

DATE: March 13, 2006

TO: John Lamerato, Acting 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 (CONTINUATION)

### **RECOMMENDATION**

At the February 27, 2006 Regular meeting, City Council continued the Public Hearing to the March 20, 2006 City Council Regular meeting.

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.

Reviewed as to Form and Legality:

\_\_\_\_\_  
Lori Grigg Bluhm, City Attorney      Date \_\_\_\_\_

Attachments:

1. Draft Zoning Ordinance Text Amendment, dated 01/10/06.
2. March 6, 2006 City Council Public Hearing item.

cc: File/ZOTA 218

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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

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 Staff to **REPUBLISH** the *Notice of Public Hearing* in the official newspaper of record and **RENOUNCE** 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.

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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 **RENOUNCE** 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](mailto:planning@ci.troy.mi.us), by contacting the Planning Department at (248) 524-3364, or by attending the Public Hearing.

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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](mailto: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.*

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- 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**