PUBLIC HEARING

At the February 27, 2006 City Council meeting the following resolution was passed:

Vote on Resolution to Set a Date Certain for the Continuation of Public Hearings for Zoning Ordinance Text Amendments: ZOTA 218 and ZOTA 214

Resolution #2006-02-113
Moved by Schilling
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **SETS A DATE CERTAIN** for the continuation of Public Hearings for Zoning Ordinance Text Amendment (ZOTA 218) - Article 10.30.03, Permit Child Care Centers by a Special Use Approval in the R-1A through R-1E Zoning Districts and Zoning Ordinance Text Amendment (ZOTA 214) - Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts **TO THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MONDAY, MARCH 20, 2006**.

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Staff to **REPUBLISH** the *Notice of Public Hearing* in the official newspaper of record and **RENOTICE** those members of the public that previously received notice by first class mail.

Yes: All-7

THEREFORE:

A Public Hearing will be held by and before the City Council of the City of Troy at City Hall, 500 W. Big Beaver, Troy, MI on Monday, March 20, 2006, at 7:30 P.M., or as soon thereafter as the agenda will permit, to consider amending the text of Article X One Family Residential Districts R-1A through R-1E of the Zoning Ordinance.

PLEASE NOTE THAT A PREVIOUSLY SCHEDULED PUBLIC HEARING WILL BE OPENED ON MARCH 6, 2006 BUT IN ORDER TO HAVE A FULL COMPLEMENT OF

CITY COUNCIL, IT IS THE INTENTION OF COUNCIL TO TAKE TESTIMONY AND CONSIDER ACTION AT THE MARCH 20, 2006 MEETING.

The proposed amendment would revise the text to permit Child Care Centers, Nursery Schools or Day Nurseries within a previously established school complex in the R-1A through R-1E One Family Residential Districts.

You may express your comments regarding this matter by e-mail to planning@ci.troy.mi.us, by contacting the Planning Department at (248) 524-3364, or by attending the Public Hearing.

Tonni Bartholomew, MMC
City Clerk

NOTICE: *People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at clerk@ci.troy.mi.us or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.*

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
ZOTA 218
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

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

Section 2 – Amendment to Article X of Chapter 39

Article X of Chapter 39 of the Code of the City of Troy is amended to permit child care centers, nursery schools or day nurseries by special use permit in public or private schools within the R-1A through R-1E One Family Residential Districts subject to specific standards.

(Underlining, except for major section titles, denotes changes.)

10.30.03 Child Care Centers, Nursery Schools or Day Nurseries (not including dormitories, subject to the following conditions:

A) That for each child so maintained or cared for, there shall be provided and maintained a minimum of one hundred fifty (150) square feet of outdoor play area. Such play area shall have a total minimum area of not less than five thousand (5000) square feet and shall be visually screened from any adjoining lot in any residential District, in a manner acceptable to the Planning Commission.

B) Such uses shall not be permitted in the interior of any residential block. Such uses shall be located adjacent to a multiple family residential, office or commercial District, or within a previously established church complex or a public or private school utilized for the education of children, other than a home school.

C) Such uses shall, as transitional uses between non-residential and residential development, be so designed architecturally as to reflect the predominant architectural character of the residential District within which they are located.

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

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

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

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

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ZONING ORDINANCE TEXT AMENDMENT

10. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 218) – Article 10.30.03 Daycares in Schools within the R-1 Districts

Mr. Savidant presented a summary of the proposed zoning ordinance text amendment. He reported that the City's Planning Consultant and Assistant City Attorney agree with the proposed text amendment in concept. The Assistant City Attorney suggested and City Management agrees with revising the text to clarify what constitutes a school complex.

Mr. Miller noted that (1) public schools are exempt from municipal zoning; and (2) schools are permitted in the R-1A through R-1E zoning districts with the requirement that they located on major thoroughfares.

There was a brief discussion on the placement of definitions within the Zoning Ordinance.

Mr. Motzny confirmed that the definition of school is not currently inclusive of definitions listed in the Zoning Ordinance.

PUBLIC HEARING OPENED

Nichol Childs of 1931 Atlas, Troy, was present. Ms. Childs addressed the affect of potential traffic generated by child care centers in residential areas in relation to traffic generated by group day care centers in residential areas.

Sharon Schafer of 5593 Mandale Drive, Troy, was present. Ms. Schafer said she assumes, based upon the numbering system, that the proposed zoning ordinance text amendment relating to group day care homes in residential districts (ZOTA 214) has been under consideration longer than the ZOTA 218. Ms. Schafer said she supports the proposed zoning ordinance text amendment under consideration this evening because working families in Troy need every option available to them for child care. She stated child care centers in residential areas would not cause any less noise or traffic than group day care homes in residential areas, and she hopes the members remember that she brought that to their attention when ZOTA 214 is considered in a couple of weeks.

PUBLIC HEARING CLOSED

Resolution # PC-2005-09-144
Moved by: Wright
Seconded by: Schultz

RESOLVED**,** That the Planning Commission hereby recommends to the City Council that Article X, pertaining to Daycares in the R-1A through R-1E Zoning Districts, be amended as printed on the Proposed Zoning Ordinance Text Amendment received tonight, as follows:

> Section 10.30.03 (B) – Such uses shall not be permitted in the interior of any residential block. Such uses shall be located adjacent to a multiple family residential, office or commercial district, or within a previously established church complex or a public or private school utilized for the education of children, other than a home school.

Discussion on the motion.

Mr. Vleck asked if charter schools are exempt from municipal zoning.

Mr. Motzny replied that charter schools are considered public schools and the exemption would apply to them as well as public schools.

Mr. Miller confirmed that it was a Montessori school that prompted the proposed zoning ordinance text amendment.

Chair Strat suggested that the description of private schools should be included as part of a definition in Article IV.

Vote on the motion on the floor.

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

MOTION CARRIED

DATE: February 28, 2006

TO: John Szerlag, City Manager

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

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

RECENT ACTIONS

At the February 27, 2006 Regular meeting, City Council passed the following resolution (draft):

> **Vote on Resolution to Set a Date Certain for the Continuation of Public Hearings for Zoning Ordinance Text Amendments: ZOTA 218 and ZOTA 214**
>
> Resolution #2006-02-113
> Moved by Schilling
> Seconded by Broomfield
>
> RESOLVED, That Troy City Council hereby **SETS A DATE CERTAIN** for the continuation of Public Hearings for Zoning Ordinance Text Amendment (ZOTA 218) – Article 10.30.03, Permit Child Care Centers by a Special Use Approval in the R-1A through R-1E Zoning Districts and Zoning Ordinance Text Amendment (ZOTA 214) – Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts **TO THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MONDAY, MARCH 20, 2006.**
>
> BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City **S**taff to **REPUBLISH** the *Notice of Public Hearing* in the official newspaper of record and **RENOTICE** those members of the public that previously received notice by first class mail.

Yes: All-7

The Public Hearing will be continued to the March 20, 2006 City Council Regular meeting.

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.

<u>Discussion on the motion on the floor.</u>

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 is scheduled for March 6, 2006, to be continued to the March 20, 2006 City Council Regular meeting.

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.
11. Public comment.

Prepared by RBS/MFM

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CITY OF TROY
PUBLIC HEARING

At the February 27, 2006 City Council meeting the following resolution was passed:

Vote on Resolution to Set a Date Certain for the Continuation of Public Hearings for Zoning Ordinance Text Amendments: ZOTA 218 and ZOTA 214

Resolution #2006-02-113
Moved by Schilling
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **SETS A DATE CERTAIN** for the continuation of Public Hearings for Zoning Ordinance Text Amendment (ZOTA 218) - Article 10.30.03, Permit Child Care Centers by a Special Use Approval in the R-1A through R-1E Zoning Districts and Zoning Ordinance Text Amendment (ZOTA 214) - Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts **TO THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MONDAY, MARCH 20, 2006**.

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Staff to **REPUBLISH** the *Notice of Public Hearing* in the official newspaper of record and **RENOTICE** those members of the public that previously received notice by first class mail.

Yes: All-7

THEREFORE:

A Public Hearing will be held by and before the City Council of the City of Troy at City Hall, 500 W. Big Beaver, Troy, MI on Monday, March 20, 2006, at 7:30 P.M., or as soon thereafter as the agenda will permit, to consider amending the text of Article IV Definitions and Article X One Family Residential Districts R-1A through R-1E of the Zoning Ordinance.

PLEASE NOTE THAT A PREVIOUSLY SCHEDULED PUBLIC HEARING WILL BE OPENED ON MARCH 6, 2006 BUT IN ORDER TO HAVE A FULL COMPLEMENT OF

CITY COUNCIL, IT IS THE INTENTION OF COUNCIL TO TAKE TESTIMONY AND CONSIDER ACTION AT THE MARCH 20, 2006 MEETING.

The proposed amendments would revise the text regarding definitions for family day care homes and group day care homes and revise the text of R-1A through R-1E One Family Residential Districts to amend the requirements for Family Daycare Homes and to amend the text to permit and provide requirements for Group Daycare Homes in the R-1A through R-1E One Family Residential Districts.

You may express your comments regarding this matter by e-mail to planning@ci.troy.mi.us, by contacting the Planning Department at (248) 524-3364, or by attending the Public Hearing.

Tonni Bartholomew, MMC
City Clerk

NOTICE: *People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at clerk@ci.troy.mi.us or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.*

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 Dandenberghe of 4856 Kings Row, Shelby, was present. Mr. Dandenberghe, 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. Dandenberghe 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 the 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 cares 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 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 Komasara of 5287 Windmill, Troy, was present. Mr. Komasara compared traffic concerns related to group day care homes to the traffic generated from public schools located within residential subdivisions. Mr. Komasara 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.

<u>Discussion on the motion on the floor.</u>

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.

<u>Discussion on the motion on the floor.</u>

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 FARMBROOK	0.34	NO	X		X		X
88-20-10-308-002	COLLINS, JUDITH	5410 HERTFORD	0.31	NO	X				
88-20-12-152-027	SCHAFER, 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			

Prepared by City of Troy Planning Department 1/12/2006

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 - Capacity1 - 6 licensee resides on-site

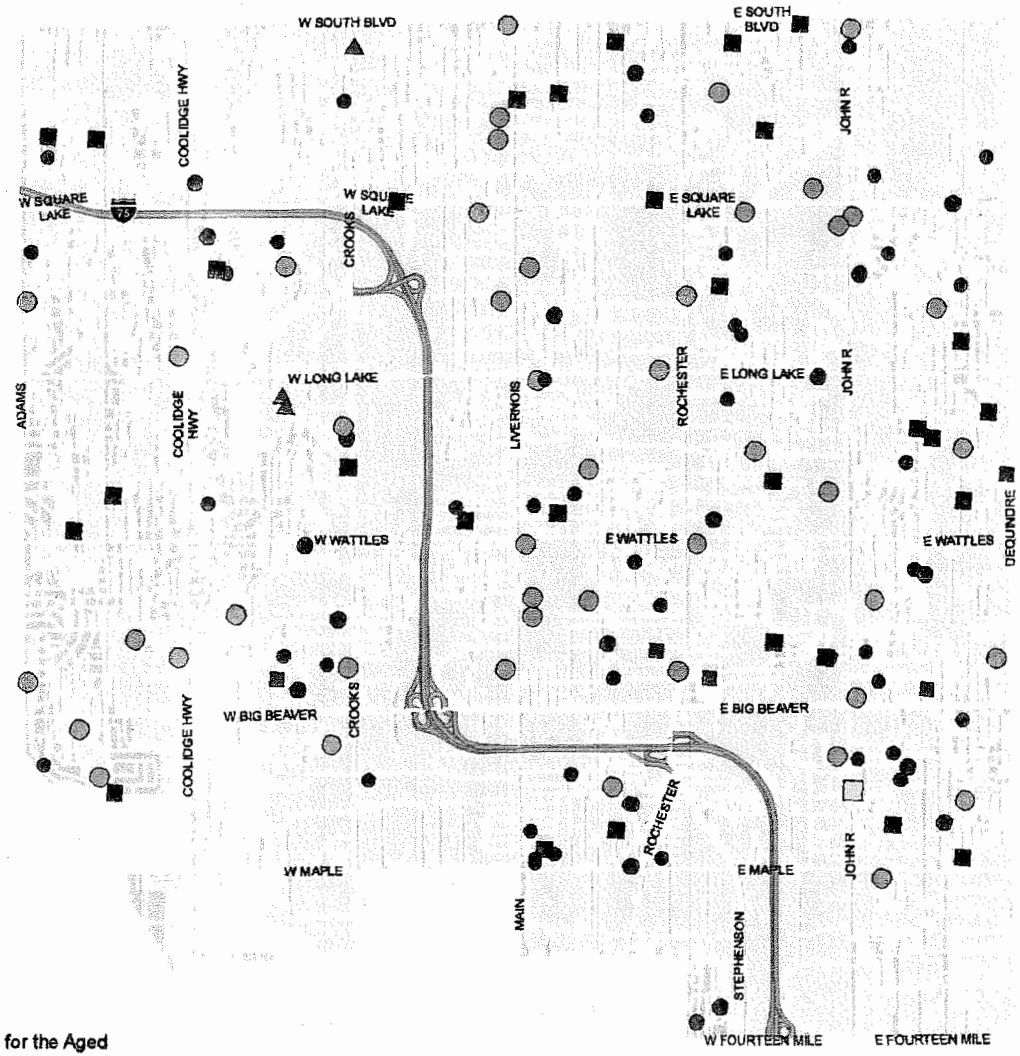
Adult Foster Care - Small Group - Capacity 1 - 6 may reside off-site

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
- Day Care Group Home
- Day Care Center
- Adult Foster Care Family Home
- Adult Foster Care Small Group Home
- Adult Foster Care Large Group Home
- Home for the Aged

January 9, 2006

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

Sharon M. Schafer
5593 Mandale Drive
Troy, Michigan 48085
248 879 9249
dschafer@ix.netcom.com

MAR 22 2004

Friday
March 19, 2004

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☒ PLANNER
☒ PLANNER RF
☐ SECRETARY

Place on April 21th meeting

Mr. Mark Miller, Planning Director
CITY OF TROY
500 W. Big Beaver Road
Troy, MI 48084

Dear Mr. Miller:

This is a request to be placed on a future agenda of a Planning Commission Study Session. My husband and I would like to present and discuss, informally and briefly, a need we see to change the Troy ordinance regarding the limits to the number of children an in-home day care service may have.

We would like to cite our experiences in providing day care services over the past 14 years (all of which have been in our Troy home), and the ever increasing need for in-home services here in Troy. In addition, we have some suggestions as to how the ordinance might be changed that would put Troy in step with what the State allows while still having a dimension of control over traffic coming and going to a day care home.

We appreciate your willingness to entertain our thoughts, and look forward to meeting with you and your staff/committee, at your convenience.

Sincerely,

Sharon M. Schafer

Sharon M. Schafer

#4

> Customer Application Process
> Electronic Benefits Transfer (EBT)
> Licensing
Adult Foster Care & Homes for the Aged
Child Day Care
Child Caring Institutions
Children's Foster Care
Child Placing Agencies
Juvenile Court Operated Facilities
Camps
> Electronic Funds Transfer (EFT)
> Forms/Applications
> Contractor Resources
> State Holidays
> Child Welfare Training Institute
> Staff Resources

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Frequently Asked Questions

- Someone told me that if I want to care for children in my home I have to be licensed. Is that true?
- What is a Family Day Care Home?
- What is a Group Day Care Home?
- What is a Child Care Center?
- How many licensed home and centers are there in Michigan?
- What regulations and requirements must be met to be licensed?
- Can I open a child care center before I get licensed?
- How long will it take to get my home licensed or registered to provide child care?
- What do I have to do to get a child care center license?
- What should I do if I have a concern about a day care facility?

Someone told me that if I want to care for children in my home, I have to be licensed. Is that true?

Michigan law requires a person to register her/his home as a "family day care home" if that person cares for 1 to 6 unrelated day care children for more than 4 weeks out of a year. If a person cares for 7 to 12 day care children at a time, the home would need to be licensed as a group day care home.

Michigan law further indicates that you **do not** need to licensed or registered if:

- The children's parents were **always present** in your home when care is given.
- All of the children are **related to you.**
- You cared for the children **in the children's home**.
- You care for children **less than four weeks** per year.

What is a Family Day 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.

What is a Group Day Care Home?

Related Co
> Family Da Your Hom
> Group Da Your Hom
> Child Care Care Cent
> Program D Qualificati
> CPR and Training
> Online Lic Applicatio
> Fire Safet Inspection

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.

What is a 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.

How many licensed home and centers are there in Michigan?

There are over 19,000 regulated day care homes and centers: more than 11,000 family day care homes, over 3,300 group day care homes and more than 4,500 child care centers. This represents more than 350,000 children that can be cared for in Michigan child care facilities!

What regulations and requirements must be met to be licensed?

Day care homes and centers are regulated by the Bureau of Family Services and must comply with the child day care licensing law, Public Act 116, and administrative rules. The rules vary depending on whether the day care provided is in a family home, a group home, or a child care center. All licensed day care situations are reviewed by licensing staff to assure that the environment is safe, staffing is adequate, nutritious meals and snacks are provided, and there are appropriate activities and play equipment. Licensing rules require that staff caring for children be responsible and suitable to meet children's needs.

Can I open a child care center before I get licensed?

No. Michigan law requires all non-governmental organizations to be licensed before opening. Everyone is encouraged to seek help and information when deciding to open a child care facility.

How long will it take to get my home licensed or registered to provide child care?

As in other businesses, the length of time needed to become licensed or registered varies based on your completion of the needed steps in the application process. A registration for a family day care home or a license for a group day care home can be completed within as short a time as four weeks to as long as 16 weeks. Follow these links for more specific

information on completing the family home registration process and the group day care home licensing process .

What do I have to do to get a child care center license?

First you must select a site for your center. The site, including its equipment and materials, must be approved by fire and health inspectors and by the licensing consultant. Specific policies and operational plans must be developed, and then approved by the Bureau of Family Services.

The length of time depends on the applicant. Generally, the process takes applicants anywhere from three months to a year to complete. Follow this link for more specific information on completing the child care center licensing process.

What should I do if I have a concern about a day care facility?

Concerns should first be shared with the day care provider or director. If the problems or concerns continue you may want to contact the Office of Child and Adult Licensing office in your area, or visit our Complaints information.

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Group Day Care in Your Home

It is illegal in the State of Michigan to care for unrelated children in your home without being licensed by the Michigan Family Independence Agency.

The first step in getting licensed is to request an application from the Licensing Division:

- Online Licensing Application Request
- (Fill out this form to submit on-line)
- Call: 517-241-2488
- **Toll free: 1-866-685-0006**
- Mail to:
  - Office of Child and Adult Licensing
  - Licensing Division
  - 7109 W. Saginaw 2nd Floor
  - PO Box 30272
  - Lansing, MI 48909-8150

EXPLANATION OF GROUP DAY CARE LICENSING

Licensing is the process by which the Michigan Family Independence Agency regulates group day care homes.

To **receive a group day care home license**, to care for 7-12 children, you will need to **submit** the following:

- The child day care application (BRS-3970) along with your check or money order [payable to the State of Michigan (no cash)]. **THE FEE IS NON-REFUNDABLE**
- A **Supplemental** Information form.
- **TB tests** for:
  - All persons, 14 years of age and older, living in your home (include yourself and your spouse).
  - Any other person who will help provide care.
- A signed licensing record **criminal and protective services clearance** on yourself and all members of your household 18 years of age and over.
- If you or a member of your household has been convicted of a criminal offense, or has a record of

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> Fire Safet Inspection

substantiated child abuse or neglect, further study will need to be done by your licensing consultant.

- The purpose of this study is to determine whether such previous involvement would currently affect your ability to care for children and meet the family day care home rules.
- Written **discipline policy.**
- Proof of age-appropriate **CPR** and **First Aid Training.**
- A **statement** signed by a licensed physician or his/her designee which attests to your **health** and the health of any assistant caregivers.
- Proof of recent (within last year) **inspection** and **approval** of your **heating system** (including wood burning appliances) by one of the following:
    - a licensed heating contractor
    - a qualified fire inspector
    - insurance company
    - State Mechanical Inspector
    - local building inspector
- **Emergency Plans** for tornado, fire, and accident, and illness.

WHAT ELSE NEEDS TO HAPPEN?

- You may be requested to attend an **orientation** session.
- If your home has a **private well and/or septic system**, an inspection and approval of the system(s) are required. This inspection, done by the local Health Department or the State Department of Community Health prior to licensure at **no cost to you, will be requested by the consultant.**
- **For fire safety you will need:**
    - **Fire extinguishers** on each floor used by children in care. These **must** be rated at least **2A-10BC**. Not every fire extinguisher is a 2A-10BC, so make sure you have this rating or one that exceeds the requirement.
    - A **smoke detector** on each floor of your home.
- Call your **local zoning board** to determine if you can operate a licensed group day care home in your neighborhood.
- The licensing consultant will **inspect** your home to check that you have met all of the rule requirements.
- After the inspection has been made, and all the required information has been submitted, a **decision** regarding your application will be made.
- A letter will be sent to you with the **licensing decision** and a copy of the **licensing study report**.
    - If the decision is to **issue** you a license, the letter will indicate when you may begin caring for children and that this initial license is in effect for **6 months.**
    - After 6 months, providing you continue to **meet all the rules** and continue to **live at the same address,** you will be issued a license every 2 years.
    - If the licensing decision is to **deny** your application you have the right to appeal the decision.
- While you are licensed, **inspections** by the licensing consultant will be made **annually** or if a **complaint** has been made.

A license is issued to a **specific** person at a **specific** address.
If you move, your license is no longer valid.

- If you plan to move, contact the Department **prior** to the move so that you can be licensed at your new address.
- If, at any time, you decide to no longer care for children, please notify your licensing office.

If you wish to continue with the licensing process or have any questions, please feel free to contact your licensing office.

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Sharon M. Schafer
5593 Mandale Drive
Troy, Michigan 48085
May 13, 2004
dschafer@ix.netcom.com

RECEIVED
MAY 20 2004
BUILDING DEPARTMENT

File / ZOTA

Ms. Ginny Norvell
Inspector Supervisor
Housing & Zoning Building Department
City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

Dear Ms. Norvell:

First, I want to thank you for your courtesy and all the help you've given me recently regarding my State of Michigan licensed group day care home here in Troy. As you suggested, my husband and I are working with Troy's Planning Board to try to update our city's regulations regarding child day care homes, to bring them into closer conformity with what the State of Michigan allows, and what other neighboring communities allow.

I have attended two Planning Board study sessions, and have been assured that they will discuss carrying this question to the City Council for consideration.

Also I would like to confirm and thank you for the verbal advisory mentioned in a recent phone call that, as long as the question of revising those Troy ordinances that affect child day care is moving forward, the Building Department will withhold enforcement of the current ordinances which the department indicated I am in violation of.

This courtesy is very much appreciated as it allows my families who are Troy residents and those who work in Troy to continue to have loving and caring attention for their children in my home.

Again, many thanks for your help and advice! I will try not to be a pest, but will call from time to time to keep you apprised of the progress of the proposed ordinance updates and revisions.

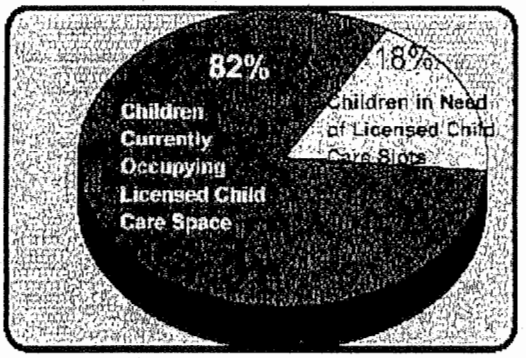
Cordially,

Sharon M. Schafer

COPY: MARK MILLER

P.C. Study Meeting
(Kim Duford)

The Supply and Demand of Child Care



There are a total of 258,751 children under the age in Michigan, and another 172,357 between the ages of six and twelve making an estimated total of 431,107 needing space in child care. The current supply can accommodate only 82% of the total demand for child care. This means that state-wide, there are 85,569 children without licensed child care in Michigan. The shortage of child care is critically acute for infants, children with special needs, those who need odd-hour care, and school-age children.

Demand for Child Care

CHILDREN UNDER SIX	857,927	
% of Mothers in Labor Force	58%	
TOTAL children under six needing care	497,598	
% NOT cared for by a relative	52%	
Child care needed by CHILDREN UNDER SIX		258,751
CHILDREN 6 TO 12	979,744	
%of Mothers in Labor Force	73%	
Total children 6 to 12 needing care	718,152	
% NOT cared for by a relative	24%	
Child care needed by CHILDREN 6 TO 12		172,357
TOTAL CHILDREN 0 to 12 Needing Care by a Non-Relative		431,107
TOTAL Number of REGULATED SPACES		352,259
PERCENT SUPPLY MEETS DEMAND		82%

***There is an acute shortage of:**

- infant care
- care for children with special needs
- odd hour care
- school-age care

COUNTY	# of Homes	Home Capacity	# of GFDC	GFDC Capacity	# of CNTRS	Center Capacity	# of FACIL	TOTAL CAPACITY	full-time centers	total centers	%FT centers	FT Center Spaces	CURRENT CHILD CARE WORKFORCE
ALCONA	13	78	7	84	3	72	23	234	0	3	0%	0	41
ALGER	12	70			8	183	20	253	2	8	25%	69	47
ALLEGAN	225	1347	46	551	46	1557	317	3455	11	46	24%	934	597
ALPENA	64	384	16	192	14	386	94	962	3	14	21%	298	168
ANTRIM	30	174	11	132	15	428	56	734	5	15	33%	251	131
ARENAC	18	108	6	72	7	261	31	441	3	7	43%	191	76
BARAGA			3	36	6	167	103	764	2	6	33%	51	37
BARRY	94	561	31	372	24	830	185	1976	8	24	33%	370	305
BAY	130	774	71	852	51	2222	252	3848	32	51	63%	1899	656
BENZIE	42	251	11	132	6	216	59	599	3	6	50%	133	102
BERRIEN	187	1101	84	1008	59	2961	330	5070	26	59	44%	1799	858
BRANCH	93	554	25	300	20	769	138	1623	11	20	55%	320	278
CALHOUN	230	1364	78	923	74	4632	382	6919	52	74	70%	3114	1155
CASS	49	293	30	360	13	497	92	1150	8	13	62%	331	197
CHARLEVOIX	52	311	27	324	15	457	94	1092	7	15	47%	202	190
CHEBOYGAN	43	256	27	324	11	242	81	822	6	11	55%	154	144
CHIPPEWA	48	284	17	204	24	873	89	1361	12	24	50%	511	237
CLARE	32	192	17	204	11	294	60	690	6	11	55%	148	121
CLINTON	133	784	48	567	30	1199	211	2550	17	30	57%	788	439
CRAWFORD	26	156	8	96	6	152	40	404	2	6	33%	81	71
DELTA	69	414	11	132	16	590	96	1136	8	16	50%	354	196
DICKINSON	37	222	10	118	14	541	61	881	8	14	57%	309	152
EATON	232	1382	66	790	47	2633	345	4805	28	47	60%	1827	806
EMMET	55	328	21	252	23	911	99	1491	16	23	70%	714	257
GENESEE	308	1817	193	2306	253	12998	754	17121	150	253	59%	8601	2897
GLADWIN	22	132	20	240	10	267	52	639	6	10	60%	179	112
GOGEBIC	18	108	3	36	11	320	32	464	3	11	27%	129	83
GRAND TRVRSE	262	1561	31	372	50	2560	343	4493	41	50	82%	2281	758
GRATIOT	77	460	31	372	18	571	126	1403	5	18	28%	210	243
HILLSDALE	70	418	22	264	20	720	112	1402	9	20	45%	364	242
HOUGHTON	44	264	14	168	19	987	77	1419	12	19	63%	442	239
HURON	33	194	12	144	21	640	66	978	7	21	33%	238	174
INGHAM	416	2454	141	1690	171	9654	728	13798	112	171	65%	7694	2317
IONIA	124	728	28	336	26	942	178	2006	19	26	73%	766	347
IOSCO	18	108	20	235	11	487	49	830	5	11	45%	353	142
IRON	14	84	1	12	3	148	18	244	3	3	100%	111	41
ISABELLA	66	396	43	516	25	1020	134	1932	17	25	68%	785	330
JACKSON	216	1280	109	1300	64	3443	389	6023	44	64	69%	2451	1014
KALAMAZOO	449	2675	95	1140	124	5722	668	9537	71	124	57%	4328	1621
KALKASKA	41	242	9	108	7	147	57	497	4	7	57%	107	88
KENT	1248	7443	177	2114	252	13056	1677	22613	129	252	51%	10098	3812
KEWEENAW	1	6	1	12			2	18	1	0	#DIV/0!	60	3
LAKE	9	54	5	60	3	90	17	204	2	3	67%	74	36
LAPEER	59	354	36	432	37	1277	132	2063	19	37	51%	777	360
LEELANAU	31	185	3	36	16	572	50	793	12	16	75%	455	139
LENAWEE	120	711	67	804	44	2152	231	3667	31	44	70%	1667	621
LIVINGSTON	96	576	40	474	73	3944	209	4994	43	73	59%	2897	841
LUCE	14	81	6	70	2	60	22	211	0	2	0%	0	37
MACKINAC	24	144	7	84	6	146	37	374	2	6	33%	42	66
MACOMB	452	2704	135	1608	269	18946	856	23258	172	269	64%	14893	3833

MANISTEE	35	210	12	144	11	430	58	784	7	11	64%	326	135
MARQUETTE	60	359	15	180	28	923	103	1462	12	28	43%	564	256
MASON	52	312	38	456	12	342	102	1110	7	12	58%	246	191
MECOSTA	64	383	9	108	22	652	95	1143	7	22	32%	312	202
MENOMINEE	24	144	9	108	11	344	44	596	5	11	45%	236	105
MIDLAND	139	827	55	660	60	2925	254	4412	37	60	62%	2081	748
MISSAUKEE	21	126	10	114	7	266	38	506	5	7	71%	206	88
MONROE	89	530	41	492	63	2956	193	3978	27	63	43%	1723	677
MONTCALM	93	556	34	408	30	998	157	1962	18	30	60%	707	341
MONTMORENCY	14	84	6	72	6	122	26	278	3	6	50%	50	50
MUSKEGON	327	1947	96	1152	76	3477	499	6576	55	76	72%	2438	1117
NEWAYGO	87	522	28	336	20	935	135	1793	19	20	95%	825	303
OAKLAND	591	3512	348	4158	582	41034	1521	48704	400	582	69%	29802	8024
OCEANA	48	288	14	168	17	616	79	1072	7	17	41%	346	185
OGEMAW	26	156	17	204	8	269	51	629	4	8	50%	193	108
ONTONOGAN	4	22	5	60	5	109	14	191	5	5	100%	76	35
OSCEOLA	37	222	30	360	11	327	78	909	5	11	45%	183	157
OSCODA	7	42	3	36	3	100	13	178	1	3	33%	60	31
OTSEGO	34	204	37	444	12	412	83	1060	4	12	33%	132	820
OTTAWA	672	3999	39	468	114	5643	825	10110	83	114	73%	4086	1054
PRESQUE ISLE	16	96	5	60	8	189	29	345	3	8	38%	87	64
ROSCOMMON	18	108	16	192	11	329	45	629	4	11	36%	139	426
SAGINAW	334	1960	94	1128	131	5225	559	8313	72	131	55%	3669	1221
ST. CLAIR	118	700	62	739	76	3071	256	4510	38	76	50%	1863	769
ST. JOSEPH	108	646	29	348	36	1333	173	2327	19	36	53%	990	336
SANILAC	42	252	23	276	21	682	86	1210	10	21	48%	426	185
SCHOOLCRAFT	16	96	1	12	5	126	22	234	2	5	40%	74	75
SHIAWASSEE	49	293	28	336	31	1406	108	2035	16	31	52%	975	357
TUSCOLA	59	354	33	396	25	761	117	1511	11	25	44%	341	313
VAN BUREN	108	638	38	456	45	2133	191	3227	25	45	56%	1260	731
WASHTENAW	290	1730	142	1703	188	11887	620	15320	134	188	71%	9251	3123
WAYNE	868	5071	313	3690	801	47501	1982	56262	474	801	59%	33529	8639
WEXFORD	87	519	20	240	17	653	124	1412	6	17	35%	262	10838
COLUMN TOTALS	10683	63475	3570	42662	4571	242118	18954	348255	2720	4571	60%	172308	69361

TOTAL FACILITIE 19666

Oakland County
third highest for number of parents in the work force

State of Michigan has 9,938,444 people in the work force.

AN INFORMAL PRESENTATION

To

CITY OF TROY PLANNING BOARD

By

SHARON M. SCHAFER
5593 Mandale Drive
Troy MI 48085

Concerning

UPDATING TROY HOME DAY CARE ORDINANCES
To allow
GROUP DAY CARE HOMES
(UP TO 12 CHILDREN IN CARE)

Tuesday
April 27, 2004

OVERVIEW

I. Introductory Remarks -

II. Principal Concerns in considering the authorization of Group Day Care Homes

III. The scope of Day Care in Troy – the numbers

IV. Suggestions and recommendations

V. Closing thoughts

THE TRAFFIC QUESTION

- Does 6 children in care = 6 cars, and 12 children = 12 cars? No! Families with siblings reduce the total car count significantly.

- Do Day Care Cars = a traffic jam? No! Market-driven forces significantly space out arrivals in the AM and PM so there is never a true traffic problem.

- Pick up and drop off visits are usually very short in duration, as parents want to 'get on their way'.

THE EMPLOYEE QUESTION

- A Group Day Care Home is required by the State to have at least one assistant caregiver available when there are more than six children present.

- Any Home Based Day Care, 'Family' or 'Group', must have a ratio of 1 caregiver for every two infants (younger than 18 months).

- Does Troy have an ordinance that forbids having an employee working at a home-based business? If so, this would have to have an exception added to it.

HOME DAY CARE IN TROY

- Governor Granholm's "Cool Cities" program has a 'Day Care Available' component to it. Troy enjoys this designation, in part because it has good day care offerings.

- The Oakland County Child Care Council (the 4-C's) is a professional organization to promote quality day care, and offers training, licensing updates and information, and a referral service for families looking for quality day care.

- Per the 4-C's –
  - There are 340 Group Day Care Homes licensed in Oakland County.
  - 20 of these homes are in Troy. (There are 48 Family Day Care Homes.)
  - In January, 2004 they received 52 reference requests for day care opportunities IN TROY, 47 of which wanted Home-Based Day Care.
  - In February, 2004 they received 42 reference requests for day care opportunities IN TROY, 39 of which wanted Home Based Day Care.
  - In March, 2004 they received 37 reference requests for day care opportunities IN TROY, 34 of which wanted Home Based Day Care.
  - THAT'S 92% of the calls wanted Home Based Day Care!

- Per the 4-C's –
  - On the average day during the first three months of 2004 there were only 3 openings available in Troy. The demand FAR exceeds the supply!

DAY CARE IN OUR AREA / ORDINANCE REFINEMENTS

- Sister cities – Birmingham, Clawson, Farmington Hills, West Bloomfield, and more – have ordinances allowing Group Day Care Homes in their communities.

- Those cities have, by and large, adopted the language of the State statute regarding Group Day Care Homes, adding it to their list of ordinances. It is apparent that Troy did the same when it adopted its current Family Day Care Home ordinance in the 70's.

- Some suggestions for reasonable refinements for Troy to add to a general ordinance allowing Group Day Care Homes, caring for up to 12 children.

  - Require that there be room on a home's driveway for a day care customer to park.

  - Limit the hours of operation to reasonable times – 6:00AM to 10:00PM, for instance.

  - Require adequate play area in a home back yard, and that it be securely fenced with lockable gates. A minimum of 2400 square feet is suggested.

    Out. door

CLOSING THOUGHTS / NEXT STEPS

- Keeping up with the Joneses (Birmingham, Farmington Hills. Etc.) is NOT a good reason for change.

- Keeping up with what the State now allows, AND WHAT THE COMMUNITY SEEMS TO BE DEMANDING (and is already offering, albeit in violation of current Troy ordinances) IS a good reason for change.

- The experience of the Schafer family, and the expertise of the Oakland County Child Care Council is available to the Board as it considers updating Troy's ordinances regarding Home Based Day Care for children.

- Next Steps -- ?

REGULATIONS OF GROUP DAYCARE HOMES IN NEARBY COMMUNITIES (BASED ON ACTUAL PHONE CALLS TO THE CITIES IN QUESTION)

- **AUBURN HILLS--** PLANNER- STEVE COHEN - 248-364-6900
  -YES- w/spec use.
- **BLOOMFIELD HILLS**- 644-1520 CITY MGR-
- **ROYAL OAK**- 248-246-3280 -- YES - Spec Landuse 1 family Residential
  Joseph Murphy

- **BERKLEY** 248-546-2420 CITY CLERK OFFICE
  ALLOW WITH STATE LICENSE

- **MADISON HEIGHTS-** 248-583-0826
  ZONING- SARAH - YES WITH STATE LICENSE

- **NOVI**- 248-347-0456 - MARY ANN – CITY CLERK –
  YES - MUST REGISTER WITH CITY CLERK $10.00

- **ROCHESTER HILLS** - 248-656-4630 BLDG DEPT- GLORIA
  YES WITH RESTRICTIONS -

- **STERLING HEIGHTS** – 586-446-2420 ZONING DEPT
  ALLOWED WITH VARIANCE – CAROL PLANNING

- **WARREN**—586-574-4557 -- LISA - JUST NEED STATE LICENSE

- **BLOOMFIELD TWP** – BRENDA - 248-433-7700 – YES ALLOWED
  - LICENSED BY STATE
  - APPLY 4 SPECIAL USE PERMIT
  - GO BEFORE DESIGN AND REVIEW BOARD

CREATED BY – NICHOL CHILDS 8/9/2005

Paula P Bratto

From: Jeni Baker [jeni.baker@pulte.com]
Sent: Thursday, June 30, 2005 10:19 AM
To: Brian P Murphy
Cc: Mark F Miller; Paula P Bratto; John Szerlag
Subject: Group Daycare

daycare.doc

I am writing in response to a planning commission study session I attended Tuesday evening. Throughout the course of the evening Mark Miller indicated that City Management is against Group Daycare homes. I am writing to you to determine the accuracy of the statements made (I believe you oversee planning).

Is city management against Group Daycare homes? If so, why exactly? It is difficult to listen 3rd party to the planning commission's conversation and come out with a clear understanding of the issues at hand.

What I took from the meeting is that the City is concerned with 1) potential traffic issues, 2) having an employee in the home and 3) adversely affecting neighbors (via noise?). I am writing to voice my opinion. I believe it is imperative to legally allow for Group Daycare facilities in the city while protecting the rights of neighbors.

The issues the city is concerned with may not be as problematic as they seem. For example, having used these types of facilities for many years, Group Daycare homes can have up to 12 kids per day. This does not mean there are 12 kids on each day. Due to the proliferation of flextime and part-time schedules, in addition to the fact that kids often stay home sick or are pulled out for family vacations, most Group Daycare providers have less than 12 children on any particular day. Even if a facility is at max capacity, it is highly likely that there are sets of siblings in attendance at the facility. This means that there are probably at most 6-8 cars that stop by for a matter of minutes to drop off and pick up children. In addition, the drop off times and pick up times usually span a 2 hour period (7-9am / 4-6pm). In summary, over a two hour period a group daycare home may have 6-8 cars that stop by for a matter of minutes. Is this truly overly burdensome on a neighbor? Many large families, social teenagers and avon ladies can generate this much traffic on a daily basis. Please determine if traffic is truly an issue or if more is being made of it than it warrants.

The second issue relates to having an employee in the home. The City should step carefully in this area. If the city says that having an in-home employee is disallowed, it is applicable to many home businesses, not just Group Daycare homes. For example, this may impact people who work out of their homes (in a "for profit" business) doing webpages, tax returns, selling beauty products, doing massages or providing salon services, etc. If any of these people engage anyone else to assist them and pay that individual $600 or more in a calendar year, that person can be construed as having an in-home employee. Additionally, disallowing in-home employees may impact service providers. Anyone who works for you in your home (even if they are not assisting in a "for-profit" business) and earns $600 or more in a calendar year can be considered an employee. This includes the neighborhood babysitters, nannies, in-home nursing care, cleaning ladies and potentially even lawn/garden service providers. I know that the City does not want to be overly burdensome on small business owners. It wants to be a place that both big and small businesses can thrive. It is important that the city carefully weigh the true burden in-home businesses have on a neighbor against an individuals right to earn a living (and to employ a small number of individuals to assist in that endeavor). With the internet and the ability to telecommute, many more people are working out of their homes and maybe it is time the city officially allow for and support this trend.

The third issue relates to noise. I am not sure what is overly disturbing about the sound of children playing outside. However, if there is a neighbor who doesn't care for the sound of children, couldn't the city enforce the same noise standards it imposes on all

residents? In addition, please note that the children are typically contained inside during the day. There are set "outside" times or recesses that most facilities follow. The children are not outside for excessive time periods. The city should deal with noise violations on a case by case basis. I am concerned that one neighborly dispute may adversely affect a wonderful small business opportunity and great city service currently available to Troy residents and employees.

I am a Tax Manager of a Fortune 500 company and not only use a Group Daycare facility myself, but also have employees who use these types of facilities in Troy and neighboring municipalities. I have worked in the Tax Departments of many large corporations throughout the course of my career (including one of the Big Six public accounting firms, General Motors Corporation, Delphi Corporation and currently Pulte Homes Corporation). I can say, without a doubt, that having reliable daycare for myself and the employees is a critical component of being able to operate effectively.

I urge City Management to reconsider their position and become a proponent of Group Daycare. Troy should be the city that Novi, Birmingham, Bloomfield Hills, Rochester, Livonia, etc. look at to determine what is being done to lead a City into the future. The reality is that there is a growing need for daycare options for working families.

Group Daycare homes allow for a slightly higher income and quality of life for owner/operators vs Family Daycare. Please note however, I have heard comments from planning commission members who seem to be under the false impression that owner/operators make a large income from their Group Daycare business. My daycare provider earns approximately $5.31/hr to watch my child. Additionally, I pay a higher rate than others because I use her facility on a part-time basis. Out of the approximately $5/hr she earns, she pays her employee's wages, provides breakfast, lunch and snacks, art supplies, toys, playground equipment, home and yard maintenance, videos, books, utilities, insurance and pays tax on the remaining net income. She is registered with the state, pays any applicable licensing fees and requires minimum yearly training seminars for herself and her employees.

If the City forces these individuals to decrease their numbers to 6, many may not be able to stay in business. If you force them back into a "Family Daycare" environment you will effectively cut their income in half and will reduce the "spending" power these individuals have. This indirectly affects the City in that we now have residents at a lower income level, resulting in less spending at local businesses. Additionally, if they are forced to reduce the number of children they have, budget cuts will need to be made. These cuts will (most likely) adversely affect the quality of care the children receive in that current spending levels for activities/supplies/toys, etc. will need to be reduced.

If the City disallows Group Daycare and the providers choose to move their businesses just over the border (for example, to Birmingham), the families will follow. This also adversely affects local businesses. For example, I will probably get my morning cup of coffee at a Birmingham business, do my banking, drycleaning and other errands in Birmingham on my way to drop off/pick up my children.

Having first hand experience with both Family Daycare and Group Daycare (as well as having visited and done my due diligence on many Daycare Centers), I would be happy to meet with the planning commission or any other interested parties if that would be beneficial to the city. Please feel free to contact me to discuss any of these issues (my contact information is below). I have also attached a word document where I list specific advantages that Group Daycare provides over Family Daycare or Daycare Centers.

For many families, Group Daycare is the only logical choice. Please come together to find a way that they can be allowed in this city. If the city is unable to move forward with amending the current zoning language to allow for group daycare facilities, for the benefit of children currently in one of these homes, consider grandfathering existing facilities. Displacing or moving children who are attached to their current care provider could be traumatizing. I believe most individuals would be supportive of imposing reasonable standards for these facilities (keeping in mind the practicality and cost). The last thing we should do is force this service underground where a child could pay the ultimate price. Having them upfront, legal and monitored is the best choice for everyone.

Thank you for reading this lengthy e-mail. To the individuals on the planning commission, thank you for volunteering your personal time to benefit the city.

Regards
Jeni Baker (Troy Resident)
(h) 248-879-8876
(w) 248-433-4551
(h) rsbaker1@wowway.com
(w) jeni.baker@pulte.com

<<daycare.doc>>

- **Consistent Caregiver** – Group daycares are owner operated with one additional employee. The owner/operator is a consistent presence in the childs life from birth through kindergarten. Less turnover than Centers.
- **Safety of Children** – multiple caregivers in the event of an emergency (primary caregiver passes out/is injured)
- **Safety of Children** – primary caregiver is neglectful/abusive (even one other employee provides a "check and balance"). Parents may feel more comfortable with multiple caregivers but do not like the daycare "institutions"
- **Reliability** – less "lost workdays" for employees/employers. Even one additional employee provides coverage for illness/vacation/personal issues
- **Home Environment** – Unlike centers, group daycares provide a home environment. Good choice for parents who want a "home away from home" alternative (similar to family daycare) but want exposure to more children
- **Educational Environment** – Group daycares provide an educational environment similar to many of the centers and current Troy pre-schools. Family daycares may not be able to provide this learning environment due to the limited number of children at similar stages of development. If group daycare homes are forced to limit the number of children, the reduction in income would probably result in cutting costs in activities/supplies etc., that currently benefit the children.
- **Blended Ages** – Group Daycare homes, similar to family daycare homes, allow siblings to be raised together. Centers typically isolate siblings based on age.
- **Developmental Age Exposure** – Due to more children (up to 12 vs up to 6) more likely to have children similar in developmental stages, exposure to both boys and girls, etc.
- **Cost Effective Alternative** to Centers/In-home care (comparable w/ family daycare)
- **Beneficial for the City of Troy** – Become leader in this area – the city that is progressive in supporting programs that are required by a growing number of residents and employees
- **City of Choice** – Should not limit parents choices. Potentially limit number of permits issued in the city, however, make it a valid option.
- **Part-time friendly** – Waiting lists for part-time children at Centers – not cost effective, almost punitive for part-time individuals
- **Infant/toddler/pre-school friendly** – Many churches and centers only take children who are "potty trained" and are 3 years old and up
- **There is currently a need for quality daycare in the state**
- **Lower rate of illness** compared to centers

If you close:

- Limiting people's choices on what is best for their children. Parents are best able to assess their children's emotional and educational needs and should have at least 3 viable options for daycare.
- You may unintentionally harm children with special needs. Many special needs children will not do well in institutions and are too burdensome to take on for a family daycare where there is only one care giver.
- Closing these will result in lost workdays while up to 300 families scramble for alternatives. Additionally, the lost workdays will continue if the group daycare families enroll in family daycare where there is no backup/coverage for illness, vacation, etc.
- Intangible benefits include employing high school & college students interested in education as well as retirees.

Paula P Bratto

From: Chan Chung [cjc@sbcglobal.net]
Sent: Wednesday, August 10, 2005 11:11 PM
To: Paula P Bratto
Subject: Re: ZOTA214 Group Daycare Homes in R-1

Dear Sir/Madam,
(1)
I think City of Troy should not give temporary permit to anyone who has been doing group day care. Must wait until City council passes the amendment. That's the ABC of the law. If this is not observed, then City might be in a big trouble, legally.

(2)
In the admendment text, we should include the approval of adjacent neighbors as a condition to get the permit as well as annual renewals. This should be no problem becasue they claimed that no neighbor did complain.

Sincerely,
CJ Chung
1189 Garwood Dr.

Paula P Bratto

From: Chan Chung [cjc@sbcglobal.net]
Sent: Wednesday, August 10, 2005 1:09 AM
To: Paula P Bratto
Subject: Re: ZOTA214 Group Daycare Homes in R-1

Dear Sir/Madam,
I attended the public hearing tonight. There were problems inherently.
(1)
The letter sent to group day care's neighbors were useless, because people did not understand it. No one knows the difference between family day care homes and group day care homes.
(2)
Neighbors just ignored the letter, because they signed when they visited their homes. But the problem was they did not explain the essence. They came to my home and asked my wife to sign becasue the City tries to shutdown all the day care homes. They did not say that the city allows family day care homes, currently.

Glad to hear that there will be another hearing after having the proposed text. It was a hearing only for the interest group, not for the resident of Troy.
Sincerely,
CJ

Paula P Bratto

From: Chan Chung [cjc@sbcglobal.net]
Sent: Wednesday, August 10, 2005 12:51 AM
To: Paula P Bratto
Subject: RE: ZOTA214 Group Daycare Homes in R-1

Hello,
I was there. The chairman did not say we had a right to refuse.
Sincerely,
CJ

Paula P Bratto <BrattoPP@ci.troy.mi.us> wrote:

> You will be asked to give your name and address but you can refuse and you will be allowed to speak.
>
> -----Original Message-----
> **From:** Chan Chung [mailto:cjc@sbcglobal.net]
> **Sent:** Saturday, July 30, 2005 3:39 PM
> **To:** Paula P Bratto
> **Subject:** ZOTA214 Group Daycare Homes in R-1
>
> Dear Sir/Madam,
> I am a resident in Troy and received the letter about the Group Daycare homes. I am very concerned about the amendment because of the following reasons:
>
> (1) increased traffic
> (2) noise
> - many children/babies are crying when they arrive early in the morning
> - from cars in the morning
> - the daycare home was shoveling snow before children were arriving. Sometimes 4:30am in the morning!
> (3) lowering property value of my house
> (4) amount of trash they produce is huge! Perhaps they are paying same property tax as us, which is not fair.
> (5) I purchased my house in residential area, not in comercial area. They are doing that for only profit. Children are staying almost all day in the basement which is damp and many insects live.
>
> Could I possibly be anonymous? I am planning to sell my house. I consulted with real estate agencies. All said that the value will be lowed if there is a day care home next to my house. I am worrying about revealing my identity, becuase then the problem of my house is known to the general public, especially due to the search engine on the Internet. If address and my name is given in the minutes, then anyone can find the problem on my house.
>
> Please tell me this anoymous email is all right. I plan to attend the Hearing on Aug 9th, but I should be remain silent and anonymous, because of the minute online. During the Hearing, can I speak as anonymous?
>
> Sincerely,
> A Troy resident

Mark F Miller

From: Cynthia A Stewart
Sent: Monday, August 15, 2005 9:31 AM
To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail 2); David Eisenbacher (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail)
Cc: Douglas J Smith; Brian P Murphy; Mark F Miller
Subject: FW: Home Daycare

-----Original Message-----
From: Qiling Yu [mailto:qiling_yu@yahoo.com]
Sent: Saturday, August 13, 2005 5:41 PM
To: Paula P Bratto; Cynthia A Stewart
Subject: Home Daycare

From: Qiling Yu, 4038 Worthington Drive, Troy, MI 48085

To: Troy City Council and Planning Commission

Date: August 13, 2005

Dear Sir and Madam,

I have been the resident of Troy since January 1999. I recently heard from my neighbour Kathy Peterson, a child daycare provider in my neighbourhood, that the city is considering removing Home Daycare. My family is deeply concerned about the decision, and urge the city officials to reconsider the direction.

My daughter, Jeanna Yu, is now seven and half years old. Jeanna started "public life" at Home Daycare when she was only 20 months, and Jeanna still remembers the wonderful time at Kathy's house. This is because Kathy has been providing the home environment and made all children feel at home. Jeanna had an outstanding first grade performance in the past school year, and I think Kathy's Home Daycare is definitely a positive contributor. Not only children benefit from Home Daycare, parents also. I sincerely hope Troy will keep Home Daycare to benefit more families like mine.

Thank you very much for your time and efforts in making Troy a better place to live!

Best regards,

Qiling Yu

Start your day with Yahoo! - make it your home page

Chan Jin Chung
1189 Garwood Dr. Troy, MI 48085
248-680-7211, cjc@sbcglobal.net
Aug. 29, 2005

REC'D
AUG 24 2005
PLANNING DEPT

Mark Miller
Planning Director, City of Troy
500 W. Big Beaver
Troy, MI 48084

Dear Mark,

As you know, a Group Day Care Home is a business with employees who do not live in the home, which is changing the concept of residential zone dramatically. Group Day Care Homes are an unusual circumstance which start very early in the morning before 9 A.M. when neighbors may need to sleep. For example, I am a night worker but I cannot sleep due to the following noise problems caused by a day care home very close to my house in the morning.

- Noise from the slamming the entrance door (not the front door, but the side door they use for their business)
- Noise from the slamming car doors (while holding a baby with the other arm)
- Occasionally, babies are crying when they enter the day care home. More frequent in winter.
- Parents usually talks to their baby or child before going into the day care home
- Noise when they start the car
- Noise when they use remote key to lock the car
- Noise when they shovel snow very early in the morning before their customers arrive
- Noise when they talk outside of the home

Please note that I suffer from these problems the most in the sub-division due to the following reasons:

- Building gap is only 17' 8" (Minimum distance is 15' in R-1E zone in Troy)
- My bed is toward the wall and is away only about 20' diagonally from the day care business entrance. (Because of the location of master bathroom, I cannot move my bed.)

In addition, I have privacy issues since their business entrance door is just next to my dinning room. I cannot open my window blinds, since strange day care customers can easily look into my dining room. Please have a visit to my home, to see what is going on. First, I want them not to use the "side door" for their business.

There are other problems such as traffic, parking, safety, large amounts of trash, and lowering property value of neighbors. Therefore, day care homes should not be allowed in residential area especially in Troy R-1E zone since the minimum distance between buildings is too short (less than 20ft).

Also I do not support the current day care system, which encourages leaving babies in the damp and dark basement without sunlight for at least 8 hours. No child should be left in the basement for many hours. Day care business people say they provide home like childcare. I think that is not right. It cannot be homelike environment with 12 babies. It will be bad decision for the USA in the long run. Instead, I suggest making law to require homebuilders to plan and build special day centers in the large-scale subdivisions. It will be a win-win situation for everyone.

Sincerely,

Chan Jin Chung 8-29-2005

Chan Jin Chung

P.S. Please do not make my home address public regarding this matter.

REC'D

SEP 27 2005

PLANNING DEPT.

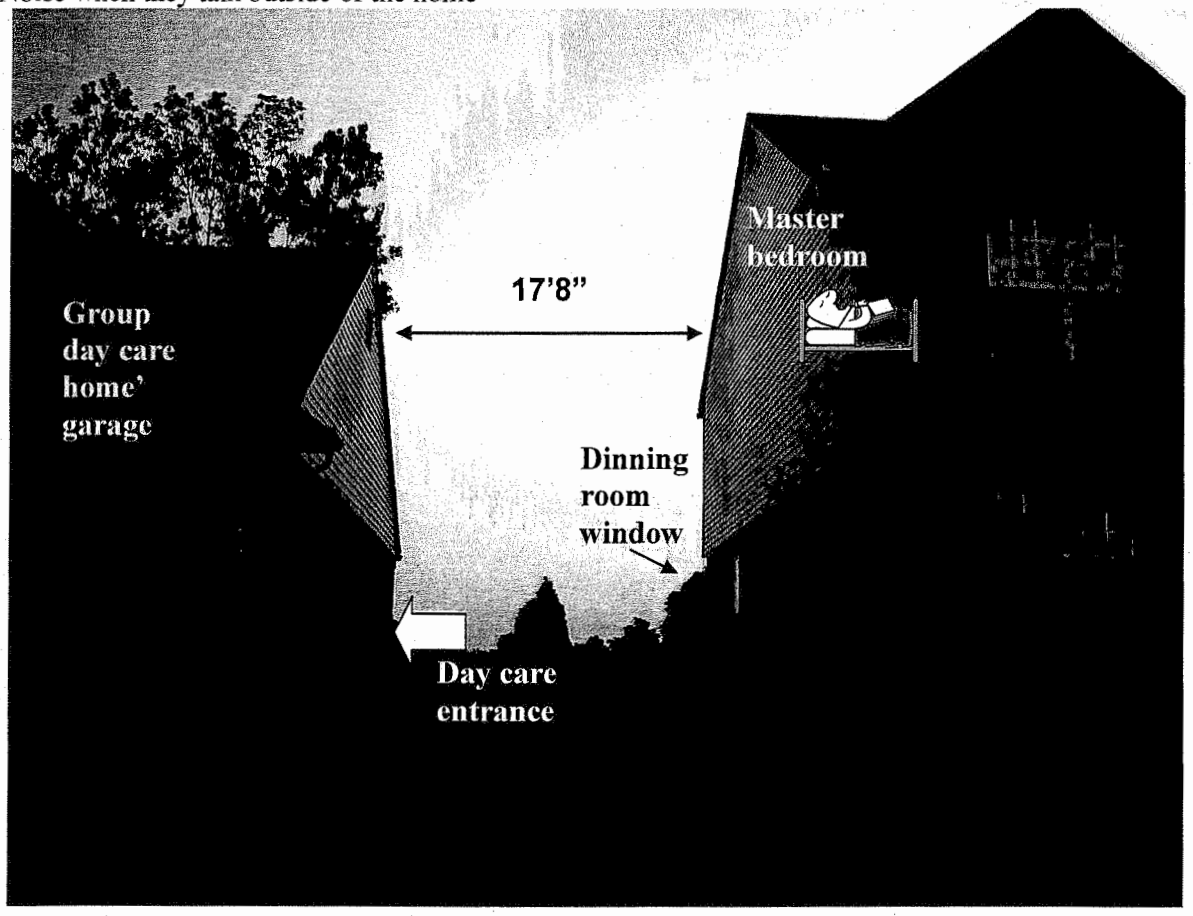
Chan Jin Chung
1189 Garwood Dr. Troy, MI 48085
248-680-7211, cjc@sbcglobal.net
Sep. 27, 2005

To: City of Troy Planning Commission Committee ✓
500 W. Big Beaver Rd., Troy, MI 48084
Cc: Mark Miller, Planning Director, City of Troy
Re: ZOTA 214 Article XXVIII, Group Day Care Homes in the R-1A ~ R-1E

Dear City of Troy Planning Commission Committee Members:

Many thanks for working for the better lives of people living in Troy. I would like to express my opinion by this letter regarding "Group Day Care Homes" for the public hearing on September 27th, 2005. As you know, a Group Day Care Home is a business with employees who do not live in the home, which is changing the concept of residential zone dramatically. Group Day Care Homes are an unusual circumstance which start very early in the morning from 6 a.m. when neighbors may need to sleep. Actually, I need to sleep in the morning because I work at night. But I cannot sleep due to the annoying noise caused by a day care home very close to my house in the morning. Examples of noises due to day care customers of 12 babies are:

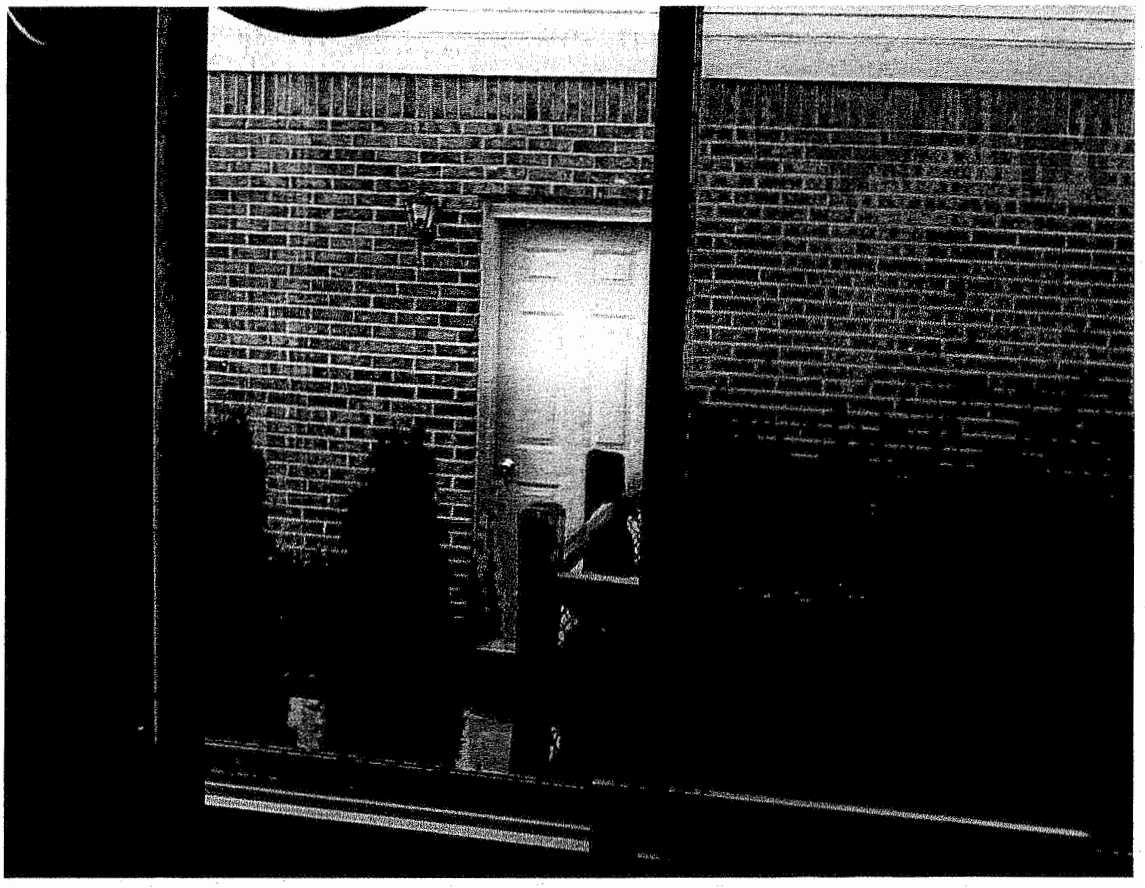
- Noise from the slamming the entrance door (not the front door, but the side door they use for their business)
- Noise from the slamming car doors (while holding a baby with the other arm)
- Occasionally, babies are crying when they enter the day care home. More frequent in winter.
- Parents usually talks to their baby or child before going into the day care home
- Noise when they start the car
- Noise when they use remote key to lock the car
- Noise when they shovel snow very early in the morning before their customers arrive
- Noise when they talk outside of the home



Please note that I suffer from these problems the most in the sub-division due to the following reasons:

- Building gap is only 17' 8" (Minimum distance is 15' in R-1E zone in Troy)
- They have been using a side door as business entrance for customers, not the front entrance.
- My bed is toward the wall and is away only about 20' diagonally from the day care business entrance. (Because of the location of master bathroom, I cannot move my bed.)

Also, I have privacy issues since their business entrance door is just next to my dinning room. I cannot open my window blinds, since strange day care customers can easily look into my dining room. The following is a photo showing the day care entrance door seen from dining room window. As you see, it is too close and trees they planted recently do not help at all. There is a beautification issue, since their 6 large trash bins are directly under my dinning room window. Three trash bins were recently moved to the right side of the photo below.



In addition to the noise, invading privacy, and beautification problems, there are other issues as summarized by Planning Department such as traffic, parking, safety, and increased amount of water/sewer/refuse. Based on my experience of selling the current home, it is certain that the existence of the day care home as a next neighbor lowers the property value of the house. Therefore, I would like to ask you to make a careful decision in changing city ordinance regarding group day care homes in the residential area. Especially, special investigation must be conducted in Troy R-1E zone since the minimum distance between buildings is too short (less than 20ft).

Please do not make my home address public considering my situation.

Sincerely,

Chan Jin Chung 9-27-2005

Chan Jin Chung

Brent Savidant

From: Mark F Miller

Sent: Thursday, October 06, 2005 9:29 AM

To: Allan T Motzny; Brent Savidant; Christopher Kulesza (E-mail); David Waller (E-mail); Fazal Kahn (E-mail); Gary Chamberlain (E-mail); Larry Littman (E-mail); Lynn Drake-Batts (E-mail 2); Mark Vleck (E-mail); Robert Schultz (E-mail); Thomas Strat (E-mail); Wayne Wright (E-mail); Kathy Czarnecki; Paula P Bratto; Ronald Figlan

Subject: FW: Group Daycare Home ZOTA language

-----Original Message-----
From: Curtis Childs [mailto:CDChilds@msn.com]
Sent: Sunday, October 02, 2005 10:42 PM
To: Paula P Bratto; Mark F Miller; John Szerlag
Cc: Cynthia A Stewart; Louise Schilling; Judy Collins; Kim Duford; Sharon Schafer; Nichol Childs
Subject: Group Daycare Home ZOTA language

Please see the attached information

October 6, 2005

City of Troy
Planning Department
Planning Commissioners
City Council
City Manager

To all:

A committee of the Troy group daycare providers who are very much involved in this issue met together to discuss the city's proposed daycare language. The attached information is our attempt to be helpful and proactive in assisting the City of Troy to develop and adopt a new ordinance allowing for group daycare homes in all residential areas. We have thoroughly examined the language that has been proposed and have come up with the following information and suggested changes and / or additions. We have added some information that we believed to be very beneficial. Some of it has come from the State of Michigan, some came from other cities' ordinances . We very much like the City of Troy's option 2 but we understand and believe that option 3 may be our best chance at having a change to the ordinance. We hope this information is useful to you in your discussions about this issue.

Thank you for your time.

Respectfully Submitted,

Group daycare providers

OPTION 1: STATUS QUO (UNREASONABLE)

No changes to Article X proposed.

OPTION 2: PERMIT BY RIGHT (SUBJECT TO SPECIAL CONDITIONS)

BEST OPTION WITH CHANGE TO (B)

10.25.05 Group Day Care Homes, as defined in Section 04.20.69, 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 twelve (12).

B) For each child on the premises a minimum of four hundred (400) square feet of outdoor play area shall be provided, in the rear or side yards of the subject dwelling unit.

B) A day-care home shall provide an outdoor play area which is not less than 400 square feet and which is available on the premises or within a reasonable walking distance of the home. (Per State Rules)

C) 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.

D) The resident-operator of the Group Day Care Home shall be licensed in accordance with applicable State Law.

OPTION 3: SPECIAL USE APPROVAL "LIGHT"

10.30.10 Group day care homes, subject to the following conditions:

A. The resident-operator of the Group Day Care Home shall be licensed in accordance with applicable State Law. Expiration of the group day care license shall constitute expiration of Special Use Approval.

B. There shall be no dropping off of children between the hours of 10:00PM and 6:00AM.

C. 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.

D. No sign shall be used on the premises.

E. 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.

F. The Planning Commission shall ensure that the parking and drop-off areas are designed for safety and convenience.

G. The Planning Director may waive any required site plan information provided it can be determined that the application meets the requirements of Section 10.30.10 and Section 03.31.05.

H. Licensed group day care homes in operation as of the effective date of this provision shall not be required to receive Special Use Approval, provided the group day care license does not expire.

I. A day-care home shall provide an outdoor play area which is not less than 400 square feet and which is available on the premises or within a reasonable walking distance of the home. (Per State Rules)

J. Has appropriate fencing for safety of children in group daycare home as determined by city's permitting authority.

K. All group daycare homes shall be register with the 911 dispatch center and the City of Troy Police and Fire Dept

OPTION 4 – SPECIAL USE APPROVAL "HEAVY" (ONLY DIFFERENCE BETWEEN OPTION 3 AND OPTION 4 IS IN PARAGRAPH (H), THIS IS UNREASONABLE AND DANGEROUS)

Statistics of the last three (3) years that were provided by Michigan State Police show 90% of accidents in the City of Troy have occurred on major thoroughfares.

10.30.10 Group day care homes, subject to the following conditions:

A. The group day care home shall be licensed with the Office of Children and Adult Licensing or the appropriate licensing agency, should the licensing duties be provided by another organization in the future. Expiration of the group day care license shall constitute expiration of Special Use Approval.

B. There shall be no dropping off of children between the hours of 10:00PM and 6:00AM.

C. 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.

D. No sign shall be used on the premises.

E. 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.

F. The Planning Commission shall ensure that the parking and drop-off areas are designed for safety and convenience.

G. The Planning Director may waive any required site plan information provided it can be determined that the application meets the requirements of Section 10.30.10 and Section 03.31.05.

H. The group day care home shall have frontage on a major thoroughfare, as defined by the City of Troy Transportation Plan.

Paula P Bratto

From: miles zhang [nini690@yahoo.com]
Sent: Monday, October 24, 2005 9:08 AM
To: Paula P Bratto
Subject: No! to Group Daycare Homes in Troy

Intensive traffic in the morning and afternoon will
risk child safety and bring in noise issue to our neighborhood.

Yahoo! Mail - PC Magazine Editors' Choice 2005
http://mail.yahoo.com

Please fax or email the following to Troy's Mayor, the City Council, City Manager, Assistant City Manager, City Attorney, Planning Commission, Planning Director and Building Department.

Things to be discussed concerning all family and group daycare centers in Troy.

Safety:

1. Must have supervision in the home and outside if one child needs to be in the home and others want to play outside.
2. Play area must be fenced in.
3. City checks all play equipment so it is safe for children. Should be approved for safety. This includes pools, trampolines etc.

Ordinances:

1. Mandatory daycare refresher courses to renew license yearly.
2. Ordinance passed that neighbor is not held accountable if child trespasses into their yard and something happens.
3. New nuisance noise ordinance must be made. A screaming child is not playing. Decibel reading by the city not the solution. By the time a City Staff member gets the complaint and show up at the neighbors the children have probably gone home.

City Staff Responsibility:

Presently the city is understaffed to handle complaints if and when they occur. The same city staff person must be assigned to all family and group daycare centers to receive assistance and follow through on complaints concerning noise levels and seeing children unsupervised.

Possible Penalties:

1. One complaint, a warning.
2. Two complaints, a citation.
3. Three complaints, possible removal of license.

REC'D
OCT 25 2005
PLANNING DEPT

Sincerely,

Rich Milostan
Troy resident

To C. 10-25-05

We don't want a revision of the Zoning Ordinance

Wanda L. Kitchen

Floyd D. Kitchen

REC'D

OCT 14 2005

PLANNING

Floyd Kitchen
2365 Isabell Dr
Troy MI 48083-2363

Paula P Bratto

From: Sharon M. Schafer [dschafer@ix.netcom.com]
Sent: Wednesday, November 02, 2005 1:15 AM
To: Paula P Bratto
Subject: Group Day Care

Dear Planning Commissioners:
Thank you once again for your consideration and work on ZOTA 214.
In reference to your discussion this evening regarding what would happen with a special
use permit if a day care provider sold his/her home, I would like to share the following information
with you:

On page 35 of the State Day Care Licensing Rules for 2006, which is part of the back up material
on the City of Troy website for the Dec. 13 City council public hearing, it says
"PLEASE NOTE: A certificate of registration is issued to a specific PERSON at a specific ADDRESS.
If you move, your certificate of registration is NO LONGER VALID.
If you plan to move, contact your OCAL Licensing Unit PRIOR to the move so that you can apply for
a new registration at your new address.
If you decide to no longer care for children, contact your local licensing office to request closure
of your certificate of registration."

So, if the certificate of registration is no longer valid, then the special use permit is no longer valid, right? I would think that a new person moving into that address would have to request a new special use permit that would work with the new person's license registration number.

Once again, thank you for your time and consideration.

Sharon M. Schafer
5593 Mandale Drive
Troy, Michigan 48085
248 879 9249

Paula P Bratto

From: Maofeng Fu [maofeng.fu@gmail.com]
Sent: Saturday, November 05, 2005 9:44 PM
To: Paula P Bratto
Subject: Public hearing

Dear Troy City Office:

We have received your request for public hearing on Nov.21,2005.

We strongly oppose amending of the text of Article IV Definitions and Article X One Family Residential Districts R-1A through R-1E of the Zoning Ordinance.

We are very concerned about revising the the text to provide a definition for group daycare homes, revise the definition for family day care homes and amend R-A through R-E to permit Group Daycare Homes on a temporary basis.

Please don't pass the amendment.

Thank you

Maofeng Fu
Xiuling Ying

1133 Garwood Dr.
Troy, MI. 48085

Paula P Bratto

From: william haboush [bhaboush3@yahoo.com]
Sent: Sunday, November 06, 2005 9:40 AM
To: Paula P Bratto
Subject: nov. 21 730 city council mtg

I'm not interested in permits to allow Group Daycare Homes on a temporary or permanent basis. I vote : NO ! Our single family residential subdivisions must be protected. We dont want the added traffic and congestion/risk to our children and families.

Thank you.

Bill Haboush
1103 Redding Drive
Troy, Michigan 48098

troy resident : 15 years

Yahoo! FareChase - Search multiple travel sites in one click.

Paula P Bratto

From: Kevin S Cheon [cheonk@dteenergy.com]
Sent: Wednesday, November 09, 2005 2:39 PM
To: Paula P Bratto
Subject: Fw: BAN on the recent Group Day Care Homes ordinance

Why am I getting the "Public Hearing" for same issue over and over? Now another one has been scheduled on November 21, 2005 at 7:30 pm. I can not make it that day, but anyway my opinion has not been chaneged. Thank you for the consideration!
-----Forwarded by Kevin S Cheon/Employees/dteenergy on 11/09/2005 02:33PM -----

> To: planning@ci.troy.mi.us
> From: Kevin S Cheon/Employees/dteenergy
> Date: 09/13/2005 08:30AM
> Subject: Fw: BAN on the recent Group Day Care Homes ordinance
>
> I got a letter about the public hearing on Tuesday, Sept. 27, 2005 at 7:30 pm. First of all I can not attend the hearing because I have a bible study meeting on every Tuesday between 7:30 and 9:00 pm.
>
> The letter does not contains the detail of hearing, but if this is the same one I reponded a month ago then I still have same opinion about that so I am simply attaching the previous letter to this. Please consider this letter as my opinion.
>
> Thanks.
>
> Kevin Cheon
> 1138 Garwood Dr., Troy
> -----Forwarded by Kevin S Cheon/Employees/dteenergy on 09/13/2005 08:19AM -----
>
> > To: planning@ci.troy.mi.us
> > From: Kevin S Cheon/Employees/dteenergy
> > Date: 08/08/2005 08:53AM
> > Subject: BAN on the recent Group Day Care Homes ordinance
> >
> > Troy City Planning Director and Principle Planner,
> >
> > Recently I got the letter from the city about the "Group Day Care Homes" hearing. Because I can not attend the scheduled public hearing, I decided to write my opinion in short instead.
> >
> > The bottom line, I **strongly BAN** on this ordinance.
> >
> > Even the current situation is not happy, but because of we are living same neighbor I am bearing. But if the maximum number increase and the traffic is getting worse then our whole neighbor will not be happy and we can not keep the good relationship each other. I do not want to see those kind of situation in our neighbor.
> >
> > There are several reasons for banning such as noise, safety, parking, traffic and even lowering property value. If anybody want to increase the maximum number, they should go to the the commercial area because I assume they already have enough income.
> >
> > Thank you for your consideration
> >
> > Kevin Cheon
> > 1138 Garwood Dr.

Paula P Bratto

From: Paula P Bratto
Sent: Wednesday, November 09, 2005 3:30 PM
To: Paula P Bratto
Subject: ZOTA 214 B

The Planning Department receive a phone call from Floyd & Wanda Kitchen . They do not feel that ZOTA 214 B regarding group day care homes should be approved, he feels that it is too much and wanted his opinion to be provided to the City Council.

Paula Preston Bratto
City of Troy
Planner
248.524.3365
www.ci.troy.mi.us

Brent Savidant

From: CJ Chung [chung@LTU.edu]
Sent: Friday, November 18, 2005 12:00 AM
To: Brent Savidant
Cc: Talk2Cristina@aol.com; Mark F Miller
Subject: Noise Problems due to a Group Day Care Home

Dear Brent,
Via letters, conversations with planning Dept people, emails, I have been complaining noise problems due to a group day care home next to my house, which is very close. Even a laywer I hired sent a letter to the city. But according to the proposal at http://www.ci.troy.mi.us/PublicHearings/PHData/Planning%20Commission/2005-12-13%20ZOTA%, unfortunately it does not consider the noise problem. The closest item would be:

G) The parking and drop-off areas shall be designed to maximize safety and privacy.

I am not sure if I can attend Dec 13, planning commision meeting, because I work at night. It seems letters do not affect the Hearing at all. Could you please suggest how we can revise the text? I would like to add just a phrase like:

The parking and drop-off areas shall be designed to maximize safety and privacy, "and minimize noise."
****

I know USA is a wonderful country where a reasonable requests are not just ignored.
Many thanks for all the help. I am copying this email to city council woman, Cristina Broomfield, whom I met and who understands this matter.
Sincerely,
CJ Chung
1189 Garwood Dr.

Mark F Miller

From: Cynthia A Stewart
Sent: Monday, December 19, 2005 3:54 PM
To: Mark F Miller; John Szerlag
Subject: FW: GROUP DAYCARE IN TROY

Council received this – not sure if you did.

-----Original Message-----
From: Upton, Lesley [mailto:lupton@cgolaw.com]
Sent: Thursday, December 15, 2005 9:35 AM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart; childsplayhome@msn.com
Subject: GROUP DAYCARE IN TROY

My name is Lesley Upton and I live at 1267 Hartland, Troy, MI 48083. I am in favor of group daycare in Troy! We currently have a child with Nichol Childs and when our second child is born next year we would also like the child to go there. Our child has learned so much from attending the group daycare at Nichol's home. She receives so much one on one attention and is always coming home with new projects and songs she has done/learned at the daycare. I do my homework when it comes to daycares. I have done lengthy searches on state sites to see if complaints have been filed and I also ask the state for recommendations along with word of mouth recommendations from other parents as well. I even went and visited a ton of daycare facilities along with home daycares as well. In Troy and the surrounding cities as well. I even take a questionnaire along with me. I ask numerous questions and if I choose the place I bring my child to it at least three times to make sure it fits with us. The facility we liked best was Grace Christian but to us it still seemed to big for our daughter. We wanted something more like a home yet like a facility where she would be getting schooling. We also wanted our child to be with a group of kids of different ages. I can't tell you how much she learns from the older kids. I like the variety of ages. She also gets use to having infants around to prepare her for her new sibling in the summer time. With us only needing daycare partime it is also a plus to us because a group daycare can accommodate us. Most family and facilities won't take part time. I am not going to give up time with my parents and me one day just to put my child full time with somebody. I also like the location of daycare because living in Troy it allows me to pick up my child early and spend a lot more time with her. If I had to drive out of Troy to drop her off it would take away precious time I have with my child. I have also had my child in a family daycare before but there weren't enough eyes on her to watch her and one day she fell off a chair and hit her head on a table. Yes that could happen anywhere but at a place where there is more than one person the chances are less likely. Plus I didn't like her being driven around in a car either. With a group daycare with two helpers one can stay back with the right number of kids if you don't want your child to attend field trips. I just think you get the best of both worlds with a group daycare. I would truly hate for them not to be allowed to operate in Troy or to have unrealistic restrictions to follow. I am thankful you have allowed the preexisting ones to stay open until you come to an understanding on this situation. For the sake of the families that are currently going to these daycares and of course for the people running them I hope you come to a conclusion to let them stay open! You would really be benefiting children, families, group daycares and most importantly giving Troy lots of options for daycare which is very valuable to say the least.

Sincerely,
Lesley Upton

Paula P Bratto

From: Cynthia A Stewart

Sent: Wednesday, December 21, 2005 8:46 AM

To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail); Wade Fleming (E-mail)

Cc: Paula P Bratto

Subject: FW: Group Day Care

-----Original Message-----
From: Ken Davis [mailto:kdavis@beaumonthospitals.com]
Sent: Wednesday, December 21, 2005 8:45 AM
To: Cynthia A Stewart
Subject: Group Day Care

In the next 30 to 45 days, you will have an opportunity to resolve a long-standing issue in your city. The issue of allowing or not allowing Group Day Care facilities (7 to 12 children) in residential neighborhoods will come before you.

I am not a resident of the City of Troy, however my wife and I have been looking at homes in your city, as we search for a place to raise our family. We have held off serious consideration in Troy due to the conflict of this issue. We do not wish to live in an area that would NOT be family-friendly in regards to day-care. As a two-income family, it is imperative that our options are not seriously hampered by the govenment of the city in which we may choose to live. The services provided by these residential day care facilities is vastly superior to that provided by commercial care care facilities by providing more personalized care and flexibility in schedules.

I do not see how a few cars (as many as 12) arriving in a residential setting in the morning and evening for a few minutes can adversely affect the values or lifestyle of the neighborhood. My guess is that unless you actively look for them, you would not even notice them in the usual comings and goings of a normal residential area.

Troy is a growing city with most homes priced in the range that young people with children can afford. If, however, those same families do not have easily accessible services (of which day care is included), the city will not be a viable place to live. The care and education of our children while we are work is (day-care and schools) is probably the MOST important consideration in where we will live.

I strongly urge you to ALLOW these Group Day Care facilities in your residential neighborhoods (without restrictions that will make it impossible for most homes). They are all subject to state codes and regulations and that should be enough.

Thankyou for taking the time to consider this letter and issue!
Ken Davis

Paula P Bratto

From: judy bonfiglio [redfeather@wideopenwest.com]
Sent: Wednesday, December 21, 2005 7:04 AM
To: Paula P Bratto
Subject: Day care

To whom it may concern,
You MUST continue to allow day care services in homes in Troy. The ending of this much needed service would not only impact the working families that rely on them, but also the income of the people that provide the service.

The flexible hours and overall convenience of home day care
cannot be disputed. This would be a serious threat to the livelihood of many Troy citizens. It would make child care difficult and much more expensive for the families that rely on it.
Taking this service away would also make the city of Troy look bad in the public eye. Families need to help familes in any way they can.
There are far too many other issues that need to be addressed than the issue of home day care. Crime and other things of that nature should take priority over this.

PLEASE, do NOT take away this terrribly important service.
It is GREATLY needed.

Very sincerely,
Judy Bonfiglio

Paula P Bratto

From: pcerlandson@sbcglobal.net
Sent: Wednesday, December 21, 2005 7:18 AM
To: Cynthia A Stewart
Cc: Paula P Bratto
Subject: Group Day Care in Troy
Importance: High

Dear Troy City Council,

I was disappointed to read of the recommendation by the Troy Planning Commission not to allow group day care facilities in Troy. This is an issue which, of course, affects not only Troy but the surrounding communities.

Perhaps what disturbed me even more was the justification given for the Planning Commission's recommendation: *"that group day care homes have a negative effect on neighboring properties ."* I am sorry, but if the care of children now is a negative effect upon a neighborhood, then the whole world has turned upside down. The care of children is a high calling, and it is part of what holds a neighborhood together. It does not bring down a community: it builds a community.

My hope is that when you meet to review this recommendation, you will come to a different conclusion than the Planning Commission!

Yours truly,
Paul Erlandson
Royal Oak, Michigan

Paula P Bratto

From: Cynthia A Stewart

Sent: Wednesday, December 21, 2005 7:40 AM

To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail); Wade Fleming (E-mail)

Cc: Paula P Bratto

Subject: FW: Day care

-----Original Message-----
From: judy bonfiglio [mailto:redfeather@wideopenwest.com]
Sent: Wednesday, December 21, 2005 6:57 AM
To: Cynthia A Stewart
Subject: Day care

To whom it may concern,
You MUST allow day care to continue in Troy. Why would you intentionally take away something that helps working families as well as the people who take care of the children? This would be a tremendous loss to all who rely on this service.

I feel very strongly about this. It would be a total loss to the community, making you look very bad in the public eye.
Day care hurts no one and helps many.

Please look at the huge impact this will have on working families if you take this much needed service away.

Very sincerely,
Judy Bonfiglio

Paula P Bratto

From: Cynthia A Stewart
Sent: Tuesday, January 03, 2006 7:32 AM
To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail); Wade Fleming (E-mail)
Cc: Paula P Bratto
Subject: FW: Daycare

-----Original Message-----
From: Chris DeNeen [mailto:cdeneen@hotmail.com]
Sent: Thursday, December 29, 2005 4:37 PM
To: Cynthia A Stewart
Cc: Louise Schilling; jmz12761@hotmail.com; ChildsPlayHome@msn.com
Subject: Daycare

Hello,
Whether you have no kids, ten kids or one, quality daycare impacts all of us. With the fact that two parents need to work in these uncertain financial times, quality daycare is crucial to the future of not only Troy, but also the state and the country. I have found quality daycare and the chance that it will be taken away scares me.

I understand the need to maintain the nature of residential neighborhoods. I wouldn't want a Blockbuster or other business on the lot next to mine. But, I challenge you to drive through the neighborhoods of Troy and find the daycares. If the rest are anything like mine, you may be able to spot it once in a hundred days. They do not disturb the integrity of the neighborhood atmosphere. In addition, with the vast array of intelligent people working for the city of Troy there should be a way to write the ordinance in a manner that will eliminate the chances of other in home businesses, that *will* compromise the residential quality, from popping up.

A thousand positives to undo the damage of one negative seems to be the appropriate sentiment here. If a neighbor of a daycare has a complaint, they should be addressed and dealt with. The idea of punishing all for the actions or inactions of a few is ridiculous.

The daycare my son attends is safe. Overhead sprinklers or other over the top building codes are no match for common sense and well educated and managed children. That's what makes a daycare or school safe, not sprinklers. Some of the suggestions the planning commission made make practical sense. Others are simply designed to put these hardworking daycare providers out of business. Please see through this backdoor approach to ending a quality daycare option in Troy. Don't take Troy backwards; keep it the city of tomorrow, today!
Thanks,
Chris and Sue DeNeen

DEPT. CIRCULATION
☑ DIRECTOR
☑ PRINCIPAL PLANNER
☑ PLANNER
☑ PLANNER
☐ SECRETARY
☐ FILE ZOTA 214

REC'D
JAN - 5 2006
PLANNING DEPT.

Chan Jin Chung
1189 Garwood Dr.
Troy, MI 48085
248-680-7211

cc: J. Szerlag
B. Murphy
D. Smith
L. Bluhm
A. Motamy
S. Lacosta

Mr. Thomas Strat, Chair of Planning Commission
Planning Department, City of Troy
500 W. Big Beaver
Troy, MI 48084

Dear Mr. Strat:

First of all, I would like thank you deeply for your support on the issue of Group Day Care Homes in Troy. Your committee's decision and recommendation on Dec. 13th was fair and right to minimize future possible conflicts between neighbors. It would certainly improve the environment for the children in the group day care homes, too.

I understand that city's final decision is dependent on the city council members. Because of that, in order to block my activities before the City Council meeting, my neighbor, Mrs. Kathleen Peterson, filed "Petition For Personal Protection Order (PPO) Against Stalking" to the court (Please see a copy attached). Mrs. Peterson filed the PPO against another person previously and she tries to block taking photos and videotaping, even she asks not to talk to / contact her at all.

Simply, her allegation is not true and illogical. In her filing, she argues that I have been stalking her all the time, which is not true. I took just some photos of her business customers, not her. There is no reason for me to take photos of her! I took photos of her 'day care customers' in order to prove that my privacy was invaded and I was bothered by the noise. I did not take any photos of her. I did not videotape her.

Could you possibly write a letter to Judge Martha D. Anderson to let her know the situation in the City as well as your opinion regarding this matter? If you send the letter to me, then I will take it with me when I go to the court on January 18th.

I firmly believe I have the right to send photos and other evidences to the City, since I have been suffered from unusual business activities in the residential area. I wish you could explain in the letter the usefulness of visual data from City residents to make decisions as a chair of planning commission. Also, even if I would not do, I would like to stress that I have a right to look out/photograph/videotape outside from my windows in my house.

If the PPO is granted by the judge as she requested, then it could be an undesirable exemplar case in gathering residents' feedback data for the future of city planning. I do appreciate your help all the time and I really hope you will write a support letter to the Judge.

Sincerely,

Chan Jin Chung 1-3-06

Chan Jin Chung

P.S. By the way, I have an idea to improve the city planning services. I am interested in developing a web-based online system to gather property-owner's survey data on city wide issues. Also the system can be used to communicate with property owners effectively. Summary of the system features is attached.

Copy to: Mr. Thomas Strat, 5044 Christy Ct. Troy, MI 48098-4112

Approved, SCAO

COPY

Original - Court
1st copy - Law enforcement agency (file) (green)
2nd copy - Respondent (blue)

05-715523-PH

OAKLAND COUNTY JUDGE MARTHA D. ANDERSON
PETERSON, KATH V CHUNG, CHAN,

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT-FAMILY DIVISION
OAKLAND COUNTY

PETITION FOR PERSONAL PROTECTION ORDER AGAINST STALKING (NON DOMESTIC)

Court address 1200 N. Telegraph Rd, Pontiac, MI 48341

Court telephone no.

Petitioner's name	Age		Respondent's name, address, and telephone no.	Age
Kathleen M. PETERSON	53	V	CHAU JIN CHUNG	
Address and telephone no. where court can reach petitioner 1175 GARWOOD DR. Troy, MI. 48085 {} Confidential address on file with the court			1189 GARWOOD DR. Troy, MI. 48085	

1. The petitioner and respondent have never been husband and wife, resided in the same household together, had a child in common, or had a dating relationship with one another.
2. ☐ The respondent is required to carry a firearm in the course of his/her employment. ☐ unknown.
3. a. There ☐ are ☒ are not other pending actions in this or any other court regarding the parties.

Case number	Name of court and county	Name of judge

b. There ☐ are ☒ are not orders/judgments entered by this or any other court regarding the parties.

Case number	Name of court and county	Name of judge

4. I need a personal protection order because: Explain what has happened (attach additional sheets)

****SEE ATTACHED ADDENDUM FOR PERSONAL PROTECTION ORDER****

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2005 DEC 19 A 10: 19
BY: DEPUTY COUNTY CLERK

5. I make this petition under the authority of MCL 600.2950a and ask the court to grant a personal protection order prohibiting the respondent from stalking me as defined under MCL 750.411h and MCL 750.411i which includes but is not limited to:
   - ☒ following me or appearing within my sight.
   - ☐ appearing at my workplace or residence.
   - ☒ approaching or confronting me in a public place or on private property.
   - ☒ entering onto or remaining on property owned, leased, or occupied by me.
   - ☒ sending mail or other communications to me.
   - ☒ contacting me by telephone.
   - ☒ placing an object on or delivering an object to property owned, leased, occupied by me.
   - ☐ threatening to kill or physically injure me.
   - ☐ purchasing or possessing a firearm.
   - ☒ Other: NO VIDEO TAPING OR PICTURES TAKEN OF MYSELF
6. I ask the court to grant a personal protection order against stalking:
   - ☒ I request an ex parte order because immediate and irreparable injury, loss, or damage will occur between now and a hearing or because notice itself will cause irreparable injury, loss, or damage before the order can be entered.
7. ☒ I have a next friend petitioning for me. I certify that the next friend is not disqualified by statute and is an adult.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dec 19, 05
Date

Kathleen M. Peterson
Petitioner's signature

MCL 600.2950a, MCR 3.703

6th CIRCUIT-
OAKLAND COUNTY

ADDENDUM TO PETITION
PERSONAL PROTECTION ORDER
STALKING

page of

{X} moving party
Petitioner's name: Kathleen M. Peterson
Age: 53 yrs

{ } moving party
Respondent's name: v CHAN JIN CHUNG
Age:

{ } Check if non-public mailing address filed with Court

Stalking is defined as a willful course of conduct involving repeated or continuing harassment that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and actually caused someone to feel terrorized, frightened, intimidated, threatened, harassed or molested

The respondent did the following acts or made the following threats which caused me to feel terrorized, frightened intimidated, threatened, harassed or molested:

1. When: Since Aug 5, 05 to present Dec 19, 05
   Where: my residence
   What: Video tapes my every move + activities from his dining room window + his Bedroom windows upstairs in his house. I see him as early as 7:00 am with a tri-pod + digital camera + light on filming me, snow blowing, shoveling, putting groceries away, leaving for CVS
2. When: Drug store at 10:00 pm, taking out my garbage, going for a walk with
   Where: my dog, in my yard with my dog, talking with guests outside
   What: my home during the day, moving my son's car, etc. This has been 5 months of constant stalking surveillance that has me crying, very nervous, can't sleep at night, increase in many many migraine headaches from 1 per every 2 weeks to 3 per week. I've talked to the police dept. chief and he
3. When: said a PPO would be my only hope of stopping this
   Where: constant invasion of my privacy. I've begun to feel
   What: like I'm not safe + I can't think of anything else or concentrate at work anymore. I feel like a prisoner in my home because Mr Chung watches me every
4. When: time I exit my home. He has slandered me and
   Where: tried to destroy my reputation by telling other
   What: that he witnessed a drug party at my home on April 21th. A complete (True) for me and not true. Neighbors who were friendly to me before (concerned) no longer look at me who used to wave + talk w/ me. See attached

(Attach extra sheets if necessary)

VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.

Dec 19, 05
Date

Kathleen M. Peterson
Signature of petitioner

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT
COUNTY OF OAKLAND

1200 N. TELEGRAPH RD, PONTIAC, MI 48341

VERIFIED STATEMENT
RE: PPO ACTION

05-715523-PH

OAKLAND COUNTY JUDGE MARTHA D. ANDERSON
PETERSON, KATH V CHUNG, CHAN,

PETITIONER	Age	RESPONDENT	Age
Kathleen Mary Peterson	53	v Chan Jin Chung	37?

Have you or respondent ever used any other names (now or in the past)? ☒Yes ☐No. If yes, please list them.
Swillum, Woodruff

What county do you live in? Oakland
Respondent lives in Oakland County.
Do you or have you lived together: ☐Yes ☒No.
What is your relationship?
Neighbors Side By Side

Do you and respondent have child(ren) together ☐ Yes ☒ No If yes, list the children you have together.

NAME OF CHILD	DATE OF BIRTH	SOCIAL SEC NUMBER	CURRENT ADDRESS
1.			
2.			
3.			

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2005 DEC 19 A 10:19
BY: DEPUTY COUNTY CLERK

(ATTACH EXTRA SHEETS IF NECESSARY)
Were you married to respondent when the child(ren) were born? ☐Yes ☐ No if no, check one:
_____ There has been a legal order of paternity entered. Case number:
_____ A paternity case has been filed and is pending. Case number
_____ The father legally acknowledged paternity.
_____ There has been no legal acknowledgment of paternity.
Is there a custody or parenting time order in effect regarding child(ren) that you and respondent have together?
☐Yes If yes, fill out attached worksheet. ☐ No
If you and respondent have child(ren) together, fill out the attached worksheet regarding custody and parenting time.
List all other children that either of you have

Have you or respondent ever asked for a Personal Protection Order in another county? ☐ Yes ☒No
What county
When
Why
Have you or respondent ever been to court in another county? ☐Yes ☒No
What county
When
Why

Does the respondent have a license to carry a firearm? ☐Yes ☒No
Is the respondent employed or in training for a position which will require him/her to carry a firearm? ☐Yes ☒No
Is the respondent an employee of a law enforcement agency? ☐Yes ☒No. If yes, which agency?
Is the respondent an employee of the Department of Corrections? ☐Yes ☒No. If yes, which facility?

VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.

Dec 19, 05
Date

Kathleen M. Peterson
Signature of petitioner

Approved, SCAO

1st copy – Judge/Assignment clerk
2nd c
3rd c
4th c

05-715523-PH

JUDGE MARTHA D. ANDERSON
PETERSON,KATH V CHUNG,CHAN,JT

STATE OF MICHIGAN 6th JUDICIAL CIRCUIT-COURT COUNTY OF OAKLAND	NOTICE OF HEARING ON PETITION FOR PERSONAL PROTECTION ORDER

Court address
1200 N. Telegraph Rd. Pontiac MI 48341

Court telephone no.
(248) 858-1000

Petitioner's name: KATHLEEN MARY PETERSON

v

Respondent's name: CHANTIN CHUNG

TO:

You are notified that the petitioner has requested a personal protection order be issued against you. A hearing has been scheduled to decide whether to issue the personal protection order for:

Judge: MARTHA D. ANDERSON

Date: 1/18/06

Time: 1:30

Location: COURTROOM W2 WEST WING

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

If you do not attend this hearing, a personal protection order can still be entered against you.

Date

Signature

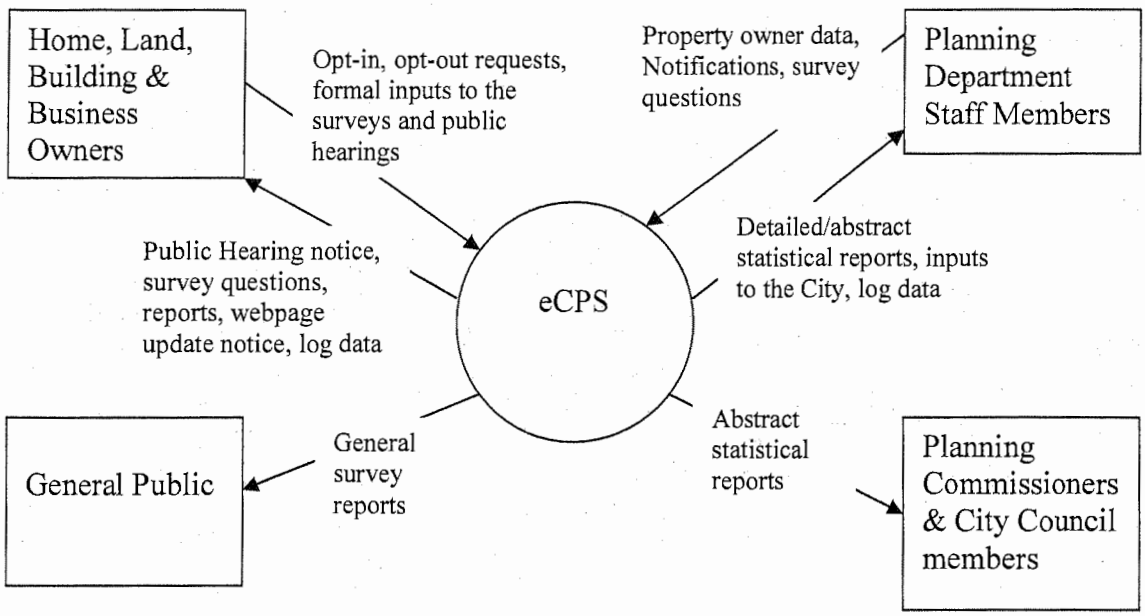
TO THE PETITIONER:

If the respondent is over 18 years of age, you should serve this notice no later than 5 days before the date of the hearing stated above so that the respondent receives notice at least 1 day before the hearing. ~~See other side for proof of service~~.

If the respondent is under 18 years of age, you should serve this notice no later than seven days before the date of the hearing stated above. You must also serve the parents, guardians, or custodians of the respondent. ~~See other side for proof of service~~.

e-CPS (Electronic Citywide Planning Support) System on the web

CJ Chung, 1-2-06



Features

- Opt-in / Opt-out functions
- Email broadcasting notifications as well as backed up copies of the notice in the account
- Web-based survey functions
- Statistical analysis reports for the City administrators
- Archives of logs of inputs from a property

Advantages

- Good value to the City of Troy, since each home has an account to communicate with the City; It may improve the reputation of city management (No cities provide this kind of service yet, as far as I know.)
- Can save mailing postage and labor cost
- User-friendly and effective communication interface with property owners. City service satisfaction percentage will go up.

Timeline of the development

Requirement Specification for a prototype	Feb. 2006
Prototype Development	July 2006
Evaluation of the prototype	Aug. 2006
Requirement Specification	Sep. 2006
Development	
Test	
Field Test	
On service	Jan. 2007

Development Cost

Lawrence Tech University Computer Science Department and I will provide the prototype system without any cost. After the evaluation, the cost for the real-system development and maintenance will be very low, since it is the matter of improving the existing working prototype system. I would like to presents this proposal to the planning commission and planning Department, if you think the system is useful.

Paula P Bratto

From: sharon manning [manning_s@sbcglobal.net]
Sent: Saturday, January 07, 2006 6:24 PM
To: Paula P Bratto
Subject: Continue Group Child Care

7 Jan. 2006

To: The City of Troy Planning Commission Department,
(Please copy for every member having a say in the future of Group Child Care homes in Troy)
From: Sharon Manning

I have a Licensed Group Child Care home in Troy. I have been a member of the Oakland County Child Care Association. I studied Early Childhood as a means to provide a needed service in Troy. I received CPR and First Aid to insure proper training, for this career. I annually get retrained with Early Childhood classes. I ask you NOT to reduce or eliminate my only means of income. I ask you this, for the only livelihood of my family, and for the need of the children in care.

I am audited by the Oakland County 4C's-to insure proper healthy foods are fed to the children in care, and by the State of Michigan licensing department, to insure all rules and regulations are according to code. I have brought in the Troy Fire Department to insure training to children, of fire safety. I have brought in the Troy Police department to insure the children are taught Stranger Safety. I have brought the children in care to the Troy Aquatic Center, to add to the income of the City of Troy. I have lived and owned homes in Troy for 18 years. I pay taxes AND you have been collecting personal property taxes on this business, knowing I run a Group Child Care. How can you now say we are not legal? You never addressed Group Child Care, that's all. So, we are addressing the subject-let us grandfather Group Child Care-put the words Group Child Care in your Zoning Ordinance for residential Childcare. This is getting way beyond the need for finalization. This subject has now gone into the 3rd year. Finally you have a disgruntled resident. This should NOT be a reason to eliminate a fine service that is offered to the City of Troy.

I have gone to every meeting in regards to this matter, except the last meeting on Dec. 13th. This was due to my mother passing away on Dec. 11th-thus, my presence was needed at the funeral home on the evening of Dec. 13th, 2005. Upon reading the Troy Times, I was appalled to think that because one houses' dining room window is close (although I'm sure the structure was regulated as a proper residential distance between homes, when built), to a neighbors side door-you may change your mind-and not allow us to continue contributing to the positive effects of in-home child care. We who have a group child care, mostly began as a Family Day Care. This income is outdated as a sole means of livelihood, for many of us. As you know, living in Troy is an honor, but it is not cheep. How can you expect us to cut our wages in half, or more, and expect us to survive? Are houses cheaper? Are taxes cheaper? Is the price of anything cheaper? We are harming no one. Any neighbor could hear a child outdoors (laugh or cry) regardless if the child lives in the home, or not. We who give this service to Troy, do so with the utmost consideration of neighbors. Neighbors pets are often louder than the children we care for-yet we do not ask them to get rid of them. Should their grandchild come over, and cry when leaving-should they have to buy a privacy fence? Or change their residence, so I do not have to hear them when visiting? How about let us tell them what door to enter! How ridiculous! The majority of care givers hours are completed with child care before the majority of residences return from work. We do not allow the children in care on other neighbors lawns. We do honor the rights of neighbors. But, we live here too. We have brought money into the City of Troy, thus spending money in the City of Troy. We quietly provide a service that is needed and appreciated by most of the residences in Troy. One black sheep should not make the entire herd be spray painted black-because he complains. I need to work, this is why I work. I do my job, and I do it well. I respect all neighbors. I love children and am proud to offer the parents of Troy an alternative to Commercial Care, or as one father puts it "drive through" child care, in the large facilities where children do not get individual attention. The Troy parents should be allowed to choose-what kind of care they want for their most precious possession. The City of Troy should be proud and honored to continue Group Child Care for its residences. In addition, it can then proudly add this service to its motto, "The City of Tomorrow, Today."

You were on the right track with the revision of your text, in the One family Residential Districts'. Without

absurd additional requirements, added onto the already refined book of licensing rules by the State of Michigan, we as Group Child Care givers in Troy, ask that you allow us to continue business as usual. You possibly would consider a 'grandfather' clause to permit those of us doing this business, without interruption, to continue to do so. I'm sure you are not going to go around and close all in home businesses-but if you discriminate against in home Child Care.....this is what you will be doing by eliminating Group Child Care. Will you go house to house, insuring that the accountant, the in home hairdresser, the lawn service, the flower sales, the pumpkin sales, the man who does work out of his garage, the woman who works out of her home, the person who works on the computer, the people who have the service of snow removal, or build things in their garage, that they too must cut their income in half, or more?

I do not believe it right, to eliminate my livelihood. Again, I ask you to allow or add a grandfather clause to the current Group Child Care homes in Troy. Please continue offering the City of Troy, its needed in home child care, to the children and the parents of Troy.

Sincerely, Sharon Manning
248-879-1009

Paula P Bratto

From: Cynthia A Stewart
Sent: Tuesday, January 10, 2006 5:16 PM
To: Paula P Bratto
Subject: FW: Group Daycare

-----Original Message-----
From: Upton, Lesley [mailto:lupton@cgolaw.com]
Sent: Tuesday, January 10, 2006 11:57 AM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart
Subject: Group Daycare

I have emailed before about being in support of group daycare and I still stand by that for the reasons I stated before. I also have confidence in all elected counsel members that you will allow group daycare in Troy without having unrealistic restrictions. I have one more point to bring up though. I was talking to my daycare provider yesterday and was told that only a 30 day time period would be given if it wasn't allowed. I strongly recommend you up this time limit. You have no idea how hard it will be to find a good quality daycare with that many people out of daycare looking. Even if there weren't that many people it still takes months in advance of looking time. Not to mention if you are as picky as I am you need way more time. I was the mom that had a questionnaire that I take along with me and I also do back ground checks. I also have a newborn on the way this year. I only need part time care which is unheard of for a family daycare. I am not a big fan of a facility either for many reasons and that one that I might consider has a year waiting list. With having one child already and an infant on the way it will take me months to find a good quality place for my children. I also need to take my child at least three times to see if it is a match for us. You don't just dump your kid off without having them visited before. Plus interviewing takes a very long time. So please I beg of you to give us at least six months. Usually openings become available when kids go to kindergarten but that doesn't happen until late September when the school year is beginning again. They still need care until the summer is over before school time. So a six months time limit is what is needed at a minimum. I am hoping that it doesn't come down to me having to look for another daycare though because to think I might have to is a nightmare in itself and I am sure all the parents will agree on that one!

Lesley Upton
Carlson, Gaskey & Olds, P.C.
400 W. Maple, Suite 350
Birmingham, MI 48009
Direct 248-988-8698
Main 248-988-8360
Fax 248-988-8363
email: lupton@cgolaw.com

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Paula P Bratto

From: Mark F Miller
Sent: Wednesday, January 11, 2006 9:01 AM
To: Paula P Bratto
Subject: FW: Stunned!!!

-----Original Message-----
From: Bluemazon@aol.com [mailto:Bluemazon@aol.com]
Sent: Wednesday, January 11, 2006 12:01 AM
To: Mark F Miller
Subject: Stunned!!!

Hello,

As a child care provider in another city, I have to say I am glad that I don't live in Troy, MI ! I tell everyone I know that too! I cannot even comprehend why you are not listening to your residents??? I have been following this "Ban on Group Home Daycares" I know this topic has been well represented in favor of group providers. They have been well organized and through in their stand with the support of hundreds!! Do you know that your county is one of two in the state with the highest demand for daycares? And what do you do to help that need? Run them out of town! I know I would be calling for a recall on my council if they forgot why they were elected. You are there to represent your residents! I don't understand why you are not listening to them??? It's a crying shame!

Sincerely,
C. Dulock
Wayne County

Paula P Bratto

From: conniewood@comcast.net
Sent: Thursday, January 12, 2006 11:31 AM
To: Paula P Bratto; Cynthia A Stewart
Subject: re group daycare homes in troy

Dear Council and Planning Commission Members;
I had previously communicated to you an opinion regarding allowing daycare homes in Troy to include group daycare homes of up to 12 children.
At that time, I stated that I supported the daycare business of my neighbor, Kathy Peterson of 1175 Garwood Drive, and also that I supported restricting daycare providers to 6 children. It has come to my attention that Kathy's "First Steps Child Care" qualifies as a group daycare home, and is licensed by the State for up to 12 children. I therefore want to communicate that this group daycare, which is two houses down from my own, has not caused me any problems in the four years that I have lived on Garwood Drive. I have not been inconvenienced by traffic or bothered by noise. Visually, the yard in question is neat and well-maintained and the children in Kathy's care are seldom seen. In nice weather, they will walk, hand-in-hand with their caregivers on the sidewalk. It is rather nice to see them as they are very cute! My personal experiences have led me to inform you of my support for this group daycare in the City of Troy, and the concept of daycare in Troy in general. I no longer feel compelled to urge a limitation for our city that is in conflict with the existing State laws.
Thank you for your time in this matter.
Connie M. Wood
1203 Garwood Drive Troy MI 48085

Paula P Bratto

From: Cynthia A Stewart

Sent: Monday, January 16, 2006 4:36 PM

To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail); Wade Fleming (E-mail)

Cc: Paula P Bratto

Subject: FW: Group Daycares in one residential neighborhoods

-----Original Message-----
From: Jennifer Fahnestock [mailto:jfahnestock@ramrealestate.com]
Sent: Monday, January 16, 2006 2:58 PM
To: Cynthia A Stewart; Louise.Schilling@troy.mi.us
Cc: childsplayhome@msn.com; jmz12761@hotmail.com
Subject: Group Daycares in one residential neighborhoods

I am writing in support of having the option to send your children to group daycare homes in any area. I have had my daughter at a group daycare home in Troy for two years and I have never witnessed a traffic problem as a result of having a residence as the site of a daycare. The home atmosphere far outweighs the concern over potential traffic issues. What is more important here? Our children's well being or having a few extra drivers in a neighborhood? Please consider the real benefactors of group daycare homes, the children. I have never wanted to send my child to daycare but with the economy the way it is I don't have a choice but to work. Having the ability to have my daughter raised in a home as opposed to an office like public facility has made this transition a very good one. I feel way more safe picking a dropping my daughter off in a neighborhood home as opposed to in a place where the cross roads are very busy with Troy traffic, so please don't take this option away form me. I can't for the life of me understand even what the potential traffic concerns could be. It is not as if parents make three and for trips a day. Also, I don't think that there would be an issue with unsafe driving by any parent who has their children in their car with them. I would rather have a parent driving down my neighborhood streets rather than an adult in a rush or a teenager out for a joy ride. The homes usually never have more than 10 children in them and most of the time they are siblings so that mean two or three children to one car. The reason why many parents pick group home daycares is because of the low number of children in the home. The low numbers is what makes the home so special and why there should always be special exceptions to those parents that desire to have their children taken care of in this type of setting rather than a large facility. It is my opinion that whoever is having an issue with people driving on their streets should maybe have considered this before moving into a subdivision with many homes around them. I think that we need to ask ourselves if having a group daycare home on your street is really going to create that much more traffic with most families having 2 plus cars and most single homes having three or more drivers with teenagers and both adults commuting to their jobs. If homeowners are really concerned with all the traffic in their neighborhoods, than maybe they should crack down on those drivers that cut through subdivisions to get around typical Troy rush hour traffic.

Jennifer A. Fahnestock
(Wife of Morse Elementry teacher Brian Fahenstock)

Paula P Bratto

From: Cynthia A Stewart
Sent: Tuesday, January 24, 2006 7:29 AM
To: Paula P Bratto
Subject: FW: Group day care facilities

-----Original Message-----
From: daniel white [mailto:dwhite4949@earthlink.net]
Sent: Monday, January 23, 2006 5:29 PM
To: robin@beltrmini.com; broomfield; lambert; Mfhowryl@umich.edu; stine; Wade Fleming; "Louise.Schilling"@ci.troy.mi.us
Subject: Group day care facilities

Dear Mayor/Council Members,
We urge that you vote against allowing group day care facilities in residential areas in the City of Troy.
The Troy Planning Commission has recommended against allowing the facilities in residential areas and research proves that group day care facilities have a negative effect on neighborhood properties.
Operators of group day care facilities should investigate leasing or purchasing one of the many suitable commercial properties available in Troy.
Please keep our residential neighborhoods residential.
Daniel J. White
Diane E. White

Paula P Bratto

From: Jennifer Doetsch [jnidobe@yahoo.com]
Sent: Thursday, January 26, 2006 8:23 PM
To: Paula P Bratto
Subject: Group daycare ban

To Whom It May Concern:

I was surprised and disappointed to read that the Troy Planning Commission and possibly the Troy City Council are considering banning group daycare facilities in the city.

The economic and employment challenges that are faced by Michigan residents means it is imperative that both parents work full time in order to adequately provide for their children. The convenience that these facilities provide for these hardworking parents is invaluable.

As anyone with children knows, it is hard enough to be punctual when every morning you are faced with not only getting everyone ready, but also getting them to a daycare facility. Banning group daycare facilities will eliminate the one convenience that many families rely upon--having the facility close at hand, so that they do not have the added burden of long distances and traffic with which to contend.

I understand the concerns of Mr. Chamberlain that these facilities would change the "residential character" of the neighborhoods. I also understand the concerns of Mr. Vlek that these facilities have been shown to have "a negative effect on neighboring properties". Instead of eliminating group daycare facilities in the City of Troy why not compromise? Limit the number of children allowed per facility so that noise and traffic do not become an issue. Limiting how many how many facilities would be allowed in the city does not address the potential problem of having too many facilities in a concentrated area. Limiting the number of facilities allowed in a given area (i.e. per street, subdivision etc.) would also avoid potential noise and traffic issues.

Regulation would be the key. If a facility has SUBSTANTIATED complaints against it (i.e. noise, too many children, too much constant traffic) initiate a three strike rule. Three strikes and you can no longer run the facility from that location.

If none of these compromises are amenable to the City of Troy then at the very least why not allow those facilities that are not running to continue to operate, while banning any new facilities from opening.

Sincerely,

Jennifer Doetsch

Paula P Bratto

From: Jerome J. Schultz II [jjschultz2@wideopenwest.com]
Sent: Sunday, February 19, 2006 8:02 AM
To: Paula P Bratto
Subject: Daycare Homes Planning Issue - Article IV Definitions and Article X One Family Residential Districts R-1A through R-1E of the Zoning Ordinance

I am concerned about the already existing Family Daycare Home in our neighborhood. I am even more concerned about allowing Group Daycare Homes in my neighborhood. I do not see any reason to amend the requirements for Family Daycare Homes since we do not seem, as a City, to monitor and regulate them currently. This same reasoning would then apply to not entertaining to permit Group Daycare Homes.

The users of the existing Family Daycare Home in my neighborhood do not seem have adequate parking, or, are just to busy to, and, as such use both sides of the street when dropping off an picking up their children. In fact it probably appears to be safer to the parents to ignore the 'no parking' restriction since that is the side of the street upon which the Family Daycare Home is located. This is a safety hazard for the neighborhood since it limits the accessibility of emergency vehicles, which I think is the intent of having one side of the street designated are marked as no parking. Having vehicles parked on both sides of the street, and, the act of transporting the children to and from these vehicles also posses a safety risk for the children and parents.

I'm not sure if the number of participants in this Family Daycare Home are within the current guidelines nor whether anyone is actually monitoring or regulating what is occurring. I am sure that allowing an increase in the number of children and families that can safely be supported is in question. I chose to live in a 'residential' neighborhood and not a multi-family housing neighborhood or complex, not a condominium or apartment complex, not a business area, to get away from some of the hustle and bustle. I think these facilities detract from that aspect and as a result lower my property values, maybe that should be taken into account when the city asses property values and taxes.

The Troy Times (by C & G Newspapers, Vol. 22, No, 7 of February 16, 2006) article 'Court to consider release of man who killed his mother' talks about releasing the dangerous person to a group home. Is that what I'd have in my neighborhood? A Group Daycare Home? "The citizens of Oakland County and the surrounding community will not be safe with James Yang on the street. He brutalized his mother, and it was a horrendous, horrific murder." This murder took place in Troy at 5382 Abbington on May 1, 2000 so one would expect that if James Yang were released to a group home it would be in Troy.

I really do not think that my safety and property values should be adversely affected by instituting changes to financially benefit a select few.

Sincerely,

J. J. Schultz, II
1803 Farmbrook
Troy, MI 48098

248.641.7263

Paula P Bratto

From: Lakrjebr@aol.com
Sent: Monday, February 20, 2006 4:14 PM
To: Paula P Bratto
Subject: family day care

I would like to address the proposed amendments revising the family day care homes. I have run my business as a family day care for 18 years on Hilmore in Troy. I have never had any complaints with any of my neighbors. I respect their privacy. I would hope that I can go on running my business in Troy in my home without any delay. I am a single Mom and this is my sole source of income. If I have to put up fences, which would be so costly for me, I would probably have to close my day care. I cannot afford to have a fence put up. I watch my children in my care very carefully when we are outside. I know that something could happen beyond my capabilities, I am not naive. But this has worked for me for 18 years without incidence. Please let the rules stay as they are for us who have worked here for so long in our homes. Let the rules change for someone opening up a new business now, so they know what they are getting into when they start their day care. They would know the expenses that was coming, not having to add to something that has worked so well for me for 18 years.

Thank you.

Brenda Kellett

Paula P Bratto

From: Cynthia A Stewart
Sent: Tuesday, February 21, 2006 4:38 PM
To: Paula P Bratto
Subject: FW: Group Day Cares

-----Original Message-----
From: Hernandez, Stefanie [mailto:shernandez@HDP.com]
Sent: Tuesday, February 21, 2006 4:14 PM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart
Subject: Group Day Cares

I wanted to make known my support for Group Day Cares in Troy, and to ask that you vote yes for the Group Day Cares..

Thank you,

Stefanie R. Hernandez

ph: (248) 341-1309
fax: (248) 641-0270
email: shernandez@hdp.com

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Paula P Bratto

From: Cynthia A Stewart
Sent: Wednesday, February 22, 2006 9:22 AM
To: Paula P Bratto
Subject: FW: I Support Group Day Care!!!!

-----Original Message-----
From: Bauer, Angela [mailto:ABauer@cgolaw.com]
Sent: Wednesday, February 22, 2006 9:12 AM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart
Subject: I Support Group Day Care!!!!

Angela V. Bauer
Intellectual Property Intern
Carlson, Gaskey & Olds, P.C.
400 West Maple Road, Ste. 350
Birmingham, MI 48009
(248) 988-8682 (direct dial)
(248) 988-8363 (fax)
abauer@cgolaw.com

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Paula P Bratto

From: Cynthia A Stewart
Sent: Wednesday, February 22, 2006 9:13 AM
To: Paula P Bratto
Subject: FW: Group Day Care

-----Original Message-----
From: Catarino, Melissa [mailto:mcatarino@cgolaw.com]
Sent: Wednesday, February 22, 2006 8:00 AM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart
Subject: Group Day Care

Please keep group day care alive.

Brent Savidant

From: CJ Chung [chung@LTU.edu]
Sent: Friday, February 24, 2006 7:47 AM
To: Brent Savidant
Cc: Paula P Bratto
Subject: GDCH - another photo evidence

Importance: High

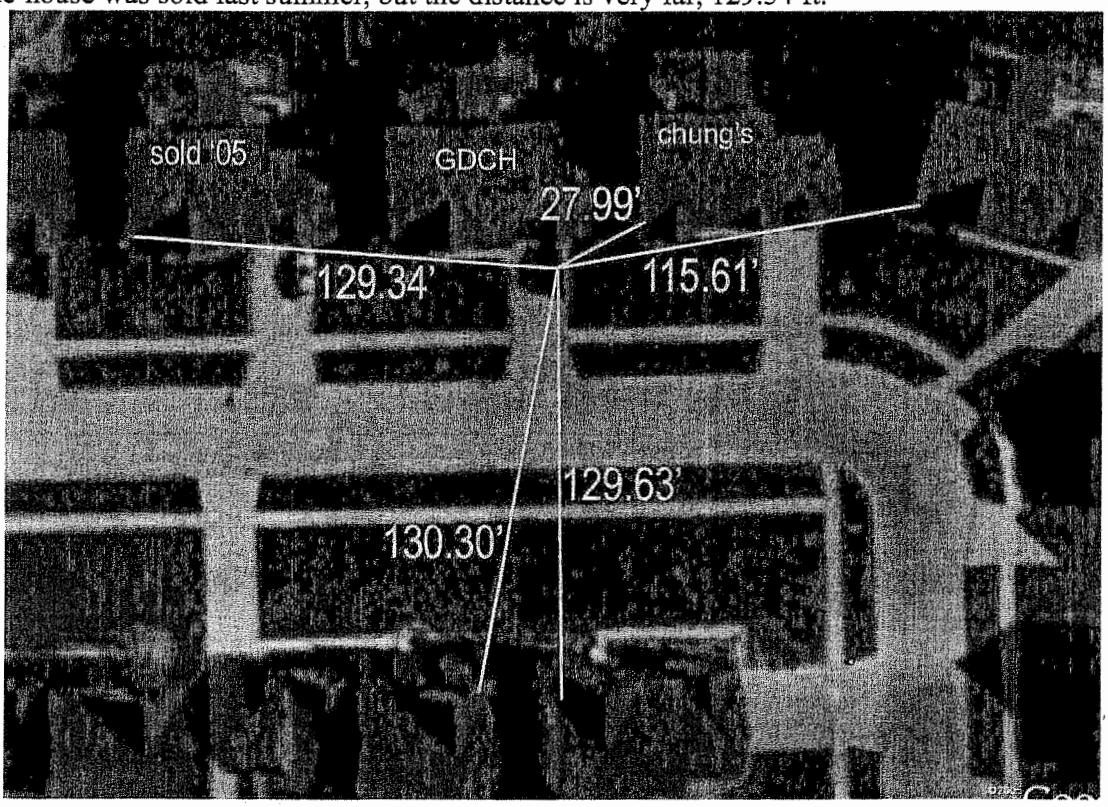
oldNew.pdf

Dear Planning Committee,
Attached document may shows why my neighbor has been saying she did not get any complaint from the next doors.

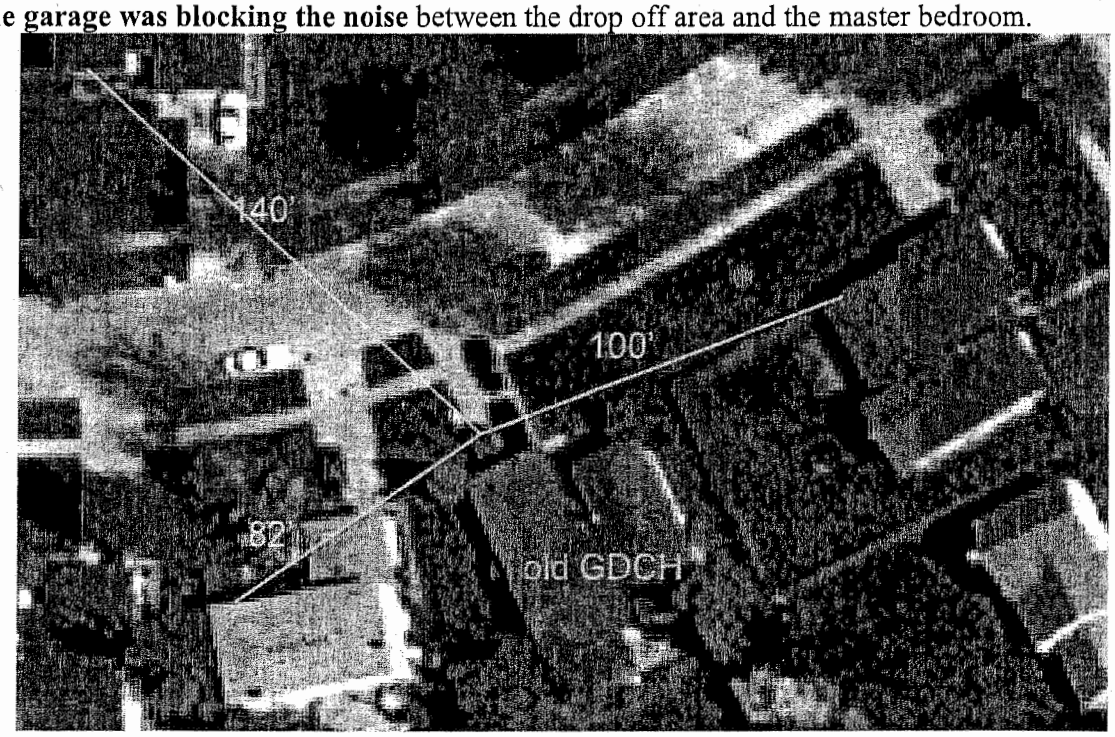
That is another reason we need to have right ordinance text for the future. If not similar clashes like mine will occur again and again. She bought a new construction house without seeting the actual house. She did not realize the next house was so close and her drop off area was facing neighbor's master bedroom. If we had a rule, we could have been prevented terrible conflicts like this...

I heard Planning Dept is preparing final text for the City Council. I wish you could consider this case. I am glad they are not on the web yet at http://www.ci.troy.mi.us/PublicHearings/ (No March 6 agenda)
Sincerely,
CJ

My house (1189 Garwood) is very close to the Group Day Care Home (GDCH). The distance from drop-off area to my master bedroom is only 27.99 ft. GDCH owner insists another side by side house was sold last summer, but the distance is very far, 129.34 ft.



GDCH owner has insisted that her old neighbors did not complain at all. So I went to 3924 Kings Point. The distance between the drop off area and the master bedroom was 82' and 100 ft. Also **the garage was blocking the noise** between the drop off area and the master bedroom.



Sharon M. & David A. Schafer
5593 Mandale Drive
Troy, Michigan 48085
248 879 9249
dschafer@ix.netcom.com
Monday, February 27, 2006

Mr. Mark F. Miller AICP/PCP
Planning Director
City of Troy
500 W. Big Beaver
Troy MI 48084

Dear Mr. Miller

This is a formal request that David Schafer and Curtis Childs be permitted to make a presentation to the City Council at the City Council meeting on Monday, March 6, 2006 during the Public Hearing for Zota 214 Group Child Day Care in Troy.

The reason for this request is that we feel they could cover a lot of the issues regarding Child Group Day Homes in one presentation so that you would not need numerous people come up to talk individually.

We appreciate your consideration of this request.

Sincerely,

Sharon M. Schafer & David A. Schafer

Analysis of Child Day Care Home Problems in Michigan and Some Suggestions to Improve the Situation

Unofficial Draft Version

CJ Chung, Ph. D.
Associate Professor of Computer Science
Lawrence Technological University
21000 West 10 Mile Road, Southfield, MI 48075

Abstract

Largely owing to the increased demand, the cost for child care service has been sky-rocketing. To make situations worse, state budget cuts for the child care assistance program create a growing child care crisis for low-income working families [Budget 2003]. Licensed day care homes were welcomed, because it was providing relatively affordable child care services. It is affordable because they are using existing home space. However, child care in private homes has caused a lot of problems, mainly due to the fact that homes were not designed for public services. In addition, day care homes in the residential zoning area caused problems such as noise, parking, invasion of privacy, traffic, safety, increased city services, lowering property value of neighboring homes, and among others. Especially, licensed 'group' day care homes up to 12 children and employees in residential zone got a special attention recently, because most cities did not have zoning ordinance allowing this type of business in the residential districts. To solve child care problems actively, it is strongly suggested that state must promote more child care centers than day care homes in order to reduce child care accidents. State should not ignore city's zoning ordinance anymore and set rules to take care of neighbors and communities, too. If a city wants to allow large scale home services, it must have strict regulations and plan residential zones in such a way that sub-divisions are designed to accommodate home services such as child care and adult foster care homes to minimize problems with neighbors. Parents need to analyze carefully pros and cons of putting their children in day care homes.

1. Introduction

"It seems we both have to work full-time in order to pay day care fees for our two children", a couple with two children living in Troy said. Then the mom said, "If I take care of my children at home quitting my full-time job, and take care of my friends' children in addition at home, then probably I can make more money". They are paying $234 per week in a well-established professional day care center for their 2 year old daughter and just $175 weekly for a new born 6-month old son in a day care home. They had to choose the child care home for the new born son, largely because of the cost. When they were asked, whether their son would be safe and well-cared there, they said he would be all right, because they knew the day care home owner personally.

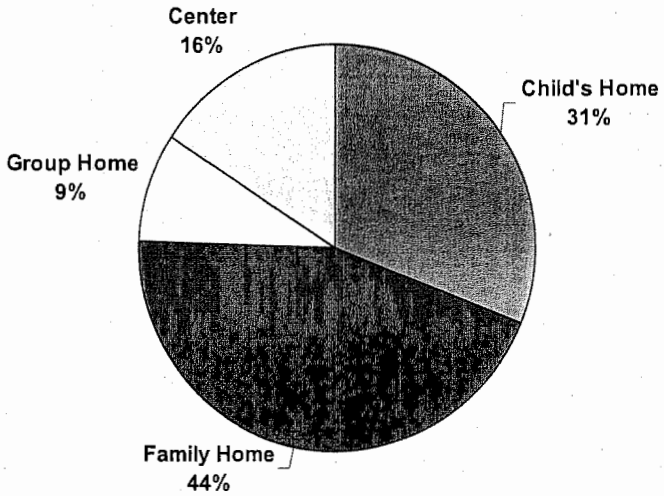
When the median cost of child care centers in Troy listed in [Centers 2005] was compared with the median cost from the public e-forum site for Michigan child care providers (http://www.ingham.org/hd/oyc/disc3_frm.htm), certainly home day care facilities were more affordable than day care centers.

There are two types of home day care facilities in Michigan.

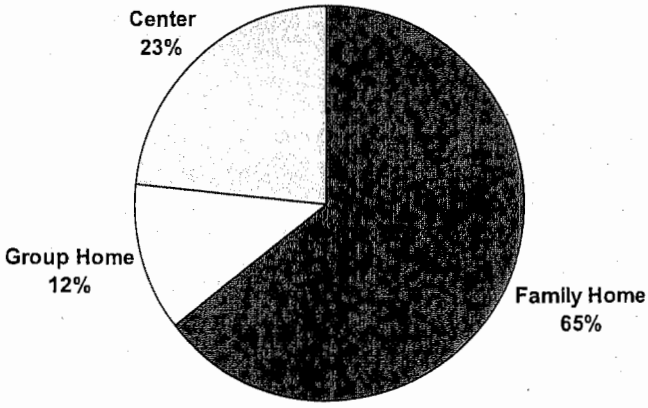
- Family day care home means a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family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

Child Care Center, also known as Day Care Centers or Day Nurseries, is an professional establishment in which more than six (6) children under eighteen (18) years of age are received for care and supervision from other than a parent or legal guardian for periods of less than twenty-four (24) hours a day. Graph 1 shows percent of children served by types of care in Michigan from 2000 to 2004. The data was from Child Care Bureau, Administration for Children and Families, US Department of Health and Human Services [CCB 2005]. Graph 2 shows the percent of children served by types of care excluding child's home care in Michigan from 2000-2004 on average.



(Graph 1) Percent of Children Served by Types of Care (Michigan 2000-2004)



(Graph 2) Percent of Children Served by Types of Care excluding Child's Home Care (Michigan 2000-2004)

In Michigan, family day care homes are very popular (65%) because it is allowed regardless of zoning, since the State courts ruled that family day care homes were permitted in all residential areas (Zinger vs. Beverly Island). But group day care homes are not. Currently, townships and counties can not prohibit

licensed group homes. In the case of cities except some cities like Farmington Hills that changed their ordinance in 2005, current State laws do not have the same restrictions [OYC 2005]. That means there are a lot of group day care homes in most cities that have been operated illegally in their homes for years without much attention from the cities.

According to US Department of Labor's report, almost three out of four women with children (72%) were in the workforce [DOL 1998]. It was only 39% in 1970. Due to the increased demand the cost of day care has become very high. To make things worse, state budget cuts for the child care assistance program create a growing child care crisis for low-income working families [Budget 2003]. Naturally, people were looking for affordable day care homes and there is no doubt that home care services have generated some public benefits. However, every coin has two sides. In this article, problems involving day care homes are analyzed with some real-world examples and side-effects after investigating unique characteristics of home day care business. Suggested are long-term plans as well as short term temporary solutions to the current problems. Higher level state plans as well as local level city plans are also suggested. In addition, in order to improve child day care services, some solutions exploiting available computing technologies are suggested.

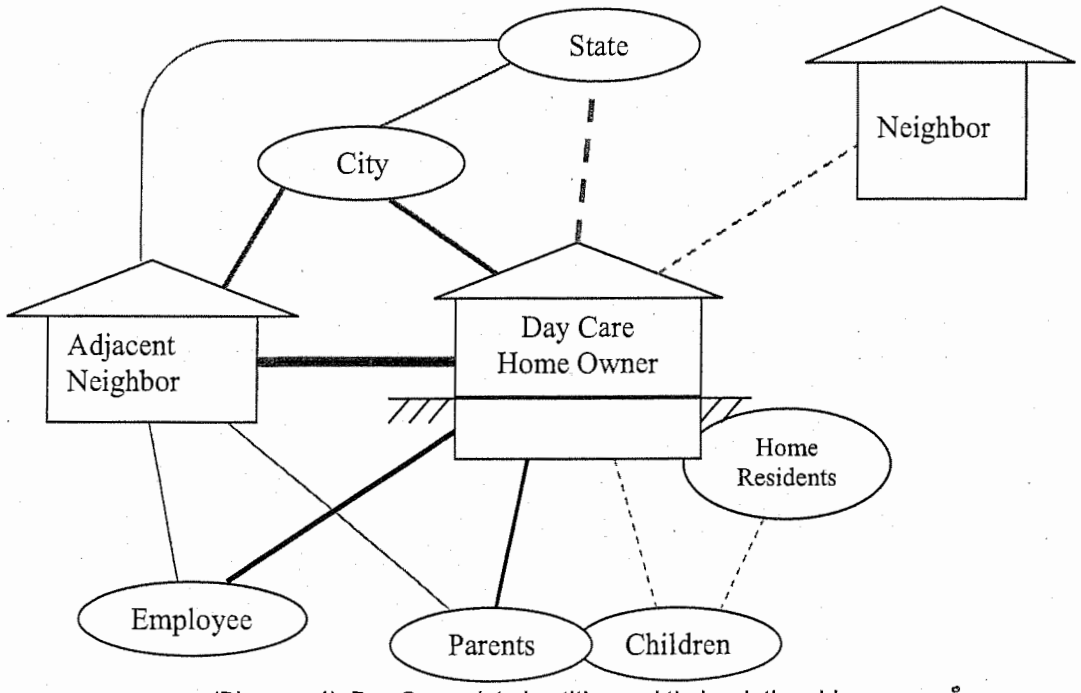
2. Problems Involving Day Care Homes

2.1 Unique Characteristics of Home Day Care Business

Home day care business is quite different from other home businesses such as music lessons, tax preparations, financial consulting, etc. The following table shows the differences.

	Home Child Day Care Business	Other Home Businesses
Business Hours	6am to 10pm (more than full-time)	9 to 5 (or many cases, part time)
Out door area use	Yes	No
Temporal types of customer service	Parallel	Sequential
Customer arrival/departure time pattern	Dense: early morning (6am-9am) and evening (3pm-6pm)	scattered
Number of travels per customer	2 (come, drop-off, and go; come, pick-up, and go)	1 (come, stay, go)
Safety issues involved	Yes (Many tragic accidents occurred in homes)	No
Customer age	Infants, young parents	No infants, no babies
Special license required	Yes	Usually no
Special home inspection required	Yes	No
Full-time employees	Yes (Group day care only)	Usually no.
Amount of extra city service (sewer, trash, etc.) needed	Large	Small

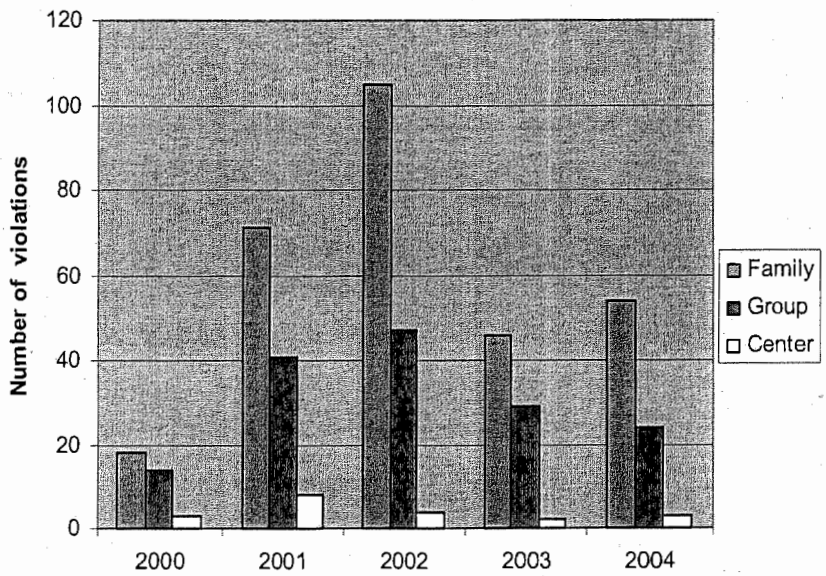
Home day care business involves many people, groups of people, and governmental units. The following diagram 1 shows major entities involved with home day care business and some problematic relationships between them. Black line represents positive relationship, red line does negative relationship, and gray dashed line represents conditional relationship. The thickness of the line implies the strength of the relationships.



(Diagram 1) Day Care related entities and their relationships

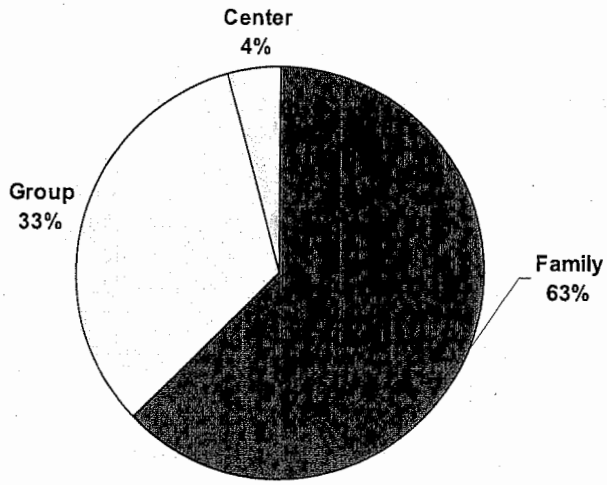
2.2 Child Day Care Accidents - Statistical Data

Child Care Licensing Act (Child Care Organizations Act 116) was first enacted in 1973 in Michigan [NRC 2005]. Currently, Department of Human Services (DHS) is in charge of child care services including licensing and regulations. The following (Graph 3) shows number of suspensions, revocations, and refuse to renew day care facilities in Michigan since 2000. The data is from the DHS website, "Child Care Licensing Disciplinary Actions" [DHS 2006]. In this study, denials of new applications were not counted.



(Graph 3) Number of suspensions, revocations, and refusal to renew in Michigan 2000-2004

Graph 4 shows percentage of violations by the three types of care, day care center, group day care home, and family day care home. It is explicitly revealed that there have been more accidents in home day care facilities. Accidents in day care center were only 4% of all the violations in Michigan from 2000 to 2004.



(Graph 4) Percent of violations by type of care in Michigan 2000-2004

If we assume number of violations is proportional to the number of children served, then the percent of violations from day care centers would be around 23% (see graph 2). But it was only 4% (see graph 4). It is clear that *relatively* more violations were occurring from the group day care homes, since the percent of violations were 33% while serving only 12% of children in Michigan. In general, we can say that more violations are occurring in home day care setting compared to professional day care centers. In-depth analysis on types of accidents and violations is done in the following section 2.3.

2.3 Types of Home Day Care Violations

It is true majority of day care homes were serving children with care. However, there have been relatively more accidents and rule violations in day care homes in Michigan. Causes of suspensions were well described in detail on the web pages [DHS 2006] from 2000 to 2004. They can be summarized by the following categories with some typical examples:

Sexual contact/molestation/assault

- Household member touched a 6-year-old female child inappropriately all the time (Nov. 2003)
- 7-year-old day care child was sexually molested by day care owner's child (Oct. 2003)
- A female day care child was fondled by an adult member of the household (July 2003)
- A 13-year-old household member forced a three-year old child to perform oral sex on him. (May 2003)
- A male minor household member pulled down his pants and then pulled down the pants of another female house hold member, also a minor (Dec 2002)
- A minor household member inappropriately touched a day care child (March 2002, Aug. 2002, March 2002, Feb 2002, Nov. 2001, Oct. 2001, March 2001, Feb 2001, Feb 2001, Jan 2001) – many similar cases
- An assistant caregiver as well as an adult household member did inappropriate physical contact with 3-year-old female day care child (July 2001)
- Day care owner's husband and teenage son inappropriately touched several female children (Dec 2000)

Improper physical contact/punishment/abuse

- Possible inflicted trauma (May 2004)

- Struck a child with a fly swatter; fly swatter handle caused multiple bruises and abrasions on child's face, neck, back, legs, and buttocks. (Aug. 2004)
- Police found 5 children strapped into car seats inside bedroom closets (Sep. 2003)
- A child was shaken, limp and unresponsive (June 2003)
- 6-month-old child received a mark under his eye, linear marks on the left side of his head, and a bruise on his right ear. (Jan 2003)

Negligence / inadequate supervision

- A home day care child was lost (June 2004)
- A child climbed on a TV stand, fell, and broke his elbow (Nov 2003)
- In a group day care home, children were left alone routinely with one of owner's children (Oct 2003) – many similar cases
- Left children unattended in the basement in Troy; 3-month-old infant was not breathing; no CPR was done; 4 days later the infant pronounced dead (July 2003)
- 10-month-old child was found floating dead in a bath tub. The child had severe burns on her right leg and all 10 toes (June 2003). Similar accidents: – A two-and-a-half year old toddler climbed up onto hot tub, located in the back yard. The tub did not have a hard locked cover, and the boy fell through the soft cover and drowned [Death 1999]. two children drowned while at licensed day care homes, one in hot tub and one in a pool [Death 2001]
- A 3-year-old group day care child was found running down busy street with her coat half off and her shoes off. (Dec 2002)
- 2-year-old child care child was unsupervised in a bathtub. The child got 2nd degree burns (Aug 2002)
- 21-month-old child climbed the ladder and subsequently fall into 4 ½ foot deep pool (June 2001)

Children health and safety violation

- Police seized ¼ lb. marijuana and drug paraphernalia at home (Feb 2004)
- Police seized guns and shotguns from unlocked cabinet (Feb 2004)
- The use of unapproved basement as a nap area for children (Dec 2003)
- Found cocaine and marihuana; not listing drug user as home resident (Sep. 24)
- While unsupervised, one child care child shot another child in the hand with a BB gun (Dec 2001)
- A household member who was convicted of criminal sexual conduct 1st degree in the state of Tennessee was taking care of children when the licensee was hospitalized. (April 2003)
- Not reporting an household member who had digitally penetrated a 12-year-old household member (Jan 2003, two similar cases)
- A minor house hold member poured gasoline to a day care child, which was not detected until the parent arrived to pick up the child (Dec 2002)
- Farmington Hills police found marijuana packaged and ready for sale in the basement of a day care home. (Nov. 2002)
- Day care owner was arrested for possession with intent to deliver marijuana (Sep 2002)
- Marijuana and an loaded assault rifle found (June 2001)
- Assistant caregiver was charged with second degree criminal sexual conduct due to inappropriate physical contact with s 3-year-old female day care child (July 2001)
- Drugs and firearms were found in the day care home (Jan 2001)

Again, majority of day care homes were providing wonderful services. The above data are not from all the homes, but from just some of home day care facilities. But in this study, the author would like to investigate and analyze why home day care is *relatively* dangerous and accident-prone, compared to professional daycare centers.

2.4 Why relatively more accidents in Day Care Homes?

Inherently homes are deigned and build for protecting privacy. We do not know what is going on inside a house. While, day care centers are designed and built for public use. I believe that is the main reason

why there have been so many accidents/violations occurring in family/group day care homes including the famous death of 3-month old baby in Troy in July 2003.

Child day care itself is a serious business. Doing the serious business in an inappropriate place makes the business dangerous. Homes are located, designed and build to maximize privacy. Inside the home, caregivers and family members feel that none is watching. Legally speaking, none can watch inside the home to see what is going on. It is easy to have negligence, violence, and temptation to molest inside the home. In addition, homes are designed and built to be used by all age groups, not just for children. Because of that, as the examples, many poor day care children were found dead in home facilities. Because of this inherent problem, DHS maintains complex licensing rules and so many regulations. For example, due to so many sexual molestations by home residents, the Governor Jennifer M. Granholm announced the following on January 29, 2005:

> *When a person applies for a certificate of registration to operate a family day care home or a license to operate a group day care home, the Department of Human Services must use the Internet Criminal History Access Tool (ICHAT), the Michigan State Police criminal history record database, on all persons over the age of 18 residing in the home where the day care is operated.*

However, note that this rule cannot solve the problem inherently because majority of sexual crimes were conducted by minors under 18 years old! See their own reports at [DHS 2006].

There is no use, if state does not check regulations are observed or not. Another big problem is the lack of state inspection. According to the Detroit News on Sunday, September 14, 2003, Michigan's child care regulatory department, the Bureau of Family Services, has only 61 consultants to oversee 19,289 child care centers that serve 350,000 children. The bureau is overseen by the Michigan Department of Consumer and Industry Services. For about 11,000 family day care homes, inspections typically occur only if a complaint is filed or if the center is one of 10 percent randomly selected for inspection each year. At the remaining 8,000 centers or group day care homes that serve seven or more children, inspectors are required to make a full inspection every two years to ensure the facility is clean, free of health and safety concerns, has smoke detectors and fire extinguishers and complies with other rules such as background checks on caregivers. However, inspection caseloads have increased from 226 facilities per worker in 2000 to 316. Caseloads now are more than three times higher than the 100-per-inspector standard that industry advocates recommend. There are too many day care homes scatters and state cannot check what is going on inside the house because homes are built to maximize privacy. Inspections are done rarely. Home day care setting is welcoming crimes and accidents.

2.5 Problems of Basement Usage for the Care of Infants

There is no statistical public data, but some of the day care homes are using the basement as the place for children to stay, sleep, and play. And many more day care homes plan to finish their basement for the day care business. I think if it is a walk-out basement, then there will be fewer problems, but in general basement is not good place for babies and infants to stay whole day because of the following reasons:

First of all, no or limited sunlight is available in the basement. Infants especially on northern hemisphere during winter need enough sunlight. Recent research found that vitamin D sufficiency is more important than high calcium intake for bone health. Vitamin D is an unusual nutrient, because people get only 10% from food the other 90 percent comes from the skin, created by exposure to sunlight [JAMA 2005] [Forbes 2005].

Usually, basement is humid. Dampness promotes the growth of mold. There is sufficient evidence of an association between damp indoor environments and some upper respiratory tract symptoms, coughing, wheezing, and asthma symptoms in sensitized persons [DAMP 2004]. Also molds and other microbial agents favor damp indoor environments, and excess moisture may initiate the release of chemical emissions from damaged building materials and furnishings. In addition, because of the dampness, there are many insects in the basement such as harmful insects like earwigs, spiders, and centipedes.

Radon is an invisible radioactive gas produced by most rocks and soils. Radon gas is a very potent carcinogen and children are particularly susceptible. It is the second leading cause of lung cancer, which is the leading killer among cancers. Recently DHS is requiring radon test for any home day care using the basement.

Will you put your infant in the basement for a whole day? Will you allow your grandchild to play whole day in the basement? No child should be left in the basement for many hours.

2.6 Problems of State and City Governments

Due to residential zoning issues, group day care homes requiring employees have been illegal for decades in cities in Michigan. But the problem was that the State was keep issuing group day care licenses ignoring city zoning ordinances. According to DHS's website [DHS 2006a], the state has told prospective group day care home licensee the following:

> *Prior to submitting an application it is 'wise' to contact local zoning authorities to see if operating a group home is allowed in a designated neighborhood.*

Child care is a very important issue in this society because it involves the well-being of children who are the future of this society. However, it is unfortunate the child care has been done by many *unwise* people, according to the state authority. I believe both state and cities knew the problem, but they have not work together to solve the problem since the inception of the Licensing Act in 1973 for more than 30 years. No cooperation means cooperating with failure. No planning is planning the disaster. Because state knew group day care homes were illegal in many cities, state must have considered ways not to give negative impacts on neighbors, when they issue licenses. In 2005, finally, state tried to resolve this problem by passing House Bill #4398 [MI Bill 2005] to allow group day care homes in residential zones. Cities were waiting to see how the state handles House Bill 4398, which would create a new act and repeal the current zoning laws. But it seems there is no progress after it was passed by the house, perhaps due to oppositions from the current group day care homes. The Bill includes the following conditions:

A group day-care home is located not closer than 1,500 feet to any of the following:
(i) Another licensed group day-care home
(ii) Another adult foster care small group home or large group home
(iii) A facility offering substance abuse treatment and rehabilitation service to 7 or more people
(iv) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections

Mr. Miller, Planning Director - City of Troy, presented during the public hearing on Dec. 13th that 75% (15 out of 20) of existing group day care homes in Troy do not meet the above 1,500ft-distance requirement!

2.7 Dispute with Neighbors

There can be the following three types of neighbors located near to family day care or group day care homes:

(i) Side by side neighbor; the distance between major living area and the day care drop-off area is less than 50ft, *or* the distance between major living area and the outdoor playing area is less than 50ft
(ii) The distance between major living area and the day care drop-off area is greater than 50ft but less than 150ft
(iii) The distance between major living area and the day care drop-off area is greater than 150ft

Neighbors in case (ii)might have some concerns like parking, increased traffic, and some noise problems, etc. Case (iii) neighbors are little concerned about parking and traffic. Case (i) is absolutely problematic. Real concerns from a side by side neighbor of a (Group) Day Care Home can be the following:

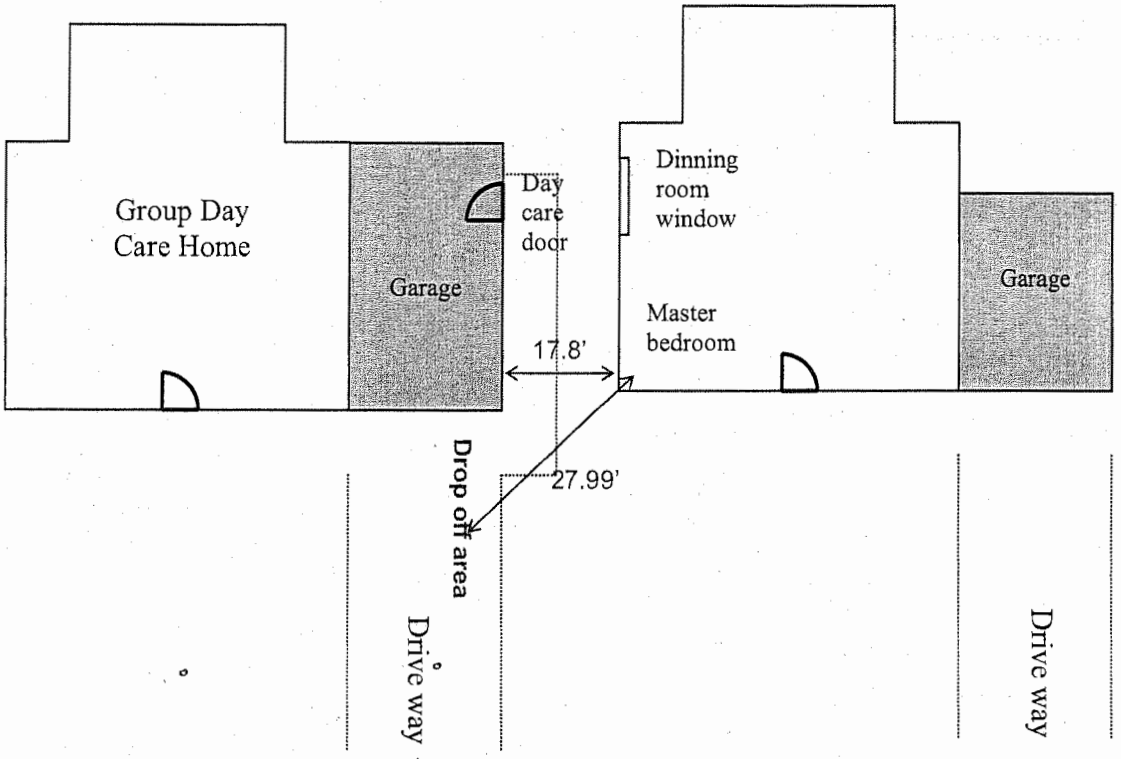
2.7.1 Business Noise Problem

The following business noises listed in a table are the main concern. The problem occurs regardless of number of babies. This is the problem both for group and family day care homes. The seriousness of the problem is dependent on the proximity of the day care facilities, existence of windows toward the day care playing area, and the orientation of the side by side homes.

Examples of noise early in the morning	• from the slamming the entrance door (the side door they use for their business) • from the slamming car doors (while holding a baby with the other arm) • Occasionally, babies are crying & screaming when they enter the day care home. More frequent in winter. It is said that screaming baby sound is one of the loudest sounds in nature. (85 decibel, Forte Cimo) • Parents usually talks to their baby or child before going into the day care home • when they start the car • when they use remote key to lock the car • when they shovel snow very early in the morning *before* their customers arrive • when they talk/phone outside of the home, sometimes
Examples of noise during the day	• The same problem as listed above when parents are coming to pick up babies • Screaming babies when they play outside of the day care home • Noise when the group day care employee dumps trashes into trash cans usually placed outside

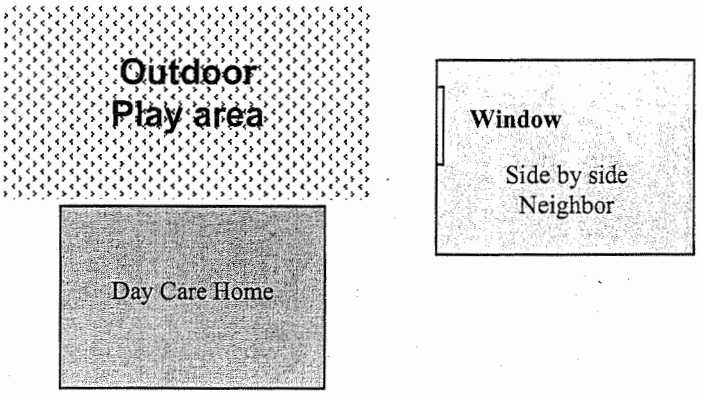
Especially the noise problem becomes really serious when the side yard setback distance is short, such as the case in Troy as depicted in diagram 2. If the car door is slammed in the drop-off area, the loudness of the noise in the master bed room is 58-66 decibel. Some decibel ratings are shown below (from www.newton.dep.anl.gov):

0 db	Threshold of hearing
30 db	Whisper
40 db	Buzz of mosquito
50 db	Normal conversation
70 db	Vacuum cleaner
100 db	Subway or power mower
120 db	Rock concert
130 db	Jackhammer or machine gun



(Diagram 2) Noise and invasion of privacy case in Troy

Diagram 3 shows the case bothering a side by side neighbor, when children are playing in the outdoor play area. If the noise is caused by neighbor's own children, it is all right, because they will grow up soon. But it is not the case. The homeowner will hear screaming baby sound every summer as long as the daycare home exists next door. A baby's cry is one of nature's loudest sounds. At eighty to eighty-five decibels, it is as loud as an un-muffled truck, not far below the pain threshold!



(Diagram 3) Noise and invasion of privacy case

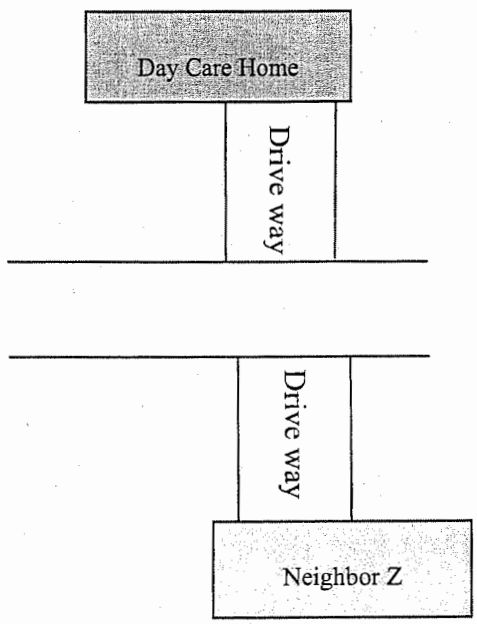
2.7.2 Invasion of Privacy

When a side door is used by day care customers and employees as shown in (Diagram 2), there can be serious privacy problems if that door is across from neighbor's dining room window. Home owner of the side by side neighbor could not open the window due to eye contacts with strangers; they can easily look

into the very deep inside of the house, if the blinds (or curtain) are open. Also, it must be very noisy due to the customer traffic coming in and out through the door.

2.7.3 Parking

As shown in Diagram 4, if two driveways are facing each other, there will be problems. This was a real case in Troy and neighbor Z was bothered by the cars parked near their drive way. Recently in fall 2005 the group day care home discontinued their business, according to the DHS database.



(Diagram 4) Parking problem case in Troy

2.7.4 Increased Traffic

In general there will be additional maximum 13 cars in the morning and in the evening near the group day care home. It is possible siblings are coming together. In that case less number of cars is expected. But there are always many prospective parents who are just visiting to look around day cares home facilities. Some planners thought there might be benefits because they might travel locally. But in general, that is not be the case. Remember, parents are looking for affordable child care. There may be a center close to their homes or work place, but they may drive more for the affordable home day cares.

2.7.5 Safety

Do you know the name of the road where car accidents are occurring most frequently in the USA? According to an insurance company's study, the answer is your own drive way! Many children died or injured on the driveway while cars were backing over. Do you know that the home owner is responsible, if a day care child is injured or killed in your territory?

2.7.6 Increased demand for city services

There will be increased demand for city services like water, sewer, refuse, and emergency services. An example would be the 6 large trash cans a group day home is producing every week. Usually a normal household has one or two trash cans.

2.7.7 Beautification

If six large trash cans are displayed outside under neighbor's window, then it must be ugly and unpleasant. If they would like to put screens to hide their business trash cans, it must have some rules to maintain beautification.

2.7.8 Lowering Property Value

Due to the problems listed above, it is obvious that feeling of peacefulness, tranquility, and privacy in a residential home can be disturbed by the home day care business. When the author put his house on the market, he consulted with five realtors. Everyone told that home seller does not need to tell about the neighbor doing day care business. Also they told that the chance to sell the house is relatively low and the home could be sold to a family who needs child care service, which states that it will lower the property value of the next neighbor, because low demand will lower the price in general. Another interesting issue is that it seems a day care owner can sell day care home with customers as a business to another licensee. The author has an appointment with city assessor to reduce the current tax, because, according to the assessor, homes that face or side major roads (or commercial entities) generally do have a lesser value than interior homes, and they would pay proportionately less taxes than homes that do not have a major road influence on their value. As a results, city revenue may be reduced.

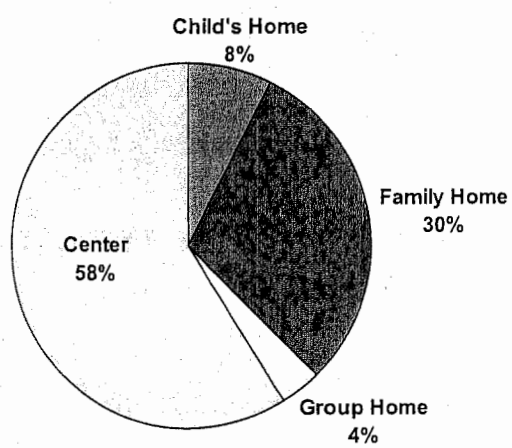
3. Solutions to this social problem for all of us, yesterday, today, and tomorrow

It is natural to have problems in communities, since no system is perfect. The real problem occurs when there exists no effort to improve the current system. The primary purpose of this article is to identify problems and to suggest some long term as well as short term solutions. Societies must learn by correcting mistakes, not ignoring problems, in order to advance toward the better society.

The author firmly believe that long term ideal solution to this problem would be to promote and support mother or father care, which may not be feasible for many families right now. Practical suggestions are described in the following subsections.

3.1 More Centers with Affordable Fees

As shown in graph 1, only 16% of children are served by professional day care centers in Michigan. It was the lowest in the USA. National average of percent of children severed by center is 58% as shown in graph 5.



(Graph 5) Percent of Children Served by Types of Care (National 2000-2004)

As discussed in previous section 2.2, there were relatively less violations in professional day care centers than home day care facilities. Unfortunately this means that Michigan children may be facing more accidents/death in day care homes than other states. This must be corrected. State must find long term

strategies to promote and support professional child care centers. Also, state must continue/increase budget for the child care assistance program for low-income working families so that they can have quality professional child care with less risks. Note that there are many States that does not allow group day care homes such as NJ, Washington D.C., Louisiana, Maine, Maryland, New Jersey, North Carolina, Washington, and Wisconsin [NCCIC 2005].

3.2 State and City Must Work Together

State simply has ignored city municipality. They must cooperate to find solutions to resolve conflicts related to the illegal group day care homes. Reconsider licensing procedures. State should not issue the license without city's approval on the specific house.

3.3 City Ordinance for Considering Neighbors in Strictly Restricted Residential Zone

Recently [Troy Minute Dec. 2005] troy planning commission decided not to recommend allowing group day care homes in residential districts for the following reasons:

- It has been demonstrated by public input, letters and photos that family (1-6 children) and group day care (6-12 children and full-time employee(s)) homes do have a negative impact on the neighboring property owners.
- According to City Attorney, Allan Motzny, and City 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.
- There is nothing within the child care licensing law that exempts these facilities from the Michigan Building Code provisions.
- 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.

In case City Council wants to allow them, they recommended the following reasonable conditions (listed only important ones):

- 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.
- 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.
- 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.
- 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.
- 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.

It is quite interesting to note that the fence requirement was also added to the Family homes too. We could give them a grace period for the current group day care homes to find acceptable locations, if their house does not meet the above conditions. During that time, they must pay every effort to reduce problems.

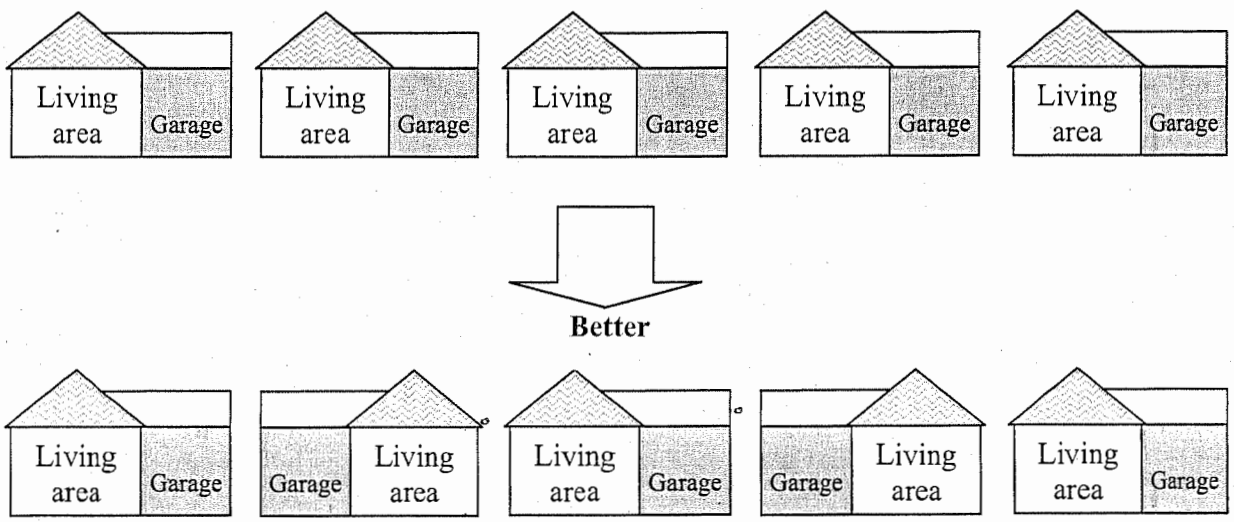
3.4 Open Door Policy

Many accidents are caused by the fact that the home are built to maximize privacy. Since home day care providers were saying that they provide public services, we could ask them open the door to the public. During the public hearing on Aug 8th, 2005 [Troy Minute Aug. 2005], a day care parent asked "the open door policy". Anyone can visit the public place any time to inspect how they care children. This policy may

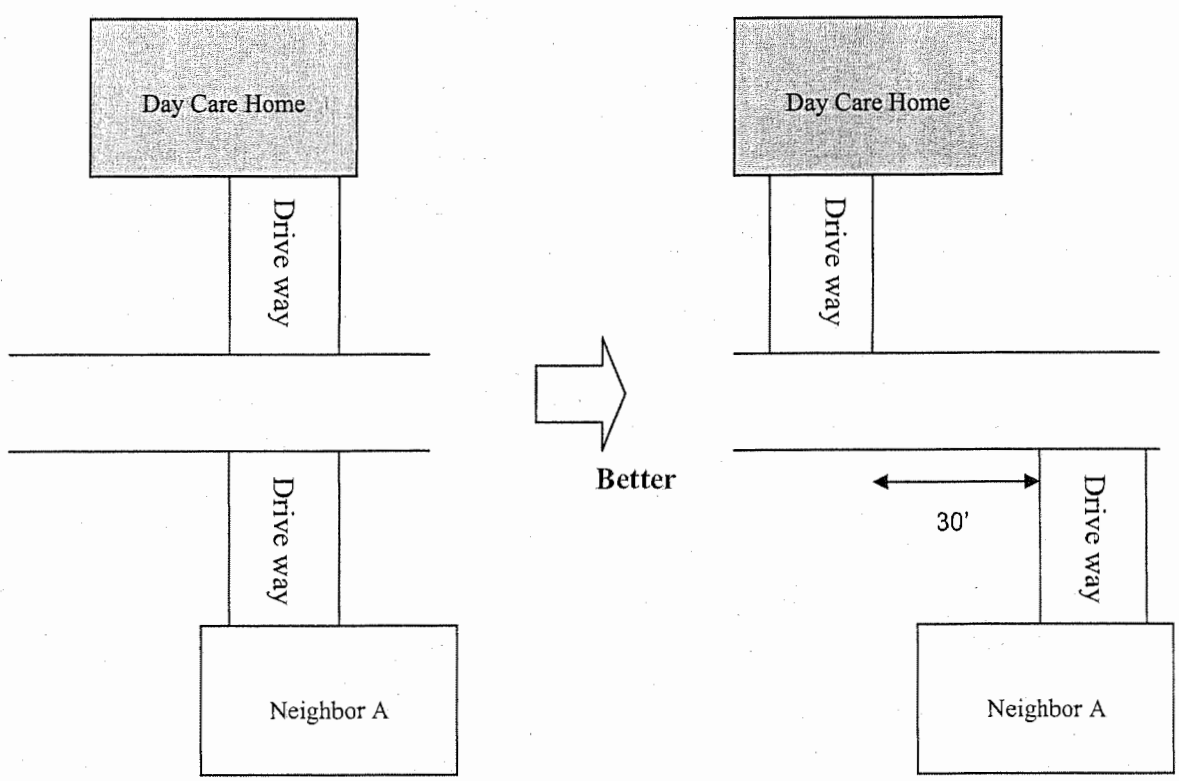
improve the quality of home day care. Usually, professional day care center door is open and windows are open, too. Can I visit at any time? That is the first question to ask the provider, before you put your child, since some providers do not allow that.

3.5 Subdivision Design Considerations

It is suggested for builders to locate houses in such a way that master bedroom to master bedroom and driveway to drive way, when designing subdivisions. The following (Diagram 5) shows better way of arranging homes with two car garage.



(Diagram 5) Subdivision design suggestion



(Diagram 6) A suggestion in designing the location of driveways

Minimum distance from neighbor's living area (exclude garage) to the center of Drop-off area and Official business door must be greater than 50ft. Outdoor play area must be designed to prevent from noise and invasion of privacy. Diagram 6 suggests 30' as the minimum distance in designing driveways.

3.6 Caring Neighbors

Child care providers are taking care of infants who do not speak English yet. They must have sense to recognize other's feeling without words. There may be neighbors who are uncomfortable with their business. They may be silent, because it is not easy to tell bad things to a neighbor. Especially that is true for some neighbors who have totally different cultural background. Since home day care providers are initiating possible problems, they must first contact the neighbors to ask if there is any problem and to find ways to solve problems. It would be good, if day care providers were asking neighbors, periodically. Also, self-regulation among day care providers would be a good idea to reduce negative impacts in the community. One example of technological method of caring neighbors to reduce irresistible noise of early snow removal, they could install Electric Snow Melting Systems on their driveway.

3.7 Introducing a new zone type

It is suggested to introduce a new zone which allows mixed-use development. Design a new model subdivision where residential houses and public facilities are located together while minimizing possible negative impact between them. This means residents do not need to drive to go to grocery store. Almost every public place is in walking distance. Of course day care center and/or day care homes are pre-planned, design, and constructed in the new zone. We can save energy and time, reduce cost of transportation. There will be less air pollution and most importantly, it will be a well-being solution for our health, since we will walk. The author wishes this article could be used as input data to the design of new development such as the old K-mart property in Troy.

3.8 Technologies to prevent from accidents

Microprocessor is everywhere. Pervasive (wireless, wearable, and ubiquitous) computing with blue-tooth technology could make it possible to develop economically feasible monitoring system for child and adult day care environment. Bluetooth is a short-range radio technology aimed at simplifying communications among Internet devices and between devices and the Internet. Accidents occur suddenly. As a backup and double checking tool, networked wirelessly with blue-tooth devices, integrated home personal computers can monitor each child's status and the system can provide early warning signals, if abnormal activities are detected. Even it can predict possible future problems. Blue-tooth sensors to be integrated in the system can be motion, breathing (to alert if no breathing for 20 seconds, for example), humidity (to check diapers), location on the crib, temperature, blood pressure, EMG (ElectroMyoGraphy - muscle), ECG (ElectroCardioGraphy – heart rate), EEG (ElectroEncephaloGraphy - Brain), EOG (ElectroOculoGraphy – eye movement) sensors and among others. Sudden infant death syndrome (SIDS) is the sudden and unexpected death of young baby that has no specific cause despite a detailed investigation. However, if we use the modern sensor fusion technologies effectively, the system may alert the caregiver in a timely manner.

4. Conclusion and Summary

We all were babies once. Almost three out of four mothers are working; the availability of child care facilities is not just necessary but is essential. However, state and city have not cooperated to provide a legal base to home based group day care public services for more than 30 years in Michigan. As a result, unfortunately, many infants and babies had to start their lives in illegal places. This problem must be solved now and it is our obligation.

In order to provide legal base for them, we need to first analyze the current problems. (1) Homes are not designed & built to accommodate public services for 12 babies. Because of that, there have been more accidents in home day care facilities than that of centers as described in (Graph 3) and section 2.2. State

needs to promote more professional day care centers like other states. If city decides to allow group day care homes, it must have strict regulations and it needs to design subdivisions to allow home care facilities and build houses to accommodate home care services. (2) Some homes are located unsuitable area to do the public business, which causes a conflict between public benefit and protecting private properties. Some neighbors have been suffered from problems caused by home day care facilities. The city must view residential zoning regulations as a covenant with citizens who purchase property in the community, and cities actions must honor this commitment. (3) Group day care provides are saying they provide home like quality childcare. But it cannot be homelike environment with crowded 12 babies without moms. It will be just dangerous unsafe place as statistical data proves in section 2.2. There are some parents just looking for affordable childcare. But in a group daycare home with 12 babies in the basement, it could be a perfect virus spreading environment for your infant to get sick easily. Parents need to analyze carefully pros and cons of putting their children in day care homes instead of centers.

The author is not against all the group day care homes, but he is concerned about all the problems caused by some of the facilities. There are rules for businesses in business zoning. There must be tougher rules for businesses in residential area, especially because homes in residential area were not designed / built to conduct day care business. Typical example is the group day care home that uses the residence's side door as an entrance for the parents and children, and that door is across from neighbor's dining room. The distance between the dinning room window and the business entrance is only 17'8" as depicted in diagram 2. If we allow the group day care homes in residential area, we need to have a good ordinance text to minimize further problems such as business noise, privacy, safety, parking, and beautification (due to the business trash cans), and among others as listed in section 2.5. However, we know that any human law cannot be perfect. I wish some home day care owners could learn how to care and respect neighbors, in order not to damage the relatively positive image of many day care homes.

DHS has many regulations on home day care business, but none is for the neighbor care. Perhaps they thought that is the city's job. But cities were just ignoring the problem for more than 30 years until some serious conflicts occurred recently. There exist problems of some day care owner's mindset. Since they think they are providing essential services for the public, they think they are above the city ordinance. To make things worse, city did not want to be involved. Neighbors did not want to start the fire, because they thought people would think they were bad because it involved innocent babies. If it becomes a big problem, they thought they could not sell their homes. An attorney's advice, "move out, quietly", tells the essence of the problem so far.

This is a problem for every house in residential zone. Someday your neighbor may setup home day or adult foster care business, since it is very lucrative without large financial investment. After buying a dream home, early in the morning, you may find your neighbor was doing home care business; People are talking about horrifying stories from adult foster care homes in residential area, not publicly. They cannot tell publicly because they are afraid of revealing their addresses publicly. If that happens, they will face serious difficulty in selling their houses. If the current group day care home issues are resolved politically without considering neighbors' pain and without taking care of true well-being of children, then it is like welcoming more problems and troubles.

Epilog

The author of this article was sued by a side by side neighbor who has been running a group day care home, ignoring city zoning ordinance. The author took some photos and videotaped day care customers from inside his dinning room when they were coming in and out the side door depicted in diagram 2. He gave the video tape to the group day care home owner to watch how serious the problem was. He submitted the photos after block out faces of the customers to the city planning commissioners when they had public hearings. But the neighbor filed petition for personal protection order (PPO) against stalking (non domestic) to the Oakland County Circuit Court. The neighbor claims that the author harassed her by taking photos and videotaping. If the judge signs the PPO, then the author will be treated as a criminal and his data will be entered into LEIN (Law Enforcement Information Network) that is available to law enforcement agencies throughout the Untied States.

The author as well as his attorney firmly believes that he has the right to document, take photos, and videotape illegal activities violating city ordinance. His intention was to provide data to city planners when they amend ordinance text for the future, in order not to repeat the same troubles he has had. The author does not think American citizens are blocked to report facts and illegal activities to local government for public hearings. As a professor teaching classes in the evening and resting in the morning, the author just wants to enjoy a sound sleep in the morning and feeling of peacefulness, tranquility, and privacy in his home in the residential area.

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[Death 2001] Child Deaths in Michigan, Michigan Child Death State Advisory Team, Second Annual Report, The Michigan Family Independence Agency, April 2001

[MI Bill 2005] http://www.legislature.mi.gov/documents/2005-2006/billengrossed/House/htm/2005-hEBH-4398.htm

[JAMA 2005] Relationship Between Serum Parathyroid Hormone Levels, Vitamin D Sufficiency, and Calcium Intake, Laufey Steingrimsdottir, PhD; Orvar Gunnarsson, MD; Olafur S. Indridason, MD, MHS; Leifur Franzson, MSc, Pharm; Gunnar Sigurdsson, MD, PhD , Nov. 9 issue of the *JAMA. Journal of the American Medical Association*. 2005;294:2336-2341.

[Forbes 2005] Vitamin D Intake Vital for Bone Health, Ed Edelson, Forbes TUESDAY, Nov. 8

[DAMP 2004] Damp Indoor Spaces and Health (2004) Board on Health Promotion and Disease Prevention (HPDP) Institute of Medicine (IOM), Institute of Medicine, Division of National Academy of Sciences

[NCCIC 2005] Definition of Licensed Family Child Care Homes, National Child Care Information Center, April 2005, http://nrc.uchsc.edu

[Troy Minute AUG. 2005] City of Troy, Planning Commission Meeting Minutes, Aug 9th, 2005, page 14 http://www.ci.troy.mi.us/committees/minutes/Planning20050809.pdf

[Troy Minute Dec. 2005] City of Troy, Planning Commission Meeting Minutes, Dec. 13th, page 11-13, 2005 http://www.ci.troy.mi.us/committees/minutes/Planning20051213.pdf

Memorandum

To: John M. Lamerato, Acting City Manager
From: Tonni L. Bartholomew, City Clerk
Date: March 2, 2006
Subject: Agenda Item: D-01 Approval of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road
Explanation of Resolution Process

Due to a discrepancy in the original recommended motions submitted to City Council, the following substitution amendment for your consideration has been drafted to include the necessary language as proposed by the Police Department. Should Council adopt the proposed substitute amendment, the original amendment will be modified to become a substitute amendment containing the details as noted above.

PROPOSED RESOLUTION TO AMEND AMENDMENT BY SUBSTITUTION

Suggested Resolution
Resolution #2006-03-
Moved by
Seconded by

RESOLVED, That the Resolution to amend the Resolution of approval the of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road be AMENDED by SUBSTITUTION by STRIKING the amendment in its entirety and inserting the following:

> RESOLVED, That the Resolutions to approve the of Transfer of Class C-SDM License for Corradi's – 1090 Rochester Road be AMENDED by SUBSTITUION by STRIKING Resolutions (a) and (b) in their entirety and inserting the following:
>
> **(a) New License**
>
> RESOLVED, That the request from White Star Entertainment, Inc. to transfer ownership of 2005 Class C-SDM licensed business with dance permit, at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; and request new entertainment permit, BE CONSIDERED FOR APPROVAL.
> It is the consensus of this legislative body that the application be RECOMMENDED for issuance.

(b) <u>Agreement</u>

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

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby APPROVES an agreement with White Star Entertainment, Inc. to transfer ownership of 2005 Class C-SDM licensed business with dance permit, at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; and request new entertainment permit; and the Mayor and City Clerk are AUTHORIZED TO EXECUTE the document, a copy of which shall be ATTACHED to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That if the Michigan Liquor Control Commission approves White Star Entertainment, Inc. application to transfer ownership of 2005 Class C-SDM licensed business with dance permit, at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc; and request new entertainment permit, the City Council for the City of Troy, not less than 30 days before the expiration of said transferred license, SHALL CONDUCT a due process hearing and determine whether it should file an objection to the renewal of said license with the Michigan Liquor Control Commission.

Yes:
No:

February 13, 2006

TO: Mr. John Szerlag, City Manager

FROM: Charles Craft, Chief of Police CC
Gary Mayer, Police Captain GM
Chris Stout, Police Sergeant CS

SUBJECT: Agenda Item - Application for Transfer of Class C-SDM License for Corradi's

White Star Entertainment, Inc., requests to transfer ownership of a 2005 Class C-SDM licensed business with dance permit, located at 1090 Rochester, Troy, MI 48083, Oakland County, from MKC, Inc.; and request a new entertainment permit.

At its November 14th meeting, the Liquor Advisory Committee entertained this request. Present to answer questions from the Committee were owners Aubrey Tobin and Brian Goleniac. Corradi's will have a capacity of 150 persons and parking for 97 vehicles. The restaurant will be open for 7 days a week serving food, and they currently have a dance permit, which allows live music and dancing. They plan to offer live music on Friday and Saturday nights. The entertainment permit is required for the showing of closed circuit television and sporting events.

The Committee approved this request with a 3 to 2 vote.

Included in the packet are two different resolutions. The first is a standard resolution. The second is the same resolution with a stipulation that the City Council has the option to conduct a hearing before they approve the renewal of the next year's license.

The Police Department has no objection to this request.

Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

September 29, 2005

TROY CITY POLICE DEPARTMENT
CHIEF OF POLICE
500 WEST BIG BEAVER ROAD
TROY, MI 48084-5285

REC'D US 2/13/06

Request ID #:313355
AMENDED

Applicant:

WHITE STAR ENTERTAINMENT, INC. REQUESTS TO TRANSFER OWNERSHIP OF 2005 CLASS C-SDM LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 1090 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY, FROM MKC INC. - AND REQUEST A NEW ENTERTAINMENT PERMIT.

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and $30.00 for each card to the Michigan Liquor Control Commission.

If you have any questions, contact the appropriate unit (On Premises, Off Premises or Manufacturers & Wholesalers) at (517) 322-1400.

sfs

The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LIQUOR CONTROL COMMISSION
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909-7505

LOCAL APPROVAL NOTICE

(Authorized by MCL 436.1501(2) and MAC 1105(2)(d))

Req ID: 313355
AMENDED

Date: September 29, 2005

To: TROY CITY COUNCIL
500 WEST BIG BEAVER ROAD
TROY, MI 48084-5285

Applicant: WHITE STAR ENTERTAINMENT, INC.

Home Address And Phone No:
BRIAN GOLENIAK, 204 HAWTHORN, ROYAL OAK, MI 48067 H(248)217-2094
MICHAEL GOLENIAK, 402 FOREST, ROYAL OAK, MI 48067 H(248)310-9728
AUBREY H. TOBIN, 2140 WALNUT LAKE ROAD, WEST BLOOMFIELD, MI 48323 H(248)770-1108/B(248)932-3070

Local Legislative approval is required for new and transferring On-Premises licenses by MCL 436. 1501 of the Michigan Liquor Control Code of 1998. Local approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT OR TOPLESS ACTIVITY permits by authority of MCL 436.1916.

For your convenience a resolution form is enclosed that includes a description of the licensing transaction requiring approval. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the Liquor Control Commission as soon as possible.**

If you have any questions, please contact the On-Premise Section of the Licensing Division as (517) -322-1400.

PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS

sfs

LC-1305 REV 9/17
4880.1234

Feb 13 2006 10:17AM Farmington MLCC

POLICE INSPECTION REPORT ON L... OR LICENSE REQUEST

Req ID #313355 (Authorized by MCL 436.1217)

AMENDED

Michigan ... Department of ... & E... Economic Growth
MICHI... LIQUOR CONTROL COMMISSION
7150 Harris Drive
P.O. Box 30005
Lansing, Michigan 48909-7505

Important: Please conduct your investigation as soon as possible and complete all four sections of this report. Return the completed report and fingerprint cards to the Commission.

BUSINESS NAME AND ADDRESS: (Include zip code)
WHITE STAR ENTERTAINMENT, INC., 1090 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY

REQUEST FOR:
REQUEST TO TRANSFER OWNERSHIP OF 2005 CLASS C-SDM LICENSED BUSINESS WITH DANCE PERMIT FROM MKC INC. AND REQUEST A NEW ENTERTAINMENT PERMIT.

Section 1. APPLICANT INFORMATION

APPLICANT #1:	APPLICANT #2:
BRIAN GOLENIAK – STOCKHOLDER	MICHAEL GOLENIAK – STOCHOLDER
HOME ADDRESS AND AREA CODE/PHONE NUMBER: 204 HAWTHORN ROYAL OAK, MI 48067 H(248)217-2094	HOME ADDRESS AND AREA CODE/PHONE NUMBER: 402 FOREST ROYAL OAK, MI 48067 H(248)310-9728
DATE OF BIRTH: If the applicant is not a U.S. Citizen: ° Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No ° Does the applicant have a Visa? Enter status: Date fingerprinted:	DATE OF BIRTH: If the applicant is not a U.S. Citizen: ° Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No ° Does the applicant have a Visa? Enter status: Date fingerprinted:

Attach the fingerprint card and $30.00 for each card and mail to the Michigan Liquor Control Commission.

ARREST RECORD: ☐ Felony ☐ Misdemeanor Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)	ARREST RECORD: ☐ Felony ☐ Misdemeanor Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)

Section 2. Investigation of Business and Address to be Licensed

Does applicant intend to have dancing or entertainment?
☐ No ☐ Yes, complete LC-693N, Police Investigation Report: Dance/Entertainment Permit

Are gas pumps on the premises or directly adjacent? ☐ No ☐ Yes, explain relationship:

Section 3. Local and State Codes and Ordinances, and General Recommendations

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☐ Yes ☐ No

If you are recommending approval subject to certain conditions, list the conditions: (attach a signed and dated report if more space is needed)

Section 4. Recommendation

From your investigation:

1. Is this applicant qualified to conduct this business if licensed? ☐ Yes ☐ No
2. Is the proposed location satisfactory for this business? ☐ Yes ☐ No
3. Should the Commission grant this request? ☐ Yes ☐ No
4. If any of the above 3 questions were answered no, state your reasons: (Attach a signed and dated report if more space is needed)

Signature (Sheriff or Chief of Police) Date

TROY CITY POLICE DEPARTMENT

LIQUOR CONTROL COMMISSION
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909-7505

REQ ID: 313355
AMENDED

LOCAL LAW ENFORCEMENT AGENCY REPORT

DANCE/ENTERTAINMENT/TOPLESS ACTIVITY PERMIT
(Authorized by MCL 436.1916)

WHITE STAR ENTERTAINMENT, INC.
APPLICANT/LICENSEE

PHONE NUMBER

STREET ADDRESS | CITY | TOWNSHIP | COUNTY | ZIP

X X

[redacted]

1. The dance floor will not be less than 100 square feet, is clearly marked and well defined when there is dancing by customers. YES NO N/A

2. Describe the type of entertainment applicant/licensee will provide: N/A

3. Will this entertainment include topless activity? YES NO N/A

[redacted]

DANCE PERMIT	YES	NO	N/A
ENTERTAINMENT PERMIT	YES	NO	N/A
TOPLESS ACTIVITY PERMIT	YES	NO	N/A

[redacted]

DATE SUBMITTED

OFFICER'S SIGNATURE

DEPARTMENT NAME

PHONE NUMBER

ADDRESS

CITY

LC-693N REV 5/98
630-0652

Req ID #313355
AMENDED

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LIQUOR CONTROL COMMISSION

RESOLUTION

At a _____ meeting of the _____
(Regular or Special) (Township Board, City or Village Council)

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

That the request from WHITE STAR ENTERTAINMENT, INC. TO TRANSFER OWNERSHIP OF 2005 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 1090 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY, FROM MKC INC. AND REQUEST A NEW ENTERTAINMENT PERMIT.

be considered for _____
(Approval or Disapproval)

APPROVAL	DISAPPROVAL
Yeas: _____	Yeas: _____
Nays: _____	Nays: _____
Absent: _____	Absent: _____

It is the consensus of this legislative body that the application be:

_____ for issuance
(Recommended or not Recommended)

State of Michigan _____)

County of _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and adopted by the _____ at a _____
(Township Board, City or Village Council) (Regular or Special)

meeting held on _____.
(Date)

SEAL

(Signed) _____
(Township, City of Village Clerk)

_____
(Mailing address of Township, City of Village)

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this 20th day of October, 2005, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and WHITE STAR ENTERTAINMENT, INC. whose address is 1090 Rochester Rd, the Applicant, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the request for a new Specially Designated Distributor licensed business located at 1090 Rochester Rd, Troy, by WHITE STAR ENTERTAINMENT, INC.
2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
   (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68 and Chapter No. 98, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
   (b) It has read and is in receipt of copies of the provisions of the City of Troy, City Council Resolution No. 93-1028 regarding Entertainment Permits, and agrees that it shall be deemed to have knowledge of any subsequent amendments to the Resolution which may become effective during the term of this agreement.
   (c) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
   (d) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS,TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
4. Applicant agrees that the recommendation for Approval agreed upon by the City Council is approved upon the express and continuing condition that the physical characteristics (including but not limited to the inside layout, building design and engineering, seating capacity, parking space allocations, fire exits, and other physical attributes); and also the nature and type of business intended to be conducted remain virtually the same.
5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

Brain Goleniak | Michael Goleniak | Aubrey Tobin

WHITE STAR ENTERTAINMENT, INC.

Witnesses:

Christine J. DeForest

Diane L. Young

Subscribed and sworn to before me
this 20th day of October, 2005

Christine J. DeForest
Notary Public, Wayne County
County, acting in the County of Oakland
My commission expires: 12/08/07

CITY OF TROY

By:_____
Louise Schilling, Mayor

By:_____
Tonni Bartholomew, City Clerk

Witnesses:

_____

_____

Subscribed and sworn to before me
this _____ day of _____, 200___

_____

Notary Public, Oakland
County, Michigan
My commission expires:

A regular meeting of the Liquor Advisory Committee was held on Monday, November 14, 2005 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Committee member James Peard called the meeting to order at 7:00 p.m.

ROLL CALL:

PRESENT: Alex Bennett
W. Stan Godlewski
Patrick C. Hall
James R. Peard
Bohdan L. Ukrainec
Lieutenant Michael Lyczkowski
Sergeant Christopher Stout
Pat Gladysz

ABSENT: Max K. Ehlert, Chairman
Henry W. Allemon

Resolution to Excuse Committee Members Ehlert and Allemon

Resolution #LC2005-11-024
Moved by Bennett
Seconded by Ukrainec

RESOLVED, that the absence of Committee members Ehlert and Allemon at the Liquor Advisory Committee meeting of November 14, 2005 BE EXCUSED.

Yes: 5
No: 0
Absent: Ehlert, Allemon

Resolution to Approve Minutes of September 12, 2005 Meeting

Resolution #LC2005-11-025
Moved by Ukrainec
Seconded by Godlewski

RESOLVED, that the Minutes of the September 12, 2005 meeting of the Liquor Advisory Committee be approved.

Yes: 5
No: 0
Absent: Ehlert, Allemon

Agenda Items

1. **D. I. SUPPLY, INC** (A Missouri Corporation) requests to transfer ownership of 2005 Class C licensed business with entertainment permit and official permit (food) located in escrow at 585 W. Big Beaver, Troy MI 48084, Oakland County, from O' Grady's Irish Pub. [MLCC REQ ID # 319038] (Step 1) *Drury Inn*

Present to answer questions from the Committee was John Carlin.

Mr. Carlin explained to the Committee that this request is to transfer the license held in escrow from O'Grady's Irish Pub to D. I. Supply, Inc., which is solely owned by Drury Inn, Inc. Item No. 2 of tonight's agenda will complete the transaction to transfer the license from Drury Inn to Kruse & Muer Troy, LLC.

Resolution #LC2005-11-026
Moved by Ukrainec
Seconded by Godlewski

RESOLVED, that D. I. SUPPLY, INC (A Missouri Corporation) be allowed to transfer ownership of 2005 Class C licensed business with entertainment permit and official permit (food) located in escrow at 585 W. Big Beaver, Troy MI 48084, Oakland County, from O' Grady's Irish Pub.

Yes: 5
No: 0
Absent: Ehlert, Allemon

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2. **KRUSE & MUER TROY, LLC** requests to transfer ownership of 2005 Class C licensed business with entertainment permit, located in escrow at 585 W. Big Beaver, Troy, MI 48084 Oakland County, from D.I. Supply, Inc. (A Missouri Corporation); and transfer location to 911 Wilshire, Troy MI 48084, Oakland County; request new dance permit. [MLCC REQ ID# 319519] (Step 2) *Kruse and Muer Troy*

Present to answer questions from the Committee were John Carlin and William Kruse.

Mr. Kruse explained to the Committee that he plans to open his 6th Kruse & Muer Restaurant at the former TGI Friday's location on Wilshire. He plans to make minor modifications to the 9,300 square foot building, including landscaping and signage. There are 154 seats, with an additional 19 seats at the bar and 32 on an outdoor patio. There are 155 exclusive parking spaces for the restaurant, with extensive additional parking available in the evening when the office building spaces are not occupied. The restaurant will be open 6 days per week for lunch and 7 days per week for dinner. The management will be transferred from existing restaurants, and entire staff will be trained in all aspects of the liquor laws.

Mr. Kruse has been in the restaurant business for many years. He began as an employee of C. A. Muer Corporation and opened his first restaurant in 1987. His establishments have an excellent record of compliance with the liquor laws.

Resolution #LC2005-11-027
Moved by Hall
Seconded by Ukrainec

RESOLVED, that KRUSE & MUER TROY, LLC be allowed to transfer ownership of 2005 Class C licensed business with entertainment permit, located in escrow at 585 W. Big Beaver, Troy, MI 48084 Oakland County, from D.I. Supply, Inc. (A Missouri Corporation); and transfer location to 911 Wilshire, Troy MI 48084, Oakland County with new dance permit.

Yes: 5
No: 0
Absent: Ehlert, Allemon

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3. **WHITE STAR ENTERTAINMENT, INC.,** requests to transfer ownership of 2005 Class C-SDM licensed business with dance permit located at 1090 Rochester, Troy, MI 48084, Oakland County, from MKC INC. [MLCC REQ ID # 313355] *Corradi's*

Present to answer questions from the Committee were Aubrey Tobin (general counsel) and Brian Goleniac (president and general manager).

On May 28, 2005, a partnership of three individuals (Aubrey Tobin, Brian Goleniac, and Michael Goleniac) entered into a management agreement with the Corradi family to take over the business. They are purchasing the building and the business and plan extensive repairs and renovations. The name of the establishment will change, but that decision has not yet been made. The building

has a capacity of 150 patrons and parking for 97 vehicles. They hope to have the property rezoned in order to utilize patio seating. They have changed the menu and are open for lunch and dinner. They offer karaoke on Thursday nights and live music on Friday and Saturday nights.

Two members of the Committee (Hall and Ukrainec) stated that they would be opposed to this restaurant evolving into a nightclub-like establishment. Since two of the three partners have been employed by nightclubs in Pontiac, these Committee members are concerned that this transition may occur.

The ownership states that a nightclub is not their intention and a transition of that nature will not occur.

Resolution #LC2005-11-028
Moved by Peard
Seconded by Bennett

RESOLVED, that WHITE STAR ENTERTAINMENT, INC. be allowed to transfer ownership of 2005 Class C-SDM licensed business with dance permit located at 1090 Rochester, Troy, MI 48084, Oakland County, from MKC INC.

Yes:	3 – Bennett, Godlewski, Peard
No:	2 – Hall, Ukrainec
Absent:	Ehlert, Allemon

The five Committee members present continued the discussion regarding Item No. 3 and the possibility of a nightclub in Troy. Hall and Ukrainec further explained their hesitancy to approve the transfer with speculation of large crowds, disturbances, and sales to minors.

A question was raised as to the possibility of giving a "conditional" or "probationary" approval. Lt. Lyczkowski and Sgt. Stout stated that they would discuss this matter with the City Attorney's office and provide an answer at the next meeting.

The meeting adjourned at 8:30 p.m.

_____
James R. Peard

_____
Patricia A. Gladysz, Office Assistant II

A regular meeting of the Liquor Advisory Committee was held on Monday, December 12, 2005 in Conference Room C of Troy City Hall, 500 West Big Beaver Road. Committee member Henry W. Allemon called the meeting to order at 7:02 p.m.

ROLL CALL:

PRESENT: Henry W. Allemon
Patrick C. Hall
James R. Peard
Bohdan L. Ukrainec
Sergeant Christopher Stout
Chris Forsyth, Assistant City Attorney
Pat Gladysz

ABSENT: Max K. Ehlert, Chairman
Alex Bennett
W. Stan Godlewski

Resolution to Excuse Committee Members Ehlert, Bennett, and Godlewski

Resolution #LC2005-12-029
Moved by Peard
Seconded by Ukrainec

RESOLVED, that the absence of Committee members Ehlert, Bennett, and Godlewski at the Liquor Advisory Committee meeting of December 12, 2005 BE EXCUSED.

Yes: 4
No: 0
Absent: Ehlert, Bennett, Godlewski

Resolution to Approve Minutes of November 14, 2005 Meeting

Resolution #LC2005-12-030
Moved by Ukrainec
Seconded by Hall

RESOLVED, that the Minutes of the November 14, 2005 meeting of the Liquor Advisory Committee be approved.

Yes: 4
No: 0
Absent: Ehlert, Bennett, Godlewski

Old Business

Agenda Item No. 3 (concerning White Star Entertainment acquiring ownership of Corradi's) from the November 14, 2005 meeting was raised for discussion by Mr. Ukrainec.

Sergeant Stout stated that Chris Forsyth, Assistant City Attorney, could answer the question if the Committee could recommend a probationary or conditional license. Mr. Forsyth explained that a probationary or conditional license is not a possibility. He further stated that in the future a request to transfer a license with dance permit could be considered separately. In other words, the Committee could approve the license transfer and deny the dance permit. He explained that White Star would have to apply for an amusement and recreation license and comply with City Ordinance Chapter 68 in order to operate under a dance permit. Mr. Forsyth cautioned the Committee that they need evidence to support any denial, and the Committee's actions cannot be arbitrary or capricious.

Mr. Hall stated that there is an annual renewal process for liquor licenses in Royal Oak and questioned such a process in Troy. Sergeant Stout stated the MLCC has an annual renewal process and any violations would be taken into consideration before renewal is granted.

Mr. Forsyth stated that City Council could include in their resolution that a license be reviewed again in one year. Mr. Ukrainec stated he supports an annual renewal review process.

Terry Conlin, attorney for Djont/JPM Troy Leasing and Felcor/JPM Troy Hotel, offered the information that the City can object to any license renewal and the State will abide by their wishes.

Agenda Items

1. **DJONT/JPM TROY LEASING, L.L.C. (A DELAWARE LIMITED LIABILITY COMPANY) AND FELCOR/JPM TROY HOTEL, L. L. C. (A DELAWARE LIMITED LIABILITY COMPANY)** requests to drop DT Management, Inc. (An Arizona Corporation) as Co-Licensee and add Promus Hotels Inc. (A Delaware Corporation) as Co-Licensee in 2005 B-Hotel Licensed Business with dance permit, official permit (food), outdoor service (1 area), 1 direct

connection, 3 bars, and 251 rooms, located at 850 Tower, Troy, MI 48098, Oakland County (Step 2) {MLCC Ref #318853} *Embassy Suites Hotel*

Present to answer questions from the Committee was Terry Conlin.

Mr. Conlin explained to the Committee that the ownership of the Embassy Suites Hotel remains unchanged. This request is to cover a technical change in building and hotel operations.

Resolution #LC2005-12-031
Moved by Ukrainec
Seconded by Hall

RESOLVED, that DJONT/JPM TROY LEASING, L.L.C. (A DELAWARE LIMITED LIABILITY COMPANY) AND FELCOR/JPM TROY HOTEL, L. L. C. (A DELAWARE LIMITED LIABILITY COMPANY) be allowed to drop DT Management, Inc. (An Arizona Corporation) as Co-Licensee and add Promus Hotels Inc. (A Delaware Corporation) as Co-Licensee in 2005 B-Hotel Licensed Business with dance permit, official permit (food), outdoor service (1 area), 1 direct connection, 3 bars, and 251 rooms, located at 850 Tower, Troy, MI 48098, Oakland County.

Yes:	4
No:	0
Absent:	Ehlert, Bennett, Godlewski

The meeting adjourned at 7:19 p.m.

Henry W. Allemon

Patricia A. Gladysz, Office Assistant II

Charles T. Craft, Chief of Police

Gary G. Mayer, Captain
Edward J. Murphy, Captain
Dane M. Slater, Captain

500 W. Big Beaver Troy, Michigan 48084 (248) 524-3443

Support Services Division Memorandum

TO: File

FROM: Sgt Chris Stout

DATE: January 3, 2006

RE: Whitestar Entertainment / Corradi's AC

During the background investigation of the potential new owners of Corradi's AC, I discovered additional information after the Liquor Advisory Committee approved their request on 11/14/05.
During the L.A.C. meeting, Whitestar's attorney, and one of the business partners, Aubrey Tobin, stated that he was also the owner of Tonic nightclub in Pontiac. Mr. Tobin stated he had no intention of turning Corradi's AC into a nightclub or a big dance bar.
After the L.A.C. meeting on 11/14/05, I did additional research and discovered that Mr. Tobin is also a partner in Posh Nightclub in Ferndale. Mr. Tobin was cited twice during 2005 for overcrowding at Posh Nightclub. Ferndale Police cited Mr. Tobin on 3/20/05 and 3/26/05 for overcrowding. These violations did not appear on Mr. Tobin's criminal history. The Nightclub was fined $1800 by the Michigan Liquor Control Commission for the violations. I did speak with Mr. Tobin after this discovery, and he stated that he was working with the City of Ferndale to increase the occupancy of Posh Nightclub. He said the original allowed occupancy was understated for amount of space at the club.

ADKISON, NEED & ALLEN

PROFESSIONAL LIMITED LIABILITY COMPANY

LAW OFFICES

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Bloomfield Hills, Michigan 48304

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JASON J. KUCMIERZ

WRITER'S DIRECT DIAL
(248) 540-7650
EXT 215

WRITER'S E-MAIL ADDRESS
KAllen@adkisonneed.com

February 13, 2006

Via Facsimile and First Class Mail
(248) 524-3259

Ms. Lori Bluhm and Mr. Christopher Forsyth
500 W Big Beaver Rd
Troy, MI 48084

Re: White Star Entertainment, Inc.
Request to Postpone Council Consideration of Liquor License Transfer

Dear Ms. Blum and Mr. Forsyth:

As you know, the Council postponed this matter to its February 20, 2006 meeting. I am not available on that date, as I am scheduled to take a previously planned family vacation. Please ask the Council to place this matter on the next regularly scheduled Council Meeting, which I am informed is March 6, 2006.

I appreciate your consideration. If you have any questions, please call me.

Very truly yours,

ADKISON, NEED & ALLEN, P.L.L.C.

Kelly A. Allen

/cjt

cc: Aubrey Tobin
Sgt. Chris Stout

m:\corradi, leo\sale of corradi's a.c\corresl bluhm & c forsyth ltr 2-13-06.doc

RECEIVED
Chief of Police
2/14/2006 CTC

Feb-14- 2006 11:55AM Adkison, Need & Allen P.2-2-0

ADKISON, NEED & ALLEN

PROFESSIONAL LIMITED LIABILITY COMPANY

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REC'D CS 2/14/06 Date

February 14, 2006

VIA FACSIMILE

Sergeant Chris Stout
Troy Police Department
500 W. Big Beaver Road
Troy, Michigan 48084

Re: White Star Entertainment, Inc. ("Whitestar")
Liquor License Transfer from Corradi's

Dear Sergeant Stout:

This matter was on the City Council Agenda on February 6, 2006. The Council postponed the matter to February 20th. However, I have, by separate letter, requested that the matter be postponed to March 6, 2006.

In preparation for the reconsideration of this application, I want to clarify the Applicant's request for Permits and offer an explanation of Mr. Tobin's background and Whitestar's future plans for Corradi's.

PERMITS

The applicant is requesting a transfer of the Class C/SDM Licenses from Corradi's. Corradi's also held a dance permit which the applicant desires. Corradi's did not have an Entertainment Permit, which the applicant also desires.

Therefore, the Applicant is requesting a Dance/Entertainment Permit. The purpose for the requested Entertainment Permit is to allow the Licensee to have occasional karaoke and closed circuit television. Whitestar will sign the Agreement with the City regarding the Entertainment portion of the permit.

The Michigan Liquor Control Commission Violation ("MLCC") Investigator, Paul Rossiter, has corrected and delivered the form 1800 and the revised Resolution to the Police Department.

MR. TOBIN'S BACKGROUND

Subsequent to the last Liquor Advisory Committee ("LAC") meeting at which this application was discussed, the Police Department submitted a memo regarding Mr. Tobin's background and involvement with other licensed establishments.

Mr. Tobin is an attorney. He fully completed the Police Department Questionnaire. He also discussed his ownership of two other Licensed Establishments with Sgt. Gordon and Sgt. Stout. This was also discussed at the LAC meeting. Mr. Tobin was not asked to provide any violation history for the other establishments, or he would have.

The bottom line is that Mr. Tobin did not fail to disclose or in any way try to disguise his other business ventures.

Mr. Tobin is a shareholder in the following:

Romp Entertainment, Inc.
d/b/a Tonic
27-29 S. Saginaw
Pontiac, Michigan

Posh Entertainment, Inc.
d/b/a Posh
22601 Woodward
Ferndale, Michigan

Both of these venues are nightclubs. Both have good reputations in the cities in which they operate. I, personally, have represented both businesses and find them to be very conscientious about liquor law and state and local law compliance.

I attach the MLCC histories for each establishment.

TONIC

Tonic was licensed on October 12, 2001. Since being licensed, the record shows one commendation for passing a "controlled buy" staged by the MLCC, and one warning ticket for having an "open bar" at a function. This is virtually a perfect MLCC record.

POSH

Posh was licensed on December 23, 2003. Its MLCC violation history is attached. This history shows that the Licensee was charged in three (3) different complaints on the same day, March 6, 2005. This is very unusual as the MLCC generally charges in one complete with separate counts. You will see that Complaint Nos. 88204, 88205 and 88206 were dismissed. They were combined with the first complaint, No. 88203, as they should have been in the first place. All the violations were negotiated satisfactorily, and only fines were imposed. There was no suspension or revocation. The City Police Department was very involved in the resolution.

With regard to the "overcrowding" violations, which were charged on March 6, 2006, and March 26, 2006, it is very important to point out that during this time the venue's capacity issue was being addressed with the City and the Fire Department. One of the violations, specifically, Complaint No. 88206, was dismissed because the overall capacity met the requirement, but a certain "level" of the establishment was over capacity.

The Ferndale Fire Department eventually increased Posh's capacity and there have been no further violations.

MR. TOBIN, PERSONALLY

I must emphatically point out that Mr. Tobin has no criminal history, as the memo prepared by Sgt. Stout seems to indicate.

The MLCC Histories reflect administrative proceedings against the companies which are the Licensees. While the Ferndale Police Department did issue an ordinance violation to Mr. Tobin for one of the overcrowding violations, it was DISMISSED. It should not have named Mr. Tobin in the first place.

FUTURE PLANS FOR CORRADI'S

Corradi's will be renamed. In fact, Whitestar has held a customer contest to name the new establishment.

It will be a small, neighborhood bar/restaurant with occasional live entertainment in the form of bands. THIS WILL NOT BE A NIGHTCLUB. It was never intended to be a nightclub. Mr. Tobin and the other members of Whitestar are experienced in the bar/restaurant business. They studied the demographics of this location before entering into a Purchase Agreement to purchase the business and the real estate. This area is obviously not a place in which a nightclub would be welcome or prosper.

BUILDING ISSUE

One of the requirements of the Building Department is to "rebuild" the front entrance. Whitestar will obviously comply. However, we will be asking that the Liquor License transfer be approved with the understanding that this work be completed in the spring. This job will require the ground to be broken. Further, it is a costly job which the Applicant would greatly prefer not to do until it owns the real estate. Of course, all other building requirements have been, or will be met.

We are hopeful that this clarifies the issues and will appear on March 6, 2006 to answer any questions you may have.

Thank you for your consideration.

Very truly yours,

ADKISON, NEED & ALLEN, P.L.L.C.

Kelly N. Allen

/cjt
Enclosures
cc: Aubrey Tobin, Esq. *(via first-class mail)*
Madio Corradi *(via first-class mail)*
Christopher Forsyth, Esq. *(via first-class mail)*

Violation History of Business:134098 ROMP ENTERTAINMENT, INC.			
Violation Date	MLCC Complaint Number	Violation Description	Decision or Event
5/20/03	73714		5/20/2003 PASSED CONTROLLED BUY OPERATION ON 5-17-03 (EPPS, FRIEDRICH, X-121).
10/8/04	84509		10/08/2004 09-23-04 VIOL. WARN. NOTICE R436.2025(1)

Licensed on 10/12/2001

TONIC

County Name	OAKLAND
LGU Name	PONTIAC CITY
Insurance Company	NORTH POINTE INSURANCE COMPANY (05/30/2005-Present)
Business Id	134098
Business Tax Id	383541106
Business Address	27- 29 S SAGINAW,PONTIAC,48342
Business Phone	248.932.3070
Number of Bars	2

Licensees

ROMP ENTERTAINMENT, INC.

Stockholders/Members

COATS, MARTIN L
MIRKOVICH, VLADIMIR
TOBIN, AUBREY H

Contacts

Name	Purpose/Function	Phone Nbr	Fax Nbr
NONE			

Liquor License Specifics

License (Type-NBR-YR)	Permits	Transfer Status	MCL Act
CLASS C-106141-2005	1.SS 2.OD-SERV 3.DANC-ENT 4.ADDBAR	TRANSFERABLE	NONE

Violation History of Business:144135 POSH ENTERTAINMENT, INC.			
Violation Date	MLCC Complaint Number	Violation Description	Decision or Event
3/6/05	88203	1) SALE TO INTOX PERSON-NOAH DITTRICH: 4) SALE TO INTOX PERSON-MICHAEL SEMOVSKI: 2)5) ALLOW INTOX PERSONS TO CONSUME: 3)6) ALLOW INTOX PERSONS TO LOITER: 7) ALLOWED OVERCROWDING ON THE LIC'D PREMISES: 8) FAILED TO COMPLY WITH ALL STATE AND LOCAL BUILDING, PLUMBING, ZONING, SANITATION, AND HEALTH LAWS, RULES, AND ORDINANCES, SPECIFICALLY: FERNDALE CITY CODE, SECTION 3-19(B), AS DETERMINED BY THE STATE AND LOCAL LAW ENFORCEMENT OFFICALS WHO HAVE JURISDICTION: (FERNDALE PD)	6/20/2005 06-20-05 FARMIMGTON WEATHERS-MCDOWELL-GIBSON NEG SETT COST $23.00 8/02/2005 CHG 1) $1000.00 SEC 801(2); CHGS 5, 6 & 8) $200.00 EACH; CHGS 2, 3, 4 & 7) DISMISSED: $1600.00, COMBINED W/5-88204-05-06; TOTAL $1800.00 OR 90 DAY SUSP NEGOTIATED SETTLEMENT
3/6/05	88204	ALLOWED FIGHTS OR BRAWLS ON LIC'D PREMISES: (FERNDALE PD)	6/20/2005 6-20-05 FARMINGTON WEATHERS-MCDOWELL-GIBSON NEG SETT COST $53.25 8/02/2005 DISMISSED; COMBINED W/5-88203-05-06; TOTAL $1800.00 OR 90 DAY SUSP NEGOTIATED SETTLEMENT
3/6/05	88205	ALLOWED OVERCROWDING ON THE LIC D PREMISES: (FERNDALE PD)	6/20/2005 6-20-05 FARMINGTON WEATHERS-MCDOWELL-GIBSON NEG SETT 8/02/2005 $200.00; COMBINED W/5-88203-04-06; TOTAL $1800.00 OR 90 DAY SUSP NEGOTIATED SETTLEMENT
3/26/05	88206	ALLOWED OVERCROWDING ON THE LIC D PREMISES: (FERNDALE PD)	6/20/2005 6-20-05 FARMINGTON WEATHERS-MCDOWELL-GIBSON NEG SETT 8/02/2005 DISMISSED; COMBINED W/5-88203-04-05; TOTAL $1800.00 OR 90 DAY SUSP NEGOTIATED SETTLEMENT

Record should be read as one violation.

12/23/2003

POSH NIGHTCLUB

County Name	OAKLAND
LGU Name	FERNDALE CITY
Insurance Company	HUDSON SPECIALTY INSURANCE COMPANY (11/11/2005-Present)
Business Id	144135
Business Tax Id	371458456
Business Address	22061 WOODWARD,FERNDALE,48220
Business Phone	248.541.7674
Number of Bars	1

Licensees

POSH ENTERTAINMENT, INC.

Stockholders/Members

MIRKOVICH, VLADIMIR

TOBIN, AUBREY H

Contacts

Name	Purpose/Function	Phone Nbr	Fax Nbr
NONE			

Liquor License Specifics

License (Type-NBR-YR)	Permits	Transfer Status	MCL Act
CLASS C-123803-2005	1.SS 2.DANC-ENT 3.ADDBAR	TRANSFERABLE	NONE

DATE: February 28, 2006

TO: John Szerlag, City Manager

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

SUBJECT: AGENDA ITEM – REZONING APPLICATION – Proposed Binson's Home Health Care Center, Northwest corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z 180-B)

The Planning Commission recommended denial of this item at the June 14, 2005 Regular meeting. City Management concurs with the recommendation of denial. On August 1, 2005, City Council postponed the item to the first Regular City Council meeting in March 2006:

Vote on Resolution to Postpone

Resolution #2005-08-373
Moved by Eisenbacher
Seconded by Howrylak

RESOLVED, That the *Rezoning Application for Proposed Binson's Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z180-B)* be POSTPONED until the first Regular City Council Meeting scheduled for March 2006.

Yes: All-6
No: None
Absent: Schilling

Following this resolution, the Planning Commission began the task of amending the Future Land Use Plan. At the November 1, 2005 Special/Study meeting, the Planning Commission made the following resolution:

Resolution # PC-2005-11-174
Moved by: Chamberlain
Seconded by: Waller

RESOLVED, That the study area of the Future Land Use Plan amendment for Rochester Road between Square Lake Road and South Boulevard be expanded to include the section of Rochester Road between Long Lake Road and Square Lake Road, therefore making it a two-mile strip rather than a one-mile strip for a mixed-use district, including appropriate depth, space and location standards.

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

MOTION CARRIED

Expanding the Rochester Road study area increased the scope of work for the project, thereby lengthening the timeline for project completion. The March 2006 deadline would have been possible to meet only if there was a completed document ready for adoption at the time of City Council resolution in August 2005. The plan amendment process is ongoing. Amendments to the Municipal Planning Act that became effective in 2002 mandate that the amendment process is a relatively lengthy one. The attached Future Land Use Plan Amendment Process illustrates the timeline needed to adopt an amendment. It is difficult to accurately forecast when the Planning Commission will have a draft Future Land Use Plan amendment for City Council review. It is projected that a draft would be ready for City Council review by July or August of 2006.

Attachments:

1. Minutes from August 1, 2005 City Council meeting.
2. Minutes from June 14, 2005 Planning Commission Regular meeting.
3. Future Land Use Plan Amendment Process.

cc: Applicant
File / Z- 180 B

Prepared by RBS/MFM

G:\REZONING REQUESTS\Z-180 B BINSONS\CC Memo Z-180 B 03 06 06.doc

C-2 Rezoning Application – Proposed Binson's Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z 180-B)

Resolution
Moved by Stine
Seconded by Beltramini

RESOLVED, That the R-C to O-1 rezoning request, located on the northwest corner of Rochester and Marengo, section 3, being 39,000 square feet in size, is hereby **DENIED** for the following reasons, as recommended by City Management and the Planning Commission:

1. The application does not comply with the Future Land Use Plan.
2. Making a recommendation that is contrary to the Future Land Use Plan would weaken the validity of the Plan and make it more difficult to defend future zoning decisions.
3. Rezoning this parcel to B-1 would result in the enlargement of an undesirable commercial "spot zone" along an area along the Rochester Road corridor that is planned for medium density use.
4. Approval of the rezoning request could open the door for further commercial rezoning applications along the Rochester Road corridor.

Vote on Resolution to Amend

Resolution #2005-08-372
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That the Resolution for *Rezoning Application for Proposed Binson's Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z180-B)* be **AMENDED** by **INSERTING** "BE IT FURTHER RESOLVED, That Troy City Council hereby DIRECTS the Planning Commission to consider amending the Future Land Use Plan in the Rochester Road Corridor between Square Lake and South Boulevard before the first City Council Meeting scheduled for March 2006.

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

MOTION CARRIED

Vote on Resolution Postpone

Resolution #2005-08-373
Moved by Eisenbacher
Seconded by Howrylak

RESOLVED, That the *Rezoning Application for Proposed Binson's Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z180-B)* be **POSTPONED** until the first Regular City Council Meeting scheduled for March 2006.

Yes: All-6
No: None
Absent: Schilling

5. PUBLIC HEARING – PROPOSED REZONING (Z 180-B) – Proposed Binson's Home Health Care, Northwest corner of Rochester and Marengo, Section 3 – From R-1B to B-1

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning. Mr. Miller said appropriate planning and zoning uses in the location should be determined and an amendment to the Future Land Use Plan would be recommended, should the rezoning request go forward. Mr. Miller reported that it is the recommendation of City Management to deny the rezoning application because it does not comply with the Future Land Use Plan.

Mr. Vleck asked for information on nearby properties with respect to Consent Judgments.

Mr. Miller said a Consent Judgment on the property one block north (commonly known as the Rabbani property) allows office use on the subject property. He reported that, in general, the area has had a number of land uses, and noted more recently residential development; i.e., PUD 1 Northwyck Condominiums, Sandalwood North and South condominiums, and a proposed PUD for a mixed-use development on the northeast corner of Rochester Road and South Boulevard.

Ms. Lancaster said the Rabbani Consent Judgment is the only one in the area of which she is aware. She said both zoning plans and future land use plans are important factors in litigation cases. Ms. Lancaster said the Judge in the Rabbani case was concerned about the number of non-conforming uses in the area at that time.

John Gaber of 380 N. Old Woodward, Birmingham, attorney, was present to represent the petitioner. Mr. Gaber said the proposed use is consistent with the character of the neighborhood. He reviewed the site characteristics with respect to residential development. Mr. Gaber said the lease for the existing Binson's located on Rochester and Square Lake Roads expires in a few months and they would like to relocate in the near future. He asked that the rezoning request not be held up in the process should the Planning Commission opt to amend the Future Land Use Plan. Mr. Gaber said there was an opinion and a judgment by the Court, prior to the Rabbani Consent Judgment, finding that the uses and zoning in the area had changed significantly, and that the site would not be compatible for what it was zoned and master planned. Mr. Gaber said the McKenna report provided to the members support the changing uses and zoning. Mr. Gaber requested a favorable recommendation to the City Council.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Vleck believes the requested B-1 zoning classification is appropriate for the location, and a revision in the zoning classification would be considered in the future when the City undertakes its study of the Future Land Use Plan.

Mr. Khan said a main road is not suitable for residential use. He agreed with Mr. Vleck's comments.

Resolution # PC-2005-06-097
Moved by: Khan
Seconded by: Waller

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1B to B-1 rezoning request, located on the northwest corner of Rochester and Marengo, within Section 3, being approximately 0.89 acres in size, be granted, for the following reasons:

1. That the property is too narrow to put residential use.
2. B-1 is the best use for this property.

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

MOTION DENIED

Resolution # PC-2005-06-098
Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1B to B-1 rezoning request, located on the northwest corner of Rochester and Marengo, within Section 3, being approximately 0.89 acres in size, be denied, for the following reasons:

1. The application does not comply with the Future Land Use Plan.
2. Making a recommendation that is contrary to the Future Land Use Plan would weaken the validity of the Plan and make it more difficult to defend future zoning decisions.
3. Rezoning this parcel to B-1 would result in the enlargement of an undesirable commercial "spot zone" along an area along the Rochester Road corridor that is planned for medium density use.

4. Approval of the rezoning request could open the door for further commercial rezoning applications along the Rochester Road corridor.

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

MOTION CARRIED

Ms. Drake-Batts believes the zoning should be commercial. She said denial of the request would result in a court matter.

Mr. Khan said residential zoning is improper on a main road. He agreed the matter would end up in court.

Messrs. Waller and Vleck agreed with the comments of Ms. Drake-Batts and Mr. Khan.

FUTURE LAND USE PLAN AMENDMENT PROCESS

(Effective January 9, 2002)

1. When starting the amendment process a notice of intent to amend the Future Land Use Plan, notice must be sent to:

   Planning Commissions of the adjacent communities (or legislative body if there is no planning commission).

   Oakland County.

   Each Railroad and Public Utility owning or operating a railroad or public utility within the community.

   Any government entity registered for this purpose.

   SEMCOG (optional).

2. The Draft Plan is sent to City Council for review and comment.

3. **COUNCIL MUST GIVE APPROVAL TO SEND DRAFT TO ADJACENT COMMUNITIES; THE PROCESS CANNOT PROCEED WITHOUT COUNCIL APPROVAL.**

4. Draft is sent to:

   All adjacent communities.

   Oakland County (a signed letter indicating who in the adjacent communities was sent the draft and the dates sent must accompany the county's copy).

   Each Railroad and Public Utility owning or operating a railroad or public utility within the community.

   Any government entity registered for this purpose.

   SEMCOG (optional).

5. Adjacent Communities, Railroads, and Public Utilities have **65 days (or 40 days for revisions)** to review and comment – comments are sent directly to the community amending the Future Land Use Plan and a copy to the county.

6. Oakland County has **not less than 75 days or more than 95 days (or 55 to 75 for revisions)** to review and comment.

7. The Planning Commission considers the comments provided and determines if changes should be made.

8. A Public Hearing on the Future Land Use Plan amendment must be held; it cannot be held until the **95-day (or 75 days for revisions)** comment period has expired.

9. Planning Commission must approve the amendment to the Future Land Use Plan by two-thirds majority vote.

10. Planning Commission sends copy of approved plan amendment to the City Council.

11. City Council **can choose, by resolution,** to approve or reject the plan amendment; this would require an amendment to Article 02.10.02 of the Zoning Ordinance.

12. If Council rejects the plan amendment it has to identify its objections in writing and the Planning Commission must revise the plan amendment to answer those objections.

13. A copy of the adopted amendment to Future Land Use Plan is sent to:

    All adjacent communities.

    Oakland County.

    Each Railroad and Public Utility owning or operating a railroad or public utility within the community.

    Any government entity registered for this purpose.

    SEMCOG (optional).

14. At least every five years the Planning Commission shall review the Plan to determine whether to commence the procedure to amend or adopt a new plan.

APPROXIMATE TIME LINE

14 days	Notice of Intent.
60 days +	Prepare Future Land Use Plan amendment; time can vary depending upon scope of project.
2 - 4 weeks	Council Approval of distribution of Draft, **THE PROCESS CANNOT CONTINUE WITHOUT COUNCIL APPROVAL**
14 days	Distribution of Draft.
95 days (75 for revisions)	Review & Comment Period.
14 days	Public Hearing before Planning Commission. Approval by Planning Commission.
2 - 4 weeks	Council Approval of Future Land Use Plan amendment (if Article 02.10.02 is amended).
14 days	Distribution of Adopted Plan amendment.

TOTAL 8+ months (7+ months for revisions)

OR

2 - 4 weeks	Council Rejection w/ comments.
2 - 4 weeks	Planning Commission revises the plan to answer Council objections.
2 - 4 weeks	Council Approval of Future Land Use Plan amendment (if Article 02.10.02 is amended).
14 days	Distribution of Adopted Plan amendment.

TOTAL 9+ months (8+ months for revisions)

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A Special Meeting of the Troy City Council was held Thursday, February 23, 2006, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 5:30 P.M.

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield (Arrived 5:40 P.M.)
Wade Fleming
Martin F. Howrylak (Absent)
David A. Lambert
Jeanne M. Stine

---

1. Troy v. Premium Construction, L.L.C. (Section 36 Park)

Resolution #2006-02-099
Moved by Stine
Seconded by Lambert

RESOLVED, That the Troy City Council **SHALL MEET** in Closed Session as permitted by MCL 15.268(e) (Troy v. Premium Construction, L.L.C. [Section 36 Park]) and MCL 15.268(h) *(MCL 15.243)*.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

The meeting **RECESSED** at 5:31 P.M.

The meeting **RECONVENED** at 7:09 P.M.

Vote on Resolution to Authorize Secrest Wardle to Represent the City of Troy in City of Troy v. Premium Construction, L.L.C.

Resolution #2006-02-100
Moved by Beltramini
Seconded by Stine

NOW THEREFORE, BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the law firm of Secrest Wardle to represent the City of Troy in the City of Troy v. Premium Construction, L.L.C. lawsuit, and to pay all costs and expenses necessary for the appeal; and

BE IT FURTHER RESOLVED, That the City Attorney is hereby **AUTHORIZED** to finalize the City of Troy v. Premium Construction, L.L.C. case by agreeing as to form, attorney fees in the amount of up to one-third (1/3) of the difference between the initial offer and the final just compensation as determined by the Court.

Yes: All-5
No: Lambert
Absent: Howrylak

MOTION CARRIED

Vote on Resolution to Excuse Council Member Howrylak

Resolution #2006-02-101
Moved by Lambert
Seconded by Broomfield

RESOLVED, That Council Member Howrylak's absence at the Special City Council Meeting and Closed Session Meeting of February 23, 2006 is **EXCUSED** due to being out of the county.

Yes: All-6
No: None
Absent: Howrylak

PUBLIC COMMENT

The meeting **ADJOURNED** at 7:11 P.M.

Louise E. Schilling, Mayor

Barbara A. Holmes, Deputy City Clerk

A Regular Meeting of the Troy City Council was held Monday, February 27, 2006, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:31 P.M.

Nathan Renner of the Troy Seventh Day Adventist Church gave the Invocation and the Pledge of Allegiance to the Flag was given.

ROLL CALL:

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

CERTIFICATES OF RECOGNITION:

A-1 Presentations: No Presentations

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 William Beaumont Hospital – City of Royal Oak Hospital Financing Authority Utilizing Tax-Exempt Bonds

Resolution #2006-02-102
Moved by Stine
Seconded by Fleming

WHEREAS, The City of Royal Oak Hospital Finance Authority (the "Authority") proposes to make loans to William Beaumont Hospital (the "Hospital"), to be used, in part, by the Hospital to refinance indebtedness used to finance the construction, renovation and equipping of certain hospital facilities in the City of Troy, Michigan;

WHEREAS, The Authority intends to issue City of Royal Oak Hospital Finance Authority Hospital Revenue Bonds (William Beaumont Hospital Obligated Group) and Hospital Revenue Refunding Bonds (William Beaumont Hospital Obligated Group), in one or more series (collectively, the "Bonds") on behalf of the Hospital in the aggregate principal amount of not to exceed $235,000,000 to provide funds with which to make loans to the Hospital;

WHEREAS, The Bonds will be limited obligations of the Authority and will not constitute general obligations or debt of the City of Royal Oak, the City of Troy, the County of Oakland, the State of Michigan or any political subdivision thereof;

WHEREAS, The City Council has held a public hearing after notice was published as provided in, and in satisfaction of the applicable public hearing requirements of, the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, A record of public hearing will be maintained with the City Clerk;

WHEREAS, The Authority has requested that this City Council approve the issuance of the Bonds by the Authority;

WHEREAS, The City Council of the City of Troy desires to express its approval of the issuance of the Bonds by the Authority.

IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF TROY, AS FOLLOWS:

1. Solely for the purpose of fulfilling the public approval requirements of the Code, the City Council of the City of Troy hereby **APPROVES** the issuance, sale and delivery of not to exceed $235,000,000 in aggregate principal amount of the Bonds by the Authority.

2. The City Clerk is hereby **DIRECTED TO PROVIDE** three (3) certified copies of this resolution to the Secretary of the Authority.

Yes: All-7

C-2 Adoption of Brownfield Plan #4 for TCF Bank – 1470 Coolidge – South of Maple, East of Coolidge, Section 32

Resolution #2006-02-103
Moved by Lambert
Seconded by Broomfield

WHEREAS, The Brownfield Redevelopment Authority approved on December 15, 2005 Brownfield Redevelopment Plan #4 submitted by TCF Bank for redevelopment of 1470 Coolidge;

WHEREAS, Superior Environmental has prepared a plan for environmental cleanup of former Harabedian Paving Company for the construction of a TCF Bank branch;

WHEREAS, Troy City Council finds this plan constitutes a public purpose in providing for environmental cleanup of a contaminated site and the alleviation of blight at this particular address.

NOW, THEREFORE, BE IT RESOLVED, That Troy City Council hereby **FINDS** Plan #4 does constitute a public purpose and **APPROVES** the Brownfield Redevelopment Plan to construct a TCF Bank branch on the former Harabedian site at 1470 Coolidge.

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

MOTION CARRIED

C-3 Continuation of Public Hearing – Proposed Amendment to the Boundaries of the Downtown District of the Downtown Development Authority (DDA)

Resolution #2006-02-104
Moved by Beltramini
Seconded by Stine

RESOLVED, That the City of Troy City Council hereby **RECOMMENDS** that the Downtown Development Authority (DDA) boundaries remain as they are.

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

MOTION CARRIED

The meeting **RECESSED** at 9:35 PM.

The meeting **RECONVENED** at 9:47 PM.

POSTPONED ITEMS:

D-1 No Postponed Items

CONSENT AGENDA:

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

Resolution #2006-02-105
Moved by Lambert
Seconded by Stine

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented.

Yes: All-7

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

E-2 Approval of City Council Minutes

Resolution #2006-02-105-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of February 20, 2006 and the Regular City Council Meeting of February 22, 2006 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamations: None Submitted

E-4 Standard Purchasing Resolutions: None Submitted

PUBLIC COMMENT: Limited to Items Not on the Agenda

REGULAR BUSINESS:

F-4 Contract Ratification – American Federation of State, County and Municipal Employees (AFSCME) and City of Troy

Resolution #2006-02-106
Moved by Stine
Seconded by Beltramini

RESOLVED, That a collective bargaining agreement between the City of Troy and AFSCME for the period July 1, 2006 through June 30, 2009 is hereby **RATIFIED** by the City Council of the City of Troy, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the final agreement.

Yes: All-7

F-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments Scheduled; b) City Council Appointments: Cable Advisory Committee and Traffic Committee

(a) Mayoral Appointments – No Appointments Scheduled

(b) City Council Appointments

Resolution
Moved by Broomfield
Seconded by Lambert

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

Cable Advisory Committee
Appointed by Council (7) – 3 Year Terms

Brian Wattles Term Expires 02/28/09

Traffic Committee
Appointed by Council (7) – 3 Year Terms

Lawrence Halsey Term Expires 01/31/09

Vote on Resolution to Separate Vote

Resolution #2006-02-107
Moved by Howrylak
Seconded by Stine

RESOLVED, That Troy City Council hereby **SEPARATES** the Resolution for *(b) City Council Appointments: Cable Advisory Committee and Traffic Committee* for voting purposes.

Yes: All-7

Vote on City Council Appointment to the Traffic Committee

Resolution #2006-02-108
Moved by Broomfield
Seconded by Lambert

RESOLVED, That the following person is hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Board and Committee as indicated:

Traffic Committee
Appointed by Council (7) – 3 Year Terms

Lawrence Halsey Term Expires 01/31/09

Yes: All-7

Vote on Resolution to Postpone City Council Appointment to the Cable Advisory Committee

Resolution #2006-02-109
Moved by Howrylak
Seconded by Lambert

RESOLVED, That Troy City Council hereby **POSTPONES** the appointment to the Cable Advisory Committee until the Regular City Council meeting scheduled for Monday, March 6, 2006.

Yes: All-7

F-2 Contract Ratification – Troy Command Officers Association (TCOA) and City of Troy

Resolution #2006-02-110
Moved by Beltramini
Seconded by Fleming

RESOLVED, That a collective bargaining agreement between the City of Troy and TCOA for the period July 1, 2005 through June 30, 2008 is hereby **RATIFIED** by the City Council of the

City of Troy, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the final agreement.

Yes: All-7

F-3 Contract Ratification – Troy Fire Staff Officers Association (TFSOA) and City of Troy

Resolution #2006-02-111
Moved by Lambert
Seconded by Stine

RESOLVED, That a collective bargaining agreement between the City of Troy and TFSOA for the period July 1, 2006 through June 30, 2009 is hereby **RATIFIED** by the City Council of the City of Troy, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the final agreement.

Yes: All-7

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

a) Rezoning Request – East Side of Livernois, South of Wattles, Section 22 – R-1C to C-F (Z-713) – March 20, 2006

Noted and Filed

Vote on Resolution to Suspend Rules of Procedure for the City Council, Rule #6 – Order of Business, Article 15 I.

Resolution #2006-02-112
Moved by Howrylak
Seconded by Lambert

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

Yes: All-7

Vote on Resolution to Set a Date Certain for the Continuation of Public Hearings for Zoning Ordinance Text Amendments: ZOTA 218 and ZOTA 214

Resolution #2006-02-113
Moved by Schilling
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **SETS A DATE CERTAIN** for the continuation of Public Hearings for Zoning Ordinance Text Amendment (ZOTA 218) – Article 10.30.03, Permit

Child Care Centers by a Special Use Approval in the R-1A through R-1E Zoning Districts and Zoning Ordinance Text Amendment (ZOTA 214) – Article IV and X, Group Child Care Homes in the R-1A through R-1E Districts **TO THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MONDAY, MARCH 20, 2006**; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Staff to **REPUBLISH** the *Notice of Public Hearing* in the official newspaper of record and **RENOTICE** those members of the public that previously received notice by first class mail.

Yes: All-7

Vote on Resolution to Suspend Rules of Procedure for the City Council, Rule #6 – Order of Business, Article 15 I.

Resolution #2006-02-114
Moved by Beltramini
Seconded by Stine

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

Yes: All-7

Vote on Resolution to Rescind Resolution #2006-02-084

Resolution #2006-02-115
Moved by Beltramini
Seconded by Lambert

RESOLVED, That Resolution #2006-02-084, Moved by Fleming and Seconded by Stine, as it appears below be **RESCINDED** by City Council:

> *RESOLVED, That Mr. John Lamerato, Assistant City Manager/Finance and Administration, is to be **COMPENSATED** an additional $350.00 dollars per week during the time frame he acts in the capacity of Acting City Manager.*
>
> *Yes: Beltramini, Broomfield, Fleming, Lambert, Stine, Schilling*
> *No: Howrylak*
>
> ***MOTION CARRIED***

Yes: All-7

Vote on Resolution for Compensation for Acting City Manager

Resolution #2006-02-116
Moved by Beltramini
Seconded by Stine

RESOLVED, That Troy City Council hereby **AUTHORIZES** payment in the amount of $5,000.00 be allocated to the Deferred Compensation Pension Program of Mr. John M. Lamerato, Assistant City Manager/Finance and Administration as compensation for the duration he serves as Acting City Manager.

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

MOTION CARRIED

G-2 Green Memorandums: No Memorandums Submitted

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

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H-1 No Council Referrals Advanced

COUNCIL COMMENTS:

I-1 No Council Comments Advanced

REPORTS:

J-1 Minutes – Boards and Committees: None Submitted

J-2 Department Reports: None Submitted

J-3 Letters of Appreciation: None Submitted

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

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J-5 Calendar

Noted and Filed

J-6 Correspondence from Troy Chamber of Commerce President Michele Hodges Regarding Continuation of the Public Hearing on Excluding the Proposed Monarch Development from the DDA Boundaries

Noted and Filed

J-7 Papadelis v. City of Troy

Noted and Filed

STUDY ITEMS:

K-1 No Study Items Submitted

PUBLIC COMMENT: Address of "K" Items

CLOSED SESSION:

L-1 Closed Session:

Resolution #2006-02-117
Moved by Stine
Seconded by Howrylak

BE IT RESOLVED, That the City of Troy City Council **SHALL MEET** in Closed Session, as permitted by MCL 15.268 (e) and (h) and MCL 15.243, Pending Litigation: (1) Papadelis v. City of Troy and (2) Fehribach v. City of Troy, and as permitted by MCL 15.268 (a), Performance Evaluation of City Attorney, Lori Grigg Bluhm.

Yes: All-7

The meeting **RECESSED** at 10:17 P.M.

The meeting **RECONVENED** at 10:25 P.M.

The meeting **ADJOURNED** at 11:50 P.M.

Louise E. Schilling, Mayor

Barbara A. Holmes, Deputy City Clerk

A Special Meeting of the Troy City Council was held Tuesday, February 28, 2006, at the Troy Community Center, 3179 Livernois. Mayor Schilling called the Meeting to order at 7:30 P.M.

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
Wade Fleming (Arrived 7:46 PM)
Martin F. Howrylak (Absent)
David A. Lambert
Jeanne M. Stine (Departed 9:15 PM)

TROY DAZE ADVISORY COMMITTEE:

Robert Berk (Absent)
Jim D. Cyrulewski (Absent)
Cecile Dilley
Michael Gonda
Bill Hall
Kessi Kaltsounis
Marilyn Musick
Robert Preston
Jeff Stewart
Cheryl Whitton-Kaszubski

Troy Daze Discussion:

The discussion began with subcommittee reports on the following topics:

- Finance/Hour
- Focus
- Rules
- Layout

The City Council and Troy Daze Advisory Committee used the interest based bargaining model to discuss the following areas:

Focus/Atmosphere

Both groups agreed that the main focus of the festival should be centered on providing a family-friendly event involving community groups and provide a safe place for those in attendance.

Hours of Operation

It was the consensus of both groups to close the festival at 9:00 PM on Thursday and Sunday, and at 10:00 PM on Friday and Saturday with no entries to the festival permitted after 9:00 PM on Friday and Saturday.

Parade

It was the consensus of both groups to have a corporate sponsor pay for the cost of the parade and consider holding the parade on Saturday morning.

Rules

Both groups agreed with the rules established by the subcommittee and asked for the police department to add additional rules necessary to provide a safe environment at the festival. A discussion took place in regard to various options available to post and distribute the rules.

Vote on Resolution to Excuse Council Member Howrylak

Resolution #2006-02-118
Moved by Lambert
Seconded by Beltramini

RESOLVED, That Council Member Howrylak's absence at the Special City Council meeting of Tuesday, February 28, 2006 is **EXCUSED** due to being out of the county.

Yes: All -5
No: None
Absent: Howrylak, Stine

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1. Troy Daze Festival

PUBLIC COMMENT

Several members of the audience in attendance addressed the City Council and Troy Daze Advisory Committee on various aspects of the festival.

The meeting **ADJOURNED** at 9:30 P.M.

Louise E. Schilling, Mayor

John M. Lamerato, Assistant City Manager Finance and Administration

February 13, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

SUBJECT: **Agenda Item** – Standard Purchasing Resolution 1 – Award To Low Bidder – Topsoil

RECOMMENDATION

On February 7, 2006, sealed bid proposals were opened to furnish two-year requirements of topsoil with an option to renew for one additional year. After reviewing these proposals, City management recommends awarding the contract to the low bidder, Sterling Topsoil and Grading, Inc. of Sterling Heights, MI, for an estimated total cost of $35,700.00, at the unit prices contained in the attached bid tabulation. Topsoil is purchased on an as needed basis throughout the year based upon estimated quantities.

The contract award is contingent upon contractor submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

BUDGET

Funds for these materials are available through the Public Works operating budgets for Streets and Water, as monies clear through the balance sheet Inventory Account for Topsoil; and also through the Parks and Recreation budget for Park and Tree Maintenance.

61 Vendors Notified on MITN System
7 Bid Responses Rec'd
2 No Bids: (1) Company could not be competitive.
(1) Company does not handle the product specified.

Prepared by Ron Hynd, Landscape Analyst

Opening Date -- 2-7-06
Date Prepared -- 2/10/06

CITY OF TROY
BID TABULATION
TOPSOIL

VENDOR NAME:	**	**STERLING TOPSOIL & GRADING INC**	B&W LANDSCAPE SUPPLY	UNITED SOILS INC	TROY AGGREGATE CARRIERS INC
Proposal: FURNISH TWO YEAR REQUIREMENTS OF TOPSOIL WITH AN OPTION TO RENEW FOR ONE ADDITIONAL YEAR					
		UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE
Estimated Quantities					
3,000 Cubic Yards **TOPSOIL** 2006		**$ 5.90**	$ 7.74	$ 7.99	$ 9.00
3,000 Cubic Yards **TOPSOIL** 2007		**$ 6.00**	$ 7.87	$ 8.49	$ 9.50
ESTIMATED GRAND TOTAL:	**	**$ 35,700.00**	$ 46,830.00	$ 49,440.00	$ 55,500.00
DELIVERY: Minimum Shipment:		50 CY	50 CY	20 CY	24 YARDS
Within Hours of Phone Release		24 HRS	24 HRS	24 HRS	24 HRS
INSURANCE: Can Meet		XX	XX	XX	XX
Cannot Meet					
CONTACT INFORMATION:					
Hours of Operation		8-5pm	8-5pm	7-5pm	7-7pm
Phone Number		586.264.3000	586.463.0545	586.752.7008	586.446.9200
TERMS:		NET 30 DAYS	NET 30	30	2006/2007
WARRANTY:		N/A	BLANK	BLANK	BLANK
EXCEPTIONS:		BLANK	BLANK	BLANK	BLANK
ACKNOWLEDGEMENT: Completed Y or N		YES	YES	YES	YES

NO BIDS:
Marine City Nursery Co
ProSource One

**** DENOTES LOWEST BIDDER**

ATTEST:
Ron Hynd
Charlene McComb
Linda Bockstanz

Jeanette Bennett
Purchasing Director

G:\TOPSOIL ITB-COT 06-04

VENDOR NAME:	SOULLIERE YARD CARE & LANDSCAPING	LUKES TRUCKING & EXCAVATING LLC	JACKIES TRANSPORT	
Proposal: FURNISH TWO YEAR REQUIREMENTS OF TOPSOIL WITH AN OPTION TO RENEW FOR ONE ADDITIONAL YEAR				
	UNIT PRICE	UNIT PRICE		
Estimated Quantities				
3,000 Cubic Yards **TOPSOIL** 2006	$ 10.00	$ 12.54	$ 12.60	
3,000 Cubic Yards **TOPSOIL** 2007	$ 10.00	$ 12.54	$ 12.90	
ESTIMATED GRAND TOTAL:	$ 60,000.00	$ 75,240.00	$ 76,500.00	
DELIVERY: Minimum Shipment:	30 CY	100 CY	40 YARDS	
Within Hours of Phone Release	24 HRS	48 HRS	24 HRS	
INSURANCE: Can Meet	XX	XX	XX	
Cannot Meet				
CONTACT INFORMATION:				
Hours of Operation	8-5pm	7-6pm	5:30-5:30pm	
Phone Number	810.798.8006	248.240.0938	248.344.0047	
TERMS:	NET 30	NET 30 DAYS	30 DAYS	
WARRANTY:	N/A	NONE	BLANK	
EXCEPTIONS:	BLANK	BLANK	BLANK	
ACKNOWLEDGEMENT: Completed Y or N	YES	YES		

Michigan Inter-governmental Trade Network
MITN

Downloading History for ITB-COT 06-04 Topsoil

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **2/13/2006.**

Document Title:	TOPSOIL
Date Issued:	1/19/2006
Close Date:	2/7/2006

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
12358	A. Wilson Contracting	E-mail	1/23/2006	
10288	Ace Hanses Hardware of Dearborn, Inc.	Free	1/20/2006	
12763	ACME Contracting, Ltd.	Free	2/6/2006	
23384	ARCLAND SERVICES LLC	E-mail	1/24/2006	
12114	B & B Lawn Service	Fax		
10927	B & L Landscaping	E-mail	1/26/2006	
10709	B & W Landscape Supply	Fax	1/25/2006	
10355	Brooks Landscaping Services, LLC	Fax		
20153	C & H Site Development	E-mail	1/19/2006	
10682	C & R Maintenance d/b/a Rizzo Services	E-mail	1/20/2006	
22519	chirag patel	E-mail	1/27/2006	
23484	Clark's Construction Company	E-mail	2/3/2006	
15755	COMMERCIAL MOWING SERVICES, INC.	E-mail	1/20/2006	
20276	Cruz -N- Moore Concrete, Inc.	E-mail		
11681	D and J Lawn and Snow Corp.	E-mail	1/23/2006	
15620	D. A. Alexander & Company	E-mail		
16393	Doetsch Industrial Services	E-mail		
11185	Ellsworth Industries	Free	1/22/2006	
12816	EMC Express, Inc	Fax		

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
12278	J. T. Express LTD	E-mail		
14945	John Deere Landscapes	E-mail	1/23/2006	
19573	Kingsway Landscaping	Fax		
21782	Landscape Direct	E-mail		
16067	Landscape Services, Inc.	E-mail	1/20/2006	
15957	Luke's Trucking and Excavating L.L.C	E-mail	2/5/2006	
11900	MARINE CITY NURSERY CO	Fax	1/20/2006	
14030	Michigan Turf Inc	Free	2/7/2006	
23235	Midtown Aggregate	Fax	1/23/2006	
21150	Nankin Sand	Fax		
22179	Northland Services, LLC	Fax		
11936	Northside True Value Hardware	Fax		
15680	nutri-turf lawn and tree service	Fax		
10643	Osburn Industries, Inc.	E-mail	1/19/2006	
10065	Payne Landscaping, Inc.	E-mail		
15672	Perfect Irrigation & Landscape	E-mail		
19208	Platinum Landscape	Free	1/26/2006	
22344	Priority Contractors	Fax	1/20/2006	
16757	Rodges Landscaping, Inc.	Free	1/21/2006	
20331	Sabiston Builders Supply	Fax	1/27/2006	
16190	shades of green	E-mail		
23320	Sirco. Scapes	Free	2/2/2006	
19191	Soulliere Yard Care and Landscaping	Free	1/24/2006	
16027	STAY GREEN SPRINKLERS	E-mail		
13616	Sterling Topsoil & Grading,Inc.	Free	2/10/2006	
20582	Teddy's Lawn & Landscape	Free	2/3/2006	
12535	The Stansley Group	E-mail		
18135	Titan Top Soil & Associates, Inc.	E-mail		
13915	Tom's Landscaping & Nursery, Inc.	Fax	1/23/2006	
16894	Trans - Tek Transport, L. L. C.	Fax		
13671	Troy Aggregate Carriers	E-mail	1/23/2006	
13019	Turfgrass Systems, LLC	E-mail		
21808	Twin Pines Paper	E-mail	1/19/2006	
15735	UAP	E-mail		
10285	United Lawnscape, Inc.	E-mail	1/24/2006	
11267	United Soils, Inc.	E-mail	1/31/2006	
23125	Walker Construction, Inc.	Free	1/27/2006	
13921	WALKER LANDSCAPING, INC.	E-mail	1/19/2006	
23404	WARGEL'S LAWN & LANDSCAPE	E-mail	1/26/2006	
14338	Washtenaw Inc., Maintenance Services	E-mail	1/27/2006	
14016	WH Canon, Inc.	E-mail		

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
13436	Wolverine Contractors, Inc.	Fax		

February 8, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Director of Parks and Recreation

SUBJECT: **Agenda Item**- Standard Purchasing Resolution 3: Exercise Renewal Option- Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses.

RECOMMENDATION

On Monday April 4, 2005, Troy City Council approved a one year contract for Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses with an option to renew for one (1) additional year to the lowest acceptable bidder meeting specifications, Turfgrass Inc. of South Lyon, MI, for an estimated total cost of $34,140.00. (Council Resolution #2005-04-149-E17)

Staff recommends the City exercise the one-year renewal option for Fertilization Services with Turfgrass Inc. All prices, terms and conditions will remain the same for the 2006 season.

SUMMARY

Turfgrass Inc. has offered to renew their contract under the same pricing structure, terms, and conditions at a cost of $218.85/acre, the same as the original contract agreement. Given the high volatility in the energy market, of which fertilizer prices are directly affected, it would be in the best interest of the City to take advantage of this option.

MARKET SURVEY

A market survey was not conducted by the Purchasing department because the two other vendors who originally bid were disqualified from further consideration when it became apparent the application equipment was inadequate to handle the acreage, and the fertilizers to be used were not as specified.

BUDGET

Funds for these services are available in the Sylvan Glen Golf Course Contract Grounds Maintenance Account #785.7802.050 and Sanctuary Lake Golf Course Maintenance Seed & Plant Supplies Account #885.7740.100.

Prepared by: Danny T. McDonald, Superintendent of Greens

Susan M. Shockey
3847 Long Meadow Lane
Lake Orion, MI 48359
Cell: 248.866.6081
Fax: 248.393.2572
susan.shockey@sbcglobal.net

Your Independent Distributor
TURFGRASS
Since 1970

January 27, 2006

Dear Mr. McDonald:

We are pleased to inform you that we are willing to extend the bid proposal for Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses for 2006. We will honor the stated price of $218.85 / Acre for Fairways and Roughs.

If you have any questions, please do not hesitate to contact me at 248.866.6081. I look forward to working with you and your staff this year.

Sincerely,

Susan M. Shockey

Susan M. Shockey
Sales Representative
Turfgrass, Inc.

E-17 Standard Purchasing Resolution 2: Bid Award – Lowest Acceptable Bidder Meeting Specifications – Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses

Resolution #2005-04-149-E-17

RESOLVED, That a contract to furnish all materials, equipment, and labor for one-year requirements of Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses with an option to renew for an additional year is hereby **AWARDED** to the lowest bidder meeting specifications, Turf Grass, Inc. of South Lyon, MI, for an estimated total cost of $34,140.00, at unit prices contained in the attached bid tabulation opened March 15, 2005, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor's submission of properly executed bid documents, including insurance certificates and all other specified contract requirements.

E-18 Standard Purchasing Resolution 1: Award to Low Bidders – Four (4) 64,000 GVW Tandem Axle Dump Trucks

Resolution #2005-04-149-E-18

RESOLVED, That a contract to purchase four (4) 64,000 GVW Tandem-Axle Dump Trucks is hereby **AWARDED** to the low total bidders, Bi-State Sterling Truck Center of Toledo, OH and Monroe Truck Equipment of Flint, MI for an estimated total cost of $327,588.00 and $190,748.00 respectfully, at unit prices contained in the bid tabulation opened March 1, 2005, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-19 Standard Purchasing Resolution 3: Option to Renew – Automobile, Light Truck, Farm, and Construction Equipment Replacement Parts

Resolution #2005-04-149-E-19

WHEREAS, On May 6, 2002, three-year contracts with the option to renew for three additional years to provide automobile, light truck, farm, and construction equipment replacement parts were awarded to the lowest acceptable bidders meeting specifications, Kirk's Automotive, Terminal Supply, Jack Doheny Supply Company, DTS Fluid Power, LLC (previously Rubber Materials), and Shults Equipment, Inc. (Resolution #2002-05-288-E10).

WHEREAS, All the above named vendors have agreed to exercise the three-year option to renew the contracts under the same price discount structure, terms, and conditions.

NOW, THEREFORE, BE IT RESOLVED, That the options to renew the contracts are hereby **EXERCISED** with Kirk's Automotive, Terminal Supply, Jack Doheny Supply Company, DTS Fluid Power, LLC (previously Rubber Materials), and Shults Equipment, Inc. to provide automobile, light truck, farm, and construction equipment replacement parts under the same pricing structure, terms, and conditions as the original contracts expiring May 6, 2008.

March 29, 2005

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Director of Parks and Recreation

SUBJECT: **Agenda Item-** Standard Purchasing Resolution 2: Bid Award - Lowest Acceptable Bidder Meeting Specifications
Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses

RECOMMENDATION

On March 15, 2005, bid proposals were opened to furnish one-year requirements of fertilization services to Sylvan Glen and Sanctuary Lake Golf Courses with an option to renew one (1) additional year. After reviewing these proposals, City management recommends awarding the contract to the lowest acceptable bidder meeting specifications, Turf Grass, Inc. PO Box 667, South Lyon, MI 48178, for an estimated total cost of $34,140.00, at unit prices contained in the attached bid tabulation.

The award is contingent upon contractor submission of proper insurance certificates, and all specified requirements.

PROPOSALS/ Estimated Quantity	**DESCRIPTION:**	**PRICING: Cost per Acre per Application 2005**	**TOTAL COST:**
Sylvan Glen- 50 Acres Total (Two 25 acres) Applications	For Golf Course Fairways- Two (2) Applications of 22-2-19 with 86% Polyon and 80% Polymer Coated Potassium with Small Mini Prills i.e. greens particle size	$ **218.85**	$ **10,942.50**
Sanctuary Lake- 106 Acres Total (Two 53 acres) Applications	For Golf Course Fairways and Roughs- Two (2) Applications of 22-2-19 with 86% Polyon and 80% Polymer Coated Potassium with Small Mini Prills i.e. greens particle size	$ **218.85**	$ **23,198.10**

To: John Szerlag, City Manager
Re: Bid Award- Fertilizer Application Services Sylvan Glen and Sanctuary Lake Golf Courses

EXPLANATION OF BIDS NOT MEETING SPECIFICATIONS

A total of three (3) bids were received of which two (2), Owen Tree Service, Inc. and Land Works Landscapes, Inc., did not meet specifications for the following reasons:

- Both companies bid alternate fertilizers that upon analysis did not meet specifications. Fertilizers bid have less controlled release of nutrients requiring more applications throughout the season at considerable additional cost.
- Bid stated fertilizer must be provided in bulk form to save on labor costs. The application equipment to be used by both companies is totally inadequate for the acreage under this contract because the hopper capacity is unable to handle the 1000 pounds of bulk fertilizer material.

BUDGET

Funds for these services are available in the Sylvan Glen Golf Course Contract Grounds Maintenance Account #785.7802.050 and Sanctuary Lake Golf Course Contract Grounds Maintenance Account #885.7802.050.

140 Vendors Notified via MITN System
3 Bid Responses Received
2 Bids did not meet specifications
1 No Bid: Company is not interested at this time because of liability issues.

Prepared by: Danny T. McDonald, Superintendent of Greens

Opening Date -- 3/15/05
Date Prepared -- 3/29/05

CITY OF TROY
BID TABULATION
FERTILIZATION SERVICES

	VENDOR NAME:	*	TURFGRASS INC		
Estimated Quantity	Description		PRICE Cost per Acre		
156 Acres	For two (2) Golf Courses for the 2005 (2) Two Applications per year -- 53 acres for Sanctuary Lake -- 25 acres for Sylvan Glen		$ 218.85		
	ESTIMATED TOTAL COST:	*	$ 34,140.60		
	SITE INSPECTION:				
	Visited the site	Y or N	Yes		
	Date of site visit		Many Times		
	CONTACT INFORMATION:				
	Hrs of Operations		8-5pm		
	24 Phone No.		(248)640-3379		
	INSURANCE: Can meet		XX		
	Cannot Meet				
	But Offer				
	ALTERNATE INSURANCE:		BLANK		
	Can obtain Coverage				
	Currently have				
	Do not carry				
	BIDDERS QUESTIONNAIRE:	Y or N	Yes		
	TERMS		NET 30		
	WARRANTY		AS STATED		
	EXCEPTIONS		NONE		
	ADDENDUM 1: Attached		Yes		
	ACKNOWLEDGEMENT:	Y or N	Yes		

DMS:
Land Works Landscapes, Inc ($168.50/acre/application) - Owen Tree Service, Inc ($150.00/acre/application)
Reason: Fertilizers not as specified; application equipment inadequate to handle amount of acreage

NO BIDS:
Troy Clogg Landscape Assoc

PROPOSAL:
One Year Requirements of Fertilization Services at Sylvan Glen and Sanctuary Lake Golf Courses with an Option to Renew for an Additional Year

ATTEST:
Aileen Bittner
Danny McDonald
Kevin Grubb
Jeanette Bennett

*** DENOTES LOWEST ACCEPTABLE BIDDER**

Jeanette Bennett
Purchasing Director

G/:ITB-COT 05-08 Fertilization Services

Downloading History for ITB-COT 05-08 Fertilizer

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **3/29/2005.**

Document Title:	Fertilization Services for Sylvan Glen & Sanctuary Lake Golf Cours
Date Issued:	2/22/2005
Close Date:	3/15/2005
Date Amendment #1 was Issued:	2/23/2005

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
19751	4th and Inches	E-mail		
19364	A. M. Services, Inc	E-mail		
13870	A.G. Housey Company, Inc.	E-mail		
19667	ABC Lawn & Landscape	E-mail		
10239	Advanced Irrigation Systems, Inc.	Fax		#1 2/23/2005
12306	Advanced Services Lawn and Landscape	E-mail		
14952	All State Tree & Lawn, Inc.	E-mail		
16145	Allgreen Landscape Solutions	E-mail		
10542	american lawn corp.	E-mail		
14581	American Sprinkler	E-mail		
16914	Angela Niswander	E-mail		
18056	ARBORCARE TREE SPECIALISTS LLC	Fax		#1 2/23/2005
11191	Artistic Outdoor Services Inc.	E-mail		
11493	Audio Visual Equipment & Supplies, Inc.	E-mail	3/9/2005	#1 3/9/2005
12114	B & B Lawn Service	Fax		#1 2/23/2005
10927	B & L Landscaping	Fax		#1 2/23/2005
16403	barnhart services	Fax		#1 2/23/2005
17378	Bedard Shade Tree Co., Inc.	E-mail		
17272	Ben & Dan's Landscaping, Inc.	E-mail		
17505				

	Birchler Arroyo Associates, Inc.	E-mail		
16057	Bob's Landscape	E-mail		
20316	brookstone growers inc.	E-mail		
20153	C & H Site Development	E-mail	3/2/2005	
15144	Carso, Incorporated	E-mail	3/9/2005	
18528	CKD Outdoor Maintenance, Inc.	E-mail		
17510	Clarkston Tree Service, Inc.	E-mail		
17537	Clif Services, Inc	E-mail	2/24/2005	
15755	COMMERCIAL MOWING SERVICES, INC.	E-mail	2/23/2005	#1 2/24/2005
16901	County Line Nurseries & Landscaping	E-mail		
17521	Crimboli Nursery Inc.	Fax		#1 2/23/2005
15339	Customers Outdoor Services	Fax		#1 2/23/2005
20157	Cut-N-Care, Inc.	E-mail	3/3/2005	
15987	Cutting by Faith Landscaping snow	E-mail		
11681	D and J Lawn and Snow Corp.	E-mail		
13898	D&E Landscaping & Grading Inc	E-mail		
15620	D. A. Alexander & Company	E-mail		
13953	Davey Commercial Grounds Management	Fax	2/23/2005	#1 2/23/2005
14107	DREAM DECOR	E-mail		
10657	Envision Enterprises	E-mail		
16144	F.J. LaFontaine	E-mail		
16532	Fitz & Sons Landscaping Inc.	E-mail		
10091	Fitzgerald Henne & Associates	E-mail		
16017	Fleis & Vandebrink Engineering, Inc	E-mail		
11201	Fosmore Trucking and Maintenance	E-mail		
19870	Four Seasons Maintenance Inc.	E-mail		
14891	Fowler-Reeg co.	Fax		#1 2/23/2005
15063	G.D.M. Lawn Care	E-mail		
16001	Gator Lawn Corp.	E-mail		
17824	Geo Landscaping & Snow Removal, L.L.C.	Fax		#1 2/23/2005
15305	Gifts of Remembrance, LLC	E-mail		
16228	Goers Landscaping, Inc.	E-mail		
10938	Great Lakes Landscaping & Construction Inc.	Fax		#1 2/23/2005
15570	Great Lakes Turf, LLC	E-mail	3/2/2005	#1 2/27/2005
16213	greg davis landscaping	E-mail		
19227	Groundcover Solutions Inc.	Fax		#1 2/23/2005
15149	HAWTHORNE TREE & LAWN CARE INC.	Fax		#1 2/23/2005
20217	Homefield Turf & Athletic Inc.	E-mail	2/23/2005	
19922	Howard & Associates Landscape, LLC	Free	3/12/2005	
18645	HTA Companies, Inc.	Fax		#1 2/23/2005
15797	J MOLLEMA & SON INC	E-mail	2/24/2005	

20581	j's lawn service	Free	3/12/2005	
19350	James J. Leamon Landscape Design and Construction	E-mail		
13114	Jasso Tree Service, Inc.	Free	2/23/2005	
13603	JB Maintenance	E-mail		
14945	John Deere Landscapes	E-mail	3/4/2005	
20399	K & K Maintenance Supply Inc.	Free		#1 3/6/2005
12606	KDS Landscape	Fax	2/28/2005	#1 2/28/2005
15720	Kelli Green Lawn Service Ltd.	E-mail		
14108	Kevin's Lawn Care & Snow Removal	E-mail		
13922	Kezco & Associates Landscaping Inc	E-mail		
18232	Kingspointe Services, Inc.	E-mail		
19573	Kingsway Landscaping	Fax		#1 2/23/2005
16835	Kirtland Landscape Inc.	E-mail		
20136	Land Works Landscapes,Inc.	E-mail	2/23/2005	#1 2/24/2005
11552	Landscape Architects & Planners, Inc.	E-mail		
16067	Landscape Services, Inc.	E-mail		
20259	lansing total lawn care, Inc	Fax		#1 2/23/2005
19649	Lawn Barber Inc.	Fax		#1 2/23/2005
10884	Maged Contracting, Inc.	Fax		#1 2/23/2005
11900	MARINE CITY NURSERY CO	Fax		#1 2/23/2005
15567	Marwil & Associates	E-mail		
20585	Michigan Groundscape	Free	3/14/2005	
11953	MichiSCAPE, Inc.	E-mail		
17584	Mickalich and Associates, Inc.	E-mail		
11639	Mike's Tree Surgeons, Inc.	E-mail		
16183	MJ&T Property Maintenance,L.L.C	E-mail		
18984	National Satellite Corporation	E-mail	2/28/2005	
10604	nationwide fence & Supply	E-mail		
15487	Nihranz Landscaping Inc.	E-mail		
16975	Northern Impressions Inc	E-mail		
12761	Northwest Consultants, Inc.	E-mail		
14529	Northwood Contracting Incorporated	Fax		#1 2/23/2005
15680	nutri-turf lawn and tree service	Fax		#1 2/23/2005
15737	Oakland Outdoors Inc.	E-mail		
18380	OccuMed3	E-mail		
10999	Omni Facility Services	E-mail		
11073	Oscar W. Larson Co.	E-mail		
10203	Owen Tree Service, Inc.	E-mail	2/24/2005	#1 2/24/2005
18539	Oxford Ornamentals Nursery,inc.	Fax		#1 2/23/2005
19772	PAMA JAMA Outdoors dba Absolute Outdoor Services	E-mail		
10061	Parks Landscaping & Snow Service	E-mail		

10065	Payne Landscaping, Inc.	E-mail		
16465	Plantscaping, LLC	E-mail		
11344	Premium Sevices, Inc	E-mail		
10449	Pro Mow Lawn Services	E-mail		
16049	Pro Source One	Fax	3/23/2005	
19077	Pro-Soil Landscape Inc.	E-mail		
11286	Professional Maintenance, Inc.	E-mail		
16382	Quality Landscape & Fertilizing, Inc.	E-mail	3/8/2005	#1 3/8/2005
10207	Rasins Landscape & Assoc., Inc.	E-mail		
11720	Rolar Property Services Inc.	E-mail		
10401	Rumptz Landscape & Design	E-mail		
16190	shades of green	Fax		#1 2/23/2005
12936	SHERMAN NURSERY FARMS	E-mail		
15992	Sinacori Landscaping, Inc.	Fax		#1 2/23/2005
16027	STAY GREEN SPRINKLERS	E-mail		
13914	Steele's Service's LLC	E-mail		
17728	Summit Landscape Management Inc	E-mail		
11833	The Johnson Hill - Land Ethics Studio, Inc.	Fax		#1 2/23/2005
15269	Tiede Landscaping	E-mail		
13915	Tom's Landscaping & Nursery, Inc.	Fax		#1 2/23/2005
13602	Total Outdoor Services	E-mail		
13480	Tri-County Tree Expert Co., Inc.	E-mail		
19890	TRI-TURF	E-mail	3/7/2005	
10658	Troy Clogg Landscape Assoc., LLC.	E-mail	2/23/2005	
10389	Trugreen Chemlawn/Trugreen Landcare	E-mail	2/28/2005	#1 2/28/2005
10311	Turf Tenders Landscaping & Fertilizing Inc.	E-mail	3/9/2005	
20309	Turfgrass Inc.	E-mail	2/28/2005	#1 3/10/2005
13019	Turfgrass Systems, LLC	E-mail		
16126	ULTRA Professional Outdoor Services	Free	3/3/2005	#1 3/3/2005
10285	United Lawnscape, Inc.	Fax	3/5/2005	#1 3/5/2005
16454	UNITED TREE SERVICE	E-mail		
15735	Verdicon/United Horticultural Supply	E-mail		
16105	Village Green	E-mail	2/26/2005	#1 2/26/2005
13921	WALKER LANDSCAPING, INC.	E-mail		
14338	Washtenaw Inc., Maintenance Services	E-mail	3/7/2005	#1 3/7/2005
17151	Watts Lawn Service	E-mail		
14785	Weingartz	E-mail	3/7/2005	#1 3/1/2005
14016	WH Canon, Inc.	E-mail		
17817	William T. Burno	E-mail		

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February 15, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

SUBJECT: **Agenda Item** – Standard Purchasing Resolution 2: Bid Award – Lowest Bidder Meeting Specifications - Tennis Court Reconstruction

RECOMMENDATION

On February 8, 2006, bids were received for Tennis Court Reconstruction at Boulan Park. City management recommends Troy City Council award a contract to the lowest bidder meeting specifications, ABC Paving Company of Trenton, MI, for an estimated total cost of $116,452.00, at prices contained in the attached bid tabulation. The award is contingent upon vendor submission of proper contract and bid documents, including insurance certificates, bonds, and all other specified requirements.

In addition, staff requests authorization to add work, due to unforeseen circumstances, not to exceed 10% of the total project cost or $11,645.00.

EXPLANATION OF BID NOT MEETING SPECIFICATIONS

One vendor, S & J Asphalt Paving submitted an alternate proposal to pulverize the existing asphalt material on the courts, compact it in place and then install new asphalt over the pulverized material at a reduced cost of $104,250.00 for all courts. This alternate proposal deviates extensively from the specifications, is not the preferred method for reconstruction of the courts, and is therefore disqualified.

SUMMARY

The two (2) sets of four (4) tennis courts at Boulan Park are in need of total asphalt replacement, due to extensive cracking and asphalt failure. Their condition has deteriorated to the point where they do not promote quality play and present some safety concern. These courts receive heavy use by residents, tennis leagues, and school district tennis programs. In order to minimize the disruption of play at the Boulan Park tennis courts, staff intends to have one set of courts resurfaced as soon as the asphalt plants open this spring, and the other set of courts resurfaced this fall after the completion of league and school play.

BUDGET

Funds for this project are available in Parks and Recreation Capital Accounts for Park Development #401770.7974.025 and the Schools Joint Project Fund #401752.7974.100.

February 15, 2006

To: John Szerlag, City Manager
Re: Bid Award – Tennis Court Reconstruction

91 Vendors Notified via MITN System
1 Vendor Walk-In
7 Bid Responses Rec'd
1 Bid did not meet specifications

Prepared by: Jeff Biegler, Superintendent of Parks

Opening Date -- 2-8-06
Date Prepared -- 2/14/06

CITY OF TROY
BID TABULATION
TENNIS COURTS

VENDOR NAME:	**	**ABC PAVING COMPANY**	S & J ASPHALT PAVING COMPANY	NAGLE PAVING CO	ASPHALT SPECIALISTS INC
	Check #	726050875	881453434	632053821	930147406
	Amount	**$5,000.00**	**$5,000.00**	**$5,000.00**	**$5,000.00**
PROPOSAL: FURNISH ALL MATERIALS, LABOR, & EQUIPMENT TO REMOVE EXISTING TENNIS COURTS AND INSTALL NEW TENNIS COURTS AT BOULAN PARK					
EAST SET OF FOUR COURTS **COMPLETE FOR THE SUM OF:**		**$ 59,512.00**	$ 60,600.00	$ 59,890.00	$ 61,980.00
WEST SET OF FOUR COURTS **COMPLETE FOR THE SUM OF:**		**$ 56,940.00**	$ 56,500.00	$ 59,500.00	$ 59,400.00
ESTIMATED GRAND TOTAL:	**	**$ 116,452.00**	$ 117,100.00	$ 119,390.00	$ 121,380.00
SCHEDULE OF VALUES:	Marked as:	Attachment	Schedule of Values	Blank	Attached to Bid
CONTACT INFORMATION:	Hrs of Oper	6am-6pm	6:30am-6:30pm	Blank	5am-8pm
	24Hr Phone	313.215.4113	734.216.9592	248.765.3109	248.819.2213
COMPLETION DATES:	Commences	7 Days	30 Days	Blank	30 Days
SITE INSPECTION:	Y or N	Yes	Yes	Yes	Yes
	Date	2/1/2006	2/3/2006	2/1/2006	1/30/2006
INSURANCE:	Can Meet	XX	XX	XX	XX
	Cannot Meet				
PROGRESS PAYMENTS:	(Y or N)	Blank	75% upon completion Balance due upon final completion	Net 30 Days	30 Days
TERMS:		Blank	As previously stated	Net 30 Days	Blank
WARRANTY		Blank	12 Months	1 Year	Blank
EXCEPTIONS:		Blank	See alternate bid	Blank	Blank
ACKNOWLEDGEMENT:	(Y or N)	Yes	Yes	Yes	Yes
ADDENDUM 1	(Y or N)	Yes	No	Yes	Yes
ADDENDUM 2	(Y or N)	Yes	No	Yes	No

**** DENOTES LOWEST BIDDER MEETING SPECIFICATIONS**

ATTEST:
Jeffrey Biegler
Cheryl Stewart
Linda Bockstanz

Jeanette Bennett
Purchasing Director

G:ITB-COT 05-60 Tennis Courts

VENDOR NAME:		BEST ASPHALT INC	PEAKE CONTRACTING INC	SIMONE CONTRACTING CORP	
	Check #	Check Returned	Check Returned	0402518	
	Amount	**$5,000.00**	**$5,000.00**	**$5,000.00**	
PROPOSAL: FURNISH ALL MATERIALS, LABOR, & EQUIPMENT TO REMOVE EXISTING TENNIS COURTS AND INSTALL NEW TENNIS COURTS AT BOULAN PARK					
EAST SET OF FOUR COURTS **COMPLETE FOR THE SUM OF:**		$ 76,035.00	$ 82,000.00	$ 81,172.00	
WEST SET OF FOUR COURTS **COMPLETE FOR THE SUM OF:**		$ 69,550.00	$ 78,000.00	$ 82,172.00	
ESTIMATED GRAND TOTAL:		$ 145,585.00	$ 160,000.00	$ 163,344.00	
SCHEDULE OF VALUES:	Marked as:	See Attached	"A"	X	
CONTACT INFORMATION:	Hrs of Oper	6am-8pm	586.615.5394	8-5pm	
	24Hr Phone	734.637.7188	586.615.5394	586.254.0690	
COMPLETION DATES:	Commences	Per schedule	Per Requirements	10 Days Weather permitting	
SITE INSPECTION:	Y or N	Yes	Yes	Yes	
	Date	2/1/2006	2/7/2006	2/1/2006	
INSURANCE:	Can Meet	XX	XX	XX	
	Cannot Meet				
PROGRESS PAYMENTS:	(Y or N)	Net 30 Days	Per Specifications	AIA-Form	
TERMS:		30 Days	Per Specs	Blank	
WARRANTY		Two Years	Per Specs	Two Years	
EXCEPTIONS:		None	None	Blank	
ACKNOWLEDGEMENT:	(Y or N)	Yes	Yes	Yes	
ADDENDUM 1	(Y or N)	Yes	No	Yes	
ADDENDUM 2	(Y or N)	Yes	No	Yes	

DMS: S&J Asphalt Paving Company - Alternate Bid - $104,250 - Reason: Pulverize & Repave - major deviation from specification which is to remove and install new asphalt.

Downloading History for ITB-COT 05-60 Tennis Cts

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **2/14/2006.**

Document Title:	Tennis Courts Reconstruction for Boulan Park
Date Issued:	1/18/2006
Close Date:	2/8/2006
Date Amendment #1 was Issued:	1/27/2006
Date Amendment #2 was Issued:	1/31/2006

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
16124	A Land Construction Inc.	E-mail		
11800	ABC PAVING COMPANY	E-mail	1/30/2006	#1 2/7/2006 #2 2/7/2006
23189	Adanac Contracting, LLC	E-mail		
18057	advanced air services,inc.	E-mail		
12964	Ajax Materials Corporation	E-mail	1/18/2006	
12133	Allied Building Service Company of Detroit, Inc.	E-mail	2/2/2006	
11691	Asphalt Specialists, Inc.	Fax	1/30/2006	#1 1/30/2006 #2 1/31/2006
20645	Beard Associates Inc.	E-mail		
19209	Bedzyk Bros., Inc.	E-mail		
10851	BEI Associates Inc.	E-mail		
10231	Bernco, Inc.	E-mail		
11742	Bowen Paving, Inc.	Fax		#1 1/27/2006 #2 1/31/2006
				#1 1/30/2006

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
11631	Bowman Construction LLC	Free	1/19/2006	#2 2/8/2006
20153	C & H Site Development	E-mail	1/19/2006	
10099	CAASTI Contracting	E-mail		
19594	Capital Waste, Inc.	E-mail		
23484	Clark's Construction Company	E-mail		
17560	D1 Services	Free	1/27/2006	#1 1/27/2006
13953	Davey Commercial Grounds Management	Fax		#1 1/27/2006 #2 1/31/2006
18754	De La Cruz Electric L.L.C.	E-mail		
22795	Delaney Construction	E-mail		
20675	Diversified Concepts and Services, Inc.	E-mail		
16409	Earth Tech	E-mail		
10121	Electrex Co Inc	Free	1/19/2006	
22539	Euridium Solutions, LLC	E-mail		
16719	Ferguson Enterprise	E-mail		
11211	Florence Cement Company	E-mail	1/27/2006	#1 1/27/2006 #2 2/1/2006
11657	Giffels-Webster Engineers, Inc.	Free	1/20/2006	
13448	Great Lakes Executive Services, LLC	E-mail		
23359	Grosse Pointe Fence	Free	1/20/2006	
17850	GZA GeoEnvironmental, Inc.	E-mail		
11517	Hart Pavement Striping Corporation	E-mail		
21711	Haskell Service Company	E-mail		#1 1/27/2006 #2 1/31/2006
18645	HTA Companies, Inc.	Fax		#1 1/27/2006 #2 1/31/2006
21275	Impact , Inc.	E-mail		
21233	Improvement Technologies Company	E-mail		
17231	Irish Construction Company, Inc.	E-mail		
17522	Jack B. Anglin Company, Inc	E-mail		
23381	jack golden associates inc.	Free	1/24/2006	
18533	James P Contracting, Inc.	E-mail		
12021	JOHN CARLO, INC.	E-mail	1/23/2006	#1 1/27/2006 #2 1/31/2006
21358	Kasco, Inc.	E-mail		
17240	Koala-T Construction, Inc.	Fax		#1 1/27/2006 #2 1/31/2006

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
22143	Lighting Technologies	E-mail		
19079	LNJ Construction	Fax		#1 1/27/2006 #2 1/31/2006
18159	Mago Construction	E-mail		
21747	Mando Construction Inc.	E-mail	2/1/2006	
21751	Mark 1 Restoration Services, Inc.	E-mail		
19436	McCarthy & Smith, Inc.	E-mail		
15597	McSweeney Electric	E-mail		
11630	Mercer Equipment Rentals	E-mail	1/24/2006	
22473	Metro Eviromental Controls	E-mail		
11469	Nagle Paving Company	E-mail	2/1/2006	#1 2/1/2006 #2 2/1/2006
10604	nationwide fence & Supply	E-mail	1/20/2006	#1 1/27/2006 #2 1/31/2006
10194	Net Connection, Inc.	E-mail		
13310	North Star Refrigeration, Heating and Cooling	E-mail		
12761	Northwest Consultants, Inc.	E-mail		
13151	Oakland CommercialInteriors	E-mail		
11562	Outdoor Fun Store Co.	E-mail	1/19/2006	#1 1/30/2006
10157	Peake Contracting, Inc.	Free	2/8/2006	#1 2/8/2006 #2 2/8/2006
15672	Perfect Irrigation & Landscape	E-mail		
23238	Precision Concrete, Inc	E-mail	1/26/2006	
16071	Pro Commercial Services, Inc.	E-mail	1/19/2006	
15509	Pro-Line Asphalt Paving Corp.	E-mail	1/18/2006	
18073	Project Control Systems, Inc.	E-mail		
11361	Quickie Carpet Cleaning	Free	1/19/2006	
13691	R & E Trucking Inc.	Fax		#1 1/27/2006 #2 1/31/2006
12261	RAMA RAO AND ALFRED, INC	Free	1/23/2006	
21102	SCM Construction Services	Fax		#1 1/27/2006 #2 1/31/2006
12265	scodeller construction, inc.	E-mail	1/24/2006	
20116	Seal-All Waterproofing Company, Inc.	E-mail		
12583	Sigma Associates, Inc.	E-mail		
18753	Simone Contracting Corporation	Free	1/31/2006	#1 1/31/2006 #2 1/31/2006

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
13684	soil and materials engineers, inc	E-mail		#1 1/27/2006
13632	Spalding DeDecker Associates, Inc.	E-mail		
10984	Sunset Excavating, Inc.	E-mail		
20711	Superior Surfaces LLC.	Fax		#1 1/27/2006 #2 1/31/2006
20303	SUSAN L. HUBBARD Attorney-At-Law	E-mail		
21675	TENNIS COURTS UNLIMITED INC	E-mail		
15043	The Dailey Company	E-mail		
12535	The Stansley Group	E-mail		
10133	Titan Lawn Care	Free	1/31/2006	
11814	Tony Anthony Inc	E-mail		
13671	Troy Aggregate Carriers	E-mail	1/31/2006	
11904	TTL Associates	E-mail		
22545	Unlimited Interior Exteriors, L.L.C.	Fax	2/5/2006	#1 2/5/2006 #2 2/5/2006
20874	US Construction and Design Services, LLC	E-mail		
12554	W. K. Krill & Associates, Inc.	E-mail		
13207	Walbridge Aldinger Company	E-mail		
21975	Wetlands & Waterways, Inc.	E-mail		
16312	Zuniga Cement Construction Inc.	Free	1/26/2006	

February 20, 2006

To: John Szerlag, City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

Subject: **Agenda Item** - Standard Purchasing Resolution 1: Award To Low Bidder – Mosquito Control

RECOMMENDATION

On February 10, 2006, bid proposals were opened to provide one-year requirements of mosquito control in the City's residential curb storm drains. After reviewing these proposals, City management recommends awarding the contract to the low bidder, Invaders Pest Control of Lincoln Park, MI for an estimated total cost of $19,500.00 at the unit price contained in the attached bid tabulation expiring December 31, 2006.

The award is contingent upon contractor submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

SUMMARY

This contract covers the annual application of larvicide mosquito control to 6,000 residential curb catch basins.

The sumps of these basins provide an ideal breeding ground for Culex pipiens, the mosquito most commonly associated with West Nile Virus. The application of an insect growth regulator in the form of a product called Altosid XR Briquets with an effective life of 150 days has proven to be an effective means of control.

BUDGET

Funds for this project are available through the Department of Public Works Storm Sewer Fund for Insect Control, Account #517.7802.160.

62 Vendors Notified via the MITN System
8 Bid Responses Received
1 No Bid: (1) Company declined to bid, but requested to be kept on the bidder's list.

Prepared by: Ron Hynd, Landscape Analyst

Opening Date -- 2-10-06
Date Prepared -- 2/16/06

CITY OF TROY
BID TABULATION
MOSQUITO CONTROL

VENDOR NAME:	** INVADERS PEST CONTROL	ELITE PEST MANAGEMENT	TRI-COUNTY PEST CONTROL	ADVANCED PEST MANAGEMENT
UNIT PRICES SHALL BE QUOTED PER BASIN PER APPLICATION FOR ONE YEAR OF SERVICE				
Est Qty	**UNIT PRICE**	**UNIT PRICE**	**UNIT PRICE**	**UNIT PRICE**
6,000 **Sub-divison Curb Catch Basin (Larvicide)**	**$ 3.25**	$ 3.58	$ 4.00	$ 5.40
ESTIMATED GRAND TOTAL:	**$ 19,500.00**	$ 21,480.00	$ 24,000.00	$ 32,400.00
CONTACT INFORMATION: Hrs of Operation	9-5PM	8:30-5PM	9-5PM	8-5PM
24Hr Phone	294.0333	586.996.0525	810.343.4352	586.292.6444
INSURANCE: Can Meet	XX	XX	XX	XX
Cannot Meet				
Mandatory Requirements A or B	B	A	A	BLANK
Non Mandatory Requirements Can Obtain	BLANK	BLANK	+$250.00	BLANK
Cannot Obtain				
COMPLETION SCHEDULE: Can Meet	XX	XX	XX	XX
Cannot Meet				
SITE INSPECTION: Y/N	NO	YES	YES	YES
Date		1/31, 2/1, 2/2	Current Provider	2/1/2006
TERMS:	BLANK	NET 30	NET 30 DAYS	NET 30
WARRANTY:	BLANK	BLANK	BLANK	BLANK
DELIVERY:	**AS SPECIFIED**			
EXCEPTIONS:	BLANK	BLANK	BLANK	BLANK
ACKNOWLEDGEMENT: Y or N	YES	YES	NO	YES
COPY OF VALID PESTICIDE LICENSE: Y/N	YES	YES	YES	NO, In Renewal process
GENERAL QUESTIONNAIRE: Attached	XX	XX	XX	XX
Not Attached				

NO BIDS:
JH Hart Urban Forestry

**** DENOTES LOW BIDDER**

ATTEST:
Ron Hynd
Cheryl Stewart
Linda Bockstanz

Jeanette Bennett
Purchasing Director

G/: ITB-COT 06-03 Mosquito Control

VENDOR NAME:	ROSE PEST CONTROL	SIERRA CONSULTANTS	LAND WORKS LANDSCAPES INC	CLARK'S PEST CONTROL
UNIT PRICES SHALL BE QUOTED PER BASIN PER APPLICATION FOR ONE YEAR OF SERVICE				
Est Qty	**UNIT PRICE**	**UNIT PRICE**	**UNIT PRICE**	**UNIT PRICE**
6,000 **Sub-divison Curb Catch Basin (Larvicide)**	$ 5.75	$ 5.96	$ 8.25	$ 8.50
ESTIMATED GRAND TOTAL:	$ 34,500.00	$ 35,760.00	$ 49,500.00	$ 51,000.00
CONTACT INFORMATION:				
Hrs of Operation	8-5PM	8-5PM	7-6PM	24 Hours
24Hr Phone	231.929.8039	616.560.1790	248.632.2338	877.708.7378
INSURANCE: Can Meet	XX	XX	XX	XX
Cannot Meet				
Mandatory Requirements A or B	BLANK	A	BLANK	B
Non Mandatory Requirements Can Obtain	BLANK	XX	+$2500	+$600
Cannot Obtain				
COMPLETION SCHEDULE: Can Meet	XX	XX	XX	XX
Cannot Meet				
SITE INSPECTION: Y/N	YES	NO	YES	YES
Date	2002, 2003		1/31/2006	2/1-2/3/06
TERMS:	NET 30 DAYS	NET 15	NET 30	2% NET 10 DAYS
WARRANTY:	BLANK	BLANK	BLANK	90 DAYS
DELIVERY:	**AS SPECIFIED**			
EXCEPTIONS:	LISTED IN BID	LISTED IN BID	NONE	BLANK
ACKNOWLEDGEMENT: Y or N	YES	YES	YES	YES
COPY OF VALID PESTICIDE LICENSE: Y/N	YES	YES	YES	YES
GENERAL QUESTIONNAIRE: Attached	XX	XX	XX	XX
Not Attached				

Downloading History for ITB-COT 06-03 Mosquito

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **2/16/2006.**

Document Title:	Mosquito Control for Residential Curb Storm Drains
Date Issued:	1/25/2006
Close Date:	2/10/2006

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
19364	A. M. Services, Inc	E-mail		
13870	A.G. Housey Company, Inc.	E-mail		
16031	Advanced Pest Management	Free	2/10/2006	
14952	All State Tree & Lawn, Inc.	E-mail		
10542	american lawn corp.	E-mail		
12114	B & B Lawn Service	Fax		
21862	Chas.F.Irish Co.	Fax		
20758	Clark's Pest Control	E-mail	2/10/2006	
23493	Clarke Mosquito Control Products, Inc.	E-mail	2/8/2006	
15620	D. A. Alexander & Company	E-mail		
13953	Davey Commercial Grounds Management	Fax		
21712	Dittman Tree Service, Incorporated	Fax		
16430	East Side Maintenance	Fax	2/10/2006	
14724	edt	Free	1/30/2006	
18376	ELITE PEST MANAGEMENT	E-mail	1/28/2006	
11897	Eradico Services	Free	2/1/2006	
17824	Geo Landscaping & Snow Removal, L.L.C.	E-mail		
21292	Griffin Pest Control	E-mail		
21711	Haskell Service Company	E-mail		
15149	HAWTHORNE TREE & LAWN CARE INC.	Fax	1/26/2006	

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
22948	High Sierra Consulting	E-mail		
20217	Homefield Turf & Athletic Inc.	E-mail		
18645	HTA Companies, Inc.	Fax		
12700	Invaders Pest Control Inc. & Retail Supplies	E-mail	1/25/2006	
10798	J.H. Hart Urban Forestry	E-mail	1/27/2006	
18232	Kingspointe Services, Inc.	E-mail		
20136	Land Works Landscapes,Inc.	E-mail	1/25/2006	
16067	Landscape Services, Inc.	E-mail		
22143	Lighting Technologies	E-mail		
20540	Lightning Lawn Care	E-mail		
23297	MAKS Outdoor Services	E-mail		
11639	Mike's Tree Surgeons, Inc.	E-mail		
20775	Nature Coast Environmental Services, Inc.	E-mail		
15487	Nihranz Landscaping Inc.	E-mail		
10295	NLS Lawn Care Inc.	E-mail		
12761	Northwest Consultants, Inc.	E-mail		
15680	nutri-turf lawn and tree service	Fax		
15645	Orkin Pest Control Company	Free	2/6/2006	
11073	Oscar W. Larson Co.	E-mail		
10203	Owen Tree Service, Inc.	E-mail		
10061	Parks Landscaping & Snow Service	E-mail		
10065	Payne Landscaping, Inc.	E-mail		
23238	Precision Concrete, Inc	E-mail		
11852	Professional Garment Service	Free	1/26/2006	
10207	Rasins Landscape & Assoc., Inc.	E-mail		
16245	Rose Pest Solutions	E-mail		
20595	Rose Pest Solutions	Free	1/27/2006	
12936	SHERMAN NURSERY FARMS	E-mail		
21568	Sierra Consultants	E-mail	2/9/2006	
13632	Spalding DeDecker Associates, Inc.	E-mail		
13914	Steele's Service's LLC	E-mail	1/25/2006	
17106	The Energy Group, Inc.	E-mail		
10133	Titan Lawn Care	Free	2/3/2006	
15831	Transparent Window Cleaning	E-mail		
10105	Tri-County Pest Control, Inc.	Fax	2/9/2006	
13480	Tri-County Tree Expert Co., Inc.	E-mail		
10389	Trugreen Chemlawn/Trugreen Landcare	E-mail		
10311	Turf Tenders Landscaping & Fertilizing Inc.	E-mail		
13019	Turfgrass Systems, LLC	E-mail		
15735	UAP	E-mail		

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
16105	Village Green	E-mail		
14016	WH Canon, Inc.	E-mail		

February 22, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: **Agenda Item** - Standard Purchasing Resolution 3: Exercise Renewal Option –Transit Mixed Concrete

RECOMMENDATION

On April 18, 2005, City Council approved one-year contracts for Transit Mixed Concrete to be provided on an as needed basis for replacement of sidewalks, curbs and streets with an option to renew for one additional year. Sole bidder, Nagy Ready Mix Inc of Utica, MI was named primary supplier, and as a result of an informal quote process, Clawson & Killins Concrete Company, was named secondary supplier (Resolution #2005-04-183-E4f).

City management recommends approval of the one- year option to renew with Nagy Ready Mix and Clawson & Killins Concrete for an estimated cost of $166,554.00, at the same prices, terms and conditions as the original contract expiring April 30, 2007.

SUMMARY

It is customary to name a secondary supplier in the event that the primary supplier is unable to deliver material. Since Nagy Ready Mix Inc was the sole bidder, the informal three-quote process was used to secure a secondary supplier and low bidder Clawson & Killins was chosen.

As a result of high fuel prices and an effort to maintain costs, the City has opted to renew the contracts for Transit Mixed Concrete for one additional year. Nagy Ready Mix Inc and Clawson & Killins Concrete have agreed to the one-year renewal following the same pricing structure, terms and conditions as the original contract. Both are qualified and have provided services and materials to the City without issue.

MARKET SURVEY

A market survey was not deemed necessary as the two other bidders from the informal quote process were upwards of 13% higher on the overall contract when compared to current contract pricing.

BUDGET

Funds are available in the Public Works Operating Budgets.

Prepared by: Emily Frontera, Administrative Aide

Received Fax : Feb 13 2006 11:56 Fax Station : HP LASERJET FAX p. 1
02/13/2006 11:54 2485243520 CITY OF TROY DPW PAGE 01

City of Troy

February 9, 2006

ATT: Mr. William Miller
Nagy Ready Mix Inc.
Phone: 586-731-5310
Fax: 586-731-5364

Dear Mr. Miller:

On March 14, 2005 the City of Troy entered into contract #20400897 OB with Nagy Ready Mix Inc. to provide one-year requirements of Transit Mixed Concrete. This contract contained an option to renew for one additional year at the same prices, terms, and conditions as the original contract.

Please fax this letter back indicating if Nagy Ready Mix Inc. wishes to renew this contract until April 30, 2007. Our fax number is (248) 524-3520. It should be understood that this request to renew the contract is subject to a favorable market survey. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3501.

CHECK ONE:

Nagy Ready Mix Inc. is interested in renewing the contract under the same prices, terms, and conditions: X
TIC 4/30/07

Nagy Ready Mix Inc. is not interested in renewing the contract: ( )

X [signature]
Signed: Authorized Company Representative

Date: 2/13/06

Thank you,
Emily Frontera
Department of Public Works, City of Troy

City of Troy

February 9, 2006

ATT: Mr. Edward Bartelotti
Clawson & Killins Concrete Co.
Phone: 248-349-6000
Fax: 248-380-9460

Dear Mr. Bartelotti:

On March 14, 2005 the City of Troy entered into contract #20400899 OB with Clawson & Killins Concrete Co. to provide one-year requirements of Transit Mixed Concrete. This contract contained an option to renew for one additional year at the same prices, terms, and conditions as the original contract.

Please fax this letter back indicating if Clawson & Killins Concrete Co. wishes to renew this contract until April 30, 2007. Our fax number is (248) 524-3520. It should be understood that this request to renew the contract is subject to a favorable market survey. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3501.

CHECK ONE:

Clawson & Killins Concrete Co. is interested in renewing the contract under the same prices, terms, and conditions: X

Clawson & Killins Concrete Co. is not interested in renewing the contract: ( )

X Edward J. Bartelotti
Signed: Authorized Company Representative

Date: _____

Thank you,
Emily Frontera
Department of Public Works, City of Troy

f) Standard Purchasing Resolution 1: Award to Sole Bidder – Transit Mixed Concrete

Resolution #2005-04-183-E-4f

RESOLVED, That a contract to provide one-year requirements of Transit Mixed Concrete with an option to renew for one additional year is hereby **AWARDED** to the sole bidder, Nagy Ready Mix, Inc. of Utica, MI, the primary supplier, at unit prices contained in the bid tabulation opened March 14, 2005, a copy of which shall be **ATTACHED** to the original Minutes of this meeting at an estimated total cost of $166,554.00.

BE IT FURTHER RESOLVED, That Clawson & Killins Concrete Co. is hereby named secondary supplier, utilizing the informal three-quote process at the following unit prices:

PROPOSAL A – WEEK DAY DELIVERY

ITEM	DESCRIPTION	UNIT PRICE
1.	6 Sack Mix	$ 68.00/cy
2.	7 Sack Mix (High Early)	$ 73.00/cy
3.	12 HR 300PSI Mix Flexural Strength/ 7 sack	$ 73.00/cy
4.	**Split Load Charges**	
a.	2 Locations	$ 100.00/ea
b.	3 locations	$ 100.00/ea
5.	Below Minimum Load Charge	$ 80.00/ea
6.	Cold Weather Protection	$ 4.00/cy

PROPOSAL B – SATURDAY DELIVERY

ITEM	DESCRIPTION	UNIT PRICE
1.	6 Sack Mix	$ 73.00/cy
2.	7 Sack Mix (High Early)	$ 78.00/cy
3.	12 HR 300PSI Mix Flexural Strength/ 7 sack	$ 78.00/cy
4.	**Split Load Charges**	
a.	2 Locations	$ 100.00/ea
b.	3 locations	$ 100.00/ea
5.	Below Minimum Load Charge	$ 80.00/ea
6.	Cold Weather Protection	$ 5.00/cy

NOW, THEREFORE, BE IT RESOLVED, That the awards are **CONTINGENT** upon contractors' submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements; and the contracts shall expire April 30, 2006.

March 31, 2005

To: John Szerlag, City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

Re: **Agenda Item:** Standard Purchasing Resolution 1: Award to Sole Bidder – Transit Mixed Concrete

RECOMMENDATION

On March 14, 2005, bid proposals were opened to furnish one-year requirements of Transit Mixed Concrete on an as needed basis for replacement of sidewalks, curbs and streets, with an option to renew for one (1) additional year. City management recommends awarding the contract to the sole bidder, Nagy Ready Mix Inc. of Utica, MI, as Primary Supplier, for an estimated cost of $166,554.00, at unit prices contained on the attached bid tabulation.

SUMMARY

PROPOSAL A – WEEK DAY DELIVERY

ITEM	EST QTY	DESCRIPTION	UNIT PRICE
1.	100 YDS	6 Sack Mix	$ 69.95/cy
2.	500 YDS	7 Sack Mix (High Early)	$ 77.95/cy
3.	800 YDS	12 HR 300PSI Mix Flexural Strength/ 7 sack	$ 77.95/cy
4.		**Split Load Charges**	
a.	15 times	2 Locations	$ 95.00/ea
b.	2 times	3 locations	$ 145.00/ea
5.	25 times	Below Minimum Load Charge	$ 65.00/ea
6.	50 YDS	Cold Weather Protection	$ 5.00/cy
		TOTAL ESTIMATED PRICE	**$111,920.00**

PROPOSAL B – SATURDAY DELIVERY

ITEM	EST QTY	DESCRIPTION	UNIT PRICE
1.	25 YDS	6 Sack Mix	$ 75.95/cy
2.	100 YDS	7 Sack Mix (High Early)	$ 83.95/cy
3.	500 YDS	12 HR 300PSI Mix Flexural Strength/ 7 sack	$ 83.95/cy
4.		**Split Load Charges**	
a.	5 times	2 Locations	$ 95.00/ea
b.	2 times	3 locations	$ 145.00/ea
5.	20 times	Below Minimum Load Charge	$ 65.00/ea
6.	60 YDS	Cold Weather Protection	$ 5.00/cy
		TOTAL ESTIMATED PRICE	**$ 54,633.75**

SECONDARY SUPPLIER

Routinely, a secondary supplier is named in the event that the primary supplier is unable to provide material, or meet delivery needs. Since only one vendor participated in the formal bid process and historical data shows that secondary suppliers are rarely called upon, an informal quote process was completed and Clawson & Killins Concrete Co. of Novi, MI shall be named as the Secondary Supplier.

March 31, 2005

To: John Szerlag
Re: Bid Award – Transit Mixed Concrete

PROPOSAL A – WEEK DAY DELIVERY

ITEM	DESCRIPTION	UNIT PRICE
1.	6 Sack Mix	$ 68.00/cy
2.	7 Sack Mix (High Early)	$ 73.00/cy
3.	12 HR 300PSI Mix Flexural Strength/ 7 sack	$ 73.00/cy
4.	**Split Load Charges**	
a.	2 Locations	$ 100.00/ea
b.	3 locations	$ 100.00/ea
5.	Below Minimum Load Charge	$ 80.00/ea
6.	Cold Weather Protection	$ 4.00/cy

PROPOSAL B – SATURDAY DELIVERY

ITEM	DESCRIPTION	UNIT PRICE
1.	6 Sack Mix	$ 73.00/cy
2.	7 Sack Mix (High Early)	$ 78.00/cy
3.	12 HR 300PSI Mix Flexural Strength/ 7 sack	$ 78.00/cy
4.	**Split Load Charges**	
a.	2 Locations	$ 100.00/ea
b.	3 locations	$ 100.00/ea
5.	Below Minimum Load Charge	$ 80.00/ea
6.	Cold Weather Protection	$ 5.00/cy

BACKGROUND INFORMATION

As of the date and time of the bid opening, Nagy Ready Mix Inc., was the sole bidder for this contract. Vendors who have provided mixed concrete in the past for the Streets Department were contacted to discuss their reasons for not participating in the formal bid process. Clawson & Killins Concrete Co., Van Horn Concrete and Superior Materials all indicated that they had intended to participate but neglected to submit bid proposals by the bid deadline.

BUDGET

Funds are available in the operating budgets of the Streets Division for major and local drain, road and sidewalk surface maintenance; and the Water Division for mains, service and tap-in maintenance.

20 Vendors Notified via MITN System
12 JD Edwards Vendors Mailed Notices
1 Bid Response Rec'd

Prepared by: Emily Frontera, Administrative Aide

Opening Date -- 3/14/05
Date Prepared -- 3/17/05

CITY OF TROY
BID TABULATION
TRANSIT MIXED CONCRETE

	VENDOR NAME:		*	NAGY READY MIX INC			
ITEM	EST QTY	DESCRIPTION		UNIT PRICE PRICE/YD	UNIT PRICE PRICE/YD	UNIT PRICE PRICE/YD	UNIT PRICE PRICE/YD
PROPOSAL A: WEEKDAY DELIVERY							
1.	100 YDS	6 SACK MIX		**$ 69.95**			
2.	500 YDS	7 SACK MIX (High Early)		**$ 77.95**			
3.	800 YDS	12 HR 300 PSI MIX Flexural Strength/ 7 sack		**$ 77.95**			
4.		**SPLIT LOAD CHARGES**					
a.	15 TIMES	2 LOCATIONS		**$ 95.00**			
b.	2 TIMES	3 LOCATIONS		**$ 145.00**			
5.	25 TIMES	BELOW MINIMUM LOAD CHARGE		**$ 65.00**			
6.	50 YDS	COLD WEATHER PROTECTION		**$ 5.00**			
	ESTIMATED TOTAL - PROPOSAL A:			**$ 111,920.00**			
PROPOSAL B: SATURDAY DELIVERY							
1.	25 YDS	6 SACK MIX		**$ 75.95**			
2.	100 YDS	7 SACK MIX (High Early)		**$ 83.95**			
3.	500 YDS	12 HR 300 PSI MIX Flexural Strength/ 7 sack		**$ 83.95**			
4.		**SPLIT LOAD CHARGES**					
a.	5 TIMES	2 LOCATIONS		**$ 95.00**			
b.	2 TIMES	3 LOCATIONS		**$ 145.00**			
5.	20 TIMES	BELOW MINIMUM LOAD CHARGE		**$ 65.00**			
6.	60 YDS	COLD WEATHER PROTECTION		**$ 5.00**			
	ESTIMATED TOTAL - PROPOSAL B:			**$ 54,633.75**			
UNLOADING TIME PER CUBIC YARD:				6MIN PER CY			
	MINIMUM LOAD:			7 CUBIC YARDS			
	HOURS OF OPERATION:			M-F 7-5:30 Sat 7-12pm			
	24 HRS PHONE NO.			MITCH (248)891-2231			

Opening Date -- 3/14/05
Date Prepared -- 3/17/05

CITY OF TROY
BID TABULATION
TRANSIT MIXED CONCRETE

VENDOR NAME:		* NAGY READY MIX INC			
INSURANCE:	Can Meet	XX			
	Cannot Meet				
TERMS:		BLANK			
WARRANTY:		BLANK			
DELIVERY TIME:		BLANK			
EXCEPTIONS:		BLANK			
ACKNOWLEDGEMENT:	Y or N	YES			

PROPOSAL - One (1) Year Requirements of Transit Mixed Concrete with an Option to Renew for One (1) Additional Year

ATTEST:
Loretta Wagner
Emily Frontera
Tom Rosewarne
Linda Bockstanz

*** DENOTES SOLE BIDDER**

Jeanette Bennett
Purchasing Director

G:\ITB-COT 05-04 TransitMixConcrete

Downloading History for ITB-COT 05-04 MxConcrete

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **3/17/2005.**

Document Title:	Transit Mixed Concrete
Date Issued:	2/22/2005
Close Date:	3/14/2005

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
17556	C.A. Hull Co., Inc.	E-mail	2/28/2005	
20276	Cruz -N- Moore Concrete, Inc.	E-mail	2/23/2005	
17769	Darby Ready Mix	Fax		
12164	Edw. C. Levy Co.	E-mail		
20362	Fastrnal Company	Free	3/11/2005	
15071	Harvard Engineering and Construction	E-mail		
11630	Mercer Equipment Rentals	E-mail		
20455	Nagy Ready Mix Inc	E-mail	3/1/2005	
18380	OccuMed3	E-mail		
14647	OSBORNE CONCRETE COMPANY INC.	Fax		
13691	R & E Trucking Inc.	Fax		
18454	R.O.C. Transport, Inc	Fax		
20331	Sabiston Builders Supply	Fax	3/2/2005	
17201	Shadowoods	Fax		
15977	Spartan Concrete	E-mail		
13875	Sterling Concrete Products, Inc.	E-mail	2/23/2005	
20500	SUPERIOR MATERIALS, INC	Free	3/4/2005	
12535	The Stansley Group	E-mail		
14676	Unique Paving Materials	E-mail		
13921	WALKER LANDSCAPING, INC.	E-mail		

Return to Main Menu Return to Report Menu

DATE: February 28, 2006

TO: John Szerlag, City Manager

FROM Brian P. Murphy, Assistant City Manager/Services
Timothy Richnak. Public Works Director

SUBJECT: Agenda Item - Announcement of Public Hearing
Community Development Block Grant (CDBG)
Re-programming of Year 2003 Funds

This memorandum is being forwarded for consideration on scheduling a Public Hearing for March 20, 2006 at 7:30 PM for the purpose of hearing public comments on the re-programming of program year 2003 unexpended funds as detailed below and the addition of Sewer Benefit Fee (Special Assessment) for Charnwood Subdivision Area, Phase #1, Section 6 to the list of CDBG projects for 2003.

Existing (From):

ACCOUNT #	ACTIVITY DESCRIPTION	AMOUNT
2696/730744	Flood Drain Improvements	$55,637.70

Proposed (To)

Account #	ACTIVITY DESCRIPTION	AMOUNT
3616/731815	Sewer Benefit Fee (Special Assessment)	$55,637.70

The project was initiated after the 2003 application was submitted, so it was not included on the initial list of projects. Reprogramming year 2003 funds will allow us to be reimbursed for the Sewer Benefit Fee for Sanitary Sewer Construction in Charnwood Subdivision Area.

Prepared by: Vicki Richardson, Solid Waste Coordinator

DATE: February 28, 2006

TO: John Szerlag, City Manager

FROM Brian P. Murphy, Assistant city Manager/Services
Timothy Richnak. Public Works Director

SUBJECT: Agenda Item - Announcement of Public Hearing
Community Development Block Grant (CDBG)
Re-programming of Year 2004 Funds

This memorandum is being forwarded for consideration on scheduling a Public Hearing for March 20, 2006 at 7:30 PM for the purpose of hearing public comments on the re-programming of program year 2004 unexpended funds as detailed below and the addition of Sewer Benefit Fee (Special Assessment) for Charnwood Subdivision Area, Phase #1, Section 6 to the list of CDBG projects for 2004.

Existing (From):

ACCOUNT #	ACTIVITY DESCRIPTION	AMOUNT
2696/730744	Flood Drain Improvements	$120,344.00

Proposed (To)

Account #	ACTIVITY DESCRIPTION	AMOUNT
3616/731815	Sewer Benefit Fee (Special Assessment)	$120,344.00

The project was initiated after the 2004 application was submitted, so it was not included on the initial list of projects. Reprogramming year 2004 funds will allow us to be reimbursed for the Sewer Benefit Fee for Sanitary Sewer Construction in Charnwood Subdivision Area.

Prepared by: Vicki Richardson, Solid Waste Coordinator

DATE: February 16, 2006

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Timothy Richnak, Public Works Director

SUBJECT: Agenda Item – Load Restrictions

Each year during the spring thaw we post load restrictions on asphalt roads to prevent damage to the road surface.

The Michigan Vehicle Code (Act 300, P.A. 1949) allows local governments, by ordinance or resolution, to prohibit the use of trucks or other commercial vehicles, or to impose weight limitations of trucks and commercial vehicles on certain streets. Chapter 94, Axle Load Ordinance, allows the Public Works Director or his authorized representative discretionary power to reduce normal axle loads on specified streets.

The roads of concern are listed as Attachment "A". The specific limits to be posted are 6,000 lbs. per axle, 8,500 lbs. per tandem axle assembly. This limitation would be in effect during periods prescribed in Chapter 94 of the City Code for "frost law" limitations. Exceptions to these limitations would include the City's refuse hauler, school buses, and emergency vehicles.

We request approval of the reduced axle load limits for the streets listed on Attachment "A".

cc: Superintendent of Streets & Drains

Attachment

Prepared by: Ann Tyrrell, Office Coordinator

City of Troy
Frost Law Load Restrictions

Concrete Streets: 25% reduction from normal loadings

Asphalt or Gravel Streets: 35% reduction from normal loadings (unless otherwise posted)

Tabulation of allowable gross axle loads when restrictions are in force

Spacing between axles	Normal Load	25% Reduction	35% Reduction
9 Feet or over	18,000 lb	13,500 lb	11,700 lb
More than 3 ½ feet but less than 9 feet	13,000	9,750	8,450
Less than 3 ½ feet, the combined weight shall not exceed	18,000	13,500	11,700
** When part of a tandem axle assembly	16,000	12,000	10,400
Maximum Load on any wheel shall not exceed (lbs/inch of tire)	700	525	450

**** Note**: **On any legal combination of vehicles, only one tandem axle assembly shall be permitted, on such designated highways at the gross permissible weight of 16,000 pounds for any such axle, and no other tandem axle assembly in such combination of vehicles shall exceed a gross weight of 13,000 pounds for any such axle.**

No overweight permits will be issued while frost laws are in effect.

Typical Front Axle Loads

Tire Size	Normal Load	25% Reduction	35% Reduction
7.50 x 20	10,500 lb	7,875 lb	6,750 lb
8.25 x 20	11,550 lb	8,662 lb	7,425 lb
9.00 x 20	12,600 lb	9,450 lb	8,100 lb
10.00 x 20	14,000 lb	10,500 lb	9,000 lb
11.00 x 20	15,400 lb	11,550 lb	9,900 lb
Duplex Type	18,000 lb	13,500 lb	11,700 lb

NOTE: **For allowable load calculations use 2 x tire size x allowable load per inch of tire. (For 9.00 x 20 on 35% Reduction Street, use 2 x 9.0 x 450 = 8100 #/axle.)**

Guide for Permitted Loads During Frost Laws

Frost Law Axle Loads

Concrete Streets - O.C.R.C. Class A Rest. - 25% Reduction
Asphalt or Gravel - O.C.R.C Class B Rest. - 35% Reduction
Special Posted Streets - 6000 #/axle, 3500 #/tandem assembly

Concrete Trucks	Concrete Streets	Asphalt or Gravel	Streets Posted 6000 #/axle 8500 #/tandem
Tandem Axle	4 yards	3 yards	no load
Tri Axle	5 yards	3 yards	no load
Quad Axle	6 yards	4 yards	no load

Vehicles allowed on streets posted 6000 #/axle, 8500 #/tandem:

1. Fuel trucks for delivery to residents
2. Refuse trucks
3. Milk, bread, or grocery delivery to residents
4. Delivery of furnishings when relocating to a new and/or unoccupied home
5. Septic tank cleaning trucks
6. Emergency repair or rescue vehicles
7. School buses

NOTE: The above vehicles should travel the shortest possible distance on these streets.

Attachment “A”

Streets to be posted are:

Section 1	Burdic
	Chancery
	Edith
	Evanswood
	Gulliver
	Harned
	Jarman
	Ravenna
	Stirling
Section 2	Atkins
	Barabeau
	Cadmus
	Cambria
	Eckerman
	Hartwig
	Shelldrake
Section 3	Booth
	DeEtta
	Donaldson
	Hannah
	Hurst
	Lesdale
	Lovell
	Marengo
	Montclair
	Norton
	Ottawa
	Peacock
	Quill Creek
	Westaway
Section 4	Aspinwall
	Blackwall
	Canmoor
	Elmoor
	Fredmoor
	Herbmoor
	Houghten
	Hurst
	Lovell
	Niles
	Scone
	Troyvally
	Vernmoor
Section 6	Anslow
	Beach
	Bretby
	Chalgrove
	Charnwood
	Clockgate Circle
	Dalesford
	Donegal
	Dublin Fair
	Erin Way
	Galloway Bay
	Glyndebourne
	Killarney
	Lake Charnwood
	Limerick
	Malvern
	Meath Hunt Circle
	Ramsbury
	Tewksbury
	Tutbury
	Windrush
Section 7	Arlund Way
	Beach
	Rabben
	Sussex Ct.
Section 9	Blanche
	Daniels
	Fabius
	Habrand
	Haldane
	Houghten
	McKinley
	Niles
	Stalwart
	Virgilia
	Wright
Section 10	Creston
	Cutting
	Somerton
	Sylvanwood
	Trinway
Section 11	Abbotsford
	Hilmore

Section 11	Larayne
	Philatha
	Viking
Section 13	Forsyth
Section 14	Bradley
	Eleanor
	Glaser
	Lamb
	Rockfield
Section 15	Belhaven
	Belzair
	Crestfield
	Dorshire
	Evaline
	Hanover
	Leetonia
	Tallman – Eckford to Thurber
	Wilton
Section 16	Hart
	Lange
	Paragon
	Virgilia
	Webb
Section 18	Beach
	Bronson
	Butternut Hill
	Chestnut Hill
	Hylane
	Juniper Court
	Pine Hill
	Rouge Circle
	Valley Vista
	Valley Vista Circle
	Walnut Hill
Section 19	Avonhurst
	Beach
	Binbrooke
	Bolingbroke
	Caswell
	Chelsea
	Chestnut Hill Court
Section 19	Cheswick
	Eastbourne
	Hampton
	Henhawk
	Kent
	Kingsley
	Lanergan
	Myddleton
	Newgate
	Oakhill
	Oxford
	Paddington
	Palmerston
	Sunridge
	Tothill
	Townhill
	Upton
	Weathervane
	Wembly
	Wendover
	Woodman
Section 20	Alpine
	Banmoor
	Boulan
	McClure
	McManus
	Muer
Section 21	Finch
	Kirk Lane
	Muer
	Muerknoll
	Ruthland
	Wendleton
Section 22	Colebrook
	Ellenboro
	Frankton
	Harris
	Hartland
	Helena
	Jennings
	Kilmer
	Louis
	Talbot
	Trombley
	Troy
	Troywood
	Vanderpool

Section 23	Boyd Daley Hartland Torpey Urbancrest
Section 24	Orpington
Section 25	Garry Isabell Milverton Vermont Virginia
Section 27	Algansee Arthur Beech Lane Birchwood Cherry Chopin Cook Court Eastport Enterprise Hartshorn Hickory Kelly Kirkton Larchwood Lydia Mastin Plum Robinwood Starr Van Courtland Vermont Westwood Woodslee
Section 28	Biltmore Cloveridge Forthton Regents Shepherds
Section 36	Dashwood Iowa Lovington Minnesota Wisconsin

Coolidge Highway – Square Lake to South Boulevard
Square Lake Road – Adams to Dequindre
Wattles Road – Adams to Dequindre Revised 1/1/06

February 16, 2006

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Timothy L. Richnak, Public Works Director

SUBJECT: Agenda Item - Summer Maintenance Agreement – R.C.O.C.

In February of 1998 the City of Troy and the Road Commission for Oakland County entered into a Summer Maintenance Contract to have the City sweep Big Beaver Road. The following year after a satisfactory performance evaluation, both parties agreed to enter into a summer maintenance contract to have the City take over street sweeping operations of all county roads in the City of Troy.

This process has continued to result in uniformity in the street sweeping citywide. The Road Commission will pay us the same amount as they would have paid their contractor for the calendar year 2006, which represents an increase of 2% over 2005, from $119.34 to $121.73 per curb mile, for a grand total increase from $34,389.01 to $35,077.72. This figure will cover our costs in providing the service as delineated in the agreement.

It is my recommendation that we approve this contract.

cc: Tonni Bartholomew, City Clerk
(Original Contract and copy)

Reviewed as to Form and Legality:_____ _____
Lori G. Bluhm, City Attorney Date

Prepared by: Timothy Richnak, Public Works Director/Ann Tyrrell, Office Coordinator

ROAD COMMISSION for OAKLAND COUNTY

QUALITY LIFE THROUGH GOOD ROADS:
ROAD COMMISSION FOR OAKLAND COUNTY
"WE CARE"

Board of Road Commissioners

Rudy D. Lozano
Chairman

Larry P. Crake
Vice-Chairman

Richard G. Skarritt
Commissioner

Brent O. Bair
Managing Director

Gerald M. Holmberg
Deputy Managing Director
County Highway Engineer

Highway Maintenance
Department

2420 Pontiac Lk. Rd.
Waterford, MI
48328

248-858-4881

FAX
248-858-7607

TDD
248-858-8005

www.rcocweb.org

January 26, 2006

Mr. Tim Richnak
Director of Public Works
City of Troy
500 West Big Beaver Road
Troy, MI 48084

RE: 2006 Summer Maintenance Agreement

Dear Mr. Richnak:

Attached are two copies of a Summer Maintenance Agreement between the Road Commission for Oakland County and the City of Troy for sweeping on certain roads in the City of Troy (see Exhibit A).

Please note: We are requesting that the City invoice the Road Commission for 65% of the total contract amount on September15, 2006, and invoice for the remaining 35% upon completion of the last maintenance activity.

If the agreement is satisfactory, please attach certified copies of the resolution of approval by your City Council, and return the two signed copies to this office for approval by the Board of Road Commissioners. One fully signed copy will be returned to you.

Please submit your proof of liability insurance that covers this agreement and particularly covers your personnel and equipment working on county roads under the jurisdiction of the Board of Road Commissioners. As your current Certificate of Membership in the Michigan Municipal Workers Compensation Fund expires in June, I would appreciate it if you would forward a new certificate at that time. If there are any changes in the coverage during the term of this agreement, we must be notified of these changes.

The Board of Road Commissioners and I want to extend our appreciation to you, the City Council and your road employees, for the fine work that has been done in connection with past contracts, and we want to continue to cooperate with you in any way we can.

Sincerely,

Darryl M. Heid, P.E.
Director of Highway Maintenance

DMH/sll
Attachment

SUMMER MAINTENANCE AGREEMENT

CITY OF TROY

This Agreement made and entered this _____ day of _____, 2006, between the Board of County Road Commissioners of the County of Oakland, hereinafter referred to as the "Board," and the City of Troy, hereinafter referred to as the "City."

WHEREAS, certain county primary roads, being a part of the Oakland County primary road system, in accordance with the provisions of 1951 PA 51, as amended, are located within or adjacent to the City; and

WHEREAS, the parties hereto wish to enter into a written contract providing for certain maintenance by the City of certain county primary roads within the City, as more fully described in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, the City hereby agrees to be responsible for certain maintenance of said roads under the terms of this Agreement and the Board agrees to participate in the cost thereof as provided in Section II of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual undertaking of the parties hereto, it is mutually understood and agreed as follows:

I

As used herein, the terms "Maintenance" and "Maintain" shall be construed to include only those items of work and service specifically itemized in exhibit B, as attached hereto and made a part thereof. All Maintenance work performed by the City shall be in accordance with the Board's minimum maintenance standards.

II

In consideration of the assumption of Maintenance by the City, the Board agrees to pay to the City, the sum of $35,077.72, as set forth in Exhibit A, attached hereto. Payment shall be made as follows and upon invoice by the City:

65% on September 15, 2006
35% upon completion of the last Maintenance activity.

III

The City shall keep accurate and uniform records of all Maintenance work performed pursuant to this Agreement. The Board shall have the right to audit City accounts and records insofar as such documents concern this Agreement.

IV

The Board has determined and specified the equipment and personnel necessary to provide the Maintenance and the City has acquired the necessary equipment and personnel so specified. The City shall sweep the roads a minimum of four (4) times under this Agreement.

V

It is specifically understood and agreed by the City and the Board that by undertaking to perform Maintenance of certain county primary roads, the City does not assume the Board's legal duty to keep said roads in such condition as to be in accordance with MCLA 224.21, reasonably safe and convenient for public travel, other than as may relate to the work/service performed as listed in Exhibit B, and the City hereby further agrees to hold harmless, represent, defend and indemnify the Board, its officials and employees from any and all claims and suits that may be made, filed, or instituted against the Board and its employees arising out of the City's performance or non-performance of the activities listed in Exhibit B, which are the subject matter of this Agreement.

The Board agrees that it will do nothing to prejudice the City in this regard. The City shall not be responsible hereunder for the maintenance of items not included in the work/services set forth in Exhibits A & B.

VI

The City acknowledges that it has provided, and will provide during the term of this Agreement, automobile and general liability insurance coverage, in the amount of $2,000,000 single limit, Bodily Injury and Property Damage, covering the Board's liability for any and all claims arising out of the City's performance or non-performance of the activities which are the subject matter of this Agreement, as well as statutory Workers' Compensation Insurance. Coverage shall be in accordance with the requirements set forth in Exhibit C, attached hereto and made a part of hereof.

The City shall not cancel, reduce, or non-renew the coverage of any insurance required by this section without 30 days prior written notice to the Board. All insurance provided in accordance with this section shall include an endorsement whereby the insurer shall agree to notify the Board immediately of non-renewal or any reduction or cancellation of any coverage.

A copy of the Certificate of Insurance is attached hereto, made a part hereof, and marked Exhibit D.

VII

The City further agrees to comply with all relevant laws of the State of Michigan for safeguarding the air and waters of the State. The City will be responsible for the proper disposal of the solid waste and other debris related to the Maintenance and the costs associated therewith.

VIII

In accordance with 1976 PA 453, as amended, and 1976 PA 220, as amended, the City covenants not to discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, marital status or because of a handicap that is unrelated to the individual’s ability to perform the duties of the particular job or position and to require a similar covenant on the part of any subcontractor employed in the performance of the Agreement.

IX

It is the intention of the parties hereto that this Agreement is not made for the benefit of any third party.

It is anticipated that subsequent agreements regarding Maintenance activities will be executed annually by the parties hereto.

The terms and conditions of this Agreement shall become effective on April 1, 2006 and shall continue in full force and effect until a subsequent summer maintenance agreement has been executed by the parties hereto or until this Agreement is terminated, as set forth below.

In the event that a subsequent summer maintenance agreement has not been executed by the parties hereto, on or before April 1, 2007, either party may terminate this Agreement by providing the other party hereto with written notice of intent to terminate, at least thirty (30) days prior to the date of termination.

This Agreement is executed by the Board at its regular meeting of _____, and by the City by authority of a resolution of its governing body, adopted _____, (Copy attached as Exhibit E).

Witnesses:

CITY OF TROY
A Municipal Corporation

_____

By:_____

Its:_____

_____

By:_____

Its:_____

Witnesses:

BOARD OF COUNTY ROAD COMMISSIONERS
OF THE COUNTY OF OAKLAND,
A Public Body Corporate

_____

By:_____

Its:_____

_____

By:_____

Its:_____

CITY OF TROY

EXHIBIT A

PRIMARY ROADS TO BE MAINTAINED

1.	Maple Road from Coolidge to Dequindre	9.97 Miles	$1,213.65
2.	Big Beaver from Adams to Dequindre	21.96 Miles	$2,673.19
3.	Long Lake from Adams to Dequindre	7.2 Miles	$ 876.46
4.	South Boulevard from Adams to Dequindre	.48 Miles	$ 58.43
5.	Crooks Road from Elmwood to South Boulevard	13.65 Miles	$1,661.61
6.	Livernois from Maple to South Boulevard	4.35 Miles	$ 529.52
7.	John R from 14 Mile to South Boulevard	5.05 Miles	$ 614.74
8.	Dequindre from South Boulevard to 14 Mile	7.75 Miles	$ 943.41
9.	Adams from South Boulevard to South of Big Beaver	1.63 Miles	$ 198.42
		Total 72.04 Miles	

72.04 Miles X Frequency (4) X $121.73/curb mile = $35,077.72

CITY OF TROY

EXHIBIT B

WORK/SERVICE TO BE PERFORMED:

1. Sweep all roads listed in Exhibit A, both directions of travel and around islands, where applicable.

EXHIBIT C

LIABILITY AND INSURANCE REQUIREMENTS

The Consultant, prior to beginning work, shall file with the Road Commission for Oakland County copies of completed certificates of insurance, as evidence that he carries adequate insurance, satisfactory to the ROAD COMMISSION. Insurance coverage shall be provided in accordance with the following:

a. Worker's Compensation Insurance – To provide protection for the Consultant's employees, to the statutory limits of the State of Michigan, and $100,000 employer's liability. The indemnification obligation under this section, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the consultant under worker's disability compensation coverage established by law.

b. Bodily Injury and Property Damage – To afford protection against all claims for damages to public or private property, and injuries to persons arising out of and during the progress and to the completion of the work, and with respect to product and completed operation for one year, after completion of the work.

   1. Bodily Injury and Property Damage Other Than Automobile (Comprehensive General Liability including contractual liability coverage) – The minimum limits of property damage and bodily injury liability covering each contract shall be:

      Single Limit: Bodily Injury and Property Damage Liability:

Each Occurrence:	$2,000,000
Aggregate:	$2,000,000

   2. Bodily Injury Liability and Property Damage Automobiles (Comprehensive Auto Liability) – The minimum limits of bodily injury liability and property damage liability shall be:

      Single Limit; Bodily Injury and Property Damage Liability:

Each Occurrence	$2,000,000

      Such insurance shall include coverage for all owned, hired, and non-owned vehicles.

c. Professional Liability (Errors and Omissions) – To afford professional liability protection against all claims arising out of the work. The minimum limits of professional liability shall be $2,000,000. However, policies are subject to review by the Road Commission prior to beginning work.

d. Excess and Umbrella Insurance – The consultant may substitute corresponding excess and/or umbrella liability insurance for a portion of the above listed requirements in order to meet the specified minimum limits of liability.

e. Notice – The Consultant shall not cancel, reduce, or non-renew the coverage of any insurance required by this Section without providing 30 day prior written notice to the Road Commission for Oakland County. All such insurance must include an endorsement whereby the insurer shall agree to notify the Road Commission for Oakland County immediately of any reduction by the Consultant. The Consultant shall cease operations on the occurrence of any such cancellation or reduction, and shall not resume operations until new insurance is in force. If the Consultant cannot secure the required insurance within 30 days, the Board reserves its right to terminate the contract.

f. Reports – The Consultant or his insurance carrier shall report all claims received, claims investigations made and disposition of claims to the County Highway Engineer.

RISK Michigan Municipal MANAGEMENT AUTHORITY

CERTIFICATE OF COVERAGE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder except to the extent shown below. This certificate does not amend, extend or alter the coverage contained in the Authority's Joint Powers Agreement and coverage attachments thereto.

This is to certify that a Self-Insured Program has been undertaken by the member listed below through the Authority pursuant to Act 138 P.A. 1982.

The coverage provided by the Authority is as follows:

1. Liability coverage for general liability, automobile (including Michigan no-fault) law enforcement and public officials liability; in the sum of $15,000,000 each occurrence inclusive of loss adjustment and defense costs.

2. Property Coverage including loss to real & personal property, to amounts stipulated in coverage documents and overview for this member.

3. Motor Vehicle Physical Damage Coverage for the vehicles stipulated in the Coverage Document.

4. ☐ Information only

5. ☐ The entity named below is included in the scope of protection as additional insured and loss payee, only as respects claims arising from the purchase or lease of vehicles or other property. Losses, if any, will be adjusted with the member and payable to the member and the following, as their interest may appear:

6. ☒ Other (as described here): ***The scope of protection includes Road Commission for Oakland County as additional insured, only as respects claims which may arise from work done by the City of Troy in conjunction with the Summer Road Maintenance Agreement.***

Authority membership and coverage are continuous in nature, and bear no expiration or termination date, however, should the member identified below withdraw from the Authority, or its Authority Membership be otherwise terminated, the Authority will endeavor to notify the certificate holder in writing thirty (30) days in advance thereof, but failure to furnish such notice will impose no obligation or liability of any kind upon the Authority, or its representatives.

Certificate Holder:
Road Commission for Oakland County
2420 Pontiac Lake Road
Waterford, MI 48328

Member:
City of Troy - Member #137
500 West Big Beaver Road
Troy, MI 48084-5285

Distribution:
MMRMA Underwriting
Stephen Cooperrider, City of Troy

Effective Date of Membership: 11/8/90

Date Issued: August 4, 2005

Authorized Representative

Michigan Municipal League
Workers' Compensation Fund

CERTIFICATE OF MEMBERSHIP

The Michigan Municipal League Workers' Compensation Fund, approved by the Director of the Workers' Compensation Agency as a group self-insured, certifies that

Troy, City Of

Is a member in good standing of the Fund,
For the year expiring

June 30, 2006

and as such is approved by the Agency as a self-insurer.
Employer's liability coverage of

$500,000

Is included.

Michael J. Forster

July 1, 2005
Effective Date

NOTE: This certificate is proof that your entity has complied with The Workers' Compensation Agency by becoming a Member of the Michigan Municipal League Workers' Compensation Fund. Copies of this certificate may be provided to third parties as evidence that the required workers' compensation coverage is in place.

F-03

February 23, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Asst. City Manager/Services
Steve Vandette, City Engineer
John K. Abraham, Traffic Engineer

SUBJECT: Agenda Item – Traffic Committee Recommendations – January 18, 2006

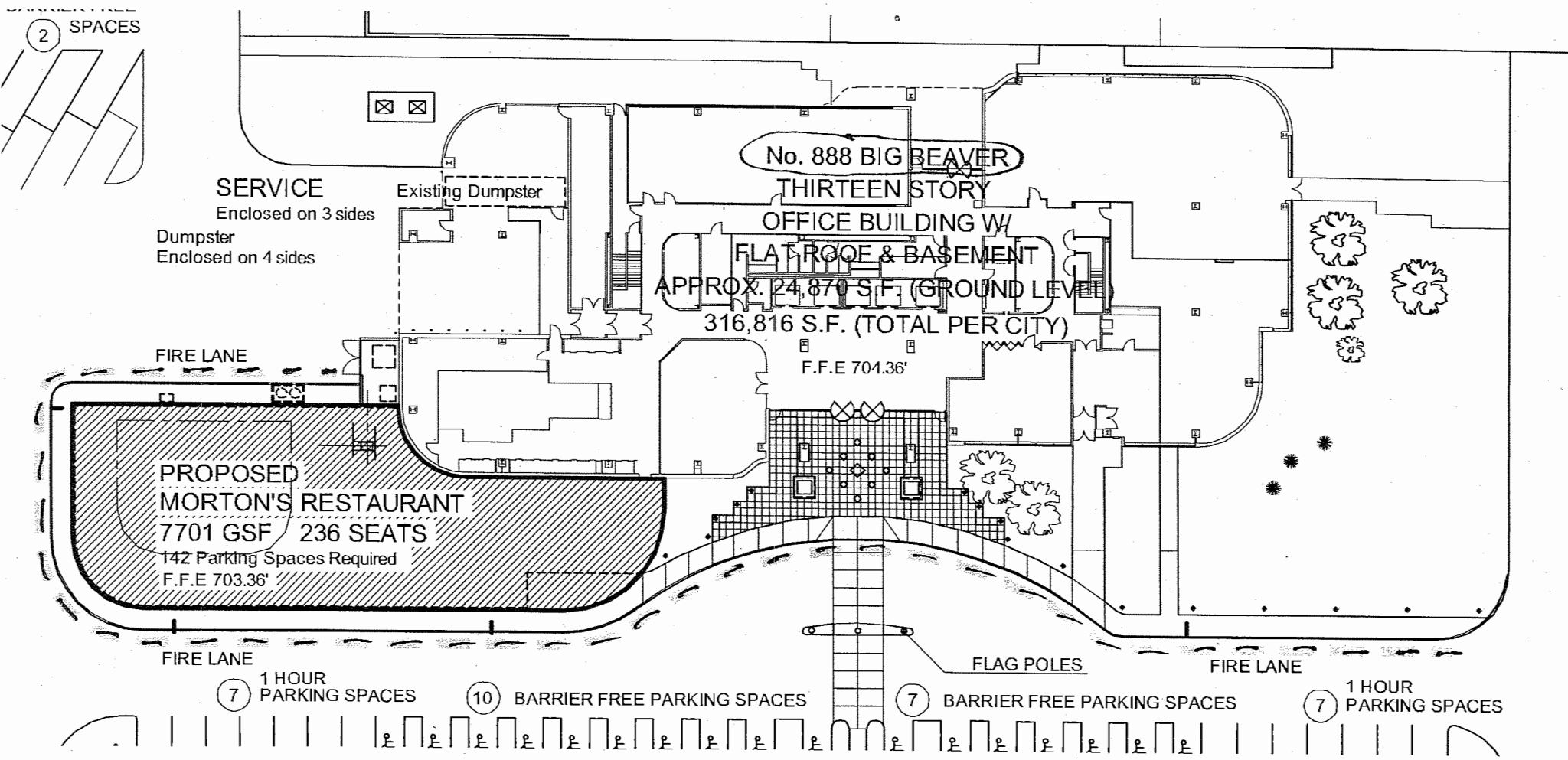
At the Traffic Committee meeting of January 18, 2006, the following recommendations were made for City Council approval:

1. To recommend installation of signs at the west driveway of Troy Marketplace for exiting traffic, indicating RIGHT TURN ONLY and WESTBOUND TRAFFIC USE NEXT CROSSOVER EAST. At the median, to be seen only by driveway traffic, signs will indicate DO NOT ENTER and DO NOT ENTER FROM SHOPPING CENTER DRIVEWAY (see attached illustration). (Item 11).

2. To recommend that fire lanes tow/away zones shown in the attached sketch be established at 888 West Big Beaver (Item 12).

RIGHT TURN ONLY
WESTBOUND TRAFFIC USE NEXT CROSSOVER EAST
At driveway
BEAVER
E BIG BEAVER
TROY MARKETPLACE
DO NOT ENTER
DO NOT ENTER FROM SHOPPING CENTER DRIVEWAY
At the median to be seen only by driveway traffic
0 80 160 320 480 640
Feet

ITEM 11



N

888 W. Big Beaver

ITEM 12

TRAFFIC COMMITTEE MINUTES JANUARY 18, 2006 FINAL

A regular meeting of the Troy Traffic Committee was held Wednesday, January 18, 2006 in the Lower Level Conference Room at Troy City Hall. Jan Hubbell called the meeting to order at 7:30 p.m.

1. Roll Call

PRESENT: Ted Halsey
Jan Hubbell
Richard Kilmer
Richard Minnick
Gordon Schepke
Peter Ziegenfelder
Katherine Tan, Student Representative

ABSENT: John Diefenbaker

Also present: John Abraham, Traffic Engineer
Lt. Scott McWilliams, Traffic Safety Division, Troy Police Department
Lt. Robert Matlick, Fire Department

and Mike Johnson, 422 E. Square Lake Rd.
Paul J. Turner, 3899 Spruce Rd.
Paul Friesen, 40 Whitney Ct.
Ken Bank, 4832 Rochester Rd.
Dale R. Zygnowicz, 6370 Elmoor

Resolution to Excuse Absent Members

RESOLUTION #2006-01-01
Moved by Halsey
Seconded by Ziegenfelder

To excuse Mr. Diefenbaker, as he is absent from the state.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

2. Minutes – October 19, 2005

RESOLUTION #2006-01-02
Moved by Kilmer
Seconded by Ziegenfelder

To approve the October 19, 2005 minutes as printed.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

PUBLIC HEARINGS

3. Request for Sidewalk Waiver – 457 West South Boulevard

Giovanni Vettraino and Cathy Anne Vettraino are requesting a waiver for the sidewalk at 457 West South Boulevard. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioners state that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

The petitioners were notified of the meeting but did not attend, and the committee was reluctant to make a decision until they were present.

RESOLUTION #2006-01-03
Moved by Minnick
Seconded by Schepke

To postpone a decision on this item until the next meeting and request that the petitioners attend.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

4. Request for Sidewalk Waiver – 1058 Arthur

Mike Johnson is requesting a waiver for the sidewalk at 1058 Arthur. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

Mr. Minnick has inspected the site and feels that there is no room for a sidewalk.

RESOLUTION #2006-01-04
Moved by Minnick
Seconded by Kilmer

WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Mike Johnson has requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

WHEREAS, the Traffic Committee has determined the following:

a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1058 Arthur, which is owned by Mike Johnson.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

5. Request for Sidewalk Waiver – 1070 Arthur

Mike Johnson is requesting a waiver for the sidewalk at 1070 Arthur. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

RESOLUTION #2006-01-05
Moved by Kilmer
Seconded by Minnick

WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Mike Johnson has requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

WHEREAS, the Traffic Committee has determined the following:

a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1070 Arthur, which is owned by Mike Johnson.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

6. Request for Sidewalk Waiver – 1047 Vermont

Mike Johnson is requesting a waiver for the sidewalk at 1047 Vermont. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

Daniel Walsh, 1010 Woodslee, wrote to the Traffic Engineer requesting that sidewalks be required.

RESOLUTION #2006-01-06
Moved by Kilmer
Seconded by Minnick

WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Mike Johnson has requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

WHEREAS, the Traffic Committee has determined the following:

a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1047 Vermont, which is owned by Mike Johnson.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

7. Request for Sidewalk Waiver – 1059 Vermont

Mike Johnson is requesting a waiver for the sidewalk at 1059 Vermont. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an

"Agreement for Irrevocable Petition for Sidewalks." Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

Daniel Walsh, 1010 Woodslee, wrote to the Traffic Engineer requesting that sidewalks be required.

RESOLUTION #2006-01-07
Moved by Minnick
Seconded by Kilmer

WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Mike Johnson has requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

WHEREAS, the Traffic Committee has determined the following:

a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1059 Vermont, which is owned by Mike Johnson.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

8. Request for Sidewalk Waiver – 4177 Beach Road

Amherst Development is requesting a waiver for the sidewalk at 4177 Beach Road. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has

signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

Paul Turner, of Amherst Development, told the committee that this property is on the west side of Beach and there are no sidewalks on that side. The east side of Beach has a few short sections of sidewalk. This home faces Amherst, which does have sidewalk all around the cul-de-sac. Mr. Minnick said that the builder of homes on the other side of Beach has put in sidewalk along approximately five lots, none of which front on Beach.

Mr. Halsey said that since Beach is a main road, he thinks sidewalks should be required.

RESOLUTION #2006-01-08
Moved by Halsey
Seconded by Ziegenfelder

WHEREAS, the Traffic Committee has determined, after a public hearing, that Petitioner failed to establish the standards justifying the granting of a waiver,

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee denies a waiver of the sidewalk requirement for the property at 4177 Beach Road, which is owned by Amherst Development.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

9. Request for Sidewalk Waiver – 4201 Beach Road

Amherst Development is requesting a waiver for the sidewalk at 4201 Beach Road. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

Paul Turner, of Amherst Development, told the committee that this property is on the west side of Beach and there are no sidewalks on that side. The east side of Beach has a few short sections of sidewalk. This home faces Amherst, which does have sidewalk all around the cul-de-sac. Mr. Minnick said that the builder of homes on the

other side of Beach has put in sidewalk along approximately five lots, none of which front on Beach.

Mr. Halsey said that since Beach is a main road, he thinks sidewalks should be required.

RESOLUTION #2006-01-09
Moved by Halsey
Seconded by Ziegenfelder

WHEREAS, the Traffic Committee has determined, after a public hearing, that Petitioner failed to establish the standards justifying the granting of a waiver,

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee denies a waiver of the sidewalk requirement for the property at 4201 Beach Road, which is owned by Amherst Development.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

10. Request for Sidewalk Waiver – 4832 Rochester Road

Ken Bank, Bank's Vacuum, is requesting a waiver for the sidewalk at 4832 Rochester Road. The sidewalk ordinance requires that a sidewalk be installed in conjunction with construction of an addition to the building. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that in 1993 when his building was constructed, the sidewalk was placed according to city requirements, 75' from the centerline of Rochester Road. Shortly thereafter the city ordinance was changed to require 80' from the centerline. Now that the building has been expanded, the city is requiring that the sidewalk be moved and widened. Detroit Edison has installed a utility pole where the new sidewalk would have to be placed. Mr. Bank would not only have to bear the expense of tearing up and reinstalling the sidewalk, but also would have to pay to have the utility pole moved.

The committee recognizes that requiring the sidewalk to be moved would cause undue hardship to Mr. Bank.

Three residents of 1081 Glaser wrote to the Traffic Engineer requesting that the sidewalk remain and be safely maintained by the owners.

RESOLUTION 2006-01-10
Motion by Schepke
Seconded by Halsey

WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Bank's Vacuum has requested a temporary waiver of the requirement to move and expand a sidewalk on the property because of the expense and hardship involved; and

WHEREAS, the Traffic Committee has determined the following:

a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 4832 Rochester Road, which is owned by Bank's Vacuum.

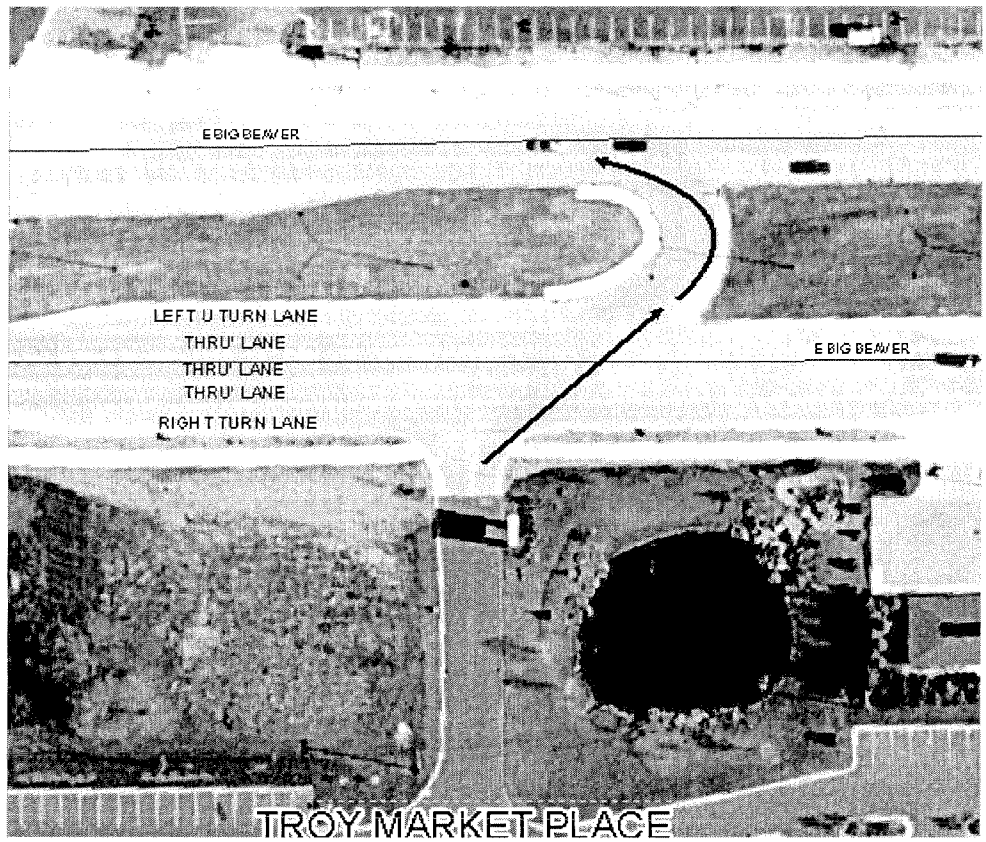
YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

REGULAR BUSINESS

11. Install "Turn Right Only" sign at the west exit of the Troy Market Place on Big Beaver Road West of Rochester Road.

The Troy Market place is a shopping development on Big Beaver Road, just west of Rochester Road. This development is served by two drives on Big Beaver Road for ingress and egress. Officer Joe Morgan of the Troy Police Department reported that he attends to a number of crashes that happen when exiting traffic from the west driveway 'shoot across' 4 lanes (3 through lanes and one right turn lane) of Big Beaver road to get to the turnaround to go west. The turnaround is around 75 feet from the driveway and since this section of Big Beaver road is one of the heaviest traveled sections of roadway in the City, it is very difficult to make it to the turnaround in a safe manner. There is another turnaround on Big Beaver Road farther east that may provide safer distance for merging to the left and making U turns to go west.



Attached please find collision diagrams for the area that pictorially represent all traffic crashes that occurred in the past 2-1/2 years. There have been around 21 crashes in the area in the 2-1/2 years and many of these crashes can be attributed to motorists that try to make it to the turnaround from the shopping center. Officer Morgan requests some type of signage at the driveway for exiting traffic that will direct traffic to make right turns only rather than proceeding straight to the turnaround.

Mr. Halsey doesn't think a RIGHT TURN ONLY sign will help. He recommends closing the turnaround in the median. Lt. McWilliams thinks the sign would help somewhat, but strict enforcement by the Police Department would be required.

There was discussion of a sign prohibiting entering the turnaround from the shopping center. There was also a suggestion to indicate that traffic should turn right only and stay in the right lane, but that is impossible because that lane is also the right turn lane from Big Beaver to southbound Rochester Road.

After much discussion, the committee decided to start with a TURN RIGHT ONLY sign and see if the situation improves. If not, further action will be considered.

RESOLUTION 2006-01-11
Motion by Halsey
Seconded by Kilmer

Recommend that a sign be placed at the west driveway of Troy Marketplace for exiting traffic, wording to be determined by the Traffic Engineer and the Traffic Safety lieutenant.

YES: 5
NO: 1 (Ziegenfelder)
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

Mr. Ziegenfelder voted "no" because the exact wording of the sign had not yet been determined.

Since the meeting, the Traffic Engineer and the Traffic Safety Lieutenant have come to the following conclusion. Signs will be placed at the west driveway of Troy Marketplace for exiting traffic, indicating RIGHT TURN ONLY and WESTBOUND TRAFFIC USE NEXT CROSSOVER EAST. At the median, to be seen only by driveway traffic, signs will indicate DO NOT ENTER and DO NOT ENTER FROM SHOPPING CENTER DRIVEWAY (see attached illustration).

12. Establish Fire Lanes at 888 West Big Beaver Road

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

RESOLUTION 2006-01-12
Motion by Kilmer
Seconded by Schepke

Recommend that the fire lanes/tow away zones shown in the attached sketch be established at 888 West Big Beaver Road.

YES: All-6
NO: None
ABSENT: 1 (Diefenbaker)

MOTION CARRIED

13. Visitors' Time

No one else wished to address the committee.

14. Other Business

There was general discussion on the poor quality of roads in Troy and surrounding communities.

Mr. Schepke said there are better materials and better ways to build roads than those currently being used. They are somewhat more expensive, but in the long run, would save significantly on future repair costs.

Mr. Halsey feels the City has to take responsibility and fix the crumbling roads. Instead of thinking only of maintaining the current tax levels, the administration has to realize that all costs are rising and a millage increase may be necessary to keep the City from going downhill.

15. Adjourn

The meeting adjourned at 8:45. The next meeting is scheduled for February 15, 2006.

Jan Hubbell Vice Chair	Laurel Nottage Recording Secretary

ITEM 10

January 10, 2006

City of Troy
Building Department
500 W. Big Beaver Road
Troy, Michigan 48084

Re: Property at 4832 Rochester Road (Bank's Vacuum) – Waiver of Sidewalk

To Whom It May Concern:

The sidewalk at 4832 Rochester Road is used daily for children walking to the school bus on Rochester Road, and also for the use of the neighborhood.

This business has numerous semi-trucks and other vehicles delivering goods daily and the vehicles, at times, cause blockage of the street. The sidewalk brings a measure of safety and a buffer between the street and their building.

We are against the removal of this sidewalk and would request that the sidewalk remain and be safely maintained by the owners.

Sincerely,

Georgena L. Bertalan

Georgena L. Bertalan

Paul G. Bertalan

Paul G. Bertalan

Paula J. Mitchell

1081 Glaser Dr.
Troy, Michigan 48085
248 689-9086

E BIG BEAVER
E BIG BEAVER
TROY MARKET PLACE
ROCHESTER
ROCHESTER
N
0 60 120 240 360 480
Feet

ITEM 11

RIGHT TURN ONLY
WESTBOUND TRAFFIC USE NEXT CROSSOVER EAST
At driveway
DO NOT ENTER
DO NOT ENTER FROM SHOPPING CENTER DRIVEWAY
At the median to be seen only by driveway traffic
E BIG BEAVER
TROY MARKETPLACE
0 80 160 320 480 640
Feet

ITEM 11

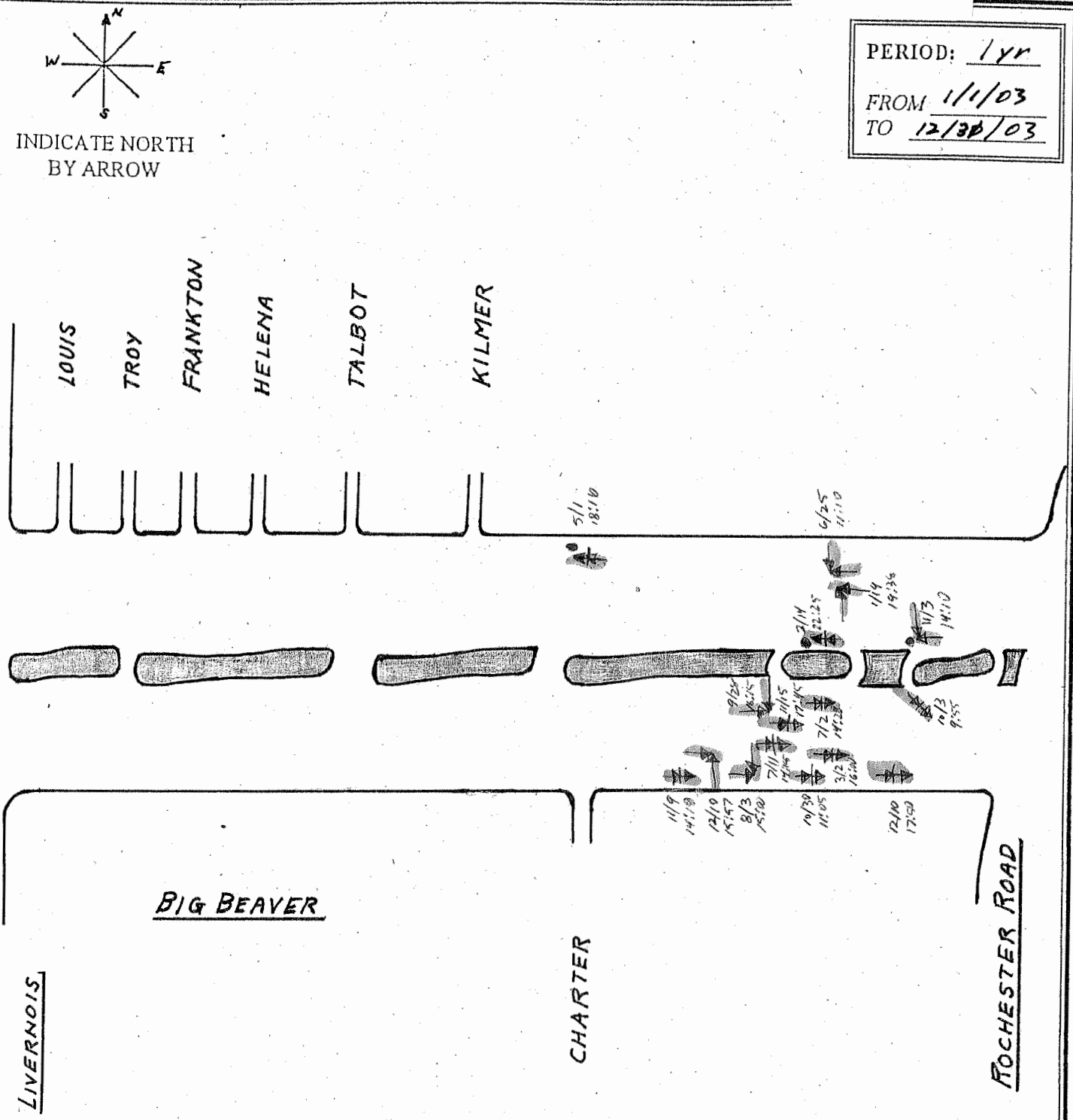
COLLISION DIAGRAM

ITEM 11

PERIOD: 1 yr

FROM 1/1/03

TO 12/31/03



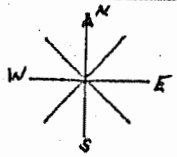
SYMBOLS	TYPES OF COLLISIONS	FOR EACH ACCIDENT SHOW:
MOVING VEHICLE	REAR END	1. Date & Time
BACKING VEHICLE	HEAD ON	2. Weather & Road Surface Conditions
PEDESTRIAN	SIDE SWIPE	
PARKED VEHICLE	RIGHT ANGLE	BIG BEAVER between
FIXED OBJECT	LEFT TURN HEAD ON	LIVERNOIS & ROCHESTER RD.
INJURY ACCIDENT	OUT OF CONTROL	BY: [illegible] DATE: 1/5/06
FATAL ACCIDENT		

COLLISION DIAGRAM

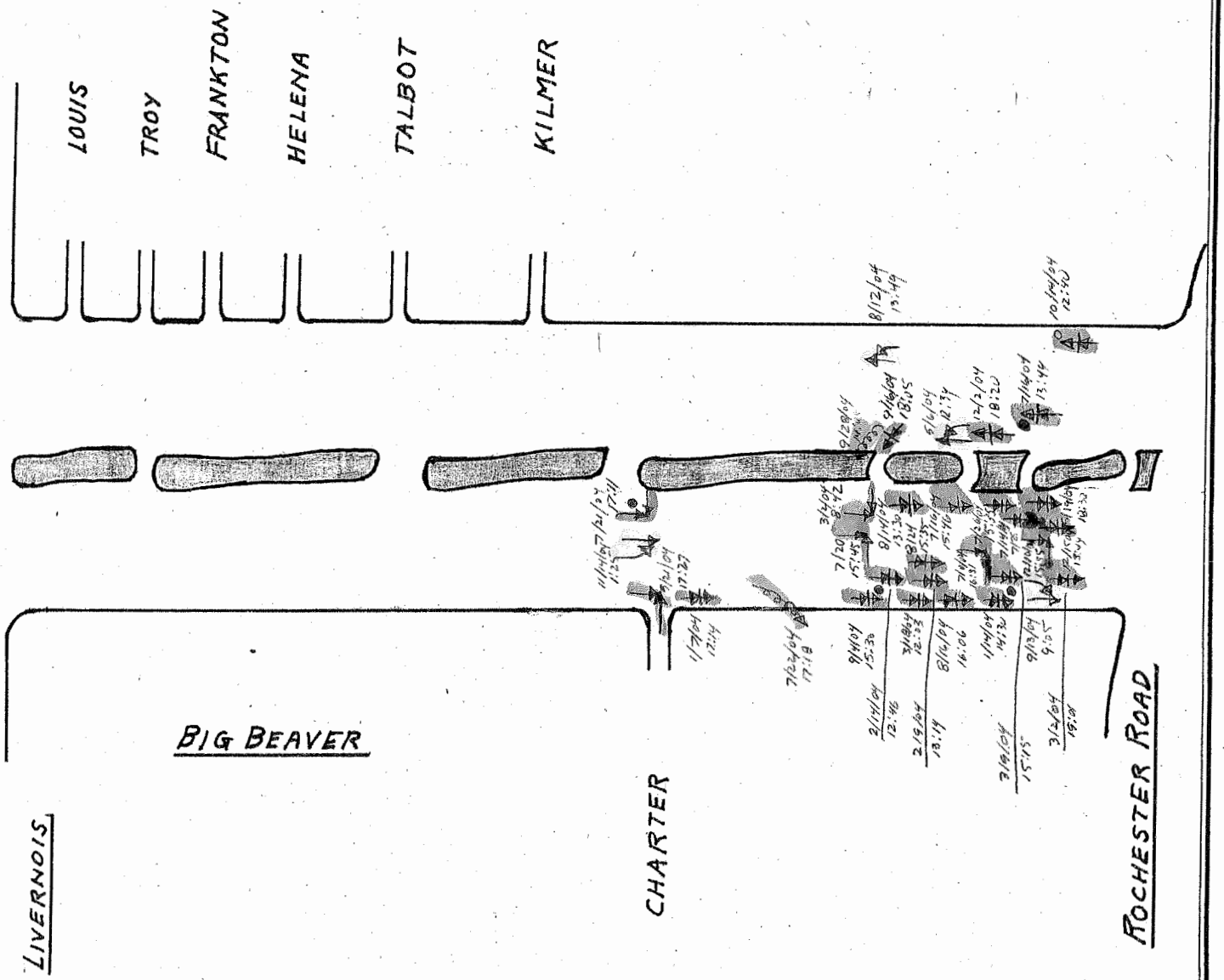
ITEM 11

PERIOD: 1yr

FROM 1/1/04
TO 12/31/04



INDICATE NORTH BY ARROW



SYMBOLS	TYPES OF COLLISIONS
MOVING VEHICLE	REAR END
BACKING VEHICLE	HEAD ON
PEDESTRIAN	SIDE SWIPE
PARKED VEHICLE	RIGHT ANGLE
FIXED OBJECT	LEFT TURN HEAD ON
INJURY ACCIDENT	OUT OF CONTROL
FATAL ACCIDENT	

FOR EACH ACCIDENT SHOW:
1. Date & Time
2. Weather & Road Surface Conditions

BIG BEAVER between LIVERNOIS & ROCHESTER RD.

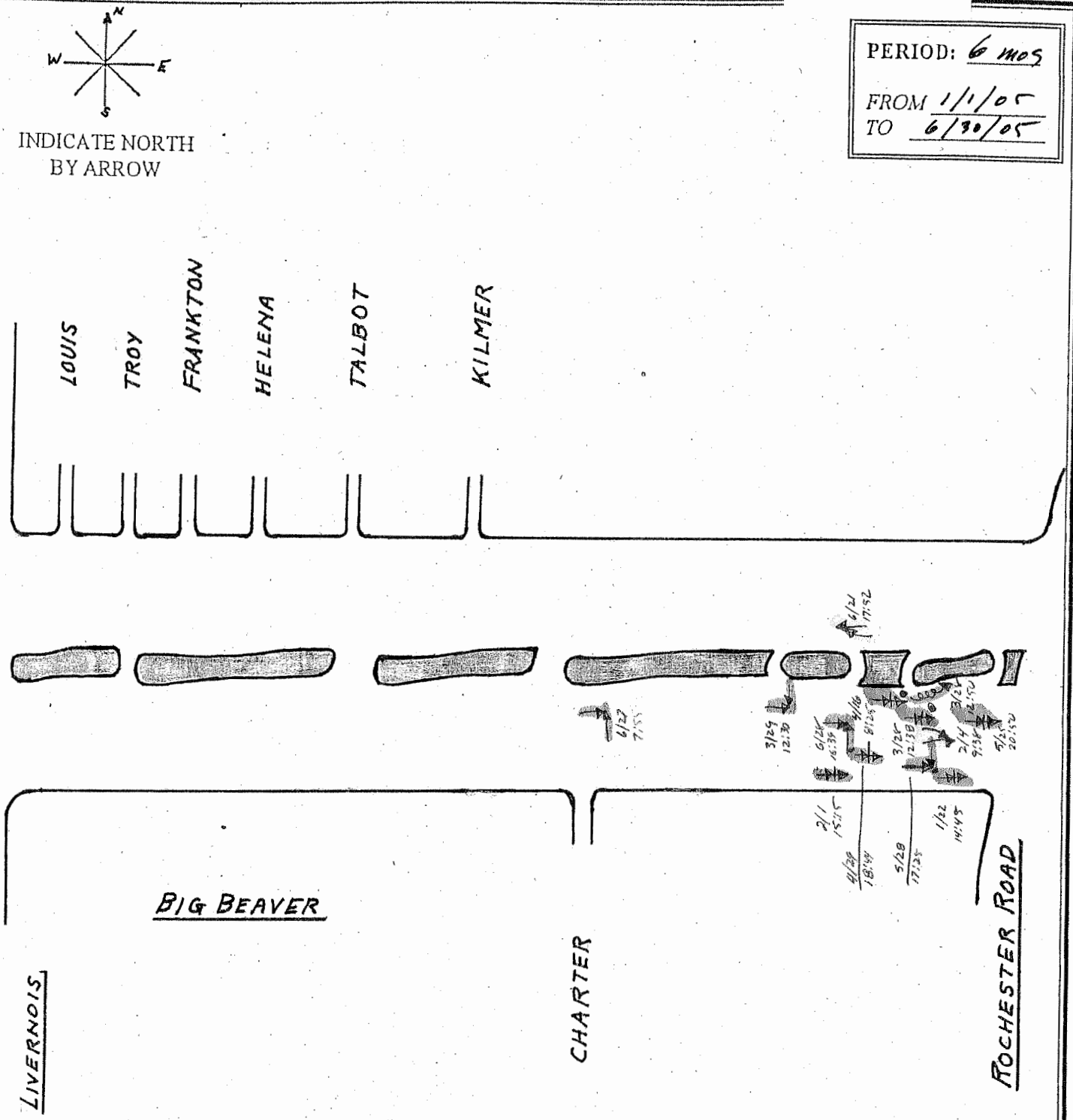
BY: [illegible] DATE: 1/5/06

COLLISION DIAGRAM

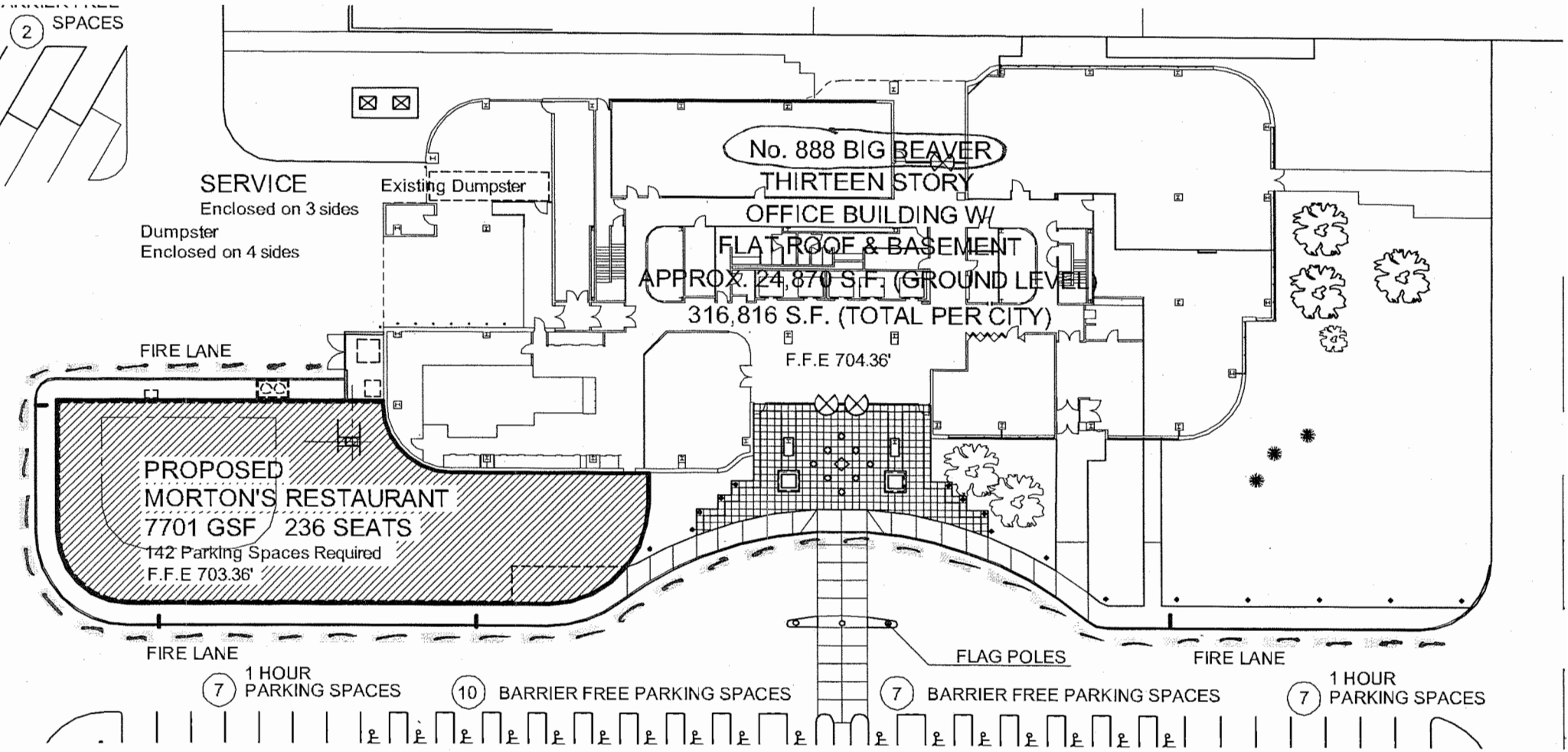
ITEM 11

PERIOD: 6 mos

FROM 1/1/05
TO 6/30/05



SYMBOLS	TYPES OF COLLISIONS	FOR EACH ACCIDENT SHOW:
MOVING VEHICLE	REAR END	1. Date & Time
BACKING VEHICLE	HEAD ON	2. Weather & Road Surface Conditions
PEDESTRIAN	SIDE SWIPE	
PARKED VEHICLE	RIGHT ANGLE	BIG BEAVER between
FIXED OBJECT	LEFT TURN HEAD ON	LIVERNOIS & ROCHESTER RD.
INJURY ACCIDENT	OUT OF CONTROL	BY: HH DATE: 1/5/06
FATAL ACCIDENT		



N

888 W. Big Beaver

ITEM 12

ITEM 12

City of Troy

Fire Departm...
500 West Big Beaver Road
Troy, Michigan 48084
Phone: 248-524-3419
Fax: 248-689-7520

December 20, 2005

Kelly McCluskey
Redico Management
100 East Big Beaver, Suite 100
Troy, MI 48083-1204

RE: 888 West Big Beaver Road

Dear Ms. McCluskey,

The Troy Fire Department has surveyed the above captioned property for the establishment of fire lanes. This action is pursuant to Chapter 1076 of the Troy City Code, and was recommended by the Fire Department and the Traffic Committee.

This letter is to notify you that the installation and maintenance of the fire lane signs is the obligation of the property owner. The fire lane signs are to be installed and maintained in compliance with the criteria as set forth in the Michigan Manual of Uniform Traffic Control Devices.

Some of the criteria as set forth in the Michigan Manual of Uniform Traffic Control Devices are:

1. Signs shall be red on white background and shall read:
   "No stopping, Standing, Parking- Fire Lane- Tow Away Zone"
2. Spaced no further than 100 feet apart.
3. Installed at right angle or 90 degrees.
4. Seven (7) feet from the bottom of the sign to grade.
5. Double faced where possibility exists for left wheel to curb parking.

It is the requirement of the Troy Fire Department that the compliance be attained immediately. A diagram of your property and fire lane sign placement is attached for your reference. For our reference, please return the enclosed form with the name and contact information of the parties responsible for maintenance of this property.

The Traffic Committee meets the third Wednesday of each month, at 7:30 pm, in the Lower Level Conference Room at Troy City Hall. Should you have any questions about posting these signs, please attend. Call 248-524-3379 to confirm the date of the meeting. Otherwise, you are not required to attend.

If you have any questions regarding this notice, please contact the Troy Fire Department at 248-524-3419. Thank you for your immediate cooperation in this matter.

Protectively,

Troy Fire Department

Robert Matlick, Lieutenant

Attachments
Cc: L. Nottage, S. Green

0963-0000

February 28, 2006

TO: John Lamerato, Acting City Manager

FROM: Brian P. Murphy, Asst. City Manager/Services
Steve Vandette, City Engineer
John K. Abraham, Traffic Engineer

SUBJECT: Agenda Item – Traffic Committee Recommendations – February 15, 2006

At the Traffic Committee meeting of February 15, 2006, the following recommendations were made for City Council approval:

1. To recommend that fire lanes tow/away zones shown in the attached sketch be established at 100 East Maple Road (Item 6).

2. To recommend that fire lanes tow/away zones shown in the attached sketch be established at 272 Minnesota (Item 7).

3. To recommend that fire lanes tow/away zones shown in the attached sketch be established at 230 West Maple (Item 10).

4. To recommend that fire lanes tow/away zones shown in the attached sketch be established at 400 West Maple (Item 11).

TRAFFIC COMMITTEE MINUTES FEBRUARY 15, 2006 DRAFT

A regular meeting of the Troy Traffic Committee was held Wednesday, February 15, 2006 in the Lower Level Conference Room at Troy City Hall. Ted Halsey called the meeting to order at 7:30 p.m.

1. Roll Call

PRESENT: Ted Halsey
Richard Kilmer
Gordon Schepke
Pete Ziegenfelder
Jonathan Shin, Student Representative

ABSENT: John Diefenbaker
Jan Hubbell
Katherine Tan, Student Representative

Also present: John Abraham, Traffic Engineer
Lt. Scott McWilliams, Traffic Safety Division, Troy Police Department
Lt. Robert Matlick, Fire Department

and Giovanni Vettraino, 457 W. South Blvd.
Cathy Vetraino, 457 W. South Blvd.
Mike Agnetti, 2977 Lovington

Resolution to Excuse Absent Members

RESOLUTION #2006-02-13
Moved by Kilmer
Seconded Ziegenfelder

To excuse Mr. Diefenbaker and Ms. Hubbell as they are out of the state.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

2. Minutes – January 18, 2006

RESOLUTION #2006-02-14
Moved by Kilmer
Seconded by Ziegenfelder

To approve the January 18, 2006 minutes as printed.

YES: All
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

PUBLIC HEARINGS

3. Request for Sidewalk Waiver – 457 West South Boulevard

Giovanni Vettraino and Cathy Anne Vettraino are requesting a waiver for the sidewalk at 457 West South Boulevard. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioners state that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing.

This item first appeared on the January agenda. The petitioners were notified of the meeting but did not attend, and the committee was reluctant to make a decision until they were present. They attended this meeting, and explained that there are no other sidewalks near their property, and the properties on either side of theirs have berms in front. They would not object to installing a sidewalk if the other residents in the area do the same, but at this time, their sidewalk would connect to nothing.

Mr. Ziegenfelder asked the following questions of the petitioners:

1. Did you sign the "Agreement for Irrevocable Petition for Sidewalks?"

2. Do you know that the Traffic Committee can only grant a temporary waiver that is good for at most two years and at the end of those two years, a sidewalk may still be required to be installed?

3. Do you know that it is possible that the signer of the "Agreement for Irrevocable Petition for Sidewalks" may be liable for the cost of installing the sidewalk, even if they do not still own the property? We're checking with the City Attorney on this.

4. Did you know that a recent survey by the National Association of Realtors and the National Association of Home Builders found that after finding a community in which to live, these buyers rated the following amentities in order:
    1. Highway access
    2. Walking/jogging/bike pathways
    3. Sidewalks on both sides of the street

The petitioners answered all questions in the affirmative. They are willing to put in sidewalks if required, and if they connect to other sidewalks.

RESOLUTION #2006-02-15
Moved by Kilmer
Seconded by Schepke

1. WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

   WHEREAS, Giovanni Vettraino and Cathy Anne Vettraino have requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

   WHEREAS, the Traffic Committee has determined the following:

   a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

   b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

   c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

   NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 457 West South Boulevard, which is owned by Giovanni Vettraino and Cathy Ann Vettraino.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

4. Request for Sidewalk Waiver – 1122 Woodslee

Mike Agnetti is requesting a waiver for the sidewalk at 1122 Woodslee. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would

lead nowhere and connect to nothing. Also, there is a drainage ditch in the way, and there are four other new houses in the area without sidewalks. Woodslee is also a dead end street with little pedestrian traffic.

Mr. Ziegenfelder asked the following questions of the petitioner:

1. Did you sign the "Agreement for Irrevocable Petition for Sidewalks?"

2. Do you know that the Traffic Committee can only grant a temporary waiver that is good for at most two years and at the end of those two years, a sidewalk may still be required to be installed?

3. Do you know that it is possible that the signer of the "Agreement for Irrevocable Petition for Sidewalks" may be liable for the cost of installing the sidewalk, even if they do not still own the property? We're checking with the City Attorney on this.

4. Did you know that a recent survey by the National Association of Realtors and the National Association of Home Builders found that after finding a community in which to live, these buyers rated the following amenities in order:
    1. Highway access
    2. Walking/jogging/bike pathways
    3. Sidewalks on both sides of the street

The petitioner answered all questions in the affirmative.

<u>RESOLUTION #2006-02-16</u>
Moved by Kilmer
Seconded by Schepke

1. WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

   WHEREAS, Mike Agnetti has requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

   WHEREAS, the Traffic Committee has determined the following:

   a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

   b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1122 Woodslee, which is owned by Mike Agnetti.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

5. Request for Sidewalk Waiver – 1134 Woodslee

Mike Agnetti is requesting a waiver for the sidewalk at 1134 Woodslee. The sidewalk ordinance requires that sidewalk be installed in conjunction with the development of this parcel due to a recent lot split, combined and replatted. The Public Works Department recommends denial of this waiver request. Petitioner has signed an "Agreement for Irrevocable Petition for Sidewalks."

Petitioner states that there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing. Also, there is a drainage ditch in the way, and there are four other new houses in the area without sidewalks. Woodslee is also a dead end street with little pedestrian traffic.

Mr. Ziegenfelder asked the following questions of the petitioner:

1. Did you sign the "Agreement for Irrevocable Petition for Sidewalks?"

2. Do you know that the Traffic Committee can only grant a temporary waiver that is good for at most two years and at the end of those two years, a sidewalk may still be required to be installed?

3. Do you know that it is possible that the signer of the "Agreement for Irrevocable Petition for Sidewalks" may be liable for the cost of installing the sidewalk, even if they do not still own the property? We're checking with the City Attorney on this.

4. Did you know that a recent survey by the National Association of Realtors and the National Association of Home Builders found that after finding a community in which to live, these buyers rated the following amenities in order?
    1. Highway access
    2. Walking/jogging/bike pathways
    3. Sidewalks on both sides of the street

The petitioner answered all questions in the affirmative.

RESOLUTION #2006-02-17
Moved by Kilmer
Seconded by Schepke

1. WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

   WHEREAS, Mike Agnetti has requested a temporary waiver of the requirement to construct a sidewalk on the property because there are no other sidewalks in the area, the sidewalk would lead nowhere and connect to nothing; and

   WHEREAS, the Traffic Committee has determined the following:

   a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and

   b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and

   c. The construction of a new sidewalk on the property line would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

   NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1134 Woodslee, which is owned by Mike Agnetti.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

REGULAR BUSINESS

6. Establish Fire Lanes at 100 E. Maple Road

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

RESOLUTION 2006-02-18
Motion by Kilmer
Seconded by Ziegenfelder

Recommend that the fire lanes/tow away zones shown in the attached sketch be established at 100 E. Maple Road.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

7. Establish Fire Lanes at 272 Minnesota

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

RESOLUTION 2006-02-19
Motion by Kilmer
Seconded by Ziegenfelder

Recommend that the fire lanes/tow away zones shown in the attached sketch be established at 272 Minnesota.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

8. Establish Fire Lanes at 336 Minnesota

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

There was discussion about parked vehicles on the side of the building possibly blocking access by emergency vehicles. Mr. Schepke also said there are unprotected gas meters along the proposed fire lane route. He is concerned that vehicles could crash into them and cause an explosion or fire. He would like to see 4" cement posts installed there as protection.

RESOLUTION 2006-02-20
Motion by Kilmer
Seconded by Ziegenfelder

To table this item until the next meeting to give Lt. Matlick time to investigate.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

9. Establish Fire Lanes at 342 Minnesota

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

This property adjoins 336 Minnesota, and the same concerns exist here with parked vehicles on the side of the building possibly blocking access by emergency vehicles and unprotected gas meters along the proposed fire lane route.

RESOLUTION 2006-02-21
Motion by Ziegenfelder
Seconded by Kilmer

To table this item until the next meeting to give Lt. Matlick time to investigate.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

10. Establish Fire Lanes at 230 W. Maple

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

RESOLUTION 2006-02-22
Motion by Kilmer
Seconded by Ziegenfelder

Recommend that the fire lanes/tow away zones shown in the attached sketch be established at 230 W. Maple.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

11. Establish Fire Lanes at 400 W. Maple

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

RESOLUTION 2006-02-23
Motion by Kilmer
Seconded by Ziegenfelder

Recommend that the fire lanes/tow away zones shown in the attached sketch be established at 400 W. Maple.

YES: All
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

12. Visitors' Time

No one else wished to address the committee.

13. Other Business

Lt. McWilliams discussed traffic concerns in and around businesses on Crooks north of Big Beaver. This has been an ongoing problem for several years. The driveway at the shopping area there is 60 feet wide instead of the standard 30 feet, and there are conflicts with entering and exiting traffic. Officers have been monitoring the area and confirm the concerns. Lt. McWilliams wants to restrict left turns, especially during the 7-9 am and 4-6 pm busy times, in and out of the driveways.

The traffic engineer said the City has been in discussions with the property owners for many years, and some improvements to the parking lot elevations were completed, but further action is needed. Some of the business owners have been cooperative, but others are reluctant to make any changes. Further attempts will be made to enlist more cooperation. This subject will be placed on next month's agenda for further action.

Lt. McWilliams reported that he received a letter from an attorney for Beaumont Hospital regarding safety of pedestrians crossing Dequindre, and a request for additional enforcement. In the last month or so they have been performing some directed enforcement and issuing citations for jaywalking, speeding and other violations. There are two facilities, one on each side of Dequindre. Employees are required to park in the east side lots and cross Dequindre to get to the hospital on the west side. There are ongoing concerns with vehicles turning in and out of the west parking lot being in conflict with pedestrians crossing the street. There have been crashes, and two pedestrians have been hit. The hospital administration wants to increase safety and is willing to work with the city to ensure it.

The hospital is willing to pay for a dedicated left turn lane and flashing lights; however, Dequindre is a county road and the last time we checked regarding the light, the Road Commission felt no changes were warranted. The hospital runs shuttles between the facilities and is planning to add a pedestrian bridge over Dequindre and move some entrance/exit driveways in their long-term master plan.

The final issue discussed was turnaround lane openings. All of them are only meant to legally accommodate one lane of traffic, but they are built wider to allow trucks enough space to turn. When two cars are side-by-side there are often conflicts with each other while entering traffic lanes. Lt. McWilliams reported some locations with a number of traffic crashes of a sideswipe nature. They could be marked with painted yellow lines or hatching, but most of them are county roads, and in the past, the Road Commission has been unwilling to commit to maintaining the markings. The traffic engineer said we would try it at a few locations, and Lt. McWilliams said he will run some crash statistics and find a few high-crash locations where it can be tried out.

ELECTION OF OFFICERS

RESOLUTION 2006-02-24
Motion by Halsey
Seconded by Kilmer

To nominate Pete Ziegenfelder as chairman of the committee for the coming year.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

RESOLUTION 2006-02-25
Motion by Ziegenfelder
Seconded by Kilmer

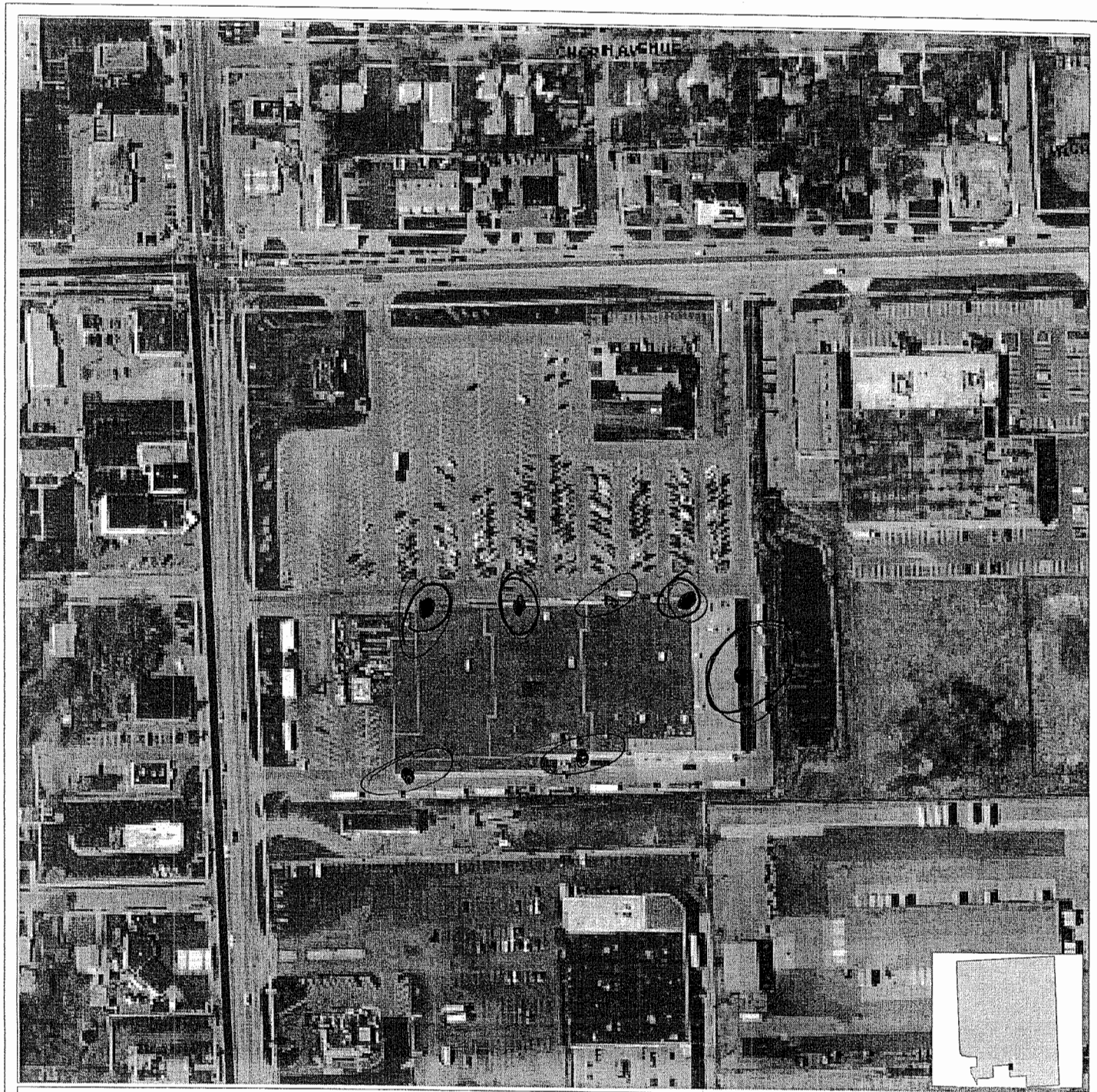
To nominate Ted Halsey as vice-chair of the committee for the coming year.

YES: All-4
NO: None
ABSENT: 2 (Diefenbaker, Hubbell)

MOTION CARRIED

14. Adjourn

The meeting adjourned at 8:40 p.m. The next meeting is scheduled for March 15, 2006.



City of Troy

CVTSight SnapShot

100 E Maple

Fire Lane Posting

Map Legend:

- LAKES
- BOUNDARY LINE
- MAJOR ROADS
- I-75
- LABEL ROAD NAMES
- PARCEL
- IMAGE AERIAL PHOTOS

KMART

N

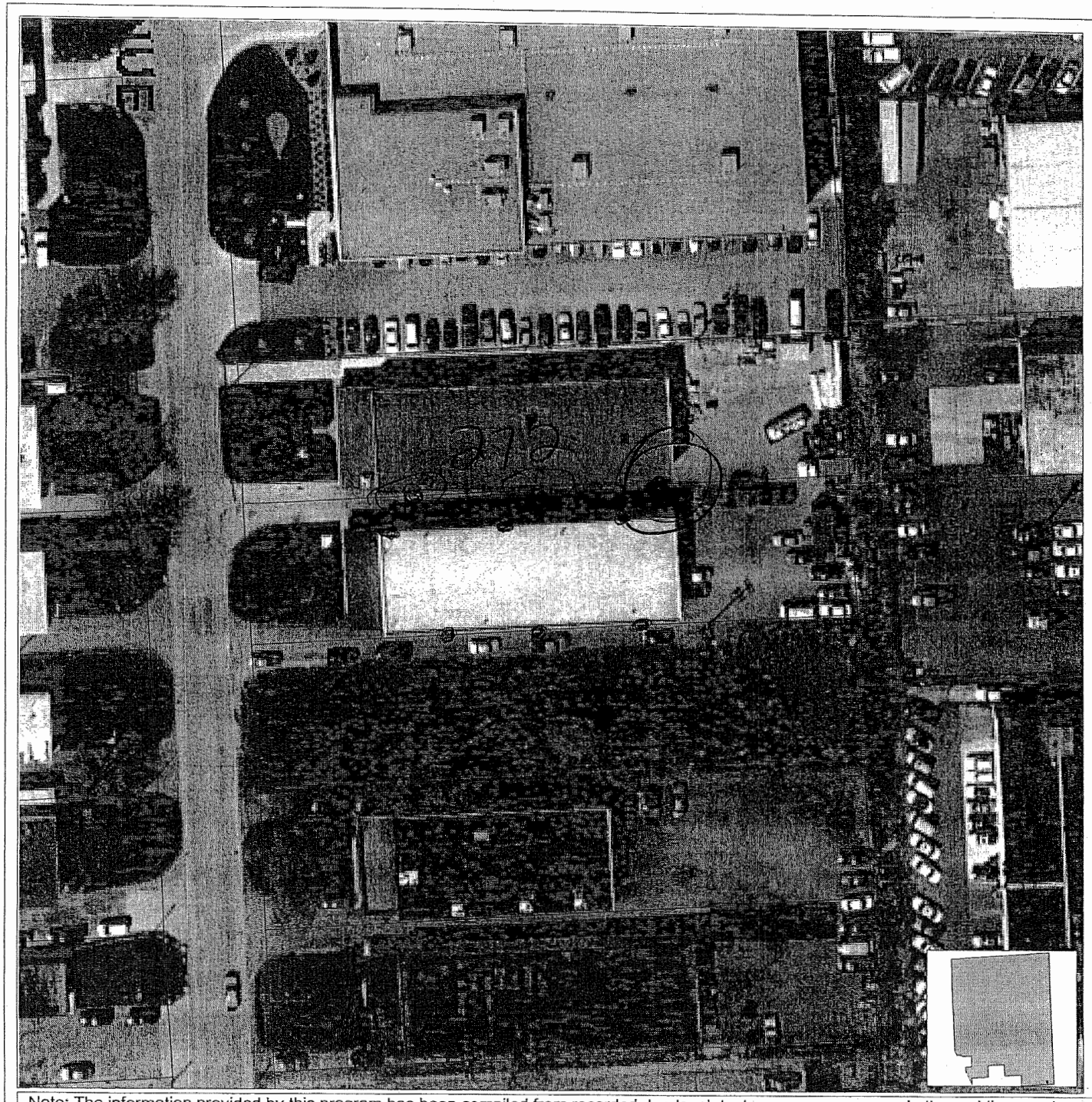
Map Scale: 1" = 216'

Map Date: April 5, 2001

Data Date: Janurary 2001

Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey a not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for verification of the information.

ITEM 6



City of Troy

CVTSight SnapShot

256 - 272 Minnesota

Fire Lane Posting

Map Legend:

- LAKES
- BOUNDARY LINE
- MAJOR ROADS
- I-75
- LABEL ROAD NAMES
- PARCEL
- IMAGE AERIAL PHOTOS

Husite Eng.

272

Husite ENG

N

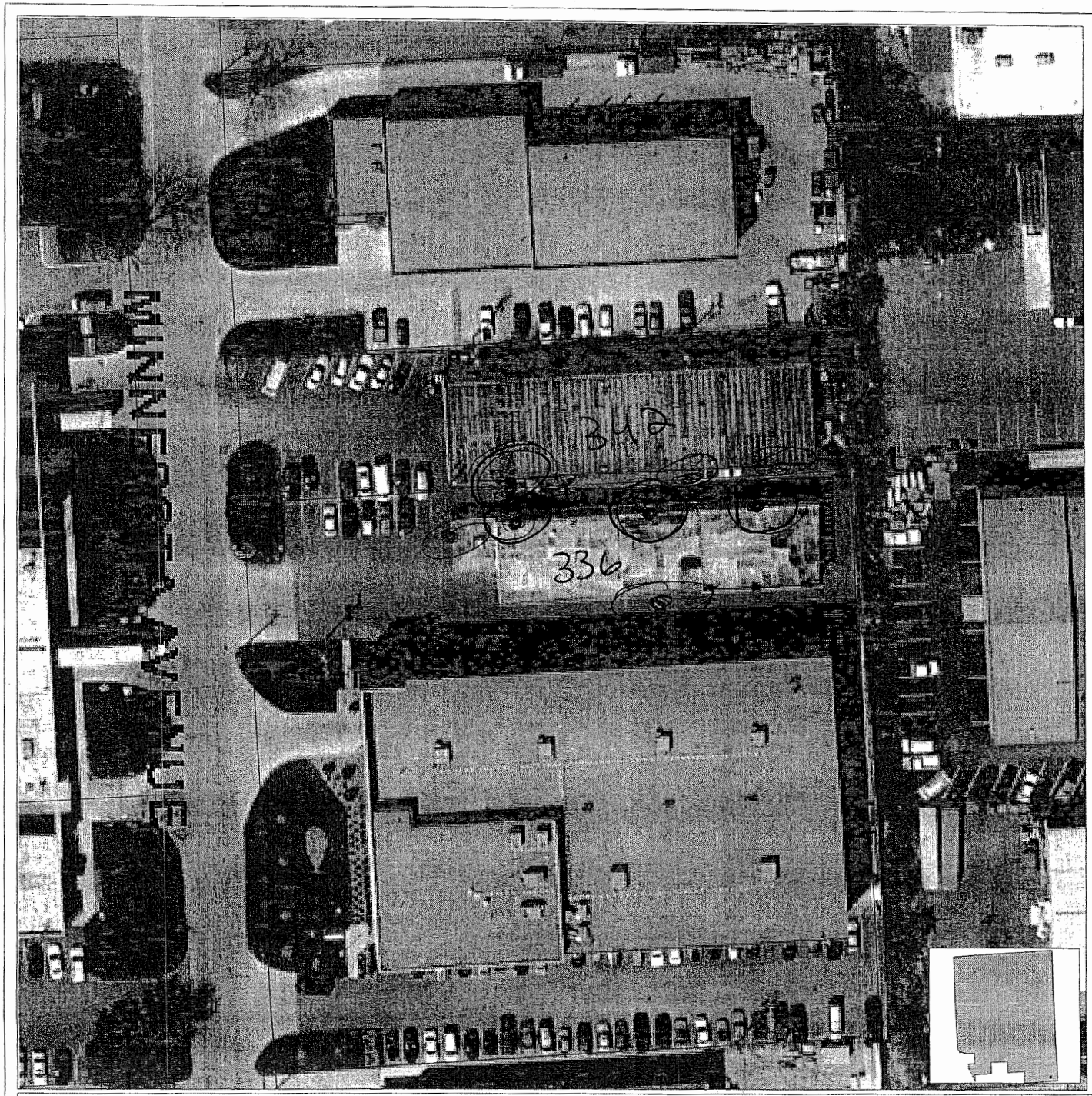
Map Scale: 1" = 72'
Map Date: March 22, 2001

Data Date: Janurary 2001

Plan GIS UNIT

ITEM 7

Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey a not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for verification of the information.



City of Troy

CVTSight SnapShot

336 -342 Minnesota

Fire Lane Posting

Map Legend:

- LAKES
- BOUNDARY LINE
- MAJOR ROADS
- I-75
- LABEL — ROAD NAMES
- PARCEL
- IMAGE — AERIAL PHOTOS

336 E powerHouse PC
342 YAREMA Die Eng.

336 E POWERHOUSE PC

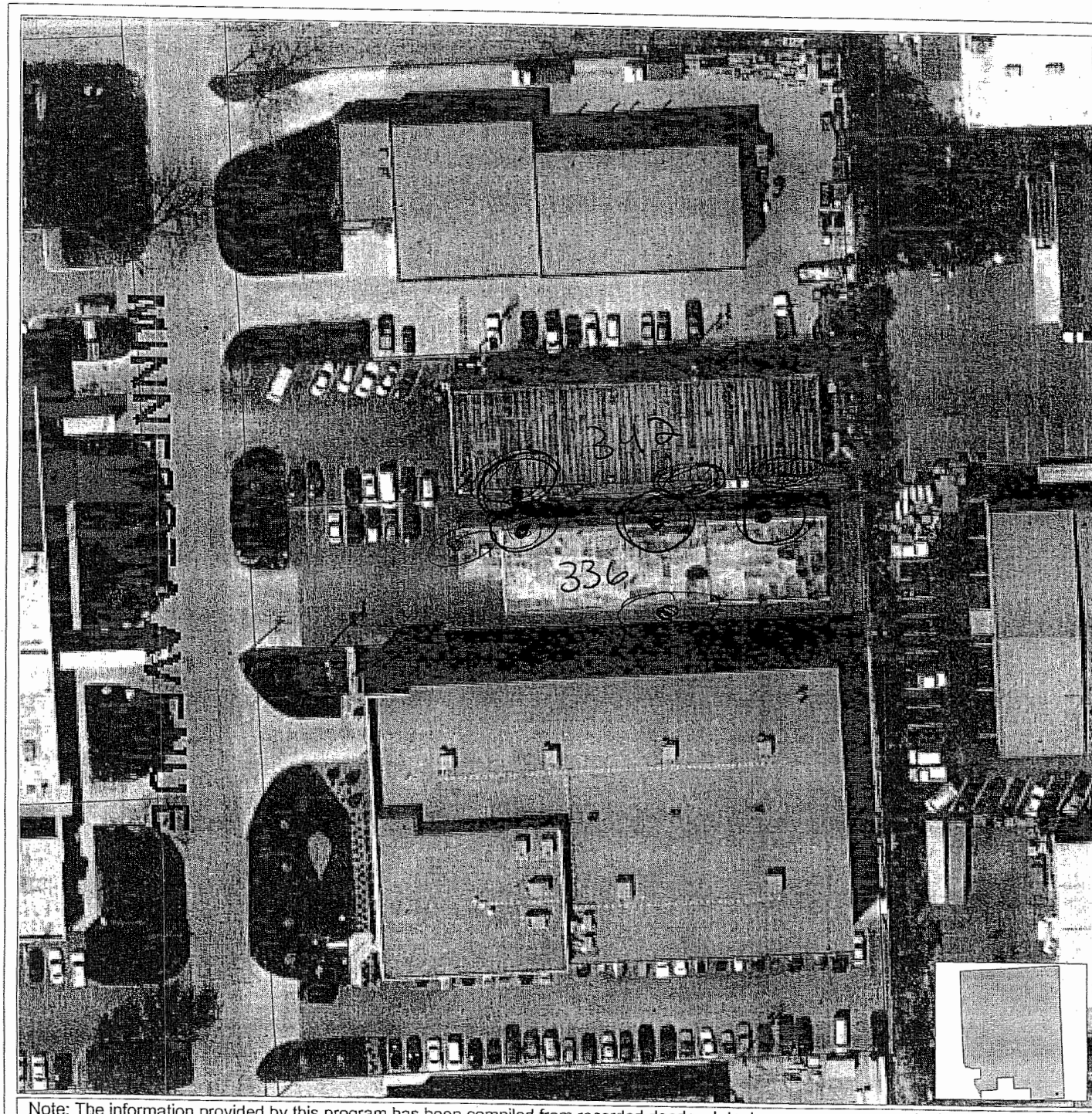
342 YAREMA DIE + ENG

N

Map Scale: 1" = 72'
Map Date: March 22, 2001
Data Date: Janurary 2001

Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey and is not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for verification of the information.

ITEM 8



City of Troy

CVTSight SnapShot

336 -342 Minnesota

Fire Lane Posting

Map Legend:

- LAKES
- BOUNDARY LINE
- MAJOR ROADS
- I-75
- LABEL ROAD NAMES
- PARCEL
- IMAGE AERIAL PHOTOS

336 E powerHouse PC
342 YAREMA ~~TOOL~~ Die Eng.

336 EPOWERHOUSE PC

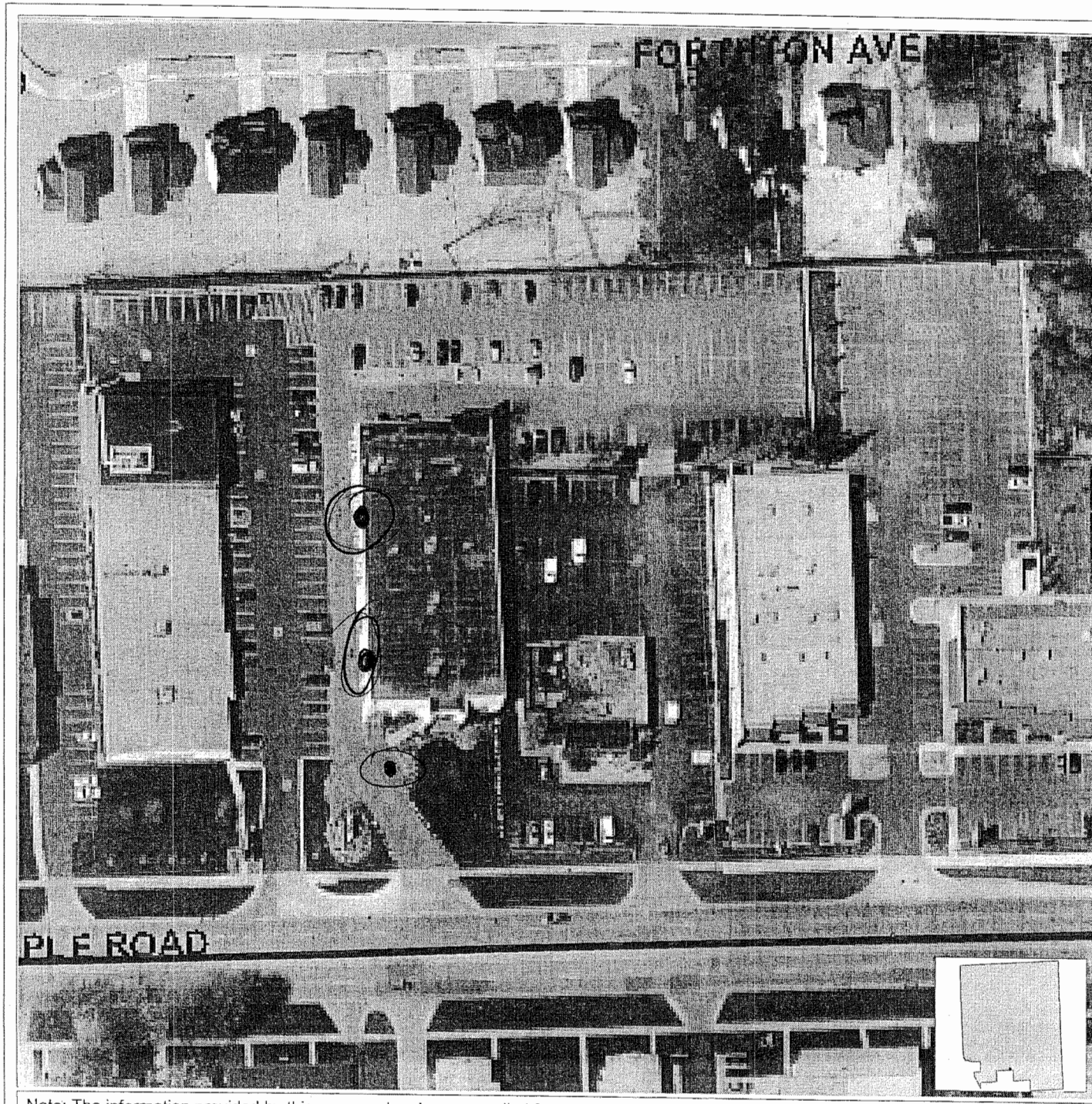
342 YAREMA DIE + ENG

N

Map Scale: 1" = 72'
Map Date: March 22, 2001
Data Date: Janurary 2001

Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for verification of the information.

ITEM 9



City of Troy

CVTSight SnapShot

230 W Maple

Fire Lane Posting

Map Legend:

- LAKES
- BOUNDARY LINE
- MAJOR ROADS
- I-75
- LABEL ROAD NAMES
- PARCEL
- IMAGE AERIAL PHOTOS

VACANT

OLD MAPLE COURTS

N

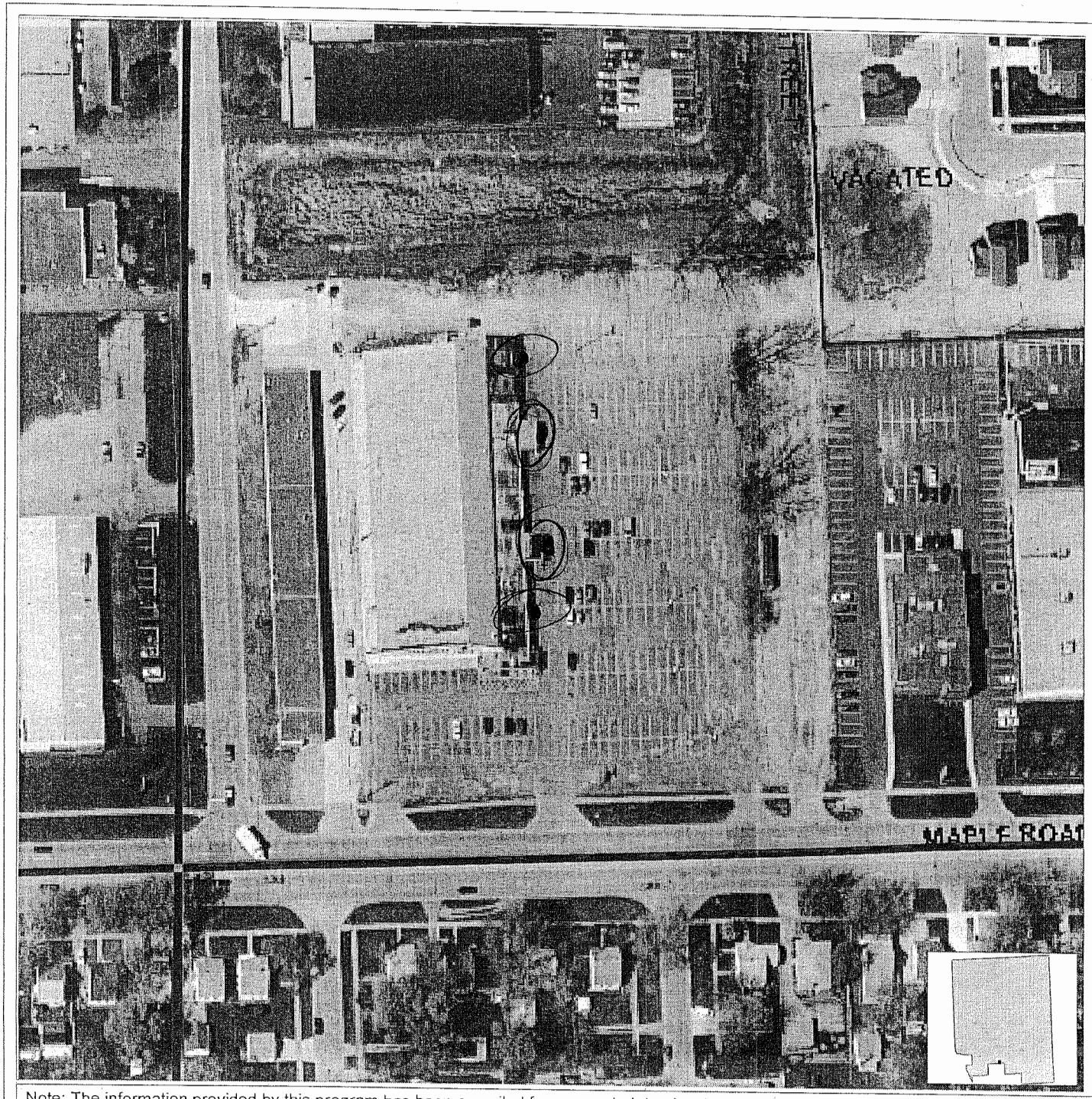
Map Scale: 1" = 101'

Map Date: April 5, 2001

Data Date: Janurary 2001

ITEM 10

Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for verification of the information.



City of Troy

CVTSight SnapShot

400 W Maple

Fire Lane Posting

Map Legend:

- LAKES
- BOUNDARY LINE
- MAJOR ROADS
- I-75
- LABEL ROAD NAMES
- PARCEL
- IMAGE AERIAL PHOTOS

Thunder Bird Lanes

N

Map Scale: 1" = 131'

Map Date: April 5, 2001

Data Date: Janurary 2001

PlanS GIS (INLE

Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey ar not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for verification of the information.

ITEM 11

TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: February 28, 2006
SUBJECT: Papadelis v. City of Troy

City Council has the option to file an appeal of the recent decision of Oakland County Circuit Court Judge Colleen O'Brien's recent decision in the *Papadelis v. Troy* lawsuit.

According to Judge O'Brien, the Papadelis family is conducting agricultural activities, rather than retail sales, on the northern parcel of their property. As a result, Judge O'Brien opined that the current use of the property is protected by the Right To Farm Act (RTFA). In addition, she also held that the Papadelis family was not required to obtain permits from the City to construct the greenhouses on the northern parcel. Under the State Construction Code Act, permits are not required for buildings or structures that are "incidental to agricultural uses of land." Since she found that agricultural uses were occurring, rather than retail sales, Plaintiffs were exempt from the permitting process for their greenhouses.

The initial litigation between the City of Troy and the Papadelis family was commenced in May 1991, in an effort to stop the tremendous expansion of Telly's Nursery in a residentially zoned district. The litigation between the parties has continued since that time, since Telly's Nursery continues to expand. Judge O'Brien's opinion, if unchallenged, could conceivably lead to additional expansion onto other properties owned by the Papadelis family.

If you have any questions concerning the above, please let us know.

TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: February 22, 2006
SUBJECT: Papadelis v. City of Troy

Enclosed please find a copy of the Opinion and Order issued by Oakland County Circuit Court Judge Colleen A. O'Brien in the most recent Papadelis v. Troy lawsuit. The initial litigation between the City of Troy and the Papadelis family was commenced in May 1991, in an effort to stop the tremendous expansion of Telly's Nursery in a residentially zoned district. The litigation between the parties has continued since that time, since Telly's Nursery continues to expand.

In the most recent case, the Papadelis family filed a complaint against the City and Troy Building and Zoning Director Mark Stimac and Housing and Zoning Inspector Supervisor Marlene Struckman. In this complaint, they asserted three separate counts. First, they argued that the City and its officials had allegedly violated their constitutional rights, and asserted that the City was required to pay damages and reimburse costs and attorney fees under 42 U.S.C. Section 1983. Second, they requested declaratory relief that would allow them to retain their business as is, since it was allegedly protected by the Right to Farm Act (RTFA) and/or the City's ordinance allowing agricultural uses on residential parcels over 5 acres. Third, they requested an injunctive order that would "permanently enjoin the Defendants (City) from interfering with the Plaintiff's agricultural use of the Property by issuing or enforcing previously issued misdemeanor citations, stop work orders or other tickets related to the Plaintiff's use of the Property, or pursuing any action against the Plaintiffs contrary to the RTFA, the State Construction Code Act, any ruling in the Prior Action, and the July 23 Order."

As to Count III, Judge O'Brien held that there was no authority or basis "for issuing such a blanket order" for injunctive relief. In addition, Judge O'Brien held that "there is no question of fact that the actions of Defendants do not implicate any constitutional violations," and dismissed the request for damages and reimbursable costs and attorney fees.

The City's victory in this case was not absolute, however. Judge O'Brien, in her opinion, found that the Papadelis family was conducting agricultural activities, rather than retail sales, on the northern parcel. As a result, the current use of the property is protected by the RTFA. In addition, Judge O'Brien also determined that the Papadelis family was not required to obtain permits from the City to construct the greenhouses on the northern parcel. Under the State Construction Code Act, permits are not required for buildings or structures that are "incidental to agricultural uses of land." Since she found that agricultural uses were occurring, rather than retail sales, Plaintiffs were exempt from the permitting process for their greenhouses. Judge O'Brien also dismissed the City's counter-claim, since she found that they were using the property for agricultural purposes.

If you have any questions concerning the above, please let us know.

05-067029-CZ
OAKLAND COUNTY JUDGE COLLEEN A. O'BRIEN
PAPADELIS,GUS V TROY CITY

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

GUST PAPADELIS, NIKI PAPADELIS, TELLY'S GREENHOUSE AND GARDEN CENTER, INC., a Michigan Corporation, AND TELLY'S NURSERY, L.L.C., a Michigan Limited Liability Company,

Plaintiffs/Counter-Defendants,

v

Case No. 05-067029-CZ
Hon. Colleen A. O'Brien

CITY OF TROY, A MICHIGAN MUNICIPAL CORPORATION, MARK STIMAC, MARLENE STRUCKMAN, AND JOHN/JANE DOE(S).

Defendants/Counter-Plaintiffs.

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2006 FEB 17 P 3:08
BY: DEPUTY COUNTY CLERK

OPINION AND ORDER

I. INTRODUCTION

This matter is before the Court on Plaintiffs/Counter-Defendants' ("Plaintiffs") motion for partial summary disposition and Defendants/Counter-Plaintiffs' ("Defendants") motion for summary disposition pursuant to MCR 2.116(C)(10). The Court, having heard oral argument and having reviewed the parties' respective motions, responses and supporting documentation in light of applicable law, enters the following opinion and order.

Plaintiffs claim this case is about the arbitrary, capricious and unlawful actions of Defendant City of Troy and its officials who have refused to comply with the City's

ordinances, Michigan law and this Court and are attempting to shut down Plaintiffs' lawfully operating greenhouse and plant nursery. In contrast, Defendants claim this case is about Plaintiffs' efforts to expand a retail business in violation of the City of Troy's zoning ordinances.

II. BACKGROUND

The instant case arises out of Plaintiffs' construction of greenhouses on their property, specifically the northern portion of their property. The parties are not new to the Court and have a long and tortured history of litigation. Thus, a detailed background is helpful here.

Plaintiffs Gust Papadelis and Niki Papadelis, husband and wife, are the record titleholders of two contiguous parcels of property located at 3301 John R. Road (the "North Parcel") and 3305 John R. Road (the "South Parcel"). The area, which has been farmed for many years, was zoned for residential use in 1956. Plaintiff Telly's Greenhouse and Garden Center is a Michigan corporation. Plaintiff Telly's Nursery is a limited liability company. The Papadelises, Telly's Greenhouse and Garden Center and Telly's Nursery shall be collectively referred to as Plaintiffs.

Defendant City of Troy ("City") is a municipal corporation. Defendant Mark Stimac is the Director of Building and Zoning for the City. Defendant Marlene Struckman is employed by the City as an inspector. Defendants John/Jane Does(s) are municipal agencies or boards and/or those persons within the City whose decisions constitute the official policy of the City.

Mr. and Mrs. Papadelis purchased the North Parcel in 1974 and purchased the South Parcel in 1977 or 1978. The Papadelis residence is located on the North Parcel.

On the South Parcel is a greenhouse/nursery operation. Both parcels are zoned for residential use. The retail nursery operation on the South Parcel, as discussed below, has been found to be a legal nonconforming use of that parcel.

Plaintiffs have utilized the South Parcel for the storage, growing and display of flowers, plants, perennials and shrubs since 1978. In 1980, Mr. Papadelis received permission from the Zoning Board of Appeals to build a pole barn. In 1988, he received permission to build a new greenhouse to replace seven dilapidated greenhouses on the South Parcel. The new greenhouse was approximately 4000 square feet larger than the variance granted by the City. Subsequent to the widening of John R in 1988, Plaintiffs constructed a parking lot on the North Parcel, the residential parcel.

In May of 1991, the City initiated a lawsuit in the Oakland County Circuit Court entitled City of Troy v Gust and Niki Papadelis d/b/a Telly's Greenhouse and Garden Center, Case No. 91-410854-CZ (the "Prior Action"). The City sought injunctive relief against certain uses, which Plaintiffs were making of their property. The City claimed that Plaintiffs' use of their property for a nursery constituted a nuisance per se because it did not conform with the City's zoning regulations.

Circuit Court Judge Jessica Cooper ruled and the Court of Appeals affirmed that the Defendants' operation of a nursery on the South Parcel could continue as a valid nonconforming use. City of Troy v Papadelis, unpublished opinion per curiam of the Court of Appeals, decided May 10, 1996 (Docket No. 172026), affirmed in part and reversed in part. However, with regard to the North Parcel, the Court of Appeals found that Plaintiffs had no right to violate the zoning ordinance because "the expansion of the nursery business onto the residential parcel occurred after the zoning ordinance was

enacted and was not protected by the Right to Farm Act (RTFA)." The Court of Appeals found that the trial court's finding to the contrary was erroneous. Id. at *3.

After the Court of Appeals issued its opinion, the defendants in the appeal, Plaintiffs herein, appealed to the Michigan Supreme Court, arguing that the circuit court erred in finding that they could not continue to use the residential parcel for parking and other nursery-related uses. Troy v Papadelis (On Remand), 226 Mich App 90, 94 (1997). Plaintiffs claimed that since the time they had filed the appeal in the Court of Appeals, the RTFA had been amended to provide greater protection to farming operations. Id. Thereafter, the Michigan Supreme Court vacated the Court of Appeals' earlier decision and remanded the case back to the Court of Appeals for reconsideration in light of the amendment of the RTFA. Id.

On remand, the Court of Appeals reaffirmed that the trial court was correct that Plaintiffs' operation of a nursery on the South Parcel could continue as a valid nonconforming use because it had been used for farming, greenhouse, and nursery purposes since the area was zoned for residential use in 1956. Id. at 95-96. However, as stated by the Court of Appeals, the "closer question" was defendants', Plaintiffs herein, use of the North residential parcel for the operation of the nursery, including the storage and display of farm products and the parking of customer and employee automobiles. Id. at 96. The Court of Appeals found that because there had been no commercial use of the property on the North residential parcel before 1974, when defendants, Plaintiffs herein, purchased it, it was not a valid nonconforming use. The Court of Appeals found that the RTFA did not preclude the application of the Township Rural Zoning Act. Accordingly, because the prior action was filed to enforce a zoning ordinance, the RTFA did not apply.

Id. The Court of Appeals then remanded the case for entry of an order enjoining the commercial use of the North Parcel. Id. at 98. This ruling was in October of 1997. However, the order was not entered until March of 2002, as more fully discussed below.

After the Court of Appeals decision on remand, the Plaintiffs continued to use the North Parcel for parking, selling, receiving, and growing. On February 18, 2002, an item agenda for the City Council meeting was entitled, "Telly's Proposed Consent Judgment." However, Plaintiffs' proposed Consent Judgment was not entered and the City Council was directed to obtain an order regarding the remand from the Court of Appeals.

Finally, on March 27, 2002, an order, approved as to form by both sides, was entered in the Oakland County Circuit Court, which provided:

1. Defendants Gust Papadelis and Niki Papadelis, d/b/a Telly's Greenhouse and Garden Center, are hereby enjoined from commercial use of the northern parcel, more commonly known as 3301 John R. Road, in the City of Troy.

2. Defendant's use of the northern parcel (3301) John R. Road in the City of Troy shall be consistent with the R-1-D residential zoning district of the City of Troy.

3. The Circuit Court shall retain jurisdiction over this mater to enforce the provisions of this order.

4. Defendants shall remove all commercial materials within 30 days of entry of this order on the northern parcel. (3301 John R. Rd.).

5. Defendants shall immediately cease all commercial parking on the northern parcel.

At the time of the Prior Action, the North Parcel consisted of the property with the residential home on it. However, Plaintiffs acquired some additional property north of the home on the North Parcel. Plaintiffs believed that because they owned in excess of

five acres, they could now conduct agricultural/farming operations on the North Parcel under City ordinance.

On April 25, 2002, Plaintiffs wrote a letter to the City Attorney indicating that they believed the purchase of the additional property met the requirements of the ordinance definition for agricultural use. Plaintiffs further indicated that in order to conform with the March 22, 2002 Order, they were moving non-agricultural products from the North Property. Plaintiffs then continued to remove commercial activity from the North Parcel.

On May 13, 2002, the City filed an ex parte motion for order to show cause in the Prior Action case alleging that the Papadelises failed to comply with the terms of the March 27, 2002 Order. On June 26, 2002, this Court conducted an evidentiary hearing. At the evidentiary hearing, Plaintiffs indicated they used the North Parcel for storage, production of annuals, perennials, trees and shrubs. Plaintiffs indicated that what they were doing on the North parcel was consistent with the ordinance. They asserted they did not allow customers on the North Parcel. Annuals were grown in pots on the North Parcel and taken to the South Parcel to be sold.

On July 23, 2002, this Court issued an Opinion and Order, which contained the following findings:

> Although the Papadelises were in contempt of court for their failure to comply with the order entered on March 27, 2002, the actions of the City contributed to the Papadelises' inability to comply with the court's order.
>
> Papadelises are currently in compliance with the Court's order based upon changes they made to the property.
>
> Papadelises' purchase of five acres allows them to use the North Parcel for agricultural use under the City's zoning ordinance.

The City's motion for reconsideration was denied and its claim of appeal to the Michigan Court of Appeals was rejected.

It appears things were somewhat peaceful between the parties until Plaintiffs built two large greenhouses on the North Parcel, behind the house. The business entity, Telly's Greenhouse and Garden Center, owns the greenhouses.

Apparently, Defendant Struckman received a complaint after the greenhouses were constructed. She then inspected the property on April 2, 2003. After Struckman's inspection, she issued two citations to Plaintiff Gust Papadelis for constructing a greenhouse without Board of Zoning Appeals approval as required by Section 57.10 of the zoning ordinance and for constructing a building over 660 square feet in size and more than one-half the ground floor area of the main building contrary to Section 40.57.04 of the zoning ordinance. The tickets were filed in the 52/4 District Court.

On April 10, 2003, Plaintiffs' attorney made a written request to the City to dismiss the tickets premised on the allegation that this Court's July 23, 2002 Order and that the Michigan Right to Farm Act, MCL 286.471, et seq., allowed the structures to be built. Plaintiffs counsel also asserted that the issuance of the tickets constituted contempt of the circuit court's July 23, 2002 order. The tickets were not dismissed.

Thereafter, on April 15, 2003, Plaintiffs filed a lawsuit in federal court. Shortly after filing the federal lawsuit, upon stipulation of the parties, a stay of proceedings was entered in the 52/4 District Court pending final outcome of the federal litigation. The stay in that court has been modified so that it will continue until a final outcome of the instant case now before this Court.

In response to the federal court complaint, the City of Troy filed a counterclaim. Plaintiffs then filed a motion to dismiss the City's counterclaim for procedural reasons. That motion was granted and the City's counterclaim was dismissed without prejudice. The City of Troy then filed its own motion to dismiss Plaintiffs' complaints for both procedural grounds and on the merits. The federal count granted the motion based on procedural reasons but declined to reach the merits on the case. The federal court order directed Plaintiffs to re-file its complaint in this Court. In accordance with that order, Plaintiffs have filed the present cause of action and the Defendants have filed a counterclaim.

III. DISCUSSION

In Plaintiffs' motion for partial summary disposition, Plaintiffs assert that Defendants' Counterclaim should be dismissed, a judgment entered in favor of Plaintiffs on Counts II and III of their Complaint, that Defendants should be adjudged liable to the Plaintiffs on Count I of their Complaint, and that trial should be limited to the issue of damages and attorney fees on the Plaintiffs' claims under 42 USC 1983 and 1988.

In response, Defendants request summary disposition in their favor and request an order dismissing Plaintiffs' Complaint in its entirety with prejudice and an order granting judgment in favor of Defendant City of Troy on its Counterclaim.

A motion for summary disposition under MCR 2.116(C)(10) tests the factual support of a claim. Spiek v Dep't of Transportation, 456 Mich 331, 337 (1998). When deciding the motion, the court must consider the pleadings, affidavits, depositions, admissions, and other documentary evidence in the light most favorable to the nonmoving party. Ritchie-Gamester v Berkley, 461 Mich 73, 76 (1999). The moving

party has the initial burden of supporting its position with documentary evidence, and the party opposing the motion then has the burden of showing that a genuine issue of fact exists. Smith v Globe Life Ins Co, 460 Mich 446, 455 (1999). The nonmoving party may not rest on mere allegations or denials but must set forth specific facts--through documentary evidence--showing that a genuine issue of fact exists. Karbel v Comerica Bank, 247 Mich App 90, 97 (2001).

Count I of Plaintiffs' Complaint asserts a violation of 42 USC 1983. Count II of Plaintiffs' Complaint seeks declaratory relief. Count III of Plaintiffs' Complaint seeks injunctive relief. What can be gleaned from the Counterclaim is that Defendants seek an abatement of nuisance and injunctive relief.

Count I – Violation of 42 USC 1983

Both sides seek summary disposition in their favor as to this count. Plaintiffs have brought their claim under 42 USC 1983, which provides a federal remedy against any person who, under color of state law or custom having the force of law, deprives another of rights protected by the constitution or laws of the United States. See Payton v City of Detroit, 211 Mich App 375, 398 (1995). The state and federal constitutions guarantee that no person will be deprived of life, liberty, or property without due process of law. US Const, Am XIV; Const 1963, art 1, section 2; In re Hawley, 238 Mich App 509, 511 (1999). The essence of a claim of violation of substantive due process is that the government may not deprive a person of liberty or property by an arbitrary exercise of power. Id.

Plaintiffs allege that Defendants violated their substantive due process rights by entering into a course of action designed to impermissibly interfere with their ability to

conduct business. Plaintiffs argue the right that is impacted is their right to put the Property to a use that is not only lawful, but is designated as a principal permitted use under the City's zoning ordinance. Defendants respond that Plaintiffs failed to produce evidence establishing an issue of fact with respect to the Section 1983 claims.

A property owner's right to use its property for lawful purposes is a protected right under the law. A property owner possesses the right to build or improve his or her property, although this right can be subject to legitimate permitting requirements or application of a land-use regulations. Nollan v California Costal Comm'n, 483 US 825, 834 (1987). Malicious, irrational and arbitrary governmental actions, which place restraints on an individual's property rights violate substantive due process. Sinaloa Lake Owners Ass'n v City of Simi Valley, 882 F2d 1398 (CA 9,1989). A substantive due process claim does not require proof that all use of property has been denied, but rather that the interference with property rights was irrational or arbitrary. Id.

Plaintiffs' arguments regarding the constitutional violations are based primarily on their indignation and frustration with Defendants over the events leading up to the instant case. Certainly, the same is fueled by the past dealings and litigation between the parties. However, Plaintiffs fail to provide facts or law that would actually implicate any constitutional violations.

This Court addresses individually Plaintiffs' claims that Defendants engaged in certain arbitrary actions regarding the property and Plaintiffs:

A. The City encourages Plaintiffs to negotiate and spend thousands of dollars on a site plan, then refused to enter into a consent judgment

Plaintiffs claim that in 2001, they approached the City about the possibility of resolving the prior action. Plaintiffs contend they spent a lot of money on site plans but that a consent judgment was never entered. Recall that the issue of Plaintiffs' proposed consent judgment was discussed at the February 18, 2002 City Council meeting. During such meeting, various people opposed the same. The City Council rejected the entry of the consent judgment.

However, Plaintiffs fail to demonstrate how the City's failure to enter into a consent judgment rises to the level of a constitutional violation. Plaintiffs provide no authority for their argument that the City's decision not to enter into a consent judgment constitutes an arbitrary or unreasonable action in violation of the United States or Michigan Constitutions.

Moreover, the evidence shows that Plaintiffs freely took it upon themselves to try and secure a consent judgment. Here, George Papadelis, the son of Plaintiffs Gust and Niki Papadelis, stated in his affidavit that he "believed it would be better for both the City and my family if a consent agreement was in place that governed the use of the Property and allowed us to redevelop the Property to accommodate the business and its potential impact on the neighbors." According to Mr. Papadelis, his family spent thousands of dollars with a professional planner and surveyor in order to develop a plan that would "fairly meet the needs and concerns of our businesses, the City of Troy and our neighbors."

Therefore, the Court concludes that the City's actions in regard to Plaintiffs expenditures and its eventual rejection of the Plaintiffs' proposed does not implicate any constitutional violations.

Plaintiffs further argue that rather than enter into a consent judgment, the City Council voted at the meeting on February 18, 2002 to take Plaintiffs to court. Plaintiffs characterize this as some kind arbitrary action taken against them. However, the evidence indicates that the City Council was not directed to institute any new action. The order sought was based upon the Court of Appeals' ruling on remand from the Supreme Court that commercial activity was prohibited on the North Parcel.

Therefore, the Court concludes that the City Council's seeking of an order corresponding to the Court of Appeals decision on remand does not constitutes an arbitrary or unreasonable action that violated Plaintiffs' constitutional rights.

B. The City ignores this Court's finding that the Papadelises own more than five acres of property.

Recall that on July 23, 2002, this Court issued an Opinion and Order, which found that Defendants were in compliance with the Court's order of March 27, 2002 based on the changes they made and the purchase of the five additional acres which allowed Defendants to use the northern parcel for agricultural use under the Zoning ordinance. Plaintiffs claim that after this Court so ruled they attended a meeting with representatives of the City of Troy, including the City Assessor, Mark Stimac and others, at which time the City's representatives told Plaintiffs that they could not use the Property for agricultural uses because the Property was divided into more than one parcel. At the same meeting, Plaintiffs were told that the City would not combine the parcels into one tax identification. However, the Court concludes that merely being told the same at some meeting, which has no legal effect, does not rise to the level of a constitutional violation of Plaintiffs' property rights.

C. The City initiates a program of placing the Property under surveillance.

The accusation of some kind of "surveillance" is not substantiated. Plaintiffs claim that in February of 2002, the City began to regularly "inspect" the Property looking for violations of the Zoning Ordinance. Plaintiffs claim that the city conducted twenty-one inspections. Plaintiffs have attached at Exhibit J, certain print outs, which are unreadable. Plaintiffs claim that a significant portion of these "inspections" were conducted without any City employees coming on the Property. All that can be gleaned from the evidence is that the City responded to some complaints concerning Plaintiffs' property. Plaintiffs fail to demonstrate how any of the alleged activity violates their constitutional rights.

D. The City's failure to uniformly apply its zoning ordinance.

In their Complaint, Plaintiffs have made no specific claim of a constitutional violation other than substantive due process. However, under Count I, Plaintiffs contend that the City has attempted to preserve the residential character of their Property while at the same time allowing commercial development of nearby property where the Troy Sports Center is located. This appears to invoke an equal protection argument. In their brief, Plaintiffs raise further equal protection violations concerning Defendants' treatment of a poultry farm and another resident with a large garage.

In broad terms, the equal protection doctrine mandates that persons in similar circumstances be treated similarly. See Dowerk v Oxford Charter Twp, 233 Mich App 62, 72-73 (1998). However, notwithstanding the fact that the equal protection claim has not been pled, Plaintiffs fail to provide any specific factual support for their broad assertions. Therefore, the equal protection claim is without merit.

Accordingly, summary disposition as to Count I is granted in favor of Defendants. There is no question of fact that the actions of Defendants do not implicate any constitutional violations.

Count II – Declaratory Relief

Plaintiffs ask this Court to issue a declaratory judgment in their favor that Plaintiffs' agricultural uses of the Papadelises property is a protected activity under the Michigan Right to Farm Act ("RTFA"), MCL 286.471, et seq., and is exempt from the City's zoning ordinance, that, the exemption notwithstanding, the Plaintiffs' use of the property complies with the City's zoning ordinance, and that the Plaintiffs' agricultural uses are exempt from the State Construction Code.

MCL 286.473(1) of the RTFA provides:

> (1) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary.

The purpose of the RTFA is to protect farmers from nuisance suits. See Travis v Preston (On Rehearing), 249 Mich App 338, 342 (2002). A "farm" is defined as "the land, plants, animals, buildings, structures, . . . used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products." MCL 486.472. "Farm operation" is defined as "the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, ..." MCL 486.472(b). "Farm products" are "those plants and animals useful to human beings produced by agricultural and includes . . . herbs, fruits,

vegetables, flowers, seeds, grasses, nursery stock, trees and tree products." MCL 286.4719(c).

MCL 286.474(6) provides:

> Beginning June 1, 2000, except as otherwise provided in this section, it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices developed under this act. Except as otherwise provided in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act.

According to the City, Plaintiffs are not farmers facing the possibility of losing the farm. Rather, Plaintiffs are business people trying to justify the unlawful expansion of their retail business under the pretense of operating a farm. The City contends it is not seeking an order to preclude Plaintiffs from engaging in farming activities. The City contends it is seeking an order to prevent the continued unlawful expansion of Plaintiffs' retail business. More specifically, according to the City, the greenhouses on the North Parcel constitute an unlawful expansion of Plaintiffs' retail business, in violation of Section 40.50.03(A) of Troy's Zoning Ordinance. This section provides:

> Non-Conforming Uses of Land
> Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
>
> A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

In contrast, it is Plaintiffs' position that the operations on the North Parcel are restricted to agricultural uses, including the growing, sustaining and nurturing and

wholesale of various floriculture and horticulture products including flowers, shrubs, trees and bushes. Plaintiffs contend that all of these are farming activities, which are protected under the RTFA.

Accordingly, the issue becomes whether retail sales are taking place on the North Parcel. The Court's focus is directed to the greenhouses that were built on the northern parcel after Plaintiffs' acquired additional property. The City claims there is no dispute that the greenhouses are used for retail. The Plaintiffs claim that Defendants have no evidence that retail sales take place in the greenhouses.

First, the City relies on the fact that Telly's Greenhouse and Garden Center, which operates a retail business on the southern parcel, also owns the greenhouses. Thus, according to the City, the greenhouses must be part of the retail operations. However, this conclusion, without more, does establish that retail operations are taking place out of the greenhouses.

Additionally, the City relies upon the depositions of certain persons residing on neighboring properties. However, such depositions do not establish that retail sales are taking place on the North Parcel.

Here, Rosalie Allie, whose property is adjacent to the northern parcel, was deposed on December 14, 2004. In reference to the North Parcel, Ms. Alie contends that she "has seen customers on the property." Ms. Alie reaches this conclusion because such people were "not dressed in the green that designate Telly's Greenhouse." Ms. Alie also asserts that such people, supposedly not in green, are choosing plants and "someone comes and takes them after they choose them." Ms. Alie cannot state the time when she has seen such activity other than those times when she is in her kitchen because her

"dining nook faces that property so you see everything." Ms. Alie also testified that she had not seen the exchange of any money. In addition, she doesn't know why the people she allegedly saw were on the northern parcel. Thus, all that such testimony shows is that certain unidentified persons, not wearing green, were observed on the northern parcel from a window of a neighbor. The Court finds such evidence does not show that retail operations are taking place on the North Parcel.

The City also relies on the deposition testimony of Donna Dodoro. Ms. Dodoro claims she knows that the people on the northern property are customers because she can see them from her backyard. She states such people are "mothers and fathers, sometimes they have their children with them; other times they have an actual Telly's employees with them pointing out different merchandise and directing them to various plants and materials." She contends she has observed the aforesaid mothers, fathers, and children and employees "over the past several years." She never saw money changing hands but that "they would take it to the cash register, which is on the southern property."

Again, the Court finds such testimony to be speculative and not supportive of Defendants' position that retail sales are taking place on the North Parcel. If anything, what the testimony shows is that a cash register is on the southern parcel, which would actually support Plaintiff's position that sales on not taking place on the northern parcel.

Finally, the City points to the admission of Mr. Papadelis that the northern parcel is used by employees and for the purposes of storing overflow product from the retail business. The Court fails to see how this supports the City's argument that retail sales are taking place on the northern parcel. This admission actually supports Plaintiffs position that retail sales are only taking place on the southern parcel.

In contrast, the evidence presented by Plaintiffs shows that customers are not allowed on the North Parcel. George Papadelis, the president of Plaintiff Telly's Greenhouse and Garden Center, Inc. and the son of Plaintiffs Gust and Niki Papadelis in his affidavit states that the greenhouses and cold frames on the North Parcel are used for cultivation, only. Customers are not allowed inside of them. When the plants inside are ready for retail sale, they are moved from the North Parcel to the South Parcel. Any customers who wander into the area are immediately escorted back to the South Parcel. There is no evidence that cash registers are located on the North Parcel or that any exchange of money is taking place on the North Parcel.

Defendants offer no contrary evidence that would create a question of fact as to whether retail sales are occurring on the North Parcel. Accordingly, because the evidence demonstrates that only agricultural activities are taking place, such use of the property is protected activity under the RTFA.

Plaintiffs further seek a declaration from this Court that the State Construction Code Act, MCL 125.1501, et seq allows the Plaintiffs to construct greenhouses without the need to apply for building permits from the City. The State Construction Code act does not require building permits for buildings or structures that are incidental for agricultural uses of land, so long as they are not used in the business of retail trade. MCL 125.1510(8); MCL 125.1502a(1)(f); MCL 125.1502a(1)(z).

Defendants argue that the State Construction Code Act is not applicable here for the reason that the activities taking place on the North Parcel are retail. However, as set forth above, the Court has found there is no issue of fact that retail sales are not taking

place on the North Parcel. Accordingly, the Court finds the exemption under the State Construction Code Act to be applicable to Plaintiffs.

At this point, the Court wishes to addresses Defendants' Counterclaim. Defendants give scant attention, let alone any analysis, to this particular claim in their brief. In any event, Defendants claim they are entitled to summary disposition for the reason that Plaintiffs' continued use of the northern parcel for activity related to the retail business on the southern parcel is a nuisance per se which must be abated by order of this Court. Pursuant to Section 7 of the City and Village Zoning Act, MCL 125.587, any building erected or use carried on in violation of the zoning ordinance is a nuisance per se entitling the City to a court order abating such nuisance.

As can be gleaned from Defendants' Counterclaim, Defendants are specifically claiming that Plaintiffs' "present use of their property is not in accordance with Section 10.20.02 of Troy's Zoning Ordinance. Section 10.20.01 lists the principal uses permitted in One Family Residential District (R-1A through R-1E). This section provides that "no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this Chapter.

Section 10.20.02 provides:

> Agriculture on those parcels of land separately owned outside the boundaries of either a proprietary on supervisor's plat, having an area of not less than five (5) acres; all subject to the health and sanitation provisions of the Code of the City of Troy.

However, buried in another portion of their briefs, the City contends that Section 10.20.02 is "not applicable to the present case because Plaintiffs are not using the northern parcel located at 3301 John R. for agricultural purposes." The City contends that Plaintiffs "instead, have used that parcel as an expansion of their retail business on

the south parcel in violation of the zoning ordinance." See "Brief in Support of Defendants' Answer to Plaintiffs' Motion for Partial Summary Disposition."

Recall that this Court has previously found that the activities on the North Parcel are agricultural and not retail. Moreover, as correctly noted by Plaintiffs, this Court previously found after the evidentiary hearing on June 26, 2002 that the "Papadelises' purchase of five acres allows them to use the North Parcel for agricultural use under the City's zoning ordinance." Thus, Section 10.20.02 provides no basis for the relief requested by Defendants in their Counter Claim for abatement of a nuisance.

The Court finds the real issue in the Counterclaim to be the expansion of a nonconforming use by Plaintiffs. This would implicate a violation of Section 40.50.03(A) of Troy's Zoning Ordinance. However, as set forth above, this Court has found that retail sales are not taking place on the North Parcel. Thus, there is no expansion of a nonconforming use. Accordingly, there is no violation of Section 40.50.03(A).

Therefore, the Court grants summary disposition in favor of Plaintiffs as to the Counterclaim.

Count III – Injunctive Relief

Plaintiffs ask this Court to permanently enjoin the Defendants from interfering with the Plaintiffs' agricultural uses of the Property by issuing or enforcing previously issued misdemeanor citations, stop work orders or other tickets related to the Plaintiffs' use of the Property, or pursuing any action against the Plaintiffs' contrary to the RTFA, the State Construction Code Act, any ruling in the Prior Action, and the July 23 Order.

Plaintiffs fail to cite to any authority or provide a basis for issuing such a blanket order. The Court finds the language in the order, as requested by Plaintiffs, to be over broad, overreaching and ambiguous.

THEREFORE, IT IS HEREBY ORDERED that summary disposition is granted in favor of Defendants' as to Count I of Plaintiffs' Complaint.

IT IS FURTHER ORDERED that as to Count II, the Court finds that Plaintiffs' use of the North Parcel constitutes an agricultural use, which is a protected activity under Michigan Right to Farm Act ("RFTA"), MCL 286.471, et seq; that Plaintiffs are exempt from Section 40.50.03(A) of the City of Troy's Zoning Ordinance; and that Plaintiffs are exempt under the State State Construction Code Act, MCL 125.1501, et seq,

IT IS FURTHER ORDERED that the relief as requested in Count III is DENIED.

IT IS FURTHER ORDERED that summary disposition in favor of Plaintiffs as to Defendants' Counterclaim is GRANTED.

IT IS FURTHER ORDERED that this Opinion and Order resolves the last pending claim and closes the case.

IT IS SO ORDERED.

Dated: 2-17-06

Colleen A. O'Brien

Hon. Colleen A. O'Brien

A TRUE COPY
RUTH JOHNSON
Oakland County Clerk - Register of Deeds
By: S. Wagner
S. Wagner Deputy

TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: February 21, 2005
SUBJECT: Fehribach v. City of Troy (political sign case)

The ACLU, on behalf of Plaintiff Kent Lawrence Fehribach, filed a complaint against the City of Troy in Federal District Court, challenging Troy's political sign ordinance. In his complaint, Fehribach sought a preliminary injunction that would prohibit the City from enforcing its former Chapter 85 Political Sign Ordinance. The Plaintiff also sought a declaration that the political sign ordinance was unconstitutional, and requested damages, as well as reimbursed costs and attorney fees. On October 18, 2004, after extensive briefing by the parties, Judge Paul Gadola of the U.S. District Court granted Plaintiff's request for a preliminary injunction. Subsequently, the City of Troy amended its sign ordinances. Our office then filed a Motion for Summary Judgment, arguing that the case was now moot, and should be dismissed. Plaintiff also filed a Motion for Summary Judgment, where he argued that he was entitled to a declaration that the rescinded ordinance was unconstitutional. In this Motion, Plaintiff also requested nominal damages, in order to trigger the mandatory reimbursement of his attorney fees and costs, which is provided in 42 U.S.C. § 1983.

Judge Gadola issued his opinion and judgment in favor of Plaintiff on January 30, 2006, and awarded him $1.00 in damages. This opinion is attached. Plaintiff thereafter filed his Motion Requesting Attorney Fees and Costs, seeking $30,950.00 in attorney fees and $334.22 in costs ($31,285.22 total).

The explicit language of the federal statute provides that the Court MAY award attorney fees to the prevailing party in a civil rights cause of action, such as this case. However, although the statute is literally discretionary, the United States Supreme Court has interpreted this provision as being mandatory – a court *must* award reasonable attorney fees to the prevailing party. Although the City's damage liability is only $1.00, Plaintiff is the prevailing party in this case.

The continuation of this lawsuit for the sole purpose of challenging the attorney fees will actually increase the total amount of money that the City is required to pay. Therefore, our office requests the authority to settle the motion for attorney fees and to finalize this case. Plaintiff's motion for attorney fees takes the hours spent by each attorney the case, which is multiplied by the attorney's typical hourly rate. The figure for Plaintiff's costs is also documented, and includes filing fees, express mail, and deposition transcripts.

As always, if you have any questions concerning the above, please let us know.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENT LAWRENCE FEHRIBACH, JR.,

Plaintiff,

v.

CIVIL CASE NO. 04-40279

THE CITY OF TROY,

Defendant.
_____/

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Before the Court are Plaintiff Kent Fehribach's and Defendant City of Troy's cross motions for summary judgment, both filed on September 16, 2005. For the following reasons, the Court will deny the City's motion and grant Plaintiff's motion.

I. Background

Less than a week after Plaintiff had placed a political sign in his front yard advocating for a candidate for the November 2, 2004 presidential election, a City of Troy housing inspector advised him that it had to be taken down because it violated the City's ordinance regulating political signs, Chapter 85-A of the City of Troy Code. Specifically, section 3(b)(2) of the ordinance prohibited the display of political signs regarding an election except for thirty days prior to, and ten days after, the election. Chapter 85-A also contained a provision, section 3(b)(1), which limited the number of political signs on any parcel of real property to two signs. Chapter 85-A was solely concerned with regulating political signs. The City had a separate ordinance, Chapter 78, concerned with the

regulation of signs generally.

Wishing to erect his presidential candidate sign more than thirty days prior to the election, and wishing to erect two additional political signs for state and local candidates, Plaintiff filed his "Verified Complaint for Declaratory, Injunctive and Other Relief" on September 27, 2004. In addition to seeking a temporary restraining order ("TRO") and a preliminary and permanent injunction enjoining the City from enforcing the applicable sections of the political sign ordinance, the complaint also seeks declaratory relief, nominal damages, costs, and attorney's fees. Contemporaneous with his complaint, Plaintiff filed a motion for a TRO, which was granted by Judge George Caram Steeh, acting as presiding judge, after a hearing on September 29, 2004. Plaintiff then filed a motion for a preliminary injunction seeking to enjoin the City from enforcing the numerical limit of the ordinance. Plaintiff did not then seek to enjoin the enforcement of the provision which prohibited the display of election signs except for thirty days prior to an election because, at the time, the election in question was less than thirty days away. The Court granted Plaintiff a preliminary injunction on October 18, 2004, on the grounds that, *inter alia*, Plaintiff showed a strong likelihood of success on his claim that the provision of the City's political sign ordinance limiting the number of political signs was unconstitutional, because it was unlikely that the City's ordinance would meet the requirements of a valid time, place, or manner restriction, or pass strict scrutiny. Essential to the Court's decision was its holding that the City's political sign ordinance was likely to be found to be a content-based speech restriction, because it was solely concerned with political speech.

On September 16, 2005, Plaintiff and the City filed cross motions for summary judgment.

Plaintiff's motion seeks a declaration that both the numerical and chronological limitations of the City's previous political sign ordinance were unconstitutional and an award of nominal damages. The City's motion, on the other hand, requests that the Court dismiss Plaintiff's complaint as moot because, on September 12, 2005, the City rescinded the political sign ordinance in question, Chapter 85-A, as well as its general sign ordinance which did not concern political signs, Chapter 78, and enacted a new sign ordinance, substantially different from the old ordinances, which regulates signs irrespective of whether they are political in nature. Plaintiff acknowledges that it is unlikely that the City will reinstate its previous ordinance and therefore foregoes his claim for a permanent injunction of those provisions.

II. Legal Standard

Rule 56(c) of the Federal Rules of Civil Procedure provides that summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). *See also Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *Martin v. Ohio Turnpike Comm'n*, 968 F.2d 606, 608 (6th Cir. 1992); *60 Ivy St. Corp. v. Alexander*, 822 F.2d 1432, 1435 (6th Cir. 1987); *Kendall v. Hoover Co.*, 751 F.2d 171, 174 (6th Cir. 1984); *Feliciano v. City of Cleveland*, 988 F.2d 649, 654 (6th Cir. 1993); *Cox v. Ky. Dep't of Transp.*, 53 F.3d 146, 150 (6th Cir. 1995); *Lucas v. Leaseway Multi Transp. Serv., Inc.*, 738 F. Supp. 214, 217 (E.D. Mich. 1990) (Gadola, J.), *aff'd*, 929 F.2d 701 (6th Cir. 1991).

III. Analysis

A. Mootness

Federal courts possess subject matter jurisdiction only over actual cases or controversies. U.S. Const., Art. III, § 2. A plaintiff must satisfy the "case or controversy" requirement throughout the pendency of the proceedings, and not only when he files the complaint. *Grider v. Abramson*, 180 F.3d 739, 746 (6th Cir. 1999) (citation omitted). In general a case becomes moot

> "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome;' or when subsequent events make it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur, or when subsequent events make it impossible for the court to grant to the prevailing party effectual relief, since "the thing sought to be prohibited has been done, and cannot be undone by any order of court."

Parsons Inv. Co. v. Chase Manhattan Bank, 466 F.2d 869, 871 (6th Cir. 1972) (citations omitted). In defining mootness, the Sixth Circuit has adopted the definition given in *Ex Parte Steele*, 162 F. 694 (N.D. Ala.1908):

> [A] moot case is one which seeks to get a judgment on a pretended controversy, when in reality there is none, or a decision in advance about a right before it has been actually asserted and contested, or a judgment upon some matter which, when rendered, for any reason, cannot have any practical legal effect upon a then existing controversy.

Parsons, 466 F.2d at 871 (quoting *Ex Parte Steele*, 162 F. at 701) .

The City argues that a declaration that its repealed political sign ordinance "cannot have any practical legal effect upon a then existing controversy" and that the City's repeal of the old political sign ordinance makes it "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Id.* Therefore, the City maintains that the case is moot. Plaintiff counters

that his case is not moot because he seeks nominal damages to which he is entitled for the violation of his constitutional rights.

"Where one of the several issues presented becomes moot, the remaining live issues supply the constitutional requirement of a case or controversy." *Powell v. McCormack*, 395 U.S. 486, 497 (1969). The Supreme Court has affirmed that nominal damages are available to "vindicate[] deprivations of certain 'absolute' rights that are not shown to have caused injury." *Carey v. Piphus*, 435 U.S. 247, 266 (1978). The Sixth Circuit stated that "a claim for nominal damages . . . is normally sufficient to establish standing, defeat mootness, and grant prevailing party status for the purpose of attorney fees under 42 U.S.C. § 1988." *Lynch v. Leis*, 382 F.3d 642, 646 n.2 (6th Cir. 2004). *See Murray v. Board of Trustees*, 659 F.2d 77, 79 (6th Cir. 1981) ("While we accept as not clearly erroneous his finding that plaintiff failed to prove actual damages, the Supreme Court's holdings in *Carey* [], require remand for the District Judge to consider in this § 1983 action plaintiff's claims for nominal damages and attorney fees."). The City contends that Plaintiff's request for nominal damages is insufficient to "have any practical legal effect upon a then existing controversy," and therefore does not present a live controversy. *Parsons*, 466 F.2d at 871. However, the Sixth Circuit does not seem to distinguish between compensatory damages and nominal damages for the purpose of determining mootness. In *Gottfried v. Medical Planning Servs.*, 280 F.3d 684 (6th Cir. 2002), the Sixth Circuit held:

> Indeed, where a claim for injunctive relief is moot, relief in the form of damages for a past constitutional violation is not affected. Moreover, while [the plaintiff] specifically sought compensatory damages and punitive damages in the amount of $ 200,000 from each defendant, nominal damages are also available in actions claiming a violation of constitutionally protected rights.

Id. at 691. Although the Court of Appeals did state that "a claim for damages must not be 'so insubstantial or so clearly foreclosed by prior decisions that the case may not proceed,'" it did not do so to preclude nominal damages, which by definition are insubstantial. *Id.* (quoting *Memphis Light, Gas and Water Division v. Craft*, 436 U.S. 1, 9 (1978)). Instead, it was the Court's position that the mere assertion of a claim for damages would not defeat mootness if the possibility of prevailing on that claim was foreclosed or insubstantial: "The key question therefore is whether [the plaintiff] has a viable claim for damages. She does not." *Id.* Thus, in this Circuit, for the purposes of surviving mootness, damages are damages, be they compensatory or nominal.

For the contrary position, the City relies on the Supreme Court's holding in *Lewis v. Continental Bank Corp.*, 494 U.S. 472 (1990), and a concurring opinion in the Tenth Circuit case of *Utah Animal Rights Coalition v. Salt Lake City Corp.*, 371 F.3d 1248 (10th Cir. 2004). In *Lewis*, the Supreme Court held:

> Where on the face of the record it appears that the only concrete interest in the controversy has terminated, reasonable caution is needed to be sure that mooted litigation is not pressed forward, and unnecessary judicial pronouncements on even constitutional issues obtained, solely in order to obtain reimbursement of sunk costs.

Lewis, 494 U.S. at 480. *Lewis*, however, is distinguishable. There, the plaintiff did not seek damages, let alone nominal damages, but only declaratory and injunctive relief. *Id.* at 475. When the underlying issue became moot due to a change in the law, the plaintiff sought to keep it alive by supplementing the record with a claim which became apparent only through the change in the law. In denying the supplement, the Supreme court noted that mootness would prevent the plaintiff from becoming the prevailing party for the purpose of awarding attorney's fees under, 42 U.S.C. § 1988.

Nevertheless, the Court stated, "This interest in attorney's fees is, of course, insufficient to create an Article III case or controversy where none exists on the merits of the underlying claim." *Id.* at 480.

In *Utah Animal Rights Coalition*, Judge McConnell stated in his concurring opinion that "[t]he Supreme Court has never held that a claim for nominal damages is sufficient to maintain the justiciability of a case that otherwise would be moot. In neither of the Supreme Court's leading cases on nominal damages did the issue of mootness arise." *Utah Animal Rights Coalition*, 371 F.3d at 1266. The Tenth Circuit majority, however, held that although "[i]t may seem odd that a complaint for nominal damages could satisfy Article III's case or controversy requirements, when a functionally identical claim for declaratory relief will not, . . . this Court has squarely so held." *Id.* at 1257 (footnote omitted). Judge McConnell did not contend that the majority had misunderstood Tenth Circuit precedent. Instead, he disagreed with that precedent. He recognized that "[t]he Sixth and Ninth Circuits, like ours, squarely hold that a claim for nominal damages is sufficient to render a case justiciable." *Id.* at 1268. And, as the concurring opinion of Judge Henry in *Utah Animal Rights Coalition* pointed out, while Supreme Court precedent does not conspicuously hold that a claim for nominal damages will provide justiciability in the face of mootness, "the cases clearly do not say that nominal damages do not provide justiciability." *Id.* at 1272. Furthermore,

> [I]t seems that the Supreme Court has stated, or at least come very close to stating, that nominal damages do prevent mootness. *See Buckhannon* [*Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598, 604-05 (2001)] (noting that, under the FHAA and the ADA, there must be a "judicially sanctioned change" in the parties' legal relationship before a party is entitled to an

> award of attorneys' fees, and that "we have held that even an award of nominal damages suffices under this test"); *Farrar* [*v. Hobby*, 506 U.S. 103, 115 (1992)] ("As we have held, a nominal damages award does render a plaintiff a prevailing party by allowing him to vindicate his 'absolute' right to procedural due process through enforcement of a judgment against the defendant."); *see also City of Riverside v. Rivera*, 477 U.S. 561, 574 [] (1986) ("Unlike most private tort litigants, a civil rights plaintiff seeks to vindicate important civil and constitutional rights that cannot be valued solely in monetary terms."); *Carey*, 435 U.S. at 266. Thus an award of nominal damages is a judicially sanctioned change in the parties' legal relationship.

Id. at 1274.

B. Merits

Since Plaintiff's claim for nominal damages enables his action to survive mootness, the Court must address the merits of his constitutional attack on the City's repealed political sign ordinance. In granting Plaintiff's motion for a preliminary injunction, the Court held that Plaintiff had shown a strong likelihood of success on the merits by showing that the provision of the City's political sign ordinance which limited political signs to two in number was likely an impermissible time, place, or manner restriction that would not survive strict scrutiny. For the same reasons, the Court now finds that the numerical limitation of the City's repealed political sign ordinance was unconstitutional. Furthermore, although the Court did not address the ordinance's chronological limitation of election signs when it granted the preliminary injunction, the analysis applicable to the numerical limitation is also applicable to the chronological limitation. Therefore, both provisions of the City's political sign ordinance were unconstitutional.

1. The City's ordinance was not a valid time, place, or manner restriction

A valid time, place, or manner restriction meets three requirements: (1) it must be content-neutral; (2) it must be narrowly tailored to further substantial government interests; and (3) it must

leave open ample alternative means for communicating the desired message. *Perry Education Assn. v. Perry Local Educators 'Assn.*, 460 U.S. 37, 44 (1983). The City's political sign ordinance did not meet the requirements of a valid time, place, or manner restriction because it was content-based.

"[C]ontent-neutral speech restrictions [are] those that are justified without reference to the content of the regulated speech." *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 48 (1986)(quotations omitted). Content-based restrictions, then, are those that restrict speech based on the content of the message. *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410 (1993). For a valid time, place or manner restriction, content-neutrality must extends not only to the particular position of the speaker, but also to the speaker's choice of topic. *Boos v. Barry*, 485 U.S. 312, 319 (1988). Whether a regulation is viewpoint-neutral is of no moment: "a regulation that does not favor either side of a political controversy is nonetheless impermissible because the First Amendment's hostility to content-based regulation extends . . . to prohibition of public discussion of an entire topic." *City of Cincinnati*, 507 U.S. at 428 (quotations omitted). In *Burson v. Freeman*, 504 U.S. 191, (1992), the Supreme Court found Tennessee's election law prohibiting solicitation of votes and display or distribution of campaign materials to be a facially content-based restriction because the statute was solely concerned with political speech. *Burson*, 504 U.S. at 196-98. The Supreme Court held that "the First Amendment 'has its fullest and most urgent application' to speech uttered during a campaign for political office." *Id.* at 191 (quoting *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 223, (1989)).

Both sections of the City's repealed political sign ordinance, the provision limiting the number of political signs and the provision limiting the time election signs could be displayed, were

clearly content-based because they only applied to signs containing content which was political. Notably, the City's housing inspector first had to determine what Planitff's sign referred to before he could inform Plaintiff that the sign was in violation of the ordinance. Whether Plaintiff could place a total of three signs in his yard and whether he could erect them over a month before an election all depended on whether the content of the signs were political or election related. Thus, by the "commonsense understanding of the term," the City's ordinance was not content-neutral. *City of Cincinnati*, 507 U.S. at 428. *See Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) ("Government regulation of expressive activity is content neutral so long as it is *justified* without reference to the content of the regulated speech." (citations and quotations omitted)).

Because the City's ordinance fails to meet the first requirement, it is not a valid time, place, or manner restriction. Regarding the other two factors, the Court notes that in *Dimas v. City of Warren*, 939 F. Supp. 554 (E.D. Mich 1996), Judge Taylor invalidated similar ordinances in the city of Warren, which limited the number of signs to one per candidate and the time period to 45 days before an election. Judge Taylor held that the ordinances did not meet any of the requirements of a time, place, or manner restriction. The ordinances were content-based; not narrowly tailored to further the "significant" government interests of neighborhood aesthetics, property value, or traffic safety; and did not leave open alternative channels for communication of the message. *Id.* at 556-58. Furthermore, because the First Amendment affords special protection to speech in the home, the Supreme Court has accorded special "reverence" to yard signs, holding that the available alternatives to yard signs are not "adequate alternatives." *City of Laude v. Gilleo*, 512 U.S. 43, 54-56 (1994). *See also Arlington County Republican Committee v. Arlington County Virginia*, 983 F.2d

587, 595 (4th Cir. 1993) (holding that a two-sign limit does not leave open ample alternatives means because the "alternatives are insufficient in that they require too much time involvement (e.g., handbilling or canvassing), or too much expense.").

2. The City's ordinance was not a valid content-based speech restriction

The City's ordinance can still be found to have been constitutional despite being an invalid time, place, or manner restriction, but only if it can survive the strict scrutiny applied to content-based speech restrictions. A content-based speech restriction is constitutional if the "regulation is necessary to serve a compelling state interest and [] it is narrowly drawn to achieve that end." *Boos*, 485 U.S. at 321 (quoting *Perry Education Assn.*, 460 U.S. at 45).

The end of the City's repealed sign ordinance, generally, can be ascertained from the statute's findings and purpose, abridged here for brevity:

> It is hereby determined that proliferation of signs in the City is unduly distracting to motorists and pedestrians, creates a traffic hazard, and reduces the effectiveness of signs needed to direct and warn the public. It is also determined that the appearance of the City is marred by proliferation of signs. It is also determined that the proliferation of signs restricts light and air[,] negatively affects property values[, and] results in an inappropriate use of land. The purpose of this ordinance is to control the occurrence and size of signs in order to reduce the aforementioned negative effects.

Troy City Code, Chapter 78, § 2.01.

While such a purpose is commendable, it is not sufficient to justify the City's content-based political sign ordinance. "Although 'safety' and 'aesthetics' are substantial government interests, they are not compelling enough to justify content-based restriction on fully-protected, noncommercial speech." *King Enter., Inc., v. Thomas Township*, 215 F. Supp. 2d 891, 910 (E.D.

Mich. 2002)(Lawson, J.). Furthermore,

> residents have the same strong incentive to keep their property values up and to prevent visual clutter in their yards and neighborhoods as does the city. The private interests of owners in the market value of their property should very substantially diminish the city's concerns regarding the unlimited proliferation of signs.

Dimas, 939 F. Supp. at 557 (citing *City of Laude*, 512 U.S. at 58). "Residents' self-interest diminishes the danger of the 'unlimited' proliferation of residential signs that concerns the [city]." *City of Laude*, 512 U.S. at 58.

The narrow tailoring analysis used by strict scrutiny is more demanding than that required of time, place, or manner restrictions and necessitates a least-restrictive-alternative analysis. *See Ward*, 491 U.S. at 798 n.6. *Dimas* and *Arlington County* both used the less stringent narrow tailoring required of time, place, or manner restrictions to determine that similar statutes were not narrowly tailored. *Arlington County*, 983 F.2d at 595; *Dimas*, 939 F. Supp. at 557. Based on the reasoning of *Dimas* and *Arlington County*, the Court concludes that the ordinance's two sign limit and thirty day limit were not narrowly tailored to the degree required of strict scrutiny.

3. Summary

The City's repealed political sign ordinance's numerical and chronological limitations were not valid time, place, or manner restrictions, neither were they valid content-based free speech restrictions.

IV. Conclusion

For the foregoing reasons, the Court concludes that the City's former political sign ordinance was unconstitutional and Plaintiff is entitled to an award of nominal damages. Accordingly, **IT IS**

HEREBY ORDERED that Defendant's motion for summary judgment [docket entry 21] is **DENIED** and Plaintiff's motion for summary judgment [docket entry 22] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff is awarded nominal damages in the amount of one dollar ($1.00).

SO ORDERED.

Dated: January 30, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on January 31, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:
Lori G. Bluhm; David R. Radtke; Michael J. Steinberg; Christopher J. Forsyth,
and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: _____.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENT LAWRENCE FEHRIBACH, JR.,

Plaintiff,

v.

THE CITY OF TROY,

Defendant.
_____/

CIVIL CASE NO. 04-40279

HONORABLE PAUL V. GADOLA
U.S. DISTRICT JUDGE

JUDGMENT

This action having come before this Court, the Honorable Paul V. Gadola presiding, the issues having been fully presented, the Court being fully advised in the premises, and a ruling having been duly rendered, **IT IS ORDERED AND ADJUDGED** that Plaintiff Kent Lawrence Fehribach, Jr. **RECOVER** of Defendant the sum of one dollar ($1.00) and his costs of action.

Dated at Flint, Michigan, this 30th day of January, 2006.

DAVID WEAVER
CLERK OF THE COURT

BY: s/Ruth A. Brissaud
DEPUTY CLERK

APPROVED:

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on January 31, 2006 , I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Lori G. Bluhm; David R. Radtke; Michael J. Steinberg; Christopher J. Forsyth

, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: _____.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845

March 1, 2006

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager
John M. Lamerato, Assistant City Manager/Finance & Administration

SUBJECT: Scheduling Second Budget Study Session

There is a regular City Council meeting scheduled for Monday, April 24, 2006; a third meeting that month reserved for study items. We plan to hold our first budget study session on this date.

We recommend setting the second budget study session on Monday, May 1, 2006 at 7:30 PM in the Council Board Room.

Please feel free to call if you have any questions.

LIBRARY ADVISORY BOARD MINUTES—FINAL **DECEMBER 8, 2005**

A Regular Meeting of the Troy Library Board was held on Thursday December 8, 2005 at the Office of the Library Director. Brian Griffen, Chairman, called the meeting to order at 7:30 P.M.

ROLL CALL PRESENT: Lynne Gregory
Brian Griffen
Mary Shiner
Audre Zembrzuski

Lauren Andreoff, Student Representative
Cheng Chen, Student Representative

Brian Stoutenburg, Library Director

Resolution #LB-2005-12-01
Moved by Zembrzuski
Seconded by Gregory

RESOLVED, That Nancy Wheeler be excused.

Yes: 4—Gregory, Griffen, Shiner, Zembrzuski
No: 0

The Pledge of Allegiance to the Flag was given

Resolution #LB-2005-12-02
Moved by Zembrzuski
Seconded by Gregory

RESOLVED, That Minutes of October 13, 2005 be approved.

Yes: 4—Gregory, Griffen, Shiner, Zembrzuski
No: 0

Reviewed Agenda entries

Resolution #LB-2005-12-03
Moved by Zembrzuski
Seconded by Shiner

RESOLVED, That the Agenda be approved.

Yes: 4—Gregory, Griffen, Shiner, Zembrzuski
No: 0

MOTION CARRIED

POSTPONED ITEMS
There were no postponed items.

REGULAR BUSINESS
2006 Library Advisory Board Meeting Schedule.
The 2006 Library Advisory Board meeting dates were reviewed. A question arose as to whether the Board has to meet on the second Thursday of the month, or if the day of the week could be changed. Stoutenburg will find out and report back to the Board at the January 12, 2006 meeting.

Approval of Cooperative Plan of Service.
The Annual Plan of Service for the Suburban Library Cooperative was reviewed.

Resolution #LB-2005-12-04
Moved by Gregory
Seconded by Zembrzuski

RESOLVED, That the Suburban Library Cooperative Annual Plan of Service be approved.

Yes: 4—Gregory, Griffen, Shiner, Zembrzuski
No: 0

MOTION CARRIED

REPORTS & COMMUNICATIONS
Director's Report.
The move of the Friends Book Shop to the lower level went smoothly and they have been successful. There will probably be a change of Café operator soon. An upgrade to the HVAC unit that services the lower level computer lab is underway. A letter to the Board from Sunrise Ventures Publishing commending a recent program on international adoption was received. In the Spring we will activate software that will enable residents to register for programs online. We now have free wireless access to the Internet for the public. A major upgrade in Sirsi, our library automation software, was completed.

Board Member's Comments.
Zembrzuski received a suggestion from an individual to put a manger scene in front of the library. Zembrzuski reported that Mary Ann Bernardi had called her and was concerned about the library and other "non-essential" services possibly being cut by City Council in the upcoming year.

Student Representative's Comments.
Chen reported that he had tried to use the new wireless connection to the Internet but it was down. We have been having some difficulty with our router as well as one patron who apparently had a virus on their computer and it was overloading the system. The IT department is working on solutions so that the wireless connection will be stable.

Suburban Library Cooperative.
Gregory reported that the SLC Board approved the purchase of Panda Shield, an anti-virus software product. Software is being installed to allow Sirsi to connect to the new MiLE system. The SLC Board decided not to participate in the purchase of an electronic sign with the Macomb County Library. A committee is being formed to review the contract between SLC and the Macomb County Library.

Friends of the Troy Public Library.
No report.

Gifts.
Six gifts totaling $330.00 were received.

Informational Items.
December TPL Calendar

Contacts and Correspondence.
31 written comments from the public were reviewed.

Public Participation.
There was no public participation.

The Library Board meeting adjourned at 8:20 P.M.

Brian Griffen
Chair

Brian Stoutenburg
Recording Secretary

DOWNTOWN DEVELOPMENT AUTHORITY MINUTES FINAL DECEMBER 21, 2005

A meeting of the Downtown Development Authority was held on Wednesday, December 21, 2005 in the Lower Level Conference Room of Troy City Hall, 500 W. Big Beaver Troy, Michigan. Alan Kiriluk called the meeting to order at 7:30 a.m.

PRESENT:
Michael Culpepper
Stuart Frankel
David Hay
Michele Hodges
William Kennis
Alan Kiriluk
Daniel MacLeish
Carol Price
Ernest Reschke
Louise Schilling
Douglas Schroeder

ABSENT:
Harvey Weiss
G. Thomas York

ALSO PRESENT:
John Szerlag
John Lamerato
Lori Bluhm
Mark Miller
Brian Murphy

APPROVAL OF MINUTES

Resolution: DD-05-18
Moved by: Kennis
Seconded by: Hodges

RESOLVED, That the minutes of the October 19, 2005 regular meeting be approved.

Yeas: All (11)
Absent: Weiss, York

OLD BUSINESS

A. Corridor Study Update

John Szerlag and Mark Miller gave an update on the Corridor Study.

Upcoming Corridor Study Events:
January 18th Vision Fair
January 26th Stakeholders Meeting

B. Monarch Project

The Board was informed of City Council's approval of the Monarch project.

C. Wireless Oakland

The Board was informed of the decision to include Troy as one of the pilot cities and the first of pilot cities to begin work on.

NEW BUSINESS

A. Annual Audit

Resolution: DD-05-19
Moved by: Hay
Seconded by: MacLeish

RESOLVED, That the annual audit of the City of Troy Downtown Development Authority for the year ended June 30, 2005 be received and filed.

Yeas: All (11)
Absent: Weiss, York

B. Illuminating Concepts Presentation

Keith Irtlenkauf of Illuminating Concepts reviewed a PowerPoint presentation on the lighting work their company has done throughout the world.

EXCUSE ABSENT MEMBERS

Resolution: DD-05-20
Moved by: Culpepper
Seconded by: MacLeish

RESOLVED, That Weiss and York be excused.

Yeas: All (11)
Absent: Weiss, York

PUBLIC COMMENT

Three visitors in attendance addressed the Board.

The meeting was adjourned at 8:49 a.m.

Next Meeting: January 18, 2006 @ 7:30 a.m. @ Troy City Hall, Lower Level Conference Room

Alan Kiriluk, Chairman

John M. Lamerato, Secretary/Treasurer

JL/pg

ELECTION COMMISSION MINUTES - Final **January 9, 2006**

A meeting of the Troy Election Commission was held Monday, January 9, 2006, at City Hall, 500 W. Big Beaver Road. City Clerk Bartholomew called the Meeting to order at 5:01 P.M.

ROLL CALL:

PRESENT:	David Anderson, Timothy Dewan, City Clerk Tonni Bartholomew
ABSENT:	None
ALSO PRESENT:	Deputy City Clerk Barbara Holmes

Minutes: Regular Meeting of October 4, 2005

Resolution # EC-2006-01-1
Motion by Dewan
Seconded by Anderson

RESOLVED, That the Minutes of October 4, 2005, are **APPROVED** as submitted.

Yes: All-3

Approval of Elimination of Precinct 31

Resolution #EC-2006-01-2
Motion by Anderson
Seconded by Dewan

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

Yes: All-3

Adjournment:

The meeting was adjourned at 5:10 P.M.

Tonni L. Bartholomew, MMC
City Clerk

TROY DAZE ADVISORY COMMITTEE

A. CALL TO ORDER

A regular meeting of the Troy Daze Advisory Committee was held **Tuesday, January 24, 2006** at the Troy Community Center. Meeting was called to order at 7:30 pm.

B. MEMBERS

Members Present:
Jeff Stewart
Bill Hall
Cecile Dilley
Cheryl Whitton-Kaszubski
Marilyn Musick
Bob Preston
Mike Gonda
Jim Cyrulewski
Kessie Kaltsounis
Bob Berk

City Staff:
Cindy Stewart
Jeff Biegler
Bob Matlick
Bob Kowalski

Others
Anju Brodbine
Tom Kaszubski

C. APPROVAL OF MINUTES

Resolution #TD-2006-01-50
Moved by B. Hall, Seconded by B. Berk
RESOLVED that the minutes from the November 22, 2005 Troy Daze Advisory Committee meeting are approved with the following corrections: Bill Hall was absent.
Yeas: All
Nays: None
MOTION CARRIED

Resolution #TD-2006-01-51
Moved by C Whitton, Seconded by B. Preston
RESOLVED that the minutes from the December 21, 2005 Troy Daze Advisory Committee meeting are approved with the following corrections: Bob Berk (not Bert).
Yeas: All
Nays: None
MOTION CARRIED

TROY DAZE ADVISORY COMMITTEE – DRAFT January 24, 2006

TREASURER'S REPORT

December 28, 2005 $152,070.76 Revenue. – current no changes
$134,271.39 Expenses – current month sick pay & fireworks pd.

CORRESPONDENCE

1. January meeting notice – change of meetings.
2. TYA student nominee – Berj Alexanian
3. Troy Today – Info to be included

OLD BUSINESS

1. Review of Sub-teams Meetings
   a. **Layout** (January 10 meeting) Cheryl W. handed out maps

Changes from previous years. As enter off Crooks – no drop offs – only at Northfield Parkway.

Message boards north and south bound on Crooks. Caution entrance ahead. Spoke with John Abraham reduction of speed limit on a temporary basis (he said hard to enforce and no one notices but will talk to Oakland County. Widened access between booths, split up rides at access – children/family on one side and teen rides closer to police command bus (south side).

Meeting with Police Explorer liaisons – need 12' egress for exit. Emergency exit can be toward McManus. Arnold's Games could be at south side near teen rides.

Only other change – turned student art/photography tent so both had frontage.

Left magic cauldron tents in back near Boulan School entrance.

Right turn only exiting Boulan Park. If not enough this year, next year look at right turn out and right turn in.

Sand courts? Possible to have anything over it? Not this year.

Information booth could stay in same location, but depends on placement of Arnold Amusements and Games.

Extra lighting was suggested by Explorer liaisons for added security, one by ticket collection area and by drop off area in back.

When time for teens to exit, committee would go in golf carts to patrol the area.

This year seven light towers - need 3 - 4 additional ones with this plan.

John Abraham will check Oakland County regarding portable traffic lights at Crooks & entrance to Boulan and one at Crooks and McManus.

Suggestion to meet with Arnold's April or May regarding revised amusement layout.

b. **Focus Subcommittee** –

Explore earlier Festival Hours - according to Gerry Scherlinck, trouble and problems occur after 9 pm. He can get breakdown of police personnel needed from 9 - 11 p.m. and 10 - 11 p.m. Typically utilize 12-15 Officers. Police goal is "see a potential problem – work to prevent it from happening."

Recap of food and vendor booths

17 Food Booths - 5 from Troy (St. Mark Coptic Church, Papa Romano, Buscemi's, Troy Highland Lodge, Orchid Café)

Vendors: 11 churches, 17 community, 42 business, 4 politicians)

Troy Daze Mission Statement: The Festival will strive to strengthen our sense of community by providing the City with a safe, fun-filled environment where community members can share and celebrate their talents, ethnicity, experiences, diversity, and future promise.

Committee Ideas related to the Festival's Focus:

Since our mission is to provide a safe, fun-filled environment, what can we do to encourage more families to attend as well as having more adults attend in the evening hours. We know we offer a lot of family-friendly events.

- Encourage parents to come along w/kids (via school newsletters)
- Revamp layout putting kids events up front.
- Move Entertainment tent closer to midway.
- Reach out to schools - get more school bands, musical groups to perform.
- Incentives for parents to come in evening w/kids (ex. Ride bracelets given to adults, coaches, teachers who volunteer to be on midway in the evening in exchange for ride bracelets for their own kids to use the next day).
- Move Miss Troy Daze to festival site on Friday from 8-10 p.m. make it more fun like Mr. Troy – attract girls who live or work in Troy. Since it is not associated with Miss Michigan – remove swimsuit portion which girls have said is a turn-off to participate.
- Move adult talent show to Saturday evening after Mr. Troy at 8:30 pm.
- Book more major family entertainment
- Book school bands, choirs, dance groups
- More entertainment for Magic Cauldron Tent

- Magic Cauldron open on Friday evening.
- Layout - look @ moving Magic Cauldron Tent closer to children's carnival rides.

- Recruit a local apple orchard – offer cider, donuts, caramel apples to tie in with our Magic of Fall theme.
- Contact church groups/kids groups to perform (Kensington, Woodside)
- See parking stickers and ride bracelets at Community Center starting August 15 as a convenience for families
- Parking - charge whether parking or dropping off kids
- Parking – offer specials $7.00 in advance (for 3 days) $10 for 3 days during the festival
- Focus on Seniors - Look for sponsor for lunch. Change the time to:

9:30 – 10:30	Health Fair w/coffee/donuts
l0:30 – 12 pm	Bingo
12 p.m.	Lunch

- Entertainment might be too early on stages – does not draw crowds Police suggest Sunday rides end @ 8 pm (ride bracelets 4 - 8 pm) with Fireworks at 8:30 p.m. This will help them with crowds
- Move vendor booth in the back

c. **Rules** – Meeting - February
Be sure to discuss how to bring back an event/activity.

d. **Financial Subcommittee** - January 5

Three years of parking information obtained - after 8 p.m. 30% of parking revenue comes in for three days. 60% of Arnold revenue comes in between 5 – 11 pm.

Some subcommittee members feel that 8 pm is not feasible financially even 9 pm not feasible. Committee needs to meet again before submitting final decisions. If city not willing to make up costs, we can't look at closing earlier.

Saturday # of wristbands down in 2005.

Letter from Arnold's stated that after 8 pm 66% rides & 54% food concessions But, breakdown is not hour by hour so hard to say exactly how much money is made after 8 pm.

Saturday	$73,062	
	-$27,702	(1,539 Arm bracelets)
5-11 p.m.	$45,360	

Sunday	$51,977	5-9 p.m.	Arm bracelets

Friday	$22,550	Friday $27,000 2004
Thursday	$ 5,570	

Hours of Operation Committee will meet again.

Committee Discussion:
Need a summary from each subcommittee emailed to Jim Cyrulewski as soon as possible.

Gonda – are hours of operations the sticking point?

Hall – why if there have been problems/fighting in the past are they concerned with hours now?

Kowalski – most of the problems happen after dark – teens and adults. If we cut the hours it could keep some of the negative element out.

Stewart/Kowalski- We are working toward a collaborative effort – better to have a united front before we make a recommendation to council.

Kaltsounis- We have all worked very hard to make changes however subtle. I feel very uncomfortable about changing the hours when we have a contract.

Berk – Rules Committee has not met yet, so we need to work on what behavior we will and will not tolerate.

JStewart – If resistance from any of us – as Troy residents & board members, we have an issue we want to resolve and need to be united. From financial issue it's not good, but from police side – safety is key.

Dilley – All subcommittees send their conclusions to Jim Cyrulewski.

Jim C – From a financial aspect we have a budget & expenses so we know what revenue we need. Look at financial impact if close at 8 pm, 9 pm, 10 pm, or 11 pm. Finalize by February for City to look at regarding budget.

New Business

1. Expense cuts submitted with agenda packet

2005	$38,383 in expense cuts

2004	2005 revenue due to increase in ride prices.
$55,993	$73,839

Our take from Arnold's
35% - 2004
40% - 2005

2. Review of Suggestion List:
Tabled until subcommittees finish up.

3. Chairpersons Reports
   Introduce Anju Brodbine – she will be the co-chair of Ethnicity with Padma Kuppa. They have a meeting scheduled on January 31 with Joann & Doris. .
4. Corporate Sponsor Review
   Packets ready to mail. Jim will finalize in-kind sponsor list. Check coming from Community Foundation to City for sponsor dollars on January 31, 2006.
5. Request memo review - Tabled
6. Fee Memo Review
7. Appointments of Festival Activity Chairpersons –
   Resolution #TD-2006-01-52
   Motion by Cheryl Whitton, seconded by Bill Hall to appoint Tammy Duszynski - co-chair of the photo contest and Anju Brodbine – co-chair of EthniCity.
   Yeas: All
   Nays: None
   MOTION CARRIED

MOTION TO ADJOURN

Resolution #TD-2006-01-53
Moved by Cheryl Whitton
Seconded by Bill Hall

RESOLVED that the Troy Daze Advisory Committee Meeting by adjourned at 8:38 p.m.

Yeas: All
Nays: None
MOTION CARRIED

_____
Cele Dilley, Chairperson

_____
Cindy Stewart, Recording Secretary

ETHNIC ISSUES ADVISORY BOARD – DRAFT MINUTES FEBRUARY 7, 2006

Call to Order

The regular meeting was called to order at 7:04 pm in Conference Room C at Troy City Hall

Roll Call

Present: Kelly Gu, Tom Kaszubski, Reuben Ellis, Michelle Haight, Padma Kuppa, Anju Brodbine, Mark Pritzlaff, Cindy Stewart, Staff Liaison

Absent: Malini Sarma, Tony Haddad, Lulu Guo

Approval of Minutes

Minutes from January 3, 2006 – Motion by M. Haight, second by M. Pritzlaff. Approved unanimously.

Correspondence / Articles

Old Business

A. EthniCity

Malini, Anju, & Padma met with Joann Preston and Doris Schuchter regarding EthiciCity. They turned over to EIA three boxes and two poster boards – where can we store them?

Went over all components of EthniCity.

- Poster Contest – deadline, theme.
- Naturalization Ceremony – handled by the City - Community Affairs
- Flags (63) – flag stands

Friday – set up flags

Get volunteers for EthniCity booths. Anju and Padma decided they do not need monthly meetings. Will use e-mail, phone and one overall meeting to communicate with the EthniCity groups. Need contract and deposit. Check never cashed – given back of group mans their booth for two days.

Recruit students to help with manning booths - EIA Board will have a booth similar to kaleidoscope event.

Poster contest – past years' deadline earlier since school begins after Labor Day.

Shirley Darge books Ethnic Entertainment.

EIA Board can decide if you want only booths under the tent or booths around the edge of tent and small stage in center for entertainment acts.

March EIA meeting will be devoted to EthniCity.

Goal is to try and to get 12-15 groups to display in the tent.

B. Sights and Sounds of the World – March 11, 2006

We need EIA Board to call countries to get participation. To date we only have Middle East confirmed. Following is the list of countries and Board members assigned to follow-up with.

France & Philippines – Anju
Poland & Ukraine – Mark
Germany – Cindy
Egypt & Italy - Michelle
Pakistan, India, China & Russia – Padma
Bosnia – Reuben
Greece – Tom
Hmong – Cindy
Mexico – Malini
S. America – anyone with contacts?

C. EIA Goals

Discussion on should the EIA make it a goal to promote diversity training for Troy community at large targeted to residents and businesses. How do we help people develop tolerance for all? At a future meeting invite the Hamilton Elementary School diversity team to discuss their strategies. They are leaders in our school community on diversity programs (teachers and PTO).

Idea to start piece by piece before trying to tackle the entire community. May 2 the Board cannot meet City Hall due to the

School Election. Cindy will work on getting a room at the Community Center) and invite Tim McAvoy and the Hamilton Elementary Diversity Team. Board is open to holding the meeting May 2 or 9 depending on their availability.

Goal #3 - Increase awareness of the City's diversity by offering training, programs, brochures and cable productions.

Next meeting vote on this goal and work on objectives for all three new goals.

D. Senior Citizen Project

Scheduled for Thursdays, April 6, 13, 20, 27 @ 12:30 p.m. Room 303. Idea for several generations of people to speak to the group: India, China, Middle East, and Jewish religion.

April 6	Padma, Malini
April 13	Middle East - Mayada Faykouri
April 20	Jewish - Cindy will contact Shir Tikva
April 27	China – Contact Flora Tan and Charles Yuan

Adjournment

Motion to adjourn at 8:32 p.m. by .P. Kuppa, Seconded by Michelle Haight. Approved unanimously.

_____
Tom Kaszubski, Chairman

_____
Cindy Stewart, Recording Secretary

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:30 p.m. on February 7, 2006 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:
Lynn Drake-Batts
Mary Kerwin
Fazal Khan
Robert Schultz
Thomas Strat
Mark J. Vleck (arrived 7:32 p.m.)
David T. Waller

Absent:
Lawrence Littman
Wayne Wright

Also Present:
Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Christopher Kulesza, Student Representative
Kathy L. Czarnecki, Recording Secretary

Resolution # PC-2006-02-017
Moved by: Khan
Seconded by: Schultz

RESOLVED, That Members Littman and Wright are excused from attendance at this meeting for personal reasons.

Yes: All present (6)
No: None
Absent: Littman, Vleck (arrived 7:32 p.m.), Wright

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-02-018
Moved by: Khan
Seconded by: Schultz

RESOLVED, To approve the Agenda as published.

Yes: All present (7)
No: Littman, Wright

MOTION CARRIED

3. MINUTES

Resolution # PC-2006-02-019
Moved by: Schultz
Seconded by: Khan

RESOLVED, To approve the January 10, 2006 Regular Meeting minutes as published.

Yes: Drake-Batts, Kerwin, Khan, Schultz, Strat, Vleck
No: None
Abstain: Waller
Absent: Littman, Wright

MOTION CARRIED

Resolution # PC-2006-02-020
Moved by: Kerwin
Seconded by: Schultz

RESOLVED, To approve the January 24, 2006 Special/Study Meeting minutes as published.

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

MOTION CARRIED

4. PUBLIC COMMENT (Items Not on the Agenda)

There was no one present who wished to speak.

5. DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REPORT

The Downtown Development Authority (DDA) did not meet in January.

Mr. Miller provided a status report on the Big Beaver Road Corridor Study.

6. PLANNING AND ZONING REPORT

Mr. Miller reported on the following items:

- ZOTA 201 - Commercial Indoor Recreation in M-1 – City Management has requested Planning Commission to reconsider ZOTA 201 as relates to specific development criteria. The matter will be placed on the February 14, 2006 Regular Meeting agenda for discussion and review.
- City Council appointed John Lamerato, Assistant City Manager, Finance and Administration, as Interim Acting City Manager effective upon John Szerlag's departure.
- Status of Maple Road Corridor Study.
- Boards and Commissions Appreciation Banquet – February 11, 2006.

7. PLANNING COMMISSION GOALS AND OBJECTIVES

After a thorough discussion on the 2006 Planning Commission goals, objectives and tasks, sub-committees were established for priority objectives and various tasks were appropriately assigned.

8. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215-A) – Article 04.20.00 and Articles 40.55.00-40.59.00, pertaining to Accessory Buildings Definitions and Provisions

Mr. Miller reported that a Public Hearing on ZOTA 215-A is scheduled at the February 14, 2006 Regular Meeting, and that City Council postponed action on the item to a date after the Planning Commission makes its recommendation to City Council.

Mr. Miller reviewed the only difference between the recommendations of the Planning Commission and City Management. The Planning Commission would like to restrict the door height of an accessory structure, and City Management would like no restriction on the door height. After discussion, the members agreed that it would be preferable to forward one recommendation to City Council and to reach an agreement with City Management on the door height restriction issue. Mr. Miller said he would address the matter with City Management and report back to the members.

9. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215-C) – Article 43.74.00, Article 40.65.02 and Article 44.00.00, pertaining to Commercial Vehicle Parking Appeals

Mr. Miller addressed Commercial Vehicle Parking Appeals and the authority to hear commercial vehicle parking appeals as a Special Use Approval by the Planning Commission. Preliminary draft provisions were provided by the Planning Department. Mr. Miller said a Public Hearing on the proposed zoning ordinance text amendment could be scheduled for the March 14, 2006 Regular Meeting.

After a lengthy discussion and comments from around the table, it was determined that the Planning Department would research the matter further and report back at the March 28, 2006 Special/Study Meeting. Research would comprise learning from neighboring municipalities the process used for commercial vehicle appeals, definition of commercial vehicle, and designation of Special Use Approval.

10. PUBLIC COMMENTS (Items on Current Agenda)

Tom Krent of 3184 Alpine, Troy, was present. Mr. Krent addressed one of the Planning Commission's goals and objectives relating to presentations at Regular Meetings. He shared the presentation format used at the City of Farmington Hills. Mr. Krent also addressed ZOTA 215-C. He distributed information compiled from neighboring communities on the methodology used for commercial vehicle appeals and copies of Bloomfield Township zoning ordinance that relates to the authority of its Board of Zoning Appeals with respect to use limitations. Mr. Krent said the City Council limited the door height on attached accessory structures to maintain the character of the neighborhood.

Chris Komasara of 5287 Windmill, Troy, was present. Mr. Komasara said he is looking forward to the conclusions of the Commission's goals and objectives. Mr. Komasara addressed ZOTA 215-A with respect to the legal maximum height of a vehicle and the door height of an accessory building. Mr. Komasara suggested a maximum door height of 12 feet.

GOOD OF THE ORDER

Ms. Drake-Batts asked for an update on the K-Mart property and the date of the Public Hearing for the proposed zoning ordinance text amendment related to Group Day Care Homes.

Mr. Miller said no official plans have been submitted for the K-Mart site, and noted K-Mart personnel have occupancy of the building for another year. Mr. Miller said the developer, Madison Marquette, is involved in the Big Beaver Corridor Study.

Mr. Miller reported a Public Hearing for Group Day Care Homes (ZOTA 214) is scheduled for the March 6, 2006 City Council meeting. He informed the members a Public Hearing on the proposed zoning ordinance text amendment on Child Care Centers by Special Use Approval in residential districts (ZOTA 218) is also scheduled for that evening.

Mr. Khan thanked Messrs. Krent and Komasara for their input and information on accessory buildings and commercial vehicles.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 9:55 p.m.

Respectfully submitted,

_____
Thomas Strat, Chair

_____
Kathy L. Czarnecki, Recording Secretary

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The Regular Meeting of the Troy City Planning Commission was called to order by Vice Chair Schultz at 7:30 p.m. on February 14, 2006, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:
Lynn Drake-Batts
Fazal Khan
Mary Kerwin
Lawrence Littman
Robert Schultz
David T. Waller

Absent:
Thomas Strat
Mark J. Vleck
Wayne Wright

Also Present:
Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Lori Grigg Bluhm, City Attorney
Kathy Czarnecki, Recording Secretary

Resolution # PC-2006-02-021
Moved by: Littman
Seconded by: Kerwin

RESOLVED, That Members Strat, Vleck and Wright are excused from attendance at this meeting for personal reasons.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-02-022
Moved by: Khan
Seconded by: Littman

RESOLVED, That the Agenda be approved as published.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

3. MINUTES

Resolution # PC-2006-02-023
Moved by: Khan
Seconded by: Kerwin

RESOLVED, To approve the February 7, 2006 Special/Study Meeting minutes as published.

Yes: Drake-Batts, Kerwin, Khan, Schultz, Waller
No: None
Abstain: Littman
Absent: Strat, Vleck, Wright

MOTION CARRIED

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

Vice Chair Schultz announced that five (5) affirmative votes are required for approval or recommendation of approval of Agenda items, and the petitioner has the option to postpone the item prior to its presentation and deliberation of the Planning Commission.

REZONING REQUESTS

5. PUBLIC HEARING – PROPOSED REZONING (Z 712) – Proposed Medical Office, West side of Dequindre, North of Big Beaver (37373 Dequindre), Section 24 – From CR-1 (One Family Residential Cluster) to B-1 (Local Business) District

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

Mr. Miller confirmed that drive-through windows are not permitted in the B-1 zoning district.

Stephen Sedgewick, project architect, 158 Tillson Street, Romeo, was present to represent the petitioner. Mr. Sedgewick indicated he would like to proceed with the approval process.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-02-024
Moved by: Littman
Seconded by: Waller

RESOLVED, That the Planning Commission hereby recommends to the City Council that the CR-1 to B-1 rezoning request, located on the west side of Dequindre, north of Big Beaver, within Section 24, being approximately 1.4 acres in size, be granted.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

6. PUBLIC HEARING – PROPOSED REZONING (Z 632-B) – Proposed Condominium Development, West side of Rochester Road, North of Wattles, Section 15 – From CR-1 (One Family Residential Cluster) to R-1T (One Family Attached Residential) District

Mr. Savidant presented a summary of the Planning Department report for the proposed rezoning request and reported it is the recommendation of City Management to approve the rezoning application. Mr. Savidant noted a letter of opposition from Angus Finney was distributed to the members prior to the beginning of the meeting. Mr. Savidant said it is the Planning Department policy to consider the rezoning request only at this time, and no consideration was given to the site plan provided by the petitioner.

There was discussion on the parcel located to the south of the subject parcel as relates to its size and potential future development, and the consolidation of both parcels for development.

Eric Salswedel of SDA Architects, 42490 Garfield Road, Clinton Township, was present to represent the petitioner. Mr. Salswedel said the petitioner and owners of the property are present and have indicated their desire to go forward with the approval process. He said the petitioner intends to construct 6 units on the parcel for their personal use and requests the zoning change to accommodate the number of units needed for their development group.

Mr. Salswedel said the petitioner made several unsuccessful attempts to acquire the parcel to the south, but was just recently approached by the owner indicating an interest to sell. Mr. Salswedel said there is no sale agreement on the table at this time.

Discussion followed on going forward with the rezoning request and development of the individual parcel, or postponing the request based on potential development of the combined parcels.

Ms. Bluhm provided a brief review of pending litigation on a rezoning request to the R-1T zoning district located on Rochester Road that was denied by City Council. Ms. Bluhm said it would be appropriate for the members to proceed in either direction: (1) act on the rezoning request tonight and should the parcel to the south be acquired, the petitioner could come back before the Commission; or (2) postpone the request for the potential development of the parcels combined.

Mr. Salswedel requested the members to act upon the rezoning request as submitted, in the event the sale of the property to the south does not take place.

Vice Chair Schultz announced the rezoning request and site plan are mutually exclusive, and the site plan should not considered at the time of the rezoning request.

PUBLIC HEARING OPENED

Gary Jacobs of 872 Barclay Court, Troy, was present. Mr. Jacobs voiced objection to the proposed rezoning request. He addressed the proposed site plan and said the development and parking lot would be his view from his backyard. He also expressed concern with the resale value of his home. Mr. Jacobs asked if the fence along the property line would be torn down.

Mr. Jacobs submitted for the record a letter of opposition from James and Janice Arnold of 912 Barclay Drive.

Dawn Aronoff of 864 Barclay Court, Troy, was present. Ms. Aronoff expressed opposition to the proposed rezoning request. She said the view from her backyard would be a parking lot and 2nd and 3rd stories of the development. Ms. Aronoff said the adjacent property is a wooded area, and that is the view she and her neighbors currently have and would like to keep. Ms. Aronoff would like the area's natural features to remain.

Mr. Miller informed Mr. Jacobs that the exact location of the fence must be established in order to determine ownership. Further, Mr. Miller stated that condominium developments of this type usually do not have parking lots, but integrate garages into the development. Mr. Miller said there would be some type of buffer provided between the R-1T zoning and the single family residential.

Ms. Bluhm said she understood Mr. Jacobs' concern with the fence, but noted the fence has no bearing on the proposed rezoning request. She said City Management would follow up with Mr. Jacobs on the matter.

Mr. Khan asked if the neighbors would be notified at the time of site plan approval.

Mr. Miller replied the Planning Department is not legally required to notify the public of a site plan approval, but the Planning Department could do so if requested.

Mr. Khan encouraged residents to provide contact information to the Planning Department so they are notified of the site plan approval.

Barbara Finney of 978 Barclay Drive, Troy, was present. Ms. Finney voiced opposition to the proposed rezoning request. She addressed the view from her backyard, traffic, congestion, classroom size, and the type of development proposed. Ms. Finney said she would like to preserve the quality of life in Troy.

Edvin Hoti of 964 Barclay Drive, Troy, was present. Mr. Hoti voiced opposition to the proposed rezoning request. He said the proposed development would not fit well within the square mile of residential homes. Mr. Hoti addressed concerns relating to parked cars, traffic and the resale value of his home.

PUBLIC HEARING CLOSED

Mr. Littman said he could not support the proposed rezoning request because it would result in additional curb cuts on Rochester Road and is inconsistent with the surrounding neighborhood. Mr. Littman said he does not think the rezoning request for the individual parcel is a fit within the area. He said he would support tabling the matter for further study to see how the two parcels might be developed together.

Resolution # PC-2006-02-025
Moved by: Littman
Seconded by: Khan

RESOLVED, To table this rezoning application for sixty (60) days for the following reasons:

1. To allow the petitioner to see if he could propose a development that would include the parcel to the south; and
2. For the Planning Commission to study how these two parcels might develop in a safe manner separately.

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

MOTION CARRIED

See page 15, under Good of the Order, for reason Ms. Drake-Batts was not in favor of the motion.

7. PUBLIC HEARING – PROPOSED REZONING (Z 713) – Walsh College Proposed Parking Expansion, East side of Livernois, South of Wattles, Section 22 – From R-1C (One Family Residential) to C-F (Community Facility) District

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

Alan Greene, legal counsel for the petitioner, 39577 North Woodward Avenue, Bloomfield Hills, was present. Mr. Greene indicated the petitioner would like to proceed with the approval process, and that representatives from Walsh College are present should there be any questions. He asked for the Commission's support in the first stage of the Walsh College renovation expansion plan.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-02-026
Moved by: Khan
Seconded by: Waller

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to C-F rezoning request, located on the east side of Livernois, south of Wattles, within Section 22, being approximately 2.84 acres in size, be granted, for the following reasons:

1. The rezoning is consistent with the intent of Future Land Use Plan and is compatible with the existing zoning districts and land uses.

Discussion on the motion on the floor.

Mr. Littman identified that he was at one time a member of the President's Advisory Council at Walsh College.

Mr. Waller disclosed that he is a current member of the President's Advisory Council at Walsh College.

Ms. Bluhm said it is the discretion of the Commission to exclude Messrs. Littman and Waller from voting on the matter should they feel there is some prejudice or inability to act impartially.

It was the consensus of the members that there were no conflicts of interest.

Vote on the motion on the floor.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

SPECIAL USE REQUESTS

8. PUBLIC HEARING – PROPOSED SPECIAL USE REQUEST (SU 333) – Proposed Franklin Bank, Northeast Corner of Tower and Long Lake Road, Section 9, Zoned R-C (Research Center) District

Mr. Savidant presented a summary of the Planning Department report for the proposed special use and site plan approval and reported it is the recommendation of City Management to approve the special use request and site plan as submitted.

The petitioner, Marcos Makohon of K4 Architecture LLC, 26899 Northwestern Highway, Southfield, was present. Mr. Makohon reviewed the proposed site plan through the use of visual boards as relates to traffic circulation, existing thoroughfares and landscaping. He addressed the matter of pervious asphalt areas in relation to the existing parking lot.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-02-027
Moved by: Waller
Seconded by: Kerwin

RESOLVED, That the Special Use Approval and Site Plan Approval, pursuant to Section 27.30.04 of the Zoning Ordinance, as requested for the proposed Franklin Bank, located on the northeast corner of Tower and Long Lake Road, Section 9, within the R-C Zoning District, be granted.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

9. PUBLIC HEARING – PROPOSED SPECIAL USE REQUEST (SU 318-B) – Proposed Boys and Girls Club of Troy, East side of John R, South of Wattles, (3670 John R), Section 24, Zoned R-1C (One Family Residential) District

Mr. Miller presented a summary of the Planning Department report for the proposed special use request and site plan approval. He reported it is the recommendation of City Management to approve the special use request and site plan as submitted with the condition that the petitioner receives three variances from the Board of Zoning Appeals.

Steve Toth, Executive Director of the Boys and Girls Club, 2312 Niagara, Troy, was present.

Jim Butler of Professional Engineering Associates, 2430 Rochester Court, Troy, civil engineering consultant for the project, was present. Mr. Butler outlined the site plan and displayed elevations and renderings of the proposed development.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Miller provided an explanation of site plan approval with respect to the petitioner receiving the variances from the Board of Zoning Appeals.

Ms. Bluhm confirmed that it is the Commission's discretion to give preliminary site plan approval with the conditions as discussed. She said the proposed resolution clearly states the conditions, and special use and site plan approvals would be granted upon satisfaction of those conditions.

Mr. Waller disclosed that he was formerly on the Girls and Boys Club board.

Resolution # PC-2006-02-028
Moved by: Kerwin
Seconded by: Khan

RESOLVED, That the Special Use Approval and Site Plan Approval, pursuant to Section 10.30.07 of the Zoning Ordinance, as requested for the proposed Boys and Girls Club of Troy, located on the east side of John R, south of Wattles, Section 24, within the R-1C Zoning District, be granted, subject to the following conditions:

1. The applicant must receive a variance from the Board of Zoning Appeals for a variance from the 25-foot maximum height requirement to construct a building that is 30 feet in height.
2. The applicant must receive a variance from the Board of Zoning Appeals to waive the required 50-foot wide landscape area adjacent to residential districts for the rear yard adjacent to the residentially-zoned Barnard Elementary School.
3. The applicant must receive a variance from the Board of Zoning Appeals to waive the required 4 foot 6 inch high masonry screen wall along parking areas adjacent to residentially-zoned property.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

ZONING ORDINANCE TEXT AMENDMENT

10. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215-A) – Articles 40.55.00-40.59.00, pertaining to Accessory Buildings, Accessory Supplemental Buildings and Accessory Structures

Mr. Miller reviewed the text amendment that was adopted by City Council on July 11, 2005, and the text amendment versions recommended by the Planning Commission and City Management. Mr. Miller detailed the difference between the recommended versions of the Planning Commission and City Management.

Vice Chair Schultz thanked the City Council for accommodating the Planning Commission meeting schedule in forwarding their recommendation to City Council.

PUBLIC HEARING OPENED

Dick Minnick of 28 Millstone, Troy, was present. Mr. Minnick expressed concern that the City might become anti-garage and cited reasons why garages are good for

a neighborhood. He addressed issues relating to the distinction between an attached garage and an accessory building and how they relate to the residential living area; non-garage uses such as swimming pools, basketball courts and large workshops; definitions of a garage and computations of related living space; and door height limitations.

Tom Krent of 3184 Alpine, Troy, was present. Mr. Krent addressed the City Council action on July 11, 2005 and the importance of the zoning ordinance text amendment. Mr. Krent encouraged the Planning Commission to forward to the City Council the same recommendation previously submitted. He voiced appreciation to the members for their hard work and dedication to the zoning ordinance text amendment.

PUBLIC HEARING CLOSED

There was a brief discussion on the door height limitation.

Resolution # PC-2006-02-029
Moved by: Khan
Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles IV DEFINITIONS and XL GENERAL PROVISIONS, pertaining to Accessory Buildings, Accessory Supplemental Buildings, and Accessory Structures, be amended as printed on the Proposed Zoning Ordinance Text Amendment, Version A Planning Commission Version.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

Vice Chair Schultz requested that a new number is assigned to the proposed text amendment.

Vice Chair Schultz requested a recess at 8:59 p.m.

The meeting reconvened at 9:08 p.m.

SITE PLAN REVIEWS

11. SITE PLAN REVIEW (SP 926) – Proposed Crooks and Maple Retail Center, Northwest corner of Crooks and Maple, Section 29 – Zoned B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report for the proposed retail center. Mr. Miller pointed out a small portion of property that is being purchased by the petitioner as relates to parking. He also addressed an awkward area of access on Crooks Road as relates to the circulation pattern and the existing property to the north. Mr. Miller reported it is the recommendation of City Management to approve the site plan as submitted because the plan meets all numerical requirements of the zoning ordinance, but he strongly encouraged that a joint driveway exist to the property to the north.

Mr. Waller questioned the Traffic Engineer's comments that a deceleration lane would be required on Crooks Road.

Mr. Miller replied that he would seek further guidance from the Traffic Engineer on the requirement.

There was discussion on the procedure of obtaining a cross access easement with the property to the north.

The petitioners, Hathem Hannawa and Tom Hannawa of H & H Design Consultants, 5600 E. Nine Mile, Warren, were present.

Mr. Hathem Hannawa addressed the small portion of property that is being purchased in relation to the parking spaces shown on the plan. Mr. Hannawa also addressed potential of a shared driveway with the property to the north. He indicated that he has been unsuccessful in reaching an agreement with the property owner for a shared driveway.

Mr. Tom Hannawa addressed potential users for the retail center. He stated that at this time there are no users for the center, but a mixture of uses would be desirable; i.e., a high-end coffee user, one restaurant and general retail for the remainder.

Mr. Littman asked how parking requirements could be configured if the retail use is not known at this time.

Mr. Miller explained that a general retail parking calculation is used and the Building Department would apply exact parking standards that relate to the specific users as the building is occupied.

Resolution # PC-2006-02-030
Moved by: Khan
Seconded by: Waller

RESOLVED, That Preliminary Site Plan Approval, as requested for the Proposed Crooks and Maple Retail Center, located on the northwest corner of Crooks and Maple, located in Section 29, on approximately 1.24 acres, within the B-3 zoning district, is hereby granted.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

12. SITE PLAN REVIEW (SP 929) – Proposed Medical Office Building, North side of Big Beaver, West of John R, Section 23 – Zoned O-1 (Low Rise Office), E-P (Environmental Protection) and R-1E (One Family Residential) District

Mr. Miller presented a summary of the Planning Department report for the proposed medical office building and reported it is the recommendation of City Management to approve the site plan as submitted.

The petitioner, Lisa High of CDPA Architects, 26600 Telegraph Road, Southfield, was present. Ms. High displayed a rendering of the proposed development.

Resolution # PC-2006-02-031
Moved by: Littman
Seconded by: Khan

RESOLVED, That Preliminary Site Plan Approval, as requested for the Proposed Medical Office Building, located on the north side of Big Beaver, west of John R, located in Section 23, on approximately 4.61 acres, within the O-1, E-P and R-1E zoning districts, is hereby granted.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

ZONING ORDINANCE TEXT AMENDMENT

13. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 201) – Article 28.30.00 Commercial Indoor Recreation in the M-1 (Light Industrial) Zoning District

Mr. Miller reviewed Resolutions # PC-2005-12-192 and # PC-2005-12-193 passed at the December 13, 2005 Planning Commission Regular Meeting. He reported City Management recommends that the Planning Commission rescind Resolution # PC-2005-12-193. City Management further recommends that the commercial indoor recreation facilities not include performance theaters, and that consideration be given to developing separate special use standards for performance theaters in the M-1 Light Industrial district.

Resolution # PC-2006-02-032
Moved by: Khan
Seconded by: Littman

RESOLVED, That the Planning Commission hereby rescinds Resolution # PC-2005-12-193, which was approved by the Planning Commission at the Regular Meeting on December 13, 2005.

Discussion on the motion on the floor.

Mr. Littman asked if the proposed zoning ordinance text amendment was forwarded to City Council.

Mr. Miller stated that the proposed ZOTA has not been forwarded to the City Council as of yet. Mr. Miller said a thorough explanation would accompany the report to City Council. He indicated that recreational uses in the M-1 zoning district would go forward to City Council. Mr. Miller clarified that dance studios and performance studios would be included in the recommendation as uses permitted in indoor recreation, but performance theaters would be excluded.

Vote on the motion on the floor.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

Resolution # PC-2006-02-033
Moved by: Kerwin
Seconded by: Khan

RESOLVED, That the Planning Commission and City Management shall study the potential for developing standards for permitting Performance Theaters by Special Use Permit in the M-1 Light Industrial District.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

OTHER ITEMS

14. PUBLIC COMMENTS – Items on the Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

Mr. Savidant complimented Vice Chair Schultz on chairing tonight's meeting.

Mr. Waller asked if the developer who initiated the zoning ordinance text amendment for freestanding restaurants in the RC, O-M and O-S-C districts [ZOTA 212] has given up on the concept.

Mr. Miller said The Gale Company, who initiated ZOTA 212, is the developer of the Franklin Bank at Tower and Long Lake Road that received approval tonight. Mr. Miller indicated he is not aware of any future plans.

Ms. Kerwin announced that she would not be attending the February 28, 2006 Special/Study Meeting. Ms. Kerwin commented on the Boards and Commissions recognition dinner, and the recognition given to former member Gary Chamberlain at the function. She provided a brief update on the By-Laws sub-committee.

Mr. Khan commended Vice Chair Schultz on chairing tonight's meeting.

Mr. Miller provided an update on the Maple Road Corridor Study.

Ms. Bluhm said it was a pleasure to be with the members tonight and commented that the meeting was conducted very well.

Ms. Drake-Batts addressed the reason she was not in favor of the tabling motion on Agenda item #6, Z 632-B. Ms. Drake-Batts indicated she has no issue with the proposed change in zoning classification. She felt the residents would be better served with the petitioner's proposed development versus other types of development that could go in. She believes that at some point Rochester Road will be developed more as office.

Vice Chair Schultz thanked Ms. Bluhm for her appearance. He shared that the City of Birmingham has received a lot of column space in the *Detroit Free Press* regarding large garages. Vice Chair Schultz said it was a pleasure to chair tonight's meeting.

The Regular Meeting of the Planning Commission was adjourned at 9:47 p.m.

Respectfully submitted,

_____
Robert Schultz, Vice Chair

_____
Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2006 PC Minutes\Draft\02-14-06 Regular Meeting_Draft.doc

ELECTION COMMISSION MINUTES - Draft **February 27, 2006**

A meeting of the Troy Election Commission was held Monday, February 27, 2006, at City Hall, 500 W. Big Beaver Road. Election Commission Member Dewan called the Meeting to order at 5:05 P.M.

ROLL CALL:

PRESENT: David Anderson, Timothy Dewan,
ABSENT: City Clerk Tonni Bartholomew
ALSO PRESENT: Deputy City Clerk Barbara Holmes

Minutes: Regular Meeting of January 9, 2006

Resolution # EC-2006-02-3
Motion by Anderson
Seconded by Dewan

RESOLVED, That the Minutes of January 9, 2006, are **APPROVED** as submitted.

Yes: All-2
Absent: Bartholomew

Approval of Precinct Consolidation for the May 2, 2006 Election

Resolution #EC-2006-02-4
Motion by Dewan
Seconded by Anderson

RESOLVED, That the Election Commission of the City of Troy hereby **AUTHORIZES** that applicable school district precincts for Avondale School District, School District of the City of Birmingham, Bloomfield Hills School District, The Lamphere Schools, School District of the City of Royal Oak, the Troy School District and Warren Consolidated School District servicing qualified electors in the City of Troy be **CONSOLIDATED** as deemed necessary and in accordance with MCL 168.659.

Yes: All-2
Absent: Bartholomew

Adjournment:

The meeting was adjourned at 5:09 P.M.

Barbara A Holmes, CMC
Deputy City Clerk

February 14, 2006

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/ Finance and Administration
Jeanette Bennett, Purchasing Director

SUBJECT: **Agenda Item** – Final Reporting - BidNet On-Line Auction and Mid-Thumb Auctioneering, LLC

SUMMARY

In compliance with Resolution #2004-02-075, final reporting is being presented for twenty (20) computers and three (3) task chairs, which were auctioned on-line through BidNet the City's e-procurement website, on January 11, 2006 and closed on January 22, 2006. Three (3) vehicles were also auctioned through Mid-Thumb Auctions on January 21, 2006.

Final sale amounts and fees are listed below:

DESCRIPTION	PROCEEDS	SUB-TOTAL	NET INCOME
20 Computers & 3 Chairs	874.49		
3 Vehicles (3 Trucks & Misc.)	12,042.50		
SUB-TOTAL:		**$12,916.99**	
	FEES:		
6% on Vehicles & Misc. Items	(722.55)		
5% (Computers) & Fee	(43.72)		
SUB-TOTAL:		**($766.27)**	
Sales Tax - +6% (Computers):	50.50		
Sales Tax (None on Vehicles):	0.00		
SUB-TOTAL:		**$50.50**	
			$12,201.22

BACKGROUND

Included in the specifications for the auction contract is the ability of our auctioneer to take the City's auction items to other auction locations. Mid-Thumb Auctioneering, LLC suggested using the St. Clair County Park in Port Huron, Michigan. All transportation, reporting, and advertising are included in the auction fee.

Resolution #2004-02-075 established the auction fee of 5% and provided approval to use BidCorp with the provision that other on-line auction service options would be considered. BidNet moved forward and implemented the on-line surplus auction service for MITN (Michigan Inter-governmental Trade Network), which can be accessed through the City of Troy home web page. MITN is Purchasing's official e-procurement website used for posting bids, tabulations, quotations, and award information. It was a Purchasing goal that one e-procurement site would be operational for all functions.

VEHICLE AUCTION REPORT

NUMBER	*MAKE*	*MODEL*	*YEAR*	*AUCTION FEE*	*AUCTION PRICE*
297	DODGE RAM	1500 PICK-UP	96	$180.00	$3,000.00
878	CHEYY/LUMINA	LUMINA 4-DR	98	$180.00	$3,000.00
886	CHEVY/S10/4X4	S-10 4X4 EX.CAB	98	$354.00	$5,900.00
			TOTALS	**$714.00**	**$11,900.00**

Vehicles sold at Mid-Thumb Auctioneering Service on 1/21/2006

FINANCE: PLEASE CREDIT ACCOUNT # 6610.4693.100 GAIN/SALE OF DEPRECIATED FIXED ASSETS

TOTAL SALE – VEHICLES:	**$11,900.00**
TOTAL SALE – MISC ITEMS:	**$ 142.50**
TOTAL SALE:	**$ 12,042.50**
AUCTION FEE (6%)	**$ - 722.55**
	$ 11,319.95

Prepared by: Samuel P. Lamerato, Superintendent of Fleet

Michigan Inter-governmental Trade Network

MITN

MITN Auctions	National Auctions	Auctions Main Menu	HELP/FAQ	Contact Support	MITN Admin Menu

Report For The City Of Troy, MI

Detailed Report For Seller: ALL

Reported On 2/14/2006 **From: 1/1/2006 To: 1/31/2006**

Item ID	Date	Sale Amount	Charge	Type of Fee	Auction Description	Seller
924	1/15/2006	33.00	1.65	Sale	Three Task Chairs	Bockstanz
925	1/22/2006	40.99	2.05	Sale	Lot B117 - Computer Unit	Bockstanz
926	1/22/2006	42.99	2.15	Sale	Lot B118 - Computer Unit	Bockstanz
927	1/22/2006	40.99	2.05	Sale	Lot B119 - Computer Unit	Bockstanz
929	1/22/2006	41.99	2.10	Sale	Lot B121- Computer Unit	Bockstanz
930	1/22/2006	46.00	2.30	Sale	Lot B122 - Computer Unit	Bockstanz
931	1/22/2006	42.11	2.11	Sale	Lot B123 - Computer Unit	Bockstanz
934	1/22/2006	41.99	2.10	Sale	Lot B126 - Computer Unit	Bockstanz
935	1/22/2006	41.00	2.05	Sale	Lot B127 - Computer Unit	Bockstanz
937	1/22/2006	41.99	2.10	Sale	Lot B129 - Computer Unit	Bockstanz
928	1/22/2006	41.99	2.10	Sale	Lot B120 - Computer Unit	Bockstanz
938	1/22/2006	41.99	2.10	Sale	Lot B130 - Computer Unit	Bockstanz
939	1/22/2006	41.00	2.05	Sale	Lot B131 - Computer Unit	Bockstanz
940	1/22/2006	41.99	2.10	Sale	Lot B132 - Computer Unit	Bockstanz
942	1/22/2006	41.99	2.10	Sale	Lot B134 - Computer Unit	Bockstanz
932	1/22/2006	40.99	2.05	Sale	Lot B124 - Computer Unit	Bockstanz
941	1/22/2006	44.00	2.20	Sale	Lot B133 - Computer Unit	Bockstanz
944	1/22/2006	43.50	2.18	Sale	Lot B136 - Computer Unit	Bockstanz
933	1/22/2006	41.00	2.05	Sale	Lot B125 - Computer Units	Bockstanz
936	1/22/2006	41.99	2.10	Sale	Lot B128 - Computer Unit	Bockstanz
943	1/22/2006	41.00	2.05	Sale	Lot B135 - Computer Unit	Bockstanz
0	1/23/2006	0	92.61	Payment		Bockstanz

Total Sales Amount	Total Amount Charged	Total Payments	Total Balance Due for the selected date range	Total Balance Due
$874.49	$43.72	$92.61	($48.89)	$43.73

Return to Reports Menu

February 28, 2006

To: John Szerlag, City Manager

From: John M. Lamerato, Assistant City Manager–Finance/Administration
Nino Licari, City Assessor

Re: Agenda Item – Delphi Tax Abatement Status Report

City Council requested a status report on the Delphi Tax Abatement at the February 27, 2006 meeting.

An Industrial Development District (IDD) was established by City Council, for Delphi, on January 17, 2000.

On February 7, 2000, City Council granted an Industrial Facilities Exemption Certificate (IFEC) for Delphi for Real and Personal Property.

The exemption was granted for six (6) of the allowable twelve (12) years. Council was aware and discussed that an approved applicant has two (2) years to reach the project goals, to clarify that the six (6) year abatement would have an effective eight (8) year term. This is also true of the maximum twelve (12) year abatement, that is effectively a fourteen (14) year abatement.

The abatement term was established for 12/30/00 through 12/30/08. Delphi has the option of applying to City Council to receive the remaining six (6) years of the abatement term. Council has the option of approving or disapproving the request.

The City Attorney's Office is monitoring the current bankruptcy proceedings to insure that the City is afforded any protections available.

In the meantime, the abatement continues to run its course.

Attached is a summary of the abatement since 2001.

NL/nl

City of Troy - Assessing Department
Summary of Delphi Industrial Facilities Tax Abatement (I.F.T.)

Year	Parcel ID	Type	Cert #	Term	A/V	T/V
2001	88-99-00-283-440-01	Personal	2000-016	12/30/00 - 12/30/08	0	0
2001	88-20-09-128-001-01	Real	2000-016	12/30/00 - 12/30/08	0	0
Total					0	0
2002	88-99-00-283-440-01	Personal	2000-016	12/30/00 - 12/30/08	1,358,210	1,358,210
2002	88-20-09-128-001-01	Real	2000-016	12/30/00 - 12/30/08	14,856,590	14,856,590
Total					16,214,800	16,214,800
2003	88-99-00-283-440-01	Personal	2000-016	12/30/00 - 12/30/08	1,717,970	1,717,970
2003	88-20-09-128-001-01	Real	2000-016	12/30/00 - 12/30/08	14,856,590	14,856,590
Total					16,574,560	16,574,560
2004	88-99-00-283-440-01	Personal	2000-016	12/30/00 - 12/30/08	1,116,410	1,116,410
2004	88-20-09-128-001-01	Real	2000-016	12/30/00 - 12/30/08	15,409,750	15,198,290
Total					16,526,160	16,314,700
2005	88-IP-00-100-016	Personal	2000-016	12/30/00 - 12/30/08	2,578,670	2,578,670
2005	88-IN-00-200-016	Real	2000-016	12/30/00 - 12/30/08	15,887,360	15,547,850
Total					18,466,030	18,126,520
2006	88-IP-00-100-016	Personal	2000-016	12/30/00 - 12/30/08	1,465,810	1,465,810
2006	88-IN-00-200-016	Real	2000-016	12/30/00 - 12/30/08	16,155,460	16,060,920
Total					17,621,270	17,526,730
2007	88-IP-00-100-016	Personal	2000-016	12/30/00 - 12/30/08	?	?
2007	88-IN-00-200-016	Real	2000-016	12/30/00 - 12/30/08	?	?
Total					?	?
2008	88-IP-00-100-016	Personal	2000-016	12/30/00 - 12/30/08	?	?
2008	88-IN-00-200-016	Real	2000-016	12/30/00 - 12/30/08	?	?
Total					?	?
2009	88-IP-00-100-016	Personal	2000-016	12/30/00 - 12/30/08	0	0
2009	88-IN-00-200-016	Real	2000-016	12/30/00 - 12/30/08	0	0
Total					0	0

J-03a

RECEIVED
Chief of Police
2/15/06 CC

February 1, 2006

Dear Chief Craft,

As middle school health teachers in Troy, we see the immediate need for drug education. Hearing true testimonial concerning the effects of drugs is another important piece of this education. The middle school health programs have been very lucky to have Officer Nickie Kaptur come into our classrooms and speak about this topic.

Officer Kaptur has come into each of our classes the past several years to speak about drugs and their effects and it is our hope we can continue to count on having her as a guest speaker for future years to come. Students are interested in this information and it is imperative at this age that they understand the effects that drugs can have on their bodies before they have to make a decision to use a drug or not. Officer Kaptur is not only knowledgeable as a supplement to our instruction, but she is also a very personable speaker who adds humor and helps the students feel comfortable to ask questions about this subject matter. Her factual stories are interesting and powerful to such young, impressionable minds. She provides the legal information students need to be aware of concerning drugs and their effect on society.

We have found through surveys and other information that drug use in Troy is, unfortunately, on the rise in the teenage population. To combat this, we need early intervention and information. One way we can combat this is through guest speakers such as Officer Kaptur.

Having her continue to share information and stories beyond what each of us can share as a teacher is greatly needed. She is a true teaching asset and a very necessary piece of our curriculum. We find it extremely beneficial that the students recognize her from the fourth grade "Choose Wisely" program. They often come in and say, "I know you!". We also appreciate the fact that we can tie our curriculum into her presentation. We know what topics she will cover and she understands the appropriate level at which to speak to young people and gears her stories to their age and interests.

Thank you for allowing her to come in and take an important part in the drug education curriculum in the middle schools in Troy. We hope you can continue to free up time for Officer Kaptur to come and speak to our health students. We cannot say enough about the benefit we see having Officer Kaptur come to each of our schools as the consistent representative for the Troy Police force.

Sincerely,
The Troy Middle School Health Teachers

Alicia Wahls, Patricia Davis, Ruth Frushour, Kevin Wilson, and Jamie Van Houzen

CC: Capt Mayer
City Mgr
Lt. Schalinde
Off. Kaptor
Off. Kaptur's Dept File
BB

J-2a

OAKLAND
COUNTY MICHIGAN

L. BROOKS PATTERSON, OAKLAND COUNTY EXECUTIVE

February 13, 2006

Chief William Nelson
Troy Fire Department
500 W. Big Beaver Road
Troy, MI 48084

Dear Chief Nelson:

I would like to take this opportunity to thank and congratulate you for your department's participation in the January 31, 2006 Southfield Downs Trailer Park Urban Search and Rescue Deployment Exercise. As you are well aware, technical rescue is a critical component to an effective response for any incident involving collapse, trench, confined space, or high angle rope rescue. I applaud the level of training that your department has achieved for technical rescue.

More importantly, the level of cooperation and collaboration between the Oakland County Fire Departments that participated in this exercise is to be highly commended. I recognize that this is the first time an exercise for deployment of the newly created Urban Search and Rescue teams in Oakland County has been attempted at any level. Teamwork, cooperation and regular joint training are essential for coordination during an actual event. I cannot emphasize how impressive and meaningful the collaborative effort demonstrated by the participating Oakland County Fire Departments is to the citizens of Oakland County.

I understand that many of the participating firefighters did not receive any compensation for the time and energy expended to take part in this urban search and rescue response exercise. The level of commitment demonstrated by all participating agencies and personnel in this exercise cannot and should not be understated. Please know that I am aware of how fortunate we are in Oakland County to live in an area with such dedicated and highly competent firefighters and special response teams.

Respectfully,

L. Brooks Patterson
Oakland County Executive

EXECUTIVE OFFICE BUILDING 34 EAST • 1200 N TELEGRAPH RD DEPT 409 • PONTIAC MI 48341-0409 • (248) 858-0484 • FAX (248) 452-9215

J-03c

EVERDRY® WATERPROOFING™

February 13, 2006

Troy Fire Department
2400 W. Big Beaver Road
Troy, Mi. 48083

Attn: Fire Chief

Dear Chief William Nelson,

I am writing to inform you what a positive experience I had with Lt. Perry of your department. After a random inspection, Lt. Perry left us numerous corrections that needed to be addressed. There was also a question on the storage of materials that we use for our business. Lt. Perry went above and beyond the call of duty trying to help us so our business would not be disrupted. It is obvious that she not only cares about the safety of our employees but she also values the people who do business in the City of Troy. She even went as far as giving me a crash course on fire safety in the home and how to educate my children in the event of a house fire. It is obvious that she is passionate about what she does because she performs like it is more than a job. I can not thank her enough!

Sincerely,

Jeffrey A. Schleuning
President

1400 RANKIN ROAD • TROY, MICHIGAN 48083 • (248) 585-9090 • FAX: (248) 585-3446

J-03d

DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

1300 BEAUBIEN, SUITE 303
DETROIT, MICHIGAN 48226
PHONE 313•596•1800
CHIEFOFPOLICE@DPDHQ.CI.DETROIT.MI.US

February 16, 2006

Chief Charles T. Craft
Troy Police Department
500 West Big Beaver Road
Troy, Michigan 48084

SUBJECT: **SUPER BOWL XL**

Dear Chief Craft:

I take great pleasure in commending your agency for assisting the Detroit Police Department with Super Bowl XL. The world renowned event was a tremendous success. Countless hours of planning, organizing and preparation were invested toward ensuring the safety of thousands of citizens and visitors during the Super Bowl and communal events. The support and high level of professional service provided by your agency are invaluable and demonstrates your commitment to our partnership and the Detroit community. On February 5, 2006, the city of Detroit was showcased at its finest and as the great city we all know it to be.

As always, I look forward to the continued collaborative working relationship shared between our agencies. If the Detroit Police Department can be of any assistance to you, please feel free to contact me at 596-1800, Monday through Friday, 8:00 A.M. to 5:00 P.M.

Cc: City Manager
Captain Murphy
Department File
BB

Sincerely,

ELLA M. BULLY-CUMMINGS
Chief of Police

EMB-C/cdb

RECEIVED
Chief of Police
2/21/2006 CTC

J-3d

JOHN A. CASTLE

Outdoor Writer • Researcher • Photographer • Cryptozoologist*

3174 Merrill, Apt 106 / Royal Oak, MI 48073 [redacted] *Investigating Unusual [redacted] Animals

J-03e

February 16, 2006

Carol K. Anderson
Director of Parks and Recreation
City of Troy

Dear Mrs. Anderson:

I want you to know how impressed I am with your staff. For several years I have been coming to your Department and have become acquainted with several of your staff members: Kraig, Shannon and Terry, to name a few. They have been extremely nice to me and I have noticed how well they treat other people.

You are to be congratulated for having such a courteous, capable and conscientious staff.

Sincerely,

J-3e

March 2006

March 2006

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26	27	28	29	30	31	

April 2006

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23	24	25	26	27	28	29
30						

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		March 1 8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)	2	3	4 5
6 7:30pm City Council Meeting (Council Chambers)	7 7:30pm Planning Commission Special/Study (Council Boardroom)	8	9	10	11 12
13	14 7:30pm Planning Commission Regular Meeting (Council Chambers)	15 7:30am DDA Meeting (Conference Room Lower Level)	16	17	18 19
20 7:30pm City Council Meeting (Council Chambers)	21 7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	22	23	24	25 26
27 7:30pm City Council Meeting (Council Chambers)	28 7:30pm Planning Commission Special/Study (Council Boardroom)	29	30	31	

3/20/06 Rez. Req. Sec. 22-R1C to C-F (Z-713)
3/20/06 PH ZOTA 218 Child Care Cntrs.
3/20/06 ZOTA 214 Group Child Care Homes R-1A - R-1E

April 2006

April 2006

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May 2006

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28	29	30	31			

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					April 1 2
3 7:30pm City Council Meeting (Council Chambers)	4 7:30pm Planning Commission Special/Study (Council Boardroom)	5 8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)	6	7	8 9
10	11 7:30pm Planning Commission Regular Meeting (Council Chambers)	12	13	14	15 16
17 7:30pm City Council Meeting (Council Chambers)	18 7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	19 7:30am DDA Meeting (Conference Room Lower Level)	20	21	22 23
24 7:30pm City Council Meeting (Council Chambers)	25 7:30pm Planning Commission Special/Study (Council Boardroom)	26	27	28	29 30

May 2006

May 2006

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21	22	23	24	25	26	27
28	29	30	31			

June 2006

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25	26	27	28	29	30	

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
May 1	2 7:30pm Planning Commission Special/Study (Council Boardroom)	3 8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)	4	5	6 7
8 7:30pm City Council Meeting (Council Chambers)	9 7:30pm Planning Commission Regular Meeting (Council Chambers)	10 1:00pm Planning Commission (Special Meeting) (Council Chambers)	11	12	13 14
15 7:30pm City Council Meeting (Council Chambers)	16 7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	17 7:30am DDA Meeting (Conference Room Lower Level)	18	19	20 21
22 7:30pm City Council Meeting (Council Chambers)	23 7:30pm Planning Commission Special/Study (Council Boardroom)	24	25	26	27 28
29	30	31			

To: City Council
From: Lynn Drake-Batts
Re: Zoning Ordinance Text Amendment 214
Date: March 1, 2006

I'm hoping that most of you were able to watch the hearings on the daycare issue. If you listen or read the final comments from the planning commission you will get the sense that most of the comments from the citizens were negative. That is far from the case.

Per Paul Bratto, 975 neighbors of group daycare providers were notified of the public hearings. Several hundred people showed up supporting group daycare while only three people came and spoke against the issue. I'm hoping that you get copies of all the emails and letters which came to our group. Once again there were only a handful of letters against. Most of those letters came from one household.

The majority of the planning commissioners announced they were against all daycare before the first hearing. Holding hearings made no difference in the decisions of those sitting on the planning commission. The zota which has been presented for approval is written in a way that won't allow in home day care to exist in our community.

Mr. Vleck included in his motion that "It has been demonstrated by public input, letters and phones that family and group day care homes do have a negative impact on the neighboring property owners." Since Mr. Vleck and I came away with two opposing opinions I urge you to watch the tapes and form your own opinion. With almost 100 child and adult foster homes in Troy, out of the dozens of neighbors who showed up only two or three voiced negative opinions. Statistically less than one percent does not constitute a majority.

One of my biggest concerns is if the city restricts these types of daycares then they will simply operate without getting the state permits. The State of Michigan does a good job at setting requirements for these types of use. Let them continue to do their job!

The planning department sent a memo dated December 7, 2005 which outlined some changes to the ordinance proposed by the planning commission. I agree with all their proposed changes.

1. Eliminate fenced or screened play areas. Every neighborhood has its own rules about whether or not it allows fences. I do not believe the city has access to all neighborhood rules and regulations. What if a city employee tells a citizen they have to erect this fence and then it turns out they aren't allowed in their neighborhood? Where does the liability fall? Last I ask you, would you like to live next to a 6' fence? This is excessive and putting up a chain link fence will not do anything to eliminate any sound or enhance property values.

Not all daycare homes use their back yards as a place for the kids to play. The provider I used when my son was young had a morning and afternoon park. Many senior citizens would come out and greet them as they passed by their homes.

2. Eliminate registering with the City Clerk. The state as already taken this role. What if a person buying a house checks with the city clerk to see if there is a daycare in the neighborhood before buying the house? The city clerk tells them there are no group child care homes mistakenly. Is the city at risk for this error? If a citizen wants to know where the homes are at they can look at the State of Michigan's website to determine this information for themselves. With about 100 foster, group and family daycares the city may need additional staff to track these. Is there money in the 2006 budget for this?

3. Eliminate inspection and code requirements. All buildings in Troy are required to have inspections. Adding this language is redundant. Does the city have the staff to inspect these buildings? If so, where will the funding come from to handle this requirement? Since the state is already inspecting the homes, why do they need to be reinspected by city staff?

4. Eliminate keeping all daycares and foster homes at least 1500 feet away from each other. This concept came from the existing state law. If one looks at the map prepared by the planning department dated 12/1/05 you will see the state has not adhered to this law. If this zota goes into effect who is going to decide who can stay open and who has to close? The location of family day cares is made by the state not our community. If a family day care is given permission to open up next door to a group day care does the first one have to close down? The ordinance provides for a public hearing on every group daycare home. Can't the neighbors make these decisions for themselves?

My comments on the addition to the zota present by Mr. Vleck are as follows:

10.25.02 E Should be eliminated see item 1 above.

H Does the city really want more curb cuts on our main roads?

10.30.1 A. The size of the homeowner's lot has been added to reduce the number of neighborhoods this is allowed. There was no valid reason for putting this in the ordinance other than disallowing them in most neighborhoods. The same applies to a 20' side yard. Children don't generally play in a side yard so I see no reason for this to be a part of the ordinance.
H Same as H in 10.25.02
J See 1 above.
K see 2 above.
M see 4 above

I urge you to watch all the tapes of planning commission's hearings. The words and actions of the planning commissioners will speak for themselves. Mark Miller representing the city took a neutral position and offered up a neutral solution which is fair to all concerned. Having lived in Troy most of my life I feel the zota passed onto council is outdated and out of step with the rest of society. If we are truly the city of tomorrow today we need changes in our ordinance that reflect how families are living today.

By temporarily allowing group day care in the city by decrees of city council precedence has been set which allows you to Grandfather all existing daycares that are currently servicing our community. Especially in light of fact that many of these group homes have been operating for decades. My suggestion is to allow the existing daycares to continue operating and as new ones open up then they should go through the process as contained herein.

Thank you for time and consideration.

Sharon M. & David A. Schafer
5593 Mandale Drive
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248 879 9249
dschafer@ix.netcom.com
Monday, February 27, 2006

Mr. Mark F. Miller AICP/PCP
Planning Director
City of Troy
500 W. Big Beaver
Troy MI 48084

Dear Mr. Miller

This is a formal request that David Schafer and Curtis Childs be permitted to make a presentation to the City Council at the City Council meeting on Monday, March 6, 2006 during the Public Hearing for Zota 214 Group Child Day Care in Troy.

The reason for this request is that we feel they could cover a lot of the issues regarding Child Group Day Homes in one presentation so that you would not need numerous people come up to talk individually.

We appreciate your consideration of this request.

Sincerely,

Sharon M. Schafer & David A. Schafer