

DATE: April 7, 2006

TO: John M. Lamerato, Acting City Manager

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

SUBJECT: AGENDA ITEM – PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 201) – Article 28.30.00 Indoor Commercial Recreation in the M-1 Light Industrial Zoning District

RECOMMENDATION

The Planning Commission and City Management recommend approval of ZOTA 201.

BACKGROUND

The Planning Commission recommended approval of ZOTA 201 at the July 12, 2005 Regular meeting. On November 14, 2005, City Council conducted a public hearing on ZOTA 201 at which time there was discussion whether the Planning Commission should or should not review definitions of performance theaters and performance studios that will be prepared by City Management. A resolution was adopted by City Council to postpone ZOTA 201 to the November 28, 2005 City Council meeting, so City Management could develop and present proper definitions of performance theaters and performance studios to the Planning Commission.

The Planning Commission considered the item at the December 13, 2005 Regular meeting. At the meeting the Planning Commission passed the following motion:

Resolution # PC-2005-12-192

Moved by: Khan
Seconded by: Drake-Batts

RESOLVED, That the definitions for performance studio and performance theater provided by City Management are acceptable to the Planning Commission.

Yes: All present (7)
No: None
Absent: Schultz, Waller

MOTION CARRIED

The Planning Commission passed a second motion at the December 13, 2006 Regular meeting:

Resolution # PC-2005-12-193

Moved by: Chamberlain
Seconded by: Vleck

RESOLVED, The City of Troy has a problem in its industrial zone of a multitude of vacancies and the tax base is being eroded; therefore the Planning Commission hereby recommends to the City Council that Paragraph 04.20.73, Indoor Commercial Recreation Facility, include performance studios, performance theaters and art studios, and that other facilities may be included in this paragraph as well as the facilities named in that paragraph in the language in front of us tonight.

Yes: All present (7)
No: None
Absent: Schultz, Waller

MOTION CARRIED

Performance theaters do not have the same characteristics as indoor commercial recreation uses. A significant difference between the two uses is performance theaters generate traffic because of the audience watching the performance, while indoor commercial recreation generates traffic because of actual participation in the activity. City Management agrees with the general concept of expanding the range of uses permitted in the M-1 Light Industrial District. However, it is City Management's position that performance theaters should not be included in the same category as indoor commercial recreation uses. The Planning Commission discussed this issue at the February 14, 2006 Regular meeting and passed the following Resolution #PC-2006-02-032:

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.

Yes: All present (6)
No: None
Absent: Strat, Vleck, Wright

MOTION CARRIED

Following this resolution, resolution #PC-2006-02-033 was passed:

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

SUMMARY OF PLANNING COMMISSION ACTIONS ON ZOTA 201

The following is a summary of Planning Commission actions regarding ZOTA 201:

1. The Planning Commission recommended approval of ZOTA 201.
2. The definitions for performance studio and performance theater provided by City Management are acceptable to the Planning Commission.
3. 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.

Reviewed as to Form and Legality:

Lori Grigg Bluhm Date
City Attorney

Attachments:

1. ZOTA 201 City Council Draft, dated March 22, 2006.
2. City Management memo to City Council dated November 10, 2005.
3. Definitions for Performance Studio And Performance Theater
4. Minutes from the November 14, 2005 City Council meeting.
5. Minutes from December 13, 2005 Planning Commission Regular meeting.
6. Minutes from the February 14, 2006 Planning Commission Regular meeting.

Prepared by RBS, MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL DRAFT – MARCH 22, 2006

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 IV of Chapter 39

Article IV of Chapter 39 of the Code of the City of Troy is amended to add a new section 04.20.73, which defines Indoor Commercial Recreation Facilities, to read as follows:

04.20.73 INDOOR COMMERCIAL RECREATION FACILITY: An enterprise conducted entirely within a building, which receives a fee in return for the provision of some recreational activity or facility. Such activities and facilities include racquetball, tennis courts, gymnasiums, swimming pools, skating rinks, performance studios, skateboard parks, climbing facilities, miniature golf courses, indoor driving ranges, batting cages, firing ranges, basketball courts, soccer fields and similar activities or facilities. Such facilities may provide ancillary accessory uses such as pro shops or snack bars.

04.20.73~~4~~ JUNK YARDS: an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to; scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

Section 3 – Amendment to Article XXVIII of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new Section 28.30.09 which permits Indoor Commercial Recreational Facilities as Special Uses in the M-1 Light Industrial District, to read as follows:

28.30.09 Indoor commercial recreation facilities, subject to the following conditions:

A. Off-street parking requirements shall be determined based on the Zoning Ordinance requirements.

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

Section 4. 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 5. 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 6. 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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November 10, 2005

TO: John Szerlag, City Manager

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

SUBJECT: AGENDA ITEM – PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA–201) – Article 28.30.00 Commercial Indoor Recreation in the M-1 Light Industrial Zoning District.

RECOMMENDATION

City Management and the Planning Commission developed language for this ZOTA. The Planning Commission held a public hearing on July 12, 2005 and recommended approval of Version "A", which includes performance theaters. After the Planning Commission recommendation, further discussions raised concerns of the appropriateness of performance theaters in M-1 Zoning District. No one envisioned that performance theaters would be included in the commercial indoor recreation definition. This inclusion had simply been missed in earlier reviews of the amendments. Based upon the intent of the indoor commercial recreation in the M-1 district ZOTA, City Management recommends approval Version "B", which excludes performance theaters and permits dance and performance studios. If City Council desires to clarify this intent with the Planning Commission, resolution "C" was prepared that will refer the ZOTA back to the Planning Commission.

BACKGROUND

The Link School of the Arts (1077 Rankin) submitted a Zoning Ordinance text amendment application to permit dance schools in the M-1 district. The Planning Commission determined that arts and dance schools should be included in a category known as indoor commercial recreation, and this category should be considered as a use permitted by Special Use Approval in M-1.

Commercial Indoor Recreation Facilities are appropriate uses in the M-1 Light Industrial District for a number of reasons:

1. These uses are compatible with uses presently permitted in the M-1 district;
2. The text amendment will be consistent with abutting communities, which generally permit similar uses in their industrial districts;
3. The amendment will encourage the re-use of buildings and properties in the M-1 District; and
4. There are a significant number of vacant, relatively large, high-ceilinged buildings that would be appropriate for these types of uses.

The definition of “Indoor Commercial Recreation Facility” considered at the Planning Commission Public Hearing included the uses dance studios and performance theaters. It was the intent to permit dance and performance studios, but not the intent to permit performance theaters, such as Freedom Hill located in the City of Sterling Heights. This potential situation was identified by Richard Carlisle, the City’s Planning Consultant, following the Planning Commission Public Hearing. Therefore, three resolutions are prepared for City Councils consideration. Version “A” is the Planning Commission’s recommendation which includes performance theaters. Version “B” is City Management’s recommendation, which excludes performance theaters but still includes dance and performance studios. Version “C” refers ZOTA 201 to the Planning Commission to consider the removal of performance theaters from ZOTA 201.

Attachments:

1. ZOTA 201, City Council Public Hearing Draft Version “A”
2. ZOTA 201, City Council Public Hearing Draft Version “B”
3. Minutes from July 12, 2005 Planning Commission Regular Meeting.

Prepared by RBS/MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT VERSION "A"

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 IV of Chapter 39

Article IV of Chapter 39 of the Code of the City of Troy is amended to add a new section 04.20.73, which defines Indoor Commercial Recreation Facilities, to read as follows:

04.20.73 INDOOR COMMERCIAL RECREATION FACILITY: An enterprise conducted entirely within a building, which receives a fee in return for the provision of some recreational activity or facility. Such activities and facilities include racquetball, tennis courts, gymnasiums, swimming pools, skating rinks, dance studios, performance theaters, skateboard parks, climbing facilities, miniature golf courses, indoor driving ranges, batting cages, firing ranges, basketball courts, soccer fields and similar activities or facilities. Such facilities may provide ancillary accessory uses such as pro shops or snack bars.

04.20.734 JUNK YARDS: an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to; scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

Section 3 – Amendment to Article XXVIII of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new Section 28.30.09 which permits Indoor Commercial Recreational Facilities as Special Uses in the M-1 Light Industrial District, to read as follows:

28.30.09 Indoor commercial recreation facilities, subject to the following conditions:

A. Off-street parking requirements shall be determined based on the Zoning Ordinance requirements.

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

Section 4. 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 5. 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 6. 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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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT VERSION "B"

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 IV of Chapter 39

Article IV of Chapter 39 of the Code of the City of Troy is amended to add a new section 04.20.73, which defines Indoor Commercial Recreation Facilities, to read as follows:

04.20.73 INDOOR COMMERCIAL RECREATION FACILITY: An enterprise conducted entirely within a building, which receives a fee in return for the provision of some recreational activity or facility. Such activities and facilities include racquetball, tennis courts, gymnasiums, swimming pools, skating rinks, dance and performance studios, skateboard parks, climbing facilities, miniature golf courses, indoor driving ranges, batting cages, firing ranges, basketball courts, soccer fields and similar activities or facilities. Such facilities may provide ancillary accessory uses such as pro shops or snack bars.

04.20.734 JUNK YARDS: an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to; scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

Section 3 – Amendment to Article XXVIII of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new Section 28.30.09 which permits Indoor Commercial Recreational Facilities as Special Uses in the M-1 Light Industrial District, to read as follows:

28.30.09 Indoor commercial recreation facilities, subject to the following conditions:

A. Off-street parking requirements shall be determined based on the Zoning Ordinance requirements.

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

Section 4. 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 5. 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 6. 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 AMENDMENTS

12. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 201) – Article 28.30.00 Arts and Dance Schools (Commercial Recreation) in Light Industrial Zoning Districts**

Mr. Miller presented a summary of the proposed zoning ordinance text amendment relating to arts and dance schools in the light industrial zoning districts. Mr. Miller reported that City Management recommends approval of ZOTA 201 as printed on the draft ZOTA dated June 24, 2005.

There was a brief discussion relating to commercial recreation in the RC zoning districts. It was determined to discuss this at a future study meeting.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED**Resolution # PC-2005-07-121**

Moved by: Wright

Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 28.30.09, pertaining to indoor commercial recreation facilities in the M-1 Light Industrial Zoning District, and related additional definitions, be amended as printed on the Proposed Planning Commission Public Hearing Draft Zoning Ordinance Text Amendment.

Yes: All present (7)

No: None

Absent: Vleck, Waller

MOTION CARRIED

DEFINITIONS FOR PERFORMANCE STUDIO AND PERFORMANCE THEATER

The following resolution was approved by the Planning Commission on the December 13, 2005 Planning Commission Regular meeting:

Resolution # PC-2005-12-192

Moved by: Khan
Seconded by: Drake-Batts

RESOLVED, That the definitions for performance studio and performance theater provided by City Management are acceptable to the Planning Commission.

Yes: All present (7)
No: None
Absent: Schultz, Waller

MOTION CARRIED

The following definitions were provided to the Planning Commission by City Management for consideration at the December 13, 2005 Planning Commission Regular meeting:

- **PERFORMANCE STUDIO:** A building or a portion of a building where the principal use of the space is the provision of instruction in the various arts, including but not limited to dance, theater, music, and singing. This shall not preclude student performances.
- **PERFORMANCE THEATER:** A building or portion of a building where the principal use of the space is dramatic, dance, or musical performances or similar activities, in front of an audience, including performances on film, television, music video, or multimedia. Performance theaters shall include theaters, assembly halls, concert halls or similar places of assembly.

**C-4 Zoning Ordinance Text Amendment (ZOTA 201) – Article 28.30.00,
Commercial Indoor Recreation in the M-1 Light Industrial Zoning District**

Resolution #2005-11-508

Moved by Beltramini

Seconded by Stine

RESOLVED, That Zoning Ordinance Text Amendment (ZOTA 201)-Article 28.30.00, Commercial Indoor Recreation in the M-1 Light Industrial Zoning District be **POSTPONED** until the Regular City Council meeting scheduled for Monday, November 28, 2005 so that City Management can develop and present proper definitions of “performance studios” and “performance theaters” for Article IV of the Zoning Ordinance to the Planning Commission.

Yes: All-7

TABLED ITEM**6. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 201) – Article 28.30.00 Arts and Dance Schools (Commercial Recreation) in the M-1 (Light Industrial) Zoning District**

Mr. Miller provided a brief review of the proposed zoning ordinance text amendment relating to commercial indoor recreation in the M-1 Light Industrial Zoning District.

Discussion followed on the following:

- Negative affects of large performance theaters; i.e., parking, intense land use, design.
- Current vacancy rate.
- Tax base.
- Existing zoning district that allows large performance theaters [B-2 and B-3].
- Future of industrial area.

Mr. Carlisle said large performance theaters are a consumer-oriented type of use that would produce more traffic mixed with the industrial style traffic. Mr. Carlisle recommended that the members refine and create specific requirements in the Zoning Ordinance with respect to large performance theaters.

Tennis bubbles, art studio/galleries, and motion picture theaters were discussed with respect to the definitions of performance studio and performance theater.

Resolution # PC-2005-12-192

Moved by: Khan

Seconded by: Drake-Batts

RESOLVED, That the definitions for performance studio and performance theater provided by City Management are acceptable to the Planning Commission.

Yes: All present (7)

No: None

Absent: Schultz, Waller

MOTION CARRIED

Resolution # PC-2005-12- (motion withdrawn)

Moved by: Chamberlain
Seconded by: Vleck

RESOLVED, That the Planning Commission hereby recommends to the City Council that Paragraph 04.20.73, Indoor Commercial Recreation Facility, include both performance studios and performance theaters as well as all the other uses that are proposed in the text in front of us tonight.

Mr. Vleck asked that the motion be amended to include the word "may" before "include both performance studios and performance theaters" so the activities are not limited and also to include the term "art studios".

Mr. Chamberlain, with agreement from Mr. Vleck, withdrew the motion on the floor, and restated it as follows.

Resolution # PC-2005-12-193

Moved by: Chamberlain
Seconded by: Vleck

RESOLVED, The City of Troy has a problem in its industrial zone of a multitude of vacancies and the tax base is being eroded; therefore the Planning Commission hereby recommends to the City Council that Paragraph 04.20.73, Indoor Commercial Recreation Facility, include performance studios, performance theaters and art studios, and that other facilities may be included in this paragraph as well as the facilities named in that paragraph in the language in front of us tonight.

Yes: All present (7)
No: None
Absent: Schultz, Waller

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