

AGENDA

Regular Meeting of the

CITY COUNCIL OF THE CITY OF TROY

JUNE 5, 2006

CONVENING AT 7:30 P.M.

**Submitted By
The Acting 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 M. Lamerato, Acting 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

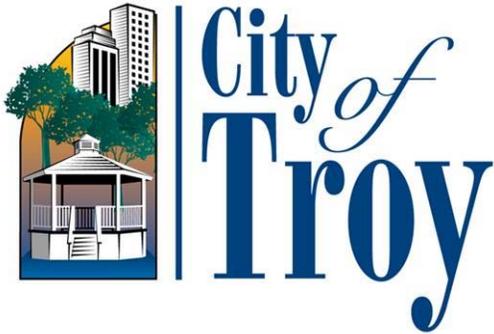
1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

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

Respectfully submitted,



John M. Lamerato, Acting City Manager



CITY COUNCIL

AGENDA

**June 5, 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 Paul Lehman – Glen Oaks Alliance Church 1

ROLL CALL: 1

CERTIFICATES OF RECOGNITION: 1

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 - b) Proclamation to Honor Sherry LeVeque – 2005 Non-Sworn Police Department Employee of the Year 1
 - c) Proclamation to Honor Daryl Klinko – 2006 Fire Fighter of the Year 1
 - d) Presentation of Check to the City of Troy from the Historical Society’s Heritage Campaign for Expansion of the Troy Museum 1

CARRYOVER ITEMS: 1

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C-2 Rezoning Application (Z 704) – Proposed Dunkin Donuts, South Side of Vanderpool, West of Rochester Road and East of Ellenboro, Section 22 – R-1E to B-2 2

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CALL TO ORDER:**INVOCATION & PLEDGE OF ALLEGIANCE: Pastor Paul Lehman – Glen Oaks Alliance 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:

- a) Proclamation to Honor Joseph Haddad – 2005 Police Officer of the Year
- b) Proclamation to Honor Sherry LeVeque – 2005 Non-Sworn Police Department Employee of the Year
- c) Proclamation to Honor Daryl Klinko – 2006 Fire Fighter of the Year
- d) Presentation of Check to the City of Troy from the Historical Society's Heritage Campaign for Expansion of the Troy Museum

CARRYOVER ITEMS:

B-1 No Carryover Items**PUBLIC HEARINGS:**

C-1 Commercial Vehicle Appeal Renewal – 6881 WestawaySuggested Resolution

Resolution #2006-06-

Moved by

Seconded by

Proposed Resolution A (For Approval)

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).

- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has found that the petitioner has demonstrated the presence of the following condition(s), justifying the granting of a variance: _____

THEREFORE, BE IT RESOLVED, That the request from Adrian Eremie, 6881 Westaway, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet stake truck in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

Or Proposed Resolution B (For Denial)

WHEREAS, The City Council of the City of Troy has not found that the petitioner has demonstrated the presence of condition(s), justifying the granting of a variance pursuant to Section 44.02.02 of Chapter 39 of the Code of the City of Troy:

THEREFORE, BE IT RESOLVED, That the request from Adrian Eremie, 6881 Westaway, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet stake truck in a residential district is hereby **DENIED**.

Yes:
No:

C-2 Rezoning Application (Z 704) – Proposed Dunkin Donuts, South Side of Vanderpool, West of Rochester Road and East of Ellenboro, Section 22 – R-1E to B-2

C-2a Addendum Protest Petition

Suggested Resolution
Resolution #2006-06-
Moved by
Seconded by

RESOLVED, That the R-1E to B-2 rezoning request, located on the south side of Vanderpool, west of Rochester Road and east of Ellenboro, Section 22, part of parcel 88-20-22-426-045,

being 0.5 acres in size, is described in the following legal description and illustrated on the attached Certificate of Survey drawing:

T2N, R11E, SE ¼ of Section 22

Lot 41, excepting the south 125 ft., of Supervisors Plat No. 17 (Liber 28, page 36, of Oakland County Plats). Containing ± 0.50 ac. more or less, and subject to easements of record.

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

Yes:

No:

POSTPONED ITEMS:

D-1 Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards

Pending Resolution

Resolution #2006-06

Moved by Beltramini

Seconded by Schilling

RESOLVED, That Chapter 28 – Tree and Plant Ordinance, a copy of which shall be **INCLUDED** in the original Minutes of this meeting, is hereby **ADOPTED**.

Yes:

No:

Proposed Resolution to Postpone Voting on Resolution to Provide for the Repealing of Chapter 28 - Tree Regulations Ordinance

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **POSTPONES** the proposed Resolution, Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards, Moved by Broomfield and Seconded by Schilling, until after consideration the proposed Repealing of City Ordinance, Chapter 28 – Tree Regulations Ordinance Resolution.

Yes:

No:

Proposed Resolution to Repeal City Ordinance, Chapter 28 – Tree and Plant Regulations Ordinance

Suggested Resolution

Resolution 2006-06-

Moved by

Seconded by

RESOLVED, That Chapter 28 – Tree Regulations Ordinance, a copy of which shall be **INCLUDED** in the original Minutes of this meeting, is hereby **REPEALED**.

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 #2006-06-

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 #2006-06-

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of May 15, 2006 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamations:Suggested Resolution

Resolution #2006-06-

RESOLVED, That the following City of Troy Proclamations be **APPROVED**:

- a) Joseph Haddad – 2005 Police Officer of the Year
 - b) Sherry LeVeque – 2005 Non-Sworn Police Department Employee of the Year
 - c) Daryl Klinko – 2006 Fire Fighter of the Year
-

E-4 Standard Purchasing Resolutions**a) Standard Purchasing Resolution 3: Exercise Renewal Option – Uniform Rental Services**Suggested Resolution

Resolution #2006-06-

WHEREAS, On July 19, 2004, a two-year contract with an option to renew for two additional years for uniform rental services was awarded to Arrow Uniform of Taylor, MI, the highest scoring and lowest priced bidder as a result of a best value process (Resolution #2004-07-375-E6);

WHEREAS, Arrow Uniform has agreed to exercise the two-year option to renew under the same prices, terms and conditions;

THEREFORE, BE IT RESOLVED, That the option to renew the contract is hereby **EXERCISED** with Arrow Uniform to provide uniform rental services under the same prices, terms, and conditions for two years expiring August 31, 2008.

b) Standard Purchasing Resolution 1: Award to Low Bidder – Contract 06-6, New King, Maxwell and Stutz Paving RehabilitationSuggested Resolution

Resolution #2006-06-

RESOLVED, That Contract No. 06-6 for New King, Maxwell and Stutz paving rehabilitation, be **AWARDED** to John Carlo, Inc., 45000 River Ridge Road, Clinton Twp., MI 48035 at an estimated total cost of \$283,754.90; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of proper contract and bid documents, including bonds, insurance certificates and all specified requirements, and if additional work is required such additional work is **AUTHORIZED** in an amount not to exceed 25% of the total project cost.

c) Standard Purchasing Resolution 1: Award to Low Bidder – Breathing Apparatus Equipment for the Fire Department

Suggested Resolution
Resolution #2006-06-

RESOLVED, That a contract to furnish four (4) new self-contained breathing apparatus, and ten (10) upgrade kits is hereby **AWARDED** to the sole bidder, Douglass Safety Systems of Rhodes, MI, an authorized distributor of this equipment, at an estimated total cost of \$22,590.00, at unit prices contained on the bid tabulation dated May 10, 2006.

d) Standard Purchasing Resolution 10: Travel Authorization and Approval to Expend Funds on City Council Member Travel Expenses – Michigan Municipal League Board of Trustees Meetings

Suggested Resolution
Resolution #2006-06-

RESOLVED, That travel authorization and approval to expend funds is **GRANTED** for travel expenses associated with Council Member Robin Beltramini's attendance of all meetings required as a result of her appointment to the Michigan Municipal League Board of Trustees.

e) Standard Purchasing Resolution 7: Proprietary Maintenance Service Contract – Motorola Communications

Suggested Resolution
Resolution #2006-06-

RESOLVED, That a six-month hardware and software maintenance contract for the City of Troy's E911 system is hereby **APPROVED** with Motorola Communications, for proprietary hardware and software at an estimated cost of \$13,565.00 expiring December 31, 2006.

f) Standard Purchasing Resolution 8: Best Value Award – Infestation Control Services – Landscaping

Suggested Resolution
Resolution #2006-06-

RESOLVED, That a three-year contract to provide infestation control services for landscaping, with an option to renew for three (3) additional one-year periods is hereby **AWARDED** to the best value proposal submitted by Owen Tree Service, Inc. of Attica, MI, at unit prices contained in the bid tabulation opened May 12, 2006, with additional services as needed and prices as outlined in their service fee proposal and chemical listing dated May 24, 2006, to commence on the date of award and expire May 31, 2009; and

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

g) Standard Purchasing Resolution 4: Contract #071B4200234 State of Michigan and Election Systems and Software, Inc. – Central Count Optical Scan Voting System (Model M650) – Sole Source Vendor

Suggested Resolution

Resolution #2006-06-

RESOLVED, That Troy City Council hereby **APPROVES** the purchase of the Absentee Ballot System (ABS), M-650 tabulator with modem, ballot box and memory device from the sole source vendor, Election Systems and Software, Inc. (ES&S) - 11208 John Galt Blvd., Omaha, Nebraska 68137, at a budgeted cost of \$65,000.00 from FY2006-07 budgeted funds and delivery of equipment to occur on or after July 1, 2006.

E-5 Medi-Go Service Agreement

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the request for funding in the amount of \$170,000.00 or the entire municipal community credits (estimated at \$174,581.00) transferred from SMART (whichever is greater) for Troy Medi-Go Plus for fiscal year 2006/2007, and the funding agreement between the City of Troy and Troy Medi-Go Plus commencing July 1, 2006 through June 30, 2007 is hereby **APPROVED** and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the agreement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-6 Private Agreement for People's State Bank – Project No. 05.931.3

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and Troy Long Lake, L.L.C., is hereby **APPROVED** for the installation of paving, storm sewer, water main and sidewalk on the site and in the adjacent right of way, 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.

E-7 State of Michigan Election Equipment Grant Application Authorization

Suggested Resolution

Resolution #2006-06-

WHEREAS, The Troy City Council wishes to enter into a grant agreement with the State of Michigan, Michigan Department of State for the purchase of AutoMARK ballot marking devices and related Election Management System (EMS) programming software for use by individuals with disabilities pursuant to the Help America Vote Act (HAVA);

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Troy City Clerk to execute the grant application on behalf of the City of Troy, Oakland County, Michigan, on this 5th day of June 2006.

E-8 Request for Acceptance of Sanitary Sewer Easement Agreement and Water Main Easement Agreement, Troy School District – Sidwell #88-20-23-323-001, Project No. 05.926.3 Baker Middle School Addition

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the sanitary sewer easement agreement and the water main easement agreement from Troy School District, owner of property having Sidwell #88-20-23-326-001, are hereby **ACCEPTED**; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO SIGN** said easement agreements on behalf of the City of Troy; and

BE IT FINALLY RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said agreements with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-9 Request for Approval of Proposed Quit Claim Deed for Right-of-Way Acquisition and Authorization to Schedule Closing, Consumers Energy Company, Northeast Corner of Coolidge and Wattles – Sidwell #88-20-17-351-029, Project No. 00.109.5 – Wattles East Bound and West Bound Right Turn Lane at Coolidge

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the proposed quit claim deed for the acquisition of right-of-way from Consumers Energy Company, for property having Sidwell #88-20-17-351-029, and located at the northeast corner of Coolidge and Wattles, is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That authorization is hereby **GRANTED** to purchase the property referenced above in the amount of \$17,600.00, plus closing costs.

E-10 Private Agreement for TCF Bank – Project No. 05.944.3

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and TCF Bank, is hereby **APPROVED** for the installation of paving, storm sewer and sidewalk on the site and in the adjacent right of way, 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.

E-11 Request for Temporary Sales Trailer, Cedar Pines Estates Site Condominium

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the request from Christopher Pratt representing Wake-Pratt Construction Company for the placement of a temporary office trailer on the site of the one of the parcels in the Cedar Pines Estates Site Condominium Development, is hereby **APPROVED** for a six month period in accordance with Chapter 47, House Trailers and Trailer Courts, Section 6.41(3), of the Code of the City of Troy.

E-12 Approval of Funding Agreement: Boys and Girls Club

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the funding agreement between the City of Troy and Boys and Girls Club of Troy for July 1, 2006 through June 30, 2007 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.

E-13 Sale of Rochester Road Remnant Parcel #20-22-426-057, Section 22, All of Lot 42, and Part of Lots 43 and 45 of Supervisors Plat #17

Suggested Resolution

Resolution #2006-06-

WHEREAS, The City Council may from time to time determine that the sale of certain parcels will best serve the public interest; and

WHEREAS, The City Council may determine the public interest will best be served without obtaining sealed bids for the sale of a remnant parcel;

THEREFORE, BE IT RESOLVED, That the Troy City Council finds that the public interest will best be served without obtaining a sealed bid in accordance with Resolution 85-254 Policy Governing Disposal (Sales) of Excess City owned property and **APPROVE** the sale of the remnant parcel having Sidwell #88-20-22-426-057, described in Attachment "A" attached hereto, to Troy-Rochester Properties L.L.C. for \$200,000.00, the appraised value as outlined in the Offer to Purchase, with conditions, plus closing costs; and

BE IT FURTHER RESOLVED, That closing will take place when all conditions have been met; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the Agreement to Purchase and the Warranty Deed, on behalf of the City; and

BE IT FINALLY RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said documents, including all attachments, at the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to and made a part of 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; Municipal Building Authority; and Youth Council c) Personnel Board Appointment Reconsideration

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 #2006-06-

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

(Alternate) Unexpired Term Expires 11/01/06

Advisory Committee for Senior Citizens

Appointed by Council (9) – 3 Year Terms

Term Expires 04/30/09

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)**

Term Expires 05/16/09

Term Expires 05/16/09

Municipal Building Authority

Appointed by Council (5) – 3 Year Terms

Term Expires 01/31/09

Term Expires 01/31/09

Youth Council

Appointed by Council (13) – 1 Year Term

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

Term Expires 06-01-07 (Student)

Yes:

No:

(c) Reconsideration of Personnel Board Appointment

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That Resolution #2006-05-226, Moved by Broomfield and Seconded by Lambert, as it appears below be **RECONSIDERED** by City Council:

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

Personnel Board

Appointed by Council (5) – 3 Year Terms

Glenn Clark

Term Expires 04/30/09

Yes: *Broomfield, Fleming, Howrylak, Lambert*

No: *Stine, Schilling, Beltramini*

MOTION CARRIED

Yes:

No:

Suggested Resolution to Amend Resolution for Personnel Board Appointment

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **AMENDS** Resolution #2006-05-226, Moved by Broomfield and Seconded by Lambert, by **STRIKING** “Glenn Clark” and **INSERTING**

Yes:
No:

Suggested Resolution to Appoint Personnel Board Member as Amended by Reconsideration

Suggested Resolution
Resolution #2006-05-226
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:

Personnel Board

Appointed by Council (5) – 3 Year Terms

Term Expires 04/30/09

Yes:
No:

F-2 Appointment of Representative and Alternate – Southeastern Oakland County Resource Recovery Authority (SOCRRA)

Suggested Resolution
Resolution #2006-06-
Moved by
Seconded by

RESOLVED, That Brian P. Murphy be **DESIGNATED** as the SOCRRA Representative and Timothy L. Richnak be **DESIGNATED** as the Alternate SOCRRA Representative with terms expiring on June 30, 2007.

Yes:
No:

F-3 Amendment #2 – Concrete Pavement Repair Program

Suggested Resolution
Resolution #2006-06-
Moved by
Seconded by

WHEREAS, On July 11, 2005, contracts to complete the City of Troy's concrete pavement repair program were amended to the low bidders: Major Cement Company – Proposal A, Hard Rock Concrete, Inc. – Proposal B, and Six S, Inc. – Proposal C, in an amount not to exceed

\$750,000.00, \$500,000.00, and \$500,000.00 respectively, for completion by June 30, 2006, at unit prices contained in the bid tabulation opened December 10, 2004 (Resolution #2005-07-325-E11);

WHEREAS, It is recommended that the contracts be amended to allow for additional concrete replacement for work to be completed by June 30, 2006, on Major Roads – Proposal A and Local Roads – Proposal B;

THEREFORE, BE IT RESOLVED, That the contracts are hereby **AMENDED** to provide additional concrete pavement repair for two of the low bidders: Major Cement Company – Proposal A and Hard Rock Concrete, Inc. – Proposal B, not to exceed \$1,250,000.00, and \$750,000.00, respectively for completion of work by June 30, 2006, at the same unit prices, terms and conditions as the original contract.

Yes:

No:

F-4 Revisions to Troy City Code Chapter 18 (City Water Utility)

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That Section 12 of Chapter 18 of the Troy City Code be **REVISED** as recommended by City Management, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

F-5 Amending the Personal Property Tax Abatement for Manufacturing and Headquarter Companies

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

WHEREAS, The City of Troy has the economic objective of (a) increasing employment opportunities, (b) diversifying and stabilizing the industrial base of the community, (c) reducing economic obsolescence of the industrial base, (d) providing homogenous industrial areas, (e) encouraging industrial expansion, (f) providing for improved public facilities in industrial areas, and (g) encouraging attractive, viable industrial sites, and

WHEREAS, The Industrial Facilities Tax Act (P.A. 1974 No. 198), as amended, empowers cities to establish Industrial Development Districts (IDD) and to grant tax exemptions for certain industrial properties which meet certain criteria established by the Act;

THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that the following criteria are to be met, applied or measured by the City Manager or his designees in the review of areas and locations to be considered for designation as Industrial Development Districts (IDD) by the City Council:

- 1) That the tax exemption shall not apply to real property except those building improvements which are uniquely required to support the personal property to be abated; and
- 2) That the tax exemption shall not apply to leasehold improvements or building improvements except those uniquely required to support personal property to be abated; and
- 3) That said abatement of taxes shall cease at such time as applicant fails to prove by factual evidence that such personal property is being used in compliance with the basic guidelines established above.

BE IT FINALLY RESOLVED, That the term of abatement for any and all property meeting the aforementioned criteria **SHALL NOT** exceed 12 years, it being the **INTENT OF THE CITY COUNCIL TO APPROVE** various lengths of abatements to the extent provided by laws of the State of Michigan.

Yes:

No:

F-6 Preliminary Site Condominium Approval – Adams Road Site Condominium, East Side of Adams Road, South of South Boulevard, Section 6 – R-1A

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That the preliminary site condominium plan, as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) and Section 34.70.00 (One-Family Cluster Option) for the development of a one-family residential site condominium known as Adams Road Site Condominium, located on the east side of Adams Road, south of South Boulevard, in Section 6, including 5 home sites, within the R-1A zoning district, being 4.98 acres in size, is hereby **APPROVED**.

Yes:

No:

F-7 Extension of Preliminary Site Condominium Approval – Oak Forest South Site Condominium, East Side of Willow Grove, South of Square Lake Road, Section 11 – R-1C

Suggested Resolution

Resolution #2006-06-

Moved by
Seconded by

RESOLVED, That a one-year extension to April 18, 2007 of the preliminary site condominium approval be **GRANTED** for Oak Forest Site Condominium located on the east side of Willow Grove and south of Square Lake Road in Section 11.

Yes:
No:

F-8 Extension of Preliminary Site Condominium Approval – Oak Forest Site Condominium, South Side of Square Lake Road between Willow Grove and John R Road, Section 11 – R-1C

Suggested Resolution

Resolution #2006-06-
Moved by
Seconded by

RESOLVED, That a one-year extension to April 18, 2007 of the preliminary site condominium approval be **GRANTED** for Oak Forest Site Condominium located on the south side of Square Lake Road between Willow Grove and John R Road in Section 11.

Yes:
No:

F-9 Rescind Award and Re-Award for Barn Repair

Suggested Resolution

Resolution #2006-06-
Moved by
Seconded by

WHEREAS, On January 9, 2006, a contract to repair the small barn at the Troy Farm was awarded to David L. Ingraham of St. Johns, MI, who submitted the lowest informal quotation at an estimated cost of \$24,600.00, plus a 10% contingency (Resolution #2006-01-010);

WHEREAS, David L. Ingraham has withdrawn from the project; and

WHEREAS, On May 10, 2006, a subsequent quote was received from Akins Construction, Inc. to stabilize the small barn at the Troy Farm, but not replace the roof;

THEREFORE, BE IT RESOLVED, That the contract be **RESCINDED** with prejudice from David L. Ingraham of St. Johns, MI and **RE-AWARDED** to Akins Construction, Inc. of Sterling Heights, MI for an estimated cost of \$14,950.00, plus a 10% contingency; and

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

Yes:

No:

F-10 Approval of Fee Revisions**a) Revisions to Soil Erosion and Sedimentation Control Fees, Section I of the City of Troy Development Standards**

Suggested Resolution

Resolution #2006-06-

RESOLVED, That revisions to subsection I1(p), Soil Erosion and Sedimentation Control Fees, of the City of Troy Development Standards are hereby **ADOPTED** (effective July 1, 2006) as recommended by City Management, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

b) Revisions to Chapter 60 – Increase in Board of Zoning Appeals Application Fee

Suggested Resolution

Resolution #2006-06-

RESOLVED, That Section 60.03 of Chapter 60 of the Troy City Code, be **REVISED** to include fees for the Board of Zoning Appeals applications in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

c) Fee Increases – Museum

Suggested Resolution

Resolution #2006-06-

RESOLVED, That the attached proposed changes in the fee structure for facility rentals at the Troy Historical Museum are hereby **APPROVED**.

Yes:

No:

F-11 Scheduling of Special Meetings – Interview of Applicants for Employment for Position of City Manager

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That Special Meetings of City Council are hereby **SCHEDULED** for the purpose of interviewing applicants for employment for the position of City Manager on Friday, June 9th at 6:30 PM and on Sunday, June 11th at _____ in the Council Board Room; and

BE IT FURTHER RESOLVED, That to assure fairness in the interview process, the Special Meeting scheduled for Friday, June 9th will be **TAPED** and **SHOWN** on tape delay after the Special Meeting of Sunday, June 11th and there will be no live webcast of the meetings.

Yes:

No:

F-12 Policy Adoption – Display of Signs on City Hall Site for Community Events

Suggested Resolution

Resolution #2006-06-

Moved by

Seconded by

RESOLVED, That the policy for the installation of signs announcing community events on City Hall property be **ADOPTED** in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Rezoning Application (Z 718) – Proposed Curves, East Side of Livernois, between Maple and Kirts, Section 28 – O-1 to B-3 – June 19, 2006
- b) Rezoning Application (Z 717) – Proposed Medical/General Office Building, Northwest Corner of Lovell and Rochester Road, Section 3 – R-1C to O-1 – June 19, 2006

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) Joint Local Development Finance Authority – Troy Subcommittee/Final – January 30, 2006
 - b) Liquor Advisory Committee/Final – April 10, 2006
 - c) Employees' Retirement System Board of Trustees/Final – April 12, 2006
 - d) Library Advisory Board/Final – April 13, 2006
 - e) Troy Daze Advisory/Festival Committee/Draft – April 25, 2006
 - f) Troy Youth Council/Draft – April 26, 2006
 - g) Troy Youth Council/Final – April 26, 2006
 - h) Planning Commission Special/Study/Draft – May 2, 2006
 - i) Planning Commission Special/Study/Final – May 2, 2006
 - j) Joint Local Development Finance Authority – Troy Subcommittee/Draft – May 8, 2006
 - k) Planning Commission/Draft – May 9, 2006
 - l) Planning Commission/Final – May 9, 2006
 - m) Employees' Retirement System Board of Trustees/Draft – May 10, 2006
 - n) Troy Youth Council/Draft – May 24, 2006
-

J-2 Department Reports:

- a) City of Troy Monthly Financial Report – April 30, 2006
-

J-3 Letters of Appreciation:

- a) Letter to Tonni Bartholomew from the Planning Commission In Appreciation of the Special Efforts on Election Night
 - b) Letter of Thanks to Lt. Scherlinck and Sgt. Kowalski from Kim Streich Regarding the Support and Traffic Assistance During the March of Dimes WalkAmerica
-

J-4 Proposed Proclamations/Resolutions from Other Organizations:

- a) Resolution from the City of Royal Oak – Reconstruction of I-75
 - b) Resolution from the City of Ferndale – Consideration of Constitutional Amendment Regarding Transit Funding
 - c) Resolution from the City of Ferndale – June, 2006 – Gay Pride Month
-

J-5 Calendar

J-6 Communication from Michigan Municipal League Regarding the Proposed Changes to Local Cable Franchising

J-7 Communication from City Engineer Steven Vandette Regarding Request to Amend Chapter 42, Flood Plain Management

-
- J-8** Communication from Parks and Recreation Director Carol Anderson Regarding Fee Waiver Policy for Military Personnel on Leave
-
- J-9** Communication from Assistant City Manager/Services Brian Murphy Regarding Request to Enter into Agreement to Place a Cell Tower at Station 6
-
- J-10** Communication from the City Engineer Steven Vandette Regarding Engineering Department Focus/Sustainable Stormwater Management

STUDY ITEMS:

-
- K-1** Disposal/Sale of Excess Property

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

ADJOURNMENT

Respectfully submitted,



John M. Lamerato, Acting City Manager

SCHEDULED CITY COUNCIL MEETINGS:

Saturday, June 10, 2006 Special City Council
Monday, June 19, 2006..... Regular City Council
Monday, July 10, 2006 Regular City Council
Monday, July 24, 2006 Regular City Council
Monday, August 14, 2006 Regular City Council
Monday, August 28, 2006 Regular City Council
Monday, September 11, 2006 Regular City Council
Monday, September 18, 2006 Regular City Council
Monday, September 25, 2006 Regular City Council

**PROCLAMATION TO HONOR
JOSEPH HADDAD
2005 POLICE OFFICER OF THE YEAR**

WHEREAS, Officer Joseph Haddad has been a member of the Troy Police Department since 1996, and currently serves as a field training officer, evidence technician, special response team member, crisis negotiator, honor guard member, and firearms instructor; and

WHEREAS, His selection was based on his commitment to both the department and the community, as well as his superior performance, hard work and dedication to duty; and

WHEREAS, Officer Haddad has used his fluency in Arabic to communicate with residents in need of police service, and acts as the Department's liaison in developing action plans in English and Arabic for a local church to manage holiday traffic and parking; and

WHEREAS, With his professional demeanor, **Officer Haddad** has been called upon to recruit new Police Officers at events held at universities throughout Michigan; and

WHEREAS, Achievements in **Officer Haddad's** career include a Meritorious Service Medal and numerous commendations and letters of positive performance from citizens and businesses in conjunction with his service as a Police Officer; and

WHEREAS, Since 1986, **Officer Haddad** has served in the U.S. Army, where he is currently a Command Sergeant Major in the U.S. Army Reserves; and

WHEREAS, Officer Haddad goes above and beyond the call of duty and is a tremendous asset to the Troy Police Department.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Troy, does hereby join with the citizens of Troy, to express sincere congratulations to **Officer Joseph Haddad** on the occasion of being chosen **2005 Police Officer of the Year** by the Troy Police Department.

BE IT FURTHER RESOLVED that the City Council commends **Officer Haddad** for his achievement, leadership and dedicated service to the citizens of Troy.

Presented this 5th day of June 2006.

**PROCLAMATION TO HONOR
SHERRY LEVEQUE
2005 NON-SWORN POLICE DEPARTMENT
EMPLOYEE OF THE YEAR**

WHEREAS, Sherry LeVeque has served the Troy Police Department since March 1996 when she was hired as a Police Service Aide. She was promoted to her current position of Civilian Communications Supervisor in January 1999; and

WHEREAS, Sherry is being honored as the **2005 Non-Sworn Police Department Employee of the Year** for her outstanding performance, dedication to her position, professionalism, and commitment to providing the best service to the residents of Troy; and

WHEREAS, Sherry played a key role in developing the Communications Training Program for new hires which has become a model policy for other dispatch agencies seeking training programs; and

WHEREAS, As an Associated Public-Safety Communications Officer Training Officer, **Sherry** instructs training courses for emergency services dispatchers around the State of Michigan each year; and

WHEREAS, Sherry has received 12 Letters of Commendation from the Police Department, a Department Commendation, and letters of positive performance from citizens and businesses; and

WHEREAS, Through **Sherry's** leadership, hard work and commitment to providing quality service, the Troy Police Department has gained the respect of the community and other law enforcement agencies.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Troy, does hereby join with the citizens of Troy, to express sincere congratulations to **Sherry LeVeque** on the occasion of being chosen **2005 Non-Sworn Employee of the Year by the Troy Police Department.**

BE IT FURTHER RESOLVED that the City Council commends **Sherry** for her achievement, leadership and dedicated service to the citizens of Troy.

Presented this 5th day of June 2006.

**PROCLAMATION TO HONOR
DARYL KLINKO
2006 FIRE FIGHTER OF THE YEAR**

WHEREAS, Daryl Klinko has been a volunteer Fire Fighter since joining Troy's Fire Station 6 in 1986; and

WHEREAS, His selection as **Fire Fighter of the Year** is due to his over 20 years of dedication to the Troy Fire Department, having served with honor and dignity in all of his roles at the station, including leadership roles; and

WHEREAS, Daryl has served as a Lieutenant, Station 6 Association President, incentive committee representative and safety committee member; and

WHEREAS, Daryl is a role model for Troy's new fire recruits and always willing to share his knowledge and experience with others; and

WHEREAS, In addition to fire service, **Daryl** is employed by General Motors Corp. as the Assistant Director of Health Care Finance and is always willing to provide assistance above and beyond his fire department and career responsibilities, including neighborhood clean-ups, and soup kitchen and rescue mission assistance; and

WHEREAS, Through **Fire Fighter Klinko's** leadership, commitment, hard work and countless hours of service, the Troy Fire Department has become even more efficient in its delivery of quality fire protection to the community.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Troy, does hereby join with the citizens of Troy, to express sincere congratulations to **Fire Fighter Daryl Klinko** on the occasion of being chosen **2006 Fire Fighter of the Year** by the Troy Fire Department.

BE IT FURTHER RESOLVED that the City Council commends **Daryl** for his achievement, leadership and dedicated service to the citizens of Troy.

Presented this 5th day of June 2006.

May 30, 2006

A-01d

TO: John M. Lamerato, Acting City Manager
FROM: Cindy Stewart, Community Affairs Director
SUBJECT: AGENDA ITEM: Presentation for June 5th Council Meeting

The Troy Historical Society's Heritage Campaign will present to the City of Troy \$151, 435.84 to be applied to the purchase of property at 109 Lange Street, which is adjacent to the Troy Museum & Historic Village. This land will be used for the expansion of the Troy Museum, which includes relocating the Niles Barnard House and an historic barn to the Village.

CS

DATE: May 30, 2006

TO: John M. Lamerato, Acting City Manager

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

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal, Renewal
6881 Westaway

On May 16, 2005, City Council approved an appeal for one year for the outdoor storage of a commercial vehicle on the residential property at 6881 Westaway. That approval will soon expire. We have contacted the owner and he was given the option to remove the vehicle or appeal to City Council for renewal of the relief of the Ordinance.

In response to our contact, Mr. Ermie has filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of June 5, 2006.

The petitioner's property is relatively large, being 167' wide by 310' deep. However, the existing house on the property has only a 699 square foot ground floor area and there is already a 550 square foot detached garage. Only 149 square feet of detached accessory building can be added to the site per the requirements of Section 40.57.04. The petitioner has a permit, and is in the process of expanding the home. At this time the home is vacant. As part of the current work, the existing detached garage is to be removed. Once that addition is complete there will be 1,714 square feet to the first floor of the home. Once complete, a 1,485 square foot detached garage could be constructed as well as a 1,285 square foot attached garage.

Should you have any questions or require additional information, kindly advise.

Attachments

Prepared by: Mark Stimac, Director of Building and Zoning

COMMERCIAL VEHICLE
APPEAL APPLICATION

RECEIVED
MAY 03 2006
RECEIVED
BUILDING DEPT. APR 21 2006
BUILDING DEPT.

Request is hereby made for permission to keep a commercial vehicle(s) as described below, on the following residential zoned site:

NAME: ADRIAN EREMIE

ADDRESS: 6881 WESTAWAY 548-6099

CITY: Troy MI. ZIP: 48065 PHONE: (313) 598-6089

ADDRESS OF SITE: 6881 WESTAWAY.

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)

LICENSE PLATE NUMBER(S) 4087 MS

DESCRIPTION OF VEHICLE(S) 3500 CHEVY STAKE TRUCK

REASON FOR APPEAL (see A - D below) C & D

(mirrored text from reverse side)
PATRICIA KAPLAN
Assistant to the Mayor
City of Troy, Michigan
1000 Westaway
Troy, Michigan 48065

THE APPLICANT IS AWARE OF THE REQUIRED FINDINGS WHICH ARE STATED IN THE FOLLOWING:

44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined there are no reasonable or feasible alternative locations for parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner that will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

COMMERCIAL VEHICLE APPEAL APPLICATION

40.02.2. The City Council may grant appeals in relation to the type, character or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.

Supporting data, attached to the application, shall include: a plot plan, drawn to scale, a description and location of the vehicle(s) and a photo of the vehicle on-site..

Adrian Enrie
(signature of applicant)

STATE OF MICHIGAN
COUNTY OF Oakland

On this 3rd day of May, 2006 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

Patricia Kapolka Oakland
Notary Public, County, Michigan

PATRICIA KAPOLKA
Notary Public, State of Michigan, County of Oakland
My Commission Expires July 5, 2012
Acting in the County of Oakland

My Commission Expires: 7-5-2012

GEORGE JEROME & C

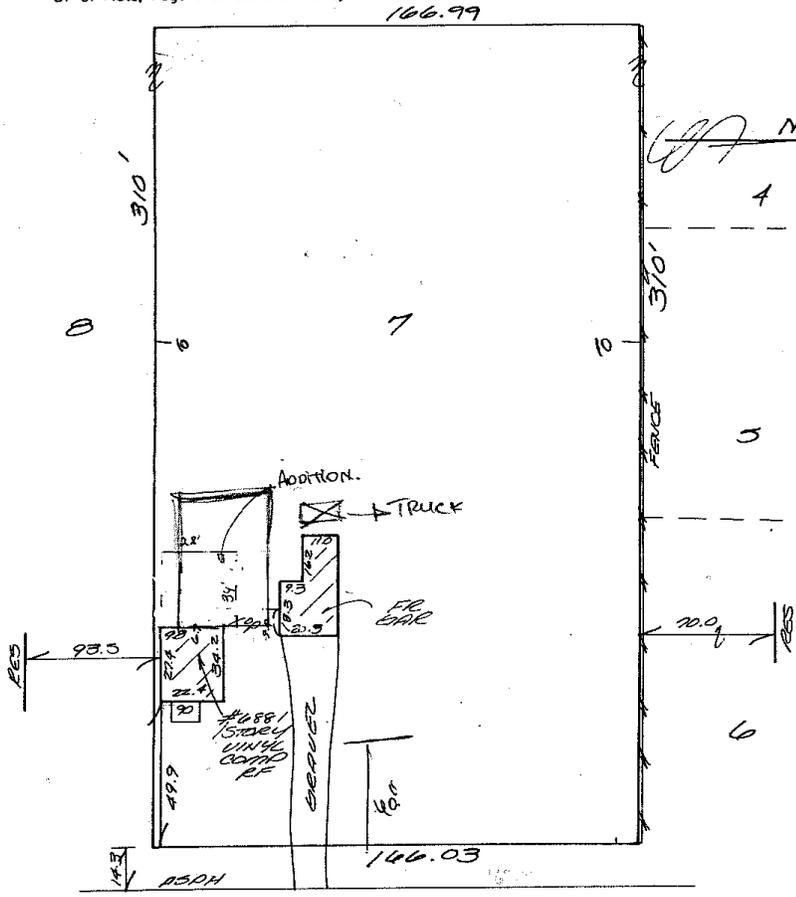


MORTGAGE REPORT for:

ST. JAMES MORTGAGE

CONSULTING MUNICIPAL & CIVIL ENGINEERS • SURVEYORS • 28304 HAYES • ROSEVILLE, MI 48066 • (586)774-3000
LEGAL DESCRIPTION OF PROPERTY (AS FURNISHED BY CLIENT)

Lot 7, "BASSETT & SMITH FLOWING SPRING ACRES", a subdivision of part of the N. 1/2 of Section 3, T.2 N., R.11 E., Troy Township (now City of Troy), Oakland County, Michigan. Recorded in Liber 37 of Plats, Page 9 of Oakland County Records.



WESTAWAY AVE. 50' W.O.

CERTIFICATE: We hereby certify to: ST. JAMES MORTGAGE
mortgagee that we have surveyed the above-described property in accordance with the description furnished and confirmed to be correct by mortgagee or mortgagee's title company for the purpose of a new mortgage loan to be made by, ADRIAN EREANE

mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown; and that we examined the Flood Hazard Boundary Maps (Community I.D. NO. 260180 0002D Effective Date JANUARY 16, 1987) prepared in accordance with the National Flood Insurance Program of 1968 as revised and that the property as shown above, description furnished by you, is located INSIDE ZONE C of a designated flood area as shown on said map. The location of fences, driveways, other buildings, and non-permanent structures shown are only approximate. Any easements shown are either recorded in the subdivision plat or appear in the instrument referenced in the title policy, if both have been furnished to us. This survey does not locate or identify the existence or absence of utilities entering into or crossing above or below the property. This report is to be used for mortgage purposes only and not for the purpose of establishing property lines, nor for construction purposes. No property lines were established and no property corners were set. This is not an ALTA type survey. This cannot be used for future refinance purposes or transferred to any future property owner.

REVISED _____
DRAWN BY TZ
SCALE 1" = 40'

GEORGE G. JEROME
PROFESSIONAL LAND SURVEYOR
NO. 19837

DATED 02-18-03
JOB NO. 194249



Date: May 25, 2006

To: John M. Lamerato, Acting City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

Subject: Agenda Item – PUBLIC HEARING – REZONING APPLICATION (Z 704) – Proposed Dunkin Donuts, South side of Vanderpool, West of Rochester Road and East of Ellenboro, Section 22 – R-1E to B-2

RECOMMENDATION

The rezoning application is compatible with surrounding land uses and zoning districts. Further, the request is consistent with the existing B-2 zoning located south of Vanderpool. The Planning Commission held a public hearing on this item on April 11, 2006 and recommended approval of the rezoning request. City Management agrees with the Planning Commission and recommends approval of the rezoning request.

RELATIONSHIP TO FUTURE LAND USE PLAN

The subject property is designated as non-center commercial on the Future Land Use Plan. Both the B-3 and H-S zoning districts correlate with the non-center commercial future land use designation. Most of the uses permitted in the proposed B-2 district are permitted in the B-3 district; however, the B-3 district includes a wider range of uses. Within the B-3 district, the front yard setback is 40 feet and the rear yard setback is 30 feet. The proposed B-2 district setbacks are greater; the front yard setback is 75 feet and the rear yard setback is 30 feet. Therefore, the potential land uses are less intensive within the proposed B-2 district and the building setbacks are greater, when compared to the future planned B-3 district.

The proposed rezoning would extend the existing western boundary of B-2 property to line up precisely with the abutting property to the south, which is also within the B-2 zoning district. This proposed B-2 boundary extends slightly further to the west than the B-3 district to the north and across Vanderpool. However, the depth of the proposed B-2 zoning towards the west is consistent with properties along the western side of the Rochester Road corridor, between Big Beaver and Wattles.

GENERAL INFORMATION

Name of Owner / Applicant:

The owners of the property are Glenn and Barbara Carter. The applicant is John Glasnak of Troy-Rochester Properties, LLC.

Location of Subject Property:

The property is located on the south side of Vanderpool, west of Rochester Road and east of Ellenboro, in Section 22.

Size of Subject Parcel:

The parcel is approximately 0.5 acres in area.

Parcel History:

The applicant submitted an application to rezone the subject parcel on May 16, 2005. The Planning Commission recommended approval of the rezoning request on June 14, 2005. City Council denied the request on August 1, 2005. The applicant modified the site plan by eliminating the entry drive on Vanderpool.

Current Use of Subject Property:

The subject parcel is a single family residence.

Current Zoning Classification:

R-1E One Family Residential.

Proposed Zoning of Subject Parcel:

B-2 Community Business.

Proposed Uses and Buildings on Subject Parcel:

The applicant is proposing to acquire three City-owned remnant parcels that abut the subject parcel to the east. The four parcels will be combined and developed as a Dunkin Donuts restaurant. Rezoning and combining these parcels creates a desirable commercial site. The applicant has provided a site plan that indicates all traffic will enter the site from Rochester Road. The site plan also proposes a 6-foot high screen wall on the western property line and significant landscaping on the east side of the wall.

The remnant parcels are Lot 42 and part of Lots 43 and 45 of Supervisor's Plat Number 17. The subject parcel is part of Lot 41 of Supervisor's Plat Number 17. The purchase of the remnant parcels will be approved upon the rezoning request being granted.

Current Use of Adjacent Parcels:

North: Single-family residential.
South: Troy Point Plaza (retail strip mall).
East: Vacant.
West: Single-family residential.

Zoning Classification of Adjacent Parcels:

North: R-1E One Family Residential and B-3 General Business.
South: B-2 Community Business.
East: B-2 Community Business.
West: R-1E One Family Residential.

ANALYSIS

Range of Uses Permitted in Proposed B-2 Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Any retail business or service establishment permitted in B-1 Districts as Principal Uses Permitted and Uses Permitted Subject to Special Conditions,

Any retail business whose principal activity is the sale of merchandise in an enclosed building, except for those limited to or first permitted in the B-3 General Business District.

Any service establishment of a showroom or workshop nature, of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer; or an establishment doing radio or home appliance repair, photographic studios and reproduction and similar service establishments that require a retail adjunct.

Business establishments which perform services on the premises, such as but not limited to: banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices.

Private clubs, fraternal organization, and lodge halls.

Restaurants, or other places serving food or beverage, except those having the character of a drive-in or open front store.

Theaters, assembly halls, concert halls or similar places of assembly, when conducted completely within enclosed buildings.

Business schools and colleges or private schools operated for profit, not including nursery schools.

Other uses similar to the above uses.

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

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Drive-up Windows or Service Facilities, as Accessory to Principal Uses Within B-2 Districts, Apart from Restaurants

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

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL

Drive-Up Windows or Service Facilities, as an Accessory to Restaurants Permitted Within this District

Bowling alley, billiard hall, indoor archery range, indoor skating, rinks, indoor tennis courts, athletic or health clubs, or similar forms of indoor commercial recreation, when the subject uses are located at least 100 feet from any Residential District.

Open air business uses when developed as uses subordinate to primary uses and structures within the B-2 District as follows:

- A. Retail sales of plant material not grown on the site, and sales of lawn furniture, playground equipment and garden supplies.
- B. Recreational space providing shuffleboard, miniature golf, tennis, or similar outdoor recreation, when part of a planned development.
- C. Outdoor driver training and testing areas on or abutting the site of a driving school.

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

Facilities within a retail establishment for installation, in vehicles, of items sold at retail at that location.

Vehicular and Non-motorized Access:

The parcel fronts on Vanderpool.

Potential Storm Water and Utility Issues:

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

Natural Features and Floodplains:

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

Compliance with Future Land Use Plan:

The parcel is classified on the Future Land Use Plan as Non-Center Commercial. The Non-Center Commercial designation has a Primary Correlation with the B-3 General Business Zoning District and a Secondary Correlation with the H-S Highway Service Zoning District. The Non-Center Commercial designation does not correlate with the B-2 Zoning District. However, the B-2 district is a commercial zone as is B-3, and the B-2 district is less intense in terms of potential uses than the B-3 district. Further, the request is an expansion of an existing B-2 zoning district. The Rochester Road frontage has been planned for Non-Center Commercial since 1965.

Compliance with Location Standards:

The B-2 Local Business Zoning District does not have Location Standards to apply to rezoning requests.

Attachments:

1. Maps.
2. Statement of Applicant.
3. Letters of opposition (3).

Prepared by RBS, MFM

cc: Applicant
File / Z 704

G:\REZONING REQUESTS\Z-704 DUNKIN DONUTS SEC 22\CC Public Hearing_06 05 06.doc

CERTIFICATE OF SURVEY

E. 1/4 COR.
SECTION 22
T.2N., R.11E.

N 00°00'00" E
688.25'

VANDERPOOL AVENUE
50' R.O.W.
ASPHALT PAVEMENT

L=56.95' (MEAS.)
L=56.83' (REC.)
R=143.42'
Δ=22°44'59"
C LEN=56.57'
BRG=N 78°25'58" W

L=76.63'
R=193.42'
Δ=22°41'59"
C LEN=76.13'
BRG=N 78°24'28" W

S 89°43'12" E
182.20'

EX. GUARD RAIL

EX. ASPHALT DRIVEWAY

EX. HOUSE

LOT 42



EX. BUILDING

S 00°00'00" W 183.02'

EX. CHAIN LINK FENCE

EX. GARAGE

N 00°00'00" E 156.78'

LOT 41 EX. THE S. 125'

LOT 43

S 89°49'22" E 130.00'

EX. CONCRETE WALL

S. 125' OF LOT 41

REC'D

MAR 14 2006

PLANNING DEPT.

LEGAL DESCRIPTION:

LOT 41 EXCEPT THE SOUTH 125 FEET,
SUPERVISORS PLAT NO.17, CITY OF TROY,
OAKLAND COUNTY, MICHIGAN.

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED THE
PROPERTY DESCRIBED HEREON THAT THE
PROPERTY LINES ARE AS SHOWN.

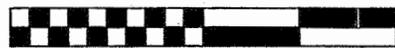
REC'D

MAY 16 2005

PLANNING DEPT.



0' 30' 60'



SCALE: 1"=30'

THOMAS M. SMITH
R.L.S. No. 31606

ISSUED FOR:	REV'D BY:	ISSUED FOR:	REV'D BY:
ISSUED FOR:	REV'D BY:	ISSUED FOR:	REV'D BY:



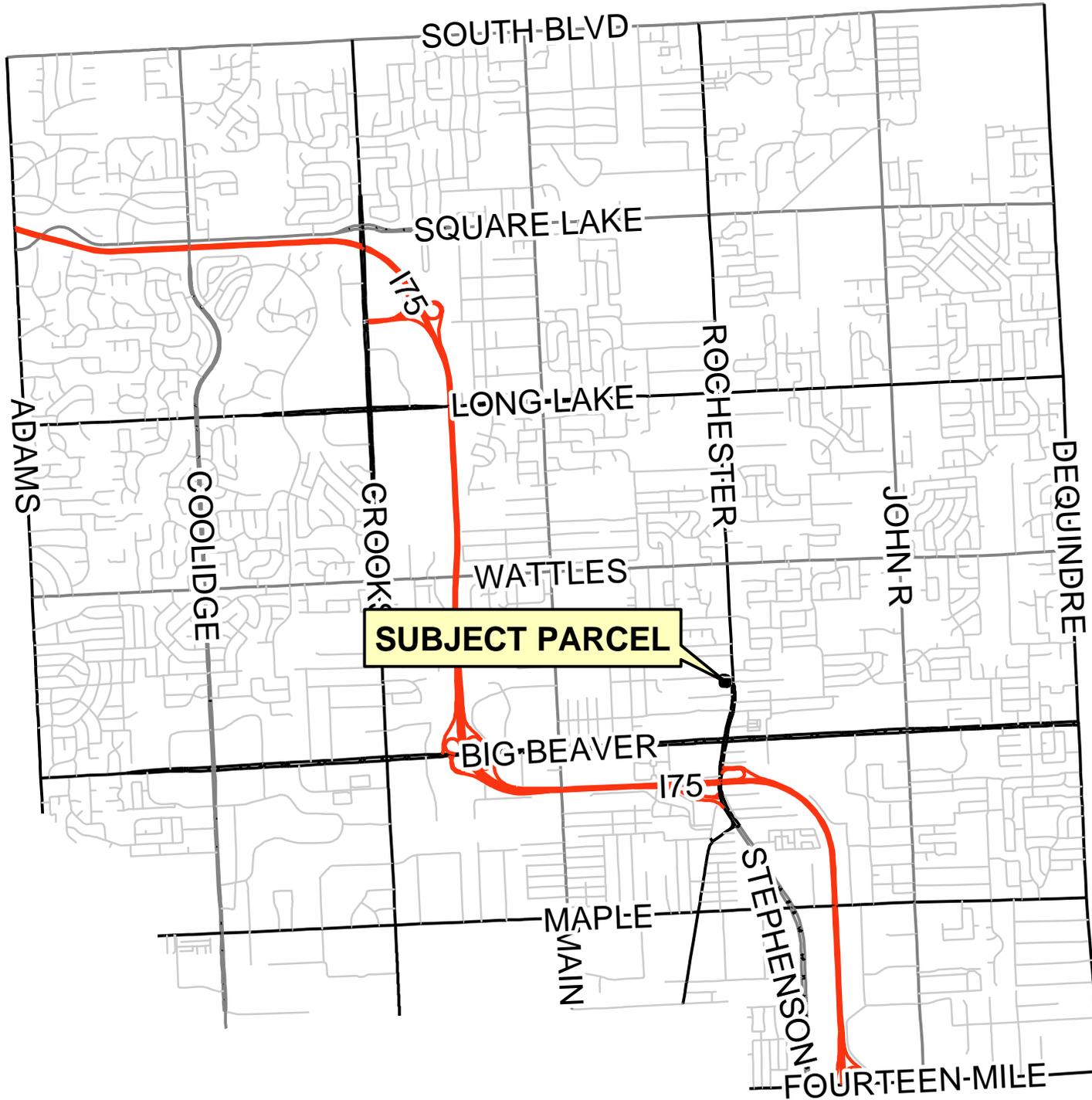
MICKALICH and ASSOCIATES, INC.
CIVIL ENGINEERING SURVEYING PLANNING
2359 AVON INDUSTRIAL DR, ROCHESTER HILLS, MI. 48309
INTERNET:WWW.MICKALICH.COM PHONE: (248) 852-1900 FAX: (248) 852-1070

DRAWN BY MLB JOB No. 05-135

DATE 05/13/04 SHEET No. 1 OF 1 SCALE 1"=30'

DESCRIPTION
LOT 41 EXCEPT THE SOUTH 125'
SUPERVISORS PLAT NO.17

CITY OF TROY



REZONING REQUEST
PROPOSED DUNKIN DONUTS
FROM R-1E TO B-2
E SIDE OF ROCHESTER RD., N OF BIG BEAVER
SEC. 22 (Z-704 B)

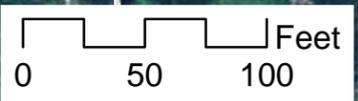
VANDERPOOL

SUBJECT PARCEL

ROCHESTER

TORPEY

ROCHESTER



REZONING REQUEUST
PROPOSED DUNKIN DONUTS
FROM R-1E TO B-2
E SIDE OF ROCHESTER RD., N OF BIG BEAVER
SEC. 22 (Z-704 B)

(B-3) General
Business
District

VANDERPOOL

SUBJECT PARCEL

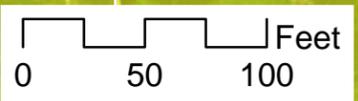
(R-1E) One Family
Residential District

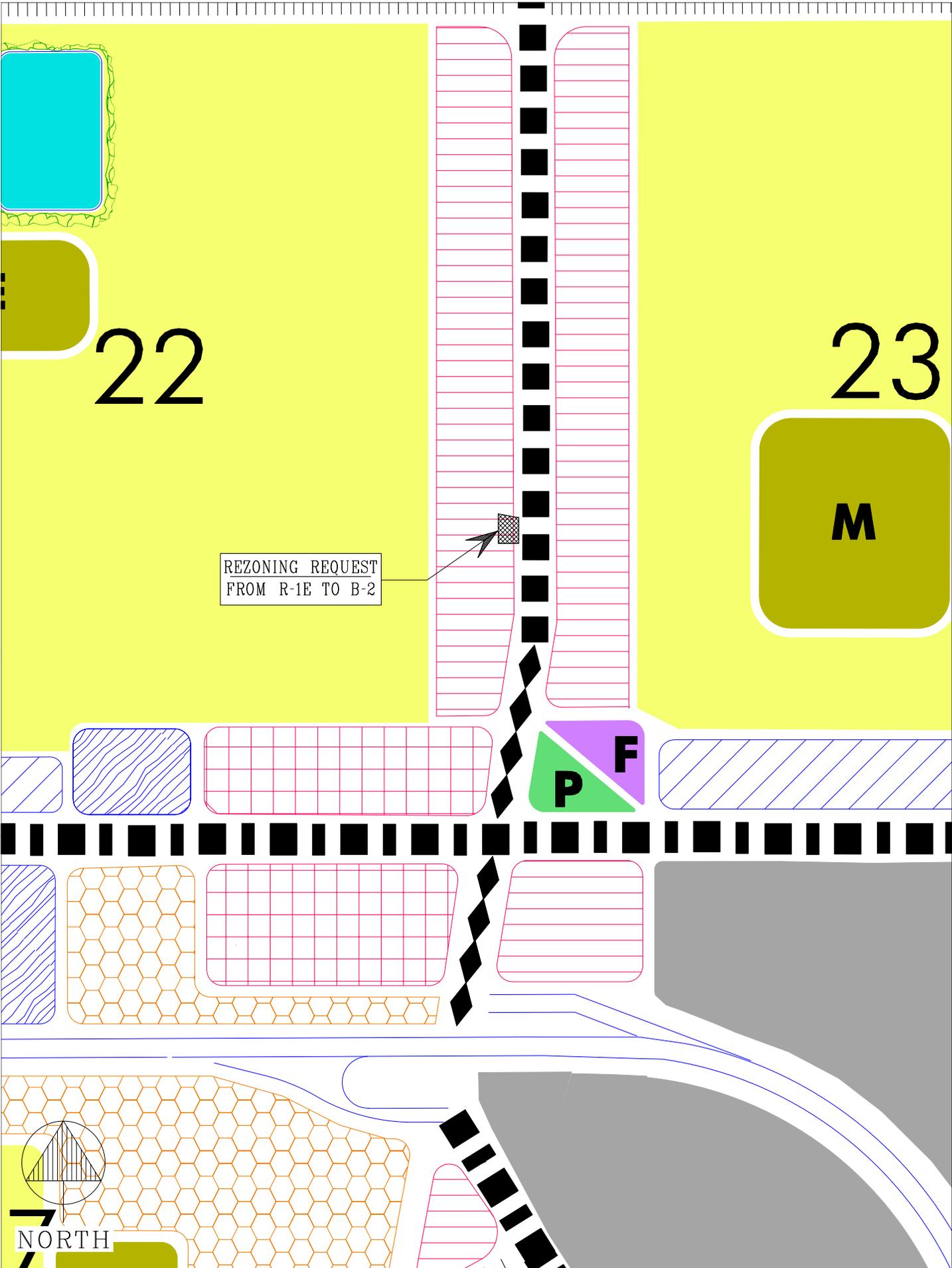
(B-2) Community
Business District

ROCHESTER

TORPEY

ROCHESTER





22

23

M

REZONING REQUEST
FROM R-1E TO B-2

F

P

7
NORTH

**ATTACHMENT TO
REZONING RQUEST
980 VADERPOOL, TROY, MICHIGAN**

STATEMENT OF APPLICANT

The applicant believes that the zoning change requested is necessary to make the adjacent parcel, which is owned by the City of Troy and which is proposed to be sold to applicant, a buildable parcel. By joining this parcel, as rezoned, with the City parcel, a much more desirable building site is achieved. The adjacent properties on Rochester Road consist of other retail developments, and the rezoning of this parcel should not have any negative impact on the adjacent properties or other persons located in the vicinity thereof.

Mark F Miller

From: Cynthia A Stewart
Sent: Tuesday, May 23, 2006 10:01 AM
To: Brian P Murphy; Mark F Miller
Subject: FW: Rochester and Vanderpool rezoning

-----Original Message-----

From: Virginia LaBute [mailto:vlabute@easternoil.com]
Sent: Monday, May 22, 2006 4:33 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: Rochester and Vanderpool rezoning

Good afternoon,

I feel compelled to contact each of you regarding the fact that the issue of a Dunkin Donuts at the corner of Vanderpool and Rochester is once again being brought to council despite your decision rejecting the proposal several months ago.

I was stunned to hear from a woman at the planning committee that they can continue to bring issues back in to the council meetings as long as someone wants to put up the \$1,500.00. This seems like a colossal waste of city resources as well as showing very little respect for the decision of the council members. I was even told that Mr. Miller stated that the issue is being brought back up again because planning didn't agree with your decision.

It was shown that the placement of a Dunkin Donuts in an already unsafe area (the 3 lane wide, turn lane on Rochester is known as dead man's turn lane) would not only add to the traffic issues in the area, it would also endanger children being picked up and dropped off at that same corner as well as school buses moving through the turn lane to go to Baker. I know that I and many of the parents in the area will not allow our children to cross Rochester at the light one block north at Charrington because drivers routinely ignore the red light there. This proposed Dunkin Donuts would only make the problem worse.

The corner is at the entrance to a dead end street. We often wait 3 to 5 minutes to enter onto Rochester road due to heavy traffic and drivers who ignore that red light one block down. There is no way to provide safe entrance or exit to/from this facility. I am sure that you are all aware of the traffic issues on Rochester Road in this area.

I understand that the planning committee is eager to create additional tax income for the city however, the citizens of Troy need to be considered in this process. We all came together at the prior council meeting and we will all come together for this one. We very much appreciated your hearing our concerns and keeping them in mind when you made your decision. We hope you will stick by the good decision you made, despite pressure from the planning committee.

Thank you for your time and service to the community.

Sincerely,

Virginia LaBute

636 Vanderpool

5/23/2006

Troy, MI 48083

"If we have no peace, it is because we have forgotten that we belong to each other."
-- Mother Teresa

PEACE by Piece(s)...

2004-15
Agenda # 5**Paula P Bratto**

From: Chuck & Jenny Burke [jenandchuck@wowway.com]
Sent: Monday, April 10, 2006 2:03 PM
To: Paula P Bratto
Subject: Rezoning Issue

Dunkin Donuts

Hello,

We are residents on Vanderpool and are writing to you regarding the upcoming rezoning issue for the Dunkin' Donuts on the corner of Rochester Road and Vanderpool.

We circulated a protest petition last summer when this issue first came up and got over 75% of the houses on our street to sign the petition to stop the residence from being rezoned commercial. We also appeared at the Troy City Council meeting and spoke against this issue last August.

We are still against this property being rezoned for commercial purposes. We fully understand that the corner lot is commercial and a business will purchase that property at some point and build upon it. Our issue is that we do not see the need for a residence to be rezoned commercial.

I have lived in Troy since 1974 and have been proud to watch it grow. However, some of that pride is gone as I drive around town and see the large number of lots that have "will build to suit" or "for lease" signs on them. We have plenty of commercial property already in Troy that we can't lease or sell, why must we tear down a home and rezone the lot commercial? Just a few short weeks ago the headlines in the local papers was that Troy needed more workplace housing, it did not say Troy needed more commercial property.

I realize that it would be a huge benefit to Troy to welcome this franchise to our city, I just feel that the city should be helping this company to find a suitable lot that is already commercially zoned and not taking the easy way out and redesignating a residential lot for commercial use.

There are several other issues with putting this type of business on this lot. The residents on our part of Vanderpool have only one way in and out of our street. At morning rush hour (which lasts from about 6:30 to 9am) we already have a tough time getting out of our street onto Rochester Road - the only way to get out is to wait for the light to the north of Vanderpool which can take anywhere from 3 minutes to 10. Putting a Dunkin Donuts there will compound this problem as their customers will be entering and exiting the store during the morning commute, even by only putting an entrance/exit off Rochester it will cause the traffic to back up in front of our street preventing us from exiting our street. As one of our neighbors also pointed out, her child waits for the bus at this intersection and she is greatly concerned for her child's safety with the traffic that would be entering Dunkin Donuts in the morning. Another concern is that we do not have a boulevard in front of our street, just a very wide median that is already very accident prone, and during the morning rush for Dunkin Donuts the buses for Baker Middle School have to enter and exit through this wide median causing greater traffic issues for the bus drivers.

Another concern particularly of the neighbors surrounding this piece of property is that it will lower their property values. Rezoning this property would be unfair to them. Additionally we heard at the City Council meeting that there are several other streets in our area with businesses built down the street as is being proposed here, for example on Trombley and Charrington, to name a few. However, in the other cases, none of those businesses face residences or are even close to one and that is what would happen on Vanderpool. The Dunkin Donuts would directly face a residence and two others would be in very close proximity to it.

Again, we are not against Dunkin Donuts moving to Troy, we just feel that it should be located on an already designated commercial lot and that a residence should not be torn down and the lot be redesignated commercial to do it. There are plenty of commercial lots available in Troy that would be suitable for this type of store and the residents of Vanderpool should not be punished by tearing down a home on our street to make way for this business.

Thank you for your time.

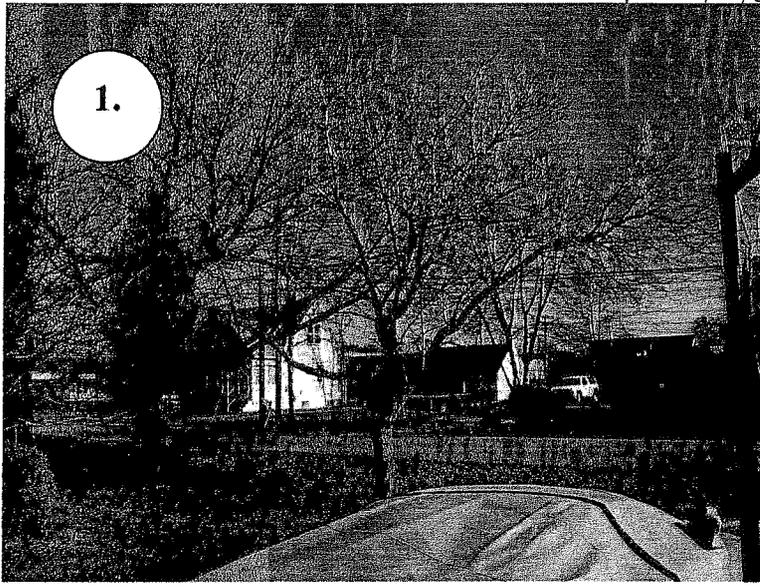
Sincerely,

4/10/2006

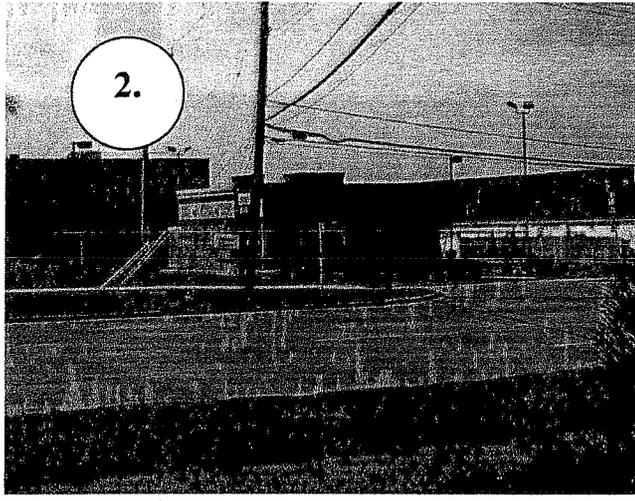
Item # 5

Charles and Jennifer Burke
803 Vanderpool
248-743-2656

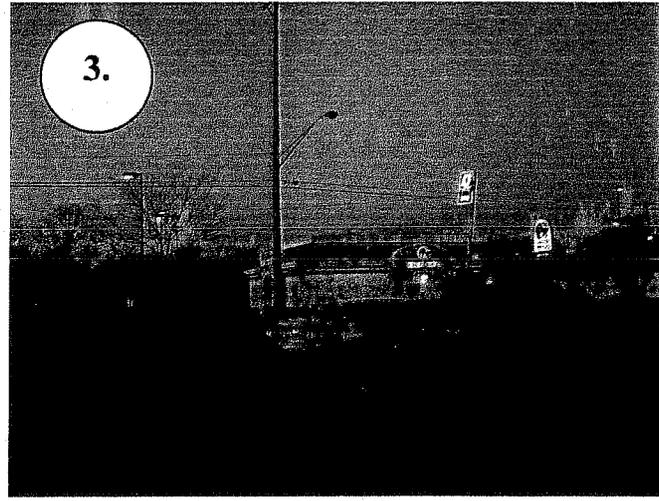
- Proposed re-zoning is encroaching on a residential area, and it is not necessary (figure 1).
- Re-zoning proposed to make room for drive-thru which is not required (per franchise policy, example in figure 2).
- Alternate site plan possible (figure 3).
- Alternate location possible (figures 4 and 5) among others.
- Less expensive to buy residential and re-zone than buy commercial property at the expense of residents.
- New establishment will benefits one person, but a financial setback and inconvenience to many.
- Proprietor has finances to seek more expensive alternative.



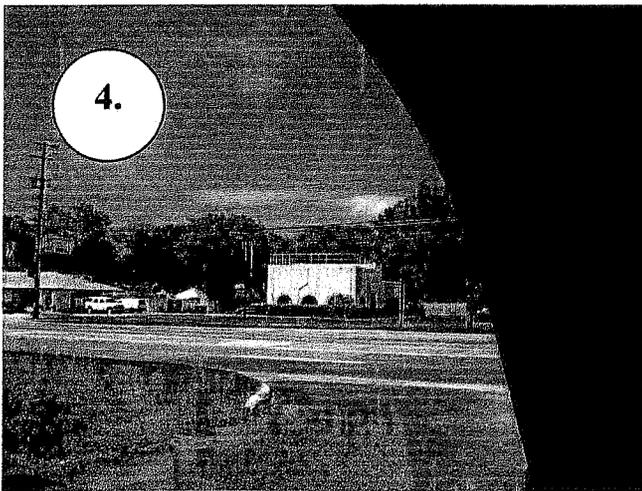
Re-zoning would extend commercial boundary to this fence.



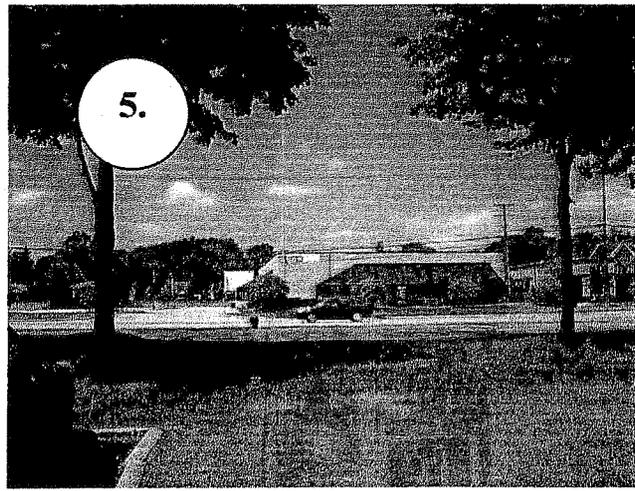
This Dunkin' Donuts/Baskin Robbins located on Rochester Road, north of M-59 doesn't have a drive-thru.



Taco Bell in Warren oriented 90-degrees to accommodate a drive-thru without re-zoning residential.



Old Taco Bell N. of Big Beaver. This is a suitable location for a donut shop.



DSW Shoe Warehouse would provide ample acreage for a donut shop with a drive-thru.

Z-704-B
HANDOUT 4/11/06 P.C.
LAURA BALLYEAT
965 VANDERPOOL

Planning:

- A) You have heard from Jennifer Burke, I am in agreement with everything she stated in her letter to you. Including available space, traffic, etc.
- B) While the residents, if forced to have this building built prefer the new design, those opposed are still opposed to having it built at all.
- C) Should the residential property be rezoned, there is no turning back. Nothing prevents a 7-11 or anything else less desirable being built there. So any previous arguments that we should be pleased it is a Dunkin' Donuts rather than a 7-11 is really not a viable argument.
- D) If you look at other available spaces up and down Rochester road, easy access from those homes across Rochester have streets exiting the subs with lights (Bishop, etc.) The street across from the proposed location ... the only access road to the middle school does not have a light. A couple years ago a neighbor on our street was hit and killed by a car while trying to cross Rochester road at 5 am. While the gentleman was mentally disabled, I would suggest that the judgement of middle schoolers might not be much better when it comes to crossing Rochester road for an icecream after school and that Rochester road at those times of the day would be far less safe than at 5:30 AM.
- E) I realize that competition can be a good thing but in a stressed economy, small places such as Elaines Bagels and Troy Deli could, if Dunkin Donuts succeeds, take a fatal hit and we will have yet more empty building space on the street.
- F) One of the main reasons Dunkin Donuts would like this residential piece of property rezoned commercial is that construction of their business on that property would cost considerably less to construct than it would if they were to build at a location that is already commercially zone and has a building on it. Frankly, there is no "greater community good"

associated with building a Dunkin Donuts on that corner. Our property values go down so they can save money. That hardly seems fair and in effect, we are being stolen from so they can save money. Homes are not selling, even if I wanted to move I could expect my house to remain on the market for at least a year. With the construction of the dunkin donuts it would not only mean I would get less for my home, but that it would be more difficult to sell at that decreased price. Greater community good may be an excuse the city could use in some instances to justify rezoning and hurting residential property values, but here, greater community good would apply only to encouraging them to build on other available, already commercially zone property on Rochester road. If they truly want to be on Rochester road, let it cost them, not the residents on the street

G) AND finally. If that property is rezoned commercial, I feel that it will very quickly encourage the rezoning of the Wiles property directly across the street from the Carters.along the same property line on the otherside of Vanderpool..... Which would further decrease our property values and would force me in the future to live directly next door to some commercial structure such as a drug store or 7 -11.

Keeping the property in this neighborhood residentially zoned is important not only for me and the other residents but for future city planning as well. I have tried to be an empty nester... it didn't work so well, but I have hopes it will happen again. When I move next... I would like to stay in Troy, but the condo type housing being built here is almost discriminatory... not by plan but by result. The reasonably affordable condos have stairs... and lots of them... those at 16 and Rochester, 15 and coolige, etc. They are great as long as we can manage the stairs....My knees are good, but I know a lot of guys who played football whose knees aren't and by 60... they really need to have a place with as few stairs as possible. Also, as the local paper noted... we don't have any affordable workforce housing. My son and his fiancé make nice money between them, but they are 25 and 27 year old college grads and they couldn't afford to buy their first home here. They and their friend have decided to plant their roots EOD... East of

Dequindre. We need reasonably priced, starter priced housing in this community and this area is really very suited to that... and we need our young people to feel they have the opportunity to remain in Troy.... We educated them here, they like it here, but they can't afford to stay and we do not reap the benefits of our investment in them. Please... Both specifically and in general... please stop rezoning any more of this area of Troy out of residential zoning.

~~APR~~
MAY 2000

FOR DATE
on council
CITY agenda

please

May 31, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Addendum to Agenda Item C-02 - Public Hearing – Rezoning Application (Z 704) – Proposed Dunkin Donuts, South side of Vanderpool, West of Rochester Road and East of Ellenboro, Section 22 – R-1E to B-2

A protest petition in opposition of the above referenced rezoning application was submitted to the City Manager's Office on May 30, 2006.

To be considered valid under Article 03.21.07 of the City of Troy Zoning Ordinance, a protest petition must meet the following standard:

Said protest petition shall be duly signed by the owners of at least twenty percent (20%) of the area of land included in the proposed change, or by the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change, excluding publicly owned land.

City Management reviewed the protest petition and determined that it was signed by owners of only 5.23% of the property located within the one hundred (100) foot boundary (excluding City-owned parcels). Since the submitted protest petition is determined to be invalid, a two-thirds (2/3) vote of the City Council is not necessary to approve the rezoning request; a simple majority vote is sufficient.

Additionally, note that the protest petition was not submitted on a form provided by the City, as per Article 03.21.07.

Attachments:

1. Protest Petition, received by City Manager's Office on 05/30/06.
2. Map.

cc: Applicant
File/ Z-704

G:\REZONING REQUESTS\Z-704 DUNKIN DONUTS SEC 22\Memo to Acting City Manager 05 31 06.doc

May 15, 2006

REC'D

RECEIVED

MAY 31 2006

MAY 30 2006

Troy City Council
500 W. Big Beaver
Troy, MI 48084

PLANNING DEPT.

CITY OF TROY
CITY MANAGER'S OFFICE

Dear Troy City Council Members:

We the residents of Vanderpool would like to voice our strong objection to the rezoning of Z 704-B from R-1E to B-2, this is to tear down a home and build a Dunkin' Donuts. As you know, we had many concerns about this rezoning last summer when it came before you. The majority of Vanderpool residents signed a protest petition and many of us communicated our concerns to you at that time. While we have since talked to the developer, our concerns remain.

We are still strongly opposed to the rezoning of this property for several reasons:

- 1) it is an intrusion and encroachment of commercial business into a residential neighborhood
- 2) it faces residential property, not another commercial business
- 3) it will have a negative impact on our property values
- 4) it will create further traffic congestion at a site that already has significant traffic issues
- 5) we have no guarantee once the rezoning is approved of Dunkin' Donuts actually building here or adhering to the proposed site plan
- 6) there are many other locations that are already commercially zoned throughout Troy that would be appropriate for this facility

As ours is a "no outlet" street, every Vanderpool resident is affected by this rezoning, not just the ones who live in the homes surrounding this property. We strongly urge the Troy City Council to reject this proposed rezoning again.

Thank you very much for your time and consideration.

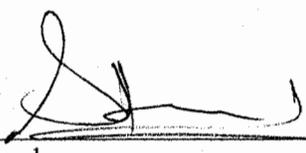
Sincerely,

Edith Holthues *5-18-06*

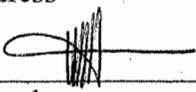
 Signed Date
 Edith Holthues

 Print
 710 Vanderpool Troy, MI 48084

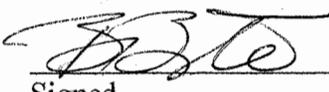
 Address


Signed _____ Date 5/16/06 -
RAMESH SRINIVASAN

Print
629 Vanderpool Ave, Troy MI 48083
Address


Signed _____ Date 5/16/06
Virginia Mason LaBate

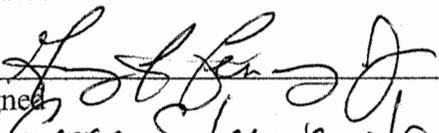
Print
636 Vanderpool Troy, MI 48083
Address


Signed _____ Date
BERNARD LABATE

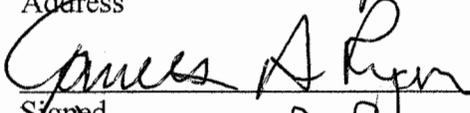
Print
636 VANDERPOOL TROY, MI 48083
Address

612 Vanderpool Troy MI 48083 5/16/06
Signed _____ Date

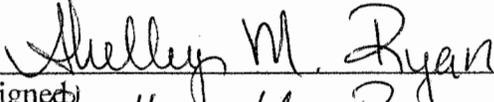
Print
Collin Cox
Address


Signed _____ Date 5/16/06
Garry S. Lenaway

Print
645 Vanderpool
Address


Signed _____ Date 5-16-06
James A Ryan

Print
648 E Vanderpool Troy MI 48083
Address


Signed _____ Date 5-16-06
Shelley M. Ryan

Print
648 E Vanderpool
Address

Nicole A. Matczewski 5-16-06
Signed Date

Nicole A. Matczewski
Print

756 Vanderpool Dr. Troy, MI
Address

Kimberly Fritz 05-16-06
Signed Date

Kimberly Fritz
Print

859 Vanderpool Dr. Troy MI 48083
Address

Karl J. Meritz MAY 16 06
Signed Date

KARL J MERITZ
Print

883 VANDERPOOL TROY MI 48083
Address

Margaret Beachum 5-17
Signed Date

MARGARET BEACHUM 5-17
Print

921 Vanderpool Troy, MI
Address

Gordon L. Beachum 5-18-06
Signed Date

GORDON L. BEACHUM 5-18-06
Print

921 Vanderpool Troy, Mich. 48083
Address

Pamela R. Travis 5/18/06
Signed Date

PAMELA R. TRAVIS
Print

520 VANDERPOOL TROY MI 48083
Address

Mary Frances McGinity _____ Date 5/16/06
Signed _____
Print MARY FRANCES MCGINITY
Address 656 VANDERPOOL TROY, MI 48083

Judy Kline _____ Date 5/16/06
Signed _____
Print JUDY KLINE
Address 755 VANDERPOOL TROY

Daniel Lehman _____ Date 5-16-06
Signed _____
Print DANIEL LEHMAN
Address 748 VANDERPOOL TROY 48083

Suz Lehman _____ Date 5/16/06
Signed _____
Print SUZ LEHMAN
Address 748 VANDERPOOL TROY MI, 48083

Vicki Williams _____ Date 5/16/06
Signed _____
Print Vicki Williams
Address 796 Vanderpool Troy MI 48083

James J. Williams _____ Date 5-16-06
Signed _____
Print James J. Williams
Address 796 Vanderpool

John K. Billinger
Signed _____ Date 5-20-2006

Print John K. Billinger

Address _____

Laura D. Bayer
Signed _____ Date 5-20-2006

Print Laura D. Bayer

Address _____

Kim Rin
Signed _____ Date 5-21-06

Print 871 Vanderpool

Address Troy MI 48083

Nusreta Alic
Signed _____ Date 5-21-06

Print NUSRETA ALIC

Address 906 Vanderpool

George Humbley
Signed _____ Date 5/21/06

Print George Humbley

Address 905 Vanderpool Troy, MI 48083

Bill McNeil
Signed _____ Date 5-21-06

Print Bill McNeil

Address 913 E. Vanderpool Troy Mich 48083

Nona McNeil
Signed _____ Date 5-22-06

Print 913 E. Vanderpool
Address _____

CAROL STEHLE
Signed _____ Date 5-22-06

Print 737 Vanderpool
Address _____

Gregory J. Hall
Signed _____ Date 5/22/06

Print 854 Vanderpool
Address _____

Chad A Marshall
Signed _____ Date 5-22-06

Print 821 Vanderpool Dr
Address _____

Grace Wisniewski
Signed _____ Date 5-23-06

Print 884 Vanderpool
Address _____

55 (initially only legally blind)
Signed _____ Date 5-23-06

Print Shirley Shaddon
Address 900 Vanderpool

Signed Hugh Elliott Date 5/24/06

Print HUGH ELLIOTT

Address 680 E Vanderpool Troy 48098

Signed Silvia Bora Date 5-29-06

Print SILVIA BORA

Address 856 VANDERPOOL TROY MI 48083

Signed Daniel Bora Date 5-29-06

Print DANIEL BORA

Address 852 VANDERPOOL TROY MI 48083

Address

Signed _____ Date _____

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Signed _____ Date _____

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Address _____

Signed John Cowleston Date 5-25-06
Print JOHN COWLESTON
Address 870 VANDERPOOL AVE. TROY, MI. 48083

~~Signed~~ Date 5-25-06
Print CHRIS DE CUBRER
Address 895 Vanderpool Ave, Troy MI 48083

Signed Charles S. Burke II Date 5/26/06
Print CHARLES S. BURKE II
Address 803 VANDERPOOL AVE TROY MI 48083

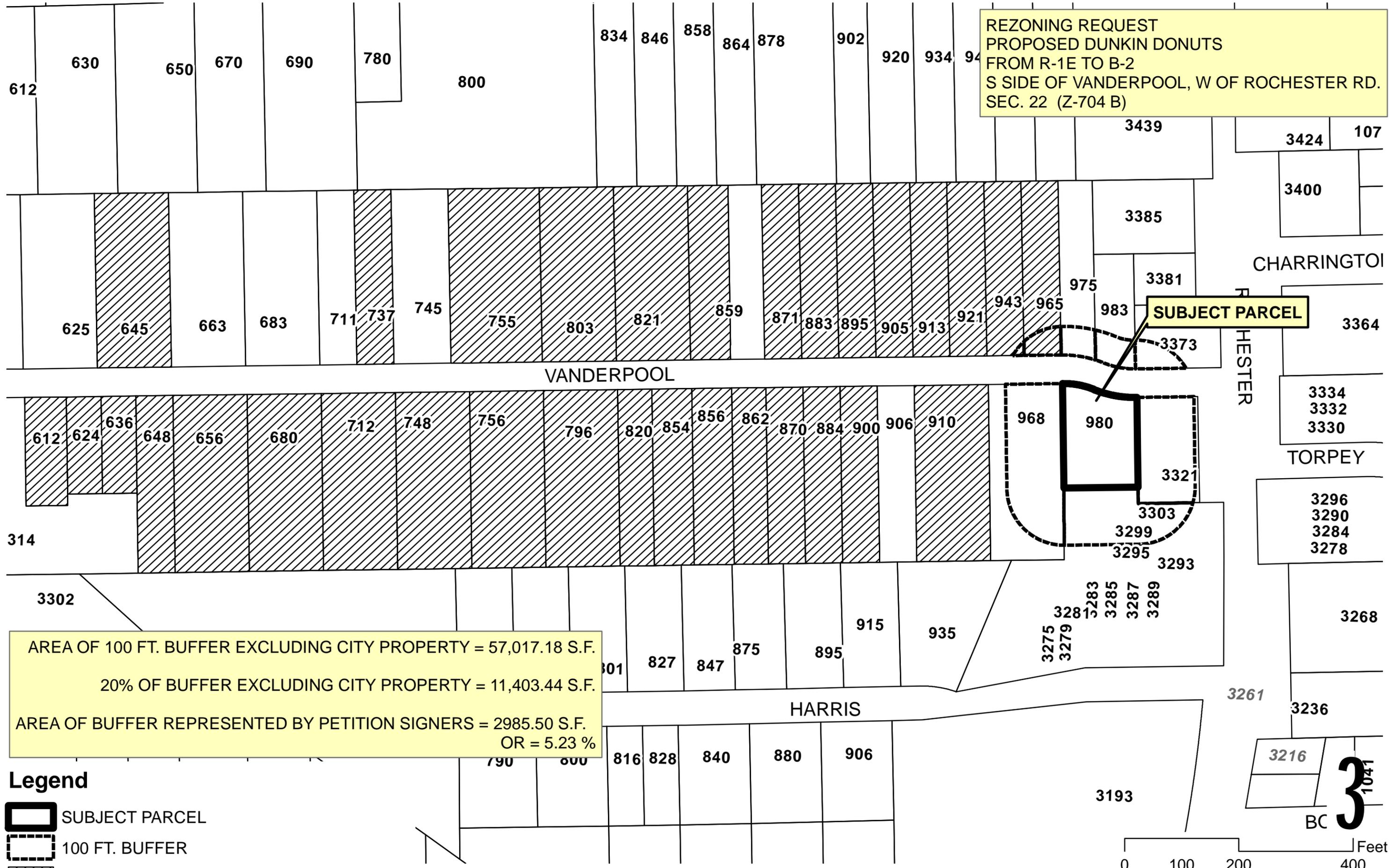
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Print Dianne Stewart
Address 712 Vanderpool, Troy, MI 48083

Signed Jennifer Burke Date 5/30/06
Print Jennifer Burke
Address 803 Vanderpool

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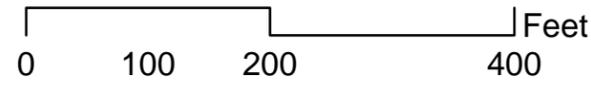
REZONING REQUEST
 PROPOSED DUNKIN DONUTS
 FROM R-1E TO B-2
 S SIDE OF VANDERPOOL, W OF ROCHESTER RD.
 SEC. 22 (Z-704 B)



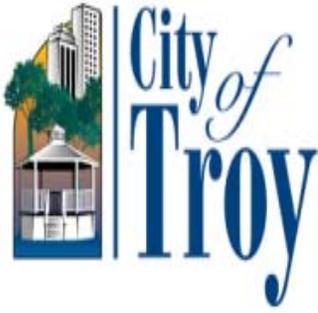
SUBJECT PARCEL

AREA OF 100 FT. BUFFER EXCLUDING CITY PROPERTY = 57,017.18 S.F.
 20% OF BUFFER EXCLUDING CITY PROPERTY = 11,403.44 S.F.
 AREA OF BUFFER REPRESENTED BY PETITION SIGNERS = 2985.50 S.F.
 OR = 5.23 %

- Legend**
-  SUBJECT PARCEL
 -  100 FT. BUFFER
 -  SIGNED PETITION



31041
 BC



Memorandum

To: John M. Lamerato, Acting City Manager
From: Tonni L. Bartholomew, City Clerk
Date: June 1, 2006
Subject: Agenda Item: D-01 Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards

Due to a major re-write of Chapter 28 and a discrepancy in the original recommended motion submitted to City Council, the attached repealing resolution has been proposed in addition to the postponed adoption resolution. Due to the nature of a repealing ordinance it is recommended that the two resolutions remain separate.

Additionally, a recommended motion to postpone action on the active main motion has been provided. The intent of the postponement is to allow Council to repeal the existing ordinance, Chapter 28 - Tree Regulations, immediately prior to the adoption of active motion on the adoption of Chapter 28 – Tree and Plant Regulations Ordinance. Should it be the desire of the Council to fail the adoption of the active postponed motion, the repealing ordinance should not be considered or should also fail. If the repealing resolution is offered, and is successful, and the new ordinance is NOT adopted, Council should immediately rescind the repealing resolution.

D-1 Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards

Resolution 2006-06-
Moved by Beltramini
Seconded by Schilling

RESOLVED, That Chapter 28 – Tree and Plant Ordinance, a copy of which shall be **INCLUDED** in the original Minutes of this meeting, is hereby **ADOPTED**.

Yes:
No:

Proposed Resolution to Postpone Voting on Resolution to Provide for the Repealing of Chapter 28 - Tree Regulations Ordinance

Suggested Resolution
Resolution #2006-06-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **POSTPONES** the proposed Resolution, Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards, Moved by Broomfield and Seconded by Schilling, until after consideration the proposed Repealing of City Ordinance, Chapter 28 – Tree Regulations Ordinance Resolution.

Yes:
No:

Proposed Resolution to Repeal City Ordinance, Chapter 28 – Tree and Plant Regulations Ordinance

Resolution 2006-06-
Moved by
Seconded by

RESOLVED, That Chapter 28 – Tree Regulations Ordinance, a copy of which shall be **INCLUDED** in the original Minutes of this meeting, is hereby **REPEALED**.

Yes:
No:

CITY OF TROY
REPEAL CHAPTER 28- TREE REGULATIONS
OF THE CODE OF THE CITY OF TROY

Chapter 28, Tree Regulations of the Code of the City of Troy is hereby repealed 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 5th day of June, 2006 and is effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

PUBLISHED: Monday, June 12, 2006

May 1, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Carol K. Anderson, Parks and Recreation Director

SUBJECT: **Agenda Item:** *City Ordinance, Chapter 28 - Tree Ordinance and the Landscape Design & Tree Preservation Standards*

RECOMMENDATION:

City Management recommends approval of the attached revised versions of City Ordinance, Chapter 28 – Tree Ordinance as well as the Landscape Design and Tree Preservation Standards. The changes in these documents clarify ambiguous sections and include changes as outlined herein. Following the Council study session of April 3, 2006, staff reviewed the comments by Council and public comments and submits Chapter 28 – Tree and Plant Ordinance for approval and the Landscape Design and Tree Preservation Standards for review.

This item was submitted as a Green Memo on March 20, 2006 and revisions were included in the documents reviewed by City Council at their study session on April 3, 2006. Both documents have been reviewed as to form and legality by the City Attorney's office.

BACKGROUND:

The purpose of Chapter 28 is to establish procedures, and practices governing the protection, installation and long-term maintenance of trees, plants, and vegetation within the City of Troy. The Landscape Design and Tree Preservation Standards provide development standards for commercial properties and subdivisions. The following is a general outline of the functions of the two documents:

Chapter 28 – Tree and Plant Ordinance

- *Enforcement:*
- *Maintenance and planting of materials on municipal sites*
- *Responsibilities of private plant owners*
- *Responsibilities of property owner before and during development*

The Landscape Design and Tree Preservation Standards

- *Approval Process for Tree Preservation and Landscape Plans*
- *Request for Variance/Waiver*
- *Information required for review and format for submittal*
- *Tree Preservation and Protection*
- *Fees and Deposits*
- *Inspections*
- *Violations of these Standards*
- *Qualifications and Responsibilities of Individuals*
- *Plant Material Requirements, Site Preparation and Plant Installation*

STUDY SESSION COMMENTS:

The following additional changes resulted from comments by City Council and public at the April 3, 2006 Council study session:

Changes made to Chapter 28 as of 4-3-06:

Punctuation and grammatical corrections are not noted.

Section 28.01.00 – section #'s removed numbers from line items and bulleted

Section 28.02.00:

- 28.02.02 - redefined "City"
- 28.02.04 – changed (28.02.23) to (28.02.26)
- 28.02.12 – moved "Lawn Extensions" definition from 28.14.02 and added the word "public".
- Renumber definitions 28.02.13 through 28.02.28 to accommodate new definitions
- 28.02.14 – added new definition for "Municipal property".
- 28.02.15 – added new definition for "Municipal Tree".
- 28.02.18 – moved list out of definition and added to 28.06.04.
- 28.02.19 – moved following to 28.08.01 – "There shall be no undue compression of the earth or otherwise impeding or preventing the access of water or air to the root system of the plant or excavation around or removal of soil or earth or the addition of earth or any other materials within the tree protection areas. Building material and other debris shall not be placed inside the tree protection areas."
- 28.02.20d – removed the word "City" and added "owned by the City"
- 28.02.26 – changed (28.02.10) to (28.02.19).

Section 28.04.00:

- 28.04.01 – added the word "trees" and the statement "All State and Federal requirements and restrictions shall be followed when applying weed/pest control to plants in public spaces".
- 28.04.02 – changed "planting" to "installing", changed "planting" to "installation", added "necessary to determine compliance with this ordinance".
- 28.04.03 – reworded leaving amount and type of insurance open.
- 28.04.07 – changed "Plant" to "installation" and "plant" to "install"

Section 28.06.00:

- 28.06.03 – changed (28.02.17) to (28.02.20)
- 28.06.04 – relocated prohibited plant list to this section
- 28.06.04L – separated this section from main body of text and changed (LD35.01.00) to (#LD35.02.00).
- 28.06.04M - separated this section from main body of text.
- 28.06.05 – changed "plants" to "trees (4" DBH and up)" and added "prior to the application and approval by the City for development".

- 28.06.05a – added as new.
- 28.06.06 – reworded for clarity.
- 28.06.07a – added “for said work”.
- 28.06.07b – added “for said work”.

Section 28.07.06 – changed “ordinance” to “section”.

Section 28.08.00:

- 28.08.01 – added “(see 28.02.19)” and added “There shall be.....”
- 28.08.03 - changed “of” to “for”.
- 28.08.05 – changed (28.02.23) to (28.02.26).
- 28.08.06 – changed “may” to “will be allowed”.

Section 28.11.00:

- 28.11.02 – changed “shall” to “are to”
- 28.11.04 – added “All tree guards and stakes shall be removed one (1) year after installation”.
- 28.11.06 – added “stating otherwise”.
- 28.11.08 – changed from 6” to 10” to conform to other existing ordinances.

Section 28.12.00 – added “comply with the requirements of section 28.1.01 through 28.12.03”.

Section 28.13.01 – split this section out text and changed “damages” to “compensation”.

Section 28.14.00:

- Renumbered section after moving definition of “Lawn Extension” to 28.02.00.
- 28.14.02 – added the words “other than normal maintenance” & “maliciously, and/or wantonly”.
- 28.14.04 – added “of public streets” and changed “mechanically edged” to “edged”
- 28.14.05 – removed the word “major” and added “located in public spaces”.
- 28.14.07 – added “of public streets”.
- 28.14.07a – added as new.

Section 28.15.00:

- 28.15.03 – changed “as close as” to “at least
- 28.15.04 - changed “as close as” to “at least and changed “City” to “Director”.
- 28.15.05 – same as 28.15.04 and change “is involved” to “prevents the use of a larger tree”.
- 28.15.06 – changed “may be planted” to “twenty (20) feet or less are permissible plantings”.

Section 28.16.00:

- 28.16.01 – changed “any of the provisions” to “pertaining to public spaces”.
- 28.16.04 – changed “revision” to “edition”.

Section 28.17.00:

- 28.17.00 – added “she/”
- 28.17.01 – added “or a combination “
- 28.17.02 – moved “except in case of an emergency or imminent danger” to end of sentence.
- 28.17.05 – added “have the right”

Figure #1 – removed the word “Study”

Figure #3 – removed the word “Study”

Figure #5 – added “Large (50+ feet)”, “Medium (30 – 50) feet”, and “Small (15 – 30)”.

Changes made to Landscape Design & Tree Preservation Standards as of 4-3-06:



Title Page - added quote

Approval Process Outline:

1. – added “and Preliminary landscape Plans (LD6.00.00)” & “to Planning Department with Site Plan Review or Special Use Application”
5. – added “which will be forwarded to Planning and/or Building Departments.”
6. – added #6
- 17e – changed “LD34.00.00i” to “LD34.00.00j”.

Section LD1.00.00 – changed “39.30.01 – 07” to “39.30.00” and re-word last paragraph to more accurately define who this standard applies too.

Section LD6.00.00:

- LD6.00.00 – Added “Landscape” and “Preliminary Landscape plans shall be submitted as separate documents”.
- LD6.02.00g – added “(Tree Preservation plan only)”.
- LD 6.02.00l – added “tree preservation”.
- LD6.02.00M – added as new.
- LD 6.02.01 – added as new

Section LD7.00.00 – added “be submitted as one combined document”.

Section 8.00.00:

- LD8.01.00 – changed “LD8.04.00” to “LD8.01.01”.
- LD8.02.00 – changed “LD8.01.01” to “LD8.04.00”.
- LD8.02.01 – added as new.
- LD8.03.02 through LD8.03.04 added as new,
- LD8.04.04 – removed “The City reserves the right to remove these trees from the list of preserved trees” as being redundant (see LD8.04.06)
- LD8.04.05 – reworded from “Trees to be preserved shall be in good to fair condition at the time of development” to “Tree preserved shall be in good condition (as deemed by the Director) for one full year after the final acceptance (closing) of the project by the City”.
- LD 8.05.09 – added as new.

Section LD9.00.00:

- Changed “when making the submittal” to “an application is submitted”.
- Added “Special Use Approval Request, or Tentative Preliminary Plat Approval”.
- Changed “subdivision” to “project”.

Section LD10.00.00 – added “Final Tree Preservation / Landscape Plan shall be submitted as one combined document. The Final Landscape Plan shall be consistent with the Preliminary Landscape Plan used to grant Preliminary Site Plan approval by the Planning commission”.

Section LD13.00.00 – changed “commercial” to “Non-residential”.

Section LD16.00:

- LD16.00.00 – added “Plan”.
- Changed “LD16.02.00d” to “LD16.02.01”.

Section LD19.00.00 – added “Bank Letter of Credit will not be accepted for Maintenance Deposit”.

Section LD19.02.03 – added “otherwise”

Section LD20.00.00 – added “Plan”

Section LD22.03.00c – reworded to read “Additional fees as per LD18.01.00”.

Section LD23.00.00:

- LD23.05.01 – changed “28.02.23” to “28.02.26”.
- LD23.06.00a – changed “fences” to “tree protection barriers”.

Section LD28.00.00:

- LD28.03.00 & 28.04.00 – changed “has not been” to “is not”.
- LD28.05.00 – changed “this procedure” to “the procedures in this section”.

Section LD29.00.00– changed “must have prior to any landscape project coming under the control of this standards” to “are to be”.

Section LD31.00.00 – changed “must have prior to a tree preservation project coming under the control of these standards” to “are to be”.

Section LD35.00.00:

- LD35.02.00 – changed “at this time” to “As of May 8, 2006”.
- LD35.03.00 – added as new.

Section LD 37.00.00 – changed “commercial properties or subdivision” to “Site Plan Approval, Special Use Approval, or Subdivisions Plat Approval”

COMPARISON WITH OTHER COMMUNITIES:

Finally, a comparison of the proposed City of Troy Tree and Plant Ordinance with four other communities is included here. As you can see from the chart titled “**Tree Ordinance Comparison**”, the tree preservation percentages proposed for Troy are less than for the compared communities, although the Troy preservation range is greater.



Tree Ordinance Comparison

	Rochester Hills	Sterling Heights	Rochester	Brighton Twp.	Troy (proposed)
Minimum preservation % of trees	37%	37%	80%	by % canopy	30%
preservation range	6" and up	6" and up	6" and up	10" and up	4" and up
a tree relocation on site allowed	yes	yes	yes	yes	yes
b tree relocation off site allowed	yes	yes	yes	yes	yes
c tree replanting on site allowed	yes	yes	yes	yes	yes
d tree replanting off site allowed	yes	yes	yes	no	yes
City Tree Fund established	yes	yes	no	no	yes
Recommended replacement tree list provided	yes	no	no	no	yes
e Building envelope trees count toward % preserved	no	no	no		no
f Deciduous & coniferous trees included in % preserved	yes	yes	yes	yes	yes

- a - trees can be transplanted from one area to another on the same site
- b - trees can be transplanted from another site to new project
- c - reforestation of tree with new planting permitted
- d - reforestation tree can be located on a different site
- e - tree inside allowable building area can not be counted as preserved trees
- f both types of tree can be counted toward to total % of preserved trees

SUMMARY:

The purpose of Chapter 28 is to establish practices and procedures for the protection, installation, and long-term maintenance of trees, plants and vegetation within the City of Troy. Staff is confident the revisions to the ordinance make it a more understandable, and useful tool toward that purpose.

The revisions to Landscape Design and Tree Preservation Standards will assist developers with the process of landscaping their projects, while ensuring greater preservation of Troy’s urban forest.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

Chapter 28 - Tree and Plant Regulations

CHAPTER 28 TREE AND PLANT REGULATIONS

28.01.00 PURPOSE AND INTENT. The City acknowledges that Troy's urban forest reduces noise, air pollution, energy costs, reflected light, and flooding, stabilizes soils, sequesters carbon, provides habitat for wildlife and increases the value of all properties in the area and the overall quality of life.

It is the City's intent that the urban forest be protected, preserved and/or restored. To that end the City has created these ordinances, the *Landscape Design and Tree Preservation Standards* and the Building/Developmental Standards.

The purpose of this Ordinance is to establish procedures and practices governing the protection, installation and long-term maintenance of trees, plants and vegetation within the City of Troy. The City's purpose is to:

- Promote the beautification of the City of Troy.
- Create for present and future generations a planned pattern for the urban landscape within the City of Troy.
- Promote reasonable preservation and replenishment of landscaping on existing commercial and public properties and to provide guidelines for protection of plants.
- Safeguard and enhance property values and to protect public and private investment.
- Provide an ordinance that is reasonable and enforceable.
- Promote the awareness of the benefits of effective landscaping.

28.02.00 DEFINITIONS. For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given here. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

28.02.01 CALIPER: the diameter of the tree trunk measured at:

- a. Six (6) inches above the ground level if four (4) inches in diameter or less.
- b. Twelve (12) inches above ground if greater than four (4) inches in diameter.

28.02.02 CITY: The Municipality of the City of Troy, Michigan.

28.02.03 CLEARING: The cutting down and/or removal of plants and/or vegetation from a property whether by cutting or other means.

28.02.04 DAMAGE: Includes any intentional or negligent act which will cause plants to decline and die within a period of three (3) years, including but not limited to such damage inflicted upon the root system by the compaction of the soil within the drip line of a tree during the operation of heavy machinery; the change of the natural grade above the root system, around the drip line, or around the trunk of a plant and/or damage from injury or from fire to vegetation which results in or permits infection or pest infestation. Damage also includes application of soil within the tree protection area (Section 28.02.26) or introduction into the water source, and/or

Chapter 28 - Tree and Plant Regulations

release of products, which move through the environment of a plant, any petroleum products, pesticides, toxic chemicals or other injurious materials.

28.02.05 DBH (Diameter at Breast Height): The diameter of the tree trunk measured at 4.5 feet above ground level.

28.02.06 DEPARTMENT: The Department of Parks and Recreation of the City of Troy.

28.02.07 DIRECTOR: Parks and Recreation Director and all employees under her/his direction, authorized by her/him to seek compliance with provision of this ordinance.

28.02.08 DRIP LINE: The drip line of a tree or plant shall be determined by measuring from the center of the trunk to the tip of the farthest branch from the trunk center. This measurement shall be used as the radius of a circle drawn around the plant with the center of the trunk being the center of the circle.

28.02.09 EMERGENCY: An event or events, disease, pest, or condition which has damaged or destroyed a tree or plant such that the continued presence of such damaged or destroyed tree or plant threatens public space in proximity thereto.

28.02.10 IMMINENT DANGER: Any situation or occurrence that would cause directly or indirectly an immediate danger to any person in a public space within the City.

28.02.11 GRADING: The placement, removal or movement of earth or soil on a property by use of mechanical equipment or hand equipment.

28.02.12 LAWN EXTENSIONS: That area between the property line and the curb/road edge of public streets/roads.

28.02.13 LISTED SPECIES: Any plant that is endangered or threatened or is a species of special concern as listed on the Federal Inventory List or Michigan Natural Features Inventory List (MNFIL), which is maintained by the Michigan Natural Heritage Program and/or the Michigan Land Conservancy.

28.02.14 MUNICIPAL PROPERTY: All land, structures, facilities, and plants, owned by the municipality of the City of Troy.

28.02.15 MUNICIPAL TREE: Any tree owned by the municipality of Troy and located on municipal property.

28.02.16 PEST: The full range of dangerous; destructive; or infectious organisms, insects, diseases, pathogens and/or conditions which attack or effect plants or which hinder their development as horticultural subjects. This shall include but not be limited to all biotic and/or abiotic agents.

28.02.17 PLANT(s): Any tree, shrub, bush, perennial, annual, grass or other vegetation, native or introduced.

28.02.18 PROHIBITED PLANTS: Plants that shall not to be planted within the municipal boundaries of the City. (Refer to Temporary Banned Plants in the *Landscape Design and Tree Preservation Standards*, Section LD 35.02.00.)

Chapter 28 - Tree and Plant Regulations

- 28.02.19 **PROTECTIVE BARRIER**: (figure #1) a minimum four (4) foot tall plastic mesh barrier constructed at the drip line of the plant to protect the root system and/or trunk of the plant from damage caused by but not limited to: construction, vehicular traffic, storage of equipment, debris, soil, fill or other materials.
- 28.02.20 **PUBLIC NUISANCE**: Any plant:
- With an infectious disease or pest problem that may infect municipal trees.
 - That is dead or dying that has the potential to fall into public spaces.
 - Or limb of any plant that obstruct street lights, traffic signs, free passage of pedestrians or vehicles.
 - That poses a threat to the safety of individuals in public spaces or poses a threat to property owned by the City.
- 28.02.21 **PUBLIC SPACES**: Public streets, rights-of-way, alleys, avenues, lanes, parkways, sidewalks, walkways, trails, parks, open spaces, lots, retention/detention ponds, drains, streams, museums, bridges, parking lots, or paths within the City and all other lands controlled or publicly owned by the City or such land privately owned when such land comes within the purview of this ordinance because of the maintenance or continuation of any hazards injurious to property, or individuals in public spaces or the public interest.
- 28.02.22 **PUBLIC UTILITY**: Any person, corporation or organization owning or operating any pole, pipe, tower, satellite dish or conduit located in any public space or over or along any public easement or rights-of-way for the transmission of electricity, gas, telephone service, inter-net service, or any other means of electronic communication including the television transmission system and/or coaxial C.A.T.V. cable.
- 28.02.23 **ROOT SYSTEM**: The part of the plant, located within the plants drip line, usually but not always underground that holds the plant in position, drawing water and nutrients from the soil.
- 28.02.24 **STREET TREE**: Any tree growing in the rights-of-way of the City of Troy. These trees are generally but not always located between the sidewalk/curb or in the street islands/medians.
- 28.02.25 **TREE**: Any self-supporting woody plant having one or more defined stems or trunks with a DBH of 1.25 inches or more and having a defined crown which customarily attains a mature height of eight (8) feet or greater.
- 28.02.26 **TREE PROTECTION AREA**: The space between the protective barrier and the trunk of the plant (Section 28.02.19 and figure #1). Building material and other debris shall not be placed inside the tree protection area.
- 28.02.27 **TRUNK**: The main stem or body of a plant, to be considered apart from its root system and branches. In the case of a multiple trunked plant, the stem with the largest caliper shall be used for the purpose of this ordinance.
- 28.02.28 **TOPPING (also known as: Dead Heading and Severe Crown Reduction)**: The reduction of the overall size of a tree and/or the severe internodal cutting back of

Chapter 28 - Tree and Plant Regulations

branches or limbs to stubs within the trees crown to such a degree so as to remove the normal tree canopy and disfigure the tree. Topping is not a form of pruning.

28.03.00 RESPONSIBILITY: The Director shall be charged with the duty of enforcing the provisions of this ordinance and shall have exclusive jurisdiction and supervision over all plants planted or growing in public spaces.

28.03.01 MAINTAIN, PRESERVE OR REMOVE: The Director shall have the authority and it shall be the Director's duty to plant, trim, spray, preserve and remove trees and other plants and grassy areas in public spaces to insure safety or to preserve the design intent of such public spaces.

28.03.02 Unless otherwise directed by this or other City Ordinance, the Director is not required to notify the public of any actions taken when enforcing the provisions of this ordinance.

28.03.03 ORDER TO MAINTAIN, PRESERVE OR REMOVE: The Director shall have the authority and it shall be her/his duty to order the maintenance, preservation or removal of trees or plants on private property when she/he shall find such tree or plant to constitute a public nuisance.

28.03.04 UNLAWFUL INTERFERENCE: It shall be unlawful for any person to prevent, delay or interfere with the City tree crew, or City contractors while they are engaged in the planting, cultivating, mulching, pruning, spraying, treating, transplanting, or removing any tree on municipal property as authorized in this ordinance.

28.03.05 ISSUE CONDITIONAL PERMITS: The Director shall have the authority to affix reasonable conditions to the granting of a permit issued in accordance with the terms of this ordinance. Permits issued under this Ordinance shall be obtained through the Department of Parks and Recreation. Any conditions granted by the Director shall be based on current City policies.

28.03.06 SUPERVISION: The Director shall have the authority and it shall be her/his duty to supervise all work done under a permit issued in accordance with the terms of this ordinance.

28.04.00 PERMITS FOR PLANTING, CARE AND REMOVAL OF PLANTS-PUBLIC SPACES: The Director shall be charged with the duty of issuing and enforcing permits issued to residents, individuals, groups, organizations, companies, and/or corporations for the planting, care and removal of plants in public spaces.

28.04.01 PRESERVE, REMOVE OR TREAT: No person shall trim, spray, transplant, remove or cause/authorize any person to trim, spray, transplant, or remove trees, plants or grassy areas in public spaces without first filing an application and procuring a permit from the Director. This excludes the treatment of turf grasses, trees and plants in the Lawn Extensions (Section 28.14.00) with weed/pest control and fertilizer when done in conjunction with the adjoining private areas. All State and Federal requirements and restrictions shall be followed when applying weed/pest control to plants in public spaces.

28.04.02 APPLICATION DATA: The application required by this ordinance shall state the

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- number, size and variety of plants to be trimmed, sprayed, preserved, transplanted, or removed; the kind of treatment to be utilized, the kind and condition of nearest plants upon the adjoining property. If installing, the application shall include drawings which indicates the variety and number of each plant type, the location, plant grade, and method of installation, including the supplying of suitable soil or soil amendments. When deemed necessary Director reserves the right to request additional information necessary to determine compliance with this ordinance.
- 28.04.03 **INSURANCE:** Before any permit shall be issued, each applicant shall first contact the City Risk Manager who will set actual amounts and types of insurance required for proposed work.
- 28.04.04 **STANDARDS FOR ISSUANCE:** The Director shall issue the permit provided for in this ordinance when it is found that the desired action or treatment is necessary, effective, and appropriate and that the proposed method and workmanship is satisfactory and that such action is in conformance with this ordinance, the *Landscape Design and Tree Preservation Standards* and *City Developmental Standards*.
- 28.04.05 **PERMIT ISSUANCE:** This permit shall be issued at the Department of Parks and Recreations, in the Troy Community Center – 3179 Livernois, Troy, MI 48083-5029.
- 28.04.06 **REVOKING PERMIT:** The Director may revoke a permit when the permit holder refuses or neglects to comply with any of the provisions of this ordinance, the *Landscape Design and Tree Preservation Standards*, or specific conditions outlined in the permit.
- 28.04.07 **INSTALLATION:** No person shall install or set out any tree or plant in public spaces without first filing an application and procuring a permit from the Director.
- 28.04.08 **NOTICE OF COMPLETION:** A notice of work completion concerning all plantings, transplanting, removals, pest control or major pruning shall be given by the permit holder, within five (5) days of completion of the permitted work, to the Director for inspection and approval. Permit holder will be notified of any required corrections, changes, alterations, or deficiencies. Notification shall include scheduling for required work.
- 28.05.00 **PLANT REMOVAL - PUBLIC SPACES:** The Director shall be charged with the duty of removing or ordering removal of plants in public spaces:
- 28.05.01 The Department shall have the right to remove trees and/or plants in public spaces as may be necessary to ensure safety or to preserve the design intent of such public spaces.
- 28.05.02 The Director may remove or cause or order to be removed, any tree or plant or part thereof which is in any unsafe condition or which is a prohibited species, or is affected with any injurious disease, fungus, pest, or otherwise be considered by the City to be a public nuisance.
- 28.05.03 Whenever the Department shall remove a plant, solely for the purpose of

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constructing any public work, the Director shall, if practical, replace the same at public expense, at some nearby location by planting another plant, but not necessarily of the same type or size.

28.06.00 DUTIES OF PRIVATE PLANT OWNERS: It shall be the duty of any person, organization, company, group, association, or corporation growing trees and plants within the City to:

28.06.01 TRIM: To trim her/his trees and plants so as not to cause a hazard to public spaces or interfere with the proper lighting of public spaces by the streetlights.

- a. Any overhead portions of a plant/tree shall be a minimum of eight (8) feet above the surface of the street, sidewalk, trail system, or rights-of-way, which ever has the highest elevation and a minimum of one (1) foot off sidewalk (figure #4).
- b. All private plants shall be pruned so that the above ground portions do not extend beyond the property line into public spaces.
- c. Said person shall remove all dead, diseased, or dangerous trees and plants, or broken or decayed limbs which constitute a menace to the safety of the public in public spaces or which the City would otherwise consider a public nuisance.
- d. Plants installed in the Corner Clearance Zone (figure #2 and Section 28.12.00) shall be pruned and maintained to a height not to exceed thirty (30) inches above established street grade for shrubs and the lowest branch on a tree shall be eight (8) feet above the established street grade.
- e. Private trees planted within thirty (30) feet of municipal property shall be pruned to allow the natural growth and development of the municipal tree.

28.06.02 CITY TRIMMING: The City shall have the right to trim any trees and plants on private property which interfere with vehicular and/or pedestrian traffic in public spaces or the proper spread of light along the street from street lights, or interferes with visibility of any traffic control device / signs or would otherwise be considered by the City to be a public nuisance. Such trimming is to be confined to that work deemed necessary by the City to eliminate the interference or public nuisance. Property owner will be given 24 hours notice prior to removals unless need for removal is created by an emergency or an imminent danger. The Property owner shall pay all costs incurred by the City.

28.06.03 PRIVATE PLANTS - DISEASED, INFESTED, DAMAGED, DEAD, OR CREATING A HAZARD: When the Director shall discover any tree or plant on private property within the City is creating a public nuisance (Section 28.02.20), the Director shall serve an order upon the property owner in the manner specified in Section 28.17.00 of this ordinance. This order shall describe the tree or plant, its location and condition and order the property owner to take such measures as may be reasonably necessary. Such order may require the pruning, spraying or destruction and/or removal of the tree or plant. Such order may indicate the manner of disposal for all debris created by the required destruction and removal. Every such order shall be completed within ten (10) business days after the notice has been issued, or within such time as may be stipulated in such order as provided in Section 28.17.02. In the event of an emergency or imminent danger situation the Director shall have the authority to take immediate action as is necessary to abate the situation. The Property owner shall pay all costs incurred by the City. The City does

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not chip private plant debris.

28.06.04 **PROHIBITED PLANTS:** The general public, individuals, groups, organizations, or corporations shall not plant or cause to be planted any of the following plants within the municipal boundaries of the City.

- | | | |
|----|-----------------------------|---|
| a. | Acer saccharinum | Silver Maple |
| b. | Acer negundo | Box Elder |
| c. | Acer platanoides | Norway maple |
| d. | Ailanthus altissima | Tree of Heaven |
| e. | Catalpa speciosa | Northern Catalpa |
| f. | Fraxinus spp. | Ash, all forms |
| g. | Paulownia tomentosa | Royal Empress Tree |
| h. | Populus spp. | Poplar / Cottonwood |
| i. | Pyrus calleryana 'Bradford' | Bradford Pear |
| j. | Salix spp. | Willow (excluding shrub forms) |
| k. | Ulmus | Elm (excluding cultivars of U. parvifolia and U. americana) |

l. Refer to Temporary Banned plants in the *Landscape Design and Tree Preservation Standards* Section LD35.02.00.

m. The Director, on a case-by-case basis, can approve exceptions to this prohibition. Approval by the Director shall be based on current City policies.

28.06.05 **TREE AND PLANT PROTECTION PRIOR TO DEVELOPMENT:** To prevent the unnecessary destruction of trees (4" DBH and up), and/or listed species on land, prior to the application and approval by the City for development, the destruction within any five (5) year period, of more than twenty-five (25%) percent of the trees on any parcel of real property within the City, without prior approval of the Director shall be prohibited (Sections 28.08.00, 28.16.02 and *Landscape Design and Tree Preservation Standards* and the *City's Developmental Standards*).

a. This ordinance does not apply to lots platted when proposed for development as originally platted or to land parcels equal to or smaller than one half (1/2) acre in size for single family residence.

28.06.06 **CHIPPING OR REMOVAL OF PLANT DEBRIS:** The City does not chip or remove leaves, limbs, stems, logs, roots, or any other debris created by private plant owners or their agents while during the maintenance or plant removals required by this ordinance.

28.06.07 **PLANT DEBRIS DISPOSAL:** No individual, group, organization, company, or corporation shall:

- Dispose in the City, plant debris, and/or by-products of plants (lumber, logs, firewood, mulch, chips, leaves, etc.) from private or public plants that contains dangerous, destructive or infectious pests without first obtaining a permit for said work.
- Dispose on municipal property any plant debris, and/or by-products of plants (lumber, logs, firewood, mulch, chips, leaves, etc.) from private or public plants without first obtaining a permit for said work.

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- c. The Director shall have the authority to affix conditions to the granting of the permit issued in accordance with the terms of this ordinance. Affixed conditions shall be based on current City policies.

28.07.00 PLANT PROTECTION - PUBLIC SPACES: It shall be the duty of any and all residents, individuals, groups, organizations, companies, and/or corporations within the City to protect plantings in public spaces so that:

28.07.01 No person shall damage, break, injure, mutilate, kill, destroy, transplant, remove, or otherwise deface any plant, or set any fire within ten (10) feet of the drip line or permit any fire, or the heat from a fire, to injure any portion of any plant. No toxic chemicals or other injurious materials shall be allowed to seep, drain, or be emptied on, near, or about any plant.

28.07.02 No electric wires or any other lines or wires shall be permitted to come in contact with any plant in any manner that shall cause damage to the plant and no person shall attach any electrical insulation to any plant.

28.07.03 No person shall use any plant as an anchor except by special written permit from the Director and no material shall be fastened to or hung on any plants in public spaces.

28.07.04 No person shall install, remove, or injure any guard or device placed to protect any trees unless in conjunction with removal or relocation for which a permit issued under Section 28.04.00.

28.07.05 All persons having under their care, custody or control, personal property which may obstruct with the trimming, care, removal or planting of any plant, shall, after notice by the Director, promptly abate, prior to the time requirement given in said notice, such obstruction in such manner as shall permit the trimming, care, removal or planting of such plants by the Department.

28.07.06 At no time will the practice of topping be considered appropriate or normal practice for any person, firm or City department. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Director. This determination shall be based on current City policies.

28.08.00 PLANT PROTECTION DURING DEVELOPMENT - PUBLIC AND PRIVATE PROPERTY: It shall be the duty of any residents, individuals, groups, organizations, companies, developers, and/or corporations developing property within the City to protect plantings so that:

28.08.01 During any building, exterior renovation or razing operations, the developer/builder shall erect and maintain suitable protective barriers (Section 28.02.19) around all trees, plants, on public spaces and on private property, so as to prevent damage to plants and/or areas intended for preservation. (figure #1). There shall be no undue compression of the earth or otherwise impeding or preventing the access of water or air to the root system of the plant or excavation around or removal of soil or earth or the addition of earth or any other materials within the tree protection area (Section 28.02.26). Building material and other debris shall not be placed inside the tree protection area.

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- 28.08.02 Protective barriers shall not be relocated or removed without prior approval of the City.
- 28.08.03 Silt screen or other acceptable measures shall be placed up slope for the protective barriers. This silt protection barrier shall shield the area for preserved trees or plants from soil sedimentation intrusion into the tree protection area.
- 28.08.04 Where root loss will occur, root prune one foot beyond the protective barriers using a vibrating saw or narrow trencher to make clean cuts. Cutting instrument shall have sharp blades to minimize damage. Back fill immediately and cover with three (3) inches of mulch.
- 28.08.05 When, in isolated incidents, as determined by the City, protective barriers may be impractical or ineffectual in protecting roots in the tree protection area (Section 28.02.26), the Developer shall provide temporary buffers as approved by the City to prevent root damage.
- 28.08.06 Pruning of preserved trees during development shall be limited to the removal of dead, dying, and/or damaged branches. Where necessary the Developer may, with City permission, prune trees to accommodate construction activities. Upon completion of the development, overall pruning to enhance the quality of the trees will be allowed under the guidance and supervision of the City.
- 28.09.00 EXCAVATIONS NEAR PLANTS - PUBLIC SPACES: It shall be the duty of any residents, individuals, groups, organizations, companies, developers, and/or corporations working or owning property within the City to protect plantings in public spaces so that:
- 28.09.01 EXCAVATIONS AND DRIVEWAYS: Excavations and driveways shall not be placed within fifteen (15) feet of any existing tree without written permit from the Director. Any person making such excavation or construction shall erect and maintain a suitable protective barrier around the tree (figure #1). Building material and other debris shall not be placed inside the tree protection area (Section 28.02.23).
- 28.09.02 IRRIGATION SYSTEMS, INVISIBLE DOG FENCES, OR ANY UNAUTHORIZED UNDERGROUND INSTALLATION: The City shall not be responsible for damages to irrigation systems, invisible dog fences or any unauthorized underground installation installed in public spaces by private parties.
- 28.10.00 COVERING THE SURFACE NEAR TREES - PUBLIC SPACES: No person shall place within the public space any soil, stone, brick, sand, concrete, or other materials, which will in any way impede the full and free passage of water, air or fertilizer to the root system of any plant in a public space, except a sidewalk or driveway of authorized width and location.
- 28.10.01 This does not preclude the use of organic mulches, and/or geo-textile fabric.
- 28.11.00 REGULATIONS FOR NEW PLANTING - PUBLIC SPACES: Work other than that in Section 28.08.00 shall be done under a permit issued (Section 28.04.00) in accordance with this ordinance, the *Landscape Design and Tree Preservation Standards*, and City Developmental Standards, shall be performed in strict accordance with the listed terms and with the following regulations for the planting,

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trimming and care of trees and plants in public spaces:

- 28.11.01 Trees must have a caliper of 1.5 inches or more for bare rootstock and 2.5 inches or more for container grown/balled and burlapped stock.
- 28.11.02 Tree types are to be selected from Parks and Receptions *Recommended Deciduous Trees for Troy* list unless otherwise approved by the Director. Approval by the Director shall be based on current City policies.
- 28.11.03 All replacement plants other than trees shall be a minimum of:
- a. Four (4) inch pot for perennials and non-turf grasses
 - b. One gallon for all shrubs.
- 28.11.04 All trees with a caliper of two (2) inches or greater must be protected and supported by tree guards (figure #3). All tree guards and stakes shall be removed one (1) year after installation.
- 28.11.05 In rights-of-way, all trees shall be planted on fifty (50) foot centers, unless a special permit is obtained from the Director (Section 28.04.00). All other plantings on municipal properties shall conform to the City's Developmental Standards. Permit approval by the Director shall be based on current City policies.
- 28.11.06 All trees shall be centered between the sidewalk and curb unless the Director issues a permit stating otherwise. Where no sidewalk and/or curb exist, the Director shall approve planting locations. Permit approval by the Director shall be based on current City policies.
- 28.11.07 No tree shall be planted within fifteen (15) feet either side of a driveway that opens onto a public street.
- 28.11.08 No plant that exceeds thirty (30) inches in height above the lowest established street grade, shall be planted within fifteen (15) feet either side of a driveway that opens onto a public street.
- 28.11.08 Other than turf grasses, no trees or plants shall be planted within fifteen (15) feet of any fire hydrant or as to obstruct the fire hydrant when viewed from the street. Turf grasses planted around a fire hydrant shall be maintained at a mowed height of ten (10) inches or less.
- 28.11.09 No tree shall be planted on private property within thirty (30) feet of a tree planted in the rights-of-way.
- 28.11.10 All planting shall be done in accordance with Park and Recreation planting specifications (figure #3).
- 28.11.11 All plantings shall conform to Corner Clearance (Section 28.12.00).
- 28.12.00 **CORNER CLEARANCE (VISUAL BARRIER SETBACK)**: Property owners in the City shall comply with the requirements of Sections 28.12.01 through 28.12.03.
- 28.12.01 In order that the view of the driver of a vehicle approaching a street intersection is not obstructed, all plants located on the triangle formed by two (2) rights-of-way lines

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at the intersection of two (2) streets and extending for a distance of twenty-five (25) feet each way from the intersection of the rights-of-way lines on any corner lot within the City, shall not be permitted to grow to a height of more than thirty (30) inches from the lowest established street grade, along the legs of the fore mentioned triangle (figure #2).

- 28.12.02 Trees may be planted and maintained the corner clearance area, provided that all branches are trimmed for a vertical height of eight (8) feet above the highest established street grade perpendicular to the tree trunk.
- 28.12.03 Any person failing to trim any plants to conformity with this ordinance shall be notified by the Director in the manner provided in Section 28.17.01 of this ordinance. Such notice shall require trimming or removal in conformity with this ordinance within the time prescribed in the notice as provided in Section 28.17.02 of this ordinance. Upon the expiration of such period, the Director may cause the trimming or removal to be done and the cost thereof may be collected from the owner of said property as provided in Section 28.17.06 of this ordinance.
- 28.13.00 PRIVATE PLANT – INSPECTION: The Director shall have the authority to enter upon private property for the purpose of examining any plants, for the presence of pests and/or to determine if an emergency or imminent danger situation exists.
- 28.13.01 No compensation shall be awarded for the destruction of any plant, fruit, or injury to the same, if done by the Director in accordance with this ordinance.
- 28.14.00 LAWN EXTENSIONS and SUBDIVISION ENTRY ISLANDS/CUL-DE-SAC ISLANDS: Property owners in the City are charged with the responsibility of maintenance of public spaces adjacent to their property as follows:
- 28.14.01 Property owners and/or occupants shall maintain the lawn extensions (Section 28.14.02) that abut their property and/or the street island directly in front of their property in a neat and orderly manner in compliance with City ordinances. At no time shall property owners and/or occupants allow poison ivy, ragweed or any other poisonous, noxious, or unhealthy growths to occur in the lawn extensions or street island in their care.
- 28.14.02 Other than normal maintenance, no person shall willfully, maliciously, and/or wantonly injure, destroy, remove, or transplant any plants, or grasses on any lawn extension / street island or throw papers, refuse, or any other thing thereon.
- 28.14.03 For other than turf type grasses; the property owner and/or occupants shall apply for a permit to plant in these areas (Section 28.04.00). A proposed maintenance schedule and intended maintained size of the plants shall be provided when applying for permit.

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- 28.14.04 All paved surfaces in the lawn extensions and islands of public streets shall be edged on a regular basis to maintain clean exposed edges and no dirt or other debris shall be allowed to collect on paved surfaces.
- 28.14.05 Property owners and/or occupants are not responsible for tree maintenance in the lawn extensions and islands located in public spaces.
- 28.14.06 Any plantings by developers, property owners, occupants, homeowner's associations, or agents thereof shall conform to Section 28.11.00.
- 28.14.07 When necessary based on street layout, additional properties may be required to maintain any street islands of public streets. The Director shall review and assign responsible properties on a case-by-case basis. Assignments by the Director shall be based on current City policies.
- a. Residents shall be notified of new assignments by one of the methods outlined in Section 28.17.01 a through d.
- 28.15.00 **TREE SPACING:** To promote the awareness of the benefits of effective landscaping in the City, the following planting information has been prepared for trees planted on private or municipal property:
- 28.15.01 The City strongly encourages all trees planted on private property conform to Parks and Recreation's *Recommended Deciduous Trees for Troy* list.
- 28.15.02 No tree shall be planted on private property within thirty (30) feet of a tree planted in the rights-of-way.
- 28.15.03 **LARGE TREES:** Trees that will attain a mature height over fifty (50) feet and at least thirty-five (35) feet wide. These trees should be spaced at least thirty-five (35) feet apart on private property (unless otherwise directed by City Ordinances and/or standards) and at least fifty (50) feet apart on public spaces.
- 28.15.04 **MEDIUM TREES:** Trees that will attain a mature height of thirty (30) to fifty (50) feet and at least twenty-five (25) feet wide. These trees should be spaced at least twenty-five (25) feet apart on private property (unless otherwise directed by City Ordinances and/or standards) and at least forty (40) feet apart on public spaces if approved by the Director.
- 28.15.05 **SMALL TREES:** Trees that will attain a mature height of fifteen (15) to thirty (30) feet and at least fifteen (15) feet wide. These trees should be spaced at least fifteen (15) feet apart on private property (unless otherwise directed by City Ordinances and/or standards) and at least thirty (30) feet apart on public spaces if approved by the Director. Under no circumstance shall a small tree be considered for use as a street tree unless an overhead utility prevents the use of a larger tree.
- 28.15.06 All trees shall have the following setbacks from an overhead utility lines (figure #5):
- a. Large trees shall be planted no closer than fifty (50) feet from the outer most utility line.
- b. Medium trees shall be planted no closer than forty (40) feet from the outer most utility line.

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- c. Small trees twenty (20) feet or less are permissible plantings directly under utility lines.
- 28.16.00 VIOLATION OF TREE AND PLANT REGULATIONS: Except as otherwise provided, any resident, person, group, organization, company, firm or corporation violating the provisions of this Chapter is responsible for a Municipal Civil Infraction and subject to the provisions of Chapter 100 of the Code of the City of Troy.
- 28.16.01 PENALTIES FOR UNAUTHORIZED REMOVALS OF PLANTS - PUBLIC SPACES:
- a. Any person violating or causing to be violated any of the provisions pertaining to public spaces including but not limited to any person cutting down or removing trees or plants without personally seeing a copy of a valid permit authorizing such cutting down or removal of the trees or plants shall be subject to a fine of up to \$500.00 per offense, depending on the commercial and/or historical value of such trees and plants.
 - b. Each tree or plant destroyed or removed in violation of this ordinance shall be considered a separate offense.
 - c. In the case of unauthorized removal or destruction of trees or plants, in addition to the fine, each plant destroyed or removed in violation of this ordinance shall be replaced with another like tree or plant. If the responsible party is unable to locate similar sized, type, or quality plant materials, she/he may request a variance from the Director. If the Director grants a variance, the party replacing the plants will pay the City the cost difference between the value of the destroyed plant and the value of the replacement. The latest revision of the Guide For Plant Appraisals as published by the International Society of Arboriculture shall be used to determine the value of the destroyed plant. Variances approved by the Director shall be based on current City policies.
- 28.16.02 PENALTIES FOR UNAUTHORIZED REMOVALS OR DAMAGE TO PLANTS DURING OR BEFORE DEVELOPMENT- PUBLIC SPACES AND PRIVATE PROPERTY: Performing any plant removals and/or damaging any plants designated for preservation during development or on sites not yet designated for development (Section 28.06.05), found to be in violation of this Ordinance, *Landscape Design and Tree Preservation Standards* or any other developmental standards shall result in the following penalties:
- a. Payment of the Tree Preservation / Landscape Review Penalty Fee as found in Chapter 60.
 - b. Replacement of trees and plants by the property owner will be required when any removal is in violation of this ordinance, and/or the *Landscape Design and Tree Preservation Standards*. Replacement tree varieties shall be selected from the City's *Recommended Deciduous Trees for Troy* list.
 - c. The property owner must submit for approval a list of replacement plant varieties for review by the City. Approval of the list of replacement plant varieties shall be based on current City policies.
 - d. Property owner will be required to replace trees at a rate of three (3) caliper inches for each inch DBH lost.

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- e. Amount of inches DBH lost will be determined by:
 - 1. City approved Tree Preservation plan if previously submitted and approved prior to removals, otherwise refer to Section 28.16.02f2.
 - 2. Onsite inspection by City Staff. If staff is not able to make an accurate assessment due to site conditions, refer to Section 28.16.02f3.
 - 3. Inches of DBH lost will be assessed at a rate of 1089 inches DBH per acre.
 - 4. Or any combination of above as determined necessary by City Staff to make a reasonable assessment of lost inches DBH.
- f. All replacement trees shall have a minimum caliper size of four (4) inches.
- g. All replacement plants other than trees shall be a minimum of:
 - 1. One (1) gallon for perennials and non-turf grasses
 - 2. Five (5) gallon for all shrubs
- h. Planting locations for replacement plants shall be staked by the property owner and approved by the Director before any replacement plantings occur. Location approvals shall be based on current City policies.
- i. Replacement plantings shall conform to "American Standard for Nursery Stock".
- j. Plants selected for use as replacements shall be free from injury, pests, diseases, and nutritional disorders, root defects and must be in good vigor. The Director reserves the right to reject any or all plants used as replacements. All rejected plants shall be removed from the site. Rejection of plants shall be based on this ordinance and current City policy.
- k. All replacement plants shall carry a two-year unconditional guarantee.
- l. All replacement plants shall be planted as per Parks and Recreation specification. Copies of these specifications shall be obtained from the Director.
- m. All plantings shall conform to the *Corner Clearance* outlined in Section 28.12.00 of this ordinance.

28.16.03 FAILURE TO MAINTAIN APPROVED PLANTINGS IN PUBLIC SPACES: Approved plantings in public spaces found to be poorly maintained shall, upon order by the City, be removed by the parties responsible for the maintenance and the site restored to turf or other City approved ground cover (plants or mulch). Failure to comply, refer to Section 28.17.05.

28.16.04 PENALTIES FOR DAMAGING PLANTS - PUBLIC SPACES: Any person or persons who cause damage to any City trees and/or plants by the improper use of any machines, automobile, chemicals, or other activities shall be held liable for damages to said trees and plants. Damages shall be corrected, repaired and/or replaced by the Department as instructed by the Director. All costs incurred by the City for corrections, repairs, and replacements including administrative and process

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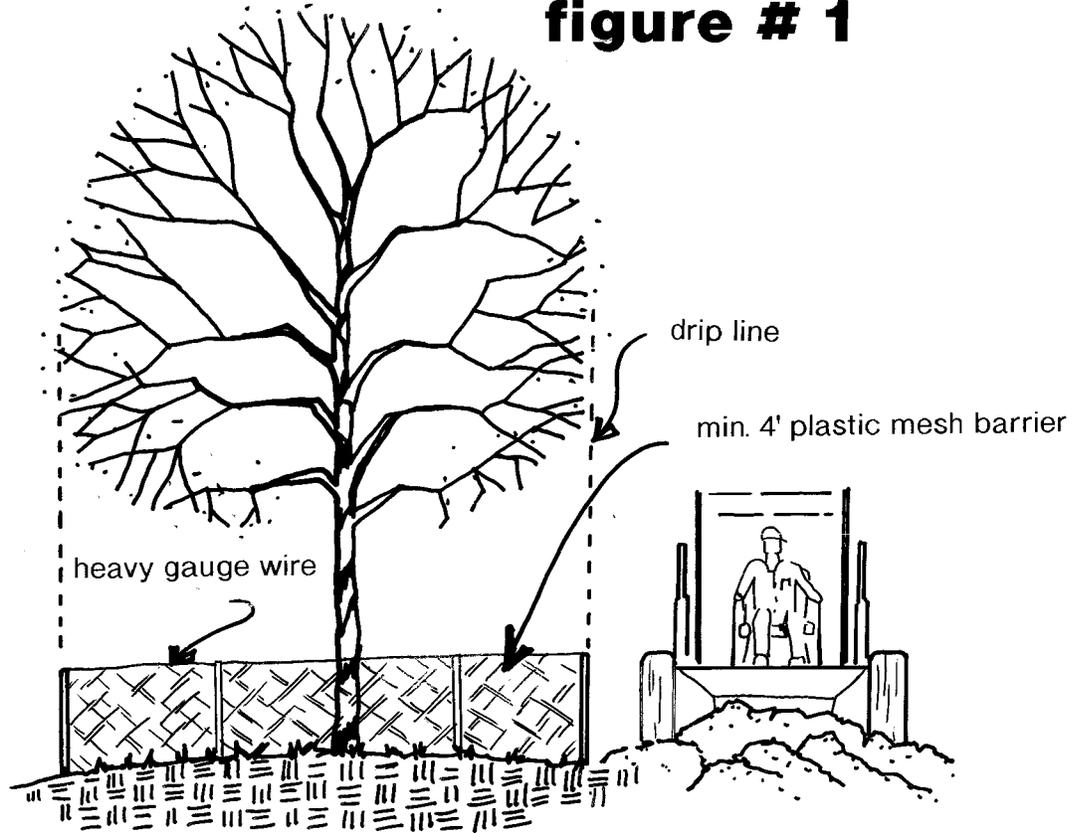
costs, shall be billed to the person or persons responsible for the damages. Should the City choose not to replace damaged plants, the person or persons responsible for said damage shall be billed for the value of the plants as determined in accordance with the latest edition of the Guide for Plant Appraisal (issued by the Council of Tree and Landscape Appraisers) and/or cost estimates for repairs/replacement, including all administrative costs.

- 28.17.00 PROCEDURE FOR ORDERING ACTION ON VIOLATIONS OF TREE AND PLANT REGULATIONS: When the Director shall find it necessary to order the trimming, preservation, spraying or removal of plants on private property or in public spaces, as authorized by this ordinance she/he shall serve a written order on the property owner in which the necessary corrections and time limits are listed.
- 28.17.01 Such order required herein shall be served in one or a combination of the following manners:
- a. By making personal delivery of the order to the property owner.
 - b. By leaving the order with some person of suitable age and discretion upon the premises.
 - c. By mailing a copy of the order to the last known address of the owner of the property by registered mail.
 - d. By affixing a copy of the order to the door at the entrance to the premises in violation.
 - e. By publishing the order in a local paper once a week for three (3) successive weeks.
- 28.17.02 TIME FOR COMPLIANCE: Such order shall set forth a time limit for compliance dependent upon the hazard and danger created by the violation. In no case shall the time limit be less than ten (10) business days, nor more than thirty (30) calendar days, except in case of an emergency or an imminent danger. In case of emergency or imminent danger the City shall eliminate or lessen the hazard and assess the costs to the owner as provided in Section 28.14.11 of this ordinance.
- 28.17.03 NOTICE OF COMPLIANCE: Cited individual shall send a notice of compliance within five (5) days of completion of work to the Director for her/his inspection of completed work.
- 28.17.04 APPEAL FROM ORDER: A person to whom such an order is directed shall have the right, within forty-eight (48) hours of service of such order, to appeal to the City Manager, of the City of Troy who shall review such order within five (5) business days and file her/his decision with the City Clerk with a copy to the Director of Parks and Recreation and to the appellant which shall be served in any of the methods provided in Section 28.17.01; unless the order is revoked or modified it shall remain in full force and shall be obeyed by the person to whom it is directed. No person to whom the order is directed shall fail to comply with such order within ten (10) business days or such additional time as prescribed in the order after an appeal shall have been determined. In the case of imminent danger, as described above, the Director shall have the authority to require compliance immediately upon service of the order which expressly dictates that the matter is of imminent danger.

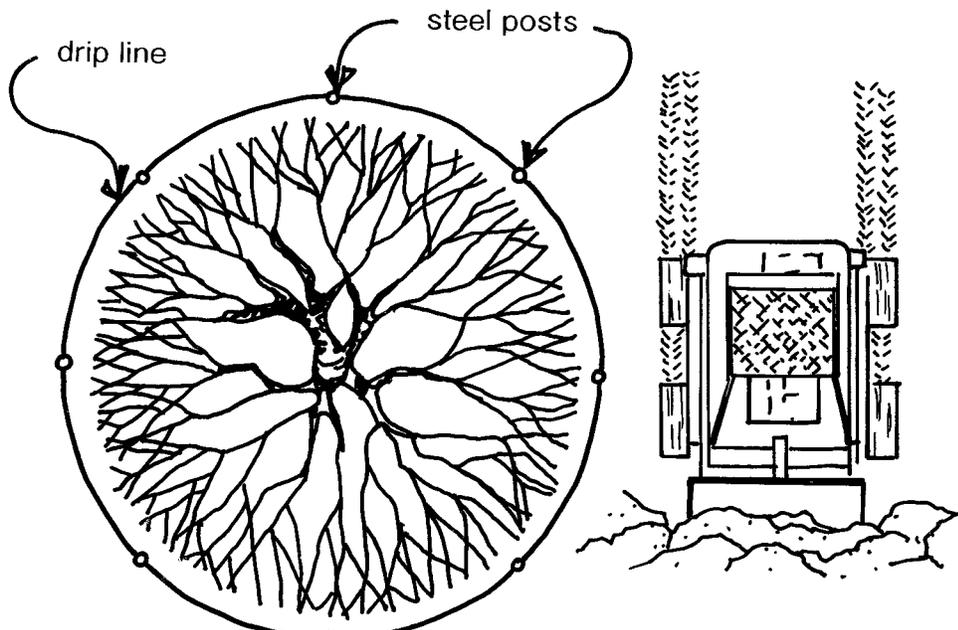
Chapter 28 - Tree and Plant Regulations

- 28.17.05 FAILURE TO COMPLY: When a person to whom an order is directed shall fail to comply within the specified time, or in the specified manner, the Director shall have the right to remedy the conditions or contract with others for the purpose and charge the costs thereof to the person to whom the order is directed. The person remedying the condition under a contract made with the City shall be authorized to enter the property for that purpose.
- 28.17.06 LIEN AGAINST PROPERTY: If the cost of remedying a condition is not paid within thirty (30) days after receipt of a statement from the City, such cost shall be levied against the property upon which said hazard exists or existed. Levying of such cost shall be certified by the Director to the City Treasurer and shall become a lien upon such property, and shall be included in the next tax bill rendered to the owner or owners unless paid before, and shall be collected in the same manner as other taxes against such property.

figure # 1



Tree Protection Area



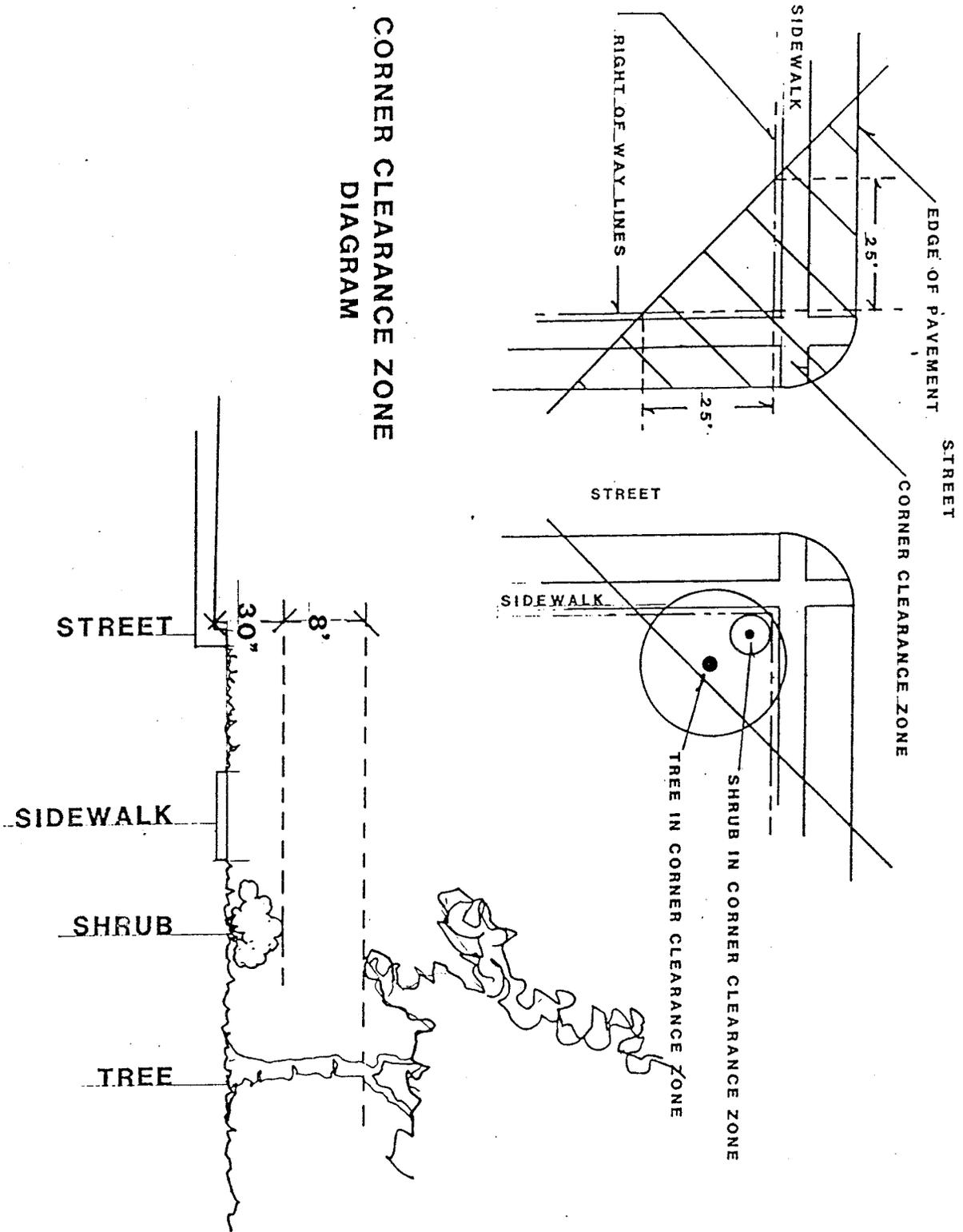
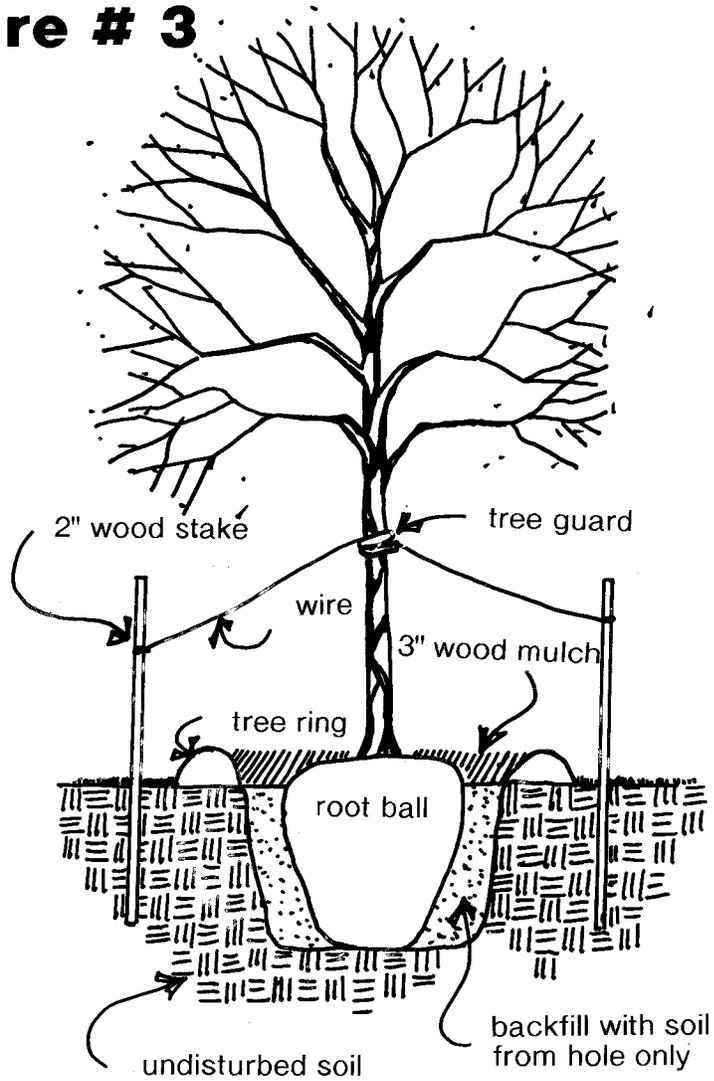
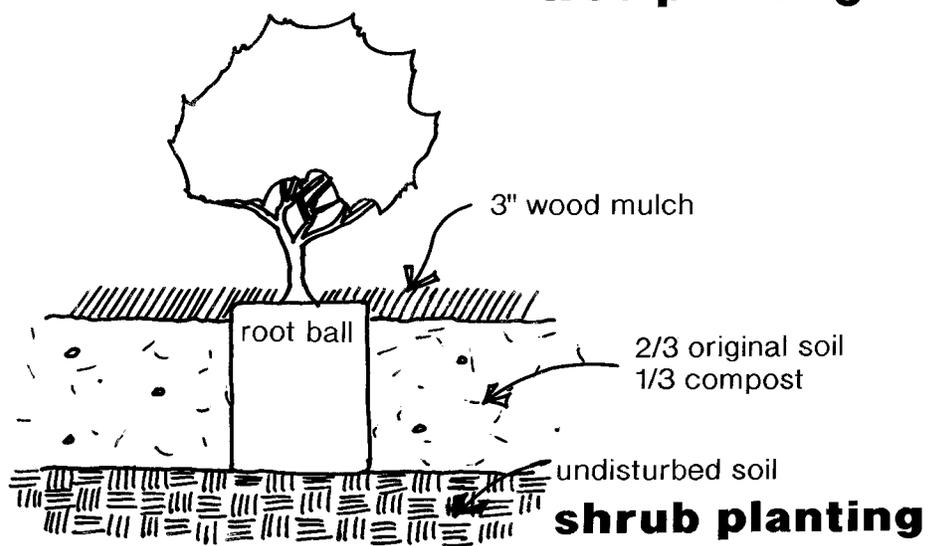


figure # 2

figure # 3

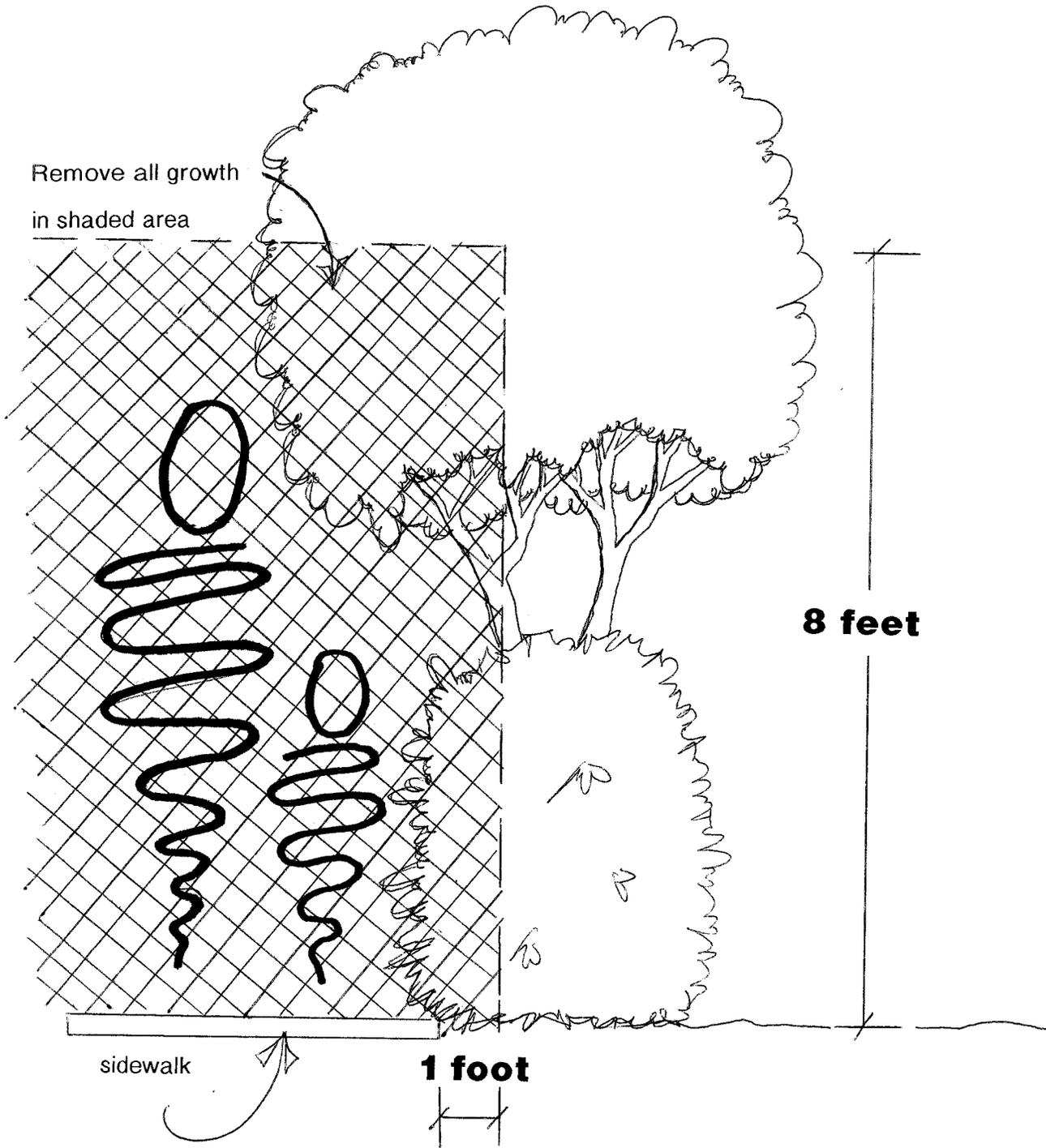


tree planting



shrub planting

figure # 4



Area to be cleared.

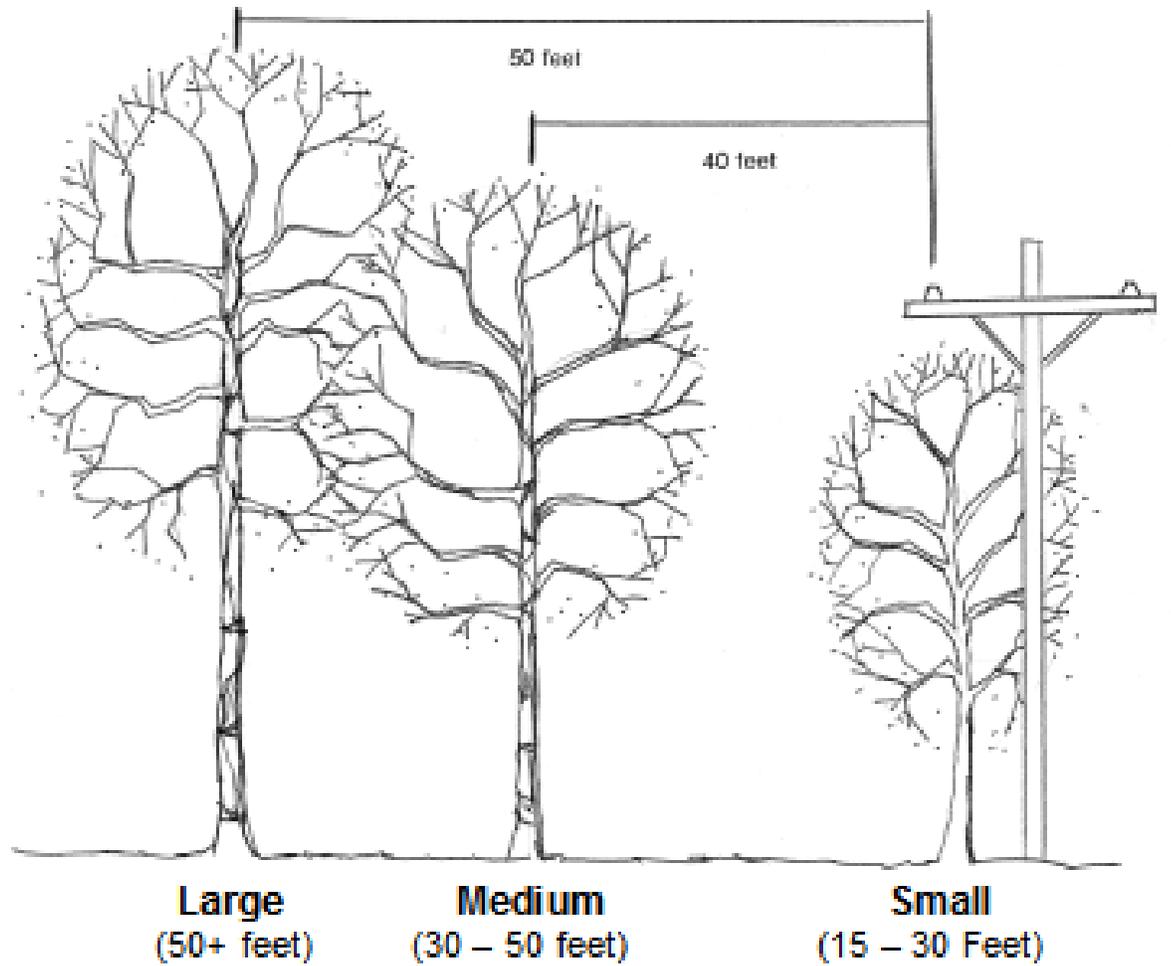


figure # 5



Landscape Design and Tree Preservation Standards

Adopted 09/15/75
Revised 01/13/77
Revised 11/03/86
Revised 03/16/87
Revised 02/12/96
Revised 04-25-06

Each generation takes the earth as trustees. We ought to bequeath to posterity as many forests and orchards as we have exhausted and consumed.

--J. Sterling Morton

Changes as of 4-25-06

Reviewing Agency:

**City of Troy
Parks and Recreation Department**

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Tree Preservation / Landscape Submittal / Approval Process Outline



Preliminary Site Plan Approval

1. Developer submits three (3) copies of Preliminary Tree Preservation plan (PTPP)(LD6.00.00, LD9.00.00) and Preliminary Landscape plans(LD6.00.00) to Planning Department with Site Plan Review or Special Use Application or to Parks and Recreation (P&R) or submit written request for for variance (LD3.00.00) or Waiver of Tree Preservation Standards (LD5.00.00).
2. P&R reviews PTPP or request for waiver and validates the survey.
3. P&R comments, if any, will be forwarded to Planning & Building Departments.
4. Developer resubmits three (3) copies of revised PTPP plan based on P&R comments. If no comments go to #5.
5. P&R approves PTPP and signs off on preliminary sign off sheet which will be forwarded to Planning and/or Building Departments.
6. Preliminary Plans sent to Planning Commission for approval

Final Tree Preservation / Landscape Plan Approval

7. Developer submits three (3) copies of the Final Tree Preservation / Landscape Plan (FTPLP)(LD7.00.00, LD10.00.00), Construction Drawings (LD11.00.00), planting specifications (LD12.00.00) and line item cost estimates (commercial only) (LD13.00.00) to P&R.
8. P&R comments, if any, will be forwarded to Planning and Building Departments.
9. Developer resubmits three (3) copies of revised FTPLP. If no comments go to #9.
10. For commercial properties, P&R sets and collects Review fees (LD18.00.00) and Landscape Deposits (LD19.00.00). For sub-divisions, required landscape deposits are collected by the Engineering and/or Planning Department.
11. P&R signs off on Final project sheet.

Work Begins

12. P&R advised twenty-four (24) hours prior to tree clearing operation (LD20.02.00).
13. P&R monitors tree removal
14. P&R advised twenty-four (24) hours prior to landscaping operations (LD22.00.00)
15. P&R monitors installation of landscape.

Landscape Inspections called

16. Commercial Properties

- a. Developer calls for First Implementation Inspection (FII)(LD26.00.00).
- b. P&R comments based on FII forwarded to Building Department. If no comments FII shall be considered the Final Implementation Inspection.
- c. Developer calls for Final Implementation Inspection (LD27.00.00)
- d. P&R forwards comments to Building Department, if necessary, based on inspection.
- e. P&R approves implementation and releases Implementation Deposit, collects Maintenance Deposit (LD19.00.02) and advises Building Department that P&R approves issuance of Certificate of Occupancy.
- f. Minimum of twelve (12) months, maximum of thirty-six (36) months later, Developer calls for Maintenance Inspection (LD28.00.00). Deposit is forfeited after 36 months.
- g. P&R forwards comments based on Maintenance Inspection to Developer.
- h. Developer calls for re-inspections.
- i. If P&R approves Landscape, Maintenance Deposit is refunded.

17. Subdivisions

- a. Developer calls for FII (LD26.00.00).
- b. P&R comments based on FII forwarded to Developer. If no comments FII shall be considered the Final Implementation Inspection.
- c. After implementation of City comments, Developer calls for Final Implementation Inspection (LD27.00.00)
- d. P&R forwards comments to Developer, if necessary, based on inspection.
- e. P&R approves implementation and authorizes release of 90% appropriate landscape deposits. Note, subdivision guaranteed see LD34.00.00j



Landscape Design and Tree Preservation Standards



LD1.00.00 *Introduction* - It is the intent of the City Code Chapter 28, and Chapter 39, Section 12.60.01; 11.50.05; 12.60.02; 13.60.00; 15.60.00; 16.60.00; 17.60.00; **39.30.00**; 10.30.03 (C); 18.30.03 (B); 10.30.01 (E); 22.30.01 (B); 24.30.06 (B) and Chapter 41, Sections (E) and (F) to obtain an environment which is responsive to human needs, socially positive, economically viable and environmentally satisfying. Additionally these standards promote reasonable preservation and replenishment of landscaping in developments, commercial properties and municipal grounds by providing guidelines for protection of plants during construction, development and redevelopment.

The reviewing agency for these standards is the City of Troy Parks and Recreation Department (248-524-3484).

These Standards apply to any person or persons developing **property where Site Plan approval, Special use Approval is required. These standards shall not apply to platted lots when proposed for development as originally platted or to land parcels equal to or smaller than one half (1/2) acre in size used for single family residence.**

LD2.00.00 *Circumstances for Variations* - These Standards are not intended to be arbitrary or inhibiting to creative solutions. Project conditions may justify modifications of these standards when conditions arise where full compliance is impossible or under circumstances where achievement of the City's objectives can be better obtained through modified requirements. Therefore, in specific cases, variation from the requirements may be permitted by the Director of Parks and Recreation when this variation more fully achieves the objective contained herein and when one or more of the following conditions justify the variance:

LD2.01.00 Topography, soil, or other site conditions are such that full compliance is impossible.

LD2.02.00 Improved environmental quality, and/or utility would result from the variance.

LD2.03.00 Alternate methods, materials or equipment may be used when their use would more closely fulfill the intended objectives of these standards.

LD2.04.00 Lack of existing native vegetation within the limits of the property.

LD3.00.00 Request for Variance

A request for variance must be submitted to the Director of Parks and Recreation in writing at the beginning of the review procedure, describe completely the rationale for the variance request.

LD3.01.00 Special Conditions - Because of various conditions in a specific project, the Director of Parks and Recreation may require compliance with standards other

than those contained herein, in order to obtain those characteristics of viability, utility, service, public safety, and low maintenance expense, while satisfying its objectives and to ensure continued market acceptance of the project.

LD4.00.00 Federal and State Standards -It should be noted that where Federal and/or State Standards pertain, the higher standard shall govern. An example of a possible higher standard would be the Federal Government's Endangered Species Act.

LD5.00.00 Request for Waiver of Tree Preservation Standards - If there are no trees on the site, the Developer may request relief from conforming to the tree preservation portion of these standards by requesting a waiver. Written requests should be directed to the Parks and Recreation Department. City staff will evaluate the waiver request and the Developer will be advised of the findings.

LD6.00.00 Preliminary Tree Preservation / **Landscape** Plan – General Requirements. The Preliminary Tree preservation and **Preliminary Landscape plans shall be submitted as separate documents** and shall conform to this format. Three (3) copies shall be provided to the Department of Parks and Recreation, at the time of each submittal.

LD6.01.00 **Title block shall include:**

- a. Project name, address (if currently assigned) and Sid well numbers
- b. Project location map with a scale of 1" = 200'
- c. Name of the Developer, address, phone and fax number
- d. Name or Project Engineering Firm, address, phone and fax number
- e. Name, address, phone and fax number of Landscape Architect, Designer and/or Tree Appraiser
- f. Zoning Classification of the project

LD6.02.00 **Information to be included on all other sheets**

- a. Number
- b. Scale
- c. North Arrow (except on detail sheet)
- d. Title
- e. Legend
- f. Property Lines
- g. All structures existing on the site **(Tree Preservation plan only)**
- h. Proposed and existing easements, utilities, rights-of-ways and building envelopes.
- i. Adjacent land use
- j. Label existing topographic contours on preliminary plans
- k. Attach relevant sections of Consent Judgment if applicable.
- l. See LD9.00.00 for additional **tree preservation** information
- m. Preliminary Landscape plan shall include all items required of the Final Landscape Plan (see LD 7.00.00, LD10.00.00)**

LD6.02.01 **Landscape plans are a required element for Preliminary Site Plan Approval, including Tentative Preliminary Plat approval and Preliminary Site Condominium approval. Landscape Plans shall be reviewed by and approved**

by the Parks and Recreation Department prior to being considered by the Planning Commission.

LD7.00.00 Final Tree Preservation / Landscape Plan - General Requirement The Final Tree Preservation and Final Landscape plans shall be submitted as one combined document and shall conform to this format. Three (3) copies shall be provided to the Department of Parks and Recreation, at the time of each submittal.

LD7.01.00 Title block shall include:

- a. Project name, address (if currently assigned) and Sid well numbers
- b. Project location map with a scale of 1" = 200'
- c. Name of the Developer, address phone and fax number
- d. Name or Project Engineering Firm, Landscape Architect/Designer, addresses, phone and fax numbers.
- e. Zoning classification of the project

LD7.02.00 Information to be included on all other sheets

- a. Number
- b. Scale - commercial/individual lots min. 1" = 30', max. 1" = 5' Subdivisions min. 1" = 100'
- c. North arrow (except on detail sheet)
- d. Title
- e. Legend
- f. Property lines
- g. Structures to remain or to be built on the site
- h. Proposed and existing easements, utilities, rights-of-ways and building envelopes.
- i. Adjacent land use
- j. Label existing topographic contours on preliminary plans
- k. Label existing and proposed topographic contour lines on final plans.
- l. Location and number code of preserved trees (see also 8.02.04)
- m. Location of reforested trees – must be called out.
- n. Plant list indicating quantity, botanical name, size, condition (bare root, container/size, B&B, etc.),
- o. Planting specifications
- p. Attach relevant sections of Consent Judgment if applicable.

LD8.00.00 Tree Preservation Options - Developer shall use one of the following options or a combination thereof:

LD8.01.00 Preservation of 30% of **total site DBH inches**. (see LD8.01.01)

LD8.01.01 **Total site DBH inches** shall be the total number of DBH (diameter at breast height) inches existing on the site for all trees four (4) inches DBH and up.

LD8.02.00 Replacement of 30% of total site DBH (see LD8.04.00) with new or harvested (LD8.03.02) plantings (A.K.A. Reforestation Plantings) at a rate of one (1) DBH inch = one and one half (1 ½") caliper inches. (see LD 8.05.00)

LD8.02.01 For all reforestation planting – no one genus of tree shall represent more that 20% of the total number of trees found on the site after final acceptance of the project by the City.

LD8.03.00 Should the site be unable to accommodate all or part of the required *Reforestation Plantings*, upon approval by the City, the Developer may pay into the City's Tree Fund at a rate of one (1) DBH inch = two (2) caliper inches, multiplied by the Tree Reforestation Dollar Value (TRDV) (see LD8.03.01) as set annually by the City.

a. Example - 1000 Total Site DBH inches X 2 X TRDV = amount to be paid into City Tree Fund.

LD8.03.01 Tree Reforestation Dollar Value (TRDV) = \$114.00

LD8.03.02 Harvesting trees for *Reforestation Plantings* – should the Developer choose, trees existing on this or other sites may be relocated in or into the project. Trees shall be:

a. A minimum of 2.5 caliper inches

b. Either balled/burlapped or moved by tree spade

c. In good to excellent condition after installation

d. Unless previously approved by City, only trees on the City's *Recommend Deciduous Trees for Troy* list will be approved for harvesting and relocation.

e. Guaranteed for one full year after final acceptance (closing) of the development/project by the City. Warranty replacement trees shall be nursery grown and guaranteed for one full year from date of installation. Developer is responsible for requesting all inspections.

f. Covered by a deposit based on the number of caliper inches harvested x TRDV (see LD8.03.01). Funds on healthy harvested trees (as determined by City) to be released at the end of the guarantee period. Remaining funds to be released at the end of the replacement guarantee period for all healthy replacement trees. Developer is responsible for requesting all inspections

g. Replaced if necessary by same number of caliper inches (minimum 2.5 ") but not necessarily with the same number of trees.

LD8.03.03 Developer shall be responsible for the removal of any preserved trees or *Reforestation Plantings*, harvested or nursery grown that die during guarantee period.

LD8.03.04 Developer shall also be responsible for any site damage cause by the removal and/or replacement of trees that died during the guarantee period. This restoration shall include but not be limited to sod, other trees, irrigation systems, underground utilities, fences, drives, walks, patios, pools, landscaping installed after the tree was planted, buildings, etc.

LD8.04.00 **Trees Preserved** - If the Developer chooses to preserve existing trees, tree selection shall be based on the following:

LD8.04.01 Trees to be considered preserved shall be within the size range of four (4) inches DBH and up.

LD8.04.02 Preserved trees shall not be on the City's prohibited species list. Trees on the prohibited species list can be maintained but will not be considered preserved trees.

LD8.04.03 Any tree that is endangered or threatened, or is a species of special concern as listed on the Federal Inventory List or Michigan Natural Features Inventory List (MNFI), which is maintained by the Michigan Natural Heritage Program and/or the Michigan Land Conservancy shall be preserved.

LD8.04.04 Any tree of a unique nature, size, or type that by its presence enhances the quality of the overall landscape design. These trees shall be called out on the Preliminary Tree Preservation Plan and Final Tree Preservation / Landscape Plan.

LD8.04.05 Trees Preserved shall be in good condition (as deemed by the Director) for one full year after the final acceptance (closing) of the project by the City.

LD8.04.06 At the City's discretion, any tree can be removed from the proposed list of preserved trees.

LD8.05.00 Reforestation Plantings

Reforestation Plants shall conform to the following:

LD8.05.01 Size -

- a. Deciduous shade - minimum of 2 ½" caliper
- b. Deciduous flowering – minimum 1 ½" caliper
- c. Coniferous – minimum of 8 feet tall

LD8.05.02 Deciduous tree varieties shall be selected from the City's Recommended Deciduous Trees for Troy list. Proposed tree varieties not found on the City's list must be approved by the City

LD8.05.03 Front, back and side yards are the primary planting locations.

LD8.05.04 If the Developer proves to the City's satisfaction that the required number of trees cannot be located in these areas, the City reserves the option of assigning additional planting sites within the project boundaries.

LD8.05.05 Reforestation trees shall be a minimum of thirty (30) feet away from the right-of-way.

LD8.05.06 Reforestation trees shall not be planted in easements.

LD8.05.07 In areas with above ground utility lines, trees with a matured height of more than twenty (20) feet shall not be planted within fifteen (15) feet of the utility poles. (see City Ordinance 28.15.06)

LD8.05.08 Reforestation trees shall not be incorporated into any non-access green belts, detention ponds, street planting, medians, cul-de-sac planting or any other landscaping required by the Developmental Standards without City approval. If approved the trees will be used to augment not replace required landscaping.

LD8.05.09 Reforestation trees shall be in good condition (as deemed by the City) for one full year after the final acceptance (closing) of the project by the City.

LD9.00.00 Preliminary Tree Preservation Plans – Specific Requirements

Preliminary Tree Preservation plans shall be submitted to the Director of Parks and Recreation when an application is submitted to the Planning, Building Department, and /or City Clerk's office for Preliminary Site plan review for a building project or when the Preliminary Plan Review, Special Use Approval Request, or Tentative Preliminary Plat Approval for a project is submitted for review.

LD9.01.00 Plan shall include:

- a. All information listed in LD6.00.00
- b. Location of all trees four (4) inches DBH and larger within the projects property lines and all trees on adjoining properties that have drip lines extending onto the site, shall be located on Preliminary Tree Preservation plan. Each tree shall be number coded.
- c. Table of trees shall be created indicating tree number code, DBH,

- species (maple, elm, spruce, etc.) and condition (good, fair, poor)
- d. Total site DBH for all trees four (4) inch and greater shall be included with above listed table.
- e. Copies of relevant sections of Consent Judgment if applicable.

LD10.00.00 Final Tree Preservation / Landscape Plan Specific Requirements

It is the intent of the Final Tree Preservation / Landscape plan to indicate location of preserved and/or reforested trees and show their relationship to the projects overall landscaping. Additionally, this plan will delineate all required and/or proposed landscaping. **Final Tree Preservation / Landscape Plan shall be submitted as one combined document. The Final Landscape Plan shall be consistent with the Preliminary Landscape Plan used to grant Preliminary Site Plan approval by the Planning Commission.**

LD10.01.00 Final Tree Preservation/Landscape plan shall include the following:

- a. Base sheet information, as indicated in LD7.00.00.
- b. Location of trees to be preserved as per these standards and/or locations of reforestation plantings.
- c. Plant list. The plant list can be printed on the plan or can be typed and attached to each of three (3) sets of plans submitted for review. Plant list shall include:
 - 1. Botanical name
 - 2. Common name
 - 3. Plant size
 - 4. Number of each plant variety used
 - 5. Condition
 - a. Balled and burlapped
 - b. Bare root
 - c. Potted
 - d. Container grown

LD10.01.01 All plants shall be identified with the proper botanical name. This requirement does not preclude the use of a key system method of identifying plant materials on the plan.

LD10.01.02 Planting details shall be provided for each plant group to be installed on the site (shade/flowering trees, shrubs, evergreens, perennials, ground covers, annuals, etc.)

LD10.01.03 The City reserves to right to reject any proposed plant materials or proposed planting locations.

LD10.01.04 A break down of the Tree Preservation option(s) used and shall also indicate:

- a. Option(s) used
- b. Total Site DBH inches (see LD8.01.01)
- c. Number and size of trees preserved, or replanted, or amount to be paid into City Tree Fund
- d. Show calculations for all options used
- e. Construction drawings (LD11.00.00), landscape planting specifications (LD12.00.00) and cost estimates (LD13.00.00) shall be submitted at the same time as Final Tree Preservation / Landscape Plan.

LD11.00.00 Construction Drawings - All construction (engineering) drawings and specifications shall conform to the City of Troy Development Design Standards and the Landscape Design and Tree Preservation Standards.

LD12.00.00 Landscape Planting Specifications - The Developer is required to provide a copy of the landscape planting specifications that will be employed during the implementation of the project. If these specifications are found to be insufficient, the proper changes are required to be made before the landscape plans will be approved.

LD13.00.00 Cost Estimate - Landscaping (Non-residential only) – An itemized estimate covering the costs of all landscaping (hardscape and softscape) scheduled for the project shall be submitted with all landscape plans. The cost estimate shall be in the form of a line item cost break out. A single total cost for the project is not acceptable. Irrigation shall not be included in the cost estimates.

LD14.00.00 Submittal Requirements - It is the intent of the Landscape Design Standards to inform the Developer of submittal requirements, review procedures, fees and inspections and guarantees. It should be noted that strict adherence to the procedures outlined herein will ensure expeditious processing of plans and thereby minimize the need for project modifications.

LD15.00.00 The Reviewing Body - The Tree Preservation Plans, Landscape Plans, cost estimates, construction drawings, details, and specifications will be reviewed by the Director of Parks and Recreation or her/his designated agent.

LD15.01.00 All submitted drawings, and supporting documentation shall be reviewed for:

- a. Conformity to all current City Ordinances and Standards.
 - b. Aesthetic quality.
 - c. Appropriate selection and use of all plants.
 - d. Due to the unique natural of each site, no one set of ordinances or standards can cover all contingencies. The City reserves the right to critic any aspect of the proposed design. The Designer/Developer shall resolve any issues brought to their attention by the City.
-

LD16.00.00 Submission for Review

It is required that all landscape data be submitted, reviewed and approved before any Building permit / Final Site Approval can be issued. No tree regardless of size, shall be removed until the Final Site Plan Approval is issued (see City Ordinance 28.06.05).

LD16.01.00 Three (3) copies of required plans, planting specifications (statements that outline the procedures that will be used to install all plant materials and other landscape elements) and itemized cost estimates will be submitted to the Parks and Recreation Department.

LD16.02.00 On-site changes of an approved landscape plan may be made using the following:

- a. The City of Troy must approve all changes.

- b. Prior to any deviation from the accepted plan, the City of Troy must be contacted and asked for an evaluation of the proposed change.
- c. In projects where deviation from the accepted landscape plan has been approved, the Developer shall forward as-built drawings to the City of Troy prior to the implementation inspection.

LD16.02.01 Any changes made to the required plans, specifications, details, and/or cost estimates after the issuance of Final Site Approval could delay the issuance of the Final Certification of Occupancy, and release of the Implementation and/or Maintenance Deposits.

LD17.00.00 Changes in a Landscape Plan Resulting from Review Process - Any changes required by the reviewing body must be included in three (3) complete sets of revised plans to be submitted to Parks and Recreation, along with the revised specifications and cost estimates.

LD18.00.00 Tree Preservation / Landscape Plan Review Fee

The Tree Preservation / Landscape Plan Review Fee is based on the total (gross) acreage of the project. Final Site approval will not be issued until this fee is paid. The non-refundable fee will be charged at the rate of:

- a. Less than five acres - \$400.00
- b. Five acres or more - \$50.00 per acre with a minimum charge of \$400.00

LD18.01.00 Tree Preservation / Landscape Plan Penalty Review fee:

- a. Less than five acre - \$800.00
 - b. Five acres or more - \$100.00 per acre with a minimum charge of \$800.00
-

LD19.00.00 Landscape Deposits

Landscape Deposits listed in this section are for all sites other than sub-division developments. Final Site approval will not be issued until this deposit is made.

LD19.01.00 **Implementation Deposit** – After the Final Tree Preservation / Landscape Plans, planting specifications and cost estimates have been approved, and prior to the issuance of Final Site Approval, the Developer shall post with the City of Troy an Irrevocable Bank Letter of Credit and/or cash deposit that will serve as the Implementation Deposit.

LD19.01.01 The amount of Implementation Deposit shall be determined by the Parks and Recreation Department based on the following percentages:

- a. Forty-five (45) percent of the total project's landscaping costs of \$3999.99 or less
- b. Twenty-five (25) percent of the total project's landscaping cost of \$4000.00 or more.

LD19.01.02 **No inspections shall be made if Bank Letter of Credit has expired.**

LD19.02.00 **Maintenance Deposit** – Once the Final Tree Preservation / Landscape plan has been fully implemented and the implementation has been approved by the City of Troy (LD27.00.00), the City of Troy shall release the Landscape Deposit less the *Maintenance Deposit*. Twenty (20) percent of the total estimate or \$1000.00 (whichever is greater) shall be posted as a Maintenance Deposit with the Parks and Recreation Department prior to the issuance of the final Certification of Occupancy. **Bank Letter of Credit will not be accepted for the**

Maintenance Deposit. The Property Owner/Developer is responsible for requesting all inspections

- LD19.02.01 Final inspection of the landscape for release of Maintenance Deposit may be called for one year after receiving implementation approval. The Property Owner/Developer is responsible for requesting all inspections
- LD19.02.02 The intent of this requirement is to ensure that all dead, dying, diseased and/or weakened plant materials found during the Final Maintenance Inspection shall be replaced with viable plant materials during the next acceptable planting season. Additionally, it ensures that the site has received proper landscape maintenance.
- LD19.02.03 The Irrevocable Bank Letter of Credit and/or cash deposit will be held for a minimum of one year. The Developer/Property Owner is responsible for requesting inspections. The Developer/Property Owner will be notified by the City of any replacements / repairs / corrections required. The replacements / repairs / corrections to the landscape shall be made within thirty days of notice unless **otherwise** approved by City.
- LD19.02.04 When the replacements / repairs / corrections have been made to the satisfaction of the City, the Bank Letter of Credit and/or cash deposit will be released, and a final project approval will be forwarded to the Building Department.
- LD19.02.05 Failure on the part of the Property Owner to comply with these standards may result in the forfeiture of either or both of the Irrevocable Letters of Credit and/or cash.
- LD19.02.06 Should it be found that the Bank Letter of Credit has expired before the City has performed the Final Implementation Inspection and approved the landscape, the amount of the appropriate deposit and all administrative costs, may (at the City's discretion) be levied against the property.
- a. Levying of such cost shall be certified by the Director of Parks and Recreation to the City of Troy Treasurer and shall become a lien upon such property, and shall be included in the next tax bill rendered to the Property Owner or Property Owners unless paid before and shall be collected in the same manner as other taxes against such property.
 - b. Of the monies collected in this manner only the original amount of the deposit is refundable and only after the maintenance inspection has been completed and the landscape receives final approval.
- LD19.03.00** Depositor shall forfeit the Maintenance Deposit if the Maintenance Inspection is not called for within three years of Final Implementation Inspection, or unless otherwise approved by the Director of Parks and Recreation.

-
- LD20.00.00 Tree removals prior to Final Site Approval –
No tree, regardless of size, shall be removed without Final **Plan** Site Approval.
- LD20.01.00** Undergrowth may be removed at any time. However, if in the process of removing the undergrowth, soil is disturbed, all work shall cease until the City's Environmental Specialist clears the site for the continuation of work.
- LD20.02.00** The Parks and Recreation Department shall be notified twenty-four hours prior to the beginning of **any** type of clearing operation.

LD21.00.00 Violation of Tree Preservation plan

Performing any tree or *plant* removals in violation of the City Ordinance Chapter 28 (Tree and Plant Ordinance) and/or the “Tree Preservation and Landscape Design Standards” shall result in the following:

- a. Issue of “Stop Work Order”
 - b. Cancellation of all currently held Tree Preservation and Landscape approvals.
 - c. See City ordinance 28.16.02
-

LD22.00.00 Landscape Installation

Prior to and during landscape installation:

LD22.01.00 No landscape work shall take place without final site approval.

LD22.02.00 The Parks and Recreation Department shall be notified of the proposed starting date twenty-four (24) hours before work on the project begins.

LD22.03.00 Landscaping not conforming to approved drawing and specification shall result in the:

- a. Issuance of a “Stop Work Order”
- b. Cancellation of all currently held permits
- c. **Additional fees as per LD18.01.00**
- d. All changes in approved Final Tree Preservation / Landscape plans shall be approved in writing prior to implementation of changes.

LD22.04.00 No temporary or final certificate of occupancy will be granted until these Standards are complied with fully.

LD23.00.00 Tree and Plant Protection

Developer is required to:

LD23.01.00 Adhere to the tree and plant protection measures as listed in Chapter 28 of City Code.

LD23.02.00 If encroachment into a tree protection area occurs, resulting in irreparable damage to the trees or the area inside the tree protection area, a “Stop Work Order” will be issued and the Final Tree Preservation/Landscape plan shall be revised to indicate reforestation planting required compensating for tree loss/damage. (see City ordinance 28.16.02) All revised plans will have to be re-approved. (see LD18.01.00)

LD23.03.00 Under no circumstance shall the Developer be relieved of the responsibility of compliance with the provisions of this Standard, City Ordinances and Developmental Standards.

LD23.04.00 Pre-construction Tree Protection

Prior to construction:

- a. All protective measures as outlined in this standard and City Ordinance 28.08.00 shall be in place before any site work will be permitted.
- b. Remove non-preserved trees. Cut rather than push over with dozers to protect roots of preserved trees.
- c. With City approval, the Developer may prune limbs in the way of improvements prior to construction.

LD23.05.00 Construction Tree Protection

During construction operations:

LD23.05.01 Keep all construction activities out of “Tree Protection Area” (City Ordinance 28.02.26). NO storage of any type of materials, equipment, or any other activity will be allowed inside the Tree Protection Area.

LD23.06.00 Post—Construction Tree Protection

After all construction and the establishment of final grade:

- a. Remove all tree protective barriers
- b. Prune any damaged trees
- c. Replace preserved trees that died during construction (see City Ordinance 28.16.02)

LD24.00.00 **Inspection Schedule** - The intent of the following sections is to inform the Developer of the inspection schedule which will be employed by the City of Troy during the landscape construction period. This section also informs the Developer of what procedures must be employed in order to receive an inspection at the request time, and the scope of each inspection. Developer / Property Owner is responsible for requesting all inspections.

LD25.00.00 **Initial Site Inspection** - When the Parks and Recreation Department receives any plans, a site inspection may be made to help the reviewer(s) determine if any problems areas can be found that may not be fully delineated on the plans. This will also help the reviewers realize the full impact of the proposed development on the local environment.

LD26.00.00 **First Implementation Inspection**
After the Final Tree Preservation Landscape plan has been approved, review fee paid, landscape deposit posted, Final Site Approval issued, and the Parks and Recreation Department has been notified of installation schedule, the implementation of the Final Tree Preservation / Landscape plan can begin.

LD26.01.00 During the implementation of landscape the City reserves the right to perform unscheduled inspections of the site, and all landscape materials.

LD26.02.00 Developer shall be advised of any sub-standard plant materials, which shall be removed from the site.

LD26.02.00 Developer shall be advised of any installation concerns. These concerns shall be corrected within the time frame given or a “Stop Work Order” will be issued.

LD26.03.00 Failure to follow this procedure on the part of the Developer will result in a “Stop Work Order”.

LD27.00.00 Final Implementation Inspection

The Developer/Property Owner will request a Final Implementation Inspection by the City of Troy at least five (5) working days prior to the proposed inspection date.

LD27.01.00 When the project has been approved by the City of Troy, the Parks and Recreation Department shall forward to the City of Troy Building Department all approvals and upon receipt of Maintenance Deposit the City will release the Implementation Deposit.

LD27.02.00 In cases where the City has not approved the project, the objections shall be outlined in writing and shall be forwarded to the Developer and Building

Department. This notice will also stipulate the date and/or dates by which the required alterations will be completed.

LD27.03.00 When a project has not been approved at the time of the Final Implementation Inspection, additional inspections will be made as the required alterations have been completed. The Developer /Property Owner will contact the City of Troy at least twenty-four (24) hours prior to the proposed re-inspection date.

LD27.04.00 The deposits will not be returned until the required corrections are complete.

LD28.00.00 Maintenance Inspection (Final)

This inspection will take place a minimum of twelve (12) months and a maximum of thirty-six (36) months after the last Implementation Inspection. The depositor forfeits the Landscape Maintenance Deposit after thirty-six (36) months. Developer/Property Owner is responsible for requesting all inspections.

LD28.01.00 It is the responsibility of the Developer/Property Owner to contact the City of Troy and request all inspections. Requests shall be made at least five (5) working days before inspection date.

LD28.02.00 All materials that do not pass this inspection will be listed in written form and forwarded to the Developer by the City of Troy. This notice will also stipulate the date by which all replacements will be completed.

LD28.03.00 When a project **is not** approved at the time of the Maintenance Inspection, additional inspections will be made when the required alterations have been completed. The date for this inspection can be established by contacting the City of Troy at least forty-eight (48) hours prior to the proposed inspection date.

LD28.04.00 When the project **is not** approved by the City of Troy, the Maintenance Deposit shall be released.

LD28.05.00 Failure on the part of the Developer **to follow the procedures in this section,** will result in the forfeiture of the Irrevocable Bank Letter of Credit and/or cash deposit.

LD29.00.00 Landscape Contractor Qualifications - The intent of this section of the Standards is to inform the Developer of what minimum qualifications a Tree Appraiser and/or Landscape Contractor **are to be.** Information as to the responsibilities of the Landscape Contractor other than the simple implementation of the landscape plans can be found in this section of these standards.

LD29.01.00 The Landscape Contractor (person and/or firm responsible for the implementation of the approved landscape development plan) shall be licensed by the State of Michigan, Department of Agriculture Plant Industries Division to handle plant materials.

LD29.02.00 The Landscape Contractor will be covered by a public liability property damage insurance policy.

LD29.03.00 The Landscape Contractor shall conform to all Federal and State Labor Laws.

LD30.00.00 Landscape Contractor Responsibilities

The Landscape Contractor shall guarantee that all plants are true to botanical name, and that the quality and size meet the approved specifications.

LD30.01.00 The Landscape Contractor shall fully guarantee that all plants are in a vigorous growing condition during and at the end of the guarantee periods. This

guarantee period shall be minimum of one (1) year from the issuance of Final Implementation Inspection.

LD30.02.00 Replacement plants and/or landscape materials other than plants shall be in accordance with the approved original specifications.

LD30.03.00 The Contractor shall at all times keep the premises and public streets free from any excessive accumulation of soil and waste material or rubbish caused by his employees or work, and at the completion of the work, he shall remove all his waste, excessive material, rubbish and equipment so as to leave the premises neat and clean and ready for the purpose for which it was intended.

LD30.04.00 The Landscape Contractor shall properly protect all existing structures and property on land abutting the project. This is to include, but not be limited to:

- a. Sidewalks
- b. Curbs
- c. Fences
- d. Buildings
- e. Lawns
- f. Trees
- g. Shrubbery
- h. Irrigation systems
- i. Lighting systems
- j. Ornamental structures

LD31.00.00 Tree Appraiser Qualifications –

The intent of this section of the Standards is to inform the Developer of what minimum qualifications a Tree Appraiser **are to be**.

Information as the responsibilities of the Tree Appraiser other than the simple implementation of the landscape plans can be found in this section.

LD31.01.00 A qualified Tree Appraiser shall have a minimum of two (2) years of college in the areas of Horticulture, Forestry, Urban Forestry, Landscape Architecture or related field or two (2) years experience at a supervisory level in one of these disciplines or related fields. The Parks and Recreation Department will review credentials upon request of the Developer.

LD32.00.00 Tree Appraiser Responsibilities

Shall be able to provide the necessary graphic and written reports as outlined in this standard.

LD32.01.00 The Tree Appraiser shall be held accountable for the accuracy of all graphic and written submittals.

LD33.00.00 Plant Material Requirements - The intent of this section to inform the Developer of the minimum requirements placed on all plant materials used to implement those landscape requirements as called for by the City Code.

The following information includes the definitions of the seven (7) major plant groups that come under the control of these standards and the specific requirements placed on each plant group.

LD33.01.00 Broadleaf Evergreens - As the name implies, this group of plant materials have broad leaves, rather than needles, and retain their foliage throughout the winter months. This plant group is a woody ornament having both low spreading varieties and shrub forms.

- a. Minimum required size for low spreading varieties of broadleaf evergreens is fifteen (15) to eighteen (18) inches in width.
- b. Minimum required size for shrub form broadleaf evergreens is eighteen (18) to twenty-four (24) inches in height.

LD33.02.00 Coniferous Evergreens - This group of plant materials maintains its foliage throughout the entire year in a green condition. These plants are woody ornamentals and for the most part, have very narrow leaves, often referred to as needles. It should be noted that coniferous evergreens have both spreading and upright varieties.

- a. Minimum required size for spreading coniferous evergreens is fifteen (15) to eighteen (18) inches in width.
- b. Minimum required size for upright coniferous evergreens is five (5) to six (6) feet in height.

LD33.03.00 Deciduous Shrubs - This group is made up of those woody ornamental plants with several self-supporting stems, which lose their foliage each autumn.

- a. Each plant will have a minimum of at least three (3) stems, at least eighteen (18) to twenty-four (24) inches long.
- b. This requirement does not preclude the possibility of using espaliered or topiary shrubs.

LD33.04.00 Deciduous Shade and Small Flowering Trees - These trees and shrubs are those woody ornamental; plant materials with one or more self-supporting stems or trunks with a usually well-defined branching network located near the distal end of the trunk. The foliage of this plant group is dropped each autumn, and is renewed in the spring of the year.

- a. The minimum heights and caliper requirements for shade trees are as follows:
 1. The minimum caliper - two (2) inches to two and one half (2½) inches.
 2. The minimum height - ten (10) feet.
- b. The minimum height and caliper requirements for small flowering trees are as follow:
 3. Minimum caliper - one and one-half (1½) to one and three-quarters (1¾) inches.
 4. Minimum height – five (5) feet.
- c. It should be noted that all caliper measurements will be taken at least six (6) inches above the graft (on grafted materials) and six (6) inches above root, shoot junction on all non-grafted materials.
- d. All height measurements will be taken from the soil line at the base of the tree to the end of the central leader.

- e. Minimum Soil Surface Areas – When planting trees in areas totally surrounded by impermeable surfacing (i.e. Concrete, pavers, asphalt buildings, etc.), there shall be a minimum of thirty-six (36) square feet of exposed soil surface for each tree.
- f. All tree spacing in the landscape and setbacks from overhead utility lines shall conform to City Ordinance 28.15.06 & Figure #5 (see below) unless otherwise required (see Developmental Standards) or approved by the City.

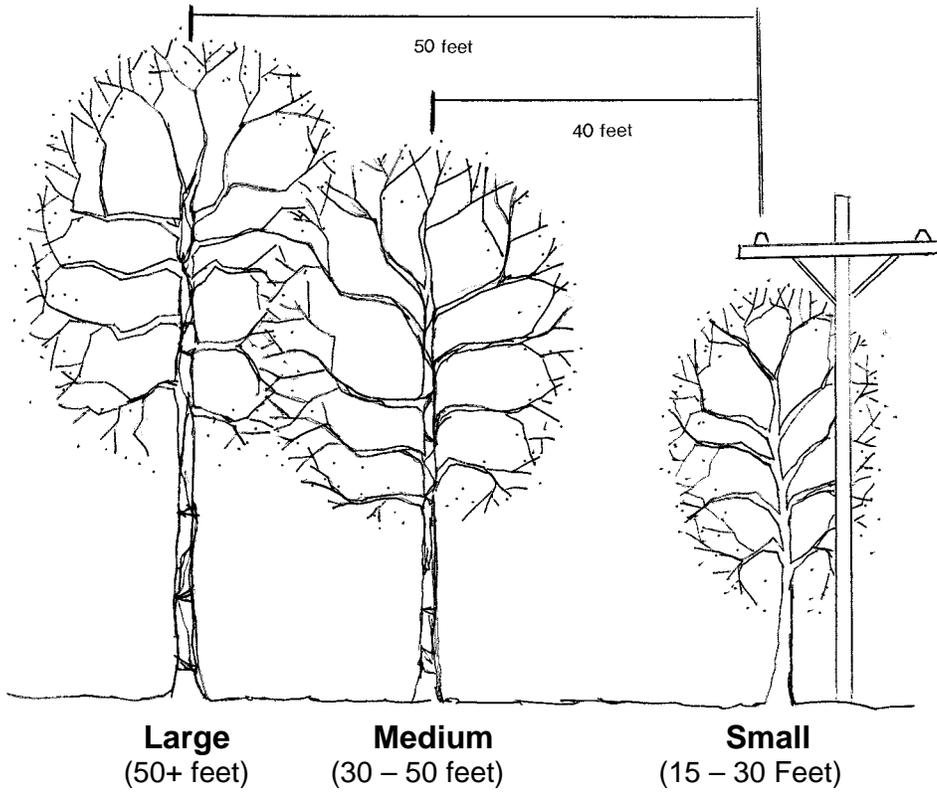


figure # 5

LD33.05.00 Ground Covers

- a. As a general requirement placed on all ground covers, no rooted cuttings shall be deemed as acceptable plant materials. All ground cover materials shall be at least one (1) year bedded stock.
- b. The following requirements shall govern those ground covers that spread over the desired area by the use of above ground runners:
 - 1. The minimum number of runners required per plant - three (3).
 - 2. The minimum required length of each runner - six (6) inches.
- c. Maximum spacing between plants at installation shall not exceed:
 - 1. 4" root ball and smaller - six (6) inches on center.
 - 2. 6" root ball – twelve (12) inches on center
 - 3. one gallon – twenty four (24) inches on center
- d. The following requirements shall govern those ground covers that spread over the desired area by the use of under ground runners:
 - 1. All plants shall be potted either four (4) or six (6) inch pots.
 - 2. All plants shall be well balanced and have a well-established root system.

LD33.06.00 Perennials – This group is made up of those herbaceous ornamental plants that generally dies down to the ground each fall, but re-grow from the root system for a minimum of three years.

- a. The following requirements shall govern perennial plants:
 1. All plants shall be potted in minimum six (6) inch pots
 2. All plants shall have a well-established root system.
- b. Spacing - If used in a mass planting the maximum spacing between plants shall not exceed:
 1. Plants with foliage height between one (1) and six (6) inches – twelve (12) inches on center.
 2. Plants with foliage height between seven (7) and twelve (12) inches – eighteen (18) inches on center.
 3. Plants with foliage height between thirteen (13) and twenty-four (24) inches – thirty (30) inches on center.
 4. Plants with foliage height between twenty-five (25) and thirty-six (36) inches – thirty-six (36) inches on center.
 5. Plants with foliage height greater than thirty-six (36) inches – forty-eight (48) inches on center

LD33.07.00 Turf Grass - Those herbaceous plant materials, which have a low spreading growth habit covering the soil surface often used in lieu of an ornamental ground cover, or an organic/inorganic material such as woodchips or stone.

- a. City's Development Standards shall govern turf grass installations.

LD34.00.00 Other Requirements Placed on Plant Materials - The following information is a list of all other requirements placed on all plant materials used in the implementation of those landscape projects called for by City Code.

- a. All plant material shall conform in botanical name, dimensions, and quality of the "Horticultural Standards" adopted by the *American Association of Nurserymen*.
- b. All bare root plant material shall have a well-branched root system, characteristic of the species. The root system will meet the minimum standards for bare root nursery stock as set down by the *American Association of Nurserymen*.
- c. Balled and Burlapped plant material shall be balled with original soil, intact with the fibrous roots to insure maximum recovery after transplanting.
- d. Plants shall conform to the above standards when materials are balled and burlapped.
- e. Potted plants shall have sufficient root structures to ensure full recovery and development.
- f. Any plants existing on the site requiring relocation must be dug in accordance with the above stated standards.
- g. Nursery stock shall be vigorous, free from disease, insects, insect eggs, or larvae.

- h. All tree selections shall be made using the City's "Recommended Deciduous Trees" list unless otherwise approved.
- i. Substitution of materials included in an approved plan shall only be made with the consent of the City of Troy. The Property Owner/Developer may request an amendment verbally or in writing. Approval can be given verbally and followed up in writing. The Property Owner/Developer shall provide an as-built drawing indicating the changes prior to the request for the implementation inspection.
- j. All plantings shall be 100% guaranteed for one (1) year after the City releases relevant landscape deposits.

LD35.00.00 Prohibited Plant Materials -

Plants that shall not be planted by the general public and Developers within the *City* include the following plants and all cultivars thereof:

LD35.01.00 Permanent Ban:

- | | |
|--------------------------------|--|
| a. Acer saccharinum | - Silver Maple |
| b. Acer negundo | - Box Elder |
| c. Acer platanoides | - Norway maple |
| d. Ailanthus altissima | - Tree of Heaven |
| e. Catalpa speciosa | - Northern Catalpa |
| f. Fraxinus spp. | - Ash, all forms |
| g. Paulownia tomentosa | - Royal Empress Tree |
| h. Populus spp. | - Poplar / Cottonwood |
| i. Pyrus calleryana 'Bradford' | - Bradford Pear |
| j. Salix spp. | - Willow (excluding shrub forms) |
| k. Ulmus spp. | - Elm (excluding cultivars of
U. parvifolia & U. americana) |

LD35.02.00 Temporary Ban:

As of May 8, 2006 the City will not approve the following plants, and all cultivars thereof, for planting in the City of Troy.

- | | |
|--|---------------|
| a. Acer spp. (excluding Japanese forms) | -Maple |
| b. Betula spp. | -Birch |
| c. Gleditsia triacanthos | -Honeylocust |
| d. Platanus occidentalis | -Sycamore |
| e. Quercus spp. | -Oak |
| f. Robinia pseudoacacia | -Black Locust |
| g. Sorbus aucuparia | -Mountain Ash |
| h. Tilia spp. (excluding tomentosa 'Sterling') | -Linden |

LD35.03.00 Temporary bans will be review by the City every five (5) years to determine if plants should be added, removed or remain on the list.

LD36.00.00 Site Preparation Prior to Plant and Irrigation Installation

LD36.01.00 No construction debris larger than one (1) inch in any dimension shall be found in the top twelve (12) inches of soil after completion of rough grading.

LD36.02.00 No construction debris larger than six (6) inches in any dimension shall be found between twelve (12) inches and twenty-four (24) inches below the topsoil.

- LD36.03.00** Rough grades shall be established prior to soil fracturing.
- LD36.04.00** Developer shall submit drawings indicating areas to be fractured. City reserves the right to add or delete areas.
- LD36.05.00** Prior to the introduction of topsoil or soil improvers all designated areas not covered by hard surfaces, buildings, fences, etc. but excluding the tree protection area(s) and retention/detention ponds, shall be mechanically fractured to a minimum depth of eight (8) inches and re-graded to rough grades. Approved fracturing techniques include but shall not be limited to:
- a. Plow
 - b. Hydro jet
 - c. Till
 - d. Drill-n-fill
 - e. Compressed air treatments
 - f. Hollow tine aerification
- LD36.06.00** To reduce the degree of difficulty during soil compaction mediation, the City encourages Developers/Contractors to limit and confine activities that will cause and/or increase soil compaction.
- LD36.07.00** Once the soils have been mechanically fractured, re-compaction of the soils shall be avoided. Should it be found that re-compaction or inadequate fracturing has occurred, the City shall designate those areas that shall be re-fractured.
- LD36.08.00** Should it be determined, by the City, that soil fracturing can not be done in all areas, then:
- a. Each location to receive a tree:
 - 1. Shall be radiate trenched. Eight (8) trenches shall radiate out from the tree planting hole, and shall measure a minimum of fifteen (15) feet long from center of hole, a minimum of thirty-six (36) inches deep, and a minimum of six (6) inches wide.
 - 2. 2/3 original soil, 1/3 decomposed organic matter shall be mixed and used as the trenching backfill.
 - b. Each location to receive shrubs/perennials/etc. shall be excavated to a depth of twelve (12) inches and backfilled with screened topsoil. (see LD36.01.00)
- LD36.09.00** All areas to be maintained as turf shall receive a minimum of two (2) inches of screened topsoil after fracturing. (see LD36.01.00)
- LD36.10.00** All finished grades shall be a minimum of one (1) inch and a maximum of two (2) inches below hard surfaces (i.e. concrete, asphalt, etc.) unless otherwise approved by the City.
- LD36.11.00** Finish grading shall not be done when soils are wet.

LD37.00.00 Landscape Designer Qualifications and Responsibilities

Individuals designing landscapes for **Site Plan Approval, Special Use Approval, or Subdivisions Plat Approval**, prior to doing the submitted designs, shall have one of the following qualifications:

- a. For proposed landscapes with total installed cost of \$2000.00 or less - Michigan Certified Nurseryman or equivalent from another state.

- b. Landscapes with total installed cost over \$2,000.00 to \$350,000.00 - Bachelors in Landscape Architecture, Architecture, Landscape Design, Horticulture, or Agriculture.
- c. Landscapes with total installed cost over \$350,000.00 – Registered Landscape Architect.

LD37.01.00 Responsibilities – Individuals creating landscape designs for commercial Properties and/or subdivisions shall:

- a. Thoroughly acquaint themselves with site conditions found in the general area and on their specific project. This shall include but not be limited to:
 - 1. All plants hardy to USDA Hardiness Zone 5b
 - 2. Typical soil type – heavy clay
 - 3. Plants located next to streets must tolerate aerial salt.
- b. Produce high quality, easy to read, scaled drawings and details.
- c. Produce an aesthetic design using the unique features on the site.

Landscaping Required



District

Present Landscape Requirements

C-F, B-1, B-2, B-3, H-S, O-1, O-M, O-S-C, R-C, M-1, P-1

- ✓ Ten (10) foot greenbelt along any public street, with one (1) tree for every thirty (30) lineal feet of frontage.
 - ✓ Ten (10) percent of site area landscape – front and side yards only.
 - ✓ General Note – not more than twenty (20) percent of required landscape area will be covered with non-living material, i.e. woodchips, stone etc.
-

R-1, R-2

- ✓ Subdivision Control Ordinance requirements only
-

CR-1

- ✓ Ten (10) foot greenbelt along any public street, with one (1) tree planted for every twenty (20) feet of frontage.
 - ✓ Five (5) foot berm along any property line abutting a major thoroughfare with one (1) tree planted for every twenty (20) feet of frontage.
 - ✓ Fifteen (15) percent of site shall be landscaped open space.
 - ✓ One (1) tree shall be planted for every two (2) dwelling units.
-

R-1T, R-M, R-EC

- ✓ Ten (10) foot greenbelt along any public street with one (1) tree planted for every twenty (20) feet of frontage.
 - ✓ Four (4) foot berm along any property line abutting a major thoroughfare, with one (1) tree planted for every twenty (20) feet of frontage.
 - ✓ Five (5) berm along any property line abutting freeway, landscaped with double row six (6) feet apart, evergreen species, four (4) feet on center staggered two (2) feet on center.
-

RM-1

- ✓ Same as R-1T and R-M, with the exception that a five (5) foot rather than a four (4) foot minimum height berm is required along any property line abutting a major thoroughfare.
-

RM-2, RM-3

- ✓ Same as RM-1 with the following exceptions:
 - Seventy-five (75) percent (vs. 70%) of required yards shall be landscaped
 - Overall requirement for four hundred and fifty (450) feet of landscaped open space per dwelling unit. Sixty (60) percent of this open space area shall be located in direct proximity to the buildings.

CITY OF TROY

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF TROY
BY THE ENACTMENT OF **CHAPTER 28**

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as **Chapter 28**, Tree and Plant Regulations, of the Code of the City of Troy.

Section 2. Amendments

The Code of the City of Troy shall be amended as follows:

**CHAPTER 28
TREE AND PLANT REGULATIONS**

- 28.01.00 Purpose and Intent**
- 28.02.00 Definitions**
- 28.03.00 Responsibility**
- 28.04.00 Permits for Planting, Care and Removal of Plants – Public Space**
- 28.05.00 Plant Removal – Public Space**
- 28.06.00 Duties of Private Plant Owners**
- 28.07.00 Plant Protection – Public Spaces**
- 28.08.00 Plant Protection During Development – Public & Private Property**
- 28.09.00 Excavations Near Plants – Public Space**
- 28.10.00 Covering the Surface Near Trees – Public Space**
- 28.11.00 Regulations for New Planting – Public SPaces**
- 28.12.00 Corner Clearance (Visual Barrier Setback)**
- 28.13.00 Private Plant Inspection**

28.14.00 Lawn Extension and Subdivision Entry Islands/Cul-de-sac Islands

28.15.00 Tree Spacing

28.16.00 Violation of Tree and Plant Regulations

**28.17.00 Procedure for Ordering Action on Violations of Tree and Plant
Regulations**

Figure #1

Figure #2

Figure #3

Figure #4

Figure #5

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 , 2006.

Louise E. Schilling
Mayor

Tonni L. Bartholomew, MMC
City Clerk

A Regular Meeting of the Troy City Council was held Monday, May 15, 2006, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:33 P.M.

Pastor Paul Lehman gave the Invocation and the Pledge of Allegiance to the Flag was given.

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield (Arrived: 8:12 PM; Departed: 9:20 PM)
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 Preliminary Planned Unit Development Approval – PUD-5 Caswell Town Center – East Side of Rochester Road, South of South Boulevard, R-1D, B-3 and P-1, Section 2

The Mayor opened the Public Hearing for public comment after receiving comment from the City’s consultant and the petitioner. The Mayor closed the Public Hearing after receiving public comment.

Resolution #2006-05-216
Moved by Stine
Seconded by Fleming

WHEREAS, Michigan Home Builders requested preliminary planned unit development approval for Caswell Town Center Planned Unit Development (PUD 5), located on the east side of Rochester Road south of South Boulevard, Section 2, within the R-1D, B-3 and P-1 zoning districts, being 18.62 acres in size; and

WHEREAS, The City’s planning consultant Richard Carlisle of Carlisle/Wortman Associates, Inc., prepared a memorandum dated April 27, 2006 that recommends approval of Caswell Town Center Planned Unit Development; and

WHEREAS, City Management recommends preliminary planned unit development approval for Caswell Town Center Planned Unit Development; and

WHEREAS, On March 28, 2006, the Planning Commission recommended approval of a preliminary plan for a planned unit development, pursuant to Article 35.60.01 of the City of Troy Zoning Ordinance.

RESOLVED, The proposed PUD meets the eligibility requirements set forth in Article 35.30.00 and the general development standards set forth in Section 35.40.00; and

BE IT FURTHER RESOLVED, That the preliminary planned unit development application consists of a CD dated May 2, 2006 and the following full size plans:

The following plans were prepared by Hennessey Engineers, Inc.:

- CE1 Topographic Survey
- CE1A Boundary Survey
- CE1B Tree Survey
- CE1C Tree Survey
- CE1D Tree Survey
- CE2 Preliminary Site Plan
- CE2A Snow Removal Plan
- CE2B Photometric Plan
- CE2C Drainage Calculations
- CE3 Preliminary Grading Plan
- CE4 Preliminary Utility Plan
- CE4A Preliminary Pond Details
- CE5 Soil Boring Plan

The following plans were prepared by Calvin Hall & Associates:

- L-1 of 6 Landscape Plan
- L-2 of 6 Landscape Plan
- L-3 of 6 Landscape Plan
- L-4 of 6 Amenity Site Plan and Pedestrian Circulation Walk Plan
- L-5 of 6 Entry Walls and Signage Reference Plan
- L-6 of 6 Site Section Elevations

The following plan was prepared by Bill Carr Signs:

- Double-Face Illuminated Sign (8 ½" x 11")

The following plans were prepared by Alexander V. Bogaerts & Associates, P.C.:

- Front Elevation
- Left, Right and Rear Elevation
- Garage Level Building Plan
- First Floor Building Plan
- Second Floor Building Plan
- Unit Floor Plan
- Elevations – Proposed Retail Buildings
- Front Elevation - Proposed Retail Building w/ Coffee Shop

Left and Right Side and Rear Elevations - Proposed Retail Building w/ Coffee Shop

BE IT FURTHER RESOLVED, That the ground or pylon sign proposed at the boulevard entrance on the east side of Rochester Road, as illustrated on the 8½” x 11” double-face illuminated sign drawing, prepared by Bill Carr Signs, shall not exceed 15 feet in height, as recommended by the Planning Commission; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **APPROVES** the Caswell Town Center Preliminary Planned Unit Development.

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

MOTION CARRIED

C-2 Adoption of 2006/07 City Budget

The Mayor opened the Public Hearing for public comment.
 The Mayor closed the Public Hearing after receiving comment from the public.

Resolution #2006-05-217
 Moved by Lambert
 Seconded by Broomfield

WHEREAS, Section 8.3 of the City Charter directs the City Council to adopt a budget for the ensuing year, beginning July 1, 2006.

NOW, THEREFORE, BE IT RESOLVED, That the following listed re-appropriations, operating transfers-in, and operating revenues of the General Operating Fund are anticipated:

Taxes	\$35,473,690
Licenses and Permits	2,059,000
Federal Grants	34,500
State Grants	6,765,000
Contributions - Local	140,000
Charges for Services	6,475,300
Fines and Forfeits	1,012,000
Interest and Rents	1,443,300
Other Revenue	491,900
Operating Transfers - In	4,724,870
Re-appropriation	<u>6,367,250</u>
Total	<u>\$64,986,810;</u>

BE IT FURTHER RESOLVED, That the tax rate for the General Operating Fund shall be six and fifty one-hundredths (6.50) mills on the 2006 taxable valuation;

BE IT FURTHER RESOLVED, In order to meet anticipated expenses, amounts from the following listed budgetary centers shall be appropriated from the General Operating Fund:

Building Inspection	\$ 2,169,250
Council/Executive Administration	2,041,140
Engineering	3,096,890
Finance	4,869,370
Fire	4,212,260
Library /Museum	5,002,000
Other General Government	2,807,150
Police	23,174,400
Parks and Recreation	8,744,820
Streets	5,359,530
Operating Transfer Out	<u>3,510,000</u>
Total	<u>\$64,986,810;</u>

BE IT FURTHER RESOLVED, That the following listed re-appropriations and revenues of the Capital Fund are anticipated:

Taxes	\$ 8,189,000
Federal Grants	305,000
State Grants	1,409,000
Charges for Services	150,000
Interest and Rents	607,200
Other Revenue	335,260
Operating Transfer In	5,700,000
Re-appropriation	<u>3,102,000</u>
Total	<u>\$19,797,460;</u>

BE IT FURTHER RESOLVED, That the tax rate for the Capital Fund shall be one and sixty one-hundredths (1.60) mills on the 2006 taxable valuation;

BE IT FURTHER RESOLVED, In order to meet anticipated expenses, amounts from the following listed budgetary centers shall be appropriated from the Capital Fund:

Building Inspection	\$ 10,000
Drains	1,205,780
Finance	100,000
Fire	497,830
Information Technology	700,000
Library	229,650
Museum	265,000
Other General Government	2,170,000
Police	554,700
Parks and Recreation	3,778,500
Streets	9,116,000
Public Works	<u>1,170,000</u>
Total	<u>\$19,797,460;</u>

BE IT FURTHER RESOLVED, That the following listed revenues of the Refuse Fund are anticipated:

Taxes	\$ 4,248,000
Charges for Services	1,500
Interest and Rents	100,000
Re-appropriation	<u>182,330</u>
Total	<u>\$ 4,531,830;</u>

BE IT FURTHER RESOLVED, That the tax rate for the Refuse Fund shall be eighty- three one-hundredths (.83) mills on the 2006 taxable valuation;

BE IT FURTHER RESOLVED, That the Refuse Fund shall be appropriated \$4,531,830;

BE IT FURTHER RESOLVED, That the General Debt Service Fund shall be appropriated \$3,005,190;

BE IT FURTHER RESOLVED, That there shall be a tax levy of fifty one-hundredths (.50) mills on the 2006 taxable valuation for the General Debt Service Fund.

AND BE IT FINALLY RESOLVED, That the following budgets are **APPROVED** as shown in the 2006/07 budget document:

Major Road Fund	\$ 3,725,240
Local Road Fund	\$ 1,580,460
Community Development Block Grant Fund	\$ 253,820
Troy Community Fair Fund	\$ 197,110
Budget Stabilization Fund	\$ 40,000
2000 MTF Debt Fund	\$ 256,640
Proposal A Debt Fund	\$ 800,970
Proposal B Debt Fund	\$ 1,393,950
Proposal C Debt Fund	\$ 746,770
Special Assessment Fund	\$ 4,052,420
Water Supply System	\$14,400,550
Sanitary Sewer Fund	\$11,097,790
Aquatic Center Fund	\$ 616,730
Sylvan Glen Golf Course Fund	\$ 1,161,150
Sanctuary Lake Golf Course Fund	\$ 2,059,880
Building Operations	\$ 1,835,610
Information Technology Fund	\$ 1,527,740
Fleet Maintenance Fund	\$ 4,274,110
Workers' Compensation Fund	\$ 530,000
Compensated Absences Fund	\$ 4,424,320
Unemployment Insurance Fund	\$ 73,000

Yes: Broomfield, Fleming, Howrylak, Lambert

No: Beltramini, Schilling, Stine

MOTION CARRIED

POSTPONED ITEMS:

D-1 No Postponed Items

CONSENT AGENDA:

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

Resolution #2006-05-218

Moved by Beltramini

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 #2006-05-218-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of May 8, 2006 be **APPROVED** as submitted.

E-3 City of Troy Proclamations:

Resolution #2006-05-218-E-3

RESOLVED, That the following City of Troy Proclamations be **APPROVED**:

- a) 18th Annual Celebration of Life Picnic at William Beaumont Hospital, National Cancer Survivors Day in the City of Troy – Sunday, June 4, 2006
- b) Mental Health Month – May 2006
- c) Arbor Day 2007 – 2009

WHEREAS, The City of Troy wishes to acknowledge that Troy's urban forest reduces noise, air pollution, energy costs, reflected light, flooding, stabilizes soils, sequesters carbon, provides habitat for wildlife and improves the overall quality of life.

WHEREAS, Trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community.

WHEREAS, Troy desires to be recognized as a Tree City USA by The National Arbor Day Foundation and wishes to continue its tree-planting ways.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **PROCLAIMS** May 4, 2007, May 2, 2008, and May 1, 2009 as Arbor Day in the City of Troy, and urges all citizens to support our City's urban forestry program and to plant trees to gladden the hearts and promote the well-being of present and future generations.

E-4 Standard Purchasing Resolutions

a) **Standard Purchasing Resolution 1: Award to Low Bidder – 3-Year Requirements of Emergency Repair and General Maintenance for Overhead Doors**

Resolution #2006-05-218-E-4a

RESOLVED, That a contract to furnish three (3) year requirements of emergency repair and general maintenance of overhead doors at various City buildings is hereby **AWARDED** to the low bidder, Garrett Door Company of Pontiac, MI, for an estimated cost of \$20,918.00 per year to expire May 31, 2009, at unit prices contained in the bid tabulation opened April 20, 2006; and

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

b) **Standard Purchasing Resolution 3: Exercise Renewal Option – Aquatic Center Pool Maintenance and Repair Services**

Resolution #2006-05-218-E-4b

WHEREAS, On June 21, 2004, a one (1) year contract with two (2) one-year options to renew to provide pool maintenance and repair services at the Troy Community Center and Family Aquatic Center was awarded to the sole bidder, B & B Pool and Spas of Livonia, MI (Resolution #2004-06-329-E-6); and

WHEREAS, On June 20, 2005, the first one-year option to renew was exercised and approved with B & B Pool and Spas under the same contract prices, terms, and conditions expiring June 30, 2006 (Resolution #2005-06-299-E4d); and

WHEREAS, B & B Pool and Spas has agreed to exercise the second one-year option to renew the contract under the same prices, terms, and conditions as the 2004 contract.

NOW, THEREFORE, BE IT RESOLVED, That the second one-year option to renew the contract is hereby **EXERCISED** with B & B Pool and Spas to provide Aquatic and Community Center pool maintenance and repair services under the same pricing structure, terms and conditions as the 2004 contract expiring June 30, 2007.

E-5 Private Agreement for Franklin Bank – Project No. 06.902.3

Resolution #2006-05-218-E-5

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and Branch Facilitators, is hereby **APPROVED** for the installation of water main on the site and in the adjacent right of way, 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**REGULAR BUSINESS:**

F-2 Approval of Brownfield Redevelopment Authority 2006-07 Budget

Resolution #2006-05-219

Moved by Beltramini

Seconded by Stine

WHEREAS, The Troy Brownfield Redevelopment Authority has adopted and recommends that City Council approve its 2006/07 Annual Budget.

NOW, THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the Troy Brownfield Redevelopment Authority Annual Budget for Fiscal Year July 1, 2006 through June 30, 2007.

Yes: All-7

F-3 Approval of Local Development Finance Authority 2006-07 Budget

Resolution #2006-05-220

Moved by Beltramini

Seconded by Stine

WHEREAS, The Troy Local Development Finance Authority has adopted and recommends that City Council approve its 2006/07 Annual Budget.

NOW, THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the Troy Local Development Finance Authority Annual Budget for Fiscal Year July 1, 2006 through June 30, 2007.

Yes: Stine, Schilling, Beltramini, Fleming

No: Howrylak, Lambert, Broomfield

MOTION CARRIED

F-1 **Appointments to Boards and Committees:** a) Mayoral Appointments: No Appointments Scheduled b) City Council Appointments: Employee Retirement System Board of Trustees & Retiree Health Care Benefits Plan & Trust; Historic District Commission; Troy Daze Committee and Personnel Board

(a) Mayoral Appointments – No Appointments Scheduled

(b) City Council Appointments

Roll Call Vote: City Council Representative for Employee Retirement System Board of Trustees & Retiree Health Care Benefits Plan & Trust

Resolution #2006-05-221
 Moved by Broomfield
 Seconded by Lambert

RESOLVED, That the following persons are hereby **NOMINATED** to serve as City Council Representative on the *Employee Retirement System Board of Trustees & Retiree Health Care Benefits Plan & Trust* for the vacancy with the term expiring on April 15, 2009:

ROLL CALL VOTE

Nominated by: Broomfield Howrylak	Nominated by: Broomfield Schilling
Lambert	Stine
Broomfield	Schilling
Fleming	Beltramini
Howrylak	

Yes: All-7

Vote on Affirmation of Appointment: Employee Retirement System Board of Trustees & Retiree Health Care Benefits Plan & Trust

Resolution #2006-05-222
 Moved by Broomfield
 Seconded by Lambert

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

Employee Retirement System Board of Trustees & Retiree Health Care Benefits Plan & Trust

Appointed by Council (8) – 3 Year Term

Martin Howrylak – Council Representative

Term Expires 04/15/09

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

MOTION CARRIED**Vote on Separation of City Council Appointments to Boards and Committees for Voting Purposes**

Resolution #2006-05-223

Moved by Schilling

Seconded by Howrylak

RESOLVED, That Troy City Council hereby **APPROVES** the separation of *City Council Appointments to Boards and Committees* for voting purposes.

Yes: All-7

Vote on City Council Appointment: Historic District Commission

Resolution #2006-05-224

Moved by Broomfield

Seconded by Lambert

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

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*Paul C. LinTerm Expires 05/16/09 (**Architect**)

Yes: All-7

Vote on City Council Appointment: Troy Daze Committee

Resolution #2006-05-225

Moved by Broomfield

Seconded by Lambert

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

Troy Daze Committee

Appointed by (9) – 3 Year Terms

Connie HuangTerm Expires 07/01/06 (**Student**)

Yes: All-7

Vote on City Council Appointment: Personnel Board

Resolution #2006-05-226
Moved by Broomfield
Seconded by Lambert

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

Personnel Board

Appointed by Council (5) – 3 Year Terms

Glenn Clark Term Expires 04/30/09

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

MOTION CARRIED

Council Member Broomfield was excused at 9:20 P.M.

F-4 Approval of Downtown Development Authority 2006-07 Budget

Resolution #2006-05-227
Moved by Stine
Seconded by Fleming

WHEREAS, The Troy Downtown Development Authority has adopted and recommends that City Council approve its 2006/07 Annual Budget.

NOW, THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the Troy Downtown Development Authority Annual Budget for Fiscal Year July 1, 2006 through June 30, 2007.

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

MOTION CARRIED

F-5 Resolution In Support of the Current Local Cable Franchise Agreement System

Resolution
Moved by Lambert
Seconded by Fleming

WHEREAS, Cities and villages have a long and very successful history of supporting the introduction of new cable/video services, a successful deployment made possible in large part by the current system of local cable franchising;

WHEREAS, AT&T and Verizon have been actively advocating across the country that local cable franchise agreements be eliminated;

WHEREAS, AT&T is blaming Michigan communities as the reason they can not enter into the cable/video business, while local communities, and local residents, want more cable competition and would quickly allow AT&T into their community; AT&T has refused to negotiate a franchise with any city, village, or township;

WHEREAS, Local communities' participation in the cable franchising process ensures build-out requirements so that all residents irrespective of age, race, education, or income level, receive the same service;

WHEREAS, Our community believes that all residents should have access to the same cable/video service.

NOW, THEREFORE, BE IT RESOLVED, That the City of Troy is **OPEN** for cable/video business, and can guarantee that within days of a formal request we can have a franchise agreement ready for any new cable/video providers consideration;

BE IT FINALLY RESOLVED, That a copy of this resolution **BE FORWARDED** to our state legislators in Lansing, our Congressional representatives in Washington, D.C., Governor Granholm and the Michigan Municipal League.

Vote on Resolution to Amend

Resolution #2006-05-228

Moved by Beltramini

Seconded by Stine

RESOLVED, That Troy City Council hereby **AMENDS** the *Resolution In Support of the Current Local Cable Franchise Agreement System* by **INSERTING**, "BE IT FURTHER RESOLVED, That the Troy City Council hereby **AFFIRMS** its support for the current local cable franchise agreement system;" **BEFORE** "BE IT FINALLY RESOLVED."

Yes: Lambert, Stine, Schilling, Beltramini, Fleming

No: Howrylak

Absent: Broomfield

MOTION CARRIED

Vote on Resolution as Amended

Resolution #2006-05-229

Moved by Lambert

Seconded by Fleming

WHEREAS, Cities and villages have a long and very successful history of supporting the introduction of new cable/video services, a successful deployment made possible in large part by the current system of local cable franchising;

WHEREAS, AT&T and Verizon have been actively advocating across the country that local cable franchise agreements be eliminated;

WHEREAS, AT&T is blaming Michigan communities as the reason they can not enter into the cable/video business, while local communities, and local residents, want more cable competition and would quickly allow AT&T into their community; AT&T has refused to negotiate a franchise with any city, village, or township;

WHEREAS, Local communities' participation in the cable franchising process ensures build-out requirements so that all residents irrespective of age, race, education, or income level, receive the same service;

WHEREAS, Our community believes that all residents should have access to the same cable/video service.

NOW, THEREFORE, BE IT RESOLVED, That the City of Troy is **OPEN** for cable/video business, and can guarantee that within days of a formal request we can have a franchise agreement ready for any new cable/video providers consideration;

BE IT FURTHER RESOLVED, That the Troy City Council hereby **AFFIRMS** its support for the current local cable franchise agreement system;

BE IT FINALLY RESOLVED, That a copy of this resolution **BE FORWARDED** to our state legislators in Lansing, our Congressional representatives in Washington, D.C., Governor Granholm and the Michigan Municipal League.

Yes: Lambert, Stine, Schilling, Beltramini, Fleming

No: Howrylak

Absent: Broomfield

MOTION CARRIED

F-6 Amendment to Chapter 20 of the City Code (Water and Sewer Rates)

Resolution #2006-05-230

Moved by Lambert

Seconded by Beltramini

RESOLVED, That Troy City Council hereby **APPROVES** an amendment to Chapter 20, Water and Sewer Rates, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: Stine, Schilling, Beltramini, Fleming, Lambert

No: Howrylak

Absent: Broomfield

MOTION CARRIED

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Commercial Vehicle Appeal Renewal – 6881 Westaway – June 5, 2006
 - b) Rezoning Application (Z 704) – Proposed Dunkin Donuts, South Side of Vanderpool, West of Rochester Road and East of Ellenboro, Section 22 – R-1E to B-2 – June 5, 2006
Noted and Filed
-

G-2 Green Memorandums:

- a) Revisions to Troy City Code Chapter 18 (City Water Utility)
Noted and Filed
-

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) Brownfield Redevelopment Authority/Final – December 15, 2005
 - b) Advisory Committee for Persons with Disabilities/Draft – April 5, 2006
 - c) Advisory Committee for Persons with Disabilities/Final – April 5, 2006
 - d) Advisory Committee for Senior Citizens/Final – April 6, 2006
 - e) Advisory Committee for Senior Citizens/Draft – May 4, 2006
Noted and Filed
-

J-2 Department Reports:

- a) Building Department – Permits Issued During the Month of April, 2006
Noted and Filed
-

J-3 Letters of Appreciation:

- b) Letter of Appreciation from the Souvatzidis Family Regarding the Professionalism and Efforts of Lieutenant Scherlinck
 - c) Letter to Chief Craft from St. Joseph Catholic Chaldean Church Thanking the Troy Police Department for Assistance with Traffic Control During Easter Services
 - d) Letter of Appreciation to Chief Craft from Diana Folleth, Capitol Barricading, Inc., Regarding the Assistance Provided by the Troy Police Department
-

- e) Letter to Chief Craft from Marty Torgler, Combine International, Inc., Commending the Performance and Professionalism of Lieutenant Chuck Pappas
 - f) Letter of Thanks to Chief Craft from Chris Gartner Regarding the Efforts and Professionalism of Officer Rushton
- Noted and Filed

J-4 Proposed Proclamations/Resolutions from Other Organizations:

- a) Resolution from Rose Township – Retaining Local Control of Cable Franchising
- Noted and Filed

J-5 Calendar

Noted and Filed

J-6 Communication from the Troy Police Department Regarding Troy Police Citizens Forum

Noted and Filed

J-7 Southeastern Oakland County Resource Recovery Authority (SOCRRA) – Quarterly Report for April, 2006

Noted and Filed

J-8 Communication from the City Attorney’s Office Regarding Cable Franchise Lawsuit Against the City of Troy

Noted and Filed

J-9 Communication from the City Attorney’s Office Regarding Carrie Zanoni v. City of Troy, Officer Jones, and Sergeant Stout

Noted and Filed

J-10 Communication from the Director of Building and Zoning Mark Stimac Regarding Commercial Vehicle Appeal – 3463 Crooks Road

Noted and Filed

STUDY ITEMS:

-
- K-1 No Study Items Submitted

PUBLIC COMMENT: Address of “K” Items

CLOSED SESSION:

-
- L-1 Closed Session: Review of Applications for Employment for the Position of City Manager Permitted by Resolution #2006-04-188

The meeting **RECESSED** at 9:46 P.M.

The meeting **RECONVENED** on Tuesday, May 16, 2006 at 1:21 A.M.

The meeting **ADJOURNED** on Tuesday, May 16, 2006 at 1:22 A.M.

Louise E. Schilling, Mayor

Barbara A. Holmes, Deputy City Clerk

**PROCLAMATION TO HONOR
JOSEPH HADDAD
2005 POLICE OFFICER OF THE YEAR**

WHEREAS, Officer Joseph Haddad has been a member of the Troy Police Department since 1996, and currently serves as a field training officer, evidence technician, special response team member, crisis negotiator, honor guard member, and firearms instructor; and

WHEREAS, His selection was based on his commitment to both the department and the community, as well as his superior performance, hard work and dedication to duty; and

WHEREAS, Officer Haddad has used his fluency in Arabic to communicate with residents in need of police service, and acts as the Department's liaison in developing action plans in English and Arabic for a local church to manage holiday traffic and parking; and

WHEREAS, With his professional demeanor, **Officer Haddad** has been called upon to recruit new Police Officers at events held at universities throughout Michigan; and

WHEREAS, Achievements in **Officer Haddad's** career include a Meritorious Service Medal and numerous commendations and letters of positive performance from citizens and businesses in conjunction with his service as a Police Officer; and

WHEREAS, Since 1986, **Officer Haddad** has served in the U.S. Army, where he is currently a Command Sergeant Major in the U.S. Army Reserves; and

WHEREAS, Officer Haddad goes above and beyond the call of duty and is a tremendous asset to the Troy Police Department.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Troy, does hereby join with the citizens of Troy, to express sincere congratulations to **Officer Joseph Haddad** on the occasion of being chosen **2005 Police Officer of the Year** by the Troy Police Department.

BE IT FURTHER RESOLVED that the City Council commends **Officer Haddad** for his achievement, leadership and dedicated service to the citizens of Troy.

Presented this 5th day of June 2006.

**PROCLAMATION TO HONOR
SHERRY LEVEQUE
2005 NON-SWORN POLICE DEPARTMENT
EMPLOYEE OF THE YEAR**

WHEREAS, Sherry LeVeque has served the Troy Police Department since March 1996 when she was hired as a Police Service Aide. She was promoted to her current position of Civilian Communications Supervisor in January 1999; and

WHEREAS, Sherry is being honored as the **2005 Non-Sworn Police Department Employee of the Year** for her outstanding performance, dedication to her position, professionalism, and commitment to providing the best service to the residents of Troy; and

WHEREAS, Sherry played a key role in developing the Communications Training Program for new hires which has become a model policy for other dispatch agencies seeking training programs; and

WHEREAS, As an Associated Public-Safety Communications Officer Training Officer, **Sherry** instructs training courses for emergency services dispatchers around the State of Michigan each year; and

WHEREAS, Sherry has received 12 Letters of Commendation from the Police Department, a Department Commendation, and letters of positive performance from citizens and businesses; and

WHEREAS, Through **Sherry's** leadership, hard work and commitment to providing quality service, the Troy Police Department has gained the respect of the community and other law enforcement agencies.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Troy, does hereby join with the citizens of Troy, to express sincere congratulations to **Sherry LeVeque** on the occasion of being chosen **2005 Non-Sworn Employee of the Year by the Troy Police Department.**

BE IT FURTHER RESOLVED that the City Council commends **Sherry** for her achievement, leadership and dedicated service to the citizens of Troy.

Presented this 5th day of June 2006.

**PROCLAMATION TO HONOR
DARYL KLINKO
2006 FIRE FIGHTER OF THE YEAR**

WHEREAS, Daryl Klinko has been a volunteer Fire Fighter since joining Troy's Fire Station 6 in 1986; and

WHEREAS, His selection as **Fire Fighter of the Year** is due to his over 20 years of dedication to the Troy Fire Department, having served with honor and dignity in all of his roles at the station, including leadership roles; and

WHEREAS, Daryl has served as a Lieutenant, Station 6 Association President, incentive committee representative and safety committee member; and

WHEREAS, Daryl is a role model for Troy's new fire recruits and always willing to share his knowledge and experience with others; and

WHEREAS, In addition to fire service, **Daryl** is employed by General Motors Corp. as the Assistant Director of Health Care Finance and is always willing to provide assistance above and beyond his fire department and career responsibilities, including neighborhood clean-ups, and soup kitchen and rescue mission assistance; and

WHEREAS, Through **Fire Fighter Klinko's** leadership, commitment, hard work and countless hours of service, the Troy Fire Department has become even more efficient in its delivery of quality fire protection to the community.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Troy, does hereby join with the citizens of Troy, to express sincere congratulations to **Fire Fighter Daryl Klinko** on the occasion of being chosen **2006 Fire Fighter of the Year** by the Troy Fire Department.

BE IT FURTHER RESOLVED that the City Council commends **Daryl** for his achievement, leadership and dedicated service to the citizens of Troy.

Presented this 5th day of June 2006.

May 22, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy Assistant City Manager/Services
Jeanette Bennett, Purchasing Director

SUBJECT: **Agenda Item:** Standard Purchasing Resolution 3: Exercise Renewal Option – Uniform Rental Services

RECOMMENDATION

On Monday, July 19, 2004, Troy City Council approved a two-year contract to provide uniform rental services with an option to renew for two additional years to Arrow Uniform of Taylor, MI, the vendor with the highest score and lowest prices, as a result of a best value process (Council Resolution #2004-07-375-E6). The Purchasing Department recommends exercising the option to renew for two additional years under the same pricing, terms and conditions for an estimated annual cost of \$22,000.00, expiring August 31, 2008.

BACKGROUND

The contract outfits an estimated 84 employees with uniforms for uninterrupted service, which requires weekly pickup at the following prices—

DESCRIPTION	COST/MAN/WEEK
Shirts/Pants (Standard) 65/35 poly/cotton blend	\$4.15
Shirts/Pants (Standard) 100% cotton	\$4.98
Coveralls/Shopcoats	\$1.25
Shirts/Pants 50/50 Knit short sleeve shirt/pants 65/35 Poly/Cotton Blend long sleeve shirt/pant	\$5.25
Shirts/Pants (Dress- White) 65/35 poly/cotton blend	\$4.15
Two (2) shopcoats – laundered four (4) times/year	No Charge
REPLACEMENT CHARGES:	
Standard Uniform Pant	\$23.50
Standard Uniform Short/Long Sleeve Shirt	\$18.50
Coverall	\$33.60
Shopcoat	\$32.00

MARKET SURVEY

A market survey is not deemed necessary, as the contract was awarded on a best value process to the bidder who demonstrated the ability to provide the highest level of service and quality uniform meeting the City's specifications.

BUDGET

Funds are available from the operating budgets in the uniform accounts for the Golf Course, Parks, Engineering, Motor Pool, Streets, and Water departments.

From: PURCHASING

248 619 7608

05/08/2006 16:14 #049 P.001/001



May 9, 2006

ATTN: Roger Ulrich
District Manager
Arrow Uniform
Fax #: (586) 758-1081

Dear Mr. Ulrich:

On September 1, 2004, the City of Troy entered into contract #20400074 OB with Arrow Uniform to provide two-year requirements of uniform rental services. The contract may be renewed for two additional years at the same prices, terms, and conditions as the original contract, with the understanding that all uniforms will be exchanged for new at the time of the renewal, as per the specifications for RFP-COT 04-29.

Please fax this letter back indicating if Arrow Uniform wishes to renew this contract until August 31, 2008. Our fax number is (248) 619-7608. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The renewal cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3338.

CHECK ONE:

Arrow Uniform is interested in renewing the contract under the same prices, terms, and conditions:

~~Arrow Uniform is not interested in renewing the contract:~~

X Roger Ulrich
Signed: Authorized Company Representative

Date: 5/17/06

Thank you,
Susan Leirstein
Purchasing Department
City of Troy

May 22, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer

SUBJECT: **AGENDA ITEM** - Standard Purchasing Resolution #1: Award to Low Bidder
Contract 06-6 – New King, Maxwell and Stutz Paving Rehabilitation

RECOMMENDATION

It is recommended that City Council award a contract for the New King, Maxwell and Stutz Paving Rehabilitation project to John Carlo, Inc., 45000 River Ridge Road, Clinton Twp, MI 48035, for their low bid of \$283,754.90 contingent upon submission of proper proposal and bid documents, including insurance certificates, bonds and all specified requirements.

In addition, we are requesting authorization to approve a higher than normal contingency amount; 25% of the original project cost due to the nature of the rehabilitation work on these industrial roads. The work will involve surface milling or grinding of the existing road surface and repair of whatever needs repair following the grinding. The higher contingency is warranted by the unpredictability of the pavement condition following the milling operation.

BACKGROUND INFORMATION

Bids were received and publicly read on May 11, 2006. The low bidder was John Carlo, Inc., as can be seen in the attached tabulation of bids. The Engineer's estimate at the time of bidding was \$419,616. The low bid is therefore \$135,861.10 or 32.38% below the Engineer's estimate.

The work to be performed will include the milling or grinding of the concrete and asphalt sections of New King between Corporate Drive and Crooks, as well as on Stutz and Maxwell streets. After any needed repairs are made to the milled surfaces, two layers of asphalt and an inner-layer paving mat to reduce reflective cracking will be applied to the concrete sections. A single asphalt layer will be applied to the asphalt sections. All contract work is scheduled to be complete by August 31, 2006.

FUNDING

Funds for this work are included in the 2005/06 Major Roads Fund and 2006/07 Major Roads Fund as required, in Industrial Road Maintenance – 401479.7989.300. The budgeted amount includes funds for construction, inspection and contingencies.

- Bids Sent 8 - Bids Rec'd 7

BID TABULATION
NEW KING, MAXWELL & STUTZ PAVEMENT REHABILITATION
CITY OF TROY
OAKLAND COUNTY, MICHIGAN

Bids Due: May 11, 2006
Contract #06-6

	<u>TOTAL BID</u>
John Carlo, Inc.	\$283,754.90
Ajax Paving Ind., Inc.	\$329,166.81
Barrett Paving Materials	\$330,846.70
Florence Cement Co.	\$333,943.50
Cadillac Asphalt, LLC	\$338,124.00
ASIX Asphalt Paving	\$342,338.00
ABC Paving Co.	\$373,583.70

Prepared by: Steven Vandette, City Engineer

May 22, 2006

To: John M. Lamerato, Acting City Manager

From: Jeanette Bennett, Purchasing Director
William S. Nelson, Fire Chief

Subject: **Agenda Item** - Standard Purchasing Resolution 1: Award To Low Bidder – Breathing Apparatus Equipment for the Fire Department

RECOMMENDATION

On May 10, 2006, bid proposals were opened to furnish four (4) complete Self Contained Breathing Apparatus, and ten (10) Upgrade Kits for existing units. City management recommends the purchase be awarded to the sole bidder, Douglass Safety Systems of Rhodes, MI, an authorized distributor of this equipment for an estimated total cost of \$22,590.00 at unit prices contained on the attached bid tabulation.

BACKGROUND

- Special Response personnel will use the new units during hazardous materials incidents.
- The upgrade kits will be used to upgrade the existing units used by the Special Response Unit.

BUDGET

Funds are budgeted in the Fire Department Equipment Account #338.7740.115.

64 Vendors Notified via MITN System

1 No Bid: (1) Company does not handle the product specified.

Prepared by: Richard Sinclair, Assistant Fire Chief

Opening Date -- 5-10-06
 Date Prepared -- 5/19/06

CITY OF TROY
 BID TABULATION
 BREATHING APPARATUS

VENDOR NAME:

**** Douglass Safety
 Systems LLC**

**PROPOSAL: TO PURCHASE BREATHING APPARATUS EQUIPMENT FOR THE CITY OF TROY FIRE
 DEPARTMENT**

EST QTY	DESCRIPTION			
Units				
4	Survivair Panther Units in accordance with specs <u>No Exceptions</u>	Price/per Each	\$ 3,725.00	
	Quoting on Style:		Survivair Panther	
	Manufactured by:		Survivair	
	COMPLETE FOR THE SUM OF:		\$ 14,900.00	
<u>Additional Equipment Upgrades:</u>				
8	Heads Up Display Upgrades for Survivair SIGMA SCBA	Price/Per Each	\$ 855.00	
	COMPLETE FOR THE SUM OF:		\$ 6,840.00	
2	Heads Up Display Upgrades for Panther SCBA	Price/Per Each	\$ 425.00	
	COMPLETE FOR THE SUM OF:		\$ 850.00	
	ESTIMATED GRAND TOTAL:		\$ 22,590.00	
AUTHORIZED DEALER	Yes No		XX	
EXTENSION OF AWARD TO OTHER FIRE DEPARTMENTS:	Yes No		XX	
CONTACT INFORMATION:				
Hours of Operation:			8am-5pm	
Phone Number:			989.879.7400	
TERMS:			Net 30 Days	
WARRANTY:			Attached to Bid	
DELIVERY DATE(S)			4 - 6 Weeks	
EXCEPTIONS:			Blank	
ACKNOWLEDGEMENT	Y or N		Yes	

NO BIDS:
 Fire Equipment Co Inc

**** DENOTES SOLE BIDDER**

ATTEST:
 Charlene McComb
 Rick Sinclair
 Linda Bockstanz

 Jeanette Bennett
 Purchasing Director

May 25, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Mary Redden, Admin. Assistant to City Manager

SUBJECT: Agenda Item – Standard Purchasing Resolution #10: Travel Authorization and Approval to Expend Funds on City Council Member Travel Expenses - Michigan Municipal League Board of Trustees Meetings

BACKGROUND

Council Member Robin Beltramini has been appointed to the Michigan Municipal League Board of Trustees. This appointment will require attendance of three out-of-town meetings: a budget discussion, a weekend strategic planning session and a one- or two-day mid-year meeting. Additional board meetings will be held in conjunction with the annual convention and legislative conference.

RECOMMENDATION

It is recommended that City Council issue blanket approval of Council Member Beltramini's attendance of all meetings associated with her appointment to the Michigan Municipal League Board of Trustees.

Funds are available in Council's education and training account #102.7960.



**MICHIGAN
MUNICIPAL
LEAGUE**

March 21, 2006

Robin Beltramini
Councilmember
City of Troy
500 W Big Beaver Rd.
Troy, MI 48084-0851

Dear Robin,

I am pleased to inform you that you have been appointed to the Michigan Municipal League Board of Trustees, effective March 21, 2006.

The Trustees and I look forward to working with you and having you as a member of the team.

Sincerely,

Dan Gilmartin
Executive Director

President
Michael N. Matheny
Mayor, Grand Blanc

Vice President
Clara M. Shepherd
Commissioner,
Muskegon

Trustees
Vicki Barnett
Mayor,
Farmington Hills

Robin E. Beltramini
Councilmember, Troy

Kathleen Buckner
Mayor Pro Tem,
Center Line

Deborah L. Doyle
Councilmember,
Durand

Dana W. Foster
City Manager, Brighton

George Heartwell
Mayor, Grand Rapids

Kwame M. Kilpatrick
Mayor, Detroit

Linda L. Gedeon-Kuhn
Commissioner,
Bridgman

Florence E. Schrader
Treasurer, Ubly

John C. Siira
City Manager,
Wakefield

Gladys A. Solokis
Mayor, Gaylord

William R. Stewart
City Manager,
Coldwater

Karl S. Tomion
City Manager, Midland

Kenneth Tousignant
Mayor, Iron Mountain

Gary Tuzinowski
Councilmember,
Algonac

John J. Zech
City Manager, Wayne

Executive Director
Daniel P. Gilmartin

May 16, 2006

To: John M. Lamerato, Acting City Manager

From: Gert Paraskevin, Information Technology Director
Jeanette Bennett, Purchasing Director
Charles Craft, Chief of Police

Subject: **Agenda Item:** Standard Purchasing Resolution 7: Proprietary Maintenance Service Contract – Motorola Communications

RECOMMENDATION

The Troy Police Department recommends the City renew a six-month contract with Motorola to provide hardware and software maintenance for the Police and Fire Department's 911 system. The period covered by the contract is July 1, 2006 through December 31, 2006, after which Motorola will cease support of the system. The current contract expires on June 30, 2006. The contract is estimated to cost \$13,565.00 for the six-month period.

BACKGROUND

Motorola is the provider of this proprietary hardware and software. Motorola has provided service for the 911 System since installation in 1999. Motorola provides a single point of contact on a 24-hour basis.

Motorola's decision to discontinue support is because the system has become obsolete and no longer sold in their product line. The police department is researching other support options until the system can be replaced. The E911 system is still fully operational with no disruption of service.

BUDGET

Funds are budgeted in the Police Department account number 325.7802.095.



SERVICE AGREEMENT

Attn: National Service Support
 1307 East Algonquin Road
 Schaumburg, IL 60196
 (800) 247-2346

Contract Number: S00001000913
 Contract Modifier: RN24-MAR-06 13:45:38
 Supercedes Agreement(s):

Date: 03/28/2006

Company Name: TROY DEPT OF PUBLIC SAFETY,
 CITY OF
 Attn:
 Billing Address: 500 W Big Beaver Rd
 City, State, Zip: Troy, MI 48084
 Customer Contact: Cathy Brandimore
 Phone:
 Fax:

Required P.O.: No
 Customer # : 1035909920
 Bill to Tag # : 0001
 Contract Start Date: 07/01/2006
 Contract End Date: 12/31/2006
 Anniversary Day: Jun 30th
 Payment Cycle: SEMI ANNUAL
 Tax Exempt: Exempt From All Taxes
 PO # :

Qty	Model/Option	Description	Monthly Ext	Extended
		***** Recurring Services *****		
1	SVC01SVC1101C SVC317AB	INFRASTRUCTURE REPAIR WITH ADV REPL ENH: 911 PSAP(S)	\$76.63	\$459.78
1	SVC320AA	ENH: 911 PRINTER(S)	\$17.41	\$104.46
5	SVC319AB	ENH: 911 CALL TAKER POSITION(S)	\$383.15	\$2,298.90
1	SVC01SVC1102C SVC317AA	DISPATCH SERVICE ENH: 911 PSAP(S)	\$131.22	\$787.32
1	SVC01SVC1103C SVC317AC	NETWORK MONITORING SERVICE ENH: 911 PSAP(S)	\$434.59	\$2,607.54
1	SVC01SVC1104C SVC317AG	TECHNICAL SUPPORT SERVICE ENH: 911 PSAP(S)	\$172.84	\$1,037.04
1	SVC01SVC1413C SVC317AF	ONSITE INFRASTRUCTURE RESPONSE SERVICE - PREMIER OPTION 911 PSAP	\$346.62	\$2,079.72
5	SVC319AF	911 CALL TAKER POSITION	\$698.20	\$4,189.20

SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS	Subtotal - Recurring Services	\$ 2,260.66	\$ 13,563.96
	Subtotal - One-Time Event Services	\$.00	\$.00
	Total	\$ 2,260.66	\$ 13,563.96
	Taxes	-	-
	Grand Total	\$ 2,260.66	\$ 13,563.96

THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA.

Subcontractor(s)	City	State
MOTOROLA SYSTEM SUPPORT CENTER	ELGIN	IL
MOTOROLA SYSTEM SUPPORT CENTER-NETWORK MGMT DO067	SCHAUMBURG	IL
MOTOROLA SYSTEM SUPPORT CTR-CALL CENTER DO066	SCHAUMBURG	IL
MOTOROLA SYSTEM SUPPORT-TECHNICAL SUPPORT DO068	SCHAUMBURG	IL
COMSOURCE INC	ROCHESTER	MI

...ved Statements of Work that describe the services provided on this
...ement. Motorola's Service Terms and Conditions, a copy of which is
...ached to this Service Agreement, is incorporated herein by this reference.

AUTHORIZED CUSTOMER SIGNATURE	TITLE	DATE
-------------------------------	-------	------

CUSTOMER (PRINT NAME)		
<i>Laurice Zielinski</i>	<i>CSM</i>	<i>3-28-06</i>
MOTOROLA REPRESENTATIVE (SIGNATURE)	TITLE	DATE

Laurice Zielinski

MOTOROLA REPRESENTATIVE (PRINT NAME)	PHONE	FAX
--------------------------------------	-------	-----

May 26, 2006

To: John M. Lamerato, Acting City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol Anderson, Parks and Recreation Director

Subject: **Agenda Item:** Standard Purchasing Resolution 8: - Best Value Award
Infestation Control Services – Landscaping

RECOMMENDATION

On May 12, 2006, request for proposals were opened for three (3) year requirements of Infestation Control Services with an option to renew for three (3) additional one-year periods. City management recommends awarding the three-year contract to Owen Tree Service, Inc., of Attica, MI, the best value proposal as a result of a RFP process at unit prices contained in the attached bid tabulation and chemical listing dated 5/24/06.

The award is contingent upon contractor's submission of properly executed proposal and contract documents, including the insurance and all other specified requirements.

BACKGROUND INFORMATION

In accordance with the City's Integrated Pest Management (IPM) program, whenever an insect exceeds the threshold population (i.e. that population density that is considered unacceptable by the City) preventative measures need be taken to reduce the population to or below threshold levels.

Due to the past warm winters, the following insects have established populations that exceed the threshold levels on the Honeylocust (*Gleditsia triacanthos inermis*). These insects include:

- Mimosa Webworm – *Homadaula anisocentra*
- Calico Scale – *Eulecanium cerasorum*
- Lecanium Scale – *Lecanium* spp.

Defoliation of the honeylocust, large number of caterpillars and the formation of honeydew on hard surfaces generated numerous calls from residents in City sections # 17, 18, 19, and 20 last year. Most recently calls have been received from residents in City sections # 12 and 14.

SELECTION PROCESS

The Request for Proposal to control the above listed insects and for emerald ash borer and gypsy moth were sent out. Interested parties submitted costs for control of these insects by tree injection and ground spraying.

May 26, 2006

To: John M. Lamerato, Acting City Manager
Re: Bid Award – Infestation Control Services – Landscaping

SELECTION PROCESS - continued

Proposals were received from four (4) companies. The four (4) proposals were rated on a pass / fail criteria. Of the four (4) submittals, two (2) met the pass / fail criteria. The two (2) successful companies were then compared based on cost and references. Owen Tree Services had the lowest costs in the MATERIALS & LABOR section. Mike's Tree Surgeons, Inc. had the lowest costs in the SERVICE FEE PROPOSAL section. As the service fees were intended for informational purposes only, the recommendation will go to Owen Tree Services. Their references included other municipal experience as well as being a previous contractor with the City of Troy.

BUDGET

Funds are available in Park and Recreation Capital Account for Subdivision Improvements # 401780.7974.130.

EXECUTIVE SUMMARY INFESTATION CONTROL SERVICES

STATISTICS:

- ◆ **Forty-two (42) Proposal notices were sent to prospective bidders**
- ◆ **Sixty-seven (67) Vendors notified on the MITN System**
- ◆ **Four (4) firms responded to the proposal**
- ◆ **Two (2) firms met the pass / fail criteria**
- ◆ **Owen's Tree Service is the recommended contractor as a result of a best value process**

Selection Process:

1. **Firms were evaluated on Pass / Fail Criteria**
2. **Lowest bidder who passes Phase 1 will be recommended for award**

VENDOR NAME:

	*	Owen's Tree Services	Mike's Tree Service

PROPOSAL: PROVIDE INFESTATION CONTROL SERVICES FOR THE PARKS & RECREATION DEPARTMENT FOR THE 2006 THROUGH 2009 TREE/ACREAGE

VENDOR QUESTIONNAIRE: Y or N	Yes	Yes
EST QTY SERVICE (Material & Labor)	Unit Price	Unit Price
1,000 Trees Municipal Tree Injection	\$ 8.00	\$ 43.75
1,000 Trees Municipal Tree Spraying	\$ 20.00	\$ 21.25
50 Acres Municipal Tree Spraying	\$ 260.00	\$ 295.00
ESTIMATED GRAND TOTAL:	* \$ 41,000.00	\$ 79,750.00

<u>PROPOSAL:</u> SERVICE	HOURLY RATE	HOURLY RATE
Certified Arborist	\$ 65.00	\$ 50.00
Certified Pesticide Applicator	\$ 130.00	\$ 50.00
Mileage Charge (If any)	Blank	N/A
Foreman	\$ 65.00	\$ 45.00
Office Administrator	Blank	\$ 35.00
Ground Crew	\$ 65.00	\$ 30.00
Additional Required Services:	Blank	Blank
Optional / Services etc:	Blank	Blank
Equipment Rates:	Blank	Flatbed Truck \$ 45.00
OVERTIME RATES:	N/A	1.5
SUNDAY RATES:	N/A	2
HOLIDAY RATES:	N/A	3
DISCOUNT	Blank	0%
CHEMICAL PRICE LIST DATED Y or N	Has been provided +>	Attachment H
	Blank	5/11/2006
SITE VISIT: Y or N	Yes	Yes
DATED	5/10/2006	3/23/2006
INSURANCE Can meet	XX	XX
Cannot meet		
1. Mandatory Req. Circled A or B	(B) Blank	A
2. Non-Mandatory Requirement	Blank	Blank
TERMS:	Blank	Net 30
WARRANTY:	Blank	Blank
DELIVERY DATES:	Blank	5/12/2006
EXCEPTIONS:	Blank	See Attachment "G"
ACKNOWLEDGEMENT: Y or N	Yes	No

* DENOTES BEST VALUE PROPOSAL

DMS:
 Charles F Irish Co. \$42,100.00 Reason: Incomplete bid - no detailed equipment list, no experience with primary target insect
 mimosa webworm, limited pool of qualified employees
 Clark's Pest Control \$116,730.00 Reason: Incomplete bid - no detailed equipment list, limited pool of qualified employees

ATTEST:
 Mark Columbo
 Cheryl Stewart
 Linda Bockstanz

NO BIDS:
 JH Hart Urban Forestry
 Rose Pest Solution

Jeanette Bennett
 Purchasing Director



Memorandum

To: John M. Lamerato, Acting City Manager
From: Tonni L. Bartholomew, City Clerk
Date: May 31, 2006
Subject: **Agenda Item:** Standard Purchasing Resolution 4: Contract #071B4200234 State of Michigan and Election Systems and Software, Inc. – Central Count Optical Scan Voting System (Model M650) – Sole Source Vendor

RECOMMENDATION

The City Clerk's Office requests approval and authorization to purchase one (1) Central Count Optical Scan voting system from sole source vendor, Election Systems and Software, Inc. (ES&S) - 11208 John Galt Blvd. Omaha, Nebraska 68137 at a budgeted cost of \$65,000.00 to assist in the tabulation of absent voter ballots for all federal, state and local elections conducted in the City of Troy. This purchase would be effective in the 2006-07 Fiscal Year, with the City of Troy to take delivery on or after July 1, 2006.

The Absentee Ballot System (ABS) consists of a tabulator with modem, ballot box and memory device, and is compatible with the Unity Software previously acquired by the City Clerk's office from ES&S and uses the same ballots printed for the M-100 Voting Devices. The funding for the Unity Software and associated election equipment was provided by participation in the State of Michigan and Oakland County election equipment grant application (Resolution #2004-12-628-E-15) in compliance with the Help America Vote Act (HAVA).

BACKGROUND

The M-650 Central Count Optical Scan voting system is a State of Michigan approved voting system. The M-650 is the only compatible high speed ballot counter with the City of Troy existing equipment and would be secured as a sole source purchase.

The City Clerk's office noticed a significant delay in results directly related to the usage of the M-100 voting devices in the Absent Counting Board. The M-100 processes ballots at approximately 4 per minute compared to the 300 ballots per minute processed by the M-650. The City Clerk's office anticipates approximately 11,000 Absent Voter ballots being cast this November with the possibility of a

significant absent voter increase during large Presidential Elections. The M-100 would not be adequate for processing ballot during large State-wide elections.

The availability of the M-650 is extremely limited and therefore the City Clerk's office believes it imperative to expeditiously move this item forward to get in the delivery queue.

BUDGET

Funds for this voting system are available, Budget Line #192-7978.



**APPENDIX F
COST PROPOSAL FORM**

Page 1 of 3

Price Breakdown – Mandatory Items	Model/Version	A. Unit Price (ea.)	B. Unit Price (ea.) Including G and A	C. Performance Guarantee		
				Performance Bond Cost per Unit	Insurance Cost per Unit	Other Solution Cost per Unit
Precinct Count Optical Scan voting system tabulator with modem, ballot box and two(2) PCMCIA cards	Model M100	\$5,528.00 (see Appendix G, Page 1 of 2)	\$5,528.00 (see Appendix G, Page 1 of 2)	\$233	None	None
County based Election Management System (EMS)	UNITY	\$0	\$0	\$0	--	--
Jurisdiction based Election Management System (EMS)	UNITY	\$0	\$0	\$0	--	--

Price Breakdown – Optional Items	Model/Version	Unit Price (ea.)
Central Count Optical Scan voting system Absentee Ballot System (ABS) tabulator with modem, ballot box and memory device	Model M650	\$30,000 - up to 20,000 Registered Voters \$40,000 – over 20,000 Registered Voters \$65,000 – over 100,000 Registered Voters
Voting Booth	Model VI	\$160
Approved Ballot Storage Container	Secrecy Sleeve	\$2.50 (Other containers are available as set forth in our January 27, 2004 Price Clarifications Response)
Memory Device	PCMCIA Card	\$98
Memory Device Transport Container		\$10 to \$12 each, subject to approval by the Department of Elections
Extra Optical Scan Tabulators	Model M100	\$4,492 (includes base price of \$3,925, 3 year warranty and shipping. Purchase of additional units will not result in an increase in post warranty EMS maintenance fees)
Jurisdiction based Election Management System (EMS)		

Note: pricing for the Optional items (other than the Model M100) does not include shipping.

Optional Post Warranty Maintenance	Year 1	Year 2	Year 3	Year 4	Year 5
Annual maintenance price per Precinct Count Optical Scan unit	\$133	\$137	\$142	\$147	\$153
Annual maintenance price per EMS	\$88	\$88	\$91	\$94	\$97
Annual maintenance price per High Speed ABS	\$2,000	\$2,072	\$2,144	\$2,216	\$2,300

April 6, 2006

To: John M. Lamerato, Acting City Manager

From: Brian Murphy, Assistant City Manager/Services
Carol Anderson, Parks and Recreation Director

Subject: Agenda Item: Medi-Go Service Agreement

Recommendation

Attached please find the annual agreement with Troy Medi-Go for 2006-2007. This agreement states that the City will fund Medi-Go \$170,000 or the entire municipal community credits transferred from SMART (estimated at \$174,581 for 2006-07).

Background

Municipal credits are state-authorized funds that are divided among every city, township and village in Oakland, Wayne and Macomb Counties on a per capita basis. Community credits are a direct result of the SMART millage that provides opt-in communities with additional funds. Until 2004, the City of Troy returned these funds to SMART for the operation of Troy's Dial-A-Ride and funded Medi-Go from the General Fund. The amount of funding for Medi-Go had grown to \$170,000 in 2003.

In 2004, when we combined Dial-A-Ride operations with Birmingham, additional SMART funds became available for this service. This enabled us to use our municipal and community credits for Medi-Go. Thus we no longer use money from the General Fund for Medi-Go.

The amount of the credits may vary from year to year due to an automatic increase for inflation, match requirements, etc. We have agreed to give Medi-Go \$170,000 or our total municipal and community credits, whichever is greater. In FY 2004 and 2005, our credits totaled \$170,911. This year, the total will be \$174,581.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

**AGREEMENT BETWEEN
THE CITY OF TROY, MICHIGAN AND TROY MEDI-GO**

This agreement is made by and between the City of Troy, Michigan, a Michigan municipal corporation, whose address is 500 W. Big Beaver Road, Troy, Michigan 48084, hereinafter called "Troy", and Troy Medi-Go, a Michigan non-profit corporation whose address is 3179 Livernois, Troy, Michigan 48083, hereinafter called "Medi-Go".

PURPOSE

To provide financial support from Troy to Medi-Go for the purpose of maintaining a program to provide transportation service for senior citizens and physically handicapped residents of Troy, Michigan.

MEDI-GO RESPONSIBILITIES:

Medi-Go shall provide the following services for senior citizens and physically handicapped individuals who are residents of Troy through the fiscal year, July 1, 2006, through June 30, 2007:

1. Provide four (4) passenger vans with handicapped lifts operating approximately forty (40) hours per week.
2. Provide experienced and properly licensed drivers to operate the passenger vans. Those drivers' traffic records shall be screened by Medi-Go to insure that those drivers have good driving records and will not be a threat to the users health, safety or welfare.
3. Arrange for storing the passenger vans.
4. Provide a central scheduling person to implement the transportation services.

MEDI-GO FURTHER AGREES:

1. To maintain fiscal records and files, including appropriate income and expense ledgers.
2. To permit an independent auditor representing Troy to audit accounts of income and expenses relating to Troy's contribution with findings to be submitted to Troy.

3. To comply with all state and local regulations covering the use of passenger vans.
4. To indemnify, save and hold harmless Troy, its employees, officers, and agents, and affiliated entities from any losses, damages, judgments, claims, expenses, costs, and liabilities, including attorney fees and legal expenses, which may arise from, be caused directly by or in any way relate to the service provided by, or any act or omission of Medi-Go or its officers, directors, employees, agents or volunteers.
5. To furnish information requested by Troy indicating the use of the service by the senior citizens and handicapped residents of Troy.
6. Prior to execution of this Agreement by Troy, Medi-Go shall furnish a copy of a certificate of insurance indicating coverage for general liability, automobile liability and workers' compensation liability. Medi-Go shall maintain insurance as set out in this paragraph during the term of this Agreement.
7. Medi-Go shall not assign this Agreement to any other individual or entity without Troy's prior approval.

TROY'S RESPONSIBILITIES:

1. Provide general fund payment of \$170,000.00 or entire municipal community credits transferred from SMART (whichever is more) to be paid on or after July 1, 2006. (Intent is for Medi-Go to receive not less than \$170,000 total funding.)
2. Recognize Medi-Go's autonomy in determining its own personnel and operating policies.
3. Assist, if possible, in disseminating information about the service to senior citizens and handicapped residents of Troy.
4. Make available at the Troy Community Center information regarding the Medi-Go service.

AGREEMENT PERIOD:

This agreement is in full force and effect from July 1, 2006, through June 30, 2007.

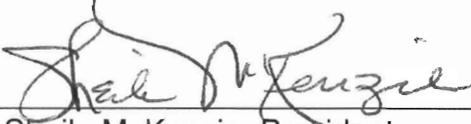
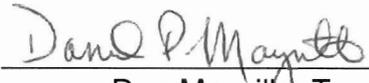
CONTRACT APPROVAL:

CITY OF TROY

By: _____ By: _____
Louise Schilling, Mayor Tonni Bartholomew, City Clerk

Date: _____ Date: _____

TROY MEDI-GO

By:  By: 
Sheila McKenzie, President Dan Mayville, Treasurer

Date: 3/23/06 Date: 3/30/06

May 22, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven Vandette, City Engineer

SUBJECT: Agenda Item - Private Agreement for People's State Bank
Project No. 05.931.3

The Engineering Department has reviewed and approved plans for this project, which includes paving, storm sewer, water main and sidewalk.

The Owner has provided a letter of credit for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

Prepared by: Gary Streight, P.E.
Civil Engineer

cc: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director

G:\Projects\Projects – 05.931.3\Private Agreement Cover Letter.doc

Enclosed Private Agreement

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO.	05.931.3	PROJECT LOCATION:	30 E. Long Lake
RESOLUTION NO.		DATE OF COUNCIL APPROVAL:	

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and **Troy Long Lake, L.L.C.**, whose address is **38700 Van Dyke, Suite 200, Sterling Heights, MI 48312** and whose telephone number is **(586)977-8000** hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of **paving, storm sewer, water main and sidewalk** in accordance with plans prepared by **Wade Trim** whose address is **3933 Monitor Road, Bay City, MI 48707** and whose telephone number is **(989)686-3100**, and approved BY THE City of Troy Engineering Department.

SECOND: That the Owners agree to contribute the approximate contract price of **\$30,480.00**. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

Cash	<input type="checkbox"/>
Certificate of Deposit	<input type="checkbox"/>
Irrevocable Bank Letter of Credit	<input checked="" type="checkbox"/>
Check	<input type="checkbox"/>
Performance Bond & 10% Cash	<input type="checkbox"/>

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City after final inspection and approval by the City of Troy Engineering Department. In addition, the owners agree to contribute the following cash fees:

* Plan Review and Construction Inspection Fee (Public Improvements)	\$	2,468.88
Engineering Review Fee (Private Improvements) (PA1)	\$	4,646.02
Water Main Testing Fee (PA2)	\$	650.00
Street Cleaning/Road Maintenance (Refundable)	\$	5,000.00
TOTAL:	\$	\$12,764.90

* 8.1% (.081) of approximate contract price

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS**(PRIVATE AGREEMENT)****PROJECT NO. 05.931.3****PROJECT LOCATION:****30 E. Long Lake****RESOLUTION NO.****DATE OF COUNCIL APPROVAL:**

THIRD: Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of \$ 43,244.90 for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, including, but not limited to, field changes or specification changes as required by the City, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and the City will disburse such additional amounts in accordance with Paragraph SECOND hereof.

SIXTH: Owners agree to indemnify and save harmless the City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 05.931.3

PROJECT LOCATION:

30 E. Long Lake

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this
26th day of APRIL, 2006.

OWNERS

CITY OF TROY

By: [Signature]

By:

MARK DRANE MANAGING MEMBER,
Please Print or Type TROY LONG LAKE LLC

Louise E. Schilling, Mayor

Please Print or Type

Tonni Bartholomew, City Clerk

Subscribed and sworn to before me
on this 26th Day of April, 2007.

[Signature]

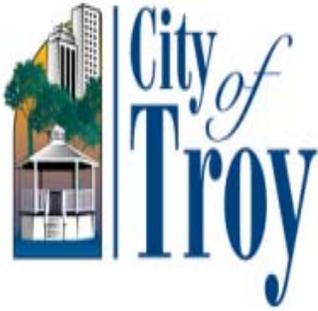
KEITH PHILIPS
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Nov 21, 2010
ACTING IN COUNTY OF Oakland

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this _____ day of _____, A.D.20_____, before me personally
appeared _____ known by me to be
the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and
deed.

NOTARY PUBLIC, Oakland County, Michigan

My commission expires: _____



Memorandum

To: John M. Lamerato, Acting City Manager
From: Tonni L. Bartholomew, City Clerk
Date: May 22, 2006
Subject: State of Michigan Election Equipment Grant Application Authorization

The City of Troy is slated to receive new election equipment to be utilized by individuals with disabilities pursuant to the Help America Vote ACT (HAVA). As part of the implementation process, the City is required to submit a grant application to the State of Michigan, prior to May 18, 2006.

The City Clerk's Office received the grant application information from the State on Monday, May 15, 2006 with notification to return the completed application by Thursday, May 18, 2006. The communication was received past the deadline of the May 15, 2006 City Council Agenda and therefore the Clerk's Office targeted the City Council Agenda of June 5, 2006 for Council approval and notified the State of Michigan of our intent. In follow-up communications with the State of Michigan it was determined that it is in the best interest of the City of Troy as well as other Oakland County communities to submit the application as requested by the State and that action on this item at the June 5, 2006 City Council meeting will not jeopardize the funding of this grant.

The grant provides equipment at no cost to the City of Troy. The grant application was forwarded to the City Attorney for review and upon a positive review of the City Attorney; the City Clerk completed the authorization for timely submittal.

City Management requests that Council ratify the agreement at their June 5, 2006 Regular City Council meeting. The following resolution has been provided to accomplish the ratification of the grant application.

The Grant Application provides for the purchase of the AutoMARK ballot marking devices and related Election Management System (EMS) programming software. The AutoMARK is the only election device approved by the State of Michigan to be used to satisfy the Federal mandate contained in the HAVA legislation. The device will be used statewide with all three state approved election systems. Federal Law stipulates that the AutoMark voting device be utilized beginning with the August 8, 2006 Primary Election.



STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

**Accessible Voting Systems
Grant Agreement Instructions**

May 10, 2006

To all County, City and Township Election Officials:

In order to proceed with the purchase of the new accessible voting systems, all counties, cities and townships must enter into a Grant Agreement with the Michigan Department of State. Enclosed in this mailing is your Grant Agreement. Please review and sign this agreement and return it to the Bureau of Elections as soon as possible at the address indicated below.

HAVA requires that at least one device accessible to individuals with a wide range of disabilities must be available in every polling location beginning with our August 2006 state primary election and for all elections to follow. You recently received details of the contract and selection process that has taken place over the past several months and resulted in a statewide contract with Election Systems and Software, Inc. (E S & S) to furnish AutoMARK ballot marking devices and programming software.

The enclosed Grant Agreement establishes the roles and responsibilities of the State, counties and local jurisdictions and must be signed by every county, city and township clerk. In addition, you must identify a Grant Manager who will serve as its single point of contact with the Department of State. This person may be the person authorized to sign the grant, or another person who will be responsible for record-keeping and other responsibilities with respect to the purchase of your new accessible voting system.

The Grant Agreement lists the number of ballot marking devices each jurisdiction will receive, as well as criteria for allocating this equipment to individual polling locations. Each county clerk will also receive one copy of the AutoMARK Information Management System (AIMS) programming software which can be distributed for use at the local jurisdiction level as well. Note that programming requirements for the AutoMARK system are much less extensive than those needed for optical scan ballot production. In fact, the AIMS system uses the final ballot file produced by your optical scan system and walks you through a step-by-step process to format the AutoMARK system. We will work directly with E S & S and AutoMARK to coordinate and pay for all programming required for the August primary and November general elections. Training will also be offered to all counties and interested jurisdictions on AIMS programming.

- OVER -

Note that no changes may be made to the text of the Grant Agreement. No changes may be made to the listed equipment numbers.

Please review this document, sign it, and return it no later than **Thursday, May 18, 2006** to:

Michigan Department of State
Bureau of Elections
Attention: Terri Williams
P.O. Box 20126
Lansing, MI 48901-0726

To save time, you may fax the completed Grant Agreement to the Bureau of Elections at 517-241-1592. You *must* follow up the fax by mailing the original signed document.

If your Grant Agreement is not returned by May 18, purchase of your new voting system may be delayed and orders for your entire county may be adversely affected. This will delay training for election officials and voters.

Once Grant Agreements are received, we will process equipment orders on a county-wide basis. Orders will be sent directly to E S & S. You will also be notified at the time your order is placed and receive details of upcoming steps involving delivery, training, testing and payment authorization.

Questions regarding the completion and submission of the Grant Agreement or concerns about the purchase process in general should be directed to **Terri Williams 517-241-2538** or by e-mail at **electionspdd@Michigan.gov**. Questions regarding the terms of this Grant Agreement must be submitted in writing to Tim Hanson, the Department of State's Grant Manager, at **HansonT@Michigan.gov**.

The Bureau of Elections will work very closely with E S & S to develop final delivery, testing and training schedules to ensure your needs are met and all election processes go as smoothly as possible this year. You can expect to receive regular communication from our office as this implementation gets underway. We expect to begin processing equipment orders within the next couple of weeks, and plan to follow the same general process that we used in coordinating the purchase and rollout of the new optical scan systems throughout the state.

Thank you for your help.

**STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
AND**

**City of Troy, Oakland County
Help America Vote Act (HAVA) Grant Agreement¹
AutoMARK Ballot Marking Devices and
AutoMARK Information Management Software (AIMS)**

**RE: Master Contract
071B6200250--Election Systems and Software, Inc. (E S & S)**

This Grant Agreement is the mechanism by which the State of Michigan awards accessible voting systems for use by individual with disabilities to counties and local jurisdictions, pursuant to HAVA.

Definitions:

“Ballot Marking Device” and *“Equipment”* mean the E S & S AutoMARK Ballot Marking Voter Assist Terminal and related components.

“Contractor” and *“E S & S”* mean Election Systems and Software, Inc.

“County” means any county within the State of Michigan.

“Department” means the Michigan Department of State.

“Grantee” means local jurisdiction or county.

“Local Jurisdiction” means any city or township within the State of Michigan.

“Programming Software” means the AutoMARK Information Management Software (AIMS), used to program the ballot marking device, import optical scan ballot data and format data for use on the ballot marking device.

1. Period of Grant

This grant process applies to statewide purchases of accessible voting systems for use by individuals with disabilities (ballot marking devices and related programming software) occurring in 2006.

¹ Detailed information on this Federal program and uses of funding can be found in the Catalog of Federal Domestic Assistance (CFDA): program number 90.401 - Help America Vote Act Requirements Payments (www.cfda.gov; search by program number).

2. Background and Overall Process

This Grant Agreement is to implement the federal Help America Vote Act of 2002 (HAVA, Public Law 107-252, Title III Section 301) and Michigan election law by establishing a Grant Agreement to use HAVA funds to acquire and implement a statewide accessible voting system for use by individuals with disabilities. This grant applies only to the acquisition and implementation of ballot marking devices and related components and software required to program the devices.

The Michigan Department of Management and Budget, on behalf of the Michigan Department of State, has entered into a Master Contract with E S & S establishing statewide prices for ballot marking devices, programming software and other optional equipment and services.

E S & S will be required to enter into a contractual "purchase agreement" with each county and local jurisdiction. Typically, this document is the purchase agreement provided by the Contractor. The terms and conditions of this agreement shall not conflict in any way with the Master Contract. The terms of the Master Contract will supercede any conflicting terms in the purchase agreement.

E S & S will enter into a software license agreement with each county which provides details regarding the acceptable use of programming software by county staff and any jurisdiction in the county. The license agreement shall not conflict in any way with terms contained in the Master Contract. The terms of the Master Contract supercede any conflicting terms in the license agreement.

The Department will determine quantities of equipment provided to each county and jurisdiction based on the criteria listed in Section 3. The itemized list of equipment to be granted to City of Troy, Oakland County is listed in Section 13. If changes to quantities of equipment are required and approved, instructions for amending the Grant Agreement will be provided and the Grantee will be required to enter into a new Grant Agreement.

The Department will process purchase orders on behalf of all counties and local jurisdictions and will forward this information to E S & S. Once all Grantees in a county have submitted written certification to the Department that equipment and programming software have been delivered, tested and accepted, E S & S will invoice the Department for 85% of the total purchase order. Once election results have been certified for the November 2006 general election, E S & S will invoice the Department for the remaining 15% of the total purchase order. All orders, invoices and payments will be issued on a county-by-county basis. The Department will issue payments directly to the Contractor upon receipt and verification of all necessary certifications from counties and local jurisdictions.

3. Equipment and Programming Software Allocation Criteria

HAVA requires that each polling location have available for use a minimum of one voting system accessible to voters with a wide variety of disabilities. The Department will determine quantities of equipment based on the following criteria:

Ballot Marking Devices:

--Jurisdictions will receive ballot marking devices based on the number of precincts voting in each polling location as follows:

- o 1 or 2 precincts: 1 ballot marking device
- o 3 or 4 precincts: 2 ballot marking devices
- o 5 or 6 precincts: 3 ballot marking devices

NOTE: Counties and local jurisdictions will be responsible for final allocation of equipment to individual polling locations based on this criteria.

--County level: each county will receive 1 ballot marking device.

--“Extra” devices will be allocated to jurisdictions based on the following criteria:

- o Registered Voter Count (RVC) less than 25,000: no additional ballot marking devices
- o RVC between 25,000 – 50,000: 1 additional ballot marking device
- o RVC between 50,000 and 90,000: 2 additional ballot marking devices
- o RVC between 90,000 and 140,000: 3 additional ballot marking devices
- o RVC over 140,000: number of additional ballot marking devices to be determined on a case-by-case basis.

NOTE: Jurisdictions may allocate “extra” devices at their discretion. Extra devices should be used as backup in the case of equipment failure or malfunction.

Programming Software:

--Each county will receive one copy of AIMS programming software.

--Counties have authority to approve use of this software by individual jurisdictions within the county.

4. Grant Process

Each Grantee will complete the Grant Agreement and forward it to the Department at the address indicated in the instructions provided. The Department will review and, once executed, provide the Grantee with a copy of this Grant Agreement. The Department will initiate equipment orders directly with the Contractor, and will provide the Grantee with necessary instructions, forms and other pertinent information related to all aspects of the purchase and contract processes.

The Grantee is responsible for overseeing its purchase agreement with the Contractor and is responsible for ensuring Contractor performance. The Grantee must address any subsequent malfunction or performance issue with any equipment or software included in this grant. The Grantee is responsible for maintaining any and all Contractor performance records. The Grantee has the sole responsibility to verify Contractor compliance with delivery dates, terms and conditions of delivery and testing and all other requirements in accordance with the Master Contract. The Grantee will be responsible for maintenance, repairs or additional costs incurred that are not covered by warranty provisions in the Master Contract.

5. Testing, Acceptance, Election Certification and Payments

- a. Successful acceptance testing of all equipment and programming software must be completed within 10 calendar days from the date of delivery:
- b. Upon successful completion of all acceptance testing, the Grantee must immediately complete the *Accessible Voting System Receipt/Acceptance Form* and forward the completed form to the Department.
- c. The *Accessible Voting System Receipt/Acceptance Form* will indicate date of delivery, certification of successful testing and authorization to the Department to release payment (85% of the original purchase order) to the Contractor on a county-by-county basis.
- d. Upon certification of election results from the November 2006 general election, the Grantee must immediately complete the *Accessible Voting System Election Certification Form* and forward the completed form to the Department.
- e. The *Accessible Voting System Election Certification Form* will certify successful use of the accessible voting system in the November 2006 general election and will authorize the Department to release the final payment (15% of the original purchase order) to the Contractor on a county-by-county basis.
- f. The Department will initiate payment to the Contractor in accordance with the Master Contract.

6. Ownership of Equipment and Software Purchases: Title

Any equipment and programming software purchased pursuant to this Grant Agreement is the property of the Grantee.

7. Optional Purchases

Per the Master Contract, if the Grantee desires to purchase additional items beyond those authorized in this Grant Agreement, it may do so at its sole expense, outside of this Grant Agreement. No HAVA funds will be available for such purchases. Prices established via the Master Contract will be extended to counties and local jurisdictions by the Contractor for this purpose.

8. Records Maintenance/Retention

The Grantee will maintain a complete set of records and files related to the ordering of equipment, programming software, delivery, testing, performance, maintenance and repairs. The Grantee shall assure all the terms of this Grant Agreement are adhered to and that records and detailed documentation regarding this grant shall be maintained for a period of not less than six (6) years from the date of submission of the *Accessible Voting System Election Certification Form* or until any litigation and audit findings have been resolved.

9. Authorized Access

The Grantee will permit, upon reasonable notification and at reasonable times, access to all records regarding this Grant Agreement by representatives duly authorized by state or federal law.

10. Mandatory Conditions

A. Statutory or Regulatory Requirements

The Master Contract is incorporated and is part of the ensuing contract between the Grantee and the Contractor. The Grantee will comply with applicable federal and state laws, guidelines, rules and regulations in carrying out the terms of this Grant Agreement.

Laws

This is a State of Michigan Grant Agreement and is governed by the laws of the State of Michigan. Any dispute arising as a result of this agreement shall be resolved in the State of Michigan.

Validity

This Grant Agreement is valid upon approval by the State Administrative Board and approval and execution by the Department.

Funding

This Grant Agreement is subject to and contingent upon the availability and appropriation of federal funds and any necessary state appropriation.

Costs

The State will not assume any responsibility or liability for costs incurred in relation to this grant.

Cancellation

The Department may cancel this Grant Agreement upon failure to comply with the terms of this agreement.

Entire Agreement

This Grant Agreement shall represent the entire agreement between the State and Grantee and supercedes any prior oral or written agreements, and all other representations between the parties relating to this subject. The State reserves the right to require counties and local jurisdictions to attend required training sessions with regard to new equipment and programming software purchases made under HAVA.

Adherence to Terms

The failure of a party to insist upon strict adherence to any term of this Grant Agreement shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term of this Grant Agreement.

B. Other

Additional terms and conditions may be negotiated in the purchase agreement between the Grantee and the Contractor as long as they do not conflict with the required terms and conditions of this Grant Agreement and the Master Contract.

11. Administration of Agreement

The Grant Manager on behalf of the Department for this Grant Agreement will be:

Timothy Hanson, Director
Program Development Division
Bureau of Elections
PO Box 20126
Lansing, MI 48901-0726
HansonT@Michigan.gov

All questions, comments and correspondence regarding this grant process and the Grant Agreement must be submitted in writing to the Grant Manager.

12. Grantee Contact Information

Note: Grantee to fill in all fields indicated (*) below:

This Grant Agreement is between the Michigan Department of State and:

City of Troy, Oakland County

*Grant Manager for County, City, or Township (point of contact for the State):

Tonni L. Bartholomew (printed name)

*Business Address:

500 W. Big Beaver, Troy, MI 48084

*Business Telephone: (248) 524-3316 *Fax Number: (248) 524-1770

*e-mail address: t.bartholomew@ci.troy.mi.us

May 22, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Douglas J. Smith, Real Estate & Development Director 

SUBJECT: AGENDA ITEM – Request for Acceptance of Sanitary Sewer Easement Agreement and Water Main Easement Agreement, Troy School District – Sidwell #88-20-23-326-001, Project No. 05.926.3 Baker Middle School Addition

In connection with the recent addition to Baker Middle School in the southwest ¼ of Section 23, the Real Estate and Development Department has acquired a Sanitary Sewer Easement Agreement and a Water Main Easement Agreement from Troy School District. The consideration amount on each document is \$1.00.

In order for the Troy School District to proceed with this project, staff recommends that City Council accept the attached easement agreements from Troy School District and authorize the Mayor and City Clerk to sign the agreements on behalf of the City of Troy.

SANITARY SEWER EASEMENT AGREEMENT

THIS SANITARY SEWER EASEMENT AGREEMENT made and entered into this 7th day of February, 2006, between TROY SCHOOL DISTRICT, a Michigan municipal corporation, whose address is 4400 Livernois, Troy, Michigan 48098-4799 (hereinafter referred to as "Grantor"), and the CITY OF TROY, a Michigan municipal corporation, whose address is 500 West Big Beaver Road, Troy, Michigan 48084 (hereinafter referred to as "Grantee").

RECITALS

A. The Grantor is the owner of certain real property described in **Exhibit A** under the heading of "Legal Description of Overall Parcel", which is attached hereto and incorporated by reference (the "Premises"); and

B. The Grantee desires to acquire from the Grantor certain rights to the Premises in order to operate, maintain, repair and/or replace a City owned Sanitary Sewer.

IT IS THEREFORE AGREED:

1. Grant of Easement. In consideration of the sum of One and 00/100 (\$1.00) Dollar, and other valuable consideration, Grantor hereby grants to Grantee a perpetual nonexclusive Sanitary Sewer easement as hereinafter described.
2. Character of Easement. The easement granted herein is appurtenant to the Premises.
3. Purpose of Easement. The easement herein shall be used only for the purpose of the operation, maintenance, repair and/or replacement of the City owned Sanitary Sewer.
4. Location and Description of Easement. The location and legal description of the easement granted herein is described and shown in **Exhibits A and B** and described under the heading of "Legal Description of Sanitary Sewer Easement," which are attached hereto and incorporated herein by reference (the "Easement Area").
5. Operation and Maintenance. The operation, maintenance, repair, and/or replacement of the City owned Sanitary Sewer shall be at the sole cost and expense of the Grantee. During all aspects of any work performed on the Premises, Grantee also covenants and agrees to do the following:
 - a. Immediately backfill and temporarily restore, on a daily basis, all driveways, parking lots and sidewalk areas located upon the Premises and disturbed by virtue of the maintenance or repairs to the City owned Sanitary Sewer until such time as final restoration of the affected areas occur pursuant to Paragraph 6 herein;
 - b. Immediately backfill or fence during working hours all excavations on the Premises when not supervised to ensure safety;
 - c. Fence all equipment and materials during non-working hours so as to prevent access by any licensees, invitees, guests or trespassers;

- d. Provide Grantor with continued access for ingress and egress over, under, through and across the Easement Area;
- e. Provide Grantor with continued access to the Premises; and
- f. Carry on its work to ensure only minimal interference or disruption of Grantor's school operations on the Premises.

6. Restoration. If upon any maintenance, repair, replacement, removal or any such work performed upon the City owned Sanitary Sewer, the Premises have been affected in any manner by said maintenance, repair and/or replacement, Grantee shall, at its sole cost and expense, restore the Premises to a condition as good as its condition prior to such work. Such restoration shall include but not be limited to the following:

- a. The restoration of sodded and grassed areas;
- b. Any driveways, parking lots, sidewalks, bike paths, culverts, curbs and headwalls so disturbed shall be restored with like materials and to matching thickness as prior to Grantee's commencement of any such work;
- c. Any and all shrubbery, removed, destroyed or disturbed in any manner shall be replaced upon completion of such work with like shrubs; and
- d. The restoration of disturbed or destroyed chainlink fencing, if any, located upon the Premises.

Such restoration shall occur not later than sixty (60) days after completion of maintenance, repair, replacement, removal or any such work performed upon the Premises. If, however, weather conditions and/or local frost laws prevent the timely restoration of the Premises, such restoration shall occur not later than the first growing season after completion of the work performed.

7. Grantor's Rights. Grantor also retains, reserves, and shall continue to enjoy the use of the surface of the Easement Area for any and all purposes which do not interfere with or prevent the use by Grantee. If the Grantor or any of Grantor's successors or assigns shall dedicate all or any part of the property affected by this easement, the Grantee and its successors and assigns shall execute all instruments that may be necessary or appropriate to effectuate such dedications, without, however, extinguishing the easement right granted herein.

8. Nonexclusive Easement. The easement, rights, and privileges granted herein are nonexclusive, and Grantor reserves and retains the right to convey similar easements and rights to such other persons as Grantor may deem proper provided such similar easements do not affect Grantee's easement.

9. Insurance. Grantee shall require each contractor performing work on the Premises to keep in force at its sole cost and expense during and until completion of any maintenance, repair, replacement, removal or any such work performed upon the Premises, in a form acceptable to Grantor, an Owner's and Contractor's Protective Policy naming Grantor as the principal insured and shall also require each contractor to name Grantor as an additional insured on all Contractor Policies of insurance with both policies having minimum limits of \$1,000,000.00 on account of bodily injuries to or death of one person, and minimum limits of \$2,000,000.00 on account of bodily injuries or death of more than one person, or such other amounts as Grantor may, from time to time, reasonably request, as a result of any one accident or occurrence; and property damage insurance with minimum limits of \$1,000,000.00, or such other amounts as Grantor may, from time to time, reasonably request. Prior to commencement of any work, Grantee shall provide Grantor with a certificate of insurance or other written evidence of Grantor's coverage as an additional insured, including an endorsement which states that such insurance may not be cancelled except upon ten (10) days prior written notice to Grantor.

10. Liability of Grantee. The Grantee shall be responsible to the Grantor for liabilities incurred by the Grantor, arising out of the actions of the Grantee during the operation, maintenance, repairs or replacement of the City owned Sanitary Sewer on the easement granted. These liabilities shall include costs, expenses, actual attorney fees and liabilities for personal injury or property damage, including damage to property of the Grantor. However, Grantee shall not be responsible for any claims resulting from the actions of Grantor or that of third parties who are not designees,

agents, successors or employees of Grantee. The terms "Grantee" and "Grantor" shall include their designees, agents, successors and employees. Nothing in this clause shall be construed to limit either Grantee's or Grantor's defenses and rights, including the right to assert a claim of governmental immunity.

11. Covenants to Run with Land. The covenants contained in this Agreement shall run with the land and shall be binding upon the parties and their respective heirs, representatives and successors.

12. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any modification of this Agreement must be in writing and must be signed by the party to be charged.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the day and year first above written.

WITNESSES:

Janice M. Shotwell
Rebecca J. Herity

GRANTOR:
TROY SCHOOL DISTRICT

By: Barbara A. Fowler
Barbara A. Fowler, Ph.D.
Its: Superintendent

WITNESSES:

GRANTEE:
CITY OF TROY

By: Louise E. Schilling
Its: Mayor
By: Tonni L. Bartholomew
Its: City Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this 13TH day of February, 2006, before me personally appeared BARBARA A. FOWLER, Superintendent of TROY SCHOOL DISTRICT, a Michigan Municipal Corporation, to me known to be the same person who executed the within instrument on behalf of TROY SCHOOL DISTRICT and who acknowledges the same to be the free act and deed of TROY SCHOOL DISTRICT.

Janice M. Shotwell
Oakland, Notary Public
County, Michigan
Acting in Oakland County, Michigan
My Commission Expires: May 31, 2007

JANICE M. SHOTWELL
Notary Public, Oakland County, MI
My Commission Expires 05/31/2007

EXHIBIT A

LEGAL DESCRIPTION OF OVERALL PARCEL

A PARCEL OF LAND THAT IS THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 23, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE CENTER OF SECTION 23, WHICH IS THE POINT OF BEGINNING OF PARCEL; THENCE S02°15'41"E, 1293.80 FEET; THENCE S86°16'29"W 1303.38 FEET; THENCE N02°21'19"W, 1293.80 FEET; THENCE N86°16'37"E, 1305.50 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION OF SANITARY SEWER EASEMENT

A 20' WIDE STRIP OF LAND, LOCATED IN THE CITY OF TROY, OAKLAND COUNTY, MICHIGAN, THE CENTER LINE OF WHICH IS INTENDED TO FOLLOW THE SANITARY SEWER AS CONSTRUCTED, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 23, WHICH IS THE POINT OF BEGINNING OF OVERALL PARCEL; THENCE S86°16'37"W, 1305.50 FEET; THENCE S02°21'19"E, 546.15 FEET TO THE POINT OF BEGINNING OF SANITARY SEWER EASEMENT; THENCE N74°06'31"E, 162.13 FEET; THENCE N85°59'50"E, 536.25 FEET TO THE POINT OF ENDING OF SANITARY SEWER EASEMENT.



SPALDING DeDECKER ASSOCIATES, INC.

ENGINEERS SURVEYORS

905 SOUTH BLVD. EAST
ROCHESTER HILLS, MI 48307

PH: (248) 844-5400 FAX: (248) 844-5404

www.spaldingdedecker.com

DRAWN: M.KASIM

DATE: 10-03-05

CHECKED: E.HAJ-HAMAD

DATE: 10-03-05

MANAGER:

SCALE: NONE

JOB No. DV04-066

SHEET: 2 OF 2

SECTION 23 TOWN 2 NORTH RANGE 11 EAST

CITY OF TROY

OAKLAND COUNTY, MI

EXHIBIT B

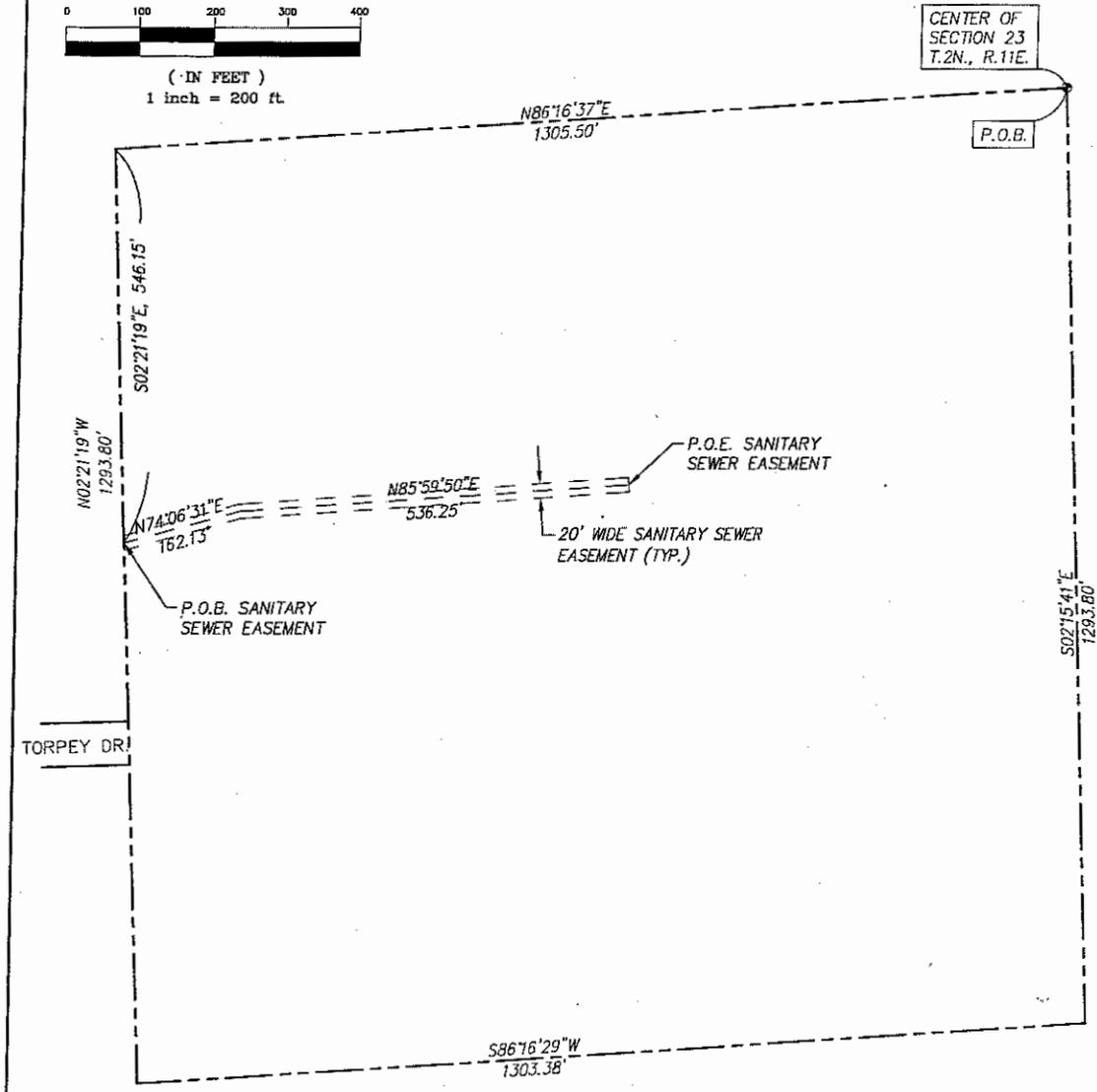


GRAPHIC SCALE



(-IN FEET)
1 inch = 200 ft.

CENTER OF SECTION 23
T.2N., R.11E.



 <p>Engineering & Surveying Excellence Since 1954</p>	<p>SPALDING DeDECKER ASSOCIATES, INC. ENGINEERS SURVEYORS 905 SOUTH BLVD. EAST ROCHESTER HILLS, MI 48307 PH: (248) 844-5400 FAX: (248) 844-5404 www.spaldingdedecker.com</p>	<p>DRAWN: M. KASIM</p>	<p>DATE: 10-03-05</p>
		<p>CHECKED: E.HAJ-MAMAD</p>	<p>DATE: 10-03-05</p>
		<p>MANAGER:</p>	<p>SCALE: 1" = 200'</p>
		<p>JOB No. DV04-066</p>	<p>SHEET: 1 OF 2</p>
		<p>SECTION 23 TOWN 2 NORTH RANGE 11 EAST</p>	
		<p>CITY OF TROY</p>	<p>OAKLAND COUNTY, MI</p>

WATER MAIN EASEMENT AGREEMENT

THIS WATER MAIN EASEMENT AGREEMENT made and entered into this 7th day of February, 2006, between TROY SCHOOL DISTRICT, a Michigan municipal corporation, whose address is 4400 Livernois, Troy, Michigan 48098-4799 (hereinafter referred to as "Grantor"), and the CITY OF TROY, a Michigan municipal corporation, whose address is 500 West Big Beaver Road, Troy, Michigan 48084 (hereinafter referred to as "Grantee").

RECITALS

A. The Grantor is the owner of certain real property described in **Exhibit A** under the heading of "Legal Description of Overall Parcel", which is attached hereto and incorporated by reference (the "Premises"); and

B. The Grantee desires to acquire from the Grantor certain rights to the Premises in order to operate, maintain, repair and/or replace a City owned Water Main.

IT IS THEREFORE AGREED:

1. Grant of Easement. In consideration of the sum of One and 00/100 (\$1.00) Dollar, and other valuable consideration, Grantor hereby grants to Grantee a perpetual nonexclusive Water Main easement as hereinafter described.
2. Character of Easement. The easement granted herein is appurtenant to the Premises.
3. Purpose of Easement. The easement herein shall be used only for the purpose of the operation, maintenance, repair and/or replacement of the City owned Water Main.
4. Location and Description of Easement. The location and legal description of the easement granted herein is described and shown in **Exhibits A and B** and described under the heading of "Legal Description of Water Main Easement," which are attached hereto and incorporated herein by reference (the "Easement Area").
5. Operation and Maintenance. The operation, maintenance, repair, and/or replacement of the City owned Water Main shall be at the sole cost and expense of the Grantee. During all aspects of any work performed on the Premises, Grantee also covenants and agrees to do the following:
 - a. Immediately backfill and temporarily restore, on a daily basis, all driveways, parking lots and sidewalk areas located upon the Premises and disturbed by virtue of the maintenance or repairs to the City owned Water Main until such time as final restoration of the affected areas occur pursuant to Paragraph 6 herein;
 - b. Immediately backfill or fence during working hours all excavations on the Premises when not supervised to ensure safety;
 - c. Fence all equipment and materials during non-working hours so as to prevent access by any licensees, invitees, guests or trespassers;

d. Provide Grantor with continued access for ingress and egress over, under, through and across the Easement Area;

e. Provide Grantor with continued access to the Premises; and

f. Carry on its work to ensure only minimal interference or disruption of Grantor's school operations on the Premises.

6. Restoration. If upon any maintenance, repair, replacement, removal or any such work performed upon the City owned Water Main, the Premises have been affected in any manner by said maintenance, repair and/or replacement, Grantee shall, at its sole cost and expense, restore the Premises to a condition as good as its condition prior to such work. Such restoration shall include but not be limited to the following:

a. The restoration of sodded and grassed areas;

b. Any driveways, parking lots, sidewalks, bike paths, culverts, curbs and headwalls so disturbed shall be restored with like materials and to matching thickness as prior to Grantee's commencement of any such work;

c. Any and all shrubbery, removed, destroyed or disturbed in any manner shall be replaced upon completion of such work with like shrubs; and

d. The restoration of disturbed or destroyed chainlink fencing, if any, located upon the Premises.

Such restoration shall occur not later than sixty (60) days after completion of maintenance, repair, replacement, removal or any such work performed upon the Premises. If, however, weather conditions and/or local frost laws prevent the timely restoration of the Premises, such restoration shall occur not later than the first growing season after completion of the work performed.

7. Grantor's Rights. Grantor also retains, reserves, and shall continue to enjoy the use of the surface of the Easement Area for any and all purposes which do not interfere with or prevent the use by Grantee. If the Grantor or any of Grantor's successors or assigns shall dedicate all or any part of the property affected by this easement, the Grantee and its successors and assigns shall execute all instruments that may be necessary or appropriate to effectuate such dedications, without, however, extinguishing the easement right granted herein.

8. Nonexclusive Easement. The easement, rights, and privileges granted herein are nonexclusive, and Grantor reserves and retains the right to convey similar easements and rights to such other persons as Grantor may deem proper provided such similar easements do not affect Grantee's easement.

9. Insurance. Grantee shall require each contractor performing work on the Premises to keep in force at its sole cost and expense during and until completion of any maintenance, repair, replacement, removal or any such work performed upon the Premises, in a form acceptable to Grantor, an Owner's and Contractor's Protective Policy naming Grantor as the principal insured and shall also require each contractor to name Grantor as an additional insured on all Contractor Policies of insurance with both policies having minimum limits of \$1,000,000.00 on account of bodily injuries to or death of one person, and minimum limits of \$2,000,000.00 on account of bodily injuries or death of more than one person, or such other amounts as Grantor may, from time to time, reasonably request, as a result of any one accident or occurrence; and property damage insurance with minimum limits of \$1,000,000.00, or such other amounts as Grantor may, from time to time, reasonably request. Prior to commencement of any work, Grantee shall provide Grantor with a certificate of insurance or other written evidence of Grantor's coverage as an additional insured, including an endorsement which states that such insurance may not be cancelled except upon ten (10) days prior written notice to Grantor.

10. Liability of Grantee. The Grantee shall be responsible to the Grantor for liabilities incurred by the Grantor, arising out of the actions of the Grantee during the operation, maintenance, repairs or replacement of the City owned Water Main on the easement granted. These liabilities shall include costs, expenses, actual attorney fees and liabilities for personal injury or property damage, including damage to property of the Grantor. However, Grantee shall not be responsible for any claims resulting from the actions of Grantor or that of third parties who are not designees,

agents, successors or employees of Grantee. The terms "Grantee" and "Grantor" shall include their designees, agents, successors and employees. Nothing in this clause shall be construed to limit either Grantee's or Grantor's defenses and rights, including the right to assert a claim of governmental immunity.

11. Covenants to Run with Land. The covenants contained in this Agreement shall run with the land and shall be binding upon the parties and their respective heirs, representatives and successors.

12. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any modification of this Agreement must be in writing and must be signed by the party to be charged.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the day and year first above written.

WITNESSES:

Janice M. Shotwell

GRANTOR:
TROY SCHOOL DISTRICT

By: Barbara A. Fowler
Barbara A. Fowler, Ph.D.

Its: Superintendent

WITNESSES:

GRANTEE:
CITY OF TROY

By: Louise E. Schilling

Its: Mayor

By: Tonni L. Bartholomew

Its: City Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this 8th day of February, 2006, before me personally appeared BARBARA A. FOWLER, Superintendent of TROY SCHOOL DISTRICT, a Michigan Municipal Corporation, to me known to be the same person who executed the within instrument on behalf of TROY SCHOOL DISTRICT and who acknowledges the same to be the free act and deed of TROY SCHOOL DISTRICT.

Rebecca J. Garity
_____, Notary Public
Oakland County, Michigan
Acting in Oakland County, Michigan
My Commission Expires: 9-19-06

REBECCA J. GARITY
Notary Public, Oakland County, MI
My Commission Expires 09/19/2006

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND

On this _____ day of _____, 2006, before me personally appeared Louise E. Schilling, Mayor and Tonni L. Bartholomew, City Clerk, on behalf of the CITY OF TROY, a Michigan Municipal Corporation, to me known to be the same person(s) who executed the within instrument on behalf of the CITY OF TROY and who acknowledges the same to be the free act and deed of the CITY OF TROY.

), Notary Public
 County, Michigan
Acting in _____ County, Michigan
My Commission Expires: _____

Sidwell No. Part of 20-23-326-001

Recording Fee: _____

Drafted by:

Dana L. Abrahams, Esq.
Clark Hill PLC
255 W. Old Woodward – Third Floor
Birmingham, MI 48009
(248) 988-5840

When recorded return to:

City Clerk
City of Troy
500 West Big Beaver Road
Troy, MI 48084

EXHIBIT A

LEGAL DESCRIPTION OF OVERALL PARCEL

A PARCEL OF LAND THAT IS THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 23, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE CENTER OF SECTION 23, WHICH IS THE POINT OF BEGINNING OF PARCEL; THENCE S02°15'41"E, 1293.80 FEET; THENCE S86°16'29"W 1303.38 FEET; THENCE N02°21'19"W, 1293.80 FEET; THENCE N86°16'37"E, 1305.50 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION OF WATERMAIN EASEMENT

A 20' WIDE STRIP OF LAND, LOCATED IN THE CITY OF TROY, OAKLAND COUNTY, MICHIGAN, THE CENTER LINE OF WHICH IS INTENDED TO FOLLOW THE WATERMAIN AS CONSTRUCTED, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 23, WHICH IS THE POINT OF BEGINNING OF OVERALL PARCEL; THENCE S86°16'37"W, 1305.50 FEET; THENCE S02°21'19"E, 871.71 FEET; THENCE N87°38'41"E, 27.07 FEET TO THE POINT OF BEGINNING OF WATERMAIN EASEMENT; THENCE N37°37'14"E, 315.05 FEET; THENCE N03°30'25"W, 67.72 FEET; THENCE N41°29'27"E, 9.96 FEET TO REF. PT. "A"; THENCE N41°29' 27"E, 39.54 FEET; THENCE N86°29' 19"E, 261.05 FEET; THENCE N75°14'19"E, 43.81 FEET TO REF. PT. "B"; THENCE N75°14'19"E, 30.78 FEET; THENCE N85°59'50"E, 181.01 FEET; THENCE S48°51'51"E, 88.57 FEET; THENCE S04°00'10"E, 155.81 FEET; THENCE S48°51'51"E, 26.80 FEET; THENCE S04°00'10"E, 390.34 FEET; THENCE S41°08'09"W, 122.84 FEET; THENCE S86°16'29"W, 20.28 FEET TO REF. PT. "C"; THENCE S86°16'29"W, 436.33 FEET TO THE POINT OF ENDING OF WATERMAIN EASEMENT.

ALSO, COMMENCING AT REFERENCE POINT "A"; THENCE N48°30'33"W, 22.07 FEET TO THE POINT OF ENDING.

ALSO, COMMENCING AT REFERENCE POINT "B"; THENCE S14°45'41"E, 13.83 FEET; THENCE S03°43'35"E, 111.12 FEET TO THE POINT OF ENDING.

ALSO, COMMENCING AT REFERENCE POINT "C"; THENCE N03°43'31"W, 28.98 FEET TO THE POINT OF ENDING.



SPALDING DeDECKER ASSOCIATES, INC.

ENGINEERS SURVEYORS
905 SOUTH BLVD. EAST
ROCHESTER HILLS, MI 48307
PH: (248) 844-5400 FAX: (248) 844-5404
www.spaldingdedecker.com

DRAWN: M.KASIM	DATE: 10-03-05
CHECKED: E.HAJ-HAMAD	DATE: 10-03-05
MANAGER:	SCALE: NONE
JOB No. DV04-066	SHEET: 2 OF 2
SECTION 23 TOWN 2 NORTH RANGE 11 EAST	
CITY OF TROY	OAKLAND COUNTY, MI

EXHIBIT B

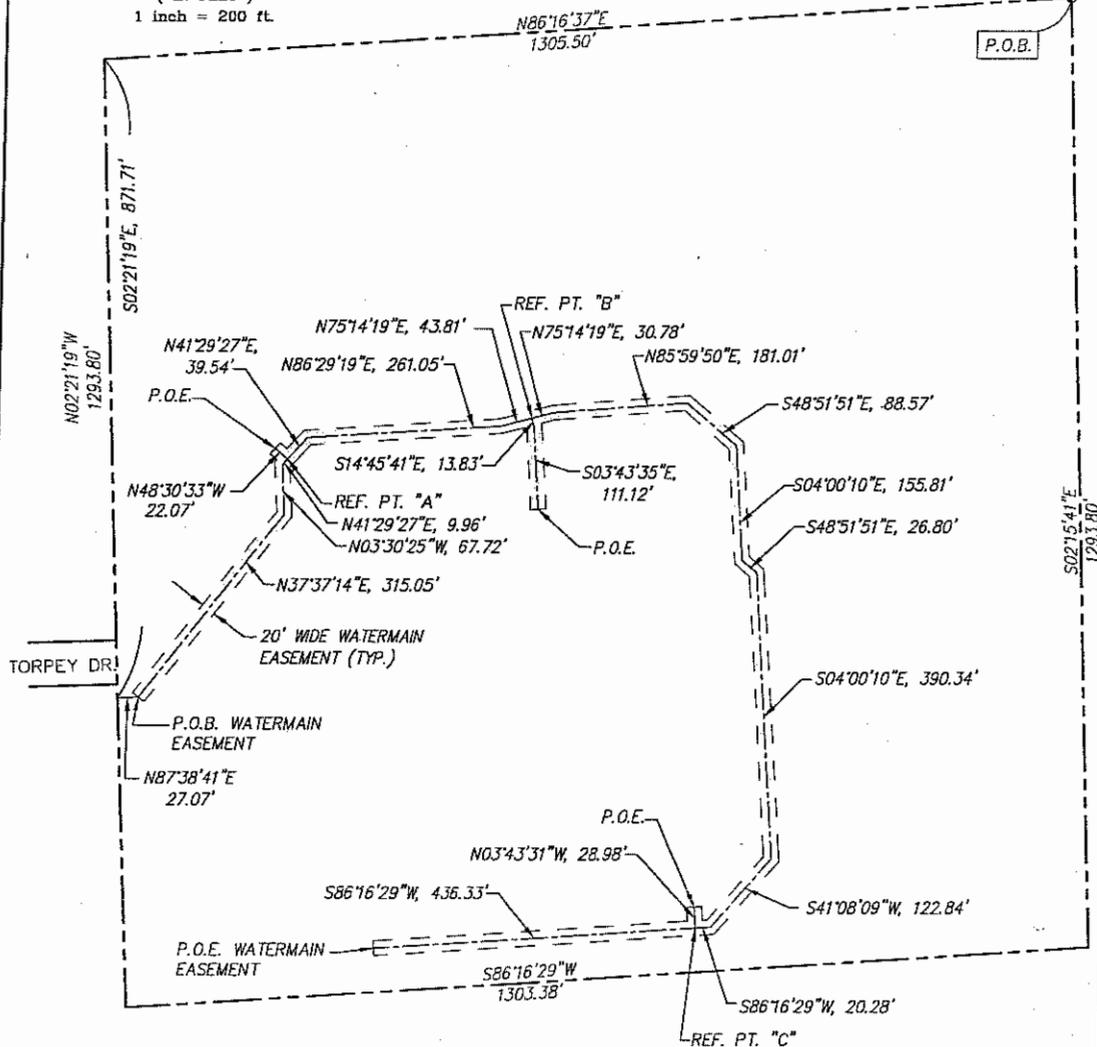


GRAPHIC SCALE



(IN FEET)
1 inch = 200 ft.

CENTER OF SECTION 23
T.2N., R.11E.



SPALDING DeDECKER ASSOCIATES, INC.

ENGINEERS SURVEYORS

905 SOUTH BLVD. EAST
ROCHESTER HILLS, MI 48307

PH: (248) 844-5400 FAX: (248) 844-5404

www.spaldingdedecker.com

DRAWN: M.KASIM

CHECKED: E.HAJ-HAMAD

MANAGER:

JOB No. DVD4-066

SECTION 23 TOWN 2 NORTH RANGE 11 EAST

CITY OF TROY

DATE: 10-03-05

DATE: 10-03-05

SCALE: 1" = 200'

SHEET: 1 OF 2

OAKLAND COUNTY, MI

May 16, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Douglas J. Smith, Real Estate & Development Director 

SUBJECT: AGENDA ITEM – Request for Approval of Proposed Quit Claim Deed for Right-of-Way Acquisition & Authorization to Schedule Closing, Consumers Energy Company, Northeast Corner of Coolidge & Wattles – Sidwell #88-20-17-351-029, Project No. 00.109.5 – Wattles East Bound & West Bound Right Turn Lane at Coolidge

As part of the proposed improvements to the Coolidge and Wattles intersection, the Real Estate & Development Department has reached an agreement with Consumers Energy Company to purchase right-of-way on the north side of Wattles, east of Coolidge. The property is zoned R-1B and the compensation is for 9,072 square feet of land.

An appraisal was prepared by Mike Oakes, State Certified Appraiser for Consumers Energy Company and reviewed by Kimberly Harper, Deputy Assessor and State Licensed Appraiser. Staff believes that \$17,600, the compensation agreed upon, is a justifiable value for this acquisition.

In order for the City to proceed with this project, staff requests that City Council approve the proposed Quit Claim Deed in the amount of \$17,600, plus closing costs; and authorize the Real Estate and Development Department to close the transaction with Consumers Energy Company. Funds will come from the Wattles, East Bound and West Bound Right Turn Lane at Coolidge project.

Oakland 132

QUIT-CLAIM DEED

Consumers Energy Company, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201, Grantor,

for the sum of \$17,600.00, receipt of which Grantor hereby acknowledges,

quit-claims to

The City of Troy, a Michigan municipal corporation, 500 West Big Beaver Road, Troy, Michigan 48084, Grantee,

the following described land in the City of Troy, County of Oakland and State of Michigan:

The South 60.00 feet of the East 336.00 feet of the West 396.00 feet of the Southwest 1/4 of Section 17, T2N, R11E, containing 0.463 acres, more or less.

Excepting and reserving to Grantor, its successors and assigns, forever, an easement to operate, inspect, maintain, replace, improve, enlarge, and remove the existing gas mains running in Northerly-Southerly and Northeasterly-Southwesterly directions in, under, and across the land conveyed, said gas mains being located approximately as indicated in engineering drawings entitled Plans of Proposed 2006 Intersection Improvement Project, by Hubbell, Roth & Clark, Inc., dated February 2006. Grantee, its successors and assigns, shall use the land conveyed in compliance with the specifications set forth in attached Exhibit A.

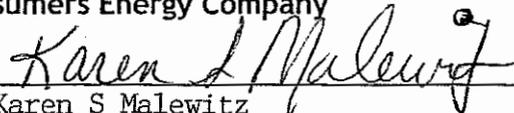
NOTICE UNDER MCL 560.109: This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

STATEMENT PURSUANT TO MCL 560.109(3): Grantor grants to Grantee the right to make zero (0) divisions of the land conveyed under section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967.

Dated: May 17, 2006

Consumers Energy Company

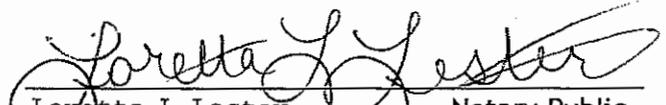
By:


Karen S Malewitz

APPROVED AS TO FORM


Its General Technical Analyst

Acknowledged before me in Jackson County, Michigan, on May 17, 2006,
by Karen S Malewitz General Technical Analyst of Consumers Energy
Company, a Michigan corporation, for the corporation.


Loretta L Lester Notary Public
Jackson County, Michigan
Acting in Jackson County
My Commission Expires July 30, 2007

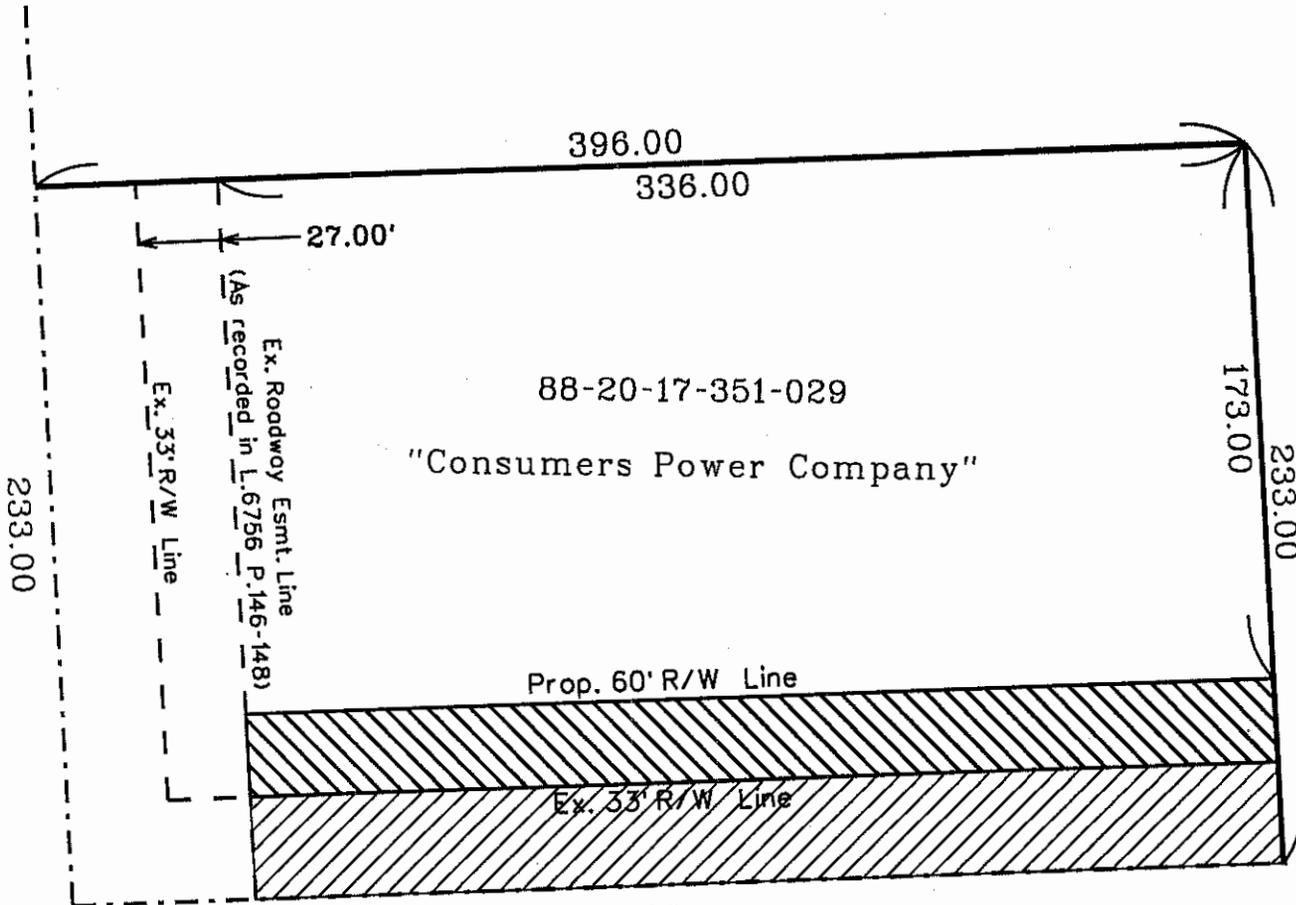
Prepared by:
Kimberly L. Savage (P68267)
Consumers Energy Company
One Energy Plaza
Jackson, Michigan 49201

Return recorded instrument to:
City Clerk, City of Troy
500 West Big Beaver Road
Troy, MI 48084

EXHIBIT A

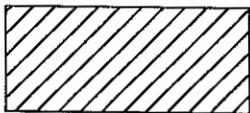
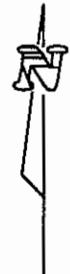
1. No underground utility facilities may be constructed in the land conveyed without Consumers' prior approval. No underground utility facility that parallels the gas mains may be located within 15 feet from the edge of the gas mains. As a condition of approval of any underground utility facility that crosses the gas mains, Consumers may require: a) a minimum clearance of 24 inches between the underground utility facility and the gas mains; b) maintenance of the depth of the underground utility facility across the land conveyed; c) crossing of the gas mains as near as practicable to a 90-degree angle; and d) compliance with such requirements as Consumers' corrosion control engineer (517-788-1195) deems necessary to avoid accelerated corrosion damage to the gas mains.
2. The Utility Communications System (Miss Dig), phone number 800-482-7171, must be contacted prior to any excavation within 33 feet of the gas mains, in accordance with MCL 460.701 et seq.
3. If the gas mains must be exposed, no more than 25 feet of the gas mains may be exposed at any time. Backfilling of the exposed gas mains must be performed in a manner to avoid damage to the pipe coating and to provide firm support for the pipes. Hand labor must be used if necessary to assure full support of the gas mains on compacted fill. Backfill must be placed so that the ground surface, after settlement, will be as near original grade as possible. No large rocks, boulders, clods, or refuse may be used in backfill material. Consumers must approve all backfill operations.
4. Consumers' St. Clair Office shall be contacted at 586-716-3335 at least 5 business days prior to commencing any surveying, excavation, or construction work within the land conveyed.
5. Consumers' access to the gas mains and to its land lying Northerly of the land conveyed must be maintained at all times. Upon completion of road construction or maintenance activities on the land conveyed, Consumers' permanent access drive shall be restored, at no expense to Consumers, as indicated in engineering drawings entitled Plans of Proposed 2006 Intersection Improvement Project, by Hubbell, Roth & Clark, Inc., dated February 2006. Alternate access, acceptable to Consumers, shall be provided if Consumers' permanent access is permanently or temporarily obstructed or blocked.

Coolidge



Wattles

Graphic Scale: 1"=60'



Statutory
33' R/W
11,088 Sq.Ft.



Proposed R/W
Acquisition
9,072 Sq.Ft.

CITY OF TROY
OAKLAND COUNTY, MICHIGAN

Exhibit A

SCALE	DRAWN BY	CHECKED	FILE
HOR. 1"=60'	NAME GJB III	NAME	See Above
VER.	DATE 5-8-06	DATE	VIEW #1
STEVEN J. VANDETTE CITY ENGINEER		SHEET No.	JOB No.
		10F1	

5-9 2006
5-8 2006
DATE REV.

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

May 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven Vandette, City Engineer ^{SN}_(JMA)

SUBJECT: Agenda Item - Private Agreement for TCF Bank
Project No. 05.944.3

The Engineering Department has reviewed and approved plans for this project, which includes paving, storm sewer and sidewalk.

The Owner has provided a check for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

Prepared by: Gary Streight, P.E.
Civil Engineer

cc: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director

G:\Projects\Projects – 05.944.3\Private Agreement Cover Letter.doc

Enclosed Private Agreement

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO.	05.944.3	PROJECT LOCATION:	1484 Coolidge
RESOLUTION NO.		DATE OF COUNCIL APPROVAL:	

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and TCF Bank whose address is 800 Burr Ridge Parkway, Burr Ridge, IL, 60527 and whose telephone number is 630-303-4637 hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of paving, storm sewer and sidewalk in accordance with plans prepared by Nowak & Fraus whose address is 1310 Stephenson Hwy., Royal Oak, MI 48067 and whose telephone number is 248-399-0886, and approved BY THE City of Troy Engineering Department.

SECOND: That the Owners agree to contribute the approximate contract price of \$9,700.00. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

- Cash
- Certificate of Deposit
- Irrevocable Bank Letter of Credit
- Check
- Performance Bond & 10% Cash

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City after final inspection and approval by the City of Troy Engineering Department. In addition, the owners agree to contribute the following cash fees:

* Plan Review and Construction Inspection Fee (Public Improvements)	\$	785.70
Engineering Review Fee (Private Improvements) (PA1)	\$	4,805.84
Water Main Testing Fee (PA2)	\$	
Street Cleaning/Road Maintenance (Refundable)	\$	5,000.00
TOTAL:	\$	\$10,591.54

* 8.1% (.081) of approximate contract price

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS

(PRIVATE AGREEMENT)

PROJECT NO. 05.944.3

PROJECT LOCATION:

1484 Coolidge

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

THIRD: Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of \$ 20,291.54 for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, including, but not limited to, field changes or specification changes as required by the City, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and the City will disburse such additional amounts in accordance with Paragraph SECOND hereof.

SIXTH: Owners agree to indemnify and save harmless the City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO. 05.944.3 PROJECT LOCATION: 1484 Coolidge
RESOLUTION NO. _____ DATE OF COUNCIL APPROVAL: _____

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this _____ day of _____, 20_____.

OWNERS : TCF BANK
By: Jeff Hansen VICE PRESIDENT
JEFF HANSEN

CITY OF TROY
By: _____
Louise E. Schilling, Mayor

Please Print or Type

Louise E. Schilling, Mayor

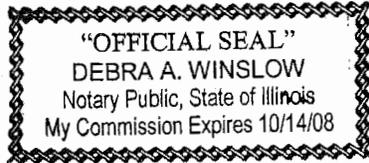
Please Print or Type

Tonni Bartholomew, City Clerk

ILLINOIS COOK
STATE OF ~~MICHIGAN~~, COUNTY OF ~~OAKLAND~~

On this 23rd day of May, A.D. 2006, before me personally appeared JEFF HANSEN known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.

Debra A. Winslow



NOTARY PUBLIC, Cook ILLINOIS
~~Oakland County, Michigan~~

My commission expires: 10-14-2008

DATE: May 26, 2006

TO: John M. Lamerato, Acting City Manager

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

SUBJECT: Agenda Item – Request for Temporary Sales Trailer,
Cedar Pines Estates Site Condominium

I have received a request from Christopher Pratt of Wake-Pratt Construction Company for the placement of a temporary office trailer on one of the parcels of the Cedar Pines Estates Site Condominium located on the east side of Crooks, between Square Lake and South Blvd. The trailer is intended to be used for a temporary sales office. Their request anticipates the need for the trailer for six months.

Section 6.41 (3) of Chapter 47 of the Troy City Code allows the City Council to approve the placement of mobile offices, for use as a sales office, in residential developments for an initial period not to exceed 12 months. Based upon this provision, the petitioner is requesting this item be placed on Council's agenda for consideration.

I have attached a copy of his letter and information showing the proposed location of the trailer for your information.

Prepared by: Mark Stimac, Director of Building and Zoning



Wake-Pratt Construction Co.

1080 North Opdyke • Suite 200 • Auburn Hills, MI 48326

Phone: 248/475-5770

Fax: 248/475-5750

May 25, 2006

City of Troy Building Department
Attention: Mr. Mark Stimac
500 W. Big Beaver
Troy, MI 48083

Re: Request for Sales Trailer approval in Cedar Pines Estates community

Dear Mr. Stimac:

Wake-Pratt Construction Company is requesting that a sales trailer be placed on a vacant home site in Cedar Pines Estates community. The sales office is required because the home that was being used as a model was sold.

The sales trailer is 44' in length and will be; (i) skirted, (ii) meet ADA requirements, including the ramp, and (iii) landscaped per the attached plan. The sales trailer will be placed on home site 16, while a new model will be built on home site 17. The plans for a new model are being finalized; they will be submitted for permit the week of May 29th, 2006.

The sales trailer will be located on the site for no more than six months, while the new home is under construction.

I look forward to hearing from you when the City Council has made their decision. Please contact our offices if you have any further questions.

Very truly yours,

WAKE-PRATT CONSTRUCTION CO.

By: Christopher A.S. Pratt

CASP/dj

\\wp\jobs\Cedar Pines of Troy LLC\Unit16-CityOfTroy Trailer req

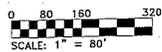
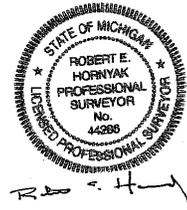
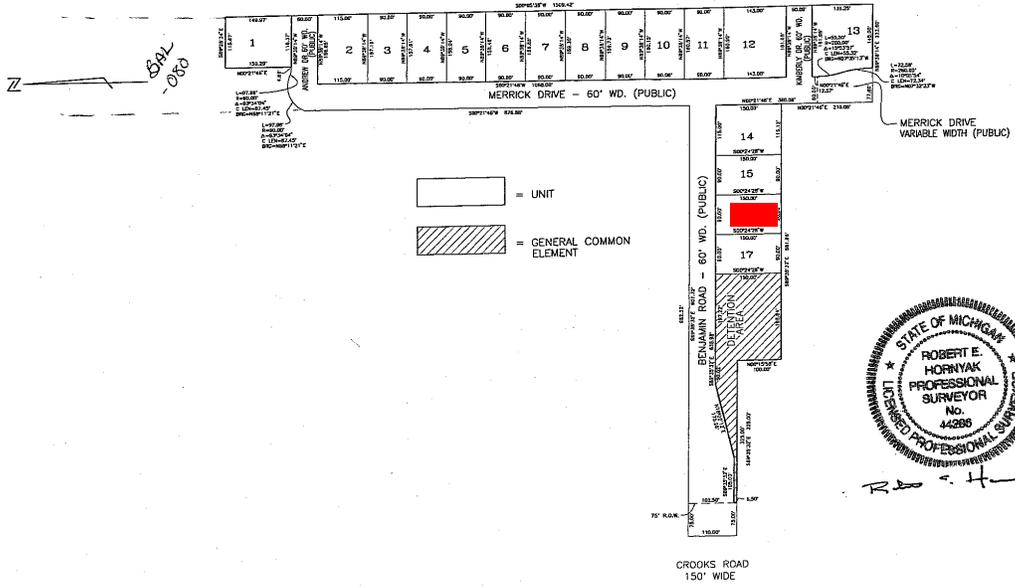
RECEIVED

MAY 26 2006

BUILDING DEPT.

CEDAR PINES ESTATES

South Blvd



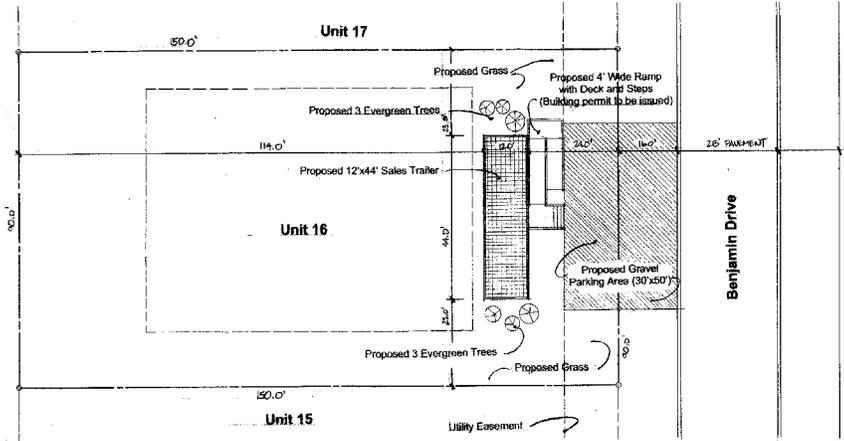
Fenn & Associates Inc.
 13399 WEST STAR DRIVE
 SHELBY TOWNSHIP, MI 48315
 PHONE: (588) 254-9577

PROPOSED 01/11/05
 MUST BE BUILT

UNIT DIMENSIONS

SHEET 5 OF 5

Proposed Site Plan for CEDAR PINES ESTATES



Proposed Site Plan

Scale: 1:20

Builder:  Wake-Pratt Construction Co. 1080 N. Ogdyske, Suite 200 Auburn Hills, MI 48326 (248) 475-5770 (248) 475-5750 fax	Date: 05/25/06 Scale: 1" = 20.0' Drawn by: CASP	Legal: 863 Benjamin, Troy, MI 48098 20-04-100-077 UNIT 16 of "Cedar Pines Estates" Site Condominium PART OF THE N.W. 1/4 OF SECTION 4 T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN.
		

May 26, 2006

To: John M. Lamerato, Acting City Manager
From: Brian Murphy, Assistant City Manager/Services
Carol K. Anderson, Parks and Recreation Director
Subject: Agenda Item: Approval of Funding Agreement: Boys and Girls Club

Recommendation

Attached please find the annual agreement with the Boys and Girls Club for 2006-2007. The agreement states the City will pay the Boys and Girls Club \$76,323.00 for services performed under the agreement.

This funding is the same amount allocated in 2005-2006.

All terms remain the same as in previous years.

Reviewed and Approved by the City Attorney's Office

Lori Grigg Bluhm, City Attorney

AGREEMENT

This Agreement, by and between the City of Troy, 500 W. Big Beaver Rd., Troy, Michigan 48084 (hereinafter referred to as the CITY), and the Boys and Girls Club of Troy, a private, nonprofit organization, having a mailing address of 4571 John R, Troy, Michigan 48085 (hereinafter referred to as BOYS & GIRLS CLUB).

WHEREAS, the CITY desires to provide for a problem-solving service to youth and parents through individual, group, and family counseling to enable those served to cope with problems adversely affecting the ability of the youth to make optimal use of their world, i.e. social adjustment, work adjustment; and to provide free, on-site services for youth, especially those who cannot afford private services; and

WHEREAS, the CITY desires to provide to the youth residents of the CITY an opportunity to participate in the Community Service Program, i.e. the Juvenile Court ordered supervision of youth residents; and

WHEREAS, the general purpose of the BOYS & GIRLS CLUB is to provide opportunities for mental and physical growth and development of boys and girls.

NOW THEREFORE, in consideration of the above in meeting the needs of the people of the CITY, and in consideration of the promises and mutual covenants hereinafter contained, the parties hereto agree as follows:

BOYS & GIRLS CLUB RESPONSIBILITIES.

A. General Project Summary. A general description of the community services to be provided by the BOYS & GIRLS CLUB is as follows:

1. Mental health worker, a licensed social worker, psychologist, or counselor, on staff at the BOYS & GIRLS CLUB of Troy shall be available to members of the club who are having difficulty in their personal and social adjustments. This person will work with youths, parents, schools and other community organizations, consistent with their professional training and licensing, in helping the youth grow towards a more satisfactory adjustment. The worker will act as a liaison for the youth, agencies and family.
2. BOYS & GIRLS CLUB will continue to provide service at the current level or greater.

B. Program Description. A detailed description of each program offered will be provided to the CITY, will be maintained on file at the BOYS & GIRLS CLUB, and will be available for inspection on request.

- C. Location of Facilities. The BOYS & GIRLS CLUB shall provide the actual services described herein in facilities located at 4571 John R., Troy, MI 48085.
- D. Mental Health Worker Responsibilities. The BOYS & GIRLS CLUB shall provide a mental health worker, whose responsibilities shall include counseling, and providing guidance to youths, families and groups; acting as a liaison with the schools, courts, and community agencies and the members involved; serving as a consultant; conducting in-service training for staff and volunteers, collaborates with community resources to improve special services and implement new programs designed to further the social and emotional needs of the youth; and any other duties necessary to carry out his/her responsibilities.
- E. Records. For each person receiving individual, family, or group counseling, the BOYS & GIRLS CLUB shall maintain individual case records that document service delivery. Records of attendance must be maintained for all persons served. Applicable laws regarding confidentiality will be adhered to regarding all records. Records will be kept in accordance with the standard of the profession and law.
- F. Service Documentation. The BOYS & GIRLS CLUB agrees to maintain program records, program statistical records, and to produce upon request program narrative and statistical data.
- G. Fiscal Requirement. The BOYS & GIRLS CLUB shall install and maintain an accounting system to identify and support all expenditures billed under this agreement. The accounting system must record all income and expenses for the BOYS & GIRLS CLUB's total program of which services are provided under this agreement. The accounting system, as a minimum, shall consist of a chart of accounts, cash receipts journal, cash disbursements journal, and general ledger. All expenditures and income must be supported by vouchers and receipts that detail the reason for the transaction.

The BOYS & GIRLS CLUB shall submit to the CITY a copy of its annual budget for any fiscal year which falls within the twelve month period covered by this agreement. These budgets shall show the BOYS & GIRLS CLUB budget, total expenditures, and expenditures funded and claimed to other funding sources.

The BOYS & GIRLS CLUB shall submit to the CITY a copy of their annual certified audit for any fiscal year which falls within the twelve month period covered by this agreement.

The BOYS & GIRLS CLUB agrees to retain at its cost all books, records, or other documents relevant to this agreement for six years after final

payment; Federal or State auditors and any persons duly authorized by the CITY shall have full access to and the right to examine any of said materials during said period. If an audit is initiated prior to the expiration of the six year period, and extends past that period, all documents must be maintained until the audit is completed. The CITY will provide any findings and recommendations of audits, if any, to the BOYS & GIRLS CLUB. The CITY will adjust future payments or final payments if the findings of an audit indicate over or under payment in the period prior to the audit. If no further payments are due and owing against any sums paid under this agreement, the BOYS & GIRLS CLUB agrees to refund all amounts which may be due to the CITY. The BOYS & GIRLS CLUB agrees that as a condition of any sale or transfer of ownership of the BOYS & GIRLS CLUB, the new purchasers must agree to maintain the above-described books, records, or other documents for any unexpired portion of the six year period after final payment under this agreement, or the BOYS & GIRLS CLUB must otherwise maintain said records as the CITY may direct. The BOYS & GIRLS CLUB agrees that if it ceases business operations, the records will be maintained as the CITY may direct.

- H. Review of Programs by the City. Upon request, the BOYS & GIRLS CLUB will review with the CITY staff the programs funded by this agreement to determine if there are appropriate educational guidance and counseling activities which may be utilized by the CITY in its programs. Any joint effort must be mutually agreed upon by both parties.

In addition, the City shall receive a copy of the annual summary of the activities undertaken by the BOYS & GIRLS CLUB for its evaluation regarding the effectiveness of educational and counseling programs.

- I. Insurance Coverage. The BOYS & GIRLS CLUB will provide and maintain public liability insurance in the amount of \$2,000,000 General Liability and \$1,000,000 Professional Liability as required by the CITY, to cover all claims which may arise out of the BOYS & GIRLS CLUB's operations under the terms of this agreement. Unemployment compensation, worker's compensation insurance shall be maintained in accordance with applicable Federal and State law and regulations. The BOYS & GIRLS CLUB agrees to provide the CITY with a certificate of insurance enumerating the above coverage. Cost of specific insurance such as malpractice will be a reimbursable expense.
- J. Confidentiality. The use or disclosure of information concerning applicants for services or recipients of services, obtained in connection with the performance of this agreement, shall be restricted to purposes directly connected with the administration of the programs implemented by this agreement and must be consistent with all statutory requirements.

- K. Subcontracts. The BOYS & GIRLS CLUB may not assign this agreement or enter into any subcontracts to this agreement with additional parties without obtaining prior written approval of the CITY, as a condition of granting such approval, shall require that such assignees or subcontractors shall be subject to all conditions and provisions of this agreement. The BOYS & GIRLS CLUB shall be responsible for the performance of all assignees or subcontractors.
- L. Liability. The BOYS & GIRLS CLUB shall indemnify, save and hold harmless the CITY, its employees, officers, and agents, and affiliated entities from any losses, damages, judgments, claims, expenses, costs, and liabilities, including attorney fees and legal expenses, which may arise from or be caused directly or indirectly by any act or omission of BOYS & GIRLS CLUB or their officers, directors, employees, agents, or volunteers.
- M. Close out. When this agreement is concluded or terminated, the BOYS & GIRLS CLUB shall provide the CITY, within sixty days after the conclusion of termination, with all financial, performance and other reports required as a condition of the agreement. The BOYS & GIRLS CLUB shall immediately refund to the CITY any payments or funds advanced to the BOYS & GIRLS CLUB in excess of allowable reimbursable expenditures. The final payment by the CITY or refund by the BOYS & GIRLS CLUB may be subject to an audit.
- N. Continuing Responsibilities. Termination, conclusion, or cancellation of this agreement shall not be construed so as to terminate the on-going responsibilities of the BOYS & GIRLS CLUB contained in paragraphs E (Records), G (Fiscal Requirement), I (Insurance Coverage), J (Confidentiality), L (Liability), and M (Close out), included in this agreement.
- O. Publication- Approval and Copyright. The CITY shall have copyright, property, and publication rights in all written or visual material or other work products developed in connection with this agreement. The BOYS & GIRLS CLUB shall not publish or distribute any of the results of the services provided nor any other printed or visual material funded by this agreement without prior written permission of the CITY.
- P. Grievance System. The BOYS & GIRLS CLUB shall maintain a system of hearings under which applicants or recipients who are citizens of the CITY or an individual acting on behalf of an applicant or recipient may appeal denial, reduction or termination of a service, or the BOYS & GIRLS CLUB's failure to act upon a request for service with reasonable promptness. The BOYS & GIRLS CLUB shall advise recipients of this right on such forms and in such manner as has been customary, or as the CITY may direct.

CITY OF TROY'S RESPONSIBILITIES.

The CITY hereby agrees to pay to the BOYS & GIRLS CLUB an amount not to exceed \$76,323.00 for services performed under this agreement. Payments are to be made in four quarterly installments, \$19,080.75 each during the months of July and October 2006, and January and April 2007.

Obligations incurred by the BOYS & GIRLS CLUB prior to or after the period covered by this agreement shall be excluded.

MUTUAL COVENANTS

A. Cancellation of Agreement. If the CITY determines that the BOYS & GIRLS CLUB fails to comply with the conditions of this agreement, or to fulfill its responsibilities as indicated in the agreement, or the CITY determines that the methods and techniques being utilized in accomplishing the goals of this agreement are not acceptable or compatible with the CITY's policies, then the CITY reserves the right to cancel this agreement by giving sixty days written notice to the BOYS & GIRLS CLUB.

The BOYS & GIRLS CLUB may terminate this agreement upon sixty days written notice to the CITY at any time prior to the completion of the agreement period if the CITY fails to comply with the conditions of this agreement.

If there is a cancellation or termination, the CITY shall prorate the payments to cover all appropriate expenditures made prior to the date of termination. If at cancellation or termination, it is determined by the CITY that the CITY is entitled to reimbursement for any payments for which services were not rendered, the BOYS & GIRLS CLUB shall refund those payments within 30 days after the CITY notifies the BOYS & GIRLS CLUB of the overpayment.

B. Disputes. An aggrieved party shall notify the other party in writing of its intent to pursue a claim against the other party for breach of any term of this agreement. No suit may be commenced for breach of this agreement prior to the expiration of ninety days from the date of such notification. Within this ninety day period, the parties, at the request of the CITY, must meet with the CITY for the purpose of attempting to resolve the dispute.

C. Agreement Inclusiveness/Amendment. This agreement contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understanding, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to

bind any of the parties hereto. The BOYS & GIRLS CLUB agrees to amend the agreement when there is a substantial change in the law or in the financial position of the CITY, and if the CITY reasonably determines that an amendment is necessary. This shall be done only upon written request by the CITY and only after the proposed amendments are received by the BOYS & GIRLS CLUB. If the BOYS & GIRLS CLUB refuses to sign such amendment within fifteen days after receipt, this agreement shall immediately terminate. This agreement may otherwise be amended only with the written consent of all parties to the agreement.

- D. Employees of the BOYS & GIRLS CLUB. Representatives and employees and volunteers of the BOYS & GIRLS CLUB shall not be deemed to be employees or agents of the CITY for any purpose because of their participation in this program.
- E. Independent Contractors. In the performance of their respective duties and obligations under this agreement, each party is an independent contractor, and neither is the agent, employee, or servant of the other, and each is responsible for its own conduct. This agreement is not a joint venture for the profit of either party.
- F. Compliance with Laws. Each party shall be separately responsible for compliance with all Federal, State and City laws. Any violation of the law results in a material breach of the agreement.
- G. Terms of Agreement. This agreement shall become effective as of July 1, 2006 and shall terminate on June 30, 2007 unless terminated under the provisions set forth in this agreement.

IN WITNESS WHEREOF, the CITY and the BOYS & GIRLS CLUB have caused this agreement to be executed by their respective authorized officers.

WITNESSES:

CITY OF TROY

BY:

Louise Schilling, Mayor

BY:

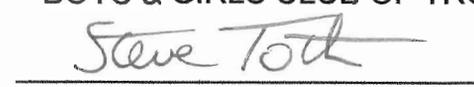
Tonni Bartholomew, City Clerk

WITNESSES

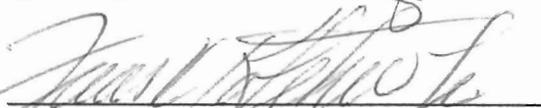
BOYS & GIRLS CLUB OF TROY



BY:



Steve Toth, Executive Director



BY:



Nancy Negohosian, Board
President

May 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Doug Smith, Real Estate and Development Director

SUBJECT: **AGENDA ITEM - SALE OF ROCHESTER ROAD REMNANT
PARCEL, PARCEL# 20-22-426-057, SECTION 22, ALL OF LOT
42, AND PART OF LOTS 43, AND 45 OF SUPERVISORS PLAT #
17**

The City of Troy presently owns a parcel of land located on the southwest corner of Vanderpool Street and Rochester Road, which is a remnant left from the Rochester Road re-construction project. This parcel contains 20,070 square feet and is an unbuildable remnant parcel as presently zoned, which is B-2 Community Business. A parcel description and sketch are attached as attachment A.

The City parcel cannot be developed as a stand-alone parcel as zoned, and a re-zoning would make it a buildable parcel, although it would be a small and undesirable commercial building site. It is in combination with a rezoned adjacent parcel that a much more desirable building site is achieved.

Troy-Rochester Properties, L.L.C. would like to purchase this parcel, combine it with the abutting parcel on the west and develop a commercial project. This would require the rezoning of the abutting parcel from R-1E to B-2. This would create a B-2 zoned parcel of 41,875 square feet in size.

The City owned parcel has been appraised to have a value of \$200,000.00, by a State Certified Appraiser, and reviewed by a State Licensed Appraiser. Troy-Rochester Properties, L.L.C. has submitted an Offer to Purchase this parcel, at the appraised value with the conditions that the abutting parcel on the west is rezoned to B-2 and that the City will furnish the environmental report that was done at the time the City acquired the property for the Rochester Road project.

It is recommended by City management that City Council approve the sale to Troy-Rochester Properties, L.L.C. for the appraised value according to the attached Offer to Purchase.

City Council Res. #85-254, which is attached, authorizes remnant parcel sales to abutting property owners, or to persons with a controlling interest in the abutting property, at appraised value when the development of the 2 combined results in a use that best serves the public interest.

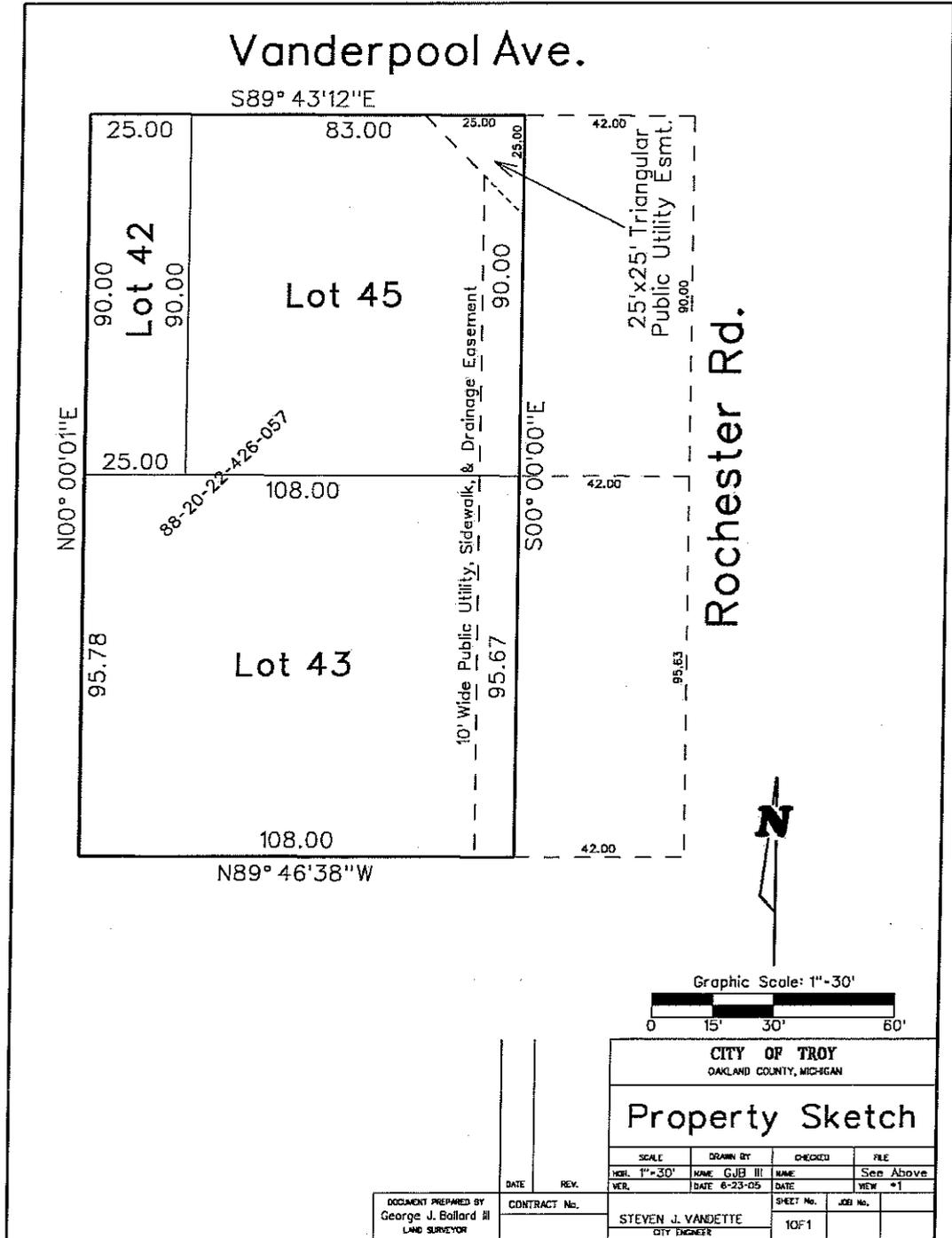
Attachments

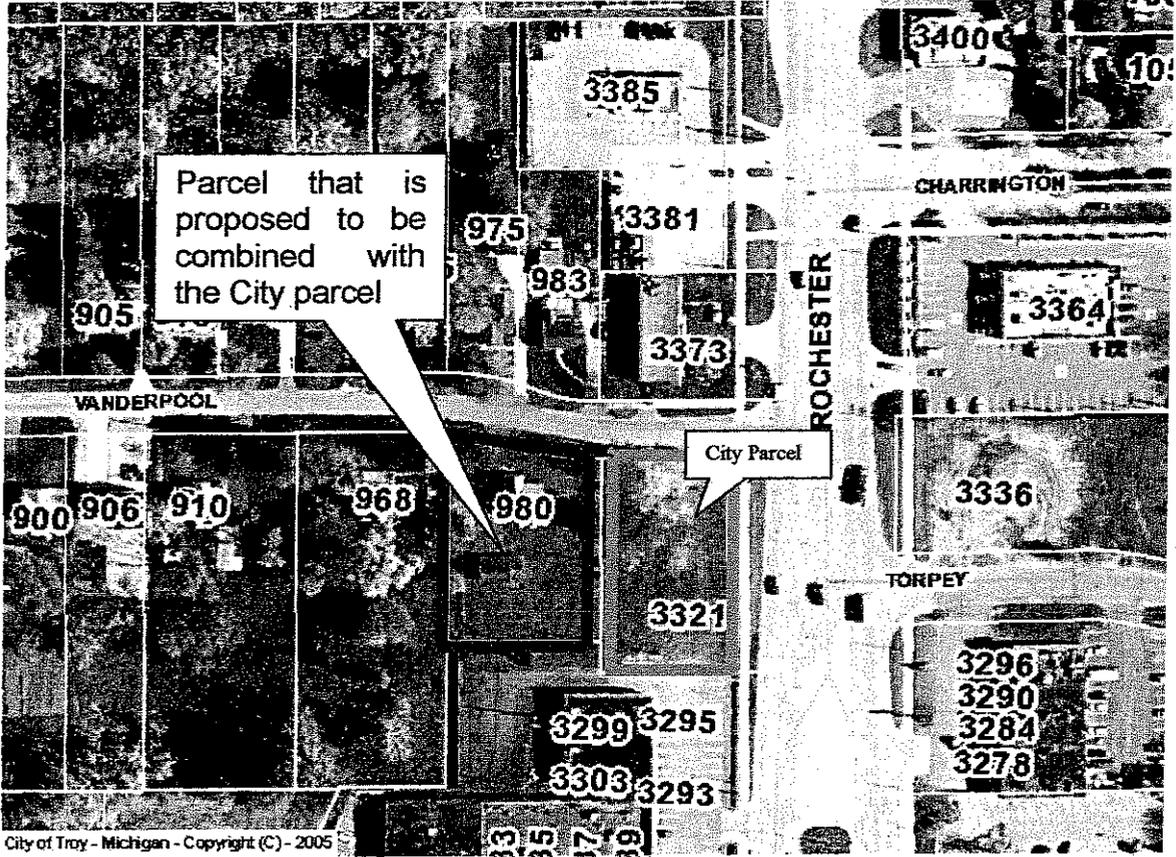
Prepared by: Dennis C. Stephens, Right of Way Representative

ATTACHMENT "A"

Lots 42, 43 and 45 of "Supervisors Plat# 17, of part of the southeast $\frac{1}{4}$ of section 22, Township 2 North, Range 11 East, City of Troy, Oakland County, Michigan. As recorded in Liber 28, page 36, of plats, Oakland County Records. Except the east 42 feet of lots 43 and 45, also reserving an easement for sidewalk, drainage and public utilities over the west 10 feet of the east 52 feet of lots 43 and 45, including a 25 foot triangle at the northeast corner of the described parcel.
Sidwell# 88-20-22-426-057

ATTACHMENT "A"





Parcel that is proposed to be combined with the City parcel

City Parcel

OFFER TO PURCHASE
CITY OF TROY
REAL ESTATE

1. THE UNDERSIGNED, Troy-Rochester Properties, LLC hereby offers and agrees to purchase from the City of Troy the following land situated in the City of Troy, Oakland County, Michigan, described as follows:

See Exhibit "A" Attached Hereto And By Reference Made A Part Hereof

Sidwell # 88-20-22-426-057

and to pay therefore the sum of (\$200,000.00) Two Hundred Thousand Dollars subject to the existing building and use restrictions, easements, zoning ordinances, and other deed restrictions and conditions as specified herein.

THE SALE TO BE CONSUMMATED BY:

The delivery of a Warranty Deed conveying a marketable title. Payment of purchase money is to be made in cash or certified check made payable to the City of Troy

2. As evidence of title, Seller agrees to furnish Purchaser as soon as possible a Commitment for Title Insurance for information purposes. Purchase of Title Insurance shall be the option of the Purchaser at Purchaser's expense.
3. When this offer is accepted by the Seller and if title can be conveyed in the condition required hereunder, the Purchaser agrees to complete the sale within 30 days after delivery of the commitment of title insurance.
4. If objection to the title is made in the Commitment for Title Insurance or based upon a written opinion of Purchaser's attorney after examination of the Abstract that the title is not in the condition required for performance hereunder, the Seller shall have 30 days from the date he is notified in writing of the particular defects claimed either (1) to fulfill the requirements in said commitment or to remedy the title defects set forth in said attorney's opinion or (2) to refund the deposit in full termination of this agreement or if unable to furnish satisfactory title. If the Seller is able to comply with such requirements or remedy such defects within the time specified as evidenced by written notification, revised commitment or endorsement to commitment, the Purchaser agrees to complete the sale within 10 days of receipt thereof. If the Seller is unable to furnish satisfactory title within the time specified, the deposit shall be refunded forthwith in full termination of this agreement.
5. Purchaser understands and agrees that although the property being conveyed may at the time of conveyance be tax exempt, and that upon acceptance of this offer to purchase the property will be placed on the tax assessor's roll.
6. The covenants herein shall bind and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties.
7. By the execution of this instrument the Purchaser acknowledges THAT HE HAS EXAMINED THE ABOVE DESCRIBED PREMISES and is satisfied with the physical condition of structures and/or land thereon.
8. The closing of this sale shall take place at the offices of the City of Troy unless otherwise agreed.
9. Purchaser agrees to comply with Troy City Council Resolution #85-254, a copy of which is attached, and understands that this sale is contingent upon City Council approval.
10. Deed Restrictions and Subsequent Conditions: The sale of this property is conditioned upon the following deed restrictions which shall be recorded at the time of sale and shall be binding upon the Purchaser, their heirs, executors, administrators, successors and assigns: See Attachment "A"
11. Additional Conditions:
 1. Sale is contingent upon the rezoning of the adjacent property owned or controlled by purchaser to B-2, Parcel I.D. # 88-20-22-426-045, before closing.
 2. City of Troy shall furnish purchaser with the Phase 1 environmental report dated 8/28/1993 prepared prior to the City's purchase of the property.

IN THE PRESENCE OF:



BURT A. KUSSAB

Purchaser
Troy-Rochester Properties, LLC, a
Michigan limited liability company

By: John Glasnak L.S.
Its: John Glasnak
Member

Date 3-7-06 Phone 734-266-4101 Address 30375 Plymouth Road, #101
Livonia, Michigan 48151

IN THE PRESENCE OF:

Seller

By: _____ L.S.
Its: _____

Date _____ Phone _____ Address 500 West Big Beaver Road
Troy, Michigan 48084

EXHIBIT "A"

Lot 42, 43, and 45 of "Supervisor's Plat No. 17", of part of the Southeast $\frac{1}{4}$ of Section 22, Township 2 North, Range 11 East, City of Troy, Oakland County, Michigan, as Recorded in Liber 28, Page 36, of Plats, Oakland County Records. Except the East 42 feet of lots 43 and 45; also reserving an Easement for Sidewalk, Drainage, and Public Utilities over the West 10 feet of the East 52 feet of Lots 43 and 45, including a 25-foot tri-angle at the Northeast corner of the described parcel.

ATTACHMENT "A"

CITY OF TROY PROPERTY SALE

DEED RESTRICTION

- A. Construction shall take place only as indicated on the site plan including the number of Units, as submitted to and approved by the Building Department and Planning Department of the City of Troy and all construction shall conform to all codes of the City of Troy. Purchaser shall complete the fee purchase of other parcels, which comprise the full site, if any.
- B. The purchaser shall construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy
- C. All buildings shall be constructed as indicated on the architectural rendering as submitted to and approved by the Troy Planning Department and Building Department; no other alteration, addition or deletion shall occur.
- D. The Purchaser shall combine this parcel description with adjacent properties owned or controlled by Purchaser on City tax records.
- E. These deed restrictions and the full purchase agreement shall be recorded with and as part of the deed at the Oakland County Register of Deeds.
- F. The Purchaser agrees upon closing this transaction that all restrictions and conditions shall bind and inure to Purchaser, heirs, executors, administrators, successors and assigns, and that they will reimburse to the City all costs incurred by the City in the future, including court and attorney fees, in order for the City to gain compliance with this agreement and the stated restrictions.

TABLED ITEMSRESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

Resolution #85-254
 Moved by Liebrecht
 Supported by Stine

WHEREAS, the City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that . . . "in all sales or purchases in excess of \$3,000 (1) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids. . .";

NOW, THEREFORE, BE IT RESOLVED, That the City Council may from time to time determine that the sale of certain parcels of land will best serve the public interest; and

BE IT FURTHER RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

1. Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager
2. Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan shall not include variances from any code of the City of Troy.
3. Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
4. Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy
5. Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and
6. Is accompanied by architectural renderings of all building indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;
7. Is accompanied by a draft of proposed deed restrictions which will be imposed upon the owner of the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

Yeas: All-7



TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: May 30, 2006
SUBJECT: Personnel Board Appointment

Pursuant to the request of Councilwoman Broomfield, I did cursory research on the origins of Chapter 11 of the City of Troy ordinances, now titled Personnel Board (previously titled Civil Service Commission).

Although State statute provides for a Civil Service System for state and county employees, there is no State statute that expressly provides for a Municipal Civil Service System for municipal employees, other than full-time fire fighters and police officers (covered under Public Act 78 of 1035, MCL 38.501 et. seq.) Instead, the Home Rule Cities Act (MCL 117.1 et. seq.) authorizes each municipality to provide for a civil service system in the Charter. Troy authorized the municipal employees civil service commission in Section 15.14 of the City of Troy Charter, which provides that "The Council may, by ordinance, provide for a civil service system." Chapter 11 is the resulting civil service system for classified and exempt employees of the City of Troy. Chapter 11 was adopted on March 12, 1964.

In a very recent opinion (2006 OAG No. 7187), Michigan Attorney General Cox sets forth the origins of the civil service system. He states:

The State's civil service system and the Commission were created in response to what was referred to as the "longstanding 'spoils system' or 'patronage system'" that prevailed in state personnel practices of early twentieth century (citation omitted). This system was described as the practice of filling government jobs with "loyal party workers who (could) be counted on not to do the state job better than it (could) be done by others, but rather to do the party work or the candidate work when elections roll around." (citation omitted) An early report on the subject detailed the "political appointments, promotions, demotions, rewards and punishments" that were part of the traditional spoils system, and viewed "(a)ssessment schemes and participation in political activity during working hours as serious and expensive causes of poor job performance by unqualified civil servants."

The Attorney General Opinion relies heavily upon the *Michigan Council No. 11, AFSCME v. Civil Service Comm*, 408 Mich, 385 (1980) for his opinion, and quotes: "It is the purpose of the commission to keep politics out of the classified state service, not to keep classified employees out of politics." (p. 406)

This background likely explains why Chapter 11 of the Troy Ordinance provides:

No member of the (Personnel) Board shall be employed by or be an official of the City; nor shall be a member of any local, state or national committee of a political party or an official or member of a committee in any partisan political

club or organization, nor shall hold or be a candidate for any governmental elective office. (Chapter 11, Section 1.2)

This provision is consistent with the police and fire fighter's civil service commission statute (MCL 38.503), as well as the civil service provisions for other municipalities.

Based on the reasons that are set forth in the Attorney General's opinion, as well as the spirit of non-partisan governance that is set forth in the Troy Charter (Section 3.3), it is my recommendation that Section 1.2 of Chapter 11 should remain unchanged.

If you have additional questions, please let me know.

May 19, 2006

TO: The Honorable Mayor and City Council
FROM: John M. Lamerato, Acting City Manager 
RE: Personnel Board Appointment – Glenn Clark

It has to come to my attention that Glenn Clark is ineligible for appointment to the Personnel Board due to his holding the position of Chairman, 9th Congressional District Republican Party.

I have attached the Ordinance language pertaining to the requirements of Personnel Board members. Based upon this finding, I will ask for the reconsideration of his appointment at the June 5th City Council meeting.

Southeastern Oakland County Resource Recovery Authority F-02

3910 W. Webster Road
Royal Oak, Michigan 48073-6764

Phone: (248) 288-5150
Fax: (248) 435-0310
www.socrra.org

May 1, 2006

Tonni Bartholomew
City Clerk
City of Troy
500 West Big Beaver Road
Troy, MI 48084

Subject: Appointment of Representative & Alternate

Dear Ms. Bartholomew:

Article VII of the Articles of Incorporation of the Southeastern Oakland County Resource Recovery Authority provides that each municipality shall annually appoint a representative and an alternate to the Board of Trustees. This representative shall serve during the next fiscal year following his appointment and/or until his successor is appointed.

The present representative and alternate representative for the City of Troy are as follows:

Representative

Alternate

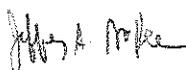
B. P. Murphy

T. L. Richnak

It is requested that the City Council, by resolution, appoint a representative and alternate representative to represent the City of Troy on the Board of Trustees of the Southeastern Oakland County Resource Recovery Authority for the fiscal year beginning July 1, 2006.

Please forward a certified copy of this resolution to the Southeastern Oakland County Resource Recovery Authority, 3910 W. Webster Road, Royal Oak, MI 48073-6764.

Very truly yours,



Jeffrey A. McKeen, P.E.
General Manager

JAM/ksh



May 18, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

RE: **Agenda Item** – Amendment #2– Concrete Pavement Repair Program

RECOMMENDATION

On January 24, 2005, the Troy City Council approved the contract for concrete pavement repair to the low bidders: A) Major Cement Company for major roads, B) Hard Rock Concrete for local roads; and C) Six S, Inc. for Stephenson Hwy. (Resolution #2005-01-041-E20) Subsequently, the contract was amended on July 11, 2005 to allow for additional concrete replacement for work to be completed by June 30, 2006. (Resolution #2005-07-325-E11)

City management recommends that City Council approve amendment #2 to the concrete pavement repair contract for two of the low bidders, Major Cement Company – Proposal A, Hard Rock Concrete, Inc. – Proposal B, not to exceed \$1,250,000.00, and \$750,000.00, respectively for work to be completed by June 30, 2006, under the same unit prices, terms, and conditions as the original contract.

Major Cement Company

2006 Contract Amount	\$750,000.00
Additional 25%	\$187,500.00
Proposed Amendment # 2	\$312,500.00
Total 2005/2006 Budget Amount	\$1,250,000.00

Hard Rock Concrete, Inc

2006 Contract Amount	\$500,000.00
Additional 25%	\$125,000.00
Proposed Amendment # 2	\$125,000.00
Total 2005/2006 Budget Amount	\$750,000.00

SUMMARY

Major roads covered under Proposal A include, Industrial Roads, and scattered locations. Local roads under Proposal B include streets in section #11 and Randall.

To: John M. Lamerato, Acting City Manager
Re: Amendment #2 – Concrete Pavement Repair

MARKET SURVEY

A favorable market survey was conducted by the Purchasing Department. Economic conditions indicate prices will continue to rise on concrete, labor, and fuel. Shortages in concrete have been a major problem caused in part by the building boom in China.

BACKGROUND

- The two contractors have been able to work at a faster than expected pace while producing a quality product for the City.
- The price for fuel and cement is continuing to increase; it is to our benefit to take advantage of 2004/05 pricing for the 2005/2006-construction season by amending the construction quantities.
- Moving this work forward would improve public safety and also reduce the City's liability.

BUDGET

Funding for this project comes from 2005/2006 budgeted funds available in the Capital Accounts for Public Works Construction for Major Roads A/C# 401479.7989.300, Local Roads A/C# 401499.7989.041015 and 401499.7989.051015.

Prepared by: Marina Basta Farouk, Project Construction Manager

May 15, 2006

TO: Jeanette Bennett
Purchasing Director

FROM: Linda N. Bockstanz
Associate Buyer

RE: MARKET SURVEY – CONCRETE PAVEMENT REPAIR

HARTWELL CEMENT CO. – Lisa (248) 548-5858

Lisa has indicated that concrete prices have increased twice this year because of fuel shortages and costs. She received a 2nd letter from her supplier, who has indicated that they were adding a fuel surcharge to all deliveries of concrete due to fuel prices. The first increase was for concrete - \$5.00 per cubic yard and the second increase is the \$5.00 surcharge. If the contract were larger, the company could give better prices.

FLORENCE CEMENT CO. - Dwayne (810) 499-2537 or (586) 997-2666

According to Dwayne, prices went up 5% for concrete and 20% for fuel and labor costs. If the contract was larger, their company would keep prices were they are now. Could not afford to lower them.

SIX-S – Martin Sakalian (248) 673-0585 Ext 103

Per Martin, prices of concrete have increased about 5% to 20% in the last year due to shortages and fuel costs. If the contract were a little larger would not be enough to lower their company's prices. They could keep the prices were they are now. Contract would have to be at least five million dollars in order to lower his prices.

Based upon the above comments, I respectfully recommend that the City accept the offers to renew the various contracts for Concrete Pavement Repair to the current vendors based on the fact costs for concrete and fuel have increased 5% to 20% in price. Only if the contract were very large would some vendors decrease their prices.

Cc: Susan Leirstein

DATE: May 24, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Timothy Richnak, Director of Public Works

SUBJECT: Agenda Item - Revisions to Troy City Code Chapter 18 (City Water Utility)

City Staff have been working on updating Chapter 18, City Water Utility. We request that City Council consider the enclosed revision to Chapter 18.

We recommend that the City of Troy institute permanent outdoor annual watering restrictions. Outdoor watering accounts for a significant portion of the peak water usage factor that is used to set the City of Troy water rates by the Detroit Water and Sewerage Department. Higher peak usage means higher water rates. Outdoor watering also accounts for a significant loss of water pressure in some areas of the city during the summer months.

Converting to a mandatory odd/even day watering schedule for all customers on the public water supply would help even out the water usage, and assist in keeping rates down and pressure up. Implementation will include extensive customer notification and education on the need for such restrictions.

The proposed revisions to Chapter 18 (Section 12) of the Ordinance are attached for your consideration.

We will provide any additional information that you request on this matter.

Reviewed as to form and legality: _____
Lori G. Bluhm, City Attorney

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 18 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Section 18 of the Code of the City of Troy.

Section 2. Amendment

Section 12 of Chapter 18 shall be amended as follows:

Outdoor Water Use Restrictions

12.01 From Memorial Day through Labor Day each year, watering restrictions shall be in effect for the purposes of evening out the City water pressures and the Peak water usage.

- A. Outdoor watering, including the sprinkling of lawns and landscaping and filling swimming pools, washing cars and all outdoor watering tasks shall only be allowed for properties with even-numbered addresses on even-numbered calendar dates within a month and for properties with odd-numbered addresses on odd-numbered calendar dates.
- B. Watering of new sod or landscaping, one year old or less, is exempt from the odd/even water restriction.

~~A. Whenever the Manager of the City receives notification from the Detroit Water and Sewerage Department in conjunction with the Water and Radiological Protection Division of the Michigan Department of Environmental Quality, or it is determined by the City Council, that the supply or pressure demand for water cannot be accommodated and general welfare is likely to be endangered, or conditions within the water system of the City are likely to endanger the general welfare of the City, the Manager shall determine that a state of emergency exists and prescribe the following emergency regulations which shall apply in the City for all properties connected to the City water system: For the duration of the declared state of emergency, outdoor watering, including the sprinkling of laws and landscaping and filling swimming pools, washing cars, and all outdoor watering tasks shall only be allowed for properties with even numbered addresses on even numbered calendar dates within a month and for properties with odd numbered addresses on odd numbered calendar dates. Watering of new sod or landscaping, one year old or less is exempt from the odd/even water restriction.~~

~~_____12.02.~~ Whenever the Manager receives notification from the Detroit Water and Sewerage Department or the City Council, ~~in conjunction with the Drinking Water and Radiological Protection Division of the~~ the Michigan Department of Environmental Quality that ~~provisions in subsection A are not sufficient, or~~ the current conditions ~~within of~~ of the water system of the City are likely to endanger the general welfare of the City, ~~the following then additional~~ -emergency regulations can be imposed shall apply in the City for all properties connected to the City water system: ~~Sprinkling of lawns and landscaping and all outdoor water use shall not be allowed.~~

C. ~~The City and the Detroit Water and Sewerage Department shall, or at its option the City Council may, W~~within 24 hours of notification, as set forth above, ~~cause any additional emergency these~~ regulations shall ~~to~~ be posted at the City offices and publicly announced by means of broadcasts or telecasts by the stations with a normal operating range covering the City. The announcement may also, ~~and may cause such announcement to~~ be further declared in newspapers of ~~general~~ circulation when feasible. The regulations shall become effective immediately ~~after notice of enforcement of the ordinance as posted at the City offices. Upon the posting and publication of the additional emergency regulations.~~ Upon notification from the Detroit Water and Sewerage Department in ~~conjunction connection~~ -with the ~~Drinking Water and Radiological Protection Division of the~~ Michigan Department of Environmental Quality or the City Council, that the emergency regulations are no longer necessary, the City shall cause a public announcement lifting the water restrictions.

D. Any person, firm, or corporation violating any provisions of this ordinance shall be deemed responsible for a municipal civil infraction, in accordance with the provisions of Chapter 100 of the City of Troy ordinances, -and will be responsible to pay a fine not to exceed five hundred dollars (\$500) for each violation.

~~E. It shall be the responsibility of the City to enforce this ordinance.~~

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 _____, 2006

Louise E. Schilling, Mayor

Tonni Bartholomew. City Clerk

Clean Copy

Outdoor Water Use Restrictions

- 12.01 From Memorial Day through Labor Day each year, watering restrictions shall be in effect for the purposes of evening out the City water pressures and the Peak water usage.
- A. Outdoor watering, including the sprinkling of lawns and landscaping and filling swimming pools, washing cars and all outdoor watering tasks shall only be allowed for properties with even-numbered addresses on even-numbered calendar dates within a month and for properties with odd-numbered addresses on odd-numbered calendar dates.
 - B. Watering of new sod or landscaping, one year old or less, is exempt from the odd/even water restriction.
- 12.02 Whenever the Manager receives notification from the Detroit Water and Sewerage Department or the City Council or the Michigan Department of Environmental Quality that current conditions of the water system of the City are likely to endanger the general welfare of the City, then additional emergency regulations can be imposed on all properties connected to the City water system, including an absolute temporary ban on Sprinkling of lawns and landscaping and all outdoor water use.
- 12.03 Within 24 hours of notification, as set forth above, any additional emergency regulations shall be posted at the City offices and publicly announced by means of broadcasts or telecasts by the stations with a normal operating range covering the City. The announcement may also be further declared in newspapers of general circulation when feasible. The regulations shall become effective immediately upon the posting and publication of the additional emergency regulations. Upon notification from the Detroit Water and Sewerage Department in connection with the Michigan Department of Environmental Quality or the City Council, that the emergency regulations are no longer necessary, the City shall cause a public announcement lifting the water restrictions.
- 12.04 Any person, firm or corporation violating any provision of this ordinance shall be deemed responsible for a municipal civil infraction, in accordance with the provisions of Chapter 100 of the City of Troy ordinances, and will be responsible to pay a fine not to exceed five hundred dollars (\$500) for each violation.

May 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Doug Smith, Real Estate and Development Director 

SUBJECT: AGENDA ITEM – Amending the Personal Property Tax Abatement for Manufacturing and Headquarter Companies

The recent Oakland County Economic Outlook lunch held last week at the Troy Marriott provided a rather dismal picture of the Michigan and even Oakland County economies for the next two to three year period. The slide presentation that was provided at the conference can be accessed through www.oakgov.com/peds/info_pub/economic_outlook_forecast.html.

Troy is not immune from these major economic trends and issues. As Troy competes on a daily basis to fill vacant space, particularly in the Maple Road and Stephenson corridors, every visit results in identification of a very competitive situation with other locations in other communities and other states. The Stephenson corridor, in particular, has a vacancy rate of 26%, compared with the overall industrial vacancy rate of 12.87%.

After a thorough review of the economic development tools that are available in Troy, and active discussions with the Michigan Economic Development Corporation about eligible MEGA companies, management would like to recommend a change to the current personal property tax abatement in Troy (PA 198 of 1974, City Council policy resolution attached).

Currently, the Industrial Facilities Tax (IFT) abatement requires the company to have three times as much personal property as real property; it does not include furniture and fixtures. We are currently limited to M-1 zoning areas, whereas the State law, and other communities, allow the abatement to any division of a company primarily engaged in the manufacturing process, regardless of zoning. Also, one-half of the equipment must qualify for the shortest depreciation possible. This is unlike most other communities' application of this tool, where the restrictions are very limited in scope.

State law is limited in that it only provides an abatement of the personal property that is new to the State of Michigan. Therefore, it prohibits moving equipment from one place in the community to another or even from one community to another. This assures that the policy does not encourage communities to raid available companies from each other.

Tax abatements are a principally accepted local match to qualify a company for MEGA incentives from the State. Staff is currently dealing with five potential MEGA qualified companies who would fill over a half a million square feet of industrial property. They would be eligible to receive MEGAs through the local contribution of utilizing the tax abatement tool. Without a local match, we are not assured of any of the companies locating here. Any of them individually, and certainly collectively, would make a significant difference in the vacancy rate in Troy today.

Additionally, this tool is effective for both attracting and retaining companies. It does not impact the real property taxes paid by these companies to Troy. Troy would receive 50% of the new personal property taxes as opposed to no personal property tax, should space remain vacant, as a company does not come into Troy, or expand into larger facilities.

As for the three-to-one personal to real property ratio, it effectively limited the policy in the past, but has now become extremely onerous by eliminating most parties because of increased real property values in today's market. It is far more typical to find a company with twice as much real property as personal property than it is to find a company that has three times as much personal property as real property.

In terms of fabrication and design equipment, manufacturing has moved so much to simulation, CAD/CAM and robotics that it seems inappropriate to continue a prohibition on the use of widely utilized equipment that is eligible for this abatement in most communities.

Finally, it is simply recognizing that all equipment, furniture, and fixtures are permitted in most other communities. This creates an incentive that recognizes there still remains some revenue source for the community, but provides an environment that expresses the community interest in having the major investment in its boundaries, rather than elsewhere.

The abatement is allowed by State law for up to 12 years, with the local unit setting the limit up to that point. Management would encourage consideration of the length of the abatement on a case-by-case basis, and not make any general policy regarding the length of the abatement. There may be some cases where six years is certainly effective and justifiable. There may be other cases where the importance of the overall investment and the nature of the company's ability to relocate may require 12 years to be effective.

Management certainly recognizes that there may be existing companies who feel that this is an unfair advantage to companies expanding or coming into the area. However, most companies understand how competitive the manufacturing situation has become, and as long as this tool is available to them for expansion, the existing companies generally support the abatement.

Management feels this an effective tool that can make a difference, particularly in the next two to three years when the competition will be most fierce, as the auto industry and the supplier base continues to go through upheaval and restructuring and job losses continue to skyrocket.

Therefore, management recommends that the following resolutions be adopted to replace Resolution #79-128 and Resolution #83-555 as amended. Effectively, this eliminates the three-to-one ratio personal to real property ratio, and permits computerized equipment and furniture and fixtures, which had been prohibited as eligible property for abatement. The original policies (IFT) were directed at specific situations such as John R Gardens for development of open spaces and are not designed for today's challenging environment. This also cleans up redundant language and criteria that is already provided for in state law, basically making Troy policy conform to state law.

Management recommends City Council adoption of this amendment.

Resolution #79-128

Industrial Facilities Tax Abatements (I.F.T.)

WHEREAS, the City of Troy has the economic objective of (a) increasing employment opportunities, (b) diversifying and stabilizing the industrial base of the community, (c) reducing economic obsolescence of the industrial base, (d) providing homogenous industrial areas, (e) encouraging industrial expansion, (f) providing for improved public facilities in industrial areas, and (g) encouraging attractive, viable industrial sites, and

WHEREAS, the Industrial Facilities Tax Act (P.A. 1974 No. 198), as amended, empowers cities to establish Industrial Development Districts (IDD) and to grant tax exemptions for certain industrial properties which meet certain criteria established by the Act, and

~~WHEREAS, the City Council of the City of Troy has determined that additional criteria should be established for the creation of such districts and exemptions,~~

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Troy, that the following criteria are to be met, applied or measured by the City Manager or his designees in the review of areas and locations to be considered for designation as Industrial Development Districts (IDD) by the City Council:

- ~~1) They must be included in the light industrial (M-1) zoning district classification.~~
- ~~2) They must be within an area comprised of small parcels with ownership patterns requiring assembly in order to create sites which are of sizes practical for industrial uses.~~
- ~~3) They must have non-conforming land uses on scattered sites with interposing vacant lands.~~
- ~~4) They must have a rate of change in State Equalized Valuation over the past five years which is less than the average growth in Troy industrial land values for the same period.~~
- ~~5) Parcels that do not meet the above requirements may be eligible for the establishment of districts if :
 - ~~a) The proposed project has qualified for grants through the Michigan Economic Growth Authority (MEGA).~~
 - ~~b) The project will generate a minimum of \$40 million in capital improvements.~~
 - ~~c) The project will generate a minimum of 500 new jobs in the City of Troy.~~~~

RESOLUTION #83-555

~~WHEREAS, The growth and development of enterprises pioneering in high technology research and proto-type development and production is economic development and expansion which is assigned a high priority by the City Council of the City of Troy; and~~

~~WHEREAS, Equipment and instrumentation required to conduct basic high technology and research and proto-type development and production has an accelerated rate of depreciation due to technological obsolescence in an ever-changing scientific environment; and~~

~~WHEREAS, It has become common practice for other states and other communities to offer incentives for high technology research and development enterprises to establish facilities within their Jurisdictions by economic inducements, including tax reductions and/or tax abatement, which inducements are providing a competitive advantage to enterprises which are lured to those communities because of reduced overhead and a pricing advantage which increases their success in the market place.~~

~~NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that upon compliance with the following standards and criteria, the City Council will accept for review and possible approval, applications for tax abatement on personal property as provided by Act 198 of the Public Acts of 1974, as amended:~~

- ~~(1) That the applicant will engage in the research, proto-type development and production of high technology systems and products, the origin of which can be traced to the research and development efforts of enterprises situated within the City of Troy; and~~
- ~~(2) That the applicant will engage in research and development activities which include the conjunctive use of some or all of the following: computers, semi-conductors, bio-genetics, super conductivity, thin film devices, advanced adoptive robotics, biomedical instrumentation and pharmaceuticals; and~~
- ~~(3) That the estimated personal property value of all Troy-based equipment, machinery and instrumentation is of such capital intensity so as to exceed the value of real estate by a ratio of 3 to 1 at the time of application for said abatement; and~~
- ~~(4) That more than one-half (1/2) of the personal property (by value) contained in the application shall be qualified for the shortest term of depreciation possible under Michigan tax laws and regulations; and~~

~~(5) — That the product(s) of the applicant must be on the forefront of new scientific discovery. That is, the result of scientific discovery, through utilization of personal property which is addressed in the application, shall be embodied in the product or service produced.~~

~~BE IT FURTHER RESOLVED, That the following limits, conditions and stipulations are to apply to applications which are submitted to the City Council:~~

- ~~(1) That the tax exemption shall not apply to real property except those building improvements which are uniquely required to support research and development activities the personal property to be abated; and~~
- ~~(2) That the tax exemption shall not apply to leasehold improvements or building improvements except those uniquely required to support research and development activities the personal property to be abated; and~~
- ~~(3) — That the tax exemption shall not apply to furniture and equipment commonly found in offices or businesses. Applications which include such furniture and equipment will be rejected.~~
- ~~(3) That said abatement of taxes shall cease at such time as applicant fails to prove by factual evidence that such personal property is being used in compliance with the basic guidelines established above; and~~

~~BE IT FURTHER RESOLVED, That applications that do not meet the previously listed criteria may be considered for tax abatements providing the following limits, conditions, and stipulations are met:~~

- ~~(1) — The project is eligible for Michigan Economic Growth Authority (MEGA) incentives.~~
- ~~(2) — The project will generate capital expenditures for both Real and Personal Property of at least \$40 million.~~
- ~~(3) — The project will generate at least 500 new jobs in the City of Troy.~~

~~BE IT FINALLY RESOLVED, That the term of abatement for any and all Real and Personal Property shall not exceed 12 years, it being the intent of the City Council to approve various lengths of abatements to the extent provided by laws of the State of Michigan.~~

Date: May 22, 2006

To: John M. Lamerato, Acting City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

Subject: Agenda Item – PRELIMINARY SITE CONDOMINIUM APPROVAL –
Adams Road Site Condominium, East side of Adams Road, South of South
Boulevard, Section 6 – R-1A

RECOMMENDATION

At the April 11, 2006 Regular meeting, the Planning Commission recommended approval of the Adams Road Site Condominium, with one condition: elimination of the portion of Unit #2 that falls within the required 45-foot rear yard setback. The applicant revised the site plan to meet this condition.

City Management agrees with the Planning Commission and recommends approval of the Adams Road Site Condominium application.

GENERAL INFORMATION

Name of Owner / Applicant:

The owner and applicant is Choice Development Corporation.

Location of subject property:

The property is located on the east side of Adams Road, south of South Boulevard, in Section 6.

Size of subject parcel:

The parcel is approximately 4.98 acres in area.

Description of proposed development:

The applicant is proposing to use the One-Family Cluster Option (Section 34.70.00) to develop a 5-unit site condominium.

Current use of subject property:

The property is presently vacant.

Current use of adjacent parcels:

North: Vacant.

South: Single family residential.

East: Single family residential.

West: Single family residential (Bloomfield Township).

Current zoning classification:

The property is currently zoned R-1A One Family Residential.

Zoning classification of adjacent parcels:

North: R-1A One Family Residential.

South: R-1A One Family Residential.

East: R-1A One Family Residential.

West: R-2 One Family Residential (Bloomfield Township).

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Low Density Residential.

ANALYSIS

Compliance with area and bulk requirements of the R-1A One Family Residential District:

The applicant is proposing to utilize the One-Family Cluster Option (Section 34.70.00). The Parallel Plan indicates that five units can be developed on the property using conventional R-1A area and bulk requirements.

The applicant is required to provide at least 30% open space; at least 25% of the open space shall be non-regulated wetlands. The applicant meets this requirement.

Lot Area: 21,780 square feet in R-1A; N/A using the One-Family Cluster Option.

Lot Width: 120 feet in R-1A (108 feet using Lot Averaging); N/A using the One-Family Cluster Option.

Height: Maximum permitted height is 2 stories or 25 feet.

Setbacks: Front: 20 feet required. The development meets this requirement.

Side: 15 feet between units (50 feet on Adams Road. The development meets this requirement.

Rear (perimeter): 45 feet.

Minimum Floor Area: 1,400 square feet.

Maximum Lot Coverage: 30%.

The applicant meets the area and bulk requirements of the R-1A One Family Residential District, One-Family Cluster Option.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Storm water detention:

The site plan indicates that underground storm water detention will be utilized. Note that the City will not accept underground detention facilities. These will have to be owned and maintained by the Site Condominium Association.

Natural features and floodplains:

The Natural Features Map indicates there are wetlands located on the property. A Wetland Determination Report was completed for the property on October 11, 2005 by Holloway Environmental Planning, Inc. The report indicates that there are State-regulated wetlands on the property. A permit from the MDEQ will be required prior to disturbing any of the wetland areas.

The wetland area will be delineated with a split rail fence. The applicant will be required to prepare a conservation easement ensuring the wetlands will remain undisturbed, prior to Final Site Condominium Approval.

Subdivision Control Ordinance, Article IV Design Standards

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance, One-Family Cluster Option, Section 34.70.00.

Streets: The proposed development has direct vehicular access to Adams Road.

Sidewalks: An 8-foot wide sidewalk is proposed for the east side of Adams Road. A 5-foot wide sidewalk is proposed for both sides of the interior street.

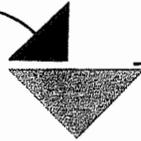
Utilities: The parcel is served by public water and sewer systems.

Attachments:

1. Wetland Determination prepared by Holloway Environmental Planning, Inc., dated October 11, 2005.
2. Correspondence/letters of opposition (3).
3. Applicant letter.

Prepared by: RBS, MFM

cc: Applicant
File/Adams Road Site Condominium



Job #05-003
October 11, 2005

David Donnellon
Choice Properties, Inc.
755 w. Big Beaver
Suite 1275
Troy, Michigan 48084

Wetland Determinations
Mitigation Design and
Construction
Permit Services

Site Master Planning
Landscape Architecture
Ecological Design

REC'D

OCT 28 2005

PLANNING DEPT.

Re: **Wetland Determination**
"5.0 acre Adams Road Site"
Sec. 06; City of Troy, Oakland Co., Michigan

WETLAND DETERMINATION REPORT

Dear Ms. Donnellon:

The following items summarize our findings and recommendations concerning wetlands on the above listed property:

The property was inspected on March 29, 2005. Upon examination of on-site conditions and the surrounding area, we identified one (1) wetland zone that exists within and/or adjacent to the property. We utilized a copy of the OCPC aerial photograph for the site to record our findings. The wetland zone is believed to exist as part of a local surface and groundwater system and associated wetland areas.

Our inspection was conducted in early spring. We were able to sample most of the current wetland indicator conditions on the site. The current site wetland indicators include common soil, plant and hydrologic traits indicative of wetland conditions within the Wetland Flagging Map. The wetland flags are easily identified in the field as pink survey ribbons marked "WETLAND BOUNDARY".

Methodology

The criteria we used to make our determination are based on current Michigan Department of Environmental Quality practices and evaluation methodology. This involves developing a correlation between vegetation¹, hydric soils² and hydrology³ to determine at what point a given area contains a predominance of wetland characteristics. This system is the generally accepted approach within the wetland determination industry.

¹ National List of Plant Species That Occur in Wetlands (Region 3-1996 Revision USFWS)

² Field Indicators of Hydric Soils in the United States-Version 4.0, March 1998, USDA

³ Field Guide to Wetland Delineation, USACE 1987 Manual, USACE

Wetland Determination Report

Job #05-003

Choice/"5.0 acre Adams Road Site"-Sec. 06; Troy.

October 11, 2005

p.2

Soil Conditions

The NRCS Soil Survey for Oakland County indicates that #27-Houghton and #63B-Urban Land series soils exist in the vicinity of the property. The Houghton soil type is considered "hydric" and is listed as hydric wetland soil on state soils lists. Our general observation of site soil conditions in the area of wetlands (conducted using a hand soil probe) revealed surface soils that were muck soils to highly depleted dark gray silty-loams within the wetland. Upland areas contained bright to medium brown sandy-loams. The mapping of soils on the NRCS map had a general correlation with the location of uplands and wetlands on the site, with no direct correlation to existing wetlands. A copy of the NRCS Soil Survey Map is attached.

MDEQ Wetland Inventory Maps

The MDEQ(MDNR) MIRIS Wetland Inventory Map for Troy was reviewed to determine if remote sensing evaluations indicate wetlands on or near the subject property. Review of this map indicates that no wetlands were identified near the site, only the small pond lying off-site to the south is indicated.. These maps are used by various regulating authorities as a general guide to project review. They may or may not indicate the physical presence of jurisdictional wetlands or their accurate boundaries. A copy of this map for the site is attached to this report.

Description of Wetlands

ZONE A

Groundwater and storm water run-off features transmit water through a wetland that is classed as a scrub/scrub and emergent wetland. This zone possesses long-term intermittent soil saturation and exposure to ground water. The zone's soil conditions are comprised primarily of heavy mucks and silt-loams. It is dominated by mixed herbaceous ground cover and mature medium age deciduous shrubs and small trees. Species common within this area include cottonwood, American elm, red ash, red-osier dogwood, boxelder, rice cut-grass, skunk cabbage, cattail and mixed carex sedges. This wetland zone follows the surface drainage features of the surrounding area, and is connected to other systems lying off-site to the east and south. Collectively, the overall wetland system exceeds 5.0 acres.

Jurisdiction and Regulation

Wetland Zone A will be regulated by the Michigan Department of Environmental Quality (MDEQ) under Michigan's Natural Resources Protection Act; PA. 451, (1994), Part 303, under the definitions of size as part of wetlands that exceed 5.0 acres and connected by recurring surface water connections, and/or fall within 500 feet of a regulated inland lake or stream. The MDEQ has final jurisdiction over the determination of all wetland areas regulated under state authority.

Wetland Determination Report

Job #05-003

Choice/"5.0 acre Adams Road Site"-Sec. 06; Troy.

October 11, 2005

p.3

Due to trespass restrictions, we did not physically sample wetland conditions on properties other than the subject parcel.

Permit Requirements

A Wetland Use Permit will likely be required from the MDEQ for any regulated activities proposed within the boundaries of jurisdictional wetlands. Issuance of a wetland permit by the MDEQ will require a demonstration that all available alternatives have been considered to minimize impacts to the wetland resource. Activities covered under their jurisdiction include dredging, drainage or filling of wetland and storm water discharge.

Summary

We recommend that you project the wetland limits that are described in this report onto site base drawings if your plans for this property will require facility locations near the wetland limit. A surveyor can field locate the boundary lines that we flagged. The flags were numbered for reference. Under current rules, the MDEQ would require compensatory wetland mitigation to be created to replace any impacts greater than 0.33 acre. The replacement ratio is 1.50 acres of new wetland for each 1.0 acre impacted for the type of wetland present on this property.

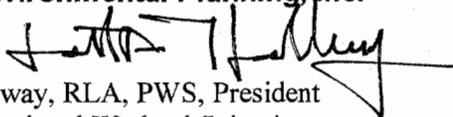
We have reviewed your proposed site plan which includes a cul-de-sac, residential lots and a permanent upland detention basin. Most of the proposed improvements fall outside the projected wetland boundary with only minimal direct wetland impacts proposed. An outlet pipe from the storm water system to the wetland, as-well-as road crossing og wetland likely would require a permit from the MDEQ. We would happy to assist you in preparing a wetland permit application to the state for this project.

If you have any questions concerning this information, please contact me by phone at (248) 546-9480, or by electronic mail at hollowayenv@sbcglobal.net

Thank you for the opportunity to assist you in this project.

Sincerely,

Holloway Environmental Planning, Inc.



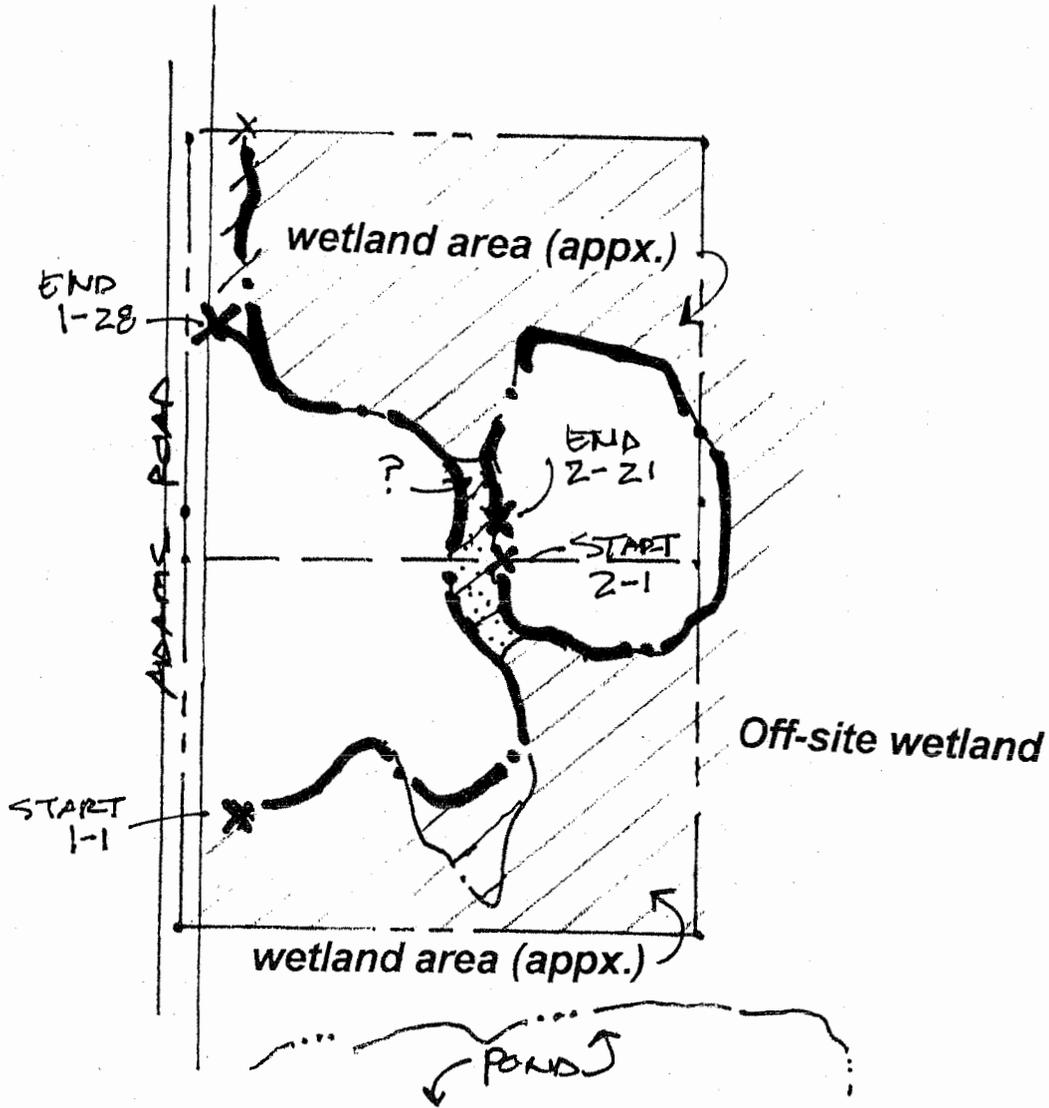
Todd D. Holloway, RLA, PWS, President
Certified Professional Wetland Scientist

TDH/tt

attn: Flaggng Sketch Wetland Map (1 page), NRCS Soil Survey Map, M.I.R.I.S. Wetland Map

cc:

file



Wetland Determination-Flagging Sketch Wetland Map*

"+/- 5.0 acre Site-Adams Rd."

Se. 06; City of Troy, Oakland Co.

Choice Group

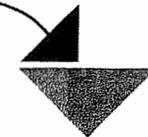
Job #05-003

February 11, 2005

Scale: n/a

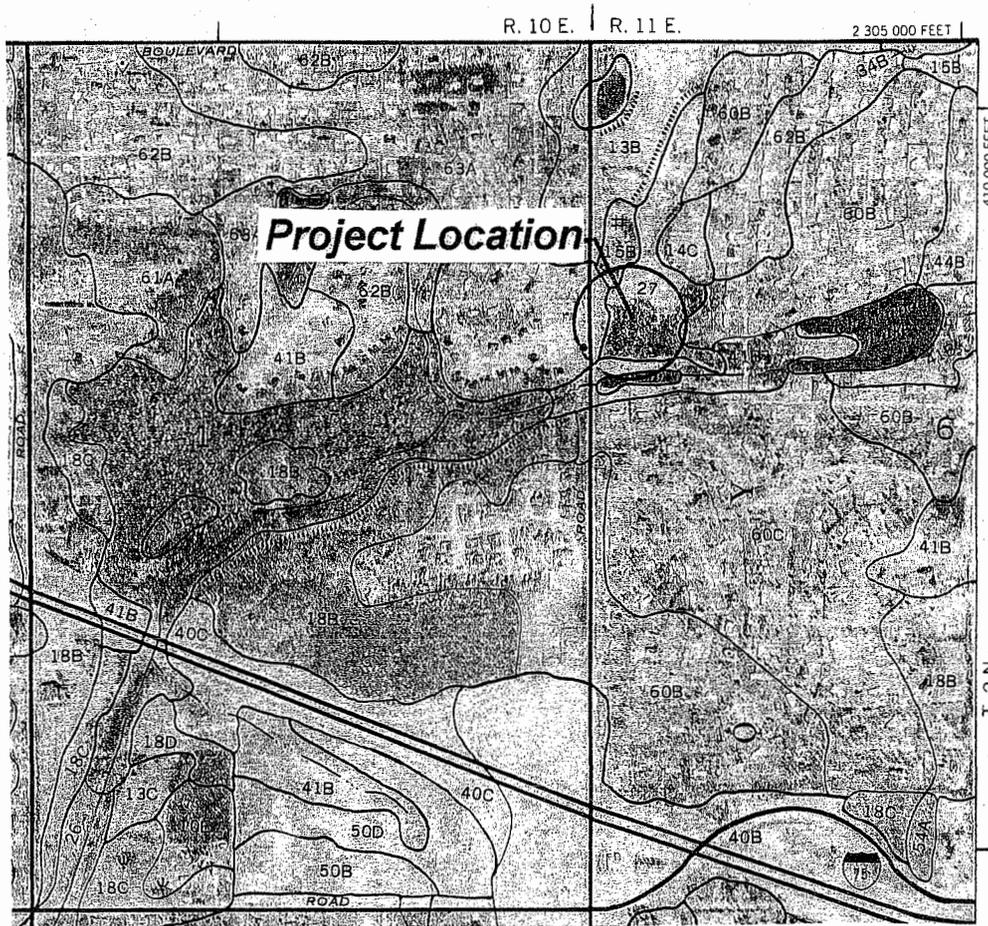
⊙ (page 1 of 1)

**HOLLOWAY
ENVIRONMENTAL
PLANNING, Inc.**



Wetland Area as Mapped*

23 Devonshire Road
Pleasant Ridge, MI. 48069
Phone: (248) 546-9480
Fax: (248) 544-9449
Email: please inquire



Wetland Determination-NRCS Soils Map*

(page 1 of 1)

"+/- 5.0 acre Site-Adams Rd."

Se. 06; City of Troy, Oakland Co.

Choice Group

Job #05-003

February 11, 2005

Scale: n/a

**HOLLOWAY
ENVIRONMENTAL
PLANNING, Inc.**

23 Devonshire Road
Pleasant Ridge, MI. 48069
Phone: (248) 546-9480
Fax: (248) 544-9449
Email: please inquire

THOMAS M. MOSS
6878 Dublin Fair
Troy, MI 48098

Agenda # 9
Adams Road S.C.

April 10, 2006

City of Troy
500 W. Big Beaver Road
Troy, MI 48084

Attn: Planning Department

RE: Adams Road Site Condominiums on 5.83 Acres
Troy, MI

Gentlemen:

It has come to our attention that the above-mentioned project is coming before the Planning Commission on April 11, 2006 @ 7:30 p.m. for consideration of development on existing wetlands; and as a property owner in the Lake Charnwood Subdivision and a member of its association, we respectfully request that this be denied for the following reasons:

- Potential loss of protected designated wetlands
- Hydrological concerns for homeowners in low lying areas
- Potential erosion run-off into Lake Charnwood
- Endangered species protection

We especially wish to point out that the potential erosion run-off into Lake Charnwood has been dealt with for years by our association as it relates to dredging and the costs are climbing considerably every year. We have seen in other associations where development upstream has been approved and erosion run-off has seeped into their lakes. At one time the fees for dredging would drain the association's bank account and then some years later the figures for the same dredging have doubled and tripled and becomes unmanageable from a cost standpoint.

Again, we respectfully request that the Planning Commission and the City Council look unfavorably upon this development and not let continued development ruin Lake Charnwood. We further request, if possible, that additional notices be sent out to homes surrounding this proposed development and not to just the abutting property owners.

Thank you very much for your kind consideration to this matter and we acknowledge the fact that the City of Troy will remain strong in its enforcement of the future development especially in these low lying residential areas.

Sincerely,

Mr. & Mrs. Thomas M. Moss
6878 Dublin Fair
Troy, MI

Item # 9

December 15, 2005

REC'D
JAN - 9 2006
PLANNING DEPT.

Attn: Mark Miller, Planning Director
Planning Commission
500 W. Big Beaver
Troy, MI 48084

Re: Proposed Rezoning of property located on Adams Road (east side of road) north
of Square Lake Road

Dear Mr. Miller:

I strongly object to the zoning change proposed for the property listed above. The obvious problem is that the lots clearly contain sensitive areas that should not be considered for rezoning. Other concerns are that the change in use will:

- adversely alter the characteristics of nearby areas
- have a negative effect on the neighborhood's property values
- pose a threat to the health and safety of the neighborhood due to increased traffic given its proximity to the I-75 exit

I urge you to deny the request for rezoning.

Thank you for your consideration.

Sincerely,



Evon M. Ebeid

Handed out by Jim
Stewart at 4/11/06
Planning Commission Mtg.

LAKE CHARNWOOD



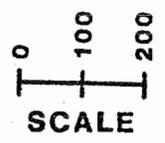
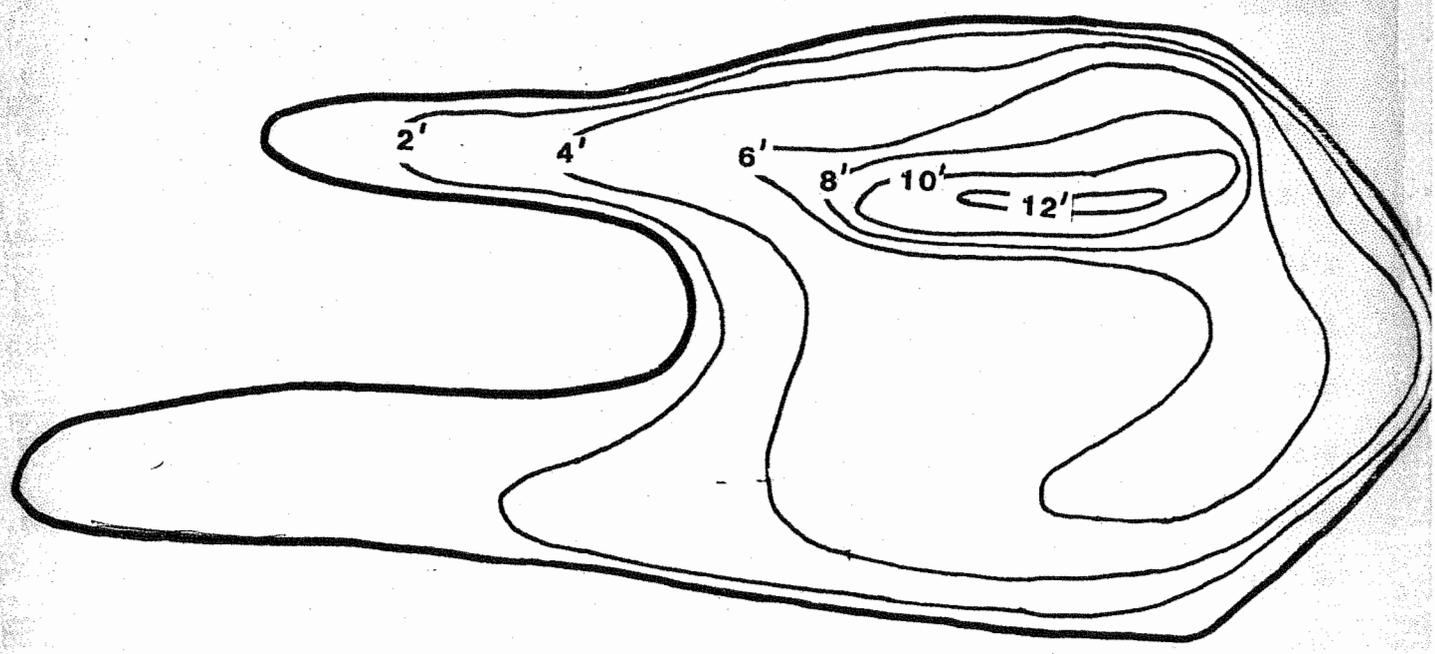
COMMENT: LAKE SHALLOW & FRAGILE

TROY MI

Jim Stewart

1987

BEFORE DREDGING



ENGINEERING STUDIES

• MEAN Depth = 3.4 Feet

EUTROPHIC (NEAR Death)

• CAUSE - PRIMARY CONSTRUCTION RUN-OFF & PHOSPHATE LOADS

LAKE CHARNWOOD LAKE BOTTOM CONTOUR MAP

FIGURE 2

7/5/87

OAKLAND LAKES: TROUBLED WATERS

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Holid
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By Liz Twardo
News Staff Writer

Michigan mot
vetoed the govern
proposed 65 mile-
limit.

It was speedin
drivers zipped alor
travel holiday since
Blanchard rejecte
speed limit Wednes

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limit to 55.

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are being lenient in
but reported a high
number of speeding
jump attributed to h

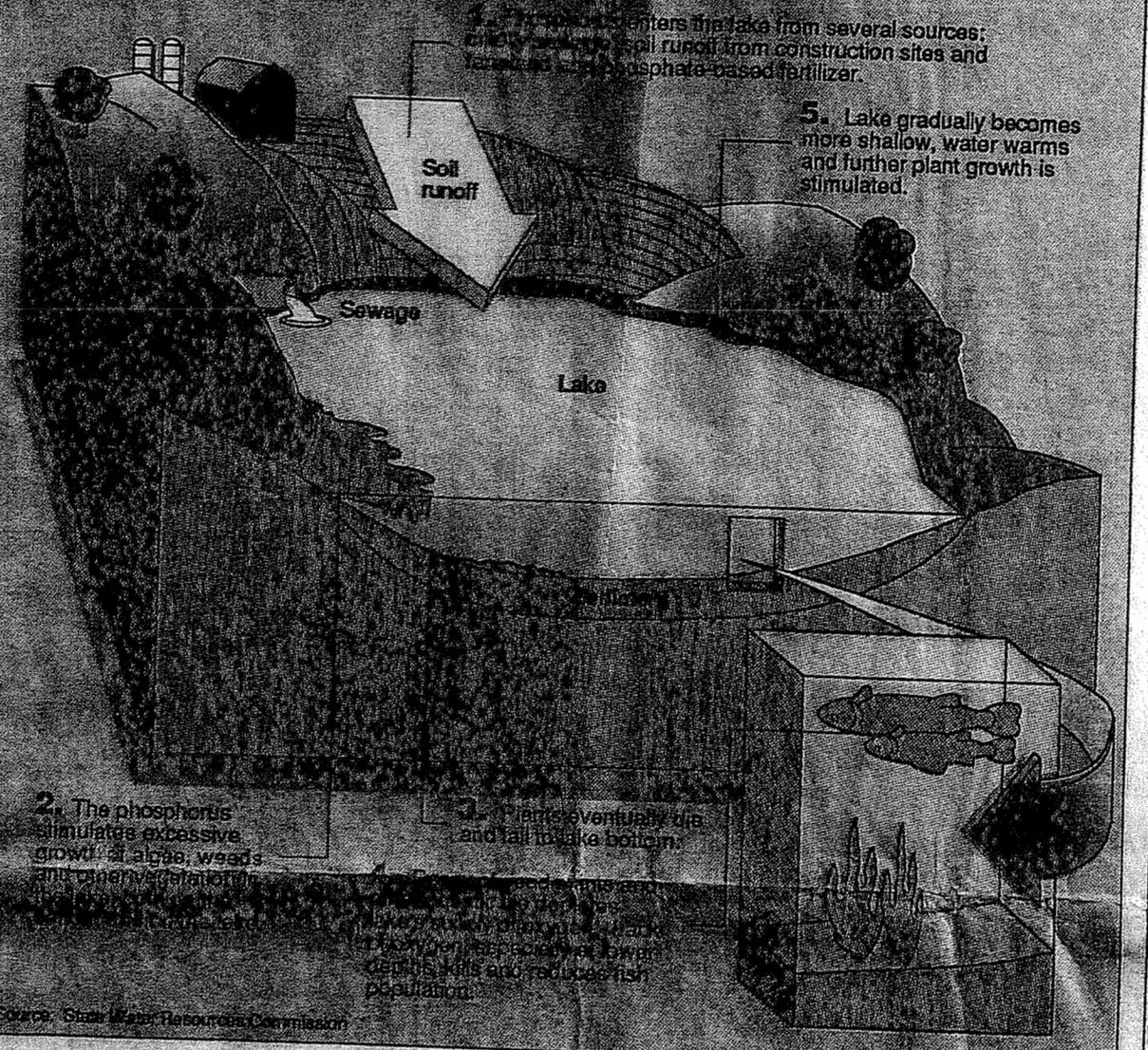
And an inform
by The Detroit Ne
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Michigan — igno
mile-an-hour limit.

"Michigan's hi
made for 75 mile-an-
said Dave Brooks, 25
while stopped at a
along Interstate 75 se
wood. That's one of
of rural freeway that
been posted for 65 i
the veto.

"I think they sho
speed limit to 75 mil
said the purchasing
admits to routinely
open."

How a lake dies

Threats to inland lakes are a constant concern for local governments, according to a panel of the state Water Resources and Planning Commission. The following diagram shows how development around a lake can cause it to die.



JEFF GOERTZEN/The Detroit News

People, pollution and property development threaten picturesque water-laced region

By Scott Faust,

OAKLAND LAKES: Troubled Waters

Troy's 'Lake Paradise' becoming a smelly bog

Neighbors mount a campaign to renew its life

By Liz Twardon
News Staff Writer

James P. Stewart said his home on Troy's Lake Charnwood could be a piece of paradise — like living "On Golden Pond."

Lake Charnwood — a 10-acre,

private, man-made, spring-fed lake on Troy's northwest edge near Adams Road and South Boulevard — is surrounded by expensive, well-kept houses.

"But the beauty is only skin deep," Stewart said. "The muck below is destroying our picturesque lake."

Decaying weeds buried in black silt, as much as 5 feet deep in some areas, fill the air with an unpleasant odor and discourage swimmers and paddle-boaters, he said. "It's so mucky and smelly that even kids don't want to swim in it anymore."

ABOUT TWO years ago, Stewart decided not to stand by and "watch the weeds and silt choke our lake to death."

His efforts spawned the Lake Charnwood Lake Improvement Board, which is spearheading efforts to dredge the bottom of the tooth-shaped lake. If the board obtains permission from the state Department of Natural Resources, Lake Charnwood will be among the few Oakland County lakes to undergo a large-scale dredging project in a developed area.

The dredging would increase the lake's average depth from 3 1/2 feet to

about 8 feet.

Most of the residents in the more than 120 homes — 22 on the lake — in the subdivision have decided to share the cost of the \$186,875 project. Lakefront residents would be assessed nearly \$6,000 each and others who have lake privileges would pay \$600 each to finance the project, Stewart said.

"IT'S A jewel of a lake, but if we do not make it an asset, it will become a liability," Stewart warned.

Ipolitas Jantusis, 47, a 14-year lakefront resident agreed. "We're definitely concerned that if we let the

lake go it'll become a swamp," he said. "The lake attracted all of us here and makes our property valuable."

The dredging project would remove 27,500 cubic yards of sediment that has accumulated during the last four decades, according to Grand Rapids lake management specialists who prepared a feasibility study for the lake board.

The sediment is part of the natural aging process of inland lakes called eutrophication, the buildup of dead weeds, fish and other aquatic life. But like many Oakland County

lakes, Lake Charnwood also is a victim of runoff from residential, commercial and road development in the surrounding area.

LAKE CHARNWOOD, which forms the natural collection basin for about 1,160 surrounding acres, has an unusually large watershed, according to the board study. Droppings from hundreds of geese that graze in the area and phosphorus from lawn and garden fertilizers also have speeded the lake's aging.

Left unattended, the lake would eventually become shallow marshland, the study said.



Homeowners along Lake Charnwood (above) have won tentative approval for a plan to dredge the eight-acre body of water in northwest Troy.

Lake rescue plan approved

By Kevin Brown
staff writer

Two years after launching a save-the-lake drive, Lake Charnwood homeowners have won tentative approval for a lake dredging plan.

A cool breeze Thursday stirred willow trees and rippled surface water on the eight-acre lake in northwest Troy as a Department of Natural Resources represent-

ative offered preliminary approval for the plan.

The word came as DNR officials met with the Lake Charnwood Improvement Board in Troy. Representing the city on the board are Robert Semple, assistant city manager, and Lake Charnwood homeowner James Stewart.

"To let it die right in front of your eyes," Stewart lamented. "I felt I had log-

ic on my side," he said, recalling efforts to save the lake.

Board members say the problem is that silt or runoff has drained into the low-lying lake, following stepped-up development in the area.

SEMPLER SAID that as a result, the average depth of the 30-year-old, man-made lake is now only 3½ feet.

Please turn to Page 2

what's inside

Achievers	4A
Community Calendar	3A
Classifieds	C,E,F
Index	1F
Auto	C,F
Real Estate	1E
Employment	1F
Crossword	3E
Creative Living	Sec. E
Entertainment	5B
Sports	Sec. C
Street Scene	Sec. D

An actor's life

Students learn hard realities

To be or not to be an actor.

That was the question gnawing at some Athens High School students in Irista Manfredi's theater arts class last week.

And they wondered if 'tis nobler to struggle through lean years as a young thespian or find a steady, higher-paying career, after high school.

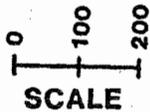
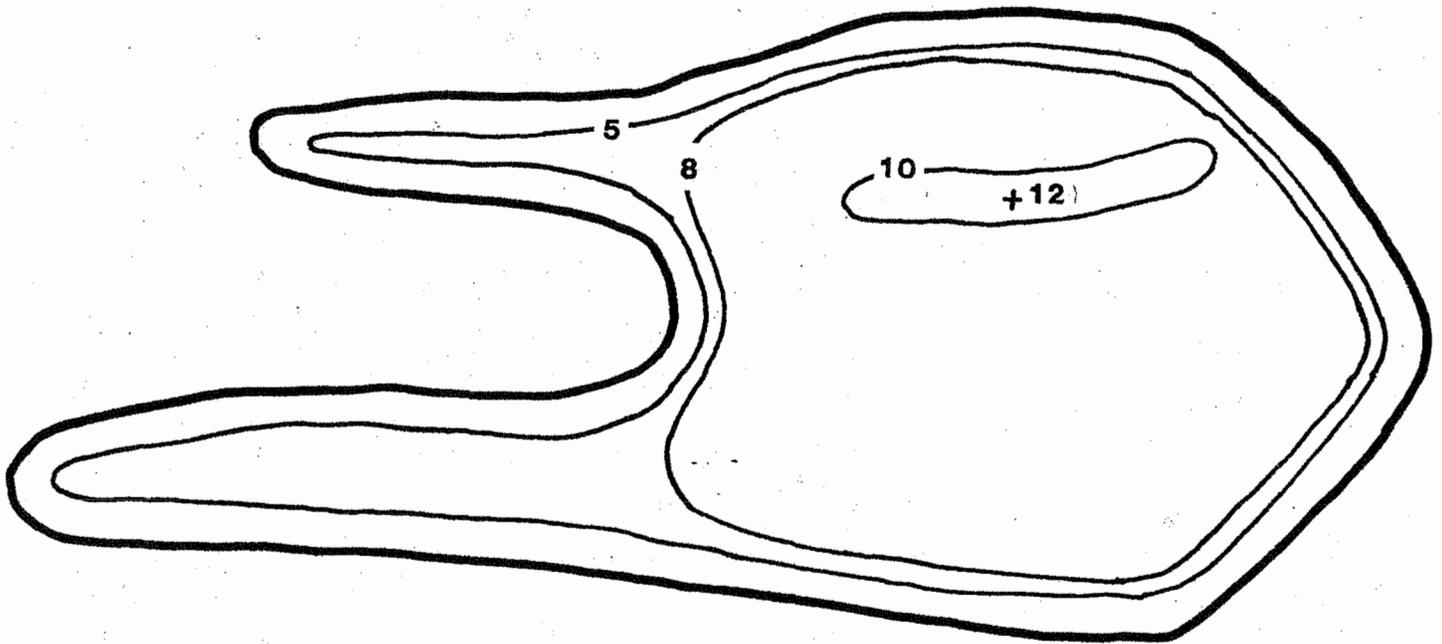
What they discovered from a panel of professional actors, is that the theater is a little like making a tight rope

'I started acting at 16. I paid my way through college by all the work I did as an actor.'

— Christopher Callen

Reni earned about \$50 a week with a sma

After Dredging



Mean Depth = 7.5 feet

Still shallow, but 100% improvement

Cost: = \$200,000 (100% paid by Lake Charnwood property owners)

Today's cost would exceed \$2,000,000 * (totally unaffordable)

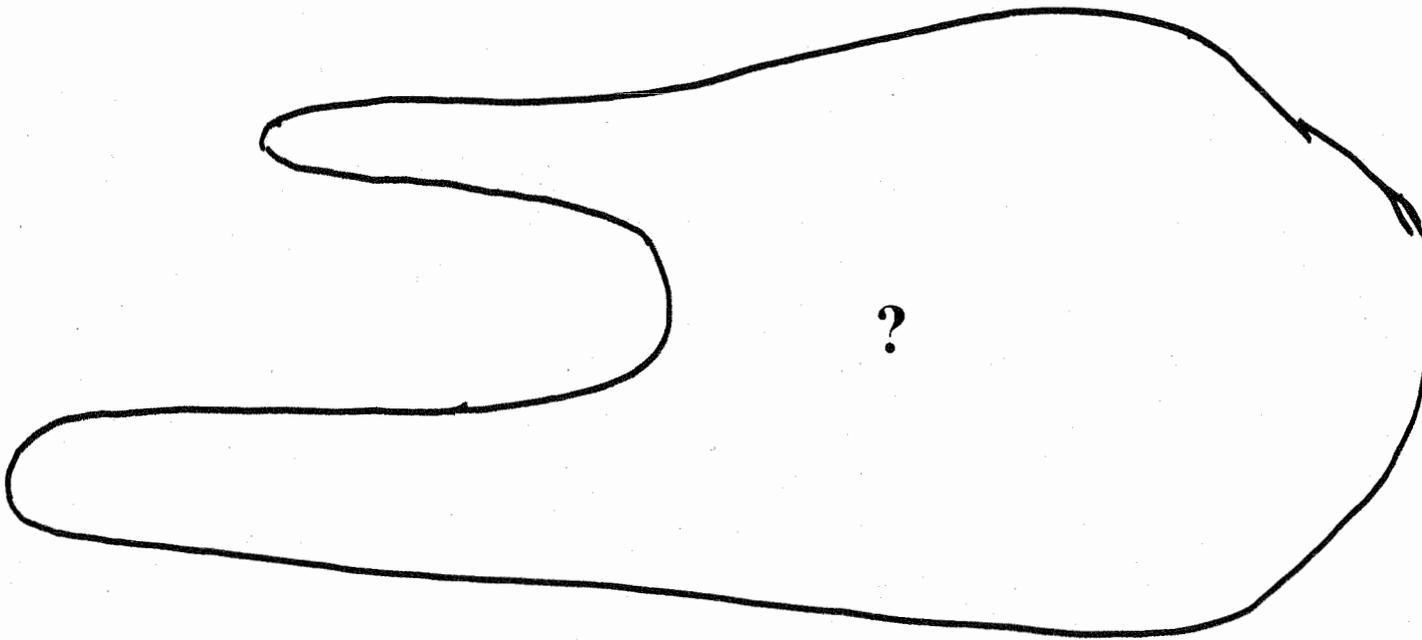
LAKE CHARNWOOD PROPOSED DREDGING DEPTH CONTOURS

FIGURE 5

* based on Quarton Lake dredging costs 2004

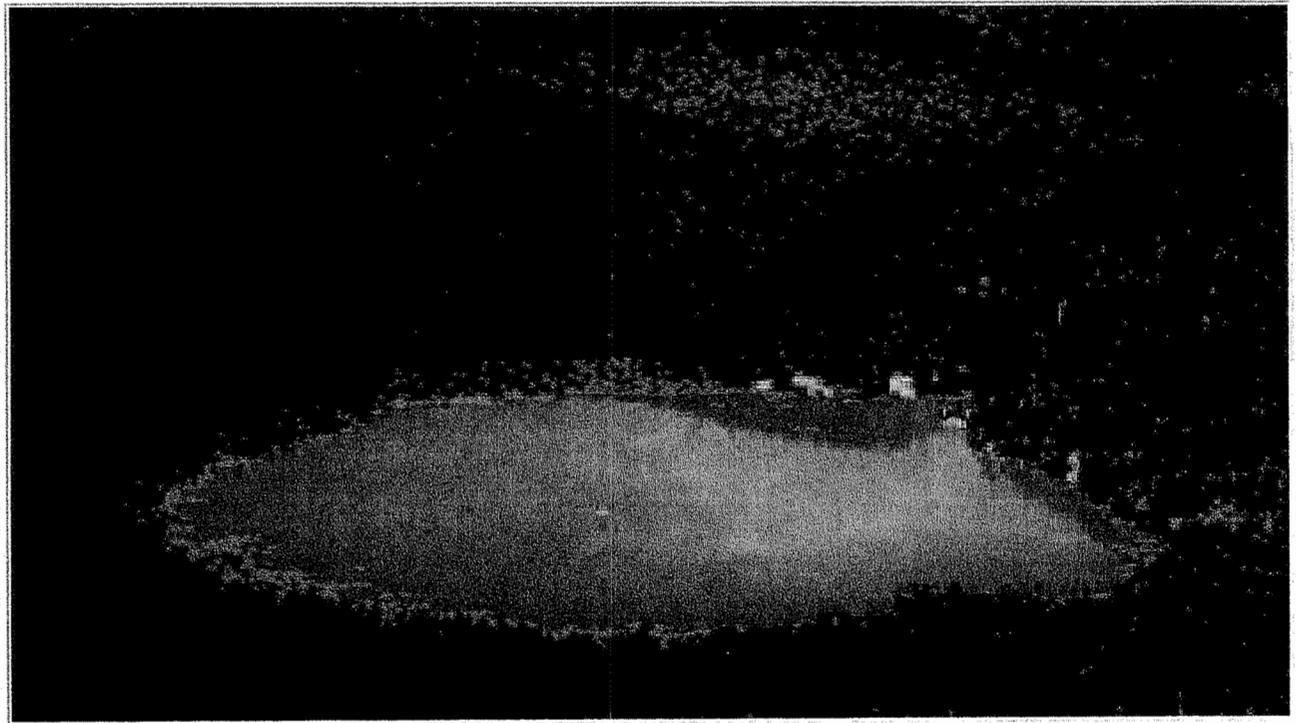
2006

Lake Charnwood



- Depth – unknown (less than 7.5 feet mean)
- What is known: the lake is shallower due to a combination of sediment runoff and weed and algae debris for the past 15 years.
- Major portion of the LCPOA budget is spent on maintaining & preserving quality of the lake
- Watershed = 147 times the size of Lake Charnwood.

EXAMPLE
OF
AFFECTS OF PHOSPHORUS



**Aerial view of Lake 227 in 1994. Note the bright green colour caused by algae stimulated by the experimental addition of phosphorus for the 26th consecutive year. Lake 305 in the background is unfertilized.
(photo by Karen Scott)**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

December 21, 1979

OFFICE OF THE
ADMINISTRATOR

Mr. Ernie Maier
Aquatic-Weed Control of Oakland Co., Inc
10095 Burgess Court
Union Lake, Michigan 48085

Dear Mr. Maier

In reference to your letter of November 26, 1979 requesting information on aquatic macrophytes:

Harvesting of aquatic macrophytes can potentially remove large amounts of phosphorus and nitrogen from the lake. However, it can not be definitively stated that levels of nutrients in the water column of the lake will decrease, because the concentrations of nutrients in lakes depend on complex interactions between lake sediments, nutrient inputs, and aquatic plants.

→ The phosphorus content of aquatic plants (algae and macrophytes) is approximately 0.1% of the dry weight of the plant. Therefore, under idealized conditions 1 pound of phosphorus could produce 1000 pounds dry weight (10,000 pounds wet weight) of algae.

EPA does not endorse any specific harvesting methods or chemical herbicidal agents for controlling aquatic macrophytes. However, on the average harvesting costs approximately _____ acre while chemical treatment costs run about _____ acre.

A document you may find of interest is: "Aquatic Plants, Lake Management, and Ecosystem Consequences of Lake Harvesting." This publication is available from the center of Biotic Systems, Institute for Environmental Studies, University of Wisconsin-Madison, Madison, WI, 53708. This document should provide you with knowledge of various aspects of aquatic macrophyte management including: university involvement; journals, books, and publications available; and current research.

If we can be of further assistance, do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon B. Myers".

Vernon B. Myers
Clean Lakes Section (WH-585)

Recap:

The residents of Lake Charnwood are fighting a three-headed dragon in the management of our lake.

1. An extremely shallow lake.
2. Continuous sedimentation runoff caused by construction and an unusually large watershed area.
3. Large amounts of phosphorus loads which create excessive growth of weeds and algae.

We Need Your Help!

Conclusion

LCPOA REQUEST A DECISION THAT WILL

PROTECT THE ENVIRONMENT

PROTECT WILDLIFE

PROTECT ENDANGERED SPECIES

AND

PROTECT THE PROPERTY VALUES

OF

135 LAKE CHARNWOOD HOME

OWNERS BY PROTECTING OUR

FRAGILE LAKE

PROPERTY VALUES ARE DIRECTLY RELATED

TO THE QUALITY OF OUR LAKE



Shouhayib Investment Co.
Choice Development Corp.

Choice Properties, Inc.
Choice Marketing, Inc.

May 22, 2006

Troy City Council
Troy City Hall
500 West Big Beaver Road
Troy, MI 48084

Dear Council Members:

Re: Adams Road Condominiums
Open Space Development

The attached plans have been revised consistent with the staff's report and the Planning Commissioners' approval. We have revised the rear yard setback on Unit #2, removed the name of the private road easement until it is reviewed and approved by Engineering, revised the types of trees to be installed in the Adams Road right-of-way, and had the drawings sealed by a professional engineer.

Based on the discussion at the public hearing, however, I thought it important to respond to some of the comments and clarify some of the points made by the neighboring residents. They include the following:

1. Some residents were concerned about the use of fertilizers and the effects of phosphates down stream in the adjacent pond and lake.

The Developer is equally concerned about this problem and there are a few things that will help minimize or mitigate these effects. The very first technique will be to establish a by-law in the condominium document that will eliminate the use of phosphates on the little lawn area that is evident in this development. Second, the wetland vegetation will absorb any nutrients from other sources before they reach the pond and lake. Third, all of the storm water coming off the roof of the homes will be collected into the storm drainage system and directed to the underground detention area where erosion and contaminants will be allowed to settle out of the storm water before it is released at the same rate as is present on the property in its natural state. Finally, all of the run-off in front of the four units close to the cul-de-sac will drain onto the road and be directed to the storm water detention area and be cleansed as described for the water running off the roof. It should be pretty clear that the developer is proposing measures that are consistent with the best management

practices for storm water control. This development, therefore, should be cited as an example of what should be done to manage storm water.

2. Some residents stated that this land should not be developed because of the wetlands.

There are two ways to maintain the wetlands. One is outlined in the zoning ordinance. It is called open-space development. The City should be commended for this recent amendment to the zoning ordinance. These regulations create a balance between the rights of the property owner and the general welfare of the community. I would go into more detail but I believe the benefits of the open space provisions were adequately discussed when the ordinance revisions were first introduced and approved. The second way to preserve the whole site is to have an interested person or group purchase the land in order to keep it in its natural state. The interested group could also deed the property to the City or to a land conservancy so that it will remain unimproved forever. It is the developer's intention to at least deed the open space to a land conservancy. The deeded area represents about 3 acres or about 60% of the site. On the other hand, there are lots and significant wetlands on adjacent sites, yet we don't believe there are any restrictions on the use of the lots or the use of fertilizers. Nor have we heard of anyone creating an environmental easement on these other properties. The developer of the subject parcel, therefore, should be commended for the additional efforts he is taking to preserve natural features in the City of Troy.

3. Finally, there was a concern that the Developer would be filling the wetland. Such a statement can easily be made when someone does not have a clear understanding of what is being proposed. Though there will be some fill, most of it will be on the upland area of the site. Where a short section of driveway is needed to cross the wetland to gain access to Unit #2, there will be about 50 cubic yards of fill which is only 20 feet wide by 30 feet long by 2 feet deep. There will also be a small culvert to maintain drainage through this area. Because this little bit of fill will occur, an application must be sent to MDEQ. All we need to do now is understand the difference between the minor fill on this property in comparison to the exaggerated comments that seem to misrepresent the situation. There will not be whole scale filling of the wetlands. This action is not intended and not possible given current regulations. With the right information, the right decision can be made in the end. As a result, this open space development plan being proposed is the right plan to be approved.

Based on valid restrictions and regulations, we rely on the reasonable nature of the development in order to secure council approval on this small project. The five homes will be on 40% of the site and be surrounded by some very nice natural features. The wetland will not only be preserved but it will continue to be a visual amenity to the area.

If any Council person has any concerns, we would appreciate the opportunity to address such matters at any time. Please feel free to call us at 248-362-4150.

Troy City Council
Page 3
May 22, 2006

In the meantime, we thank you for your consideration of this matter.

Sincerely,

CHOICE DEVELOPMENT

A handwritten signature in black ink, appearing to read "David Donnellon", written over a large, loopy circular flourish.

David Donnellon, AIA, AICP

jd

cc Planning Commissioners

DATE: May 23, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Steve Vandette, City Engineer
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – EXTENSION OF PRELIMINARY SITE CONDOMINIUM APPROVAL – Oak Forest South Site Condominium, East Side of Willow Grove, South of Square Lake Road, Section 11 – R-1C

RECOMMENDATION

City Management recommends a one-year extension of preliminary site condominium approval of Oak Forest South Site Condominium.

BACKGROUND

City Council granted preliminary site condominium approval to Oak Forest South Site Condominium on April 18, 2005. The preliminary site condominium approval expired April 18, 2006. The petitioner, Dale Garrett of Ladd's Inc., submitted an application for extension on March 13, 2006. City Management requested the petitioner complete a wetland inspection report prior to bringing the item forward to City Council for consideration, consequently the extension deadline has elapsed.

The petitioner is proposing a 23-unit site condominium on a parcel that is approximately 10.03 acres in area. The applicant is utilizing the lot averaging option, which permits a 10% reduction in lot area to 9,450 square feet and a 10% reduction in lot widths, to 76.5 feet. The petitioner is not proposing any changes to the approved preliminary site condominium plan.

The Natural Features Map indicates there are wetlands, woodlands and a drain on the property. The petitioner provided a wetland determination report prepared by Holloway Environmental Planning, Inc., dated December 8, 2004. The applicant provided a wetlands assessment report prepared by the Michigan Department of Environmental Quality (MDEQ) on December 28, 2001. The report indicates that there are a number of wetlands regulated under Part 303 of PA 451 of 1994; however, the findings are not binding after October 17, 2004.

At the request of City Management, the petitioner submitted a revised wetland inspection report dated April 10, 2006. The report indicates the wetland boundaries identified on the MDEQ report is accurate. Note that the petitioner is required to receive a permit from the MDEQ prior to commencing any construction activity such as dredging, filling, or draining within a regulated wetland.

Attachments:

1. MDEQ Wetland Assessment Report 00-63-0006-WA, dated December 28, 2001.
2. Wetland Determination Report, prepared by Holloway Environmental Planning, Inc., dated December 8, 2004.
3. Wetland Inspection Report, prepared by Holloway Environmental Planning, Inc., dated April 10, 2006.
4. Memorandum prepared by the City of Troy Environmental Specialist, dated May 1, 2006.

cc: Applicant
File/ Oak Forest South Site Condominium

Prepared by RBS/MFM

G:\SUBDIVISIONS & SITE CONDOS\Oak Forest South Site Condominium Sec 11\Extension Prelim CC Approval Oak Forest South Site Condo 06 05 06.doc



JOHN ENGLER, Governor
DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

REPLY TO:

JACKSON DISTRICT OFFICE
STATE OFFICE BUILDING
301 E LOUIS GLICK HWY
JACKSON MI 49201-1556

DEC - 9 2004

December 28, 2001

Mr. Dale E. Garrett
Wattles Square, Inc.
5877 Livernois, Suite 103
Troy, MI 48098

Dear Mr. Garrett:

SUBJECT: Wetland Assessment Report - Wetland Assessment File Number 00-63-0006-WA

The Department of Environmental Quality (DEQ) conducted a Level 3 Wetland Assessment on October 17, 2001 on property (property tax identification number(s) 20-11-201-007, 20-11-201-012, 20-11-201-015, and 20-11-201-018) located in Town 02N, Range 11E, Section 11, City of Troy, Oakland County. The wetland location plan provided to the DEQ indicates the above referenced property is the site of the proposed Oak Forest Subdivision. The assessment was conducted in accordance with Part 303, Wetland Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); and Rule 4, Wetland Assessments (R 281.924) of the Administrative Rules for Part 303. This is a report of our findings in response to your wetland assessment application.

The DEQ staff walked the flagged boundaries as requested in your wetland assessment application. Based on our on-site investigation, which included review of plant communities, hydrologic indicators, and soils of the assessment area, and an in-office review of other pertinent information, the DEQ confirms, in part, the wetland boundaries observed during the site inspection. After reviewing staff's field notes in comparison to your consultant's soils data and botanical species list, staff noted a couple of minor errors.

The revised boundaries have been added to the Wetland Location Plan dated as last revised 11-5-01 and a copy of the pertinent areas are attached. The site map of the assessment area was created by combining information from your consultant and the DEQ. The new map identifies the areas containing wetland and upland within the assessment area. A new delineation is not necessary.

All the areas of wetland identified on the Wetland Location Plan are regulated pursuant to Part 303 of 1994 PA 451. Please be advised that any of the following activities require a permit under Part 303:

- a) Deposit or permit the placing of fill material in a regulated wetland.
- b) Dredge, remove, or permit the removal of soil or minerals from regulated wetland.
- c) Construct, operate, or maintain any use or development in a regulated wetland.
- d) Drain surface water from a regulated wetland.

Mr. Dale E. Garrett
Wattles Square, Inc.
December 28, 2001
Page 2

For those areas identified as upland on the site map, the DEQ lacks jurisdiction under Part 303 for activities occurring in those areas.

You may request the DEQ reassess the subject parcel or any portion of the parcel within 30 days of the date of this report should you disagree with its findings. A written request to reassess the parcel must be accompanied by supporting evidence with regard to wetland vegetation, soils or hydrology different from, or in addition to, the information relied upon by DEQ staff in preparing this report and sent to:

Wetland Assessment Program
Inland Lakes and Wetlands Unit
Land and Water Management Division
Department of Environmental Quality
P.O. Box 30458
Lansing, Michigan 48909-7958

Please be aware that this assessment report does not constitute a determination of the presence of wetland that may be regulated under local ordinances or federal law. The U.S. Army Corps of Engineers (USACE) retains regulatory authority over certain wetlands pursuant to Section 404 of the Clean Water Act (CWA), and specifically those wetlands associated with traditionally navigable waters of the state. Traditionally, navigable waters are generally the Great Lakes, their connecting waters, and river systems and lakes connected to these waters. In other areas of Michigan, the DEQ is responsible for determination of wetland boundaries for purposes of compliance with the CWA under an agreement with the U.S. Environmental Protection Agency.

Your assessment area does not appear to be within those areas also regulated by the USACE. However, should you desire more information, please contact the USACE at 313-226-2218.

This assessment report is limited to findings pursuant to Part 303 and does not constitute a determination of jurisdiction under other DEQ administered programs. Any land use activities undertaken on the assessed parcel may be subject to regulation pursuant to the NREPA under the following programs:

Floodplain Regulatory Authority found in Part 31, Water Resources Protection
Part 91, Soil Erosion and Sedimentation Control
Part 301, Inland Lakes and Streams

The findings contained in this report do not convey, provide, or otherwise imply approval of any governing act, ordinance, or regulation, nor does it waive the obligation to acquire any applicable state, county, local, or federal approval or authorizations necessary to conduct any possible activities. This assessment report is not a permit for any activity that requires a permit from the DEQ.

Mr. Dale E. Garrett
Wattles Square, Inc.
December 28, 2001
Page 3

The findings contained in this report are binding on the DEQ until October 17, 2004; a period of three years from the date of the assessment unless a reassessment is conducted. Please contact me if you have any questions regarding this assessment report.

Sincerely,



Rick Schramm
Jackson District Supervisor
Land and Water Management Division
517-780-7915

Enclosure

cc: Ms. Wendy Veltman, DEQ, Lansing
Mr. Richard A. Powers, DEQ, Lansing
Ms. Mary Vanderlaan, DEQ, Livonia
Mr. Todd Holloway, Holloway Environmental Planning, Inc.

DEC - 9 2004

**HOLLOWAY
ENVIRONMENTAL
PLANNING, Inc.**

Job #00-004
December 8, 2004

Dale Garrett
Wattles Square, Inc.
5877 Livernois Road
Suite 103
Troy, Michigan 48098

Wetland Determinations
Mitigation Design and
Construction
Permit Services

Site Master Planning
Landscape Architecture
Ecological Design

cc: **David Baumhardt (PEA-Troy) via fax @ 248.689-1044**

Re: **Wetland Determination**
"Oak Forest Sub. Site"
Sec. 11; City of Troy, Oakland Co., Michigan

WETLAND DETERMINATION REPORT

Via fax @ 248.826.3573 (4 pages)

Dear Mr. Garrett:

The following items summarize our findings and recommendations concerning wetlands on the above listed property:

Parcel #20-11-201-002 was inspected on July 19, 2004. Upon examination of on-site conditions and the surrounding area, we identified two (2) wetland zones that exists within and/or adjacent to the property. We utilized a copy of the OCPC aerial survey for the site to record our findings. The wetland zones are believed to exist as part of a local surface and groundwater system and associated wetland areas.

Our inspection was conducted in mid-summer. We were able to sample all of the current wetland indicator conditions on the site. The current site wetland indicators include common soil, plant and hydrologic traits indicative of wetland conditions within the wetland boundaries. The wetland flags are easily identified in the field as pink survey ribbons marked "WETLAND BOUNDARY".

Wetlands on the remainder of the property (comprised of parcels 20-11-201-012, 015, 017, 018 and 20-11-236-006) were previously delineated by this office and confirmed in the field by representatives of the Michigan Department of Environmental Quality in 2001.

A wetland map exhibit is attached to this report as prepared by Professional Engineering Associates, Inc. identified as **Existing Wetland Areas Oak Forest (Figure 1)**. The wetlands as shown were surveyed from our delineation.

Methodology

The criteria we used to make our determination are based on current Michigan Department of Environmental Quality practices and evaluation methodology. This involves developing a correlation

23 Devonshire Road
Pleasant Ridge, MI, 48069
Phone: (248) 546-9480
Fax: (248) 544-9449
hollowayenv@shcglobal.net

Wetland Determination Report *via fax*

Job #00-004

Ladds/"Oak Forest Sub. Site"-Sec. 11; Troy.

December 8, 2004

p.2

between vegetation¹, hydric soils² and hydrology³ to determine at what point a given area contains a predominance of wetland characteristics. This system is the generally accepted approach within the wetland determination industry.

Soil Conditions

The NRCS Soil Survey for Oakland County indicates that #27-Houghton, #41B-Aquents and #52A-Selfridge series soils exist in the vicinity of parcel 20-11-201-002. The Houghton soil type is considered "hydric" and is listed as hydric wetland soil on state soils lists. Our general observation of site soil conditions in the area of wetlands (conducted using a hand soil probe) revealed surface soils that were highly depleted gray sandy-loams. Upland areas contained bright to medium brown sandy-loams. The mapping of soils on the NRCS map had a general correlation with the location of uplands on the site, with no direct correlation to existing wetlands. A copy of the NRCS Soil Survey Map is not attached.

MDEQ Wetland Inventory Maps

The MDEQ(MDNR) MIRIS Wetland Inventory Map for Troy was reviewed to determine if remote sensing evaluations indicate wetlands on or near the subject property. Review of this map indicates that no wetlands were identified near the subject parcel. These maps are used by various regulating authorities as a general guide to project review. They may or may not indicate the physical presence of jurisdictional wetlands or their accurate boundaries. A copy of this map for the site is not attached to this report.

Description of Wetlands

ZONE A (comprised of areas labeled A, B and D)

Groundwater and storm water drainage features in the form of a shallow ditch transmit water through a wetland that is classed as scrub/scrub wetland. Units A, B and D are connected just off-site to the west to define the zone which possesses long-term intermittent soil saturation and exposure to intermittent ponding. The zone's soil conditions are comprised primarily of heavy loams. It is dominated by mixed herbaceous ground cover and mature medium age deciduous shrubs and small trees. Species common within this area include sandbar willow, American elm, red ash, red-osier dogwood, boxelder, cattail and mixed carex sedges. This wetland zone follows the surface drainage features of the surrounding area, and is connected to other systems lying off-site to the north, west and east. Collectively, the overall wetland system falls within 500 feet of the Fetterly Drain.

ZONE C

This small and isolated wetland pocket is classed as a scrub and wet-meadow wetland. It is separated from Zone A by a raised agricultural trail that parallels the west property line. Plant species are similar to those found in Zone A.

¹ National List of Plant Species That Occur in Wetlands (Region 3-1996, Revision USFWS)

² Field Indicators of Hydric Soils in the United States-Version 4.0, March 1998, USDA

³ Field Guide to Wetland Delineation, USACE, 1987 Manual, USACE

Wetland Determination Report *via fax*

Job #00-004

Ladds/"Oak Forest Sub. Site"-Sec. 11; Troy.

December 8, 2004

p.3

This area, although small, also falls within 500 feet of the Fetterly Drain.

Jurisdiction and Regulation

Wetland Zones A (units A, B and D) and C will be regulated by the Michigan Department of Environmental Quality (MDEQ) under Michigan's Natural Resources Protection Act; PA. 451, (1994), Part 303, under the definitions of size as part of wetlands that exceed 5.0 acres and connected by recurring surface water connections, and/or fall within 500 feet of a regulated inland lake or stream. All other related wetlands have been coded on the attached **Figure 1** to reflect MDEQ regulation status and are labeled as **Wetland Areas E through Z and AA to CC**. The MDEQ has final jurisdiction over the determination of all wetland areas regulated under state authority.

Due to trespass restrictions, we did not physically sample wetland conditions on properties other than the subject parcel.

Permit Requirements

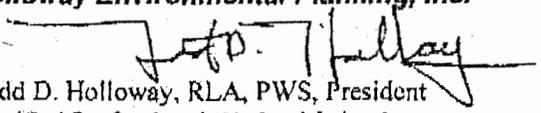
A Wetland Use Permit will likely be required from the MDEQ for any regulated activities proposed within the boundaries of jurisdictional wetlands. Activities covered under their jurisdiction include dredging, drainage or filling of wetland and storm water discharge.

If you have any questions concerning this information, please contact me by phone at (248) 546-9480, or by electronic mail at hollowayenv@sbcglobal.net

Thank you for the opportunity to assist you in this project.

Sincerely,

Holloway Environmental Planning, Inc.

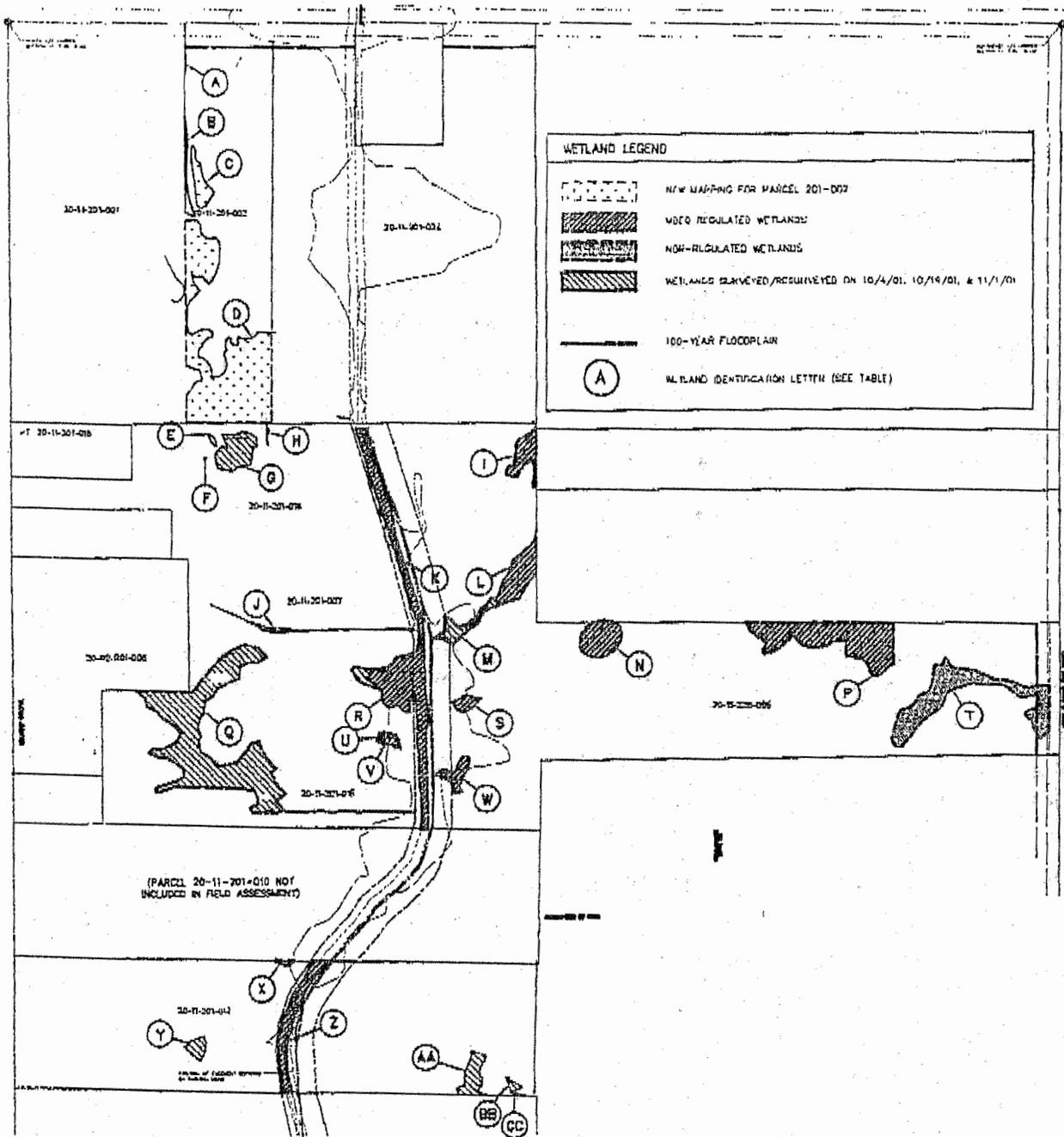


Todd D. Holloway, RLA, PWS, President
Certified Professional Wetland Scientist

TDH/tt

attm: Existing Wetland Areas Oak Forest-Figure 1 (1 page, PEA, Inc.10/28/04),

cc: David Baumhardt (PEA-Troy) *via fax @ 248.689-1044*
file



SCALE: 1" = 400'	JOB No: 2000250
DATE: 10-28-04	DWG. No: 1 of 1
EXISTING WETLAND AREAS OAK FOREST FIGURE 1	



PROFESSIONAL
 ENGINEERING
 ASSOCIATES
 2430 Rochester Ct, Suite 100
 Troy, MI 48063-1872
 (248) 889-9090

**HOLLOWAY
ENVIRONMENTAL
PLANNING, Inc.**

Job #00-004
April 10, 2006

Dale Garrett
Wattles Square, Inc.
5877 Livernois Road
Suite 103
Troy, Michigan 48098

Re: **Wetland Determination**
"Oak Forest South Sub. Site"
Sec. 11; City of Troy, Oakland Co., Michigan

Wetland Determinations
Mitigation Design and
Construction
Permit Services

Site Master Planning
Landscape Architecture
Ecological Design

Via fax @ 248.828.3573

REC'D

APR 11 2006

PLANNING DEPT.

WETLAND INSPECTION REPORT

Dear Mr. Garrett:

The following items summarize our findings and recommendations concerning wetlands on the above listed property known as Oak Forest South Subdivision:

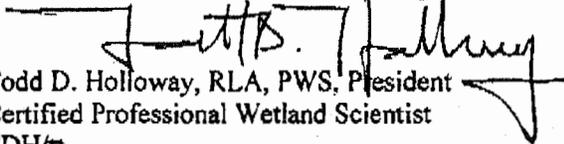
Wetlands on the property (comprised of parcel 20-11-201-012) were previously delineated by this office and confirmed in the field and in writing by Richard Schramm District Supervisor-Jackson Office of the Michigan Department of Environmental Quality Wetland Assessment Program in 2001. This state approval of the wetland boundaries was supported by extensive sampling of plants, soils and hydrology by separate highly experienced wetland professionals, one specializing in wetland botany, another in soil science, and third in overall wetland delineation. Detailed plant lists and soil boring records were provided to the MDEQ to support the delineation as shown on your site plans.

The property was walked on April 6, 2006 to assess whether or not field conditions had changed over time that may influence the historic wetland delineation for the site. No evidence of climatic or regional change was observed on the site or surrounding areas. Plant composition for the site was also unchanged, as were soil indicators. The wetland boundaries shown on your site plans reflect the accurate delineation of wetlands as recognized by the state.

If you have any questions concerning this information, please contact me by phone at (248) 546-9480, or by electronic mail at hollowayenv@sbcglobal.net

Thank you for the opportunity to assist you in this project.

Sincerely,
Holloway Environmental Planning, Inc.


Todd D. Holloway, RLA, PWS, President
Certified Professional Wetland Scientist
TDH/tt

23634 Woodward Avenue
Pleasant Ridge, MI. 48069
Phone: (248) 546-9480
Fax: (248) 546-7701
Email: hollowayenv@sbcglobal.net

MAY 1 - 2006

TO: Mark Miller, Planning Director
Steven J. Vandette, City Engineer

FROM: Jennifer Lawson, Environmental Coordinator 

SUBJECT: Oak Forest & Oak Forest South Wetlands Assessment

DATE: May 1, 2006

As per the City of Troy's letter dated March 29, 2006 requesting a Wetland Determination, Holloway Environmental submitted a "Wetland Inspection Report" on April 10, 2006 for parcels:

- 20-11-226-006
- 20-11-226-007
- 20-11-201-007
- 20-11-201-015
- 20-11-201-018
- 20-11-201-012

This letter states that the wetlands boundaries shown for these parcels have not changed since the Michigan Department of Environmental Quality's assessment in 2001. Please note that the State's 2001 determination only assessed:

- 20-11-201-007
- 20-11-201-015
- 20-11-201-018
- 20-11-201-012

Please note, the wetlands assessment for MDEQ file No. 00-63-0006-WA, dated December 28, 2001, expired on October 17, 2004.

If any concerns are raised, the City of Troy will have an opportunity to comment during the Public Comment Period, as a part of the MDEQ permitting process, when the property owner applies for any wetlands permit.

If you have questions, please let me know.

DATE: May 23, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Steve Vandette, City Engineer
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – EXTENSION OF PRELIMINARY SITE CONDOMINIUM APPROVAL – Oak Forest Site Condominium, South Side of Square Lake Road between Willow Grove and John R Road, Section 11 – R-1C

RECOMMENDATION

City Management recommends a one-year extension of preliminary site condominium approval of Oak Forest Site Condominium.

BACKGROUND

City Council granted preliminary site condominium approval to Oak Forest Site Condominium on April 18, 2005. The preliminary site condominium approval expired April 18, 2006. The petitioner, Dale Garrett of Ladd's Inc., submitted an application for extension on March 13, 2006. City Management requested the petitioner complete a wetland inspection report prior to bringing the item forward to City Council for consideration, consequently the extension deadline has elapsed.

The petitioner is proposing a 76-unit site condominium on a parcel that is approximately 38.43 acres in area. The applicant is utilizing the lot averaging option, which permits a 10% reduction in lot area to 9,450 square feet and a 10% reduction in lot widths, to 76.5 feet. The petitioner is not proposing any changes to the approved preliminary site condominium plan.

The Natural Features Map indicates there are wetlands, woodlands and a drain on the property. The petitioner provided a wetland determination report prepared by Holloway Environmental Planning, Inc., dated December 8, 2004. The applicant provided a wetlands assessment report prepared by the Michigan Department of Environmental Quality (MDEQ) on December 28, 2001. The report indicates that there are a number of wetlands regulated under Part 303 of PA 451 of 1994; however, the findings are not binding after October 17, 2004.

At the request of City Management, the petitioner submitted a revised wetland inspection report dated April 10, 2006. The report indicates the wetland boundaries identified on the MDEQ report is accurate. Note that the petitioner is required to receive a permit from the MDEQ prior to commencing any construction activity such as dredging, filling, or draining within a regulated wetland.

Attachments:

1. MDEQ Wetland Assessment Report 00-63-0006-WA, dated December 28, 2001.
2. Wetland Determination Report, prepared by Holloway Environmental Planning, Inc., dated December 8, 2004.
3. Wetland Inspection Report, prepared by Holloway Environmental Planning, Inc., dated April 10, 2006.
4. Memorandum prepared by the City of Troy Environmental Specialist, dated May 1, 2006.

cc: Applicant
File/ Oak Forest Site Condominium

Prepared by RBS/MFM

G:\SUBDIVISIONS & SITE CONDOS\Oak Forest Site Condo Sec 11\Extension Prelim CC Approval Oak Forest Site Condo 06 05 06.doc



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

REPLY TO:

JACKSON DISTRICT OFFICE
STATE OFFICE BUILDING
301 E LOUIS GLICK HWY
JACKSON MI 49201-1556

DEC - 9 2004

December 28, 2001

Mr. Dale E. Garrett
Wattles Square, Inc.
5877 Livernois, Suite 103
Troy, MI 48098

Dear Mr. Garrett:

SUBJECT: Wetland Assessment Report - Wetland Assessment File Number 00-63-0006-WA

The Department of Environmental Quality (DEQ) conducted a Level 3 Wetland Assessment on October 17, 2001 on property (property tax identification number(s) 20-11-201-007, 20-11-201-012, 20-11-201-015, and 20-11-201-018) located in Town 02N, Range 11E, Section 11, City of Troy, Oakland County. The wetland location plan provided to the DEQ indicates the above referenced property is the site of the proposed Oak Forest Subdivision. The assessment was conducted in accordance with Part 303, Wetland Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); and Rule 4, Wetland Assessments (R 281.924) of the Administrative Rules for Part 303. This is a report of our findings in response to your wetland assessment application.

The DEQ staff walked the flagged boundaries as requested in your wetland assessment application. Based on our on-site investigation, which included review of plant communities, hydrologic indicators, and soils of the assessment area, and an in-office review of other pertinent information, the DEQ confirms, in part, the wetland boundaries observed during the site inspection. After reviewing staff's field notes in comparison to your consultant's soils data and botanical species list, staff noted a couple of minor errors.

The revised boundaries have been added to the Wetland Location Plan dated as last revised 11-5-01 and a copy of the pertinent areas are attached. The site map of the assessment area was created by combining information from your consultant and the DEQ. The new map identifies the areas containing wetland and upland within the assessment area. A new delineation is not necessary.

All the areas of wetland identified on the Wetland Location Plan are regulated pursuant to Part 303 of 1994 PA 451. Please be advised that any of the following activities require a permit under Part 303:

- a) Deposit or permit the placing of fill material in a regulated wetland.
- b) Dredge, remove, or permit the removal of soil or minerals from regulated wetland.
- c) Construct, operate, or maintain any use or development in a regulated wetland.
- d) Drain surface water from a regulated wetland.

Mr. Dale E. Garrett
Wattles Square, Inc.
December 28, 2001
Page 2

For those areas identified as upland on the site map, the DEQ lacks jurisdiction under Part 303 for activities occurring in those areas.

You may request the DEQ reassess the subject parcel or any portion of the parcel within 30 days of the date of this report should you disagree with its findings. A written request to reassess the parcel must be accompanied by supporting evidence with regard to wetland vegetation, soils or hydrology different from, or in addition to, the information relied upon by DEQ staff in preparing this report and sent to:

Wetland Assessment Program
Inland Lakes and Wetlands Unit
Land and Water Management Division
Department of Environmental Quality
P.O. Box 30458
Lansing, Michigan 48909-7958

Please be aware that this assessment report does not constitute a determination of the presence of wetland that may be regulated under local ordinances or federal law. The U.S. Army Corps of Engineers (USACE) retains regulatory authority over certain wetlands pursuant to Section 404 of the Clean Water Act (CWA), and specifically those wetlands associated with traditionally navigable waters of the state. Traditionally, navigable waters are generally the Great Lakes, their connecting waters, and river systems and lakes connected to these waters. In other areas of Michigan, the DEQ is responsible for determination of wetland boundaries for purposes of compliance with the CWA under an agreement with the U.S. Environmental Protection Agency.

Your assessment area does not appear to be within those areas also regulated by the USACE. However, should you desire more information, please contact the USACE at 313-226-2218.

This assessment report is limited to findings pursuant to Part 303 and does not constitute a determination of jurisdiction under other DEQ administered programs. Any land use activities undertaken on the assessed parcel may be subject to regulation pursuant to the NREPA under the following programs:

Floodplain Regulatory Authority found in Part 31, Water Resources Protection
Part 91, Soil Erosion and Sedimentation Control
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The findings contained in this report do not convey, provide, or otherwise imply approval of any governing act, ordinance, or regulation, nor does it waive the obligation to acquire any applicable state, county, local, or federal approval or authorizations necessary to conduct any possible activities. This assessment report is not a permit for any activity that requires a permit from the DEQ.

Mr. Dale E. Garrett
Wattles Square, Inc.
December 28, 2001
Page 3

The findings contained in this report are binding on the DEQ until October 17, 2004; a period of three years from the date of the assessment unless a reassessment is conducted. Please contact me if you have any questions regarding this assessment report.

Sincerely,



Rick Schramm
Jackson District Supervisor
Land and Water Management Division
517-780-7915

Enclosure

cc: Ms. Wendy Veltman, DEQ, Lansing
Mr. Richard A. Powers, DEQ, Lansing
Ms. Mary Vanderlaan, DEQ, Livonia
Mr. Todd Holloway, Holloway Environmental Planning, Inc.

DEC - 9 2004

**HOLLOWAY
ENVIRONMENTAL
PLANNING, Inc.**



Job #00-004
December 8, 2004

Wetland Determinations
Mitigation Design and
Construction
Permit Services

Site Master Planning
Landscape Architecture
Ecological Design

Dale Garrett
Wattles Square, Inc.
5877 Livernois Road
Suite 103
Troy, Michigan 48098

cc: **David Baumhardt (PEA-Troy) via fax @ 248.689-1044**

Re: **Wetland Determination**
"Oak Forest Sub. Site"
Sec. 11; City of Troy, Oakland Co., Michigan

WETLAND DETERMINATION REPORT
Via fax @ 248.826.3573 (4 pages)

Dear Mr. Garrett:

The following items summarize our findings and recommendations concerning wetlands on the above listed property:

Parcel #20-11-201-002 was inspected on July 19, 2004. Upon examination of on-site conditions and the surrounding area, we identified two (2) wetland zones that exists within and/or adjacent to the property. We utilized a copy of the OCPC aerial survey for the site to record our findings. The wetland zones are believed to exist as part of a local surface and groundwater system and associated wetland areas.

Our inspection was conducted in mid-summer. We were able to sample all of the current wetland indicator conditions on the site. The current site wetland indicators include common soil, plant and hydrologic traits indicative of wetland conditions within the wetland boundaries. The wetland flags are easily identified in the field as pink survey ribbons marked "WETLAND BOUNDARY".

Wetlands on the remainder of the property (comprised of parcels 20-11-201-012, 015, 017, 018 and 20-11-236-006) were previously delineated by this office and confirmed in the field by representatives of the Michigan Department of Environmental Quality in 2001.

A wetland map exhibit is attached to this report as prepared by Professional Engineering Associates, Inc. identified as **Existing Wetland Areas Oak Forest (Figure 1)**. The wetlands as shown were surveyed from our delineation.

Methodology

The criteria we used to make our determination are based on current Michigan Department of Environmental Quality practices and evaluation methodology. This involves developing a correlation

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Wetland Determination Report *via fax*

Job #00-004

Ladds/"Oak Forest Sub. Site"-Sec. 11; Troy.

December 8, 2004

p.2

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Soil Conditions

The NRCS Soil Survey for Oakland County indicates that #27-Houghton, #41B-Aquents and #52A-Selfridge series soils exist in the vicinity of parcel 20-11-201-002. The Houghton soil type is considered "hydric" and is listed as hydric wetland soil on state soils lists. Our general observation of site soil conditions in the area of wetlands (conducted using a hand soil probe) revealed surface soils that were highly depleted gray sandy-loams. Upland areas contained bright to medium brown sandy-loams. The mapping of soils on the NRCS map had a general correlation with the location of uplands on the site, with no direct correlation to existing wetlands. A copy of the NRCS Soil Survey Map is not attached.

MDEQ Wetland Inventory Maps

The MDEQ(MDNR) MIRIS Wetland Inventory Map for Troy was reviewed to determine if remote sensing evaluations indicate wetlands on or near the subject property. Review of this map indicates that no wetlands were identified near the subject parcel. These maps are used by various regulating authorities as a general guide to project review. They may or may not indicate the physical presence of jurisdictional wetlands or their accurate boundaries. A copy of this map for the site is not attached to this report.

Description of Wetlands

ZONE A (comprised of areas labeled A, B and D)

Groundwater and storm water drainage features in the form of a shallow ditch transmit water through a wetland that is classed as scrub/scrub wetland. Units A, B and D are connected just off-site to the west to define the zone which possesses long-term intermittent soil saturation and exposure to intermittent ponding. The zone's soil conditions are comprised primarily of heavy loams. It is dominated by mixed herbaceous ground cover and mature medium age deciduous shrubs and small trees. Species common within this area include sandbar willow, American elm, red ash, red-osier dogwood, boxelder, cattail and mixed carex sedges. This wetland zone follows the surface drainage features of the surrounding area, and is connected to other systems lying off-site to the north, west and east. Collectively, the overall wetland system falls within 500 feet of the Fetterly Drain.

ZONE C

This small and isolated wetland pocket is classed as a scrub and wet-meadow wetland. It is separated from Zone A by a raised agricultural trail that parallels the west property line. Plant species are similar to those found in Zone A.

¹ National List of Plant Species That Occur in Wetlands (Region 3-1996 Revision USFWS)

² Field Indicators of Hydric Soils in the United States-Version 4.0, March 1998, USDA

³ Field Guide to Wetland Delineation, USACE 1987 Manual, USACE

Wetland Determination Report *via fax*

Job #00-004

Ladds/"Oak Forest Sub. Site"-Sec. 11; Troy.

December 8, 2004

p.3

This area, although small, also falls within 500 feet of the Fetterly Drain.

Jurisdiction and Regulation

Wetland Zones A (units A, B and D) and C will be regulated by the Michigan Department of Environmental Quality (MDEQ) under Michigan's Natural Resources Protection Act; P.A. 451, (1994), Part 303, under the definitions of size as part of wetlands that exceed 5.0 acres and connected by recurring surface water connections, and/or fall within 500 feet of a regulated inland lake or stream. All other related wetlands have been coded on the attached **Figure 1** to reflect MDEQ regulation status and are labeled as **Wetland Areas E through Z and AA to CC**. The MDEQ has final jurisdiction over the determination of all wetland areas regulated under state authority.

Due to trespass restrictions, we did not physically sample wetland conditions on properties other than the subject parcel.

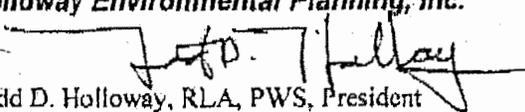
Permit Requirements

A Wetland Use Permit will likely be required from the MDEQ for any regulated activities proposed within the boundaries of jurisdictional wetlands. Activities covered under their jurisdiction include dredging, drainage or filling of wetland and storm water discharge.

If you have any questions concerning this information, please contact me by phone at (248) 546-9480, or by electronic mail at hollowayenv@sbcglobal.net

Thank you for the opportunity to assist you in this project.

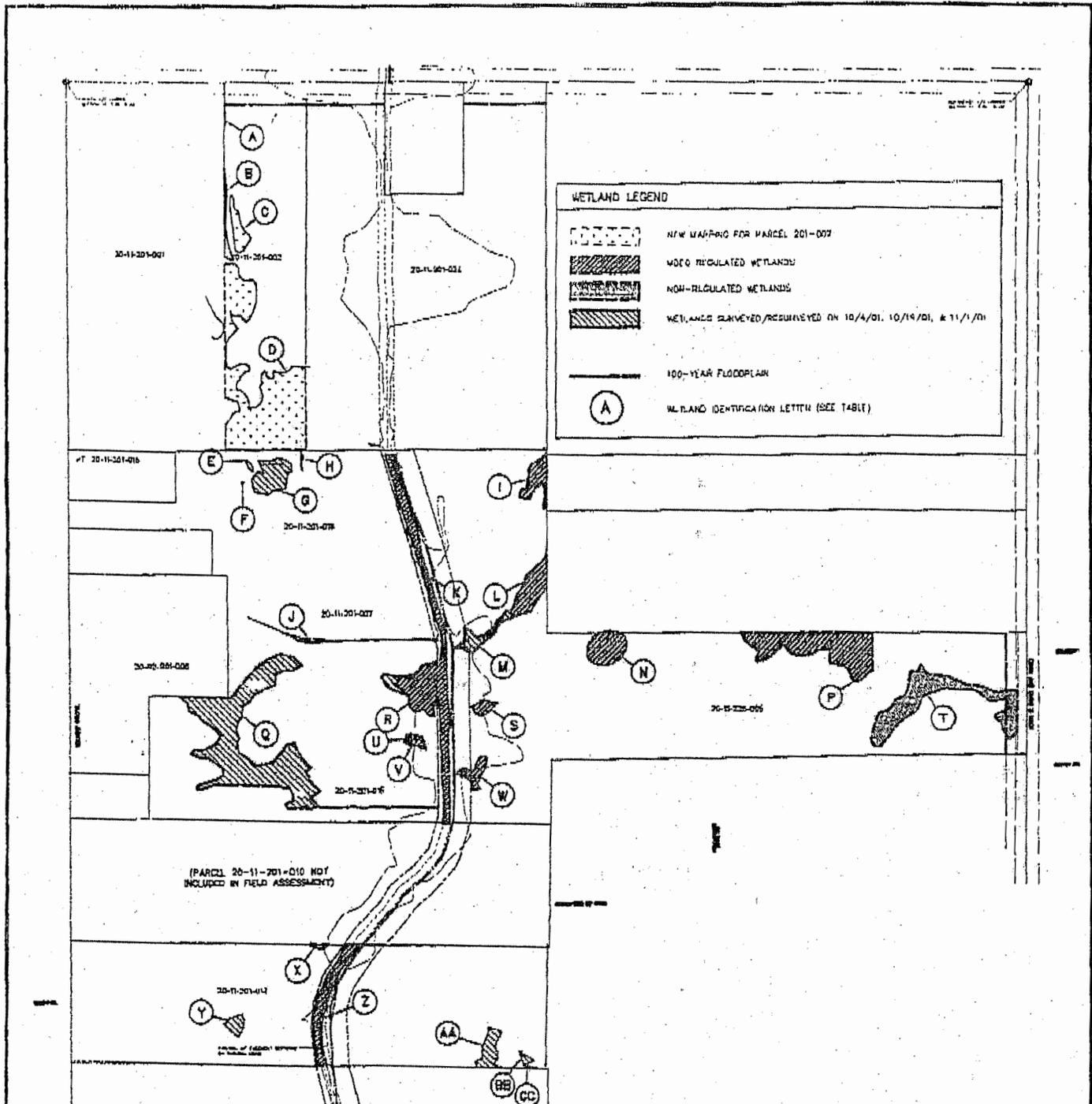
Sincerely,

Holloway Environmental Planning, Inc.

Todd D. Holloway, RLA, PWS, President
Certified Professional Wetland Scientist
TDH/tt

attn: Existing Wetland Areas Oak Forest-Figure 1 (1 page, PEA, Inc.10/28/04),

cc: David Baumhardt (PEA-Troy) *via fax @ 248.689-1044*
file



SCALE: 1" = 400'	JOB No: 2000250
DATE: 10-28-04	DWG. No: 1 of 1
EXISTING WETLAND AREAS OAK FOREST FIGURE 1	

PROFESSIONAL
ENGINEERING
ASSOCIATES

2430 Rochester Ct, Suite 100
Troy, MI 48063-1872
(248) 689-9090

**HOLLOWAY
ENVIRONMENTAL
PLANNING, Inc.**

Job #00-004
April 10, 2006

Dale Garrett
Wattles Square, Inc.
5877 Livernois Road
Suite 103
Troy, Michigan 48098

REC'D

APR 11 2006

PLANNING DEPT Via fax @ 248.828.3573

Wetland Determinations
Mitigation Design and
Construction
Permit Services

Site Master Planning
Landscape Architecture
Ecological Design

Re: **Wetland Determination**
"Oak Forest Sub. Site"
Sec. 11; City of Troy, Oakland Co., Michigan

WETLAND INSPECTION REPORT

Dear Mr. Garrett:

The following items summarize our findings and recommendations concerning wetlands on the above listed property known as Oak Forest Subdivision:

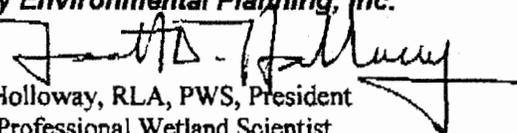
Wetlands on the majority of the property (comprised of parcels 20-11-226-006 and 007, 20-11-201-007, 015 and 018) were previously delineated by this office and confirmed in the field and in writing by Richard Schramm District Supervisor-Jackson Office of the Michigan Department of Environmental Quality Wetland Assessment Program in 2001. This state approval of the wetland boundaries was supported by extensive sampling of plants, soils and hydrology by separate highly experienced wetland professionals, one specializing in wetland botany, another in soil science, and third in overall wetland delineation. Detailed plant lists and soil boring records were provided to the MDEQ to support the delineation as shown on your site plans. Parcel 20-11-201-002 was flagged by my office in July of 2004 and has not yet been reviewed by the MDEQ.

The property was walked on April 6, 2006 to assess whether or not field conditions had changed over time that may influence the historic wetland delineation for the site. No evidence of climatic or regional change was observed on the site or surrounding areas. Plant composition for the site was also unchanged, as were soil indicators. The wetland boundaries shown on your site plans reflect the accurate delineation of wetlands as recognized by the state.

If you have any questions concerning this information, please contact me by phone at (248) 546-9480, or by electronic mail at hollowayenv@sbcglobal.net

Thank you for the opportunity to assist you in this project.

Sincerely,
Holloway Environmental Planning, Inc.


Todd D. Holloway, RLA, PWS, President
Certified Professional Wetland Scientist
TDH/tt

23634 Woodward Avenue
Pleasant Ridge, MI. 48069
Phone: (248) 546-9480
Fax: (248) 546-7701
Email: hollowayenv@sbcglobal.net

MAY 1 - 2006

TO: Mark Miller, Planning Director
Steven J. Vandette, City Engineer

FROM: Jennifer Lawson, Environmental Coordinator 

SUBJECT: Oak Forest & Oak Forest South Wetlands Assessment

DATE: May 1, 2006

As per the City of Troy's letter dated March 29, 2006 requesting a Wetland Determination, Holloway Environmental submitted a "Wetland Inspection Report" on April 10, 2006 for parcels:

20-11-226-006
20-11-226-007
20-11-201-007
20-11-201-015
20-11-201-018
20-11-201-012

This letter states that the wetlands boundaries shown for these parcels have not changed since the Michigan Department of Environmental Quality's assessment in 2001. Please note that the State's 2001 determination only assessed:

20-11-201-007
20-11-201-015
20-11-201-018
20-11-201-012

Please note, the wetlands assessment for MDEQ file No. 00-63-0006-WA, dated December 28, 2001, expired on October 17, 2004.

If any concerns are raised, the City of Troy will have an opportunity to comment during the Public Comment Period, as a part of the MDEQ permitting process, when the property owner applies for any wetlands permit.

If you have questions, please let me know.

May 26, 2006

To: John M. Lamerato, Acting City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

Subject: **Agenda Item:** Rescind Award and Re-Award for Barn Repair

RECOMMENDATION

City management recommends Troy City Council rescind the award made on January 9, 2006, to David L. Ingraham of St. Johns, MI, to repair the barn at the Troy Farm for an estimated total cost of \$24,600.00, plus a 10% contingency. (Item F-4 - Resolution #2006-01-010). The vendor withdrew from the project on March 23, 2006. The vendor will be notified of contract default with prejudice following Council action. The other vendor that submitted a quote for the service is no longer interested in the work.

City management has subsequently received an alternate proposal and is requesting a waiver of the formal bid process and City Council approval for an estimated total cost of \$14,950.00, plus a 10% contingency to Akins Construction, Inc. of Sterling Heights. Akins Construction's quote is lower than the original award, as the proposed work does not include replacing the roof, but rather stabilizing the barn due to safety concerns. Akins did not initially bid the project, as they anticipated their sub-contractor would. The sub-contractor did not bid.

BACKGROUND

In 2004, specifications to repair the barn were developed by a barn repair specialist. Quotes were then solicited for this specialized work in the spring of 2005. At the time, no vendors submitted a quote. Quotes were then solicited one more time in August 2005 as the specifications were sent to seven vendors who could perform this work. Two vendors visited the site and submitted a quote. Both now have declined to proceed with the project.

May 16, 2006

RECEIVED

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer

SUBJECT: **AGENDA ITEM** – Revisions to Soil Erosion and Sedimentation Control Fees,
Section I of the City of Troy Development Standards

MAY 19 2006

CITY OF TROY
CITY MANAGER'S OFFICE

RECOMMENDATION

It is recommended that the attached revisions to subsection I1(p), Soil Erosion and Sedimentation Control Fees, of the City of Troy Development Standards be adopted and made effective July 1, 2006.

BACKGROUND:

These fees are based on our analysis of actual costs related to plan review, permitting and inspection costs for the various categories of site development. The Engineering Department has also researched other municipalities and has determined that the fees are competitive with those communities that are complying with Part 91, Soil Erosion and Sedimentation Control, of the Natural Resource and Environmental Protection Act, Public Act 451 of 1994 of the state of Michigan, as amended, 2001.

It is recommended that council approve the recommended resolution amending subsection I1(p), Soil Erosion and Sedimentation Control Fees, of the City of Troy Development Standards and that a copy of this section of the Development Standards be attached to the original minutes of this meeting.

**CITY OF TROY
ENGINEERING DEPARTMENT
EFFECTIVE JULY 1, 2006**

SOIL EROSION AND SEDIMENTATION CONTROL FEES

SUBDIVISION, SITE CONDO AND COMMERCIAL PERMITS	\$400
RESIDENTIAL PERMIT APPLICATION FEE	\$10
RESIDENTIAL PERMIT	\$200
RESIDENTIAL BUILDING ADDITION PERMIT STRUCTURAL ADDITIONS - DECKS, PORCHES, GARAGES OR OTHER BUILDING ADDITIONS OF 225 SQUARE FEET OR MORE	\$100
COMMERCIAL INSPECTION FEE 1 ACRE OR LESS	\$500
COMMERCIAL INSPECTION FEE OVER 1 ACRE, LESS THAN 5 ACRES	\$800
COMMERCIAL INSPECTION FEE 5 ACRES OR MORE, LESS THAN 10 ACRES	\$1,200
COMMERCIAL INSPECTION FEE 10 ACRES OR MORE	\$1,200 + \$100/ACRE OR FRACTION THEREOF OVER 10 ACRES
SUBDIVISION & SITE CONDO INSPECTION FEE	\$2,500
LIFT STOP WORK ORDER – RESIDENTIAL OR COMMERCIAL	\$300

ALL PERMIT AND INSPECTION FEES ARE NON-REFUNDABLE

DATE: May 23, 2006

TO: John M. Lamerato, Acting City Manager

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

SUBJECT: Agenda Item
Revisions to Chapter 60
Increase in Board of Zoning Appeals Application Fee

With the recent adoption of the revisions to the Michigan Zoning Enabling Act that go into effect on July 1, 2006, there are some revisions required to our procedure that we use to process appeal applications to the Board of Zoning Appeals. The most significant impact is the requirement that notice of an appeal be published in a local newspaper in addition to our current practice of mailing notices to surrounding property owners. Previously, this was not a requirement for cities and villages.

This causes two changes in our current procedure. First, since the Act requires that the notice be in the paper no less than 15 days before the hearing, our current submittal deadline of 14 days before the meeting will have to be extended to a minimum of 27 days before the meeting in order for us to meet the publication deadline. Second, we will have the additional cost of publishing the notices. We have estimated that it will add about \$25 to the cost of processing each appeal.

City Staff is recommending that the application fee for a variance request before the Board of Zoning Appeals be increased to \$250. In reviewing the current costs associated with the processing of Board of Zoning Appeals request, we have found that it costs an average of \$200 per request. With the new publication requirement this cost will increase to an average \$225. The current application fee, last revised in 1989, is \$75 for a request involving a one or two family residential property and \$200 for all others. While the City has employed a two-tiered fee structure in the past, there is little to support the justification from a financial perspective. The intent of the fees is to offset expenses related to processing the request. The costs to process a variance request related to a single-family residence are the same or greater than the costs for a non-residential request.

City Staff is also recommending an increase in the fee for a request for a special meeting, from \$300 to \$500. Although very infrequently requested, this fee is more in

line with what the anticipated expenses would be for Board member compensation, staff time and building usage costs.

Lastly staff is recommending a change to the current fee for a renewal of a variance from \$25 to \$35. These are typically for renewals of variances for screen walls on a three year basis and do not involve the advertisement of a public hearing.

These fees have historically been simply adopted by Council resolution. In order to consolidate all fees into a single location the suggested resolution places them within Chapter 60 of the City Code. The change would actually be to add the following to Section 60.03 of the Troy City Code:

ITEM/SERVICE:	FEE:
Board of Zoning Appeals Application (Chapter 39)	
Variance	\$250.00
Variance Renewals	\$35.00
Special Meeting	\$500.00

Prepared by: Mark Stimac, Director of Building and Zoning

May 25, 2006

To: John Lamerato, Acting City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Brian Stoutenburg, Library Director

Subject: **Agenda Item** – Fee Increases – Museum

RECOMMENDATION

It is recommended that the following changes to the fee structure for facility rentals at the Troy Historical Museum be approved.

Wedding Ceremony Fees

	Village Grounds & Buildings (Excludes the Church)	Village Grounds & Church
Troy residents	\$250.00	\$350.00
Non-residents	\$350.00	\$450.00
Security Deposit	\$200.00	\$200.00

All fees are increased \$50.00.

Fee for Wedding Photos on the Green

	Village Grounds & Buildings (Excludes the Church)	Village Grounds & Church
Troy residents	\$50.00	\$100.00
Non-residents	\$100.00*	\$150.00
Security Deposit	\$50.00	\$50.00

**This fee increased \$25.00*

Rental Fees For Meetings, and Occasional Events

<u>Location</u>	<u>Troy Org.</u>	<u>Non-Profit Org.</u>	<u>Non-Troy Org.</u>
Museum Building as meeting site	\$50.00/hr	\$50.00/hr.	\$100.00/hr
Village Green	\$50.00/hr	\$50.00/hr.	\$100.00/hr

All fees doubled.

SUMMARY

The proposed rates are very competitive with fees charged by similar institutions for similar services. It is estimated that the new fee structure would bring in an additional \$1,000.00 per year of revenue.

DATE: May 30, 2006

TO: John M. Lamerato, Acting City Manager

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

SUBJECT: Agenda Item – Policy Adoption
Display of Signs on City Hall Site for Community Events

Attached, please find the policy regarding sign displays on the frame in front of City Hall. The proposed policy gives the City Manager the authority to grant approval for the installation and display of signs announcing the time and place for community events. The allowance is for those times when the City is not using the frame for the display of signs for City sponsored events.

Prepared by: Mark Stimac, Director of Building and Zoning

Policy Regarding the Placement of Sign for the Announcement Community Events on City Hall Property

The City of Troy installs and maintains temporary signs in the front of City Hall at 500 W. Big Beaver for the purpose of identifying to the public the dates and times of City sponsored events. During the times that the City is not using the sign frame for the display of City sponsored events, the City may make that space available for use of other community organizations that are partially funded by the City through it's annual budget for the placement of announcements of other public events that will be held in the City of Troy.

The signs must be a commercially produced vinyl banner in a well maintained condition, sized to fit on the existing 3' x 18' sign frame. The sign must be installed and removed by City staff. The City of Troy assumes no liability for damage to the sign while it is displayed. The signs are allowed to be displayed not more than seven days before the scheduled event. The message on the sign will be limited to the name of the event, time, place, location and sponsoring organization's name.

The City Manager or his designee shall be responsible for the administration of this policy.

DATE: May 18, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – ANNOUNCEMENT OF PUBLIC HEARING (JUNE 19, 2006)
– REZONING APPLICATION (Z 718) – Proposed Curves, East side of
Livernois, between Maple and Kirts, Section 28 – O-1 to B-3

RECOMMENDATION

The application is consistent with the intent of the Future Land Use Plan and compatible with existing zoning districts and land uses. The Planning Commission recommended approval of the rezoning request at the May 9, 2006 Regular meeting. City Management agrees with the Planning Commission and recommends approval of the rezoning application.

GENERAL INFORMATION

Name of Owner / Applicant:

The owner and applicant is Beth Anne Beattie.

Location of Subject Property:

The property is located on the west side of Livernois, between Maple and Kirts, in Section 28.

Size of Subject Parcel:

The parcel is approximately 14,250 square feet in area.

Current Use of Subject Property:

There is a vacant office building that presently sits on the property.

Current Zoning Classification:

O-1 Office Building.

Proposed Zoning of Subject Parcel:

B-3 General Business.

Proposed Uses and Buildings on Subject Parcel:

The applicant is proposing to reuse the building as a Curves athletic facility.

Current Use of Adjacent Parcels:

North: Good Food retail store.

South: Red Wagon Shoppe.

East: Pizza Hut.

West: Good Food retail store.

Zoning Classification of Adjacent Parcels:

North: B-2 Community Business.

South: B-3 General Business.

East: B-3 General Business.

West: B-2 Community Business.

ANALYSIS

Range of Uses Permitted in Proposed B-3 Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Any retail business or service establishment permitted in B-2 Districts as Principal Uses Permitted and Uses Permitted Subject to Special Conditions.

Mortuary establishments.

Bus or transit passenger stations, taxicab offices and dispatching centers, and emergency vehicle or ambulance facilities.

Parking garages and off-street parking areas.

Sales, showrooms, and incidental repair of recreational vehicles.

New and used car salesroom, showroom, or office.

Governmental offices, public utility offices, exchanges, transformer stations, pump stations and service yards but not including outdoor storage.

Other uses similar to the above uses.

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

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Drive-up windows or service facilities, as an accessory to restaurants.

Drive-up service facilities, as accessory to principal permitted uses within B-3 districts, apart from restaurants.

Bowling alley, billiard hall, indoor archery range, indoor skating rinks, indoor tennis courts, athletic or health clubs, or similar forms of indoor commercial recreation.

Open air business uses when developed as uses subordinate to primary uses and structures within the B-3 District

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

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL

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

Motel or hotel

Veterinary hospitals provided all activities are conducted within a totally enclosed main building and provided further that all abutting or adjacent property is non-residentially zoned.

Commercial kennels

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

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

Vehicular and Non-motorized Access:

The parcel fronts on Livernois.

Potential Storm Water and Utility Issues:

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

Natural Features and Floodplains:

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

Compliance with Future Land Use Plan:

The parcel is classified on the Future Land Use Plan as Non-Center Commercial. The Non-Center Commercial classification has a primary correlation with the B-3 General Business Zoning District. The application therefore complies with the Future Land Use Plan. The parcel has been planned for Non-Center Commercial since 1971.

Compliance with Location Standards:

The B-3 Local Business Zoning District does not have Location Standards to apply to rezoning requests.

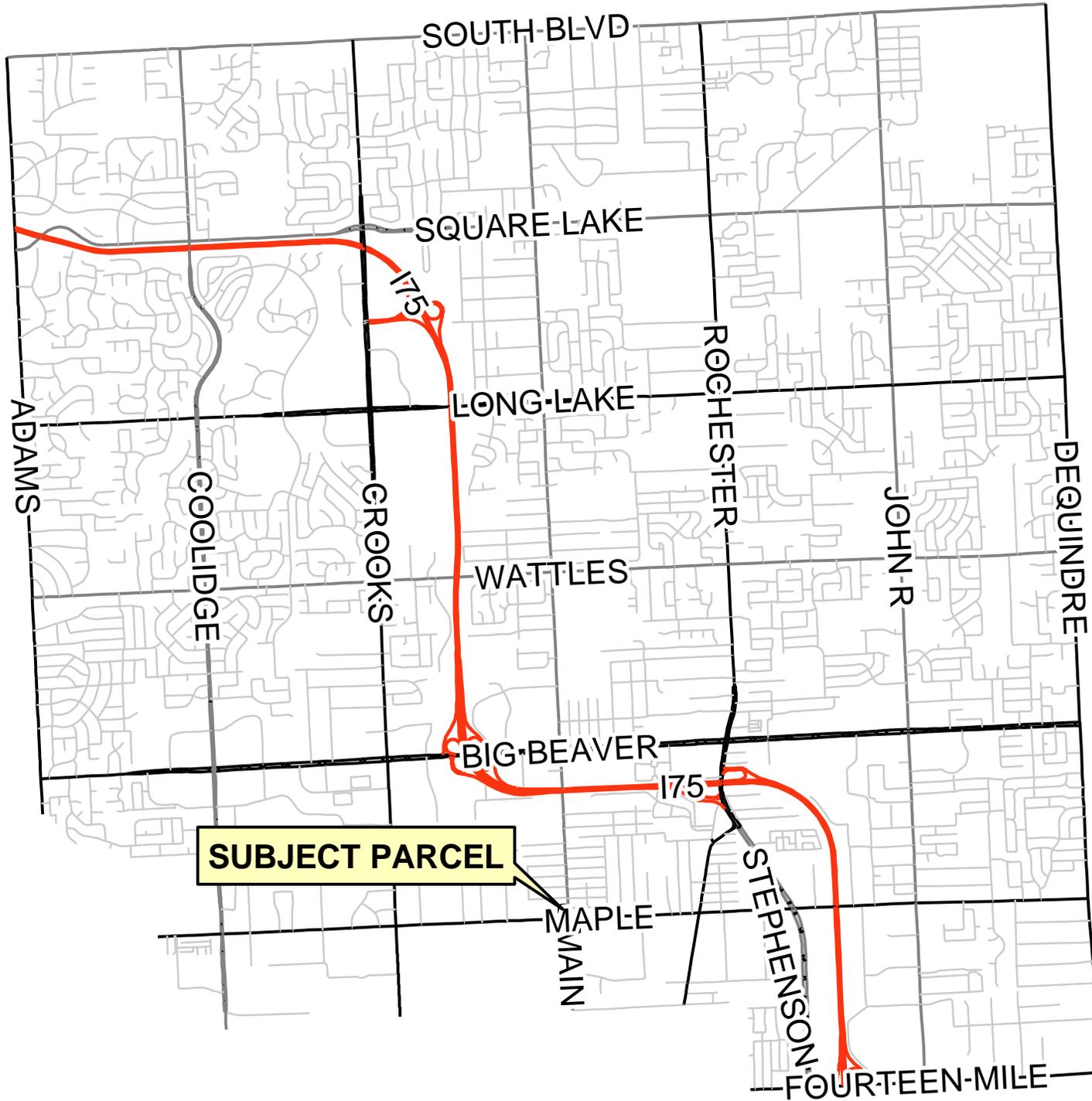
Attachments:

1. Maps.
2. Letter from applicant, dated April 11, 2006.
3. Letter from John Gonway, representing Peter Ruppe, Inc., dated May 9, 2006.

Prepared by RBS/MFM

cc: Applicant
File / Z 718

CITY OF TROY



REZONING REQUEST
PROPOSED CURVES
FROM O-1 TO B-3
W SIDE LIVERNOIS, N OF MAPLE
SEC. 28 (Z-718)

FORTHTON

BIR

SUBJECT PARCEL

LIVERNOIS

MASTIN

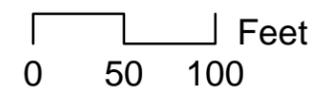
CHOPIN

W MAPLE

E MAPLE

MAIN

CITY OF CLAWSON



REZONING REQUEST
PROPOSED CURVES
FROM O-1 TO B-3
W SIDE LIVERNOIS, N OF MAPLE
SEC. 28 (Z-718)

(O-1) Office
Building
District

FORTHTON

(R-2) Two Family
Residential District

(R-1E) One Family
Residential District

SUBJECT PARCEL

LIVERNOIS

CHOPIN

(B-2) Community
Business District

(B-3) General
Business
District

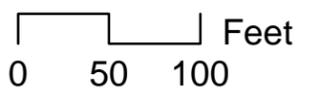
(H-S) Highway
Service
District

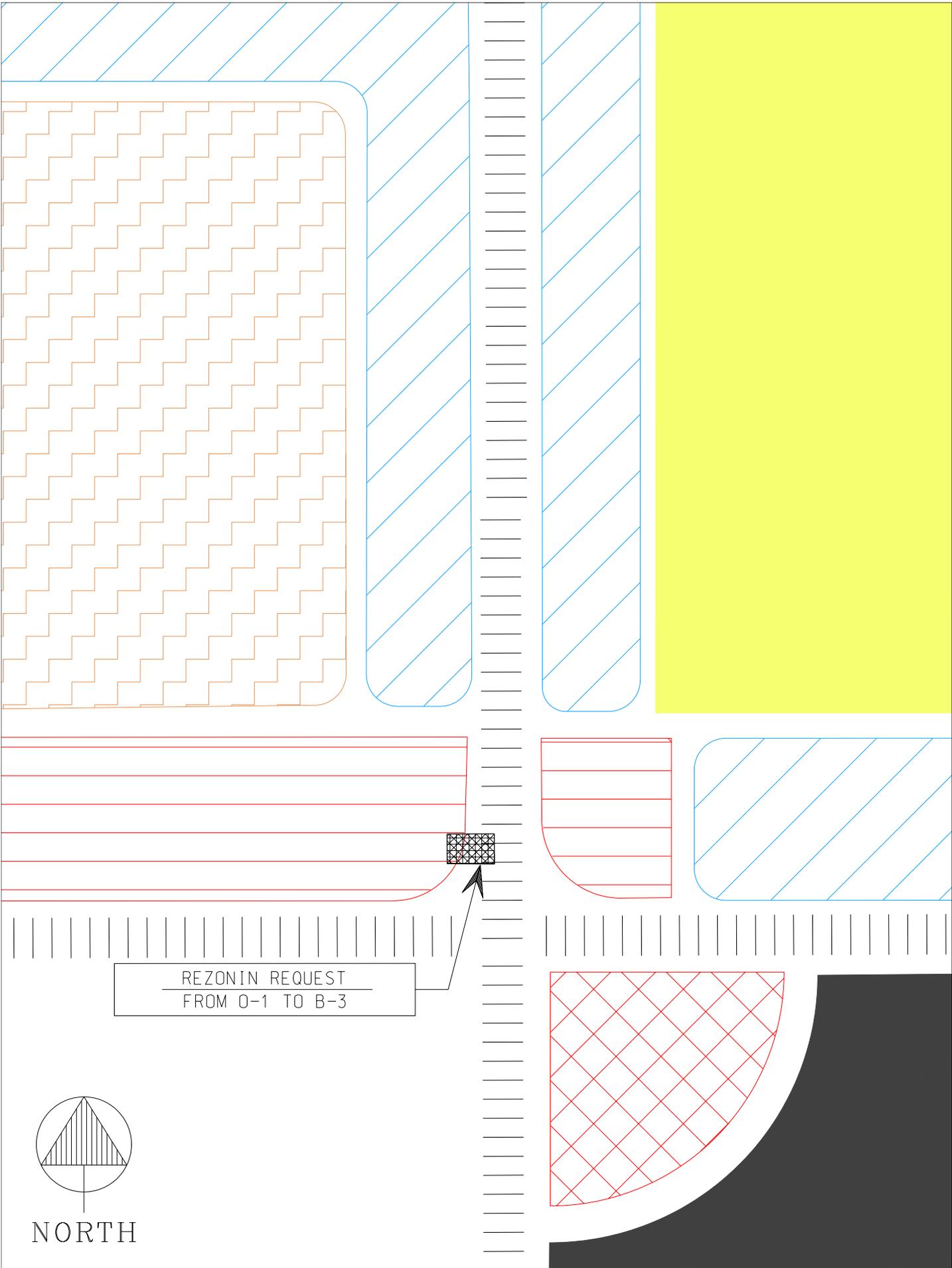
(B-1) Local
Business
District

W MAPLE

E MAPLE

CITY OF CLAWSON





4-11-06

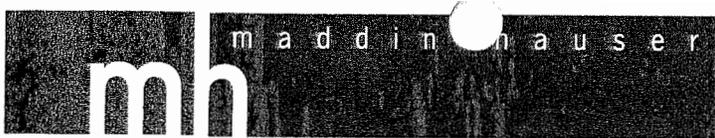
January 2006 I purchased the property located C 1631 LIVERNOIS from C&W properties.

I was told to apply for rezoning as the property was zoned O1 and the surrounding properties are zoned B3.

~~and~~ I do not feel that this will ~~cause~~ cause any detrimental effects to the businesses surrounding my property.

Sincerely,

Beth A. Ballis



Maddin Hauser Wartell Roth & Heller PC
attorneys and counselors

JOHN P. GONWAY
Direct Dial No. (248) 359-7509
Direct Fax No. (248) 359-7549
Email: jpg@maddinhauser.com

28400 Northwestern Highway Third Floor Southfield, MI 48034-1839 (248) 354-4030 fax (248) 354-1422 www.maddinhauser.com

REC'D

MAY 10 2006

PLANNING DEPT.

May 9, 2006

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

*Via facsimile,
electronic mail and
Certified Mail/Return Receipt Requested*

**Re: Rezoning Application Z-718 (the "Application") for the proposed Curves
at 1631 Livernois, Troy, Michigan (the "Property")
Our File No. 11355-0001**

Dear Ladies and Gentlemen:

I write on behalf of my client, Peter P. Ruppe, Inc., regarding the Application submitted by Beth Anne Beattie of Beattie Enterprises, LLP to rezone the Property from 0-1 (Low Office) to B-3 (General Business District). My client owns the parcel of land to the immediate west of the Property that is the subject of the Application. As you may know, my client's most prominent tenants are The Good Food Company and Priya Indian Cuisine Restaurant. My client has owned this property since 1960 and is proud to be a good, long-standing corporate citizen of the City of Troy.

As you can imagine, my client is delighted to see the continued development of the City of Troy generally and specifically with respect to the intersection of Maple and Livernois Roads. However, such development is also accompanied by growing pains, and it is my client's hope that unnecessary pain not be inflicted on the owners of the lands adjoining the development. It is with this in mind that my client hopes to soon meet Ms. Beattie and establish a cordial and cooperative relationship with her. Nevertheless, as a neighbor my client has serious concerns with respect to the development of the northwest corner of Maple and Livernois Roads. Most importantly, the Property has limited parking accommodations and the natural tendency is for patrons of the Property to seek the nearest available parking space in the event the Property parking facilities are inadequate. This, of course, leads them to my client's property.

As I mentioned previously, it is my client's hope to establish a cooperative relationship with respect to these parking issues. However, my client must act prudently and cautiously in protecting its private property rights. Thus, it is my client's position that the Property, if it must be rezoned, be rezoned to the B-2 (Community Business District). As you know, the B-2 (Community Business District) is a less intensive business district and one that would require Ms. Beattie to submit a site plan for a special use approval pursuant to Section 03.30.00 for the Property that will allow the Planning Commission and City Counsel to review the parking requirements in a manner that will ensure adequate parking and adequate facilities for her

proposed use. Furthermore, rezoning of this Property to a B-3 (General Business District) opens this Property up to future uses permitted by a B-3 (General Business District) zoning. As you know, this rezoning will then affect future use of the Property which may be more intense than the use proposed by Ms. Beattie. The question becomes: why open the proverbial flood gates to a B-3 (General Business District) when a more limited B-2 (Community Business District) would allow the use sought by Ms. Beattie? Moreover, the B-2 (Community Business District) provides additional safeguards to the neighboring landowners by requiring Ms. Beattie to provide a site plan that will ensure that the Property has adequate facilities to service the use for which she seeks approval.

As you know, the Future Land Use Plan for the City of Troy provides that this Property will be a Non-Center Commercial area and that currently the B-3 (General Business District) does correlate with a Non-Center Commercial area. However, a B-2 (Community Business District) does not correlate with the Non-Center Commercial use designated by the City of Troy Future Land Use Plan. This, of course, begs the question: will all sites be automatically rezoned to B-3 (General Business District) when they might more properly be designated B-2 (Community Business Districts)? The end result is difficult to justify solely on the basis of a correlation designated by the Future Land Use Plan. Ultimately, the City of Troy will become overpopulated with B-3 (General Business Districts) to the chagrin of the neighboring landowners who would appreciate a less intensive business use when possible and when appropriate.

This is exactly the case with respect to the request of Ms. Beattie. Her request is for a use that is wholly permitted within the B-2 (Community Business District) zoning; it will provide an adequate zoning designation for her use; in addition, a B-2 (Community Business District) zoning will also provide a lesser intense use for her neighbors. This would truly be a win-win situation for all.

On behalf of my client, I kindly ask that you consider the foregoing in considering Ms. Beattie's Application. Should you have any questions, please do not hesitate to contact me at (248) 359-7509.

Thank you for your consideration.

Very truly yours,

MADDIN, HAUSER, WARTELL,
ROTH & HELLER, P.C.



John P. Gonway

JPG/dja

cc: Mr. Peter P. Ruppe, Jr. (via email)
Mr. R. Brent Savidant (via facsimile and email)

DATE: May 25, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – ANNOUNCEMENT OF PUBLIC HEARING (JUNE 19, 2006) – REZONING APPLICATION (Z 717) – Proposed Medical/General Office Building, Northwest corner of Lovell and Rochester Road, Section 3 – R-1C to O-1

RECOMMENDATION

The Planning Commission recommended approval of this application at the May 9, 2006 Regular meeting. City Management agrees with the Planning Commission and recommends approval of the rezoning application.

JUSTIFICATION FOR RECOMMENDATION

The application does not comply with the Future Land Use Plan nor does it meet the Location Standards of Section 24.40.00.

However, the application is compatible with existing zoning districts and land uses. The property to the north is an attached condominium development, to the south a retail use and a single-family residence. Across Rochester Road to the east sits a restaurant and an attached condominium development. To the west is a City-owned detention basin. Note that the two parcels to the south front on Rochester Road and are used for retail and office uses.

The subject parcel is relatively isolated from other single-family homes. There is not a strong relationship between the subject parcel and the existing homes on Lovell. The residences on the south side of Lovell front on Hannah and have driveways on Hannah; their back yards abut Lovell. The detention basin to the west serves as a significant buffer between the subject parcel and the houses on the north side of Lovell to the west.

Additionally, the Planning Commission is considering an amendment to the Future Land Use Plan that would create a Rochester Road Overlay District and permit a range of uses to serve as a transition between Rochester Road and the abutting single-family residential neighborhood. This application appears to be consistent with this direction.

GENERAL INFORMATION

Name of Owner / Applicant:

The owner and applicant is Franco Mancini.

Location of Subject Property:

The property is located on the northwest corner of Lovell and Rochester Road, in Section 3.

Size of Subject Parcel:

The parcel is approximately 0.994 acres in area.

Current Use of Subject Property:

The property is presently vacant.

Current Zoning Classification:

R-1C One Family Residential.

Proposed Zoning of Subject Parcel:

O-1 Office Building.

Proposed Uses and Buildings on Subject Parcel:

The applicant is proposing to develop the property as a medical and general office building.

Current Use of Adjacent Parcels:

North: Sandalwood Condominium.

South: Retail and single family residential.

East: Alibi Restaurant and Woodside Bible Church/Northwyck PUD.

West: Detention basin (City-owned).

Zoning Classification of Adjacent Parcels:

North: R-1T One Family Attached.

South: B-1 Local Business.

East: B-3 General Business and PUD #1.

West: R-1C One Family Residential.

ANALYSIS

Range of Uses Permitted in Proposed O-1 Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Office Buildings for any of the following occupations: executive, administrative; professional; accounting; writing; clerical stenographic; drafting; and sales.

Medical office, including clinics.

Banks, credit unions, savings and loan associations, and similar uses. Such uses may include drive-in facilities only as an accessory use.

Publicly owned buildings, exchanges, and public utility offices.

Other uses similar to the above uses.

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Uses customarily supporting or serving the Principal Uses permitted in this District, such as pharmacies or drug stores, optical services, copy services, office supplies, book stores, art galleries, or restaurants.

Data processing and computer centers, including sales support, service and maintenance of electronic data processing equipment.

Technical training uses.

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

Mortuary establishments.

Private service clubs, fraternal organizations and lodge halls.

Private ambulance facilities.

Utility sub-stations, transformer stations or gas regulator stations (without storage yards).

Mechanical or laboratory research involving testing and evaluation of products, or prototype or experimental product or process development.

Child care centers, nursery schools, or day nurseries (not including dormitories).

Vehicular and Non-motorized Access:

The parcel fronts on Rochester Road.

Potential Storm Water and Utility Issues:

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

Natural Features and Floodplains:

The Natural Features Map indicates there are wetlands, woodlands and floodplain located on the property.

Compliance with Future Land Use Plan:

The parcel is classified on the Future Land Use Plan as Medium Density Residential. The Medium Density Residential classification correlates with the R-1T, R-2, R-M and

R-EC zoning districts. The application therefore does not comply with the Future Land Use Plan. The parcel has been planned for Medium Density Residential since 1999.

Compliance with Location Standards

Section 24.40.00 includes Location Standards to apply to rezoning requests:

- 24.40.00 LOCATION STANDARDS

- 24.40.10 Location Standards: the O-1 (Office Building) District may be applied when the application of such a classification is consistent with the intent of the Master Land Use Planning and policies related thereto, and therefore involves the following types of areas:

- 24.40.11 Areas indicated as low-rise office.

- 24.40.12 Portions of areas designated as community service centers or neighborhood service centers.

- 24.40.13 Areas designated for commercial or other non-residential development, or higher intensity office development, when one or more of the following determinations are made:
 - A. When the adjacent area and/or the total community would be more effectively served by the application of O-1 zoning than by the application of a commercial or other non-residential zoning District of a more intense office District.

 - B. When development in accordance with O-1 zoning would serve as a transitional element and would thus be more compatible with adjacent properties than would development under commercial or other office classifications.

The application does not meet the Location Standards of Section 24.40.00.

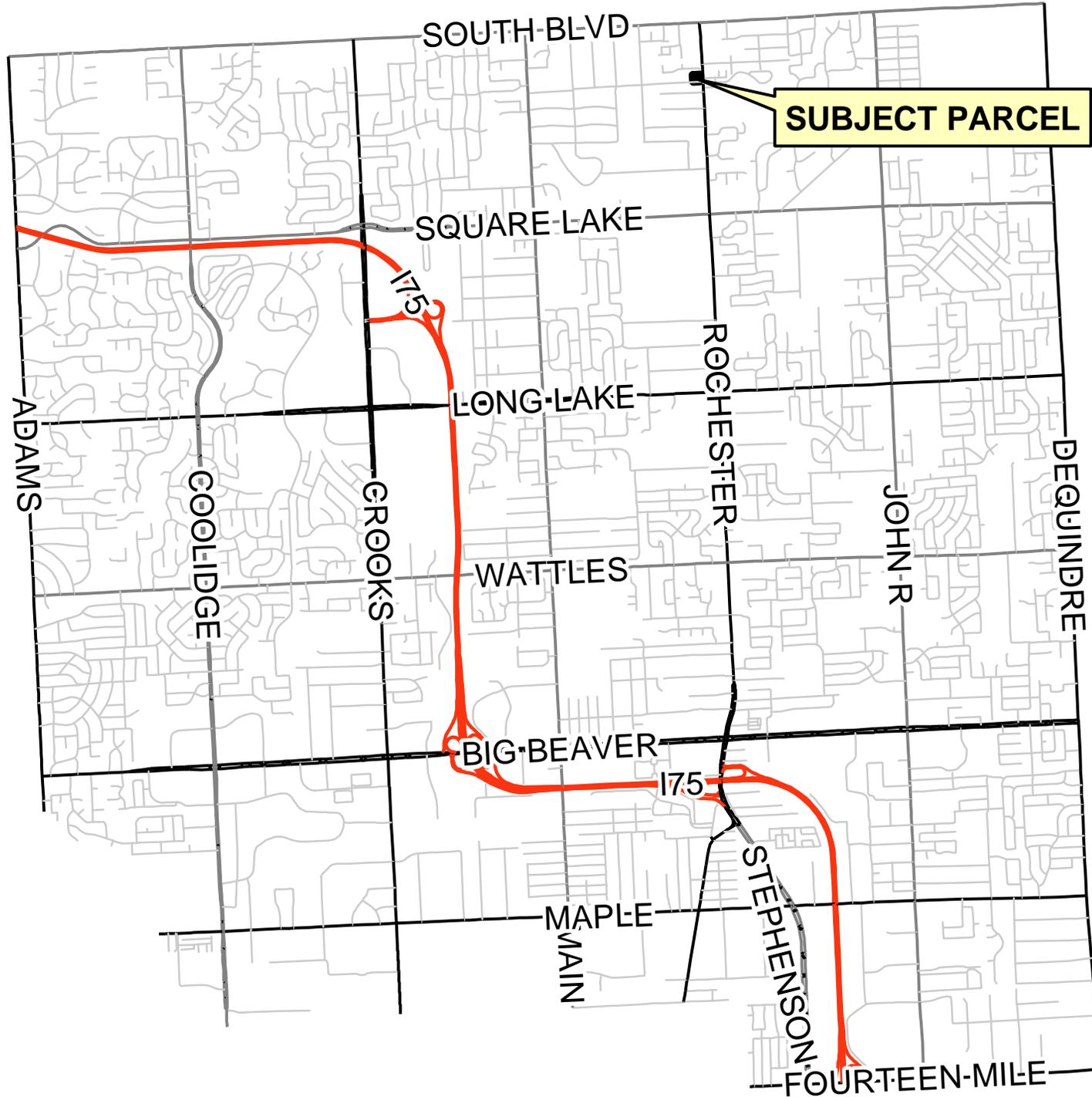
Attachments:

- 1. Maps.
- 2. Letter from applicant, dated April 5, 2006.
- 3. Letters of opposition (2).

Prepared by RBS/MFM

cc: Applicant
 File / Z 717

CITY OF TROY



REZONING REQUEST
PROPOSED ROCHESTER PROFESSIONAL BLDG.
FROM R-1C TO O-1
NW CORNER OF ROCHESTER RD. & LOVELL
SEC. 3 (Z-717)

EDGEWATER

SANDALWOOD

SUBJECT PARCEL



ROCHESTER

E LOVELL

ALAMEDA

ALAMEDA

ALAMEDA

ALAMEDA

ALAMEDA

ALAMEDA

HANNAH

REZONING REQUEST
PROPOSED ROCHESTER PROFESSIONAL BLDG.
FROM R-1C TO O-1
NW CORNER OF ROCHESTER RD. & LOVELL
SEC. 3 (Z-717)

EDGEWATER

SANDALWOOD (R-1T) One Family Attached Residential District

SUBJECT PARCEL

(R-1C) One Family Residential District

E LOVELL

(R-1B) One Family Residential District

HANNAH

(B-1) Local Business District

ROCHESTER

(R-1D) One Family Residential District

(B-3) General Business District

(P-1) Vehicular Parking District

ALAMEDA

ALAMEDA

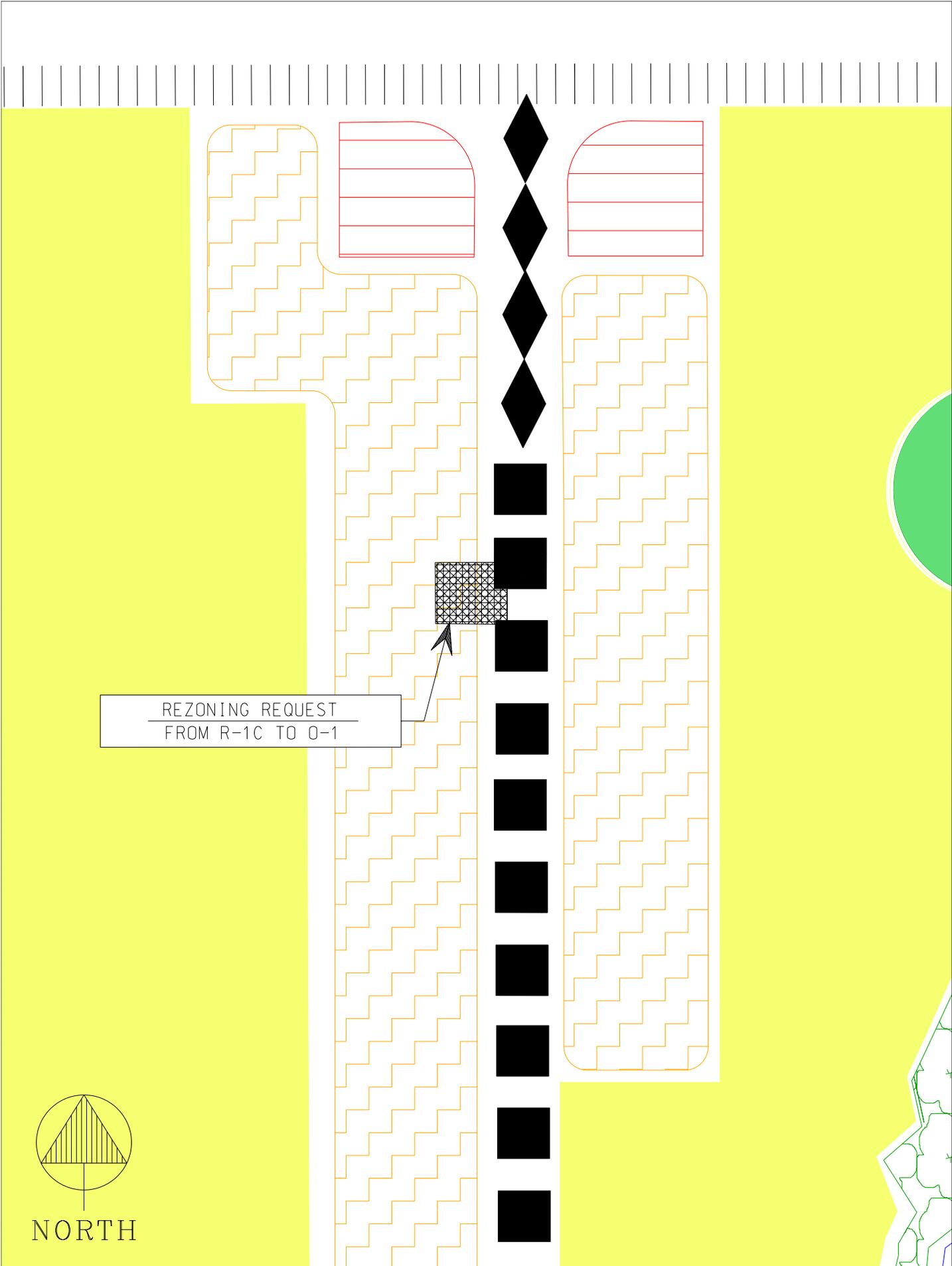
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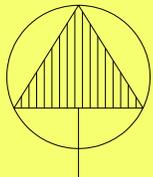
ALAMEDA

(PUD) Planned Unit Development

ALAMEDA



REZONING REQUEST
FROM R-1C TO O-1



NORTH

APEX

ENGINEERING GROUP INC.
CIVIL ENGINEERING & LAND PLANNING CONSULTANTS

47745 VAN DYKE AVENUE
SHELBY TOWNSHIP, MI 48317

TELEPHONE: 588-738-5200
FACSIMILE: 588-254-5314

April 5, 2006

Mr. Douglas Smith, Real Estate and Development Director
City of Troy
500 West Big Beaver
Troy, MI 48084

RE: Proposed Rezoning from R-1-C to O-1
Parcel No. 20-03-226-104
Section 3, City of Troy

Dear Mr. Smith:

In conjunction with the submittal package to rezone a parcel of land enclosed please find copies of a Feasibility Plan and Rezoning Plan. The subject parcel is currently zoned R-1-C and is located on the west side of Rochester Road between South Boulevard and Square Lake Road. The existing parcel is a corner lot and contains 0.994 acres of land. The parcel has 195.90 feet of Rochester Road frontage as well as 221.0 feet of Lovell Avenue frontage.

If the rezoning is successful the development will consist of a 7494 square foot office building. An office development is a historical use to be located on high traffic corridor. It can also be used as a buffer to the residential properties to the west. The proposed office use would generate less traffic and the hours of operation will be limited when compared to a residential or general retail use. The proposed office layout eliminates additional traffic routed onto Lovell Avenue with access proposed only to Rochester Road. The developer of this project has experience in the office development market and is the owner of "Rochester Office Parc" located south of this site, also on the west side of Rochester Road, between Deetta and Hannah Roads. The proposed site will be very similar, however with only one building. The proposed office site will be a transition from the more intense uses to the north.

Because of the location of the detention basin abutting this site to the west, if developed as a single family residential parcel, the development would be isolated from any neighborhood setting. If the office use is approved the basin will create an additional buffer for the existing residential uses. There is also a demand for office space in this portion of the city.

Your consideration of our request is greatly appreciated.

Sincerely,



William E. Mosher, P.E.

cc: Franco C. Mancini

Paula P Bratto

From: Eaamici@aol.com
Sent: Thursday, April 27, 2006 11:04 AM
To: Paula P Bratto
Subject: Rezoning of Property at Rochester and Lovell

I am against the rezoning. I cannot make the public hearing on the 9th. When we built our house everything around us was zoned RIB. Then a few years later it was zoned RIC to accommodate the condominiums. The property in question had a nice house which was torn down when the city purchased the property for a retention pond which has been left to grow wild. Now another rezoning. The City and its boards have really downgraded our environment over the years.

Ernest Amici
947 Hannah

4/27/2006

Paula P Bratto

From: jkerby1629@sbcglobal.net
Sent: Monday, May 01, 2006 4:19 PM
To: Paula P Bratto
Subject: Public Hearing on Rezoning Request

Dear Tonni Bartholomew, City Clerk,

I am against the rezoning request of Franco Mancini of Rochester Professional Building LLC for the following property:

T2N, R11E, NE 1/4 of the NE 1/4 of Section 3.

I am not in favor of the zoning change to O-1 (Low Rise Office) as we have enough difficulty exiting our Northwyck community onto Rochester Rd. without the added increase in traffic which would be caused by expanding the property use to Office use.

Jack C. Kerby
1274 Alameda Blvd.
Troy, MI

A meeting of the **Joint Local Development Finance Authority – Troy Subcommittee (LDFA)** was held on Monday, January 30, 2006 at 3:00 P.M., at City Hall in the Council Board Room. Beltramini called the meeting to order at 3:02 p.m.

PRESENT: Robin Beltramini, Chair
Mike Adamczyk
Keith Pretty
Doug Smith, Real Estate & Development Director
John Szerlag, City Manager

ABSENT: Dennis Toffolo

ALSO PRESENT: Lori Grigg-Bluhm, City Attorney

ROLL CALL

VOTE TO EXCUSE ABSENT MEMBER

Resolution # LD-2006-01-001

Moved by Pretty
Seconded by Smith

RESOLVED, That Dennis Toffolo is excused.

Yes: All - 5
No: None
Absent: Toffolo

VOTE TO APPROVE OF MINUTES FROM PREVIOUS MEETING

Resolution # LD-2006-01-002

Moved by Pretty
Seconded by Smith

RESOLVED, That the minutes of May 9, 2005 be approved.

Yes: All - 5
No: None
Absent: Toffolo

OLD BUSINESS

- A. Signage for Automation Alley Technology Park Property: Members reviewed the original proposal for signage, which included some type of full motion video to properly advertise Automation Alley and its high technology approach. Generally, the members of the subcommittee felt that the proposal from Liberty Property Trust was not in keeping with the original design and interest to have the sign reflect the technology image of the park. Therefore, little support was given for putting LDFA dollars into a monument sign. Charlie DeVries from Automation Alley indicated that, while they would prefer a sign that had some technology, they were supportive of getting some signage up on the park now.

Resolution # LD-2006-01-003

Moved by Pretty
Seconded by Adamczyk

RESOLVED, That the Troy LDFA rejected the proposal for LDFA funding for the proposed sign for the park since it lacked any type of video or technology. LDFA members did note that there is marketing budget available for signage (Liberty Property might resubmit the proposal with some technology in the sign). In the future, full motion videos could be added to the existing sign, if its built, or a second sign using some technology is still possible in the future.

Yes: All - 5
No: None
Absent: Toffolo

NEW BUSINESS:

- A. Terms for Joint LDFA Board members and election of Chair:

Resolution # LD-2006-01-003

Moved by: Pretty
Seconded by Szerlag

RESOLVED, That the appointment of Robin Beltramini to continue as Chair of the Subcommittee.

Yes: All – 5
No: None
Absent: Toffolo

- B. Board Member Appointments: Doug Smith reviewed the board members that need appointments filled including David Eisenbacher (alternate) and John Szerlag (voting member). It is anticipated the Mayor will make the appointments at a March Council meeting.

- C. Staff for Meeting Minutes: Since Laura Fitzpatrick has left the City; Doug Smith suggested the Real Estate and Development Department would arrange for minutes to be taken by a City staff member. All members agreed this would be appropriate.

- D. SmartZone Coordinating Council Report: Doug Smith reported on the recent SmartZone Coordinating Council meeting and the Great Lakes Interchange marketing plan. Mr. Smith noted that the discussion regarding the marketing plan included looking at a major event to kick-off the Great Lakes Interchange as the new name for the marketing effort for the Troy/Southfield SmartZone. Budget will be needed to provide for this event as well as the completion of all marketing materials and video. There was some interest in at least exploring a limited pilot project of advertising in either the Cleveland or Chicago market to determine if such advertising has any merit.

- E. Proposed 2006/07 Budget: Doug Smith indicated the actual budget will be forthcoming at the April meeting, but a motion was needed to appropriate the \$5,000 for the continuation of the marketing effort as planned in the original 2005/06 budget (this level of funding is less than was anticipated for the budget).

Moved by Adamczyk
Seconded by Pretty

RESOLVED, That \$5,000 is approved for marketing.

Yeas: All – 5
No: None
Absent: Toffolo

- F. Proposed 2006 Meeting Schedule:

Moved by Pretty
Seconded by Smith

RESOLVED, That the proposed meeting schedule is approved.

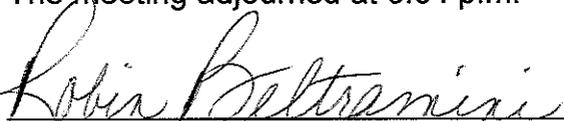
Yeas: All – 5
No: None
Absent: Toffolo

G. Proposed SmartZone Boundaries: Doug Smith discussed a recent Post Office announcement that culminated in a \$240 million decision by the U.S. Post Office to build a major distribution center on GM Center Point Campus. This should free up two key parcels within the Smartzone; one in the Certified Technology Park (CTP), which is a grey one-story building at the entrance located at Bellingham and Big Beaver, and the other a large distribution center at the southern end of the SmartZone, but outside of the CTP. In addition, there was continued discussion of the continued expansion of Behr America in the area that is included within the SmartZone, but again outside the CTP. There was also discussion regarding the potential to

consider expanding the CTP to include all of the boundaries coterminous with the SmartZone, which is twice the size of the current CTP. This issue will be discussed further at the April meeting regarding the desirability of changing the CTP boundaries.

PUBLIC COMMENT

The meeting adjourned at 3:54 p.m.



Robin Beltramini, Meeting Chair

A regular meeting of the Liquor Advisory Committee was held on Monday, April 10, 2006 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
David S. Ogg
Timothy P. Payne
Kelsey Brunette
Sergeant Christopher Stout
Lori Bluhm, City Attorney
Pat Gladysz

ABSENT: Max K. Ehlert, Chairman
W. Stan Godlewski
Bohdan L. Ukraineec

Resolution to Excuse Committee Members Ehlert, Godlewski, and Ukraineec

Resolution #LC2006-04-001

Moved by Hall

Seconded by Ogg

RESOLVED, that the absence of Committee members Ehlert, Godlewski, and Ukraineec at the Liquor Advisory Committee meeting of April 10, 2006 BE EXCUSED.

Yes: 4
No: 0
Absent: Ehlert, Godlewski, and Ukraineec

Resolution to Approve Minutes of December 12, 2006 Meeting

Resolution #LC2006-04-002

Moved by Hall

Seconded by Allemon

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

Yes: 4
No: 0
Absent: Ehlert, Godlewski, and Ukrainec

Agenda Items

1. **TROY PARADISE, INC**, requests to transfer ownership of 2005 SDD& SDM licensed corporation located at 5945 John R, Troy MI, 48085, Oakland County by dropping Sadik J. Sadik through transfer of 100 shares of stock to new stockholder Louay Joulakh [MLCC REQ # 329089]

Present to answer questions from the Committee were Louay Joulakh and Sadik Sadik.

Mr. Joulakh stated that he and Mr. Sadik are brothers-in-law and have been working together in this business for approximately seven months. Mr. Sadik is experiencing financial trouble and wants to sell the store. Mr. Joulakh is interested in purchasing the store and wants to improve the business. They will be the only two employees and have both completed TIPS training.

Resolution #LC2006-04-003

Moved by Hall

Seconded by Ogg

RESOLVED, that TROY PARADISE, INC, be allowed transfer ownership of 2005 SDD& SDM licensed corporation located at 5945 John R, Troy MI, 48085, Oakland County by dropping Sadik J. Sadik through transfer of 100 shares of stock to new stockholder Louay Joulakh.

Yes: 4
No: 0
Absent: Ehlert, Godlewski, and Ukrainec

Sergeant Stout advised the Committee that he received notification that Hooters plans to move and purchase the liquor license from the Wagon Wheel. The liquor license that Hooters currently holds will be sold. This information was just received and it was unable to be added to this month's Agenda.

Lori Bluhm, City Attorney, advised the Committee that the responsibilities of this Committee would be explained at next month's meeting in order to educate new and current members.

The meeting adjourned at 7:20 p.m.

Henry W. Allemon

Patricia A. Gladysz, Secretary II

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, April 12, 2006, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 12:15 p.m.

TRUSTEES PRESENT: Michael Geise
Thomas Houghton, Chair
John M. Lamerato
William R. Need (Ex-Officio)
Steven A. Pallotta
Louise Schilling

ABSENT: Mark Calice

EXCUSE ABSENT MEMEBER

Resolution # ER – 2006 – 04 - 013

Moved by Schilling
Seconded by Geise

RESOLVED, That Mark Calice be excused.

Yeas: All 5
Absent: Calice

MINUTES

Resolution # ER – 2006 – 04 - 014

Moved by Pallotta
Seconded by Geise

RESOLVED, That the minutes of the March 8, 2006 meeting be approved.

Yeas: All 5
Absent: Calice

OTHER BUSINESS – RETIREMENT REQUESTS

Resolution # ER – 2006 – 04 - 015

Moved by Houghton
Seconded by Lamerato

RESOLVED, That the board approve the following retirement request(s):

Michael S. Karloff, DB, 6/2/06, Water, 15 years, 9 months

Yeas: All 5
Absent: Calice

OTHER BUSINESS – RETIREE NEWSLETTER

Based upon the response of Retirees, the Board will issue 2 newsletters a year.

OTHER BUSINESS – DECEMBER 31, 2005 INVESTMENT PERFORMANCE REPORT

Steve Gasper of UBS will present the report at our May meeting.

INVESTMENTS

Resolution # ER – 2006 – 04 - 016

Moved by Pallotta
Seconded by Geise

RESOLVED, That the Board sell and purchase the following securities and make revisions to the NAIC investment instructions:

Sell: 5,000 shares Investors Financial Services and Inter Tel

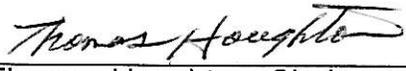
Purchase: \$1,000,000 Hartford Life, 5.50%, due 10/15/11;
\$1,000,000 Daimler Chrysler, 5.40%, due 4/15/08;
\$500,000 SLMA Ed Notes, 6.19%, due 6/15/09;

NAIC – For the time being and until our portfolio gets back in balance, if we own more than 5,000 shares of a stock featured in the monthly report by NAIC, we will not purchase any additional shares.

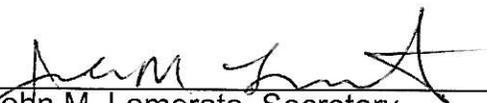
Yeas: All 5
Absent: Calice

The next meeting is May 10, 2006 at 12:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:15 p.m.



Thomas Houghton, Chairman



John M. Lamerato, Secretary

LIBRARY ADVISORY BOARD – FINAL

APRIL 13, 2006

A Regular Meeting of the Troy Library Board was held on Thursday April 13, 2006 at the Office of the Library Director. Brian Griffen, Chairman, called the meeting to order at 7:30 P.M.

ROLL CALL PRESENT: Heather Eisenbacher
Lynne Gregory
Brian Griffen
Nancy Weeler
Audre Zembrzuski

Brian Stoutenburg, Library Director

Resolution #LB-2006-4-01

Moved by Gregory
Seconded by Zembrzuski

RESOLVED, That Student Representatives Lauren Andreoff and Cheng Chen be excused.

Yes: 5—Eisenbacher, Gregory, Griffen, Wheeler, Zembrzuski
No: 0

The Pledge of Allegiance to the Flag was given.

Resolution #LB-2006-4-02

Moved by Zembrzuski
Seconded by Eisenbacher

RESOLVED, That Minutes of March 16, 2006 be approved.

Yes: 5—Eisenbacher, Gregory, Griffen, Wheeler, Zembrzuski
No: 0

Reviewed Agenda entries

Resolution #LB-2006-4-03

Moved by Wheeler
Seconded by Gregory

RESOLVED, That the Agenda be approved.

Yes: 3—Eisenbacher, Gregory, Griffen, Wheeler, Zembrzuski
No: 0

MOTION CARRIED

POSTPONED ITEMS

There were no postponed items.

REGULAR BUSINESS.

Review of Exhibit Policy.

The Board reviewed and discussed the Exhibit Policy focusing on whether or not to post prices of art works. It was decided to keep the policy as written, but to have signage made for each exhibit venue that would say “The library cannot be involved in the sale of items displayed in exhibit areas and no sales from the exhibits can take place on library property. For more information about exhibited art pieces, contact:” followed by the exhibitor’s name and contact information.

REPORTS & COMMUNICATIONS

Director’s Report.

The in-service workshops on April 7th were a huge success according to the attendees that included over 100 staff, Library Advisory Board Members and Friends of the Troy Public Library Board Members.

Since we now have a wireless connection for patrons with laptops, we are adding a number of additional electrical outlets to the Adult Services Department to meet demand.

The owners of Steamers, the library café, have not complied with the City’s insurance requirements. If by April 17, 2006 they still do not have the insurance, they will not be allowed to open until they do.

Board Member’s Comments

Zembrzuski suggested that an area be closed in either for quiet study or to control the noise of Teens. Eisenbacher asked that staff be informed about not sneezing into their hands and then handling patron’s materials.

Student Representative’s Comments

There were no comments.

Suburban Library Cooperative.

The audit was reviewed, as was the investment policy. The policy that outlines the procedures to remove staff users from Sirsi was discussed. The Shared Technology Committee recommended a method to take to identify issues with Sirsi and evaluate other vendors.

Friends of the Troy Public Library.

The Annual Meeting will be held on May 22, 2006. Thomas Lynch, one of this year's Michigan Notable Authors, will discuss his newest book: We Irish and Americans.

Gifts.

One gift of \$75.00 was received.

Informational Items.

April TPL Calendar

Contacts and Correspondence.

21 written comments from the public were reviewed.

Public Participation.

There was no public participation.

The Library Board meeting adjourned at 9:00 P.M.

Brian Griffen
Chair

Brian Stoutenburg
Recording Secretary

A. CALL TO ORDER

A regular meeting of the Troy Daze Advisory Committee was held Tuesday, April 25, 2006 at the Troy Community Center. Meeting was called to order at 7:30 pm.

B. ROLL CALL

Cele Dilley
Cheryl Whitton
Bob Berk
Kessie Kaltsounis
Mike Gonda

Jeff Stewart
Marilyn Musick
Berj Alexanian, Student Rep
Bill Hall

City Staff:

Cindy Stewart
Gerry Scherlinck
Bob Matlick
Jeff Biegler

Festival Chairman:

Tom Kaszubski

C. APPROVAL OF MINUTES

Resolution #TD-2006-04-71

Moved by Bill Hall

Seconded by Mike Gonda to approve the March 28, 2006 minutes with corrections (add Tom Kaszubski to attendee list; TD-2006-30-60 should read – pursue Jay Sanborn as an emcee and investigate the costs; Item #6 – should read “only two from the City list expressed interest.

RESOLVED that the minutes of the March meeting minutes are approved with corrections.

Yeas: All

Nays: None

MOTION CARRIED

D. TREASURER’S REPORT as of 3/31/06

Revenue \$172,608.76 (no change)

Changes \$100 sick pay allowance

Expenses \$141,771.39

Resolution #TD-2006-04-72

Moved by Mike Gonda

Seconded by Bill Hall to accept the Treasurer's Report of March 28, 2006.

RESOLVED that the Treasurer's Report of March 28, 2006 is approved.

Yeas: All

Nays: None

MOTION CARRIED

E. **NEW BUSINESS**

No new appointments, no new business, no old business

MOTION TO ADJOURN

Resolution #TD-2006-04-73

Moved by Mike Gonda

Seconded by Cheryl Whitton

RESOLVED that the Troy Daze Advisory Committee Meeting be adjourned at 7:35 pm.

Yeas: All

Nays: None

MOTION CARRIED

Cele Dilley, Chairperson

Cindy Stewart, Recording Secretary

A regular meeting of the Troy Daze Festival Committee was held Tuesday, April 25, 2006 at the Troy Community Center. Meeting was called to order at 7:37 pm.

ROLL CALL

Present:	Mike Gonda	Bob Preston
	Cele Dilley	Anju Brodbine
	Kessie Kaltsounis	Pancho Massaini
	Sandy Macknis	Bob Berk
	Cheryl Whitton	Dan O'Brien
	Tom Kaszubski	Jeff Stewart
	Berj Alexanian	Jeff Super
	Susan Regina	Jim Hatten
	Karen Hatten	Diane Mitchell
	Alison Miller	Shirley Darge
	Doris Schuchter	Kasey Wang
	Janet Ferstle	Marilyn Musick
	Phil Musick	Bill Hall
	Tom Kaszubski	Tom Duszynski
	Tim McAvoy	Jeff Winarski
	Bob Bishop	Bob Preston

City Staff Present:	Jeff Biegler	Bob Matlick
	Cindy Stewart	Gerry Scherlinck

INTRODUCTIONS

Kasey Wang, Troy High sophomore – appointed as the new Student rep.

GENERAL CHAIRPERSON'S REPORT:

Last City Council meeting, Council voted on the festival hours: Friday & Saturday gates close at 9 p.m. Festival closes 10 p.m.

This committee will meet April, July, August, October

Festival Committee List – be sure your info is correct

Troy Daze Event Descriptions – need one for all events and need co-chair for all events. Send info to Tom K.

New Positions

Bob Berk – “Contracted Services” - civil emergency plan, shirt order, misc. contracts (pony rides, fire works, Arnolds, petting zoo), Dilley walk.

Bob Preston – “Event Coordinator” - handle needs for all events (tables, chairs, etc) liaison between the chair and operations.

Mike Gonda – “Chief of Operations”

Bob Bishop – Co-chair of Operations

Open – Decorations - putting flowers out, beautifying park.

NEW BUSINESS

1. Rules, policies and procedures will be adopted at May meeting.
2. New code of conduct for all festival attendees to be posted in park and given out to all attendees.
3. Operational changes – 24 operational changes as discussed at last meeting to be put into operation.
4. Theme - Family, Friends and Community – the Magic of Troy Daze

Events Chairpersons Reports -

Cele Dilley: Booths - Applications out 1-2 weeks (Pepsi will not be a sponsor).

Bill Hall: Information booth – will need volunteers

Cheryl W: Treasurer – Award Request Form need back by June 5 to place trophy & ribbon order. Check Request form also need from chairpersons.

Kessie Kaltsounis: Headquarters

Phil Musick: Co-chair shuttles - need volunteers

Marilyn Musick & Janet Ferstle: Co-chairs for Magic Cauldron - need large stuffed animals for the tent.

Sandy Macknis: Student volunteers – has a meeting at Troy High, Athens & International Academy – student assemblies. All chairs email Sandy with number of student volunteers needed (busdiva@aol.com). Shifts

will be four hours. All student volunteers will receive a t-shirt and told to be dropped off at the Northfield Parkway entrance.

Kasey Wang: new student rep to Troy Daze – 10th grader at Troy High

Anju Brodbine: Co-chair of EthniCity. Poster Contest theme “celebrating diversity in education.”

Jeff Stewart: Special needs kids, special needs adults and entertainment chair – Hawaiian theme for Special Needs Adult Dance on Thursday night. One concern is the drop off area for special needs families who are not familiar with Boulan Park.

Co-chair is Charlie Craft. Jeff is disappointed we had to let go of the teen event. He is listening to teen bands recommended by Nikki Kaptur and might book one or two sometime during weekend during the day.

Doris Schuchter: available to help.

Bob Preston: event coordinator and adult volunteers.

Shirley Darge: outdoor stage/ethnic entertainment - co-chair Reuben Ellis.

Diane Mitchell: Talent shows

Tom Duszynski & Tammy Duszynski: Photo contest - Contacted Athens Photography teacher – he will make the contest an assignment for class. All flats will be painted same color.

Allison Miller & Karen Hatten: Cutest Infant & Toddler & New car show - all dealers coming back. Car dealers want to hold special events related to car give a-ways if they can have a police presence. Gerry Scherlinck will contact Allison and board will have to approve an event like this.

Tim McAvoy: Opening ceremonies. Has the flag that flew over capital been requested? Yes. Also service plaques need to be ordered.

Susan Regina: Miss Troy Pageant - applications on website. She is working on prizes for event donors will be listed in program. No chair for younger group of girls yet - if anyone knows someone who would like to volunteer, call Tom. K.

Mike Gonda: Operations - you will get whatever supplies you asked for last year unless you let him know. Also looking for volunteers for operations to work the weekend before the festival.

Berj Alexanian: retiring student rep/PA announcements - will pass along his information to the new student rep.

Tom K spoke to Jonathan Campian and he will be organizing the Waffle Breakfast on Saturday & Sunday from 9 a.m. – 12 p.m.

Cindy Stewart: Publicity – need information from chairpersons for the website and press releases. Naturalization Ceremony - it will be immediately after opening ceremonies and before Miss Troy. Corporate Sponsors to date – Henry Ford Hospital; WideOpenWest (\$2500); International Transmission (\$1000).

Pepsi will donate all pop and water but no cash this year.

Tom Tighe: Knights of Columbus 50-50 raffle all set

Motion by Bill Hall, seconded by Cheryl Whitton to adjourn the meeting at 8:26 p.m.

A meeting of the **Troy Youth Council (TYC)** was held on April 26, 2006 at 7:00 PM at the Troy Community Center, 3179 Livernois. Jia Luo and Joseph Niemiec called the meeting to order at 7:06 p.m.

MEMBERS PRESENT: Alexandra (Sasha) Bozimowski (Secretary)
 Andrew Corey
 Maxine D'Amico
 Jessica Kraft
 Jia (Lisa) Luo (Co-chair)
 Anupama Prasad
 Joseph Niemiec (Co-chair)
 Kristin Randall
 Katie Thoenes
 Nicole Vitale

MEMBERS ABSENT: Rishi Joshi
 Karen Wullaert,
 Neil Shaw

VISITORS: Troy Daze Committee Representatives

STAFF PRESENT: Scott Mercer, Recreation Supervisor

1. Roll Call

2. Approval of Minutes

Resolution # TY-2006-04-04
 Moved by Bozimowski
 Seconded by Thoenes

RESOLVED, That the minutes of March 29, 2006 be approved.

Yes: All – 10

No: None

Absent: 3 - Joshi, Wullaert, Shaw

3. Attendance Report: Updated through April meeting - To note and file

4. Visitor: Troy Daze Committee Representatives

(Tom Kaszubski, Jeff Stewart, Cele Dilley, Sgt. Gary Mayer, Lt. Gerry Sherlink, Cindy Stewart)

-Discussion between Committee and Council, some issues included:

-Committee discussed current status of event and what is changed for 2006. City Council approved closing time change to 10:00pm with parking closing at 9:00pm on Friday and Saturday.

-Review of some problems that took place in 2005 leading to the time changes and cleared up information that came out in the March 29 Youth Council Meeting.

- Police staff expressed that the problems are not a teen issue but a time issue. Also suggested that Youth Council research the possibilities of a teen event at Troy Daze for Troy residents.
- Youth Council members inquired if times for 2007 event had been set? Mr. Kaszubski informed Council that no issues for 2007 had been set and that everything would be reviewed after 2006 event.
- Youth Council suggested that vendors not be allowed to give away prizes that would lead to problems. Troy Daze Committee agreed and stated that they had already informed vendor of such and would require final approval of prizes.

5. Futures Process

Review tabled until May meeting.

6. Motion to Excuse Absent Members Who Have Provided Advance Notification

Resolution # TY-2006-04-05

Moved by D'Amico

Seconded by Vitale

RESOLVED that Rishi Joshi, Neil Shaw and Karen Wullaert are excused.

Yes: All – 10

No: None

Absent: 3 – Joshi, Shaw and Wullaert.

7. Youth Council Comments – None

8. Public Comments - None

The meeting adjourned at 8:23 P.M.

Jia Luo, Co-chair

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: May 24 at 7:00 P.M. @ *Troy Community Center*

A meeting of the **Troy Youth Council (TYC)** was held on April 26, 2006 at 7:00 PM at the Troy Community Center, 3179 Livernois. Jia Luo and Joseph Niemiec called the meeting to order at 7:06 p.m.

- MEMBERS PRESENT: Alexandra (Sasha) Bozimowski (Secretary)
- Andrew Corey
- Maxine D’Amico
- Jessica Kraft
- Jia (Lisa) Luo (Co-chair)
- Anupama Prasad
- Joseph Niemiec (Co-chair)
- Kristin Randall
- Katie Thoenes
- Nicole Vitale
- MEMBERS ABSENT: Rishi Joshi
- Karen Wullaert,
- Neil Shaw
- VISITORS: Troy Daze Committee Representatives
- STAFF PRESENT: Scott Mercer, Recreation Supervisor

1. Roll Call

2. Approval of Minutes

- Resolution # TY-2006-04-04
- Moved by Bozimowski
- Seconded by Thoenes

RESOLVED, That the minutes of March 29, 2006 be approved.

- Yes: All – 10
- No: None
- Absent: 3 - Joshi, Wullaert, Shaw

3. Attendance Report: Updated through April meeting - To note and file

- 4. Visitor:** Troy Daze Committee Representatives
(Tom Kaszubski, Jeff Stewart, Cele Dilley, Sgt. Gary Mayer, Lt. Gerry Sherlink, Cindy Stewart)
- Discussion between Committee and Council, some issues included:
- Committee discussed current status of event and what is changed for 2006. City Council approved closing time change to 10:00pm with parking closing at 9:00pm on Friday and Saturday.
- Review of some problems that took place in 2005 leading to the time changes and cleared up information that came out in the March 29 Youth Council Meeting.

- Police staff expressed that the problems are not a teen issue but a time issue. Also suggested that Youth Council research the possibilities of a teen event at Troy Daze for Troy residents.
- Youth Council members inquired if times for 2007 event had been set? Mr. Kaszubski informed Council that no issues for 2007 had been set and that everything would be reviewed after 2006 event.
- Youth Council suggested that vendors not be allowed to give away prizes that would lead to problems. Troy Daze Committee agreed and stated that they had already informed vendor of such and would require final approval of prizes.

5. Futures Process

Review tabled until May meeting.

6. Motion to Excuse Absent Members Who Have Provided Advance Notification

Resolution # TY-2006-04-05

Moved by D'Amico

Seconded by Vitale

RESOLVED that Rishi Joshi, Neil Shaw and Karen Wullaert are excused.

Yes: All – 10

No: None

Absent: 3 – Joshi, Shaw and Wullaert.

7. Youth Council Comments – None

8. Public Comments - None

The meeting adjourned at 8:23 P.M.

Jia Luo, Co-chair

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: May 24 at 7:00 P.M. @ *Troy Community Center*

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:32 p.m. on May 2, 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
David T. Waller

Absent:

Lawrence Littman
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney

Resolution # PC-2006-05-070

Moved by: Schultz
Seconded by: Vleck

RESOLVED, That Members Wright and Littman are excused from attendance at this meeting for personal reasons.

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

MOTION CARRIED

2. APPROVAL OF AGENDA

It was suggested by Mr. Schultz to add ZOTA 219 Conditional Rezoning to discuss requiring a site plan as part of a conditional rezoning application. It was generally agreed to add ZOTA 219 as Item #6.

3. MINUTES

Resolution # PC-2006-05-071

Moved by: Khan
Seconded by: Schultz

RESOLVED, That the minutes of the April 25, 2006 Special/Study Meeting be approved as printed.

Yes: Drake-Batts, Kerwin, Khan, Schultz, Strat, Waller
No: None
Abstain: Vleck
Absent: Littman, Wright

MOTION CARRIED

4. PUBLIC COMMENT (Items Not on the Agenda)

There was no one present who wished to speak.

5. MASTER / COMPREHENSIVE PLAN – Presentation by Carlisle/Wortman Associates, Inc.

Richard Carlisle and Zack Branigan of Carlisle/Wortman Associates, Inc. presented their credentials and experience and outlined a general project scope for a new City of Troy Master Plan.

General discussion followed.

6. ZOTA 219 – Conditional Rezoning

Mr. Schultz requested that the Planning Commission discuss this item to reaffirm that Site Plan Approval and/or Special Use Approval may be approved by City Council at the same time as the Conditional Rezoning Agreement, following a recommendation by the Planning Commission. The Planning Commission generally agreed to add a provision requiring if City Council requires any changes, the site plan shall be remanded back to the Planning Commission for consideration and recommendation. The draft ZOTA will be amended to reflect this change.

7. SUB-COMMITTEE PROGRESS REPORTS AND DISCUSSION

A. Tracking of Planning and Zoning Projects – Schultz

Mr. Schultz reported that a copy of the draft project tracking sheet was forwarded to the Planning Department who will review and provide feedback to the Sub-Committee.

B. By-Laws - Kerwin / Waller

Ms. Kerwin stated the Sub-Committee will meet in the future to discuss By-Laws.

Ms. Kerwin made a presentation of her experience of attending the American Planning Association National Conference in San Antonio, Texas.

C. Complete Update of Ordinance - Time Line and Milestones - Mark Miller

Mr. Miller stated that a general Zoning Ordinance timeline shall be provided to the Planning Commission at a future meeting.

D. Sustainable Development Standards - Khan / Waller

Mr. Khan said the Sub-Committee is making progress on this item.

E. Design Standards and Examples - Khan / Waller

Mr. Khan reported that work on Design Standards will begin following completion of Sustainable Development Standards.

F. Promotion of Ingenuity - Mark Miller

Mr. Miller stated that work on this item is ongoing.

G. Educational - Speakers and Presentations to Planning Commission - Strat

LSL Planning will make a presentation on Form Based Codes to the Planning Commission on June 6, 2006.

8. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 10.15 p.m.

Respectfully submitted,

Thomas Strat, Chair

Brent Savidant, Principal Planner

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:32 p.m. on May 2, 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
David T. Waller

Absent:

Lawrence Littman
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney

Resolution # PC-2006-05-070

Moved by: Schultz
Seconded by: Vleck

RESOLVED, That Members Wright and Littman are excused from attendance at this meeting for personal reasons.

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

MOTION CARRIED

2. APPROVAL OF AGENDA

It was suggested by Mr. Schultz to add ZOTA 219 Conditional Rezoning to discuss requiring a site plan as part of a conditional rezoning application. It was generally agreed to add ZOTA 219 as Item #6.

3. MINUTES

Resolution # PC-2006-05-071

Moved by: Khan
Seconded by: Schultz

RESOLVED, That the minutes of the April 25, 2006 Special/Study Meeting be approved as printed.

Yes: Drake-Batts, Kerwin, Khan, Schultz, Strat, Waller
No: None
Abstain: Vleck
Absent: Littman, Wright

MOTION CARRIED

4. PUBLIC COMMENT (Items Not on the Agenda)

There was no one present who wished to speak.

5. MASTER / COMPREHENSIVE PLAN – Presentation by Carlisle/Wortman Associates, Inc.

Richard Carlisle and Zack Branigan of Carlisle/Wortman Associates, Inc. presented their credentials and experience and outlined a general project scope for a new City of Troy Master Plan.

General discussion followed.

6. ZOTA 219 – Conditional Rezoning

Mr. Schultz requested that the Planning Commission discuss this item to reaffirm that Site Plan Approval and/or Special Use Approval may be approved by City Council at the same time as the Conditional Rezoning Agreement, following a recommendation by the Planning Commission. The Planning Commission generally agreed to add a provision requiring if City Council requires any changes, the site plan shall be remanded back to the Planning Commission for consideration and recommendation. The draft ZOTA will be amended to reflect this change.

7. SUB-COMMITTEE PROGRESS REPORTS AND DISCUSSION

A. Tracking of Planning and Zoning Projects – Schultz

Mr. Schultz reported that a copy of the draft project tracking sheet was forwarded to the Planning Department who will review and provide feedback to the Sub-Committee.

B. By-Laws - Kerwin / Waller

Ms. Kerwin stated the Sub-Committee will meet in the future to discuss By-Laws.

Ms. Kerwin made a presentation of her experience of attending the American Planning Association National Conference in San Antonio, Texas.

C. Complete Update of Ordinance - Time Line and Milestones - Mark Miller

Mr. Miller stated that a general Zoning Ordinance timeline shall be provided to the Planning Commission at a future meeting.

D. Sustainable Development Standards - Khan / Waller

Mr. Khan said the Sub-Committee is making progress on this item.

E. Design Standards and Examples - Khan / Waller

Mr. Khan reported that work on Design Standards will begin following completion of Sustainable Development Standards.

F. Promotion of Ingenuity - Mark Miller

Mr. Miller stated that work on this item is ongoing.

G. Educational - Speakers and Presentations to Planning Commission - Strat

LSL Planning will make a presentation on Form Based Codes to the Planning Commission on June 6, 2006.

8. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 10.15 p.m.

Respectfully submitted,

Thomas Strat, Chair

Brent Savidant, Principal Planner

A meeting of the **Joint Local Development Finance Authority – Troy Subcommittee (LDFA)** was held on Monday, May 8, 2006 at 3:00 P.M., at City Hall in the Council Board Room. Beltramini called the meeting to order at 3:06 p.m.

PRESENT: Robin Beltramini, Chair
Mike Adamczyk (arrived 3:20 p.m.)
Keith Pretty
Dennis Toffolo
Doug Smith, Real Estate & Development Director
Brian Murphy, Assistant City Manager/Services

ALSO PRESENT: Lori Grigg-Bluhm, City Attorney
Wade Fleming, Councilman (alternate)

VOTE TO APPROVE OF MINUTES FROM PREVIOUS MEETING

Resolution # LD-2006-05-001

Moved by Pretty
Seconded by Toffolo

RESOLVED, That the minutes of January 30, 2006 be approved.

Yes: All – 5
No: None
Absent: Adamczyk

OLD BUSINESS

A. Expanding the CTP Boundaries:
After a brief discussion, the following resolution was made:

Resolution # LD-2006-05-002

Moved by Toffolo
Seconded by Pretty

RESOLVED, That the Troy LDFA will review the steps necessary to accomplish an expansion of the CTP boundaries to include what is currently the SmartZone boundaries. This item would be anticipated for the July meeting.

Yes: All - 5
No: None

Absent: Adamczyk

NEW BUSINESS:

A. 2006/07 Budget Approval: Budget explanation by Doug Smith

Resolution # LD-2006-05-003

Moved by Murphy
Seconded by Pretty

RESOLVED, That the 2006/07 budget is approved and will be submitted to City Council for final approval.

Yes: All – 6
No: None
Absent: None

PUBLIC COMMENT

There was no public comment.

The meeting adjourned at 3:30 p.m.

Robin Beltramini, Meeting Chair

The Regular Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:34 p.m. on May 9, 2006, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Lynn Drake-Batts
 Mary Kerwin
 Fazal Khan
 Lawrence Littman
 Robert Schultz
 Thomas Strat
 Mark J. Vleck
 David T. Waller

Absent:

Wayne Wright

Also Present:

Mark F. Miller, Planning Director
 Brent Savidant, Principal Planner
 Allan Motzny, Assistant City Attorney
 Kathy Czarnecki, Recording Secretary

Resolution # PC-2006-05-072

Moved by: Schultz
 Seconded by: Waller

RESOLVED, That Member Wright is excused from attendance at this meeting for personal reasons.

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

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-05-073

Moved by: Khan
 Seconded by: Schultz

RESOLVED, To approve the Agenda as presented.

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

MOTION CARRIED

3. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

Chair Strat announced that five (5) affirmative votes are required for approval and recommending actions, and the petitioner has the option to postpone the item prior to the presentation to the Planning Commission.

POSTPONED ITEMS

4. STREET VACATION REQUEST (SV 134-B) – Cherry Street east of Livernois, approximately 173 feet abutting Lots 6 and 7, Greenough Heights Subdivision, East of Livernois, South of I-75, Section 27 – Zoned O-1 (Low Rise Office) and R-1E (One Family Residential) Districts (the abutting parcels)

Mr. Miller reported the petitioners request a postponement of the item to allow time to determine what action they wish to pursue.

Resolution # PC-2006-05-074

Moved by: Schultz

Seconded by: Littman

RESOLVED, That the Planning Commission hereby postpones this item to the July 2006 Regular meeting of the Planning Commission.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

5. 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. Miller said the petitioner informed the Planning Department that the vacant parcel to the south has been acquired, and they are in the process of combining the parcels. It is the recommendation of the Planning Department to postpone the item to allow for appropriate public hearing notification on the combined parcel.

PUBLIC HEARING OPENED

No one was present to speak.

Resolution # PC-2006-05-075

Moved by: Littman

Seconded by: Schultz

RESOLVED, That the Planning Commission hereby postpones this rezoning application and continue the Public Hearing to the June 2006 Regular meeting, to allow for appropriate public hearing notification on the combined parcel.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

6. PUBLIC HEARING – PROPOSED SPECIAL USE REQUEST (SU 335) – Proposed Daycare Center, Southeast corner of New King and New King, Section 8, Zoned R-C (Research Center) District

Mr. Miller provided a brief review of the special use request and revised site plan application.

Steven Vanden Bossche, 550 Hulet Drive, Bloomfield Hills, was present to represent the petitioner and owner. Mr. Vanden Bossche distributed colored elevations and material samples. He summarized the revisions to the site plan as relates to the roof, windows, concrete block, color scheme and landscaping in an effort to accommodate the Commission's wishes that the building appear less residential. He noted The Gale Group is in full agreement with the changes made and a letter to that effect is forthcoming. Mr. Vanden Bossche noted the original set of plans were sealed by a registered architect and apologized that the revised plans were inadvertently not sealed as required.

Chair Strat opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Chair Strat addressed the proposed landscaping in terms of quality. It is his opinion that the revisions to the site plan have not changed the appearance of the building.

Mr. Schultz said letters from surrounding properties not owned by The Gale Group would have been more important. Mr. Schultz said the revisions to the site plan have not changed the appearance of the building other than by color. He would prefer the building to be locationally placed on the site so that the mature trees and berm would be saved.

Resolution # PC-2006-05-076

Moved by: Drake-Batts

Seconded by: Vleck

RESOLVED, That the Planning Commission hereby approves a total of 27 landbanked parking spaces on the abutting office property. This permits the provision of two hundred seventy eight (278) spaces when three hundred five (305) spaces are required on the site based on the off-street parking space requirements for offices, as per Article XL. The landbanked spaces meet the standards of Article 40.20.13 and will assist the applicant in minimizing the amount of storm water runoff on the site. These spaces shall be constructed should additional parking spaces be required.

BE IT FURTHER RESOLVED, That the Special Land Use and Site Plan Approval, pursuant to Section 26.30.05 of the Zoning Ordinance, as requested for the proposed daycare center, located on the southeast corner of New King and New King, Section 8, within the R-C Zoning District, be granted.

Discussion on the motion on the floor.

Mr. Littman asked if denial of the special use request could be based on the concept of saving trees.

Mr. Motzny said the Commission has authority to impose conditions on a Special Use Approval that relate to the land. In this case, the Commission has the authority to impose conditions with regard to the trees and what trees may or may not be removed.

Vote on the motion on the floor.

Yes: Drake-Batts, Kerwin, Khan, Vleck, Waller

No: Littman, Schultz, Strat

Absent: Wright

MOTION CARRIED

Mr. Littman said the project could have been designed to save trees without causing any hardship to the owner.

Mr. Schultz said a better product could have been brought forward with respect to neighborhood compatibility and landscaping.

Chair Strat agreed with the comments of Messrs. Schultz and Littman. He believes the project will adversely impact the adjacent properties.

7. PUBLIC HEARING – PROPOSED SPECIAL USE REQUEST (SU 336) – Proposed Restaurant, Southeast corner of Livernois and Big Beaver, Section 27, Zoned O-S-C (Office Service Commercial) District

Mr. Miller presented a summary of the Planning Department report for the proposed special use request and reported it is the recommendation of City Management to approve the Special Use Request and Site Plan as submitted.

Ms. Kerwin addressed a potential traffic concern in relation to the proposed development's proximity to the U.S. Post Office. She noted there were no comments from the Transportation Engineer to this regard, and asked what impact the proposed development might have in terms of traffic safety.

Mr. Miller said the layout of the U.S. Post Office is a problem in terms of traffic safety, and it is his opinion the proposed development would make the traffic circulation better. He noted the proposed development provides a number of reasonable and safe driveways.

Tysen McCarthy of Redico, One Towne Square, Southfield, was present. Mr. McCarthy said the revised site plan best serves the needs of the restaurant customers and contributes to the long-term viability of the restaurant and long-term commitment to the City. He said they diligently worked with the Planning Department to assure all Zoning Ordinance requirements were met. Mr. McCarthy said the plan offers extensive landscaping and is consistent with the surrounding environment. He requested the Commission's favorable approval.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Schultz addressed the landscaping in detail with the petitioner and indicated the landscaping is a major concern of his.

Mr. Littman addressed the safety of the southern driveway and asked the petitioner if any consideration was given to discourage vehicular traffic from turning southbound onto Livernois.

Mr. McCarthy stated an existing traffic sign at the southern driveway designates right-hand turn only.

Chris Lavoie, chief engineer and planning consultant for Kona Grill, 4941 Forest Avenue, Downers Grove, Illinois, was present. Mr. Lavoie said they worked with City staff and indicated their willingness to incorporate a design to address the traffic concern, but there has been no clear direction from the City or any formal comments provided from the City's Traffic Engineer.

Chair Strat expressed concerns with the proposed landscaping and the safety of vehicular and pedestrian traffic at the southern driveway.

Resolution # PC-2006-05-077

Moved by: Kerwin

Seconded by: Waller

RESOLVED, That the Planning Commission hereby approves a reduction in the total number of required restaurant parking spaces to one hundred forty five (145) when a total of one hundred seventy three (173) spaces are required on the site based on the off-street parking space requirements for restaurants, as per Article XL. The Planning Commission also approves a reduction in the number of total required parking spaces for the office building and restaurant to one thousand two hundred twenty three (1,223) when a total of one thousand four hundred forty one (1,441) spaces are required on the site based on the off-street parking space requirements for offices and restaurants, as per Article XL. This reduction meets the standards of Article 40.20.12 and will assist the applicant in minimizing the amount of storm water runoff on the site.

BE IT FURTHER RESOLVED, That the Special Use Approval and Site Plan Approval, pursuant to Section 26.30.05 of the Zoning Ordinance, as requested for the proposed restaurant, located on the southeast corner of Big Beaver and Livernois, Section 27, within the O-S-C Zoning District, be granted:

Yes: Drake-Batts, Kerwin, Khan, Waller

No: Littman, Schultz, Strat, Vleck

Absent: Wright

MOTION DENIED

Mr. Schultz would prefer the development up against the minimum setback line. He indicated the petitioner only had to agree to place the additional 9 trees to win his vote. With no such offer from the petitioner, Mr. Schultz is opposed to the site plan.

Mr. Vleck said the development's ingress/egress onto the main road is contrary to public safety and poses a dangerous situation.

Mr. Littman said the Commission's responsibility is to protect the health, safety and welfare of citizens. He said the driveway location on Livernois is currently dangerous and the proposed development would make it more dangerous.

Chair Strat concurred with the comments.

Mr. McCarthy offered to provide the additional 9 trees suggested by Mr. Schultz. He was not aware the procedural format would allow him the opportunity to do so at this time.

A motion to reconsider the item was briefly entertained, but not acted upon.

Refer to page 15 for additional action taken on this item.

REZONING REQUESTS

8. PUBLIC HEARING – PROPOSED REZONING (Z 714) – Proposed Senior Housing Development, North of Long Lake, East side of I-75, Section 9 – From R-1B (One Family Residential) to R-EC (Residential Elder Care) District

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning request and reported it is the recommendation of City Management to deny the request. There were five letters of opposition distributed to the members prior to the beginning of tonight's meeting.

David Donnellon of Design Resources, 755 W. Big Beaver Road, Troy, was present to represent the petitioner (purchaser of subject property) and Kamax (seller of subject property). Mr. Donnellon said both purchaser and seller understand the needs of the neighborhood. He addressed (1) transitional zoning/use; (2) traffic; i.e., construction and delivery service through Kamax off of Long Lake Road; (3) density; (4) wetlands; and (5) development phases of the project.

Ms. Drake-Batts asked if Kamax is the owner or tenant of the building, if the right of first refusal to Choice Development Corporation is in writing and if the petitioner met with the neighbors to discuss the proposed development.

Mr. Donnellon replied that Kamax owns the building and the right of first refusal is in writing. Mr. Donnellon said there have been conversations with the neighbors, but no meetings have been held.

Mr. Waller asked when the agreement with Kamax on the through-traffic was achieved.

Mr. Donnellon said the agreement was recently reached and had not been shared with the Planning Department prior to tonight's meeting.

Mr. Motzny confirmed the Commission's responsibility this evening is to act upon the rezoning request, and no consideration should be given to the proposed site plan. He noted the Commission has no authority to impose any conditions on the rezoning request.

Prior to opening the Public Hearing, Chair Strat asked that comments be limited to three minutes per speaker and not be repetitive in content.

PUBLIC HEARING OPENED

Jennifer Gasiiecki of 196 Stalwart, Troy, was present. Ms. Gasiiecki spoke in opposition of the proposed rezoning. She expressed concerns with traffic, preservation of trees, safety and noise.

J. Mark Brown of 467 McKinley, Troy, was present. Mr. Brown distributed copies of a letter in opposition of the proposed rezoning. He said the proposed development does not comply with the City's future land use plan and would have a negative impact on the neighborhood.

Charles Jackson of 405 West Square Lake Road, Troy, was present. Mr. Jackson spoke in opposition of the proposed rezoning. He addressed safety of children, cut-through traffic and density.

P. J. Cumming of 5375 Daniels Drive, Troy, was present. Ms. Cumming spoke in opposition of the proposed rezoning. Ms. Cumming is a commercial interior designer who specializes in senior and elderly care. She expressed a strong concern with ambulance traffic on a round-the-clock basis. Ms. Cumming also addressed the wildlife in the area.

Vince Pangle of 5235 Wright Street, Troy, was present. Mr. Pangle spoke in opposition of the proposed rezoning. He addressed land use, transitional zoning, density, traffic, and future development should the senior facility close. Mr. Pangle questioned the petitioner's qualifications to run a senior facility and suggested the land be bought and developed as a platted subdivision.

Blaine Dixon of 80 Stalwart, Troy, was present. Ms. Dixon spoke in opposition of the proposed rezoning. She expressed concerns with neighborhood compatibility and characteristics, safety, traffic and wildlife.

Roy Bray of 5580 Houghten, Troy, was present. Mr. Bray spoke in opposition of the proposed rezoning. He addressed city services and the potential disruption of those services to the existing neighborhood.

Ron Marceau of 5600 Houghten, Troy, was present. Mr. Marceau spoke in opposition of the proposed rezoning. He expressed concerns with construction noise, parking and density.

PUBLIC HEARING CLOSED

Mr. Donnellon requested that the item be tabled to the next meeting to provide an opportunity to address concerns expressed tonight by the neighbors.

Resolution # PC-2006-05-078

Moved by: Drake-Batts

Seconded by: Waller

RESOLVED, To postpone the rezoning request to the June 2006 Regular meeting so the petitioner can meet with residents and figure out if there is a good solution for everybody.

Yes: Drake-Batts, Khan, Schultz, Strat, Vleck, Waller

No: Kerwin, Littman

Absent: Wright

MOTION CARRIED

Ms. Kerwin said her concern is the disturbance and noise from emergency vehicular traffic (ambulance, fire and EMS).

Mr. Littman said discussions with the neighbors would be on issues that are not related to the consideration of the rezoning request.

Chair Strat requested a recess at 8:55 p.m.

The meeting reconvened at 9:06 p.m.

9. PUBLIC HEARING – PROPOSED REZONING (Z 717) – Proposed Medical/General Office Building, Northwest corner of Lovell and Rochester Road, Section 3 – From R-1C (One Family Residential) to O-1 (Low Rise Office) District

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning and reported it is the recommendation of City Management to approve the rezoning application.

The petitioner, Franco Mancini of 47858 Van Dyke, Shelby Township, was present. Mr. Mancini addressed the proposed medical use and its transition to the residential environment.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

There was brief discussion on the number of building stories allowed in the O-1 zoning district.

Resolution # PC-2006-05-079

Moved by: Schultz

Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to O-1 rezoning request, located on the northwest corner of Lovell and Rochester Road, within Section 3, being approximately 1 acre in size, be granted.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

10. PUBLIC HEARING – PROPOSED REZONING (Z 718) – Proposed Curves Weight Management and Work Out Facility, North of Maple, West side of Livernois (1631 Livernois), Section 28 – From O-1 (Low Rise Office) to B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning and reported it is the recommendation of City Management to approve the rezoning application.

Mr. Savidant pointed out that a letter from John Gonway addressing the rezoning request was distributed to the members prior to the beginning of tonight's meeting.

The petitioner, Beth Anne Beattie of 37756 Gregory Drive, Sterling Heights, was present. Ms. Beattie said there would be no alternations to the existing property; the property would stay as-is.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-05-080

Moved by: Vleck
 Seconded by: Schultz

RESOLVED, That the Planning Commission hereby recommends to the City Council that the O-1 to B-3 rezoning request, located north of Maple, on the west side of Livernois, within Section 28, being approximately 14,250 square feet in size, be granted.

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

MOTION CARRIED**ZONING ORDINANCE TEXT AMENDMENT**

11. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT REQUEST (ZOTA 219) – Articles II and III, Conditional Rezoning**

Mr. Savidant reviewed the recent revisions incorporated in the proposed zoning ordinance language and provided an overall summary of the conditional rezoning concept for the benefit of the audience.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED**Resolution # PC-2006-05 –**

Moved by: Schultz
 Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles II and III of the City of Troy Zoning Ordinance, pertaining to Conditional Rezoning, be amended as printed on the Proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft, dated May 2, 2006.

Discussion on the motion on the floor.

There was discussion on Section 03.24.02 (B), Standards for Approval.

Mr. Savidant introduced incorporation of the following language: “The conditions of the proposed development and/or proposed use are not in material conflict with the

Future Land Use Plan or are made conflicting due to a change in conditions, a change in City policy, or a mistake in the Future Land Use Plan.”

Resolution # PC-2006-05-081

Moved by: Schultz
Seconded by: Littman

RESOLVED, To postpone this item to the next Special/Study meeting scheduled on the last Tuesday of May, to allow time to revise the document and on which a vote can be taken at that time.

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

MOTION CARRIED

STREET VACATION

12. **PUBLIC HEARING – STREET VACATION REQUEST (SV 186)** – Deinmore Avenue abutting lots 95 to 102 and 105 to 112 of Beaver Hills Subdivision and Stalwart Avenue abutting lots 97 and 99 and 109 and 110 of Beaver Hills Subdivision, Section 9 – Currently Zoned R-1B (One Family Residential) Districts (the abutting parcels)

Mr. Savidant presented a summary of the Planning Department report for the proposed street vacation request and reported it is the recommendation of City Management to postpone the street vacation request until such time that the property is consolidated into one future development.

PUBLIC HEARING OPENED

Vince Pangle of 5235 Wright Street, Troy, was present. Mr. Pangle spoke in opposition of the street vacation request. He addressed the platting process of site condominium and subdivision developments.

Mr. Motzny addressed Mr. Pangle’s comments relating to the platting process. Mr. Motzny explained a recent court decision upheld a site condominium development could be placed over a plat without the necessity to vacate the plat; however, to vacate a plat still requires Circuit Court action.

PUBLIC HEARING CLOSED

Resolution # PC-2006-05-082

Moved by: Schultz
 Seconded by: Khan

RESOLVED, That the street vacation (SV 186) request is hereby postponed until such time that the property is consolidated into one future development.

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

MOTION CARRIED

SITE PLAN REVIEWS

13. **SITE PLAN REVIEW (SP 348-B)** – Proposed Retail Plaza, North of Big Beaver, West side of Rochester Road (3385 Rochester Road – Former Taco Bell Site), Section 22, B-3 (General Business) District

Mr. Savidant presented a summary of the Planning Department report for the proposed retail plaza and reported it is the recommendation of City Management to approve the site plan as submitted.

Elias Madi of DeMattia Associates Architects, 5608 Perry Tower Drive, West Bloomfield, was present to represent the petitioner. Mr. Madi said the proposed development meets all City requirements and would be a nice addition to the area.

Resolution # PC-2006-05-083

Moved by: Littman
 Seconded by: Khan

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Retail Plaza, located on the west side of Rochester Road, north of Big Beaver, located in Section 22, on approximately 0.53 acres, within the B-3 zoning district, is hereby granted.

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

MOTION CARRIED

14. SITE PLAN REVIEW (SP 689-B) – Proposed Addition to Behr America, South of Big Beaver, East and West sides of Daley (2700-2852 Daley), Section 26, M-1 (Light Industrial) District

Mr. Savidant presented a summary of the Planning Department report for the proposed addition to Behr America and reported it is the recommendation of City Management to approve the site plan as submitted.

Phil Tocco of 5645 Winslow Court, Ypsilanti, was present to represent Behr America. Mr. Tocco is an employee of Behr America in Troy. He provided a brief overview of the proposed addition and addressed environmentally friendly recommendations of the City's Environmental Specialist.

Mr. Schultz addressed the proposed landscape plan in relation to providing a pocket park along Big Beaver Road.

Resolution # PC-2006-05-084

Moved by: Schultz

Seconded by: Littman

RESOLVED, That Preliminary Site Plan Approval, as requested for the Proposed Addition to Behr America, located south of Big Beaver, on the east and west sides of Daley, located in Section 26, on approximately 11.7 acres, within the M-1 zoning district, is hereby granted.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

OTHER ITEMS

15. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

Ms. Drake-Batts asked a favor of Mr. Motzny and City Attorney Lori Bluhm in assisting the Chair in the correct pronunciation of her name.

Mr. Miller provided information on the Maple Road presentation by Lawrence Technological University students.

Ms. Kerwin addressed a novel approach of inside parking she observed in San Antonio.

Mr. Schultz commended the Handleman Company on planting replacement trees for the emerald ash trees that were removed.

Mr. Schultz addressed agenda item #7, Special Use Request (SU 336), for the Kona Grill restaurant located on the southeast corner of Livernois and Big Beaver.

Resolution # PC-2006-05-085

Moved by: Schultz

Seconded by: Waller

RESOLVED, To reconsider agenda item #7 special use request on tonight's meeting for Kona Grill located on the southeast corner of Livernois and Big Beaver.

Yes: Kerwin, Khan, Schultz, Strat, Waller

No: Drake-Batts, Littman, Vleck

Absent: Wright

MOTION CARRIED

Resolution # PC-2006-05-086

Moved by: Schultz

Seconded by: Waller

RESOLVED, That the Planning Commission hereby approves a reduction in the total number of required restaurant parking spaces to one hundred forty five (145) when a total of one hundred seventy three (173) spaces are required on the site based on the off-street parking space requirements for restaurants, as per Article XL. The Planning Commission also approves a reduction in the number of total required parking spaces for the office building and restaurant to one thousand two hundred twenty three (1,223) when a total of one thousand four hundred forty one (1,441) spaces are required on the site based on the off-street parking space requirements for offices and restaurants, as per Article XL. This reduction meets the standards of Article 40.20.12 and will assist the applicant in minimizing the amount of storm water runoff on the site.

BE IT FURTHER RESOLVED, That the Special Use Approval and Site Plan Approval, pursuant to Section 26.30.05 of the Zoning Ordinance, as requested for the proposed restaurant, located on the southeast corner of Big Beaver and Livernois, Section 27, within the O-S-C Zoning District, be granted, subject to the following conditions:

1. The addition of a minimum of nine (9) trees of an appropriate species along the north side of the south driveway and in the triangularly-shaped island along the east boundary edge of the restaurant's parking lot.

Discussion on the substitute motion on the floor.

Mr. Schultz provided an explanation for bringing the agenda item back on the floor.

Mr. Motzny outlined the procedure to follow for a substitute motion.

Mr. Littman offered the following amendment to the substitute motion on the floor.

Resolution # PC-2006-05-087

Moved by: Littman

Seconded by: Strat

RESOLVED, That the southern driveway be designed with some type of impediment to making turns onto southbound Livernois from that driveway.

Discussion on the amendment to the substitute motion on the floor.

Discussion followed on the purview of traffic control devices and the enforcement of related conditions placed on special use approvals.

Vote on the amendment to the substitute motion on the floor.

Yes: Drake-Batts, Kerwin, Littman, Schultz, Strat, Vleck, Waller

No: Khan

Absent: Wright

MOTION CARRIEDVote to approve motion on the floor, as amended, as substitute motion.

Yes: Drake-Batts, Kerwin, Littman, Schultz, Vleck, Waller

No: Khan, Strat

Absent: Wright

Vote on the amended substitute motion.

Yes: Drake-Batts, Kerwin, Littman, Schultz, Vleck, Waller

No: Khan, Strat

Absent: Wright

Good of the Order (continued)

Mr. Littman requested from the City Attorney's office clarification between postponing and tabling actions.

Mr. Miller provided a brief report on City Council agenda items: (1) ZOTA 215-A Accessory Buildings and (2) PUD 5 Caswell Town Center.

Mr. Motzny addressed the difference between a tabling action and a postponing action.

Mr. Khan said he voted no on the Kona Grill agenda item because the petitioner was not present for the discussion and action by the Planning Commission.

Chair Strat agreed the petitioner should be present.

The Regular Meeting of the Planning Commission was adjourned at 10:33 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 Chair Strat at 7:34 p.m. on May 9, 2006, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Lynn Drake-Batts
 Mary Kerwin
 Fazal Khan
 Lawrence Littman
 Robert Schultz
 Thomas Strat
 Mark J. Vleck
 David T. Waller

Absent:

Wayne Wright

Also Present:

Mark F. Miller, Planning Director
 Brent Savidant, Principal Planner
 Allan Motzny, Assistant City Attorney
 Kathy Czarnecki, Recording Secretary

Resolution # PC-2006-05-072

Moved by: Schultz
 Seconded by: Waller

RESOLVED, That Member Wright is excused from attendance at this meeting for personal reasons.

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

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-05-073

Moved by: Khan
 Seconded by: Schultz

RESOLVED, To approve the Agenda as presented.

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

MOTION CARRIED

3. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

Chair Strat announced that five (5) affirmative votes are required for approval and recommending actions, and the petitioner has the option to postpone the item prior to the presentation to the Planning Commission.

POSTPONED ITEMS

4. STREET VACATION REQUEST (SV 134-B) – Cherry Street east of Livernois, approximately 173 feet abutting Lots 6 and 7, Greenough Heights Subdivision, East of Livernois, South of I-75, Section 27 – Zoned O-1 (Low Rise Office) and R-1E (One Family Residential) Districts (the abutting parcels)

Mr. Miller reported the petitioners request a postponement of the item to allow time to determine what action they wish to pursue.

Resolution # PC-2006-05-074

Moved by: Schultz

Seconded by: Littman

RESOLVED, That the Planning Commission hereby postpones this item to the July 2006 Regular meeting of the Planning Commission.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

5. 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. Miller said the petitioner informed the Planning Department that the vacant parcel to the south has been acquired, and they are in the process of combining the parcels. It is the recommendation of the Planning Department to postpone the item to allow for appropriate public hearing notification on the combined parcel.

PUBLIC HEARING OPENED

No one was present to speak.

Resolution # PC-2006-05-075

Moved by: Littman

Seconded by: Schultz

RESOLVED, That the Planning Commission hereby postpones this rezoning application and continue the Public Hearing to the June 2006 Regular meeting, to allow for appropriate public hearing notification on the combined parcel.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

6. PUBLIC HEARING – PROPOSED SPECIAL USE REQUEST (SU 335) – Proposed Daycare Center, Southeast corner of New King and New King, Section 8, Zoned R-C (Research Center) District

Mr. Miller provided a brief review of the special use request and revised site plan application.

Steven Vanden Bossche, 550 Hulet Drive, Bloomfield Hills, was present to represent the petitioner and owner. Mr. Vanden Bossche distributed colored elevations and material samples. He summarized the revisions to the site plan as relates to the roof, windows, concrete block, color scheme and landscaping in an effort to accommodate the Commission's wishes that the building appear less residential. He noted The Gale Group is in full agreement with the changes made and a letter to that effect is forthcoming. Mr. Vanden Bossche noted the original set of plans were sealed by a registered architect and apologized that the revised plans were inadvertently not sealed as required.

Chair Strat opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Chair Strat addressed the proposed landscaping in terms of quality. It is his opinion that the revisions to the site plan have not changed the appearance of the building.

Mr. Schultz said letters from surrounding properties not owned by The Gale Group would have been more important. Mr. Schultz said the revisions to the site plan have not changed the appearance of the building other than by color. He would prefer the building to be locationally placed on the site so that the mature trees and berm would be saved.

Resolution # PC-2006-05-076

Moved by: Drake-Batts

Seconded by: Vleck

RESOLVED, That the Planning Commission hereby approves a total of 27 landbanked parking spaces on the abutting office property. This permits the provision of two hundred seventy eight (278) spaces when three hundred five (305) spaces are required on the site based on the off-street parking space requirements for offices, as per Article XL. The landbanked spaces meet the standards of Article 40.20.13 and will assist the applicant in minimizing the amount of storm water runoff on the site. These spaces shall be constructed should additional parking spaces be required.

BE IT FURTHER RESOLVED, That the Special Land Use and Site Plan Approval, pursuant to Section 26.30.05 of the Zoning Ordinance, as requested for the proposed daycare center, located on the southeast corner of New King and New King, Section 8, within the R-C Zoning District, be granted.

Discussion on the motion on the floor.

Mr. Littman asked if denial of the special use request could be based on the concept of saving trees.

Mr. Motzny said the Commission has authority to impose conditions on a Special Use Approval that relate to the land. In this case, the Commission has the authority to impose conditions with regard to the trees and what trees may or may not be removed.

Vote on the motion on the floor.

Yes: Drake-Batts, Kerwin, Khan, Vleck, Waller

No: Littman, Schultz, Strat

Absent: Wright

MOTION CARRIED

Mr. Littman said the project could have been designed to save trees without causing any hardship to the owner.

Mr. Schultz said a better product could have been brought forward with respect to neighborhood compatibility and landscaping.

Chair Strat agreed with the comments of Messrs. Schultz and Littman. He believes the project will adversely impact the adjacent properties.

7. PUBLIC HEARING – PROPOSED SPECIAL USE REQUEST (SU 336) – Proposed Restaurant, Southeast corner of Livernois and Big Beaver, Section 27, Zoned O-S-C (Office Service Commercial) District

Mr. Miller presented a summary of the Planning Department report for the proposed special use request and reported it is the recommendation of City Management to approve the Special Use Request and Site Plan as submitted.

Ms. Kerwin addressed a potential traffic concern in relation to the proposed development's proximity to the U.S. Post Office. She noted there were no comments from the Transportation Engineer to this regard, and asked what impact the proposed development might have in terms of traffic safety.

Mr. Miller said the layout of the U.S. Post Office is a problem in terms of traffic safety, and it is his opinion the proposed development would make the traffic circulation better. He noted the proposed development provides a number of reasonable and safe driveways.

Tysen McCarthy of Redico, One Towne Square, Southfield, was present. Mr. McCarthy said the revised site plan best serves the needs of the restaurant customers and contributes to the long-term viability of the restaurant and long-term commitment to the City. He said they diligently worked with the Planning Department to assure all Zoning Ordinance requirements were met. Mr. McCarthy said the plan offers extensive landscaping and is consistent with the surrounding environment. He requested the Commission's favorable approval.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Schultz addressed the landscaping in detail with the petitioner and indicated the landscaping is a major concern of his.

Mr. Littman addressed the safety of the southern driveway and asked the petitioner if any consideration was given to discourage vehicular traffic from turning southbound onto Livernois.

Mr. McCarthy stated an existing traffic sign at the southern driveway designates right-hand turn only.

Chris Lavoie, chief engineer and planning consultant for Kona Grill, 4941 Forest Avenue, Downers Grove, Illinois, was present. Mr. Lavoie said they worked with City staff and indicated their willingness to incorporate a design to address the traffic concern, but there has been no clear direction from the City or any formal comments provided from the City's Traffic Engineer.

Chair Strat expressed concerns with the proposed landscaping and the safety of vehicular and pedestrian traffic at the southern driveway.

Resolution # PC-2006-05-077

Moved by: Kerwin

Seconded by: Waller

RESOLVED, That the Planning Commission hereby approves a reduction in the total number of required restaurant parking spaces to one hundred forty five (145) when a total of one hundred seventy three (173) spaces are required on the site based on the off-street parking space requirements for restaurants, as per Article XL. The Planning Commission also approves a reduction in the number of total required parking spaces for the office building and restaurant to one thousand two hundred twenty three (1,223) when a total of one thousand four hundred forty one (1,441) spaces are required on the site based on the off-street parking space requirements for offices and restaurants, as per Article XL. This reduction meets the standards of Article 40.20.12 and will assist the applicant in minimizing the amount of storm water runoff on the site.

BE IT FURTHER RESOLVED, That the Special Use Approval and Site Plan Approval, pursuant to Section 26.30.05 of the Zoning Ordinance, as requested for the proposed restaurant, located on the southeast corner of Big Beaver and Livernois, Section 27, within the O-S-C Zoning District, be granted:

Yes: Drake-Batts, Kerwin, Khan, Waller

No: Littman, Schultz, Strat, Vleck

Absent: Wright

MOTION DENIED

Mr. Schultz would prefer the development up against the minimum setback line. He indicated the petitioner only had to agree to place the additional 9 trees to win his vote. With no such offer from the petitioner, Mr. Schultz is opposed to the site plan.

Mr. Vleck said the development's ingress/egress onto the main road is contrary to public safety and poses a dangerous situation.

Mr. Littman said the Commission's responsibility is to protect the health, safety and welfare of citizens. He said the driveway location on Livernois is currently dangerous and the proposed development would make it more dangerous.

Chair Strat concurred with the comments.

Mr. McCarthy offered to provide the additional 9 trees suggested by Mr. Schultz. He was not aware the procedural format would allow him the opportunity to do so at this time.

A motion to reconsider the item was briefly entertained, but not acted upon.

Refer to page 15 for additional action taken on this item.

REZONING REQUESTS

8. PUBLIC HEARING – PROPOSED REZONING (Z 714) – Proposed Senior Housing Development, North of Long Lake, East side of I-75, Section 9 – From R-1B (One Family Residential) to R-EC (Residential Elder Care) District

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning request and reported it is the recommendation of City Management to deny the request. There were five letters of opposition distributed to the members prior to the beginning of tonight's meeting.

David Donnellon of Design Resources, 755 W. Big Beaver Road, Troy, was present to represent the petitioner (purchaser of subject property) and Kamax (seller of subject property). Mr. Donnellon said both purchaser and seller understand the needs of the neighborhood. He addressed (1) transitional zoning/use; (2) traffic; i.e., construction and delivery service through Kamax off of Long Lake Road; (3) density; (4) wetlands; and (5) development phases of the project.

Ms. Drake-Batts asked if Kamax is the owner or tenant of the building, if the right of first refusal to Choice Development Corporation is in writing and if the petitioner met with the neighbors to discuss the proposed development.

Mr. Donnellon replied that Kamax owns the building and the right of first refusal is in writing. Mr. Donnellon said there have been conversations with the neighbors, but no meetings have been held.

Mr. Waller asked when the agreement with Kamax on the through-traffic was achieved.

Mr. Donnellon said the agreement was recently reached and had not been shared with the Planning Department prior to tonight's meeting.

Mr. Motzny confirmed the Commission's responsibility this evening is to act upon the rezoning request, and no consideration should be given to the proposed site plan. He noted the Commission has no authority to impose any conditions on the rezoning request.

Prior to opening the Public Hearing, Chair Strat asked that comments be limited to three minutes per speaker and not be repetitive in content.

PUBLIC HEARING OPENED

Jennifer Gasiiecki of 196 Stalwart, Troy, was present. Ms. Gasiiecki spoke in opposition of the proposed rezoning. She expressed concerns with traffic, preservation of trees, safety and noise.

J. Mark Brown of 467 McKinley, Troy, was present. Mr. Brown distributed copies of a letter in opposition of the proposed rezoning. He said the proposed development does not comply with the City's future land use plan and would have a negative impact on the neighborhood.

Charles Jackson of 405 West Square Lake Road, Troy, was present. Mr. Jackson spoke in opposition of the proposed rezoning. He addressed safety of children, cut-through traffic and density.

P. J. Cumming of 5375 Daniels Drive, Troy, was present. Ms. Cumming spoke in opposition of the proposed rezoning. Ms. Cumming is a commercial interior designer who specializes in senior and elderly care. She expressed a strong concern with ambulance traffic on a round-the-clock basis. Ms. Cumming also addressed the wildlife in the area.

Vince Pangle of 5235 Wright Street, Troy, was present. Mr. Pangle spoke in opposition of the proposed rezoning. He addressed land use, transitional zoning, density, traffic, and future development should the senior facility close. Mr. Pangle questioned the petitioner's qualifications to run a senior facility and suggested the land be bought and developed as a platted subdivision.

Blaine Dixon of 80 Stalwart, Troy, was present. Ms. Dixon spoke in opposition of the proposed rezoning. She expressed concerns with neighborhood compatibility and characteristics, safety, traffic and wildlife.

Roy Bray of 5580 Houghten, Troy, was present. Mr. Bray spoke in opposition of the proposed rezoning. He addressed city services and the potential disruption of those services to the existing neighborhood.

Ron Marceau of 5600 Houghten, Troy, was present. Mr. Marceau spoke in opposition of the proposed rezoning. He expressed concerns with construction noise, parking and density.

PUBLIC HEARING CLOSED

Mr. Donnellon requested that the item be tabled to the next meeting to provide an opportunity to address concerns expressed tonight by the neighbors.

Resolution # PC-2006-05-078

Moved by: Drake-Batts

Seconded by: Waller

RESOLVED, To postpone the rezoning request to the June 2006 Regular meeting so the petitioner can meet with residents and figure out if there is a good solution for everybody.

Yes: Drake-Batts, Khan, Schultz, Strat, Vleck, Waller

No: Kerwin, Littman

Absent: Wright

MOTION CARRIED

Ms. Kerwin said her concern is the disturbance and noise from emergency vehicular traffic (ambulance, fire and EMS).

Mr. Littman said discussions with the neighbors would be on issues that are not related to the consideration of the rezoning request.

Chair Strat requested a recess at 8:55 p.m.

The meeting reconvened at 9:06 p.m.

9. PUBLIC HEARING – PROPOSED REZONING (Z 717) – Proposed Medical/General Office Building, Northwest corner of Lovell and Rochester Road, Section 3 – From R-1C (One Family Residential) to O-1 (Low Rise Office) District

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning and reported it is the recommendation of City Management to approve the rezoning application.

The petitioner, Franco Mancini of 47858 Van Dyke, Shelby Township, was present. Mr. Mancini addressed the proposed medical use and its transition to the residential environment.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

There was brief discussion on the number of building stories allowed in the O-1 zoning district.

Resolution # PC-2006-05-079

Moved by: Schultz

Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to O-1 rezoning request, located on the northwest corner of Lovell and Rochester Road, within Section 3, being approximately 1 acre in size, be granted.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

10. PUBLIC HEARING – PROPOSED REZONING (Z 718) – Proposed Curves Weight Management and Work Out Facility, North of Maple, West side of Livernois (1631 Livernois), Section 28 – From O-1 (Low Rise Office) to B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning and reported it is the recommendation of City Management to approve the rezoning application.

Mr. Savidant pointed out that a letter from John Gonway addressing the rezoning request was distributed to the members prior to the beginning of tonight's meeting.

The petitioner, Beth Anne Beattie of 37756 Gregory Drive, Sterling Heights, was present. Ms. Beattie said there would be no alternations to the existing property; the property would stay as-is.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-05-080

Moved by: Vleck
 Seconded by: Schultz

RESOLVED, That the Planning Commission hereby recommends to the City Council that the O-1 to B-3 rezoning request, located north of Maple, on the west side of Livernois, within Section 28, being approximately 14,250 square feet in size, be granted.

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

MOTION CARRIED**ZONING ORDINANCE TEXT AMENDMENT**

11. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT REQUEST (ZOTA 219) – Articles II and III, Conditional Rezoning**

Mr. Savidant reviewed the recent revisions incorporated in the proposed zoning ordinance language and provided an overall summary of the conditional rezoning concept for the benefit of the audience.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED**Resolution # PC-2006-05 –**

Moved by: Schultz
 Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles II and III of the City of Troy Zoning Ordinance, pertaining to Conditional Rezoning, be amended as printed on the Proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft, dated May 2, 2006.

Discussion on the motion on the floor.

There was discussion on Section 03.24.02 (B), Standards for Approval.

Mr. Savidant introduced incorporation of the following language: “The conditions of the proposed development and/or proposed use are not in material conflict with the

Future Land Use Plan or are made conflicting due to a change in conditions, a change in City policy, or a mistake in the Future Land Use Plan.”

Resolution # PC-2006-05-081

Moved by: Schultz
Seconded by: Littman

RESOLVED, To postpone this item to the next Special/Study meeting scheduled on the last Tuesday of May, to allow time to revise the document and on which a vote can be taken at that time.

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

MOTION CARRIED

STREET VACATION

12. **PUBLIC HEARING – STREET VACATION REQUEST (SV 186)** – Deinmore Avenue abutting lots 95 to 102 and 105 to 112 of Beaver Hills Subdivision and Stalwart Avenue abutting lots 97 and 99 and 109 and 110 of Beaver Hills Subdivision, Section 9 – Currently Zoned R-1B (One Family Residential) Districts (the abutting parcels)

Mr. Savidant presented a summary of the Planning Department report for the proposed street vacation request and reported it is the recommendation of City Management to postpone the street vacation request until such time that the property is consolidated into one future development.

PUBLIC HEARING OPENED

Vince Pangle of 5235 Wright Street, Troy, was present. Mr. Pangle spoke in opposition of the street vacation request. He addressed the platting process of site condominium and subdivision developments.

Mr. Motzny addressed Mr. Pangle’s comments relating to the platting process. Mr. Motzny explained a recent court decision upheld a site condominium development could be placed over a plat without the necessity to vacate the plat; however, to vacate a plat still requires Circuit Court action.

PUBLIC HEARING CLOSED

Resolution # PC-2006-05-082

Moved by: Schultz
 Seconded by: Khan

RESOLVED, That the street vacation (SV 186) request is hereby postponed until such time that the property is consolidated into one future development.

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

MOTION CARRIED

SITE PLAN REVIEWS

13. **SITE PLAN REVIEW (SP 348-B)** – Proposed Retail Plaza, North of Big Beaver, West side of Rochester Road (3385 Rochester Road – Former Taco Bell Site), Section 22, B-3 (General Business) District

Mr. Savidant presented a summary of the Planning Department report for the proposed retail plaza and reported it is the recommendation of City Management to approve the site plan as submitted.

Elias Madi of DeMattia Associates Architects, 5608 Perry Tower Drive, West Bloomfield, was present to represent the petitioner. Mr. Madi said the proposed development meets all City requirements and would be a nice addition to the area.

Resolution # PC-2006-05-083

Moved by: Littman
 Seconded by: Khan

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Retail Plaza, located on the west side of Rochester Road, north of Big Beaver, located in Section 22, on approximately 0.53 acres, within the B-3 zoning district, is hereby granted.

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

MOTION CARRIED

14. SITE PLAN REVIEW (SP 689-B) – Proposed Addition to Behr America, South of Big Beaver, East and West sides of Daley (2700-2852 Daley), Section 26, M-1 (Light Industrial) District

Mr. Savidant presented a summary of the Planning Department report for the proposed addition to Behr America and reported it is the recommendation of City Management to approve the site plan as submitted.

Phil Tocco of 5645 Winslow Court, Ypsilanti, was present to represent Behr America. Mr. Tocco is an employee of Behr America in Troy. He provided a brief overview of the proposed addition and addressed environmentally friendly recommendations of the City's Environmental Specialist.

Mr. Schultz addressed the proposed landscape plan in relation to providing a pocket park along Big Beaver Road.

Resolution # PC-2006-05-084

Moved by: Schultz

Seconded by: Littman

RESOLVED, That Preliminary Site Plan Approval, as requested for the Proposed Addition to Behr America, located south of Big Beaver, on the east and west sides of Daley, located in Section 26, on approximately 11.7 acres, within the M-1 zoning district, is hereby granted.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

OTHER ITEMS

15. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

Ms. Drake-Batts asked a favor of Mr. Motzny and City Attorney Lori Bluhm in assisting the Chair in the correct pronunciation of her name.

Mr. Miller provided information on the Maple Road presentation by Lawrence Technological University students.

Ms. Kerwin addressed a novel approach of inside parking she observed in San Antonio.

Mr. Schultz commended the Handleman Company on planting replacement trees for the emerald ash trees that were removed.

Mr. Schultz addressed agenda item #7, Special Use Request (SU 336), for the Kona Grill restaurant located on the southeast corner of Livernois and Big Beaver.

Resolution # PC-2006-05-085

Moved by: Schultz

Seconded by: Waller

RESOLVED, To reconsider agenda item #7 special use request on tonight's meeting for Kona Grill located on the southeast corner of Livernois and Big Beaver.

Yes: Kerwin, Khan, Schultz, Strat, Waller

No: Drake-Batts, Littman, Vleck

Absent: Wright

MOTION CARRIED

Resolution # PC-2006-05-086

Moved by: Schultz

Seconded by: Waller

RESOLVED, That the Planning Commission hereby approves a reduction in the total number of required restaurant parking spaces to one hundred forty five (145) when a total of one hundred seventy three (173) spaces are required on the site based on the off-street parking space requirements for restaurants, as per Article XL. The Planning Commission also approves a reduction in the number of total required parking spaces for the office building and restaurant to one thousand two hundred twenty three (1,223) when a total of one thousand four hundred forty one (1,441) spaces are required on the site based on the off-street parking space requirements for offices and restaurants, as per Article XL. This reduction meets the standards of Article 40.20.12 and will assist the applicant in minimizing the amount of storm water runoff on the site.

BE IT FURTHER RESOLVED, That the Special Use Approval and Site Plan Approval, pursuant to Section 26.30.05 of the Zoning Ordinance, as requested for the proposed restaurant, located on the southeast corner of Big Beaver and Livernois, Section 27, within the O-S-C Zoning District, be granted, subject to the following conditions:

1. The addition of a minimum of nine (9) trees of an appropriate species along the north side of the south driveway and in the triangularly-shaped island along the east boundary edge of the restaurant's parking lot.

Discussion on the substitute motion on the floor.

Mr. Schultz provided an explanation for bringing the agenda item back on the floor.

Mr. Motzny outlined the procedure to follow for a substitute motion.

Mr. Littman offered the following amendment to the substitute motion on the floor.

Resolution # PC-2006-05-087

Moved by: Littman

Seconded by: Strat

RESOLVED, That the southern driveway be designed with some type of impediment to making turns onto southbound Livernois from that driveway.

Discussion on the amendment to the substitute motion on the floor.

Discussion followed on the purview of traffic control devices and the enforcement of related conditions placed on special use approvals.

Vote on the amendment to the substitute motion on the floor.

Yes: Drake-Batts, Kerwin, Littman, Schultz, Strat, Vleck, Waller

No: Khan

Absent: Wright

MOTION CARRIEDVote to approve motion on the floor, as amended, as substitute motion.

Yes: Drake-Batts, Kerwin, Littman, Schultz, Vleck, Waller

No: Khan, Strat

Absent: Wright

Vote on the amended substitute motion.

Yes: Drake-Batts, Kerwin, Littman, Schultz, Vleck, Waller

No: Khan, Strat

Absent: Wright

Good of the Order (continued)

Mr. Littman requested from the City Attorney's office clarification between postponing and tabling actions.

Mr. Miller provided a brief report on City Council agenda items: (1) ZOTA 215-A Accessory Buildings and (2) PUD 5 Caswell Town Center.

Mr. Motzny addressed the difference between a tabling action and a postponing action.

Mr. Khan said he voted no on the Kona Grill agenda item because the petitioner was not present for the discussion and action by the Planning Commission.

Chair Strat agreed the petitioner should be present.

The Regular Meeting of the Planning Commission was adjourned at 10:33 p.m.

Respectfully submitted,

Thomas Strat, Chair

Kathy L. Czarnecki, Recording Secretary

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A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, May 10, 2006, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 12:13 p.m.

TRUSTEES PRESENT: Mark Calice
 Michael Geise
 Thomas Houghton, Chair
 John M. Lamerato
 William R. Need (Ex-Officio)
 Steven A. Pallotta
 Louise Schilling

ALSO PRESENT: Steve Gasper, UBS Financial Services

MINUTES

Resolution # ER – 2006 – 05 - 017

Moved by Pallotta
Seconded by Schilling

RESOLVED, That the minutes of the April 12, 2006 meeting be approved.

Yeas: All 6

OTHER BUSINESS – RETIREMENT REQUESTS

Resolution # ER – 2006 – 05 - 018

Moved by Lamerato
Seconded by Houghton

RESOLVED, That the board approve the following retirement request(s):

John P. Schroeder, DB, 6/3/06, Engineering, 35 years, 3 months

Yeas: All 6

OTHER BUSINESS – DECEMBER 31, 2005 INVESTMENT PERFORMANCE REPORT

Steve Gasper of UBS reviewed the performance results as of December 31, 2005.

INVESTMENTS

Resolution # ER – 2006 – 05 - 019

Moved by Pallotta
Seconded by Geise

RESOLVED, That the Board sell the following securities:

Sell: Independent Bank Corp.; 13,000 shares of DR Horton; MASCO; Maxim Integrated Products and Methode Electronics

Yeas: All 6

OTHER BUSINESS – CANCELLATION OF THE JUNE 14TH MEETING

Resolution # ER – 2006 – 05 - 020

Moved by Lamerato
Seconded by Calice

RESOLVED, That the June 14th, 2006 meeting be canceled and rescheduled for June 13th, 2006.

Yeas: All 6

The next meeting is June 13, 2006 at 12:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:15 p.m.

A meeting of the **Troy Youth Council (TYC)** was held on May 24, 2006 at 7:00 PM at the Troy Community Center, 3179 Livernois. Katie Thoenes and Nicole Vitale called the meeting to order at 7:03 p.m.

- MEMBERS PRESENT: Alexandra (Sasha) Bozimowski
 Andrew Corey
 Maxine D’Amico
 Rishi Joshi
 Jia (Lisa) Luo
 Anupama Prasad (Secretary)
 Joseph Niemiec
 Kristin Randall
 Neil Shaw
 Katie Thoenes (Co-chair)
 Nicole Vitale (Co-chair)
 Karen Wullaert , Late
- MEMBERS ABSENT: Jessica Kraft
- VISITORS: Troy Youth Council Applicants
- STAFF PRESENT: Scott Mercer, Recreation Supervisor

1. Roll Call

2. Approval of Minutes

Resolution # TY-2006-05-06
 Moved by Bozimowski
 Seconded by Corey

RESOLVED, That the minutes of April 26, 2006 be approved.
 Yes: All – 11
 No: None
 Absent: 2 - Kraft, Wullaert

3. Report: Updated through April meeting - To note and file

4. Interviews: Applicants to the TYC

4 candidates were interviewed. 6 applicants were on file. All applicants were considered, including those who were not present at the interviews. Interviews lasted approximately three minutes each. The list of applicants is below.

*Highlighted names denote absence from the interviews.

Last Name	First Name	Grade	High School
Desai	Nikita	9	Troy High
DeSantis	Adam	11	Athens High
Gabriel	Alex	11	U of D Jesuit High
Krishna	Arthi	10	International Academy High
Serkh	Kirill	11	International Academy High
Subramanian	Shruthi	9	Troy High

5. Resolution to Recommend 1 Applicant for Seat on the Troy Youth Council

Resolution # TY-2006-05-07

Moved by Niemiec

Seconded by Bozimowski

RESOLVED, That Alex Gabriel is recommended for appointment to fill the vacant seat on the Troy Youth Council.

Yes: 12

No: 0

Absent: 1 - Kraft

Resolution # TY-2006-05-08

Moved by Bozimowski

Seconded by Niemiec

RESOLVED, That Arthi Krishna is recommended as alternate for appointment to fill the vacant seat on the Troy Youth Council. This recommendation will be used should the applicant in the previous resolution not fulfill commitment.

Yes: 12

No: 0

Absent: 1 - Kraft

6. Futures Process

Committee representatives reported the end results of each committee and plan on attending the final meeting scheduled for June 8 at the Community Center.

7. Motion to Excuse Absent Members Who Have Provided Advance Notification

Resolution # TY-2006-05-09

Moved by Corey

Seconded by Niemiec

RESOLVED that Jessica Kraft is excused.

Yes: 12

No: 0

Absent: 1 – Kraft

8. Troy Daze Festival Update –

-Corey reported that Officer Kaptur contacted him requesting that he join her during the final hour on Friday or Saturday to get a better understanding of Police duties during the festival and reasons for the changes in 2006.

-Youth Council members are asked to volunteer during the Troy Daze Festival again this year. Detailed information will come in August.

9. Youth Council Comments –

Lisa Luo thanked the members of Youth Council and expressed her enjoyment over the past year. Lisa will be attending the University of Michigan in the fall. Council members thanked Lisa and wished her luck.

10. Public Comments - None

The meeting adjourned at 7:55 P.M.

Katie Thoenes, Co-chair

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: August 30 at 7:00 P.M. @ *Troy Community Center*

CITY OF TROY
MONTHLY FINANCIAL REPORT
30-Apr-06

CITY OF TROY
 Monthly Financial Report
 General Fund
 For the Period Ending April 30, 2006

CITY OF TROY GENERAL FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
GENERAL FUND REVENUES					
TAXES	32,300,413	34,351,690	272	34,915,575	101.64
BUSINESS LICENSES & PERMITS	40,294	38,000	1,524	37,979	99.94
NON-BUS. LICENSES & PERMITS	1,567,149	1,974,500	94,103	1,284,661	65.06
FEDERAL GRANTS	126,091	32,320	0	12,756	39.47
STATE AGENCIES	7,072,396	6,658,000	1,570	3,703,253	55.62
CONTRIBUTIONS-LOCAL	165,154	135,000	0	61,766	45.75
CHARGES FOR SERVICES - FEES	1,338,922	1,203,000	132,978	814,563	67.71
CHARGES FOR SERVICES - REND.	1,549,128	1,616,000	79,577	1,032,762	63.91
CHARGES FOR SERVICES - SALES	137,888	140,000	8,942	120,262	85.90
CHARGES FOR SERVICES - REC	3,377,440	3,010,200	290,873	2,939,791	97.66
FINES & FORFEITS	973,526	995,000	63,847	813,941	81.80
INTEREST AND RENTS	1,350,075	1,110,300	182,132	1,069,875	96.36
OTHER REVENUE	1,755,220	479,780	2,773	369,997	77.12
OTHER FINANCING SOURCES	7,508,876	8,333,200	0	5,247,260	62.97
TOTAL GENERAL FUND REVENUE	59,262,572	60,076,990	858,591	52,424,441	87.26
EXPENDITURES					
LEGISLATIVE	1,980,389	2,077,060	107,406	1,419,980	68.36
FINANCE	4,419,523	4,706,650	293,559	3,614,304	76.79
OTHER GEN GOVERNMENT	2,578,758	2,638,720	180,253	2,013,757	76.32
POLICE	21,192,309	22,618,610	1,605,078	17,554,784	77.61
FIRE	4,071,775	4,092,750	179,962	3,239,703	79.16
BUILDING INSPECTION	1,938,958	2,105,420	148,648	1,585,067	75.29
STREETS	5,074,869	5,303,780	215,411	3,649,908	68.82
ENGINEERING	2,780,647	2,996,560	192,330	2,178,358	72.70
RECREATION	8,331,857	8,454,160	480,885	6,494,059	76.81
LIBRARY	4,758,581	4,973,280	185,400	3,674,678	73.89
TRANSFERS OUT	10,000	110,000	0	0	.00
TOTAL GEN FUND EXPENDITURES	57,137,666	60,076,990	3,588,932	45,424,598	75.61

CITY OF TROY
 Monthly Financial Report
 Refuse Fund
 For the Period Ending April 30, 2006

REFUSE FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
TAXES	4,010,718	4,108,500	0	4,193,401	102.07
CHARGES FOR SERVICES - REND.	0	0	0	43,378	.00
CHARGES FOR SERVICES - SALES	1,410	1,500	110	1,124	74.93
INTEREST AND RENTS	74,280	70,000	6,502	110,314	157.59
OTHER FINANCING SOURCES	0	345,650	0	0	.00
TOTAL REVENUE	4,086,408	4,525,650	6,612	4,348,217	96.08
EXPENDITURES					
CONTRACTORS SERVICE	4,268,532	4,355,000	361,801	3,133,452	71.95
OTHER REFUSE EXPENSE	36,672	52,180	1,115	36,073	69.13
RECYCLING	127,637	118,470	5,940	81,053	68.42
TOTAL EXPENDITURES	4,432,841	4,525,650	368,856	3,250,578	71.83

CITY OF TROY
 Monthly Financial Report
 Capital Fund
 For the Period Ending April 30, 2006

CAPITAL FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
TAXES	9,036,196	8,019,000	0	8,184,710	102.07
FEDERAL GRANTS	20,550	305,000	318,514	420,494	137.87
STATE AGENCIES	3,498,065	1,621,000	0	330,260	20.37
CHARGES FOR SERVICES - REND.	178,301	167,000	21,853-	237,998	142.51
INTEREST AND RENTS	700,855	400,000	59,969	826,389	206.60
OTHER REVENUE	88,073	800,000	0	884,043	110.51
OTHER FINANCING SOURCES	2,150,000	21,274,320	0	1,437,998	6.76
TOTAL REVENUE	15,672,040	32,586,320	356,630	12,321,892	37.81
EXPENDITURES					
FINANCE	32,516	144,340	8,534	62,688	43.43
OTHER GEN GOVERNMENT	3,524,419	5,230,810	5,422	3,709,018	70.91
POLICE	318,080	586,680	8,502	105,271	17.94
FIRE	86,267	839,230	8,059	856,952	102.11
BUILDING INSPECTION	2,088	20,000	9	1,891	9.46
STREETS	9,539,256	16,436,740	133,264	5,616,865	34.17
ENGINEERING	8,331	0	0	0	.00
RECREATION	2,630,558	4,990,940	107,811	4,126,815	82.69
LIBRARY	232,529	47,620	1,434	128,715	270.30
MUSEUM	246,984	624,370	122,165	241,358	38.66
STORM DRAINS & RET PONDS	1,086,501	2,797,750	397,430	941,998	33.67
INFORMATION TECHNOLOGY	75,763	867,840	7,090-	0	.00
TOTAL EXPENDITURES	17,783,292	32,586,320	785,540	15,791,571	48.46

CITY OF TROY
 Monthly Financial Report
 Sanctuary Lake Golf Course
 For the Period Ending April 30, 2006

SANCTUARY LK GOLF COURSE FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - SALES	30,674	42,000	2,940	19,977	47.56
CHARGES FOR SERVICES - REC	931,301	1,901,380	129,735	787,938	41.44
INTEREST AND RENTS	457	22,000	0	1,104	5.02
OTHER REVENUE	31-	0	7-	896	.00
OTHER FINANCING SOURCES	0	0	0	0	.00
TOTAL REVENUE	962,401	1,965,380	132,668	809,915	41.21
EXPENDITURES					
SANCTUARY LAKE GREENS	974,918	832,730	52,355	576,574	69.24
SANCTUARY LAKE PRO SHOP	773,060	1,104,210	23,150	477,728	43.26
SANCTUARY LAKE CAPITAL	2,420	0	0	4,606	.00
TOTAL EXPENDITURES	1,750,398	1,936,940	75,505	1,058,908	54.67

CITY OF TROY
 Monthly Financial Report
 Golf Course
 For the Period Ending April 30, 2006

SYLVAN GLEN GOLF COURSE FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - SALES	36,425	41,000	1,357	19,953	48.67
CHARGES FOR SERVICES - REC	1,067,896	1,133,370	22,977	656,962	57.97
INTEREST AND RENTS	145,742	173,000	18,473	197,378	114.09
OTHER REVENUE	377-	0	50-	67-	.00
OTHER FINANCING SOURCES	0	206,770	0	0	.00
TOTAL REVENUE	1,249,686	1,554,140	42,757	874,226	56.25
EXPENDITURES					
SYLVAN GLEN GREENS	747,474	822,320	27,776	579,078	70.42
SYLVAN GLEN PRO SHOP	317,853	326,050	21,958	258,691	79.34
SYLVAN GLEN CAPITAL	43,238	405,770	167,574	261,346	64.41
TOTAL EXPENDITURES	1,108,565	1,554,140	217,308	1,099,115	70.72

CITY OF TROY
 Monthly Financial Report
 Aquatic Center
 For the Period Ending April 30, 2006

AQUATIC CENTER FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - REC	415,224	428,000	6,918	191,891	44.83
INTEREST AND RENTS	22,793	27,300	0	20,846	76.36
OTHER REVENUE	36-	0	0	1	.00
TOTAL REVENUE	437,981	455,300	6,918	212,738	46.72
EXPENDITURES					
AQUATIC CENTER	560,211	596,100	24,252	421,016	70.63
CAPITAL	0	15,000	0	9,845	65.63
TOTAL EXPENDITURES	560,211	611,100	24,252	430,861	70.51

CITY OF TROY
 Monthly Financial Report
 Sewer Fund
 For the Period Ending April 30, 2006

SEWER FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - FEES	202,747	200,000	9,850	123,785	61.89
CHARGES FOR SERVICES - REND	9,420,758	9,695,000	503,532	6,451,526	66.54
INTEREST AND RENTS	481,995	310,000	55,464	648,607	209.23
OTHER REVENUE	359,038	0	0	0	.00
TOTAL REVENUE	10,464,538	10,205,000	568,846	7,223,918	70.79
EXPENDITURES					
ADMINISTRATION	8,378,129	8,108,990	667,106	7,152,572	88.21
MAINTENANCE	1,433,241	1,445,700	31,738	1,011,183	69.94
CAPITAL	0	4,835,000	12,416	44,713	.92
TOTAL EXPENDITURES	9,811,370	14,389,690	711,260	8,208,468	57.04

CITY OF TROY
 Monthly Financial Report
 Water Fund
 For the Period Ending April 30, 2006

WATER FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - FEES	1,086,665	995,000	52,761	730,173	73.38
CHARGES FOR SERVICES - SALES	12,337,081	14,171,000	695,318	9,651,540	68.11
INTEREST AND RENTS	508,320	350,000	56,825	558,774	159.65
OTHER REVENUE	266,765	0	0	14,226	.00
TOTAL REVENUE	14,198,831	15,516,000	804,904	10,954,713	70.60
EXPENDITURES					
ADMINISTRATION	11,420,270	11,233,860	179,677	8,550,167	76.11
TRANS AND DISTRIBUTION	158,767	200,090	28,728	202,340	101.12
CUSTOMER INSTALLATION	66,356	114,830	5,958	58,521	50.96
CONTRACTORS SERVICE	166,181	228,240	7,730	118,127	51.76
MAIN TESTING	44,667	195,040	525	30,078	15.42
MAINTENANCE OF MAINS	293,214	353,770	13,502	221,938	62.74
MAINTENANCE OF SERVICES	188,039	210,060	9,343	135,558	64.53
MAINTENANCE OF METERS	285,835	233,650	14,491	284,714	121.85
MAINTENANCE OF HYDRANTS	228,767	336,580	5,356	172,912	51.37
METERS AND TAP-INS	245,045	347,270	19,266	213,321	61.43
WATER METER READING	105,362	93,000	13,724	83,419	89.70
ACCOUNTING AND COLLECTING	74,125	77,900	5,771	45,005	57.77
CAPITAL	28,835	4,090,000	119,552	2,027,750	49.58
TOTAL EXPENDITURES	13,305,463	17,714,290	423,623	12,143,850	68.55

CITY OF TROY
 Monthly Financial Report
 Motor Pool
 For the Period Ending April 30, 2006

MOTOR POOL FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - REND	0	5,000	0	941	18.82
INTEREST AND RENTS	3,693,243	3,669,300	285,379	3,062,334	83.46
OTHER REVENUE	302,329	394,000	8,130	425,320	107.95
OTHER FINANCING SOURCES	0	2,110,570	0	0	.00
TOTAL REVENUE	3,995,572	6,178,870	293,509	3,488,595	56.46
EXPENDITURES					
ADMINISTRATION	495,493	536,530	37,814	418,129	77.93
OPERATION AND MAINTENANCE	2,912,203	3,133,410	219,428	2,496,417	79.67
DPW FACILITY MAINTENANCE	327,461	389,640	17,614	265,748	68.20
CAPITAL	28,965	2,119,290	105,349-	20,168	.95
TOTAL EXPENDITURES	3,764,122	6,178,870	169,507	3,200,462	51.80

Fund	Mat Yr.	Mat Mo.	Mat Day	Type	Loc	Pur Yr.	Pur Mo.	Pur Day	Rate	Name	Face	Accrue 6/30	Book
112	2006	5	1	7	FLAGSTAR	2006	2	23	4.800	CD	2,110,883		2,110,883.06
	2006	5	4	7	CITIZENS	2006	1	26	4.600	CD	2,041,986		2,041,986.29
	2006	5	4	7	CITIZENS	2006	2	2	4.690	CD	1,035,789		1,035,788.90
	2006	5	4	7	TCF BANK	2006	2	2	4.700	CD	2,031,226		2,031,226.44
	2006	5	4	9	ML	2006	2	9	4.460	TBILL	2,624,000		2,597,335.78
	2006	5	4	7	FLAGSTAR	2006	3	2	4.830	CD	1,040,829		1,040,828.70
	2006	5	11	7	HUNT BANK	2006	1	26	4.670	CD	2,031,825		2,031,825.34
	2006	5	11	9	ML	2006	2	16	4.490	TBILL	2,353,000		2,328,897.44
	2006	5	11	9	ML	2006	2	23	4.410	TBILL	2,106,000		2,086,112.64
	2006	5	12	7	PRIVATE	2006	4	12	4.900	CD	500,000		500,000.00
	2006	5	15	7	FLAGSTAR	2006	3	30	4.920	CD	3,354,185		3,354,184.84
	2006	5	18	7	HUNT BANK	2006	1	27	4.690	CD	1,077,631		1,077,631.10
	2006	5	18	7	FITB	2006	1	27	4.550	CD	2,043,973		2,043,973.33
	2006	5	18	7	HUNT BANK	2006	5	18	4.720	CD	2,129,129		2,129,129.36
	2006	5	25	7	HUNT BANK	2006	2	3	4.730	CD	2,030,449		2,030,448.88
	2006	5	25	7	FLAGSTAR	2006	2	10	4.820	CD	2,031,539		2,031,539.44
	2006	5	25	7	CITIZENS	2006	2	16	4.750	CD	1,019,064		1,019,064.16
	2006	5	25	7	PRIV BANK	2006	2	16	4.700	CD	504,217		504,216.67
	2006	5	25	7	FLAGSTAR	2006	2	23	4.870	CD	2,097,994		2,097,993.67
	2006	5	25	7	HUNT BANK	2006	3	2	4.810	CD	2,039,564		2,039,563.68
	2006	5	25	9	ML	2006	3	2	4.560	TBILL	2,248,000		2,224,605.81
	2006	6	1	7	FITB	2006	2	10	4.650	CD	2,030,983		2,030,983.33
	2006	6	1	7	HUNT BANK	2006	2	23	4.790	CD	2,042,513		2,042,513.01
	2006	6	1	9	ML	2006	3	9	4.350	TBILL	2,293,000		2,269,351.53
	2006	6	8	7	CITIZENS	2006	2	10	4.750	CD	2,030,983		2,030,983.33
	2006	6	8	7	FITB	2006	3	16	4.730	CD	1,035,906		1,035,906.16
	2006	6	8	9	ML	2006	3	16	4.570	TBILL	2,656,000		2,628,347.51
	2006	6	8	7	FITB	2006	3	30	4.820	CD	1,143,129		1,143,128.89
	2006	6	15	7	FITB	2006	3	16	4.820	CD	2,041,688		2,041,687.51
	2006	6	15	7	REPUBLIC	2006	3	23	4.600	CD	2,122,687		2,122,686.45
	2006	6	15	7	FLAGSTAR	2006	3	23	4.960	CD	1,045,958		1,045,958.26
	2006	6	15	9	ML	2006	3	23	4.660	TBILL	3,890,000		3,848,655.80
	2006	6	22	7	FLAGSTAR	2006	3	16	5.020	CD	2,056,057		2,056,056.66
	2006	6	29	7	FLAGSTAR	2006	3	16	5.020	CD	2,100,184		2,100,183.55
	2006	6	29	9	ML	2006	4	6	4.650	TBILL	3,140,000		3,106,736.94
	2006	6	29	7	HUNT BANK	2006	4	13	5.040	CD	1,027,940		1,027,939.53
	2006	6	30	8	FITB	2003	2	27	4.200	MAX SAVER	6,753,753		6,753,752.81
	2006	6	30	8	FITB	2003	5	19	5.000	FHLMC95237	1,000,000		584,753.94
	2006	6	30	8	FITB	2003	7	30	3.600	FHR03 2640	900,000		473,758.44
	2006	6	30	8	FITB	2004	1	1	4.000	MM	37,619		37,619.47
	2006	6	30	8	FITB	2004	1	30	4.250	FHR 2537LA	2,000,000		179,157.55
	2006	6	30	8	FITB	2004	1	30	4.000	FHR 2535LK	3,500,000		1,622,083.32
	2006	6	30	8	FITB	2004	7	26	1.200	FNR03 24GA	550,000		123,419.86
	2006	6	30	8	HUNT BANK	2004	8	27	4.300	MM	544,749		544,748.51
	2006	6	30	8	FITB	2004	10	7	2.250	FHR 2625QX	800,125		463,642.99
	2006	6	30	8	FITB	2004	10	8	3.000	FHR 2564CN	1,841,000		1,424,058.05
	2006	6	30	8	FITB	2004	10	12	4.000	FHR 2617BG	3,730,000		2,763,032.41

7 = CD 8 = Paper 9 = T-Bills

Fund	Mat Yr.	Mat Mo.	Mat Day	Type	Loc	Pur Yr.	Pur Mo.	Pur Day	Rate	Name	Face	Accrue 6/30	Book
112	2006	6	30	8	FITB	2004	11	16	3.500	FHLM 2586	500,000		255,627.31
	2006	6	30	8	FITB	2005	1	11	4.000	FNMA 42	1,700,000		1,569,142.83
	2006	6	30	8	FITB	2005	8	26	2.500	31	1,500,000		1,432,635.44
	2006	6	30	8	FITB	2005	8	30	4.000	2545	615,000		449,914.59
	2006	6	30	8	MBIA	2005	11	18	4.570	MBIA	1,010,778		1,010,778.26
	2006	6	30	7	REPUBLIC	2006	4	27	4.850	CD	2,053,174		2,053,173.99
	2006	7	6	7	CITIZENS	2006	4	6	4.950	CD	2,047,304	24,209.00	2,047,303.95
	2006	7	6	7	FLAGSTAR	2006	4	13	5.080	CD	2,139,361	23,547.42	2,139,360.60
	2006	7	6	7	TCF BANK	2006	4	20	5.050	CD	2,062,919	20,545.98	2,062,918.99
	2006	7	13	7	TCF BANK	2006	4	13	5.050	CD	2,051,523	22,446.84	2,051,522.96
	2006	7	13	7	LA SALLE	2006	4	20	4.780	CD	2,905,515	27,362.00	2,905,515.41
	2006	7	25	8	NATL CITY	2006	3	29	4.000	FHLM	1,063,000		1,046,972.32
	2006	8	1	8	NAT CITY	2006	3	31	4.750	FHLM	1,016,000	11,942.23	999,858.30
	2006	11	15	8	FITB	2005	7	27	4.500	FHLM 2687	2,350,000		2,346,000.00
	2006	11	15	8	FITB	2005	11	30	5.000	2802	2,250,000		933,980.28
	2006	12	15	8	FITB	2005	5	25	5.000	FHLM 2808	1,200,000		354,856.36
	2006	12	30	8	FITB	2004	3	25	4.500	FHR 2669DT	700,000		666,420.92
	2007	3	16	8	FITB	2005	2	9	3.550	FHLE 3133	1,000,000		975,250.00
	2007	6	30	8	FITB	2005	9	29	4.500	FHLM 2618	775,000		775,000.00
	2007	6	30	8	FITB	2006	1	30	4.500	FHLM 2557	1,000,000		997,031.25
	2007	6	30	8	FITB	2006	3	13	5.500	FNMA 71	223,000		203,860.44
	2007	6	30	8	FITB	2006	4	17	4.500	2003-10	622,000		621,070.61
										TOTAL		130,053.47	111,756,576.15
591	2006	6	2	7	REPUBLIC	2006	4	3	4.650	CD	145,644		145,643.82
	2006	6	2	7	HUNT BANK	2006	4	3	4.920	CD	159,060		159,060.13
	2006	6	30	7	COMERICA	1997	7	1	4.450	GOV'T POOL	1,931,209		1,931,209.93
	2006	6	30	8	FITB	2004	2	2	3.750	FNRO3 24MN	1,015,000		410,754.19
	2006	6	30	8	FITB	2005	8	31	1.000	MM	125,935		125,935.30
	2006	6	30	8	FITB	2005	9	29	4.500	FHLM 2618	325,000		325,000.00
	2006	7	11	8	NATL CITY	2006	3	7	4.719	FHLM	1,500,000		1,476,007.50
	2006	7	20	7	LA SALLE	2006	4	20	4.850	CD	2,827,352	27,044.61	2,827,352.30
	2006	7	31	8	FITB	2006	2	25	3.500	FHLM 2786	165,000		150,847.39
	2006	11	15	8	FITB	2005	8	26	4.500	FHLM 2687	1,000,000		995,000.00
	2007	6	30	8	FITB	2006	3	3	5.000	FHLM 2561	125,000		119,196.41
	2007	6	30	8	FITB	2006	4	11	3.950	FNMA 3135	1,000,000		980,833.33
										TOTAL		27,044.61	9,646,840.30
688	2006	6	30	7	BANK ONE	1997	7	1	4.430	GOV'T POOL	1,364,970		1,364,970.48
										TOTAL			1,364,970.48
										TOTAL	157,098.08		122,768,386.93

*** END OF REPORT ***

7 = CD 8 = Paper 9 = T-Bills

Please accept the appreciation of
the Planning Commission for working
to provide a quiet scenario and
sharing the coffee & cookies during
last weeks election day.

~~by the District~~
Dave Waller Bob Schuff
Mary Probst
Lambert Mark Vred



Michigan Chapter
Metropolitan Detroit Division
27600 Northwestern Hwy., Suite 150
Southfield, Michigan 48034
Telephone (248) 359-1550
Fax (248) 213-4923
E-mail MI630@marchofdimes.com
www.marchofdimes.com/michigan

May 16, 2006

Robert Kowalski
Gerard Scherlinck
Troy Police Department
500 West Big Beaver Road
Troy, Michigan 48084

Dear Bob and Gerry:

Many thanks to you for supporting the March of Dimes Campaign for Healthier Babies through WalkAmerica. As you know, the March of Dimes is an independent, non-profit organization.

The mission of the March of Dimes is to improve the health of babies by preventing birth defects and infant mortality through community services, advocacy, research and education.

Again, thank you for your generous support! Without having you around to coordinate traffic and make things safe, my job would be a lot harder. I didn't worry one bit about safety thanks to you both!

If you have questions or need additional information, please contact me at 248.359.1562.

Sincerely,

Kim Streich
Event Coordinator
March of Dimes

BB

City of Royal Oak

Michigan

MEMBER MICHIGAN MUNICIPAL LEAGUE

WHEREAS, the City of Royal Oak has been reviewing and commenting upon the proposed plan for the widening and reconstruction of I-75 from Eight Mile Road to M-59; and

WHEREAS, the City has previously expressed several concerns about the impact of the proposed plan on the City and its residents; and

WHEREAS, the Michigan Department of Transportation (MDOT) has made revisions to the proposed plan that successfully address some of the concerns of the City and its residents, as previously transmitted to MDOT; and

WHEREAS, the City of Royal Oak has an appreciation for the effort involved by MDOT to reconfigure the proposed plan; and

WHEREAS, MDOT changed the proposed plan so as not to remove the 11 Mile Road exit from I-75, because of detrimental economic impacts on businesses on 11 Mile Road in the City and in neighboring communities; and

WHEREAS, MDOT changed the proposed plan so as not to relocate the eastbound Fourth Street entrance ramp to southbound I-75; and

WHEREAS, on January 18, 2006 the Record of Decision on this project was issued by MDOT and approved by the Federal Highway Administration; and

WHEREAS, on April 11, 2006 the Governor announced \$10 million dollars of funding to study the proposed plan as part of an \$80 million statewide road program; and

WHEREAS, the City of Royal Oak continues to have concerns about the impact of westbound traffic on Lincoln Avenue from the exit off of northbound I-75; and

WHEREAS, the City of Royal Oak believes that greater emphasis should be placed on how traffic is directed to 11 Mile Road, in addition to how much traffic will enter westbound Lincoln Avenue; and

WHEREAS, existing expressway traffic be encouraged to use the 11 Mile commercial corridor as an entryway into Royal Oak.

THEREFORE, BE IT HEREBY RESOLVED that the City of Royal Oak requests that as part of the further study of the proposed plan MDOT review the tapes of the last several public hearings and meetings held in the City on the proposed plan for the widening and reconstruction of I-75, and determine the optimum way to get all of the traffic exiting at 11 Mile Road from I-75 northbound and I-696 to reach 11 Mile Road.

BE IT FURTHER RESOLVED that MDOT address all of the neighborhood's concerns from the above stated hearings and meetings.

BE IT FURTHER RESOLVED that copies of this resolution be sent to MDOT, the Governor, all Oakland County State legislators, the Oakland County Board of Commissioners, and all neighboring communities.

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Royal Oak City Commission at a meeting held on May 15, 2006.

Mary Ellen Graver
 Mary Ellen Graver, City Clerk

211 Williams Street • P.O. Box 64 • Royal Oak, MI 48068-0064 • Phone Area Code (248)

www.ci.royal-oak.mi.us

Assessor.....246-3110	Engineering.....246-3260	Ice Arena.....246-3950	Recreation.....246-3180
Building Insp.....246-3210	FAX.....246-3001	Info Systems.....246-3080	Rental Assistance.....246-3290
Cable T.V. (WROK).....246-3770	Finance.....246-3030	Motor Pool.....246-3370	Senior/Community Ctr.....246-3900
City Attorney.....246-3240	Fire Dept. (Bus.).....246-3800	Planning & Zoning.....246-3280	TDD.....246-3010
City Clerk.....246-3050	General Info.....246-3000	Police Dept. (Bus.).....246-3500	Treasurer.....246-3140
City Manager.....246-3200	Housing Assistance.....246-3130	Public Service Dept.....246-3300	Water Bills.....246-3160
Code Enforcement.....246-3210	Human Resources.....246-3070	Purchasing.....246-3202	

CITY OF FERNDALE

RESOLUTION

CONSIDERATION OF CONSTITUTIONAL AMENDMENT
REGARDING TRANSIT FUNDING

Moved by Councilman Galloway, seconded by Councilman Covey, that the Ferndale City Council hereby requests State Senator Gilda Jacobs and State Representative Andy Meisner to introduce a Joint Resolution to the Michigan Legislature to allow the voters of Michigan to consider an Amendment to the Michigan Constitution in the Fall of 2006, to give voters within the geography of a transportation authority, no less than one County in size, the local option of authorizing a one-half cent sales tax to fund capital investment construction and operating costs of a rapid transit system and a one-half cent sales tax to fund road improvements within the geography of a transportation authority that has also funded transit. We further ask that this be considered a non-partisan or bi-partisan approach to provide Michigan residents and communities with a basic tool and choice that can help balance our transportation system, stimulate our economy, enhance the quality of life, lessen our dependence on Mid-East oil, and take some of the pressure off of some of our roads, and begin to provide transportation choices for the many, many people who will need them during one or more stages of their lives, including during periods of major road repairs. We further encourage all businesses and sister communities to support this vital and timely effort.

AYES: Council Members Galloway, Gumbleton, Covey, Lennon; Mayor Porter

NAYS: None

MOTION CARRIED

I, Karen Pedro, City Clerk of the City of Ferndale, certify that this is a true and compared copy of a Resolution duly made and passed by the Ferndale City Council at a meeting held April 10, 2006.



Karen Pedro, City Clerk

Sales tax; other; public transportation authority; allow to levy a supplemental sales tax.
Sales tax: other; Transportation: authorities; Constitutional amendments: state

*proposed const. Amendment
to allow transit funding
via sales tax*

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 8 of article IX to permit a public transportation authority to levy a supplemental sales tax.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to permit a public transportation authority to levy a supplemental sales tax, is proposed, agreed to, and submitted to the people of the state:

1

ARTICLE IX

2

Sec. 8. Except as provided in this section, the Legislature shall not impose a sales tax on retailers at a rate of more than 4% of their gross taxable sales of tangible personal property.

3

4

1 Beginning May 1, 1994, the sales tax shall be imposed on
2 retailers at an additional rate of 2% of their gross taxable sales
3 of tangible personal property not exempt by law and the use tax at
4 an additional rate of 2%. The proceeds of the sales and use taxes
5 imposed at the additional rate of 2% shall be deposited in the
6 state school aid fund established in section 11 of this article.
7 The allocation of sales tax revenue required or authorized by
8 sections 9 and 10 of this article does not apply to the revenue
9 from the sales tax imposed at the additional rate of 2%.

10 BEGINNING JANUARY 1, 2007, A PUBLIC TRANSPORTATION AUTHORITY
11 MAY IMPOSE ON RETAILERS LOCATED WITHIN THE LIMITS OF THE PUBLIC
12 TRANSPORTATION AUTHORITY A SUPPLEMENTAL SALES TAX OF NOT MORE THAN
13 2.5% OF THEIR GROSS TAXABLE SALES OF TANGIBLE PERSONAL PROPERTY NOT
14 EXEMPT BY LAW, IF THE LEVY OF THE SUPPLEMENTAL SALES TAX IS
15 APPROVED BY A MAJORITY OF THE QUALIFIED ELECTORS RESIDING WITHIN
16 THE LIMITS OF THE PUBLIC TRANSPORTATION AUTHORITY VOTING AT A
17 GENERAL ELECTION OR SPECIAL ELECTION CALLED FOR THAT PURPOSE.

18 No sales tax or use tax shall be charged or collected from and
19 after January 1, 1975 on the sale or use of prescription drugs for
20 human use, or on the sale or use of food for human consumption
21 except in the case of prepared food intended for immediate
22 consumption as defined by law. This provision shall not apply to
23 alcoholic beverages.

24 Resolved further, That the foregoing amendment shall be
25 submitted to the people of the state at the next general election
26 in the manner provided by law.

RECEIVED

CITY OF FERNDALE
RESOLUTION
JUNE, 2006
GAY PRIDE MONTH

MAY 31 2006
CITY OF TROY
CITY MANAGER'S OFFICE

Moved by Councilman Covey, supported unanimously, to adopt the following Resolution:

The City of Ferndale is a City rich in diversity and this diversity is demonstrated in the great variations of people who live, work, shop, and socialize in our City; and

We, the City Council of Ferndale, value this diversity and appreciate and celebrate the rich variation of persons in our City. We benefit from the multiple talents, viewpoints, and cultural backgrounds of all of our citizens; and

This City is proud of its American heritage that accepts and welcomes diverse people and we believe in a society that treats people on the basis of their intrinsic value as human beings without prejudice and unfair discrimination based on age, gender, race, color, religion, marital status, national origin, sexual orientation or physical challenges; and

We understand and appreciate the cultural, civic, and economic contributions of the Gay, Lesbian, Bisexual and Transgender communities to the greater community of Ferndale, particularly in the City's resurgence over the past fifteen years; and

We recognize June as the month celebrated worldwide each year with pride by GLBT communities and that June, 2006, is the 37th anniversary of the beginning of the modern Lesbian Gay rights movement which began in June of 1969, in the great City of New York.

THEREFORE, BE IT RESOLVED, that this City Council recognizes and declares June, 2006, as Gay Pride Month in the City of Ferndale and we pledge to continue our efforts at creating and maintaining a City that is a free and open City that provides equal opportunity, fair treatment and human dignity for all people and that a copy of this Resolution be sent to our neighboring cities that border the great City of Ferndale, and a copy to the Executive of the County of Oakland and to the Governor of the State of Michigan.

ADOPTED UNANIMOUSLY

I, Karen Pedro, City Clerk of the City of Ferndale, certify that this is a true and compared copy of a Resolution duly made and passed by the Ferndale City Council at a meeting held on May 22, 2006.



Karen Pedro
Karen Pedro, City Clerk

June 2006

June 2006							July 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
				1	2	3							1
4	5	6	7	8	9	10	2	3	4	5	6	7	8
11	12	13	14	15	16	17	9	10	11	12	13	14	15
18	19	20	21	22	23	24	16	17	18	19	20	21	22
25	26	27	28	29	30		23	24	25	26	27	28	29
							30	31					

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
			June 1		2
			7:30am DDA Meeting (Community Center - Room 305)		3
					4
					5
5	6	7	8	9	10
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Special/Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			8:00am City Council-Special (Council Boardroom)
					11
					12
12	13	14	15	16	17
	7:30pm Planning Commission Regular Meeting (Council Chambers)				18
					19
19	20	21	22	23	24
7:30pm City Council Meeting (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			25
					26
26	27	28	29	30	
	7:30pm Planning Commission Special/Study (Council Boardroom)				

July 2006

July 2006						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August 2006						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					July 1
					2
3	4	5	6	7	8
	7:30pm Planning Commission Special/Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			9
10	11	12	13	14	15
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Regular Meeting (Council Chambers)				16
17	18	19	20	21	22
	3:00pm Brownfield Redevelopment (Conference Room C) 7:30pm BZA (Chambers) 7:30pm Historic District Commission (C)	7:30am DDA Meeting (Conference Room Lower Level)			23
24	25	26	27	28	29
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Special/Study (Council Boardroom)				30
31					

August 2006

August 2006

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September 2006

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
	August 1	2	3	4	5
	7:30pm Planning Commission Special/Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			6
7	8	9	10	11	12
	7:30pm Planning Commission Regular Meeting (Council Chambers)				13
14	15	16	17	18	19
7:30pm City Council Meeting (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			20
21	22	23	24	25	26
	7:30pm Planning Commission Special/Study (Council Boardroom)				27
28	29	30	31		
7:30pm City Council Meeting (Council Chambers)					



May 11, 2006

RECEIVED

MAY 15 2006

CITY OF TROY
CITY MANAGER'S OFFICE

Mr. John M. Lamerato
Interim City Manager, Troy
500 W. Big Beaver Rd.
Troy, MI 48084-5254

Dear Mr. Lamerato:

As you know, significant changes to local cable franchising are being proposed in Congress. I am writing to update you on the status of the federal legislation and to clarify the issues of concern.

Currently before the full U.S. House of Representatives is H.R. 5252, the Communications Opportunity, Promotion and Enhancement Act. The Michigan Municipal League along with the Michigan Townships Association and our national partners (National League of Cities, U.S. Conference of Mayors, National Association of Counties and others) continue to oppose the legislation for several reasons.

First, the bill would nationalize the cable franchising by eliminating the local cable franchise process. This will permit providers to decide who gets service and who does not. While proponents claim that the bill contains anti-redlining language that will prohibit cable operators from denying access to any group of potential subscribers because of income, the bottom line is that H.R. 5252 will allow a provider **to choose which** neighborhoods within a community get the service. An anti-redlining provision does not guarantee that all residents in a community will be afforded access to service, a key element of the local cable franchise agreement.

Second, the bill further nationalizes the process by placing control of the local public rights-of-way in the hands of the Federal Communications Commission (FCC). It does so by placing **the FCC in charge of enforcement**, thereby putting communities in the difficult position of settling rights-of-way disputes before the FCC, even though the agency has no expertise in such matters.

Third, the legislation does not keep communities financially whole. While the bill would allow communities to establish a franchise fee of up to 5% of gross revenues, H.R. 5252 **changes what can be counted as gross revenues**, thereby reducing the revenue base on which the 5% fee is paid.

Fourth, the bill limits support for public, educational and governmental channels (PEG and Institutional Networks (iNETS) to 1%. This does not take into account the fact that many communities have negotiated local franchises to obtain more than the 1% and in those communities, local programming and emergency communications would be diminished.

Finally, the bill would negatively affect METRO Act fees. If Congress intends to nationalize the franchise process, then it ought to hold harmless those states such as Michigan that already have agreements in place with telecommunications providers.

President
Michael N. Matheny
Mayor, Grand Blanc

Vice President
Clara M. Shepherd
Commissioner,
Muskegon

Trustees
Vicki Barnett
Mayor,
Farmington Hills

Robin E. Beltrami
Councilmember, Troy

Kathleen Buckner
Mayor Pro Tem,
Center Line

Deborah L. Doyle
Councilmember,
Durand

Dana W. Foster
City Manager, Brighton

George Heartwell
Mayor, Grand Rapids

Kwame M. Kilpatrick
Mayor, Detroit

Linda L. Gedeon-Kuhn
Commissioner,
Bridgman

Florence E. Schrader
Treasurer, Ubyly

John C. Siira
City Manager,
Wakefield

Gladys A. Solokis
Mayor, Gaylord

William R. Stewart
City Manager,
Coldwater

Karl S. Tomion
City Manager, Midland

Kenneth Tousignant
Mayor, Iron Mountain

Gary Tuzinowski
Councilmember,
Algonac

John J. Zech
City Manager, Wayne

Executive Director
Daniel P. Gilmartin

The MML will continue to work with our congressional delegation and local government partners to have amendments adopted to address these issues. We applaud your support thus far in these efforts as it is crucial and we encourage you to continue keeping members of Congress informed as a vote on H.R. 5252 is expected in the near future. In addition, the Senate is scheduled to begin committee hearings on S. 2686, a comprehensive telecommunications reform bill that contains similar cable franchise provisions.

We will continue to keep you informed of events as they unfold through our Legislative LINK and Action Alerts. You can also find updates through the MML Federal Telecom Web page at http://www.mml.org/legislative/federal_telecom.htm.

Again, thank you for your efforts in this very important issue and if you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Arnold Weinfeld".

Arnold Weinfeld, Director
Public Policy and Federal Affairs
Michigan Municipal League

May 18, 2006

To: John M. Lamerato, Acting City Manager

From: Brian Murphy, Assistant City Manager, Services
Mark Stimac, Building and Zoning Director
Steven Vandette, City Engineer 

Subject: Agenda Item - Request to Amend Chapter 42, Flood Plain Management

The attached request to amend Chapter 42 to allow for basements within the floodplain was submitted by Fred Barnes of Fred W. Barnes and Associates, a consulting engineer for a local developer. This request was previously submitted to Council at the regular meeting of December 19, 2005, and resulted in no direction given to staff to act on the request.

The proposed revision would essentially eliminate the so called "no basement" rule for land currently within or previously removed from the 100 year floodplains of Troy. It is estimated, although not thoroughly researched, that this change would affect hundreds of Troy parcels within and near floodplains and drains, including site condominium developments, approved but not fully built out, and the proposed 11 unit Tuscan Estates near Dequindre and Big Beaver, which is the impetus for this request.

If council desires staff to research this request and report back with a recommendation, please direct staff to do so at the June 5th city council meeting.

FRED W. BARNES ASSOCIATES, INC.

39160 Chantilly Drive
Sterling Heights, MI
48313

May 15, 2006

City of Troy
ATTN: John Lamerato, Acting City Manager
500 W Big Beaver
Troy MI 48084

Re: Ordinance amendment request

Dear Mr. Lamerato:

I recently discovered the Troy Ordinance concerned with flood plain management is more strict than the State Law. Since the State Law, as it is currently administered, provides for appropriate management of the State's flood plain, I respectfully request that Chapter 42, Flood Plain Management, of the City of Troy Code of Ordinances be amended. The request concerns Paragraph 6. (1). The specific language revisions, justification and explanations are noted below.

EXISTING LANGUAGE

6. Specific Base Flood Elevation Standards

(1) On the basis of the most recent available base flood elevation data the following standards shall apply in the area of special flood hazard:

(a) all new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level. This requirement shall apply for residential properties removed from the area of special flood hazard by the placement of fill, regardless of FEMA Letter of Map Revision determinations.

(b) all new construction and substantial improvements of nonresidential structures shall have either:

(i) the lowest floor, including basement, elevated to or above the base flood elevation; or

(ii) be constructed such that below base flood elevation, together

with attendant utility and sanitary facilities:

- (a) the structure is watertight, with walls impermeable to the passage of water; and
- (b) is constructed with structural components having the ability to neutralize hydrostatic and hydrodynamic loads; and
- (c) the effects of buoyancy must be resisted.

A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depth, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted to the City Engineer, and shall indicate the elevation to which the structure is floodproofed.

PROPOSED REVISIONS

Paragraph 6. (1) (a) DELETE this subparagraph in its entirety and renumber the remainder of the paragraph as appropriate.

Paragraph 6. (1) (b) ADD the words, "residential or" before the word "nonresidential" in the first line.

PROPOSED REVISED LANGUAGE

6. Specific Base Flood Elevation Standards

(1) On the basis of the most recent available base flood elevation data the following standards shall apply in the area of special flood hazard:

All new construction and substantial improvements of residential and nonresidential structures shall have either:

- (a) the lowest floor, including basement, elevated to or above the base flood elevation; or
- (b) be constructed such that below base flood elevation, together with attendant utility and sanitary facilities:

- (i) the structure is watertight, with walls impermeable to the passage of water; and
- (ii) is constructed with structural components having the ability to neutralize hydrostatic and hydrodynamic loads; and
- (iii) the effects of buoyancy must be resisted.

A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depth, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted to the City Engineer, and shall indicate the elevation to which the structure is floodproofed.

NO CHANGES ARE RECOMMENDED FOR THE REMAINDER OF THE ORDINANCE.

JUSTIFICATION

Last Revision to Chapter 42

Chapter 42, Flood Plain Management, hereinafter referred to as the Ordinance was last revised February 1, 1999. As a result of the revision, the Ordinance is stricter than Michigan Law or the Rules of the Federal Emergency Management Agency (FEMA). In paragraph 6. (1) (a), the Troy Ordinance forbids construction of basements in residential buildings located in areas that have been removed from a flood hazard area by placement of fill. For the purpose of this discussion, the term, "filled flood plain" will be used to describe this type of area.

Reason for 1999 revision to Chapter 42

According to Mark Stimac, the intent of the revision was to eliminate the incentive to fill in the flood plain. The only written record of the discussion preceding the amendment to the Ordinance is a copy of a memorandum to the Mayor and City Council from the City Attorney obtained from the City Clerk's Office. A copy of the memorandum is attached as Exhibit A. The key argument in the memorandum is stated in the last sentence of the first paragraph, "The MDEQ is now allowing developers to use artificial fill to remove a property from a flood hazard area."

At the time the Ordinance was amended, the charge was true. The Michigan Department of Environmental Quality (MDEQ) was permitting fill in flood plain

without the requirement of compensating excavation. The potential results of such a policy are discussed below.

Flood plain is natural storage, or detention, for water courses in flood stage. If the natural storage is eliminated without replacement or compensation, more of the storm water that would have been detained is forced downstream faster. The result is a two-fold problem. One: The increased discharge causes the floodplain downstream from the site to increase in height causing additional flood damage. The increased flood plain elevation then backs up the water course, causing higher flood elevations on the property and upstream from the property. Two: The elimination of detention changes the timing of the flood peak. The effects of the change in timing would probably not cause problems on the property, but could cause problems downstream from the site location.

One small site in a drainage basin is not likely to have a significant impact on either the flood discharge or the timing of the flood peak. However, a policy of allowing watershed wide elimination of the natural flood storage of these fringe areas without compensation would definitely result in significantly higher flood elevations.

Therefore, the action of the Troy City Council, in lieu of appropriate controls by the State, was a logical step to take for the protection of the residents of the city.

MDEQ actions taken since the Troy Ordinance revision

MDEQ conducted hydrologic and hydraulic analyses of various watersheds in the State and determined that the policy of allowing flood plain fill without compensating excavation could have a detrimental impact on flood discharges and flood stages. Subsequently, approximately 18 months after the Troy Ordinance revision, MDEQ published a DIVISION GUIDANCE MEMO on August 8, 2000, a copy of which is attached hereto as Exhibit B. MDEQ now requires compensating excavation for floodplain fill.

The specific language in the Guidance Memo is recited here for the convenience of the reader.

The Guidance Memo specifically addresses six specific river systems in paragraphs 2) a. through 2) f., none of which impact the City of Troy.

Paragraph 2) g. reads, in part:

2) g. Compensating cut for fill shall be provided on-site at a one-to-one ratio in other areas to the extent practicable. ... If on-site compensation is not feasible, the applicant must provide an evaluation as to the feasibility of providing compensation off site, as close to the fill area as possible.

As a result of the revised MDEQ policy, there is no net loss of flood storage when filling flood plain areas, thus eliminating the potential deleterious effects of the fill operations.

Building protection

The Michigan Law that governs construction in filled flood plain is Section 324.3108 of the Natural Resources and Environmental Protection Act, PA 451 of 1994 (NREPA), a copy of which is attached as Exhibit C hereto for your information. The Law provides that basements may be constructed below the flood elevation in filled flood plain if certain criteria are met. The criteria protect buildings from the additional hydrostatic pressures that may be exerted on basement walls and floors as a result of a flood and the subsequent saturation of the ground around the basement walls and floor.

The State Law criteria are very similar to the criteria stated in 6 (1) (b) of the Troy Ordinance.

The FEMA rules provide exceptions to the no basement rule similar to the exceptions in the Michigan rules stated in NREPA. In fact, FEMA has provided a Technical Bulletin that outlines proper procedures for this type of construction. A copy of this bulletin, Technical Bulletin 10-01, has been attached as Exhibit D to this request, for your information and reading pleasure.

Impact of current ordinance on the City of Troy

Residences without basements are not as desirable in Michigan, therefore more difficult to sell. Lack of a basement also decreases the value of the house, which decreases the assessment, which decreases tax revenue

Protection of homeowners

Houses constructed in accordance with the guidelines dictated in the State Law, NREPA Section 324.3108 and Technical Bulletin 10-01 are *just as safe* from flooding and flood damage as any other structure. In fact, such houses *may be safer* than other buildings constructed in areas adjacent to flood hazard areas without the additional protection provided by the construction measures outlined in the two references.

The following example may illustrate this point. Much of the area in this part of Michigan is very flat. Once the rivers in this area get out of their banks, water will spread hundreds, and sometimes, thousands of feet from the normal top of the river bank. In many cases, the depth of the flood plain is very shallow. Property owners may be able to sacrifice some of the property by excavating adjacent to the river and using the spoil to fill some of the fringe flood plain areas. The Michigan Law requires careful selection, placement and compaction of the fill

material. It also requires an engineer to test the fill, calculate potential hydrostatic pressures, and if necessary provide additional strength in the basement walls and floor with calculations to prove their adequacy. Consider a residential development in such an area with two adjacent houses, one in the area of filled flood plain, the other, although only separated by as little as 15 or 20 feet, not in a filled flood plain area. The house in the filled flood plain area will be safe from flood damage because an engineer has specifically addressed the issues required by State Law. The house not in the flood plain will be constructed without any such additional protective measures. If the soils in the area happen to consist of sand or gravel which transmit groundwater more efficiently, the house not in the floodplain is more likely to have basement problems than the adjacent house constructed on filled flood plain.

SUMMARY

1. Permits are required from MDEQ for fill in flood plain.
2. Letters of Map Revision (LOMR) are required from FEMA to remove areas from flood plain.
3. MDEQ requires compensating excavation for flood plain fill. Therefore, fill operations will not result in increased flood discharges or increases in flood stage or flood plain elevations.
4. Michigan Law requires additional measures when constructing buildings with basements in filled floodplain areas. The houses are protected from additional hydrostatic pressures against basement walls and floors by restrictions in the type and placement of fill, waterproofing, and installation of sump pumps designed for the specific soil types and hydrologic conditions. If necessary, additional strength or reinforcement may be required for basement walls and floors to withstand potential hydrostatic pressures. Anchors are required to prevent the house from floating.
5. FEMA provides Technical Bulletin 10-01, which provides guidance to homeowners and communities for such construction.

CONCLUSION

The State has taken measures to protect communities and property owners from increased flood risk from flood plain filling operations by requiring compensating excavation. The State and FEMA have taken measures to protect homeowners from increased risk when constructing a basement in filled floodplain. The reason for the 1999 amendment to the Ordinance no longer exists. Allowing construction of basements in areas of filled flood plain will increase tax revenues to the City.

RECOMMENDATION

The City of Troy amend the Ordinance as requested herein to comply with the State and National Laws, Rules and Regulations, thus providing an opportunity for homeowners to increase the value of their property for themselves and benefit to the community.

I urge you to initiate a procedure to amend the Ordinance at the earliest possible time. If you have any questions or comments, please contact me.

Yours truly,


Fred W. Barnes, PE
President



DATE: JANUARY 27, 1999
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOHN J. MARTIN, III, CITY ATTORNEY *JM*
LORI GRIGG BLUHM, ASSISTANT CITY ATTORNEY *LGB*
RE: PROPOSED FLOOD HAZARD AREA ORDINANCE

Michigan law has been amended as it pertains to flood hazard area ordinances. Specifically, the MDEQ has adopted much more lenient standards regarding development in flood hazard areas. The MDEQ is now allowing developers to use artificial fill to remove a property from a flood hazard area.

In the past, the Troy Ordinances deferred to the state and federal standards regarding flood hazard areas. However, the Engineering and Building Departments do not feel that the current state of the law, as recently modified, provides adequate protection to Troy residents who purchase homes and are unaware of the previous flood hazard area designation, and the increased potential for flooding. Therefore, attached please find a more restrictive version of the Troy Flood Hazard Area Ordinances, which are currently found in Chapter 39 of the City of Troy Ordinances.

Please contact us if you have questions regarding this case.

CC: Planning Commission Members
James C. Bacon, Jr.
John Szerlag
Neill Schroeder, Tracy Slintak
Larry Keisling; Mark Stimac
Gary Shripka; Mitch Grusnick

EXHIBIT A

 DEPARTMENT OF ENVIRONMENTAL QUALITY	DIVISION GUIDANCE MEMO LAND AND WATER MANAGEMENT DIVISION	NUMBER: 31-00-01
		PAGE: 1 of 4
SUBJECT: Compensating Cut for Fill in Floodplains		EFFECTIVE DATE: 8/8/2000
SECTION AND/OR UNIT: Transportation and Flood Hazard Management Unit, Floodplain Field Staff, Subdivision Floodplain Program	APPROVAL SIGNATURE: Original signed by Hope Croskey	ALSO SEE:
	TITLE: Chief, Water Management Section	

ISSUES:

The Land and Water Management Division's (LWMD) floodplain engineering field staff issue permits to place fill in regulated floodplains. The permitted activities may result in the loss of floodplain storage and long-term impacts to downstream areas if compensating cut is not required.

AUTHORITY:

The Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 31), provides the authority to require compensating cut for fill placed in floodplain areas.

DISCUSSION:

- 1) The attached Attorney General's opinion, dated January 8, 1976, indicates that the LWMD has the authority to require permits for the occupation (residential, commercial, or industrial), filling, or grading of any portion of the floodplain, not just the floodway.
- 2) Section 3104 (1) of Part 31 designates the department as *"the state agency to cooperate and negotiate with other governments, governmental units, and governmental agencies in matters concerning the water resources of the state, **including, but not limited to, flood control**...* The department shall have control over the alterations of natural or present watercourses of all rivers and streams in the state to assure that the channels and the portions of the floodplains that are the floodways are not inhabited and are kept free and clear of interference or obstruction that will cause any undo restriction of the capacity of the floodway." (emphasis added)
- 3) Section 3107 of Part 31 states that, *"the department may promulgate rules and issue orders for the prevention of harmful interference with the discharge and stage characteristics of streams. The department may ascertain and determine for record and in making its order the location and extent of floodplains, stream beds, and channels and the discharge and stage characteristics of streams at various times and circumstances."* "Harmful interference" is defined in rule R 323.1311 (g) as *"causing an increased stage or change in direction of flow of a river or stream that causes, or is likely to cause, any of the following:*
 - i) Damage to property, ii) A threat to life, iii) A threat to personal injury, iv) Pollution, impairment, or destruction of water or other natural resources."

Hydrologic analysis of the watersheds that have been studied documents the cumulative impacts on a stream's stage and discharge characteristics when floodplain storage is lost. The cumulative loss of floodplain storage will ultimately increase flood discharges and thus cause an increase in flood stages.

EXHIBIT B

 DEPARTMENT OF ENVIRONMENTAL QUALITY	DIVISION GUIDANCE MEMO LAND AND WATER MANAGEMENT DIVISION	NUMBER: 31-00-01
		PAGE: 2 of 4
SUBJECT: Compensating Cut for Fill in Floodplains		EFFECTIVE DATE: 8/8/2000

4) Section 3108 (1) of Part 31 states that, "a person shall not occupy or permit the occupation of land for residential, commercial, or industrial purposes or fill or grade or permit the filling or grading for a purpose other than agriculture of land in a floodplain, stream bed, or channel of a stream, as ascertained and determined for the record by the department, or undertake or engage in an activity on or with respect to land that is determined by the department to interfere harmfully with the discharge or stage characteristics of a stream, unless the occupation, filling, grading, or other activity is permitted under this part." (emphasis added)

Rule 323.315 (3) states that, "An encroachment in the floodplain, landward of the floodway limits, which, acting alone, or in combination with existing or future similar works, does not cause harmful interference may be permitted." (emphasis added)

Clearly a permit is required to fill in the floodplain. Unless it can be shown that filling of the floodplain will not cause "a harmful interference," an application to fill in the floodplain can be denied unless compensating cut is provided to prevent harmful interference.

5) As with other floodplain activities, it is up to the applicant to demonstrate that their project will not cause a harmful interference with the stage and discharge characteristics of a stream. Rule 323.1313 (2) states that, "An application for a permit to place an encroachment not excluded under Rule 323.1312 in a floodplain, channel, or floodway shall include a site location and a property map showing limits of the proposed encroachment as it relates to the drainage course. Rule 323.1313 (3) states that, "The department may ask for the following additional information in order to analyze the effects that a proposed encroachment, acting alone or in combination with existing or future similar works, has on stage or discharge characteristics of the stream." (emphasis added). Some of the information that may be requested includes: "cut and fill limits," "volume of cut and fill," and "a hydraulic report, based on water surface profile computations, which evaluates the effect of the proposed encroachment on stage and discharge characteristics for a range of discharges up to and including the 100-year flood discharge. The report shall be prepared and sealed by an engineer licensed in Michigan."

GUIDANCE/ACTION:

The following guidance is provided to staff for the requirements of compensating cut for fill placed in regulated floodplains.

1) The LWMD has the regulatory authority under Part 31 to require compensating cut for fill placed in regulated floodplains if the proposed project, acting alone or in combination with existing or future similar works (cumulative impacts), causes a harmful interference with the stage or discharge characteristics of a stream (either upstream or downstream). Where practicable, compensation shall be provided at approximately the same elevations as were displaced. If the LWMD determines that the proposed project, acting alone or in combination with existing or future similar works, will not cause a harmful interference with the stage or discharge characteristics of a stream, then compensating cut will not be required. Generally, compensating cut will not be required for fill volumes of less than 300 cubic yards as a single and complete project, unless there is evidence that it will cause a harmful interference.

 DEPARTMENT OF ENVIRONMENTAL QUALITY	DIVISION GUIDANCE MEMO LAND AND WATER MANAGEMENT DIVISION	NUMBER: 31-00-01
		PAGE: 3 of 4
SUBJECT: Compensating Cut for Fill in Floodplains		EFFECTIVE DATE: 8/8/2000

GUIDANCE/ACTION (continued)

- 2) The collective analysis of the watersheds studied so far supports the conclusion that the stage and discharge characteristics of the majority of streams in the state will be adversely impacted if floodplain filling continues without any requirement to provide compensation. Six areas were evaluated through detailed hydrologic/hydraulic studies to determine the impact due to the loss of floodplain storage. The studies confirm the necessity for requiring compensating cut to offset further increases in flood elevations. Compensating cut is required in the following areas at the following rates:
- a. Clinton River Forks area - land areas within the 100-year floodplain of the Clinton River and branches within Clinton Township and Macomb Township, Macomb County. Compensating cut for fill is required at a one-to-one ratio.
 - b. Saginaw River - land areas within the 100-year floodplain of the Saginaw River and tributaries, including Cheboyganing and Dutch Creeks, between the cities of Saginaw and Bay City, Saginaw and Bay counties. Compensating cut for fill is required for 70 percent of the proposed fill volume below the 100-year floodplain elevation.
 - c. Shiawassee flats - land areas within the 100-year floodplain of the lower reaches of the Shiawassee, Cass, Flint, Tittabawassee, and Bad Rivers within Saginaw County. Compensating cut for fill is required for 97 percent of the proposed fill volume below the 100-year floodplain elevation.
 - d. Snake Creek - land areas within the 100-year floodplain of Snake Creek in the city of Midland, Midland County. Compensating cut for fill is required at a one-to-one ratio.
 - e. Rush Creek - land areas within the 100-year floodplain of Rush Creek in Georgetown Township and the city of Hudsonville, Ottawa County. Compensating cut for fill is required for 90 percent of the proposed fill volume below the 100-year floodplain elevation.
 - f. Frank and Poet Drain - land areas within the 100-year floodplain of the Frank and Poet Drain in the city of Trenton, Wayne County. Compensating cut for fill is required at a one-to-one ratio.
 - g. Compensating cut for fill shall be provided on-site at a one-to-one ratio in other areas to the extent practicable. The applicant shall demonstrate that they have used and or considered all feasible and prudent means to avoid and minimize the amount of fill placed in the floodplain. Some options that the applicant should consider include (this is not intended to be a complete list):
 1. Reducing the building size thereby minimizing the fill footprint.
 2. Reducing the number of building lots.
 3. Leaving parking lot and driveway areas at existing grade.
 4. Elevating structures on piers.
 5. Using another location.

If fill in the floodplain cannot be eliminated, the applicant must provide an evaluation as to the feasibility of providing on-site compensation. If on-site compensation is not feasible, the applicant must provide an evaluation as to the feasibility of providing compensation off site, as close to the fill area as possible.

 DEPARTMENT OF ENVIRONMENTAL QUALITY	DIVISION GUIDANCE MEMO LAND AND WATER MANAGEMENT DIVISION	NUMBER: 31-00-01
		PAGE: 4 of 4
SUBJECT: Compensating Cut for Fill in Floodplains		EFFECTIVE DATE: 8/8/2000

GUIDANCE/ACTION (continued)

- 3) The amount of compensating cut for fill placed in a regulated floodplain may be reduced or eliminated if the applicant provides a valid study, to the DEQ's satisfaction, that documents no harmful interference with the stage or discharge characteristics of a stream will result from the cumulative impacts of long term filling of the floodplain. Per section 3104 (4) the department shall assess the applicant an additional \$1500 to cover the department's cost of reviewing the study.

- 4) As a Part 31 permit condition, the applicant shall be required to obtain a Letter of Map Revision (LOMR) if the proposed or actual cut or fill occurs in the mapped portion of a floodplain of a community that participates in the National Flood Insurance Program. If applicable, the LOMR shall be obtained before a local building permit is issued.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.3108 Unlawful occupation, filling, or grading of floodplain, stream bed, or channel of stream; exceptions; construction of building with basement.

Sec. 3108. (1) A person shall not occupy or permit the occupation of land for residential, commercial, or industrial purposes or fill or grade or permit the filling or grading for a purpose other than agricultural of land in a floodplain, stream bed, or channel of a stream, as ascertained and determined for the record by the department, or undertake or engage in an activity on or with respect to land that is determined by the department to interfere harmfully with the discharge or stage characteristics of a stream, unless the occupation, filling, grading, or other activity is permitted under this part.

(2) A person may construct or cause the construction of a building that includes a basement in a floodplain that has been properly filled above the 100-year flood elevation under permit if 1 or more of the following apply:

(a) The lowest floor, including the basement, will be constructed above the 100-year flood elevation.

(b) A licensed professional engineer schooled in the science of soil mechanics certifies that the building site has been filled with soil of a type and in a manner that hydrostatic pressures are not exerted upon the basement walls or floor while the watercourse is at or below the 100-year flood elevation, that the placement of the fill will prevent settling of the building or buckling of floors or walls, and that the building is equipped with a positive means of preventing sewer backup from sewer lines and drains that serve the building.

(c) A licensed professional engineer or architect certifies that the basement walls and floors are designed to be watertight and to withstand hydrostatic pressure from a water level equal to the 100-year flood elevation and that the building is properly anchored or weighted to prevent flotation and is equipped with a positive means of preventing sewer backup from sewer lines and drains that serve the building.

(3) If the community within which a building described in subsection (2) is located is a participant in the national flood insurance program authorized under the national flood insurance act of 1968, title XIII of the housing and urban development act of 1968, Public Law 90-448, 82 Stat. 572, 42 U.S.C. 4001, 4011 to 4012, 4013 to 4020, 4022 to 4102, 4104 to 4104d, 4121 to 4127, and 4129, then the developer shall apply for and obtain a letter of map revision, based on fill, from the federal emergency management agency prior to the issuance of a local building permit or the construction of the building if 1 or both of the following apply:

(a) The floodplain will be altered through the placement of fill.

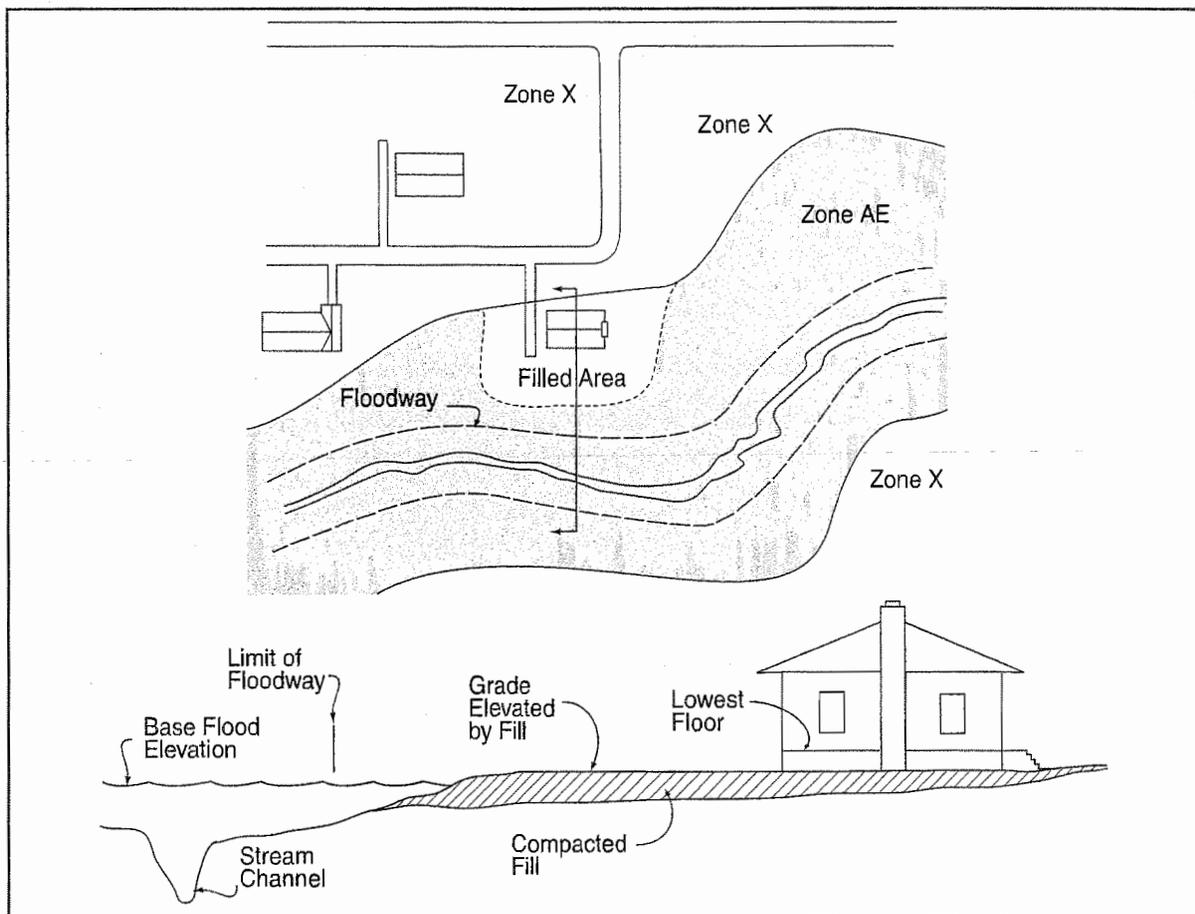
(b) The watercourse is relocated or enclosed.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 162, Imd. Eff. Apr. 11, 1996.

Popular name: Act 451

Ensuring That Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding

in accordance with the
National Flood Insurance Program



FEDERAL EMERGENCY MANAGEMENT AGENCY
MITIGATION DIRECTORATE

FIA-TB-10
(5/01)

EXHIBIT D

Key Word/Subject Index

This index allows the user to locate key words and subjects in this Technical Bulletin. The Technical Bulletin User's Guide (printed separately) provides references to key words and subjects throughout the Technical Bulletins. For definitions of selected terms, refer to the Glossary at the end of this bulletin.

Key Word/Subject Index	Page
Basement construction, engineered option	19
Basement construction, simplified approach	15
Basement foundation in fill, not recommended	9
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Any comments on the Technical Bulletins should be directed to:

Federal Emergency Management Agency
Mitigation Directorate
Program Policy and Assessment Branch
500 C Street, SW.
Washington, DC 20472

Wave design on cover based on the Japanese print *The Great Wave Off Kanagawa*, by Katsuchika Hokussai (1760–1849), Asiatic Museum of Fine Arts, Boston.

TECHNICAL BULLETIN 10-01

Ensuring That Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding in accordance with the National Flood Insurance Program

Introduction

For the purpose of administering the National Flood Insurance Program (NFIP), FEMA identifies and maps flood hazard areas nationwide by conducting flood hazard studies and publishing Flood Insurance Rate Maps (FIRMs). These flood hazard areas, referred to as Special Flood Hazard Areas (SFHAs), are based on a flood having a 1-percent probability of being equaled or exceeded in any given year (also referred to as the 100-year flood or Base Flood).

Structures within the SFHA in a community participating in the NFIP are subject to floodplain management regulations that impact building standards and are designed to minimize flood risk. For example, Title 44, Part 60, Section 3(c)(2) of the Code of Federal Regulations—abbreviated as 44 CFR 60.3(c)(2)—requires that the lowest floor of a residential structure, including basement, built within the SFHA be at or above the Base Flood Elevation (BFE). In addition, flood insurance must be purchased for these structures if they are used as collateral to secure a loan provided by a federally regulated lender. Flood insurance coverage may be purchased for all eligible structures within a participating community. Insurance rates for structures located within the SFHA differ from the rates for structures located outside the SFHA.

When permitted under applicable Federal, state, and local laws, ordinances, and regulations, earthen fill is sometimes placed in an SFHA to reduce flood risk to the filled area. Under certain conditions, when engineered earthen fill is placed within an SFHA to raise the surface of the ground to or above the BFE, a request may be submitted to FEMA to revise the FIRM to indicate that the filled land is outside of the SFHA. When such revisions are warranted, FEMA usually revises the FIRM by issuing a Letter of Map Revision based on fill (LOMR-F). After FEMA has revised the FIRM to show that the filled land is outside the SFHA, the community is no longer required to apply the minimum NFIP floodplain management standards to any structures built on the land and the mandatory flood insurance purchase requirements no longer apply. It is worth noting that states and local communities may have floodplain regulations that are more restrictive than the minimum requirements of the NFIP and may continue to enforce some or all of their floodplain management requirements in areas outside the SFHA.

Although a structure built on a site that has been elevated by the placement of fill may be removed by FEMA from the SFHA, the structure may still be subject to damage during the Base Flood and higher-magnitude floods. Constructing the entire structure at or above the level of the BFE will minimize the flood risk from the Base Flood and is therefore the most prudent approach to constructing on fill. Conversely, a structure with a basement (subgrade area) adjacent to or near the floodplain may well be impacted by subsurface flooding brought on by surface flooding.

This bulletin provides guidance on the construction of buildings on land elevated above the BFE through the placement of fill. Several methods of construction are discussed, and the most prudent—those that result in the entire building being above the BFE—are recommended.

In some areas of the country, basements are a standard construction feature. Individuals may wish to construct basements on land after it has been removed from the floodplain by a FEMA revision. Buildings with basements built in filled areas are at an added risk of flooding when compared to buildings on other types of foundations. However, there are two major ways to minimize this additional risk from subsurface flooding. First, the building should be located farther back from the edge of the fill closest to the flooding source. Second, the higher the basement floor is elevated, the less the risk. This technical bulletin provides guidance on how to determine that these buildings will be reasonably safe from flooding during the occurrence of the Base Flood and larger floods. To be reasonably safe from flooding during the Base Flood condition, the basement must (1) be dry, not have any water in it, and (2) be structurally sound, not have loads that either exceed the structural capacity of walls or floors or cause unacceptable deflections. In practice, this means that soils around the basement must have low permeability to minimize or stop water infiltration to the basement wall and floors. Any water that does permeate to the basement must be removed by a drainage layer on the outside (soil side) of the basement. In addition, the foundation walls and floor slab must be designed and constructed for any increased loads that may occur during the Base Flood condition.

NFIP Regulations

Part of a community's application to participate in the NFIP must include "a commitment to recognize and duly evaluate flood hazards in all official actions in the areas having special flood hazards and to take other such official actions reasonably necessary to carry out the objectives of the program" [44 CFR 59.22 (a)(8)].

NFIP regulations at 44 CFR 60 include Subpart A: Requirements for Flood Plain Management Regulations. Each community participating in the NFIP adopts a floodplain management ordinance that meets or exceeds the minimum requirements listed in 44 CFR 60. Subpart A establishes specific criteria for determining the adequacy of a community's floodplain management regulations. The overriding purpose of the floodplain management regulations is to ensure that participating communities take into account flood hazards, to the extent that they are known, in all official actions relating to land management and use.

One of the minimum requirements established by the regulations is set forth at 44 CFR 60.3 (a)(3), which states that, for all proposed construction or other development within a participating community, the community must "Review all permit applications to determine whether the proposed building sites will be reasonably safe from flooding." 44 CFR 59.1 defines "development" as

"...any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation or storage of equipment or materials,"

Warning

Construction of a residential building in an identified SFHA with a lowest floor below the BFE is a violation of the floodplain management requirements set forth at 44 CFR 60.3(c)(2), unless the community has obtained an exception to NFIP requirements from FEMA and has approved procedures in place.

By issuance of this Technical Bulletin, FEMA is noting that residual flood hazards may exist in areas elevated above the BFE by the placement of engineered earthen fill. Residual risks in these areas include subsurface flood conditions and flooding from events that exceed the base flood. This bulletin is intended to guide local floodplain management officials in determining whether structures placed in filled areas are reasonably safe from flooding. FEMA will require that the jurisdiction having authority for floodplain management determine that an area is reasonably safe from flooding before removing it from the SFHA.

Floodways, V Zones, and Alluvial Fan Flood Hazard Areas

This bulletin does **not** apply to the following:

- Construction in the floodway. The NFIP prohibits encroachments into the floodway that would cause increases in flood stage.
- Construction in SFHAs designated Zone V, VE, or V1-V30 on FIRMs. The NFIP prohibits the use of structural fill for support of buildings in V zones. Buildings constructed in a V zone must be constructed on an open foundation consisting of piles, piers, or posts and must be elevated so that the bottom of the lowest horizontal structural member is at or above the BFE. In addition, this bulletin strongly recommends that structural fill **not** be used to elevate buildings constructed in A zones in coastal areas. Detailed guidance concerning proper construction methods for buildings in coastal areas is presented in FEMA's *Coastal Construction Manual* (FEMA 55) and in NFIP Technical Bulletin 5, *Free-of-Obstruction Requirements*.
- Construction in SFHAs subject to alluvial fan flooding (designated Zone A0 with depths and velocities shown on FIRMs). The NFIP will not remove land from the floodplain based on the placement of fill in alluvial fan flood hazard areas.

More Restrictive State and Local Requirements

NFIP Technical Bulletins provide guidance on the **minimum** requirements of the NFIP regulations. State or local requirements that exceed those of the NFIP take precedence. Design professionals should contact community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must be met for any building in a flood hazard area.

Notes for Local Officials

Professional Certification

As required by state and local floodplain management ordinances, a proposed development must be determined to be reasonably safe from flooding. The official having the authority to make this determination should require all appropriate information for making the determination. This may include a certification by a qualified design professional that indicates the land or structures to be removed from the SFHA are reasonably safe from flooding, according to the criteria described in this technical bulletin. Such a professional certification may come from a professional engineer, professional geologist, professional soil scientist, or other design professional qualified to make such evaluations. A sample of such a certification is shown in Figure 1.

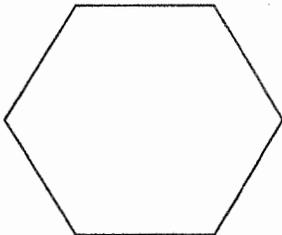
Project Name and Address	
I, _____ certify that the design for the aforementioned development is reasonably safe from flooding in accordance with the guidance provided within FEMA's Technical Bulletin 10-01 related to ensuring that structures are reasonably safe from flooding and in accordance with accepted professional practices.	
Signature	Date
Title	
Type of License	License Number
Address and Phone	
Professional Seal	
License Expiration Date	

Figure 1 Sample of professional certification form.

Administrative Options for Community Permitting

Communities may choose a variety of administrative procedures to assist them in gathering information that can be used to determine whether a proposed development is reasonably safe from flooding. Communities are encouraged to establish procedures that alert them to potential future development of a filled area. These procedures should allow for the evaluation of future development and a means to determine whether it will be reasonably safe from flooding. The following are examples of such procedures:

- Require building sites to be identified on final subdivision plats and evaluate those building sites against the standards described in this Technical Bulletin.
- Require grading plans as a condition of issuing fill permits and require that those grading plans include building sites, and evaluate those building sites based on this Technical Bulletin.
- Require buffer zones or setback zones around the perimeter of fill pads or at the edge of the floodplain and establish construction requirements within these buffer zones to ensure that buildings are safe from residual risk.
- Require as a condition of final subdivision plat approval that the developer agree that no basements will be built in any flood areas.
- Adopt or have regulations that control development of areas immediately adjacent to floodplains that would ensure that any construction is reasonably safe from flooding. For example, under the Minnesota State Building Code, communities designate areas outside of the floodplain as “Secondary Flood Hazard Areas” where building officials evaluate plans for basements and can require modifications to the basement if an official believes there is a residual risk.
- When issuing a permit for the placement of fill only in the SFHA, stipulate that no buildings will be built on the site without a subsequent building permit.

Placement of Fill

Properly placing fill requires an understanding of soil mechanics, local site conditions, the specific characteristics of the soils being placed, the methods used to place and compact the fill, and soil testing procedures. Standard engineering and soil mechanics texts cover these subjects in detail. The performance of these filled areas should consider, but is not limited to, the following:

- the consolidation of the fill layers and any underlying layers
- the effect of this consolidation on either excessive settlement or differential settlement
- how the permeability of the soils affects water infiltration on any structures built on the site

Loss of Storage and Conveyance

The placement of fill in the SFHA can result in an increase in the BFE by reducing the ability to convey and store flood waters. This can result in increased flood damage to both upstream and downstream properties. To prevent these possible results, some communities prohibit fill, require compensatory storage for filled areas, and/or identify a more restrictive floodway.

Risk of Flood Damage in Areas Adjacent to the SFHA

Areas adjacent to the SFHA may have residual risks of flood damage similar to those in areas removed from the SFHA through the placement of fill. Both areas are subject to residual risk from subsurface water related to flooding and from floods greater than the Base Flood. Methods of construction discussed in this bulletin should also be used in these areas.

Building on Land Removed From the SFHA by the Placement of Fill

The safest methods of constructing a building on filled land removed from the SFHA are those that result in the entire structure being above the BFE. Methods that place the lowest floor of the building at, rather than above, the BFE are at greater flood risk, and methods that result in the lowest floor (including a basement floor) below the BFE have the highest flood risk of all. Placement of the lowest floor of these structures below the BFE, even though they are outside the SFHA, will result in an increased threat from subsurface flooding and magnified damages from flooding that exceeds the BFE.

Freeboard

Freeboard is an additional height used as a factor of safety in determining the elevation of a structure, or floodproofing, to compensate for factors that may increase the flood height (ASCE 24-98, *Flood Resistant Design and Construction*). When fill is used to protect buildings from the Base Flood, the community should consider whether freeboard should be required. This consideration should include whether better information exists or conditions have changed (from when the BFE was originally established) that indicate that the BFE may be higher than originally expected. One example of when the BFE may be higher is when a culvert or bridge is blocked by debris. Flood modeling assumes an open channel or culvert. Even when the BFE is not expected to be higher, freeboard may be appropriate to provide increased protection from flood events less frequent than the Base Flood or to account for future changes that may increase the BFE.

The foundation types for buildings outside the SFHA described in the following sections are listed in order of their increasing risk of flood damage.

Non-Basement Foundations

Non-basement foundations consist primarily of stem wall, crawlspace, and slab-on-grade foundations.

Stem Wall Foundation

A stem wall foundation can be used to raise the lowest floor above the surrounding grade. After the stem walls have been constructed and extended to the desired elevation, the area enclosed by the stem walls is filled with engineered compacted fill and a slab is poured on top (see Figure 2). Through the placement of additional fill, the site may be elevated above the BFE. This approach provides freeboard—an additional amount of elevation that helps protect against subsurface flooding and floods that exceed the Base Flood. Constructing a stem wall foundation and placing this additional fill on the site provide the highest level of flood protection.

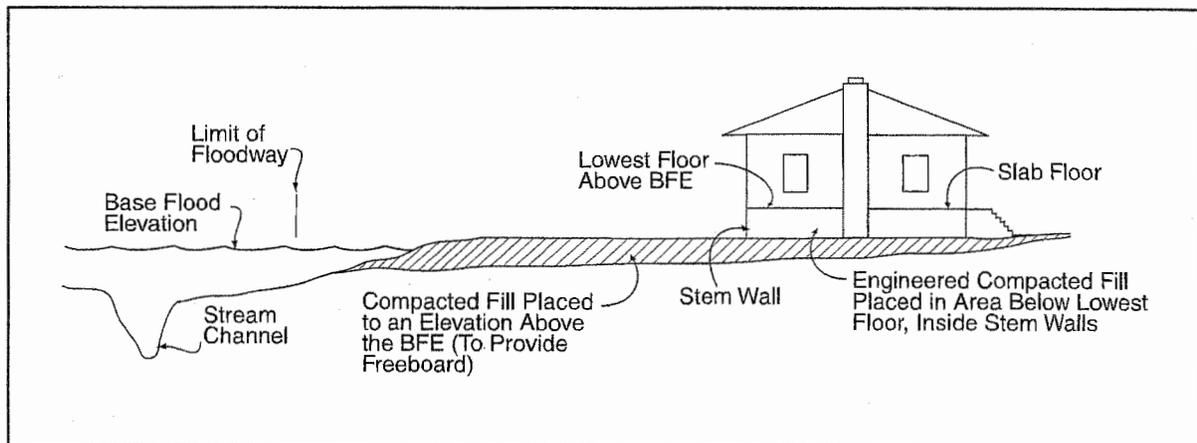


Figure 2 Structure on a stem wall foundation. The lowest floor is raised above the BFE. The space enclosed by the stem walls is filled with engineered compacted fill.

Crawlspace Foundation

Constructing a crawlspace beneath the first floor will raise the lowest floor of the structure above the surrounding grade (see Figure 3). Openings in the foundation walls are recommended. If flooding reaches the building, the openings allow flood waters to enter the area below the lowest floor and equalize the hydrostatic pressure on the foundation walls (see NFIP Technical Bulletin 1, *Openings In Foundation Walls*).

The crawlspace alternative is less preferable than stem wall construction, which does not result in an enclosed area under the first floor and therefore requires no flood openings. Placing additional fill to a level above the BFE provides freeboard that helps protect against subsurface flooding and floods that exceed the Base Flood. Constructing a crawlspace foundation and placing additional fill on the site provide increased flood protection.

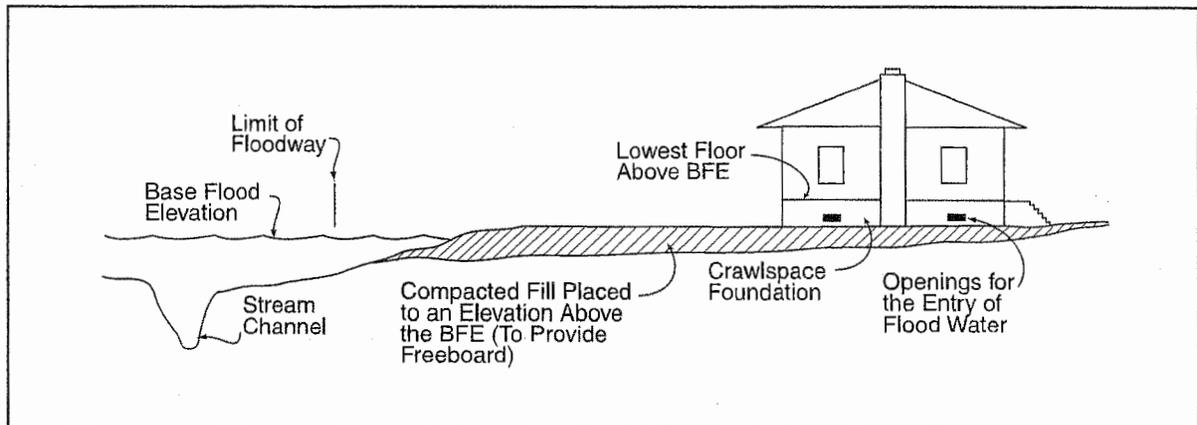


Figure 3 Structure on a crawlspace foundation. The lowest floor is raised above the BFE. Openings in the foundation walls allow water from floods higher than the fill elevation to enter the crawlspace and equalize the pressure on foundation walls.

Slab-On-Grade Foundation

This method normally provides less flood protection than crawlspace construction because it does not elevate the house above the adjacent grade (see Figure 4). As a result, the lowest floor of the house can be as low as the BFE and would be inundated by any flood greater than the BFE. Placing additional engineered fill beneath the building to a level above the BFE would provide freeboard and therefore increased flood protection.

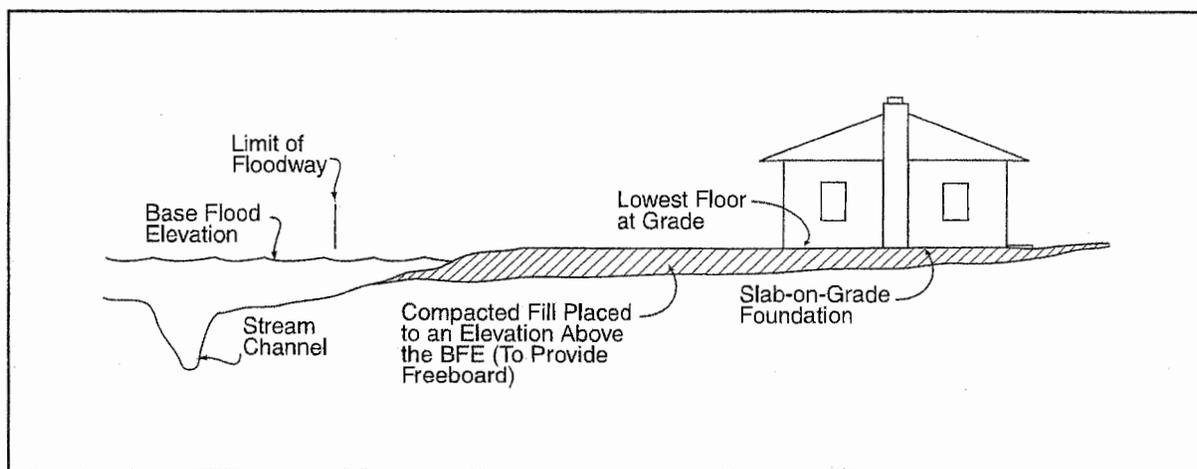


Figure 4 Structure on a slab-on-grade foundation. The lowest floor is typically slightly higher than the surrounding grade.

Basement Foundations

Although basements are a desired feature in some areas of the United States, NFIP minimum requirements generally do not allow their construction in the SFHA, because of the increased risk of flood damages. The only instances where this is not the case are buildings for which FEMA has granted a special exemption to allow floodproofed basements. However, once land is removed from the SFHA through a map revision, these NFIP minimum requirements no longer apply. As a result, builders and property owners who build on land removed from the SFHA sometimes elect to install basements, which are at a higher risk of flood damage than the foundation types described previously.

Constructing a basement on such land is **not** recommended, because the basement (i.e., lowest) floor and portions of the basement walls may well be subjected to subsurface flooding. The basement may therefore be subject to seepage and lateral hydrostatic and uplift pressure caused by high groundwater levels associated with flooding in surrounding areas. Additionally, when flooding exceeds the BFE, the basement area may be totally inundated with floodwater. When builders and homeowners decide to accept the additional risk associated with basement construction on filled land, they need to ensure that the basement and the rest of the house are reasonably safe from flooding.

Warning

In filled areas adjacent to floodplains, floods can still greatly influence the groundwater at the filled site. High groundwater at a site with a basement can result in water infiltrating the basement or greatly increased hydrostatic pressures on the walls and basement slab that can cause failure or permanent deformation. Even when floods have not reached houses with basements, FEMA has seen numerous examples of flooded basements, bowed basement floors, and collapsed basement walls that have resulted from the effects of high groundwater caused by flooding. In addition, the collapse of flooded basements has also occurred when water is rapidly pumped from basements surrounded by saturated soils whose pressure exceeds the capacity of the basement walls.

Flood Insurance Coverage for Basements

It is extremely important to note that the NFIP offers only limited coverage for basement flooding. First, in order for a claim to be paid, there must be a general condition of overland flooding where floodwaters come in contact with the structure. Secondly, the NFIP does not provide coverage for finished nonstructural elements such as paneling and linoleum in basement areas. Contents coverage is restricted to a limited number of items listed in the flood insurance policy. Contact a local insurance agent for more information.

Four basement construction methods are described below in increasing order of flood risk.

Basement Foundation With Lowest Floor At or Above BFE

Placing the lowest floor of the basement at or above the BFE has the effect of eliminating flood-induced damage up to the BFE (see Figure 5). In general, the higher the basement floor is above the BFE the lower the risk of damage from seepage and hydrostatic pressure caused by flood-related groundwater. Where possible, the basement should be built with its floor at or above the BFE. An added benefit is that floods that exceed the BFE will cause significantly less damage to a structure with this type of basement than to structures with basements whose floors are at greater depths.

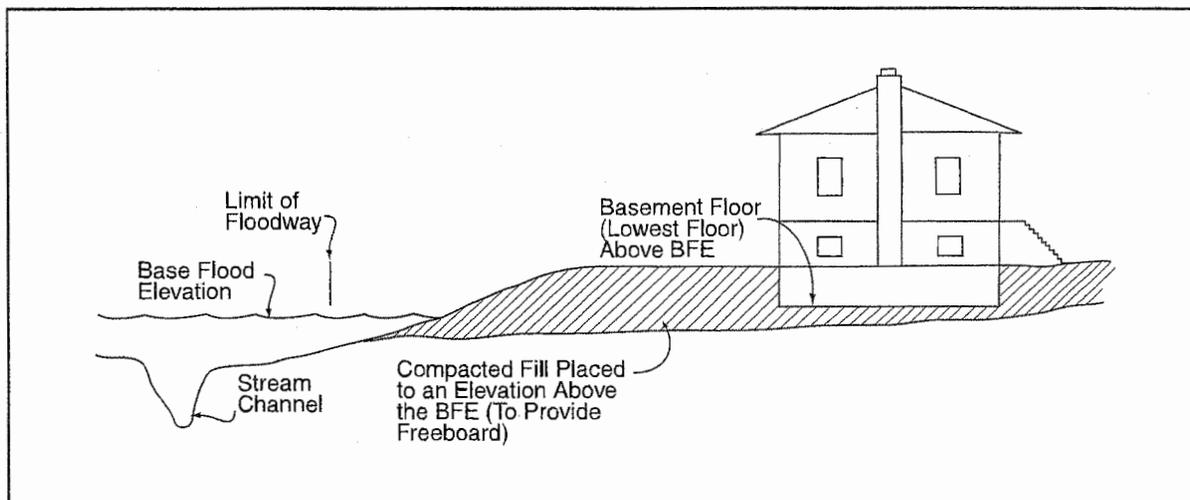


Figure 5 Basement foundation with lowest floor above the BFE. Damage from floods below the BFE is eliminated.

Basement Foundation in Fill Placed Above BFE

Placing fill to a level higher than the BFE has the effect of reducing the depth of the basement floor below the BFE (see Figure 6). It is recommended that fill be placed to a level at least 1 foot above the BFE. In general, the higher the basement floor the lower the risk of damage from seepage and hydrostatic pressure caused by flood-related groundwater. Where possible, enough fill should be properly placed so that the lowest grade adjacent to the structure is raised to an elevation greater than the BFE. An added benefit of fill placed above the BFE is that it helps protect the building from floods greater than the Base Flood. These floods are less likely to reach the structure.

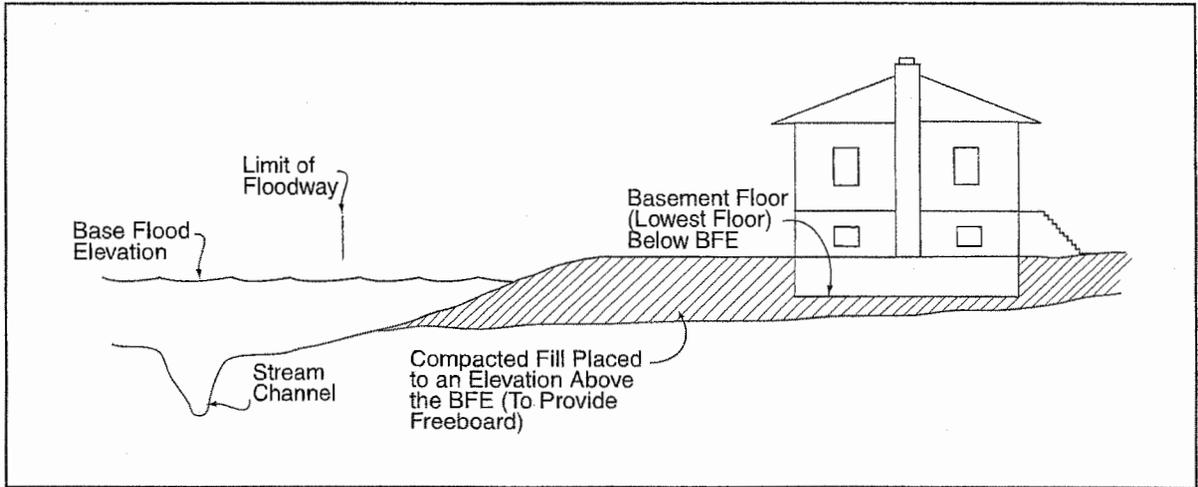


Figure 6 Basement foundation in fill placed above the BFE. The depth of the basement floor below the BFE is less than when no fill is placed.

Basement Foundation With Lowest Opening Above BFE

In the event that the lowest floor is not elevated to or above the BFE and fill is not placed to a level above the BFE, the next best method of reducing flood risk is to place the lowest opening into the basement (e.g., window well) at a level higher than the BFE (see Figure 7). This will reduce the chances that surface flooding will enter and inundate the basement. However, the basement walls and floor slab will still be subjected to hydrostatic pressure with the potential for damage and seepage into the basement. In addition, the above-grade basement walls will be exposed to water from floods greater than the Base Flood. For this reason, the lowest opening in the basement walls should be above the BFE, as shown in Figure 7.

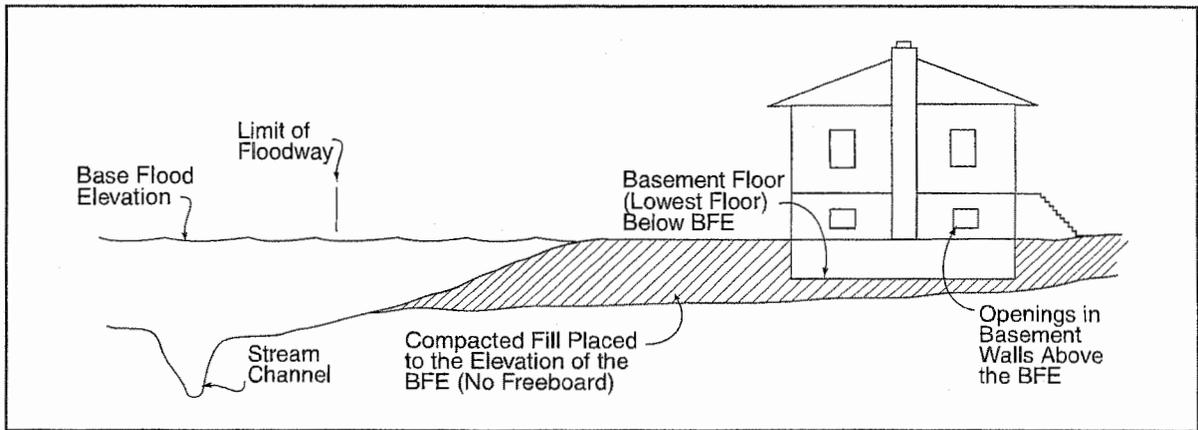


Figure 7 Basement foundation with lowest opening above the BFE. Surface flooding is less likely to enter and inundate the basement.

Basement Foundation With Lowest Opening at BFE

This is the least preferable condition of all because it results in the highest flood risk and is not recommended (see Figure 8). The lack of fill above the BFE, coupled with the lowest floor being below BFE and lowest opening at the BFE, exposes the basement to flooding from both subsurface flooding and any flood greater than the Base Flood.

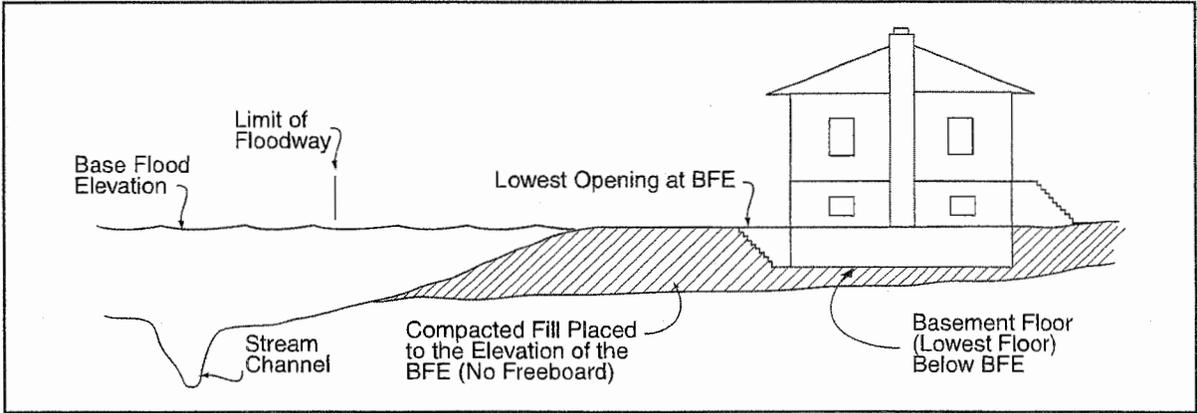


Figure 8 Basement foundation with lowest opening at the BFE. The basement is exposed to flooding from any flood greater than the Base Flood.

Flood Risk by Foundation Type

Table 1 summarizes the foundation construction methods described in this bulletin and ranks them in order of increasing flood risk—the safest foundation types appear near the top; the less safe foundation types appear near the bottom. The foundation construction methods that result in a building that is reasonably safe from flooding are shown in the dark gray area of the table. If the basement construction methods shown in the light gray area are used, the requirements described in the following sections of this bulletin must be met in order for the building to be considered reasonably safe from flooding.

Table 1 Flood Risk by Foundation Construction Method

Foundation Flood Risk													
Flood Risk During the Base Flood	Fill		Foundation Construction Method										
			Stem Walls		Crawlspace		Slab-On-Grade		Basement				
	Above BFE	At BFE	Above BFE	At BFE	Above BFE	At BFE	Above BFE	At BFE	Above BFE	At BFE	Below BFE	Above BFE	At BFE
Increasing Level of Flood Risk ↓	■		■										
	■				■								
	■						■						
		■		■									
		■					■						
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-  Reasonably Safe From Flooding
-  Follow Guidance in This Bulletin To Ensure That Building Is Reasonably Safe From Flooding

Basement Construction Guidance

For those who have chosen to accept the additional risk associated with basement construction below the Base Flood on filled land that has been removed from the SFHA, this bulletin provides technical guidance about measures that can be taken to protect basements and meet the requirement that buildings be made reasonably safe from flooding. A simplified approach, including the requirements that must be met for its use, is presented first. For buildings that do not meet the criteria for the simplified approach, this bulletin provides technical guidance for the development of an engineering design tailored to the site conditions.

Structural Design

Design of foundation elements is addressed in model building codes. This technical bulletin does not address the structural design of basement walls or foundations. Floors and slabs should be designed for the hydrostatic pressures that can occur from the Base Flood. For the structural design, it is recommended that the full hydrostatic pressures be assumed unrelieved by the drainage system. Foundation walls that have not been designed for hydrostatic pressures, such as unreinforced masonry or pressure-treated wood wall systems, should not be used (see Figure 9).

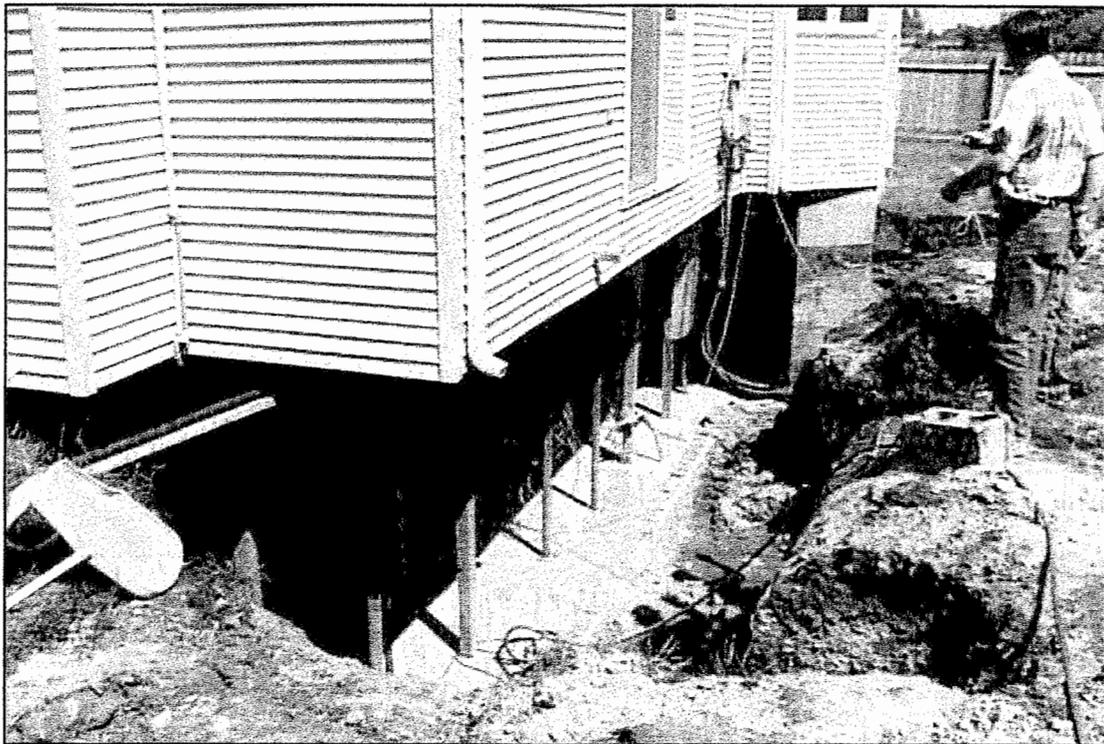


Figure 9 Failure of this unreinforced masonry basement during flooding in East Grand Forks, MN, in 1997 caused approximately \$32,000 in damage.

Simplified Approach

Design Requirements

If, for a building and building site, **all** the requirements listed below are met (see Figure 10), the building is reasonably safe from flooding. If all of these requirements are not met, the more detailed analysis described under Engineered Basement Option, on page 19 of this bulletin, should be performed to determine whether the building is reasonably safe from flooding.

- The ground surface around the building and within a defined setback distance from the edge of the SFHA (see next item) must be at or above the BFE.
- The setback is the distance from the edge of the SFHA to the nearest wall of the basement. The minimum allowable setback distance is 20 feet.
- The ground around the building must be compacted fill; the fill material—or soil of similar classification and degree of permeability—must extend to at least 5 feet below the bottom of the basement floor slab.
- The fill material must be compacted to at least 95 percent of Standard Laboratory Maximum Dry Density (Standard Proctor), according to ASTM Standard D-698. Fill soils must be fine-grained soils of low permeability, such as those classified as CH, CL, SC, or ML according to ASTM Standard D-2487, *Classification of Soils for Engineering Purposes*. See Table 1804.2 in the 2000 *International Building Code* (IBC) for descriptions of these soil types.
- The fill material must be homogeneous and isotropic; that is, the soil must be all of one material, and the engineering properties must be the same in all directions.
- The elevation of the basement floor should be no more than 5 feet below the BFE.
- There must be a granular drainage layer beneath the floor slab, and a ¼-horsepower sump pump with a backup power supply must be provided to remove the seepage flow. The pump must be rated at four times the estimated seepage rate and must discharge above the BFE and away from the building. This arrangement is essential to prevent flooding of the basement or uplift of the floor under the effect of the seepage pressure.
- The drainage system must be equipped with a positive means of preventing backflow.
- Model building codes (such as the 2000 International Residential Code) also address foundation drainage (IRC Section R405) and foundation walls (IRC Section R404). Model building codes generally allow foundation drains to discharge through either mechanical means or gravity drains. In addition, there is often an exception to the requirement for drainage systems in well-drained soils. However, in or near floodplains, well-drained soils can, in fact, help convey groundwater towards the building foundation. Therefore, this exception should not apply in or near floodplains.



In some cases in or near floodplains, even with standard drainage systems, hydrostatic pressures from groundwater against the basement can result. When a standard drainage system is unable to eliminate hydrostatic pressure on the foundation, model building codes, including the 2000 International Residential Code (IRC Section R404.1.3), require that the foundation be designed in accordance with accepted engineering practice. **The simplified approach contained in this Technical Bulletin assumes no hydrostatic pressure on the foundation and should be used only when a standard drainage system, discharged by a sump pump that is equipped with backup power and that discharges above BFE, is employed.** For other drainage systems, the designer should use the engineered basement option presented on page 19 of this bulletin and other appropriate building code requirements.

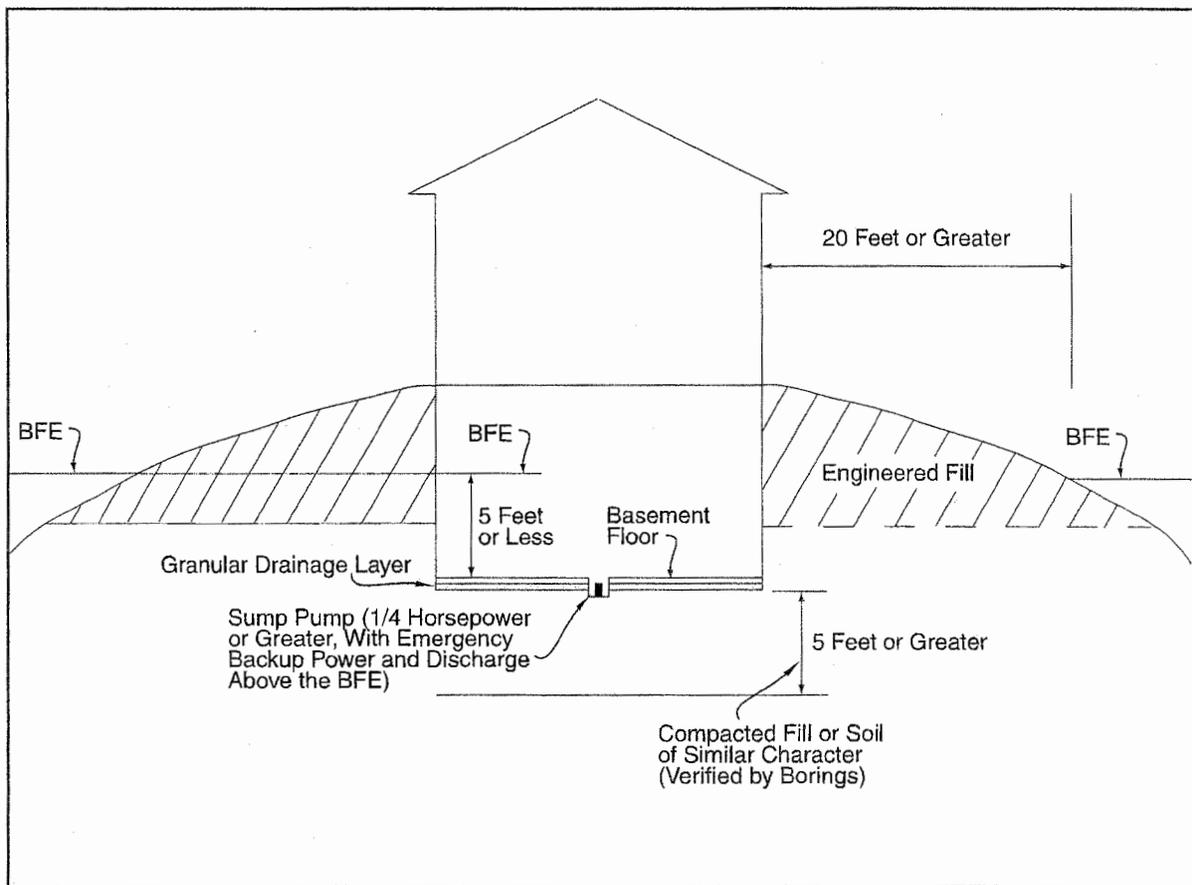


Figure 10 Requirements for use of the simplified approach to basement construction.

Technical Background for the Simplified Approach

The simplified approach is based on the following conditions:

1. The area of the footprint of the basement is less than or equal to 1,200 square feet.
2. The soil is saturated; therefore, there is no time lag in the development of the seepage pattern with a change in flood water level. The groundwater table in floodplains is typically very shallow, and fine-grained soils have a substantial potential for maintaining saturation above the water table by capillary rise.
3. The tailwater level is at the elevation of the BFE. For this bulletin, "tailwater" is defined as the groundwater level beyond the structure, on the side away from the flood water surface. This is a reasonably conservative assumption because the flood would raise the groundwater level in the general area. In some cases, the tailwater level can be higher than the flood level because there is higher ground, as a valley wall, that feeds the groundwater into the floodplain soils.
4. The effective elevation of the base of the seepage flow zone can be defined (see Figure 11). This elevation is needed to permit calculation of the quantity of seepage flow. If the base elevation is not known, its depth below the base of the floor slab can be conservatively approximated as one-half of the building width most nearly perpendicular to the shoreline of the flood water. This would approximate the boundary effects of the three-dimensional seepage flow, in that it would represent the flow coming in from all sides and meeting in the center beneath the floor slab. This approach assumes a constant soil type and density over the flow zone. If the site has stratified soil layers, the engineered basement option should be used (see page 19 of this bulletin).
5. The quantity of seepage flow can be calculated by a simplified method based on Dupuit's assumption that equipotential lines are vertical. (The Dupuit method uses Darcy's law with specific physical characteristics. A more detailed description can be found in the first two references listed under "Further Information," on page 23 of this bulletin.) The elements of the method are presented in Figure 11. The entry surface, with hydraulic head "a," is a vertical line extending downward from the edge of the flood surface. The exit surface, with hydraulic head "b," is a vertical line extending downward from the side of the structure closest to the flood water's edge. The length of the flow path, "L," is the setback distance. Flow is assumed to be horizontal, and the horizontal coefficient of permeability is the effective permeability. For simplicity, the small inclined entry zone at the river bank and the exit zone below the basement floor are ignored. This is a reasonably conservative measure. The phreatic line, or the line below which the seepage flow occurs under positive pressure, extends from the edge of the flood water to the elevation of the bottom of the basement floor slab. If the exit zone below the basement floor were included, the hydraulic head at "b" would be higher. As shown in Figure 11, the phreatic line is not a straight line, but within the limits of the assumed boundary values, it is close to a straight line.

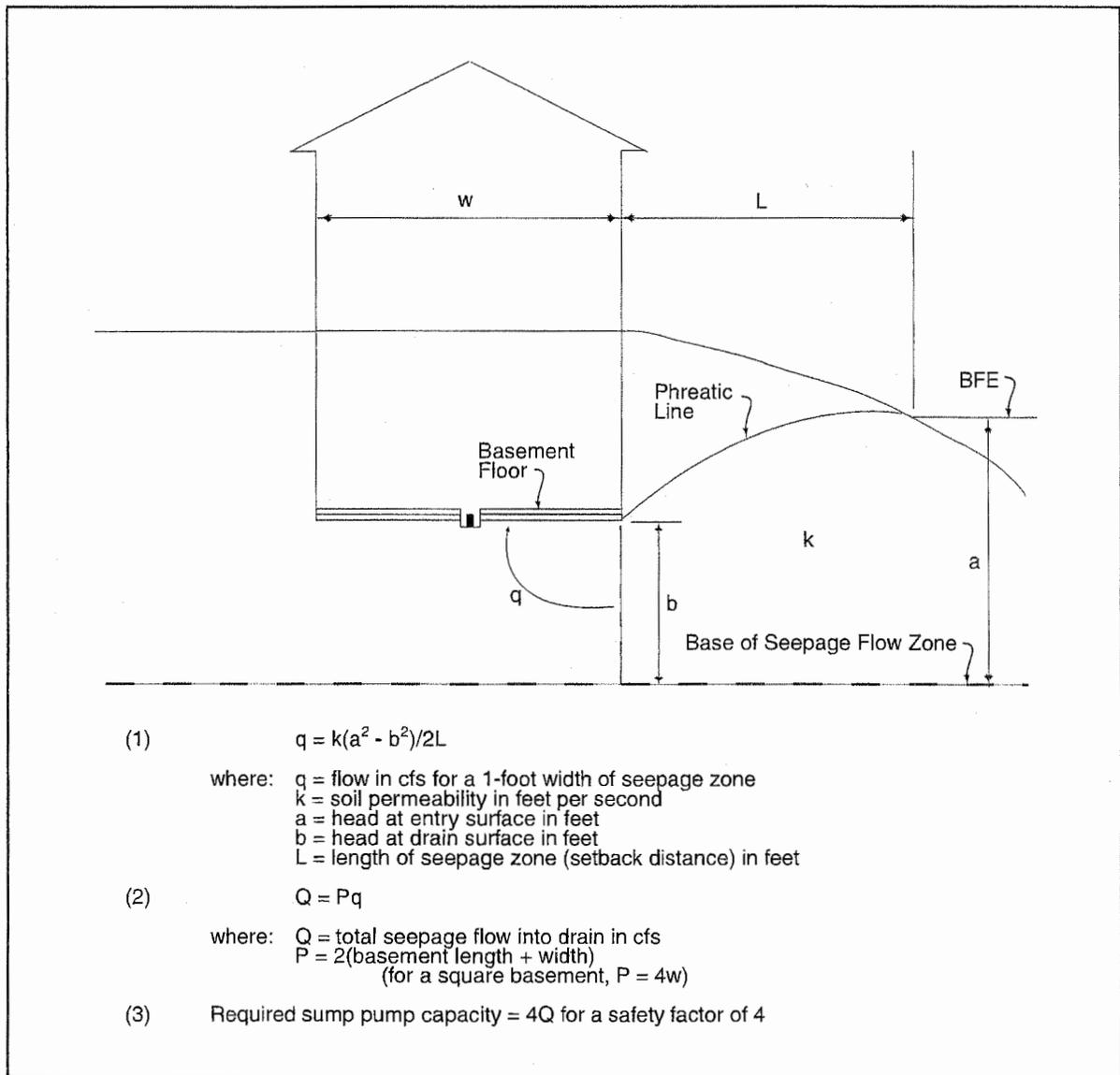


Figure 11 Method for calculation of seepage flow.

The Dupuit equation for the quantity of seepage flow is:

$$q = k(a^2 - b^2)/2L$$

where: q is the flow in cubic feet per second for a 1-foot width of seepage zone

k is the soil permeability in feet per second (fps) (maximum value of k is 1×10^{-3} fps)

a and b are hydraulic heads in feet ($a < b + 5$)

L is the length of the flow zone in feet ($L > 20$ feet)

To obtain Q , the total seepage flow, in cubic feet per second, q must be multiplied by the length around the periphery of the four sides of the structure. This is a simplifying approach that obviates the need for a three-dimensional flow net calculation and is reasonably conservative.

It should be noted that the soil permeability does not affect the geometry of the seepage zone or the geometry of the phreatic line. The permeability does have a significant effect on the quantity of seepage that must be collected and discharged by the drainage layer and the sump pump. The calculation of the quantity Q provides a basis for the selection of a sump pump of adequate capacity. To allow for possible errors in the estimation of the soil permeability, the pump should have a capacity of at least four times the calculated value of Q . As noted in the requirements section, a standard sump pump of $\frac{1}{4}$ horsepower or greater will generally satisfy the requirements of seepage removal for the conditions described above.

Engineered Basement Option

If the requirements specified for the simplified approach are not met, a licensed soils engineer or geologist should perform a detailed engineering analysis to determine whether the structure will be reasonably safe from flooding. The analysis should consider, but is not limited to, the issues described in the following sections.

Depth, Soil Type, and Stratification of Subsurface Soils

The depth, soil type, and stratification of the subsurface soils may be complex. Four potential generalized scenarios are shown in Figures 12 and 13. Figure 12 shows two cases of homogeneous soil. The depth of penetration of the basement and the depth of the flow zone are not limited to the assumptions on which the simplified approach is based. Case I represents a foundation consisting of clayey soils, either fill or natural deposits or a combination, which are more or less homogeneous because they have similar engineering properties. If an adequate setback distance is provided, the seepage quantity would be relatively low, and uplift pressure beneath the slab could be controlled by an appropriately sized sump pump because of low permeability.

Case II represents a foundation consisting of sandy soils, either fill or natural soil deposits or a combination, which are more or less homogeneous because they have similar engineering properties. The seepage quantity would be fairly large, and more attention would have to be given to the setback distance and to the provision of an adequately sized sump pump to prevent excessive uplift pressure beneath the floor slab because of high permeability.

Figure 13 shows two simple cases of stratified soils, with impervious clays overlying pervious sands. This is a common occurrence in natural floodplain deposits. In Case III, the contact between the two soil strata is at some distance **below** the basement floor. This case would involve a moderate quantity of seepage, depending on the thickness, d , of the impervious stratum below the basement floor. There is also a potential for excessive uplift pressure beneath the floor, at the level of the bottom of the clay stratum. If d is equal to h , the net hydraulic head between the flood level and the floor level, the safety factor against uplift would be approximately 1.0. If d is less than h , there would be excessive uplift, with a safety factor equal to less than 1.0.

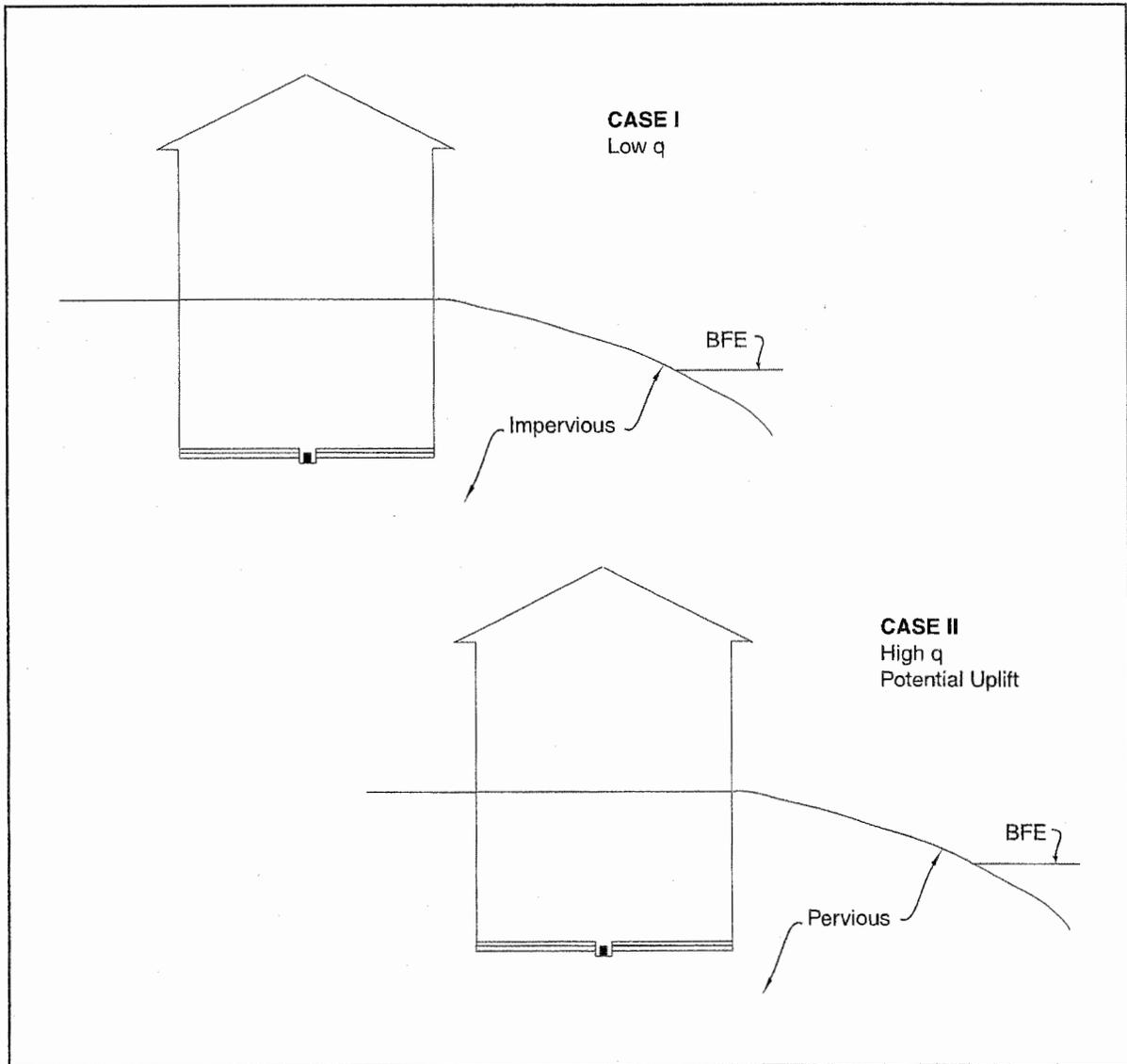


Figure 12 Case I and Case II – homogeneous soil.

Case IV shows impervious soils overlying pervious soils, with the contact between the soil strata at some distance **above** the basement floor. This case would involve a large quantity of seepage and potential for excessive uplift beneath the basement floor.

Geotechnical Investigations

Geotechnical investigations must be made for cases that do not conform with the assumptions on which the simplified approach is based. Information that is needed to permit an adequate engineering analysis includes the following:

- The BFE, which is to be used as the design flood water surface for calculating expected seepage.

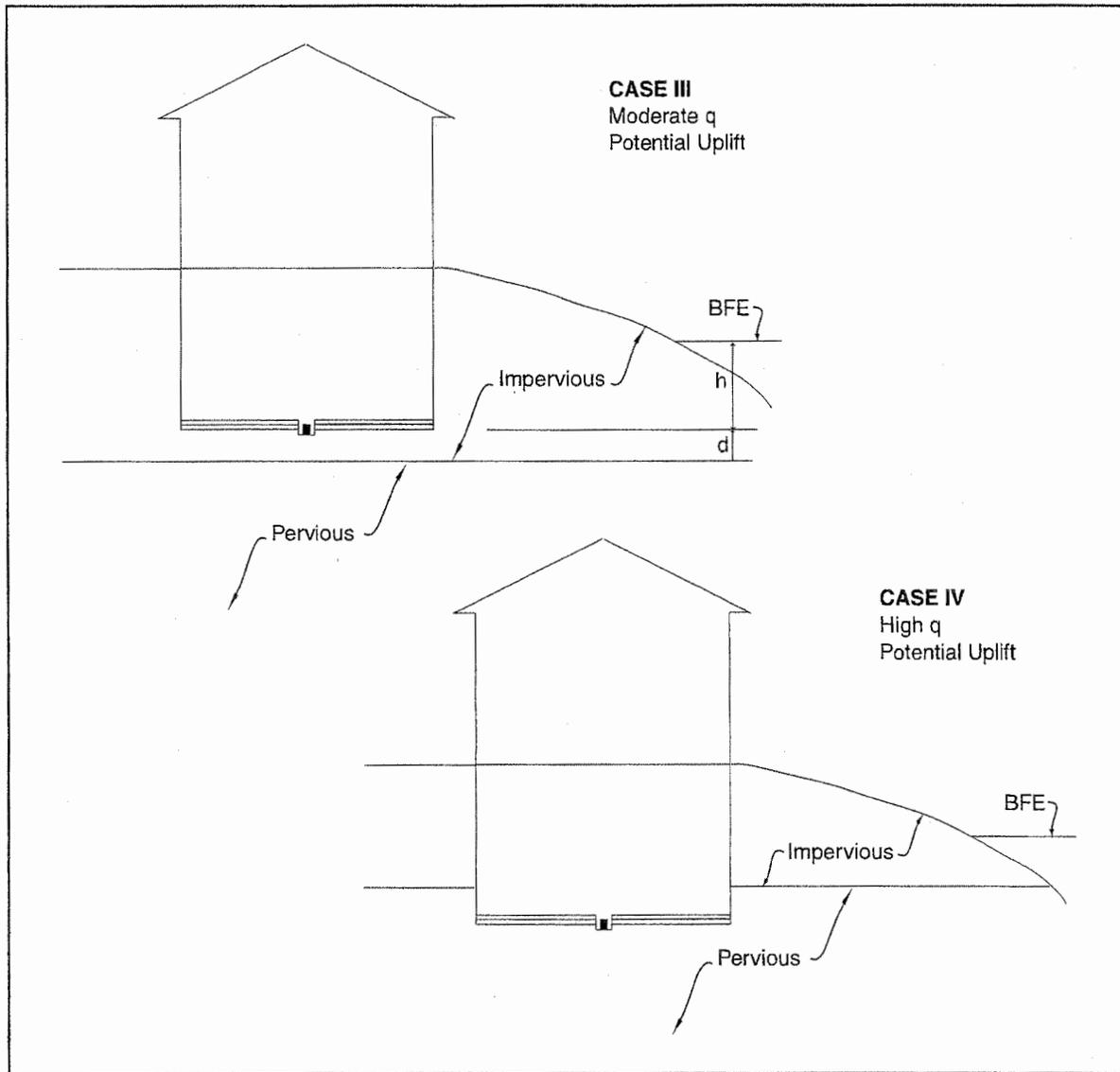


Figure 13 Case III and Case IV – stratified soils.

- The elevation of the **bottom** of the basement floor. This can be adjusted as needed to achieve more suitable conditions.
- The setback distance of the basement wall from the edge of the flood water. This can be adjusted to achieve more suitable seepage control or to accommodate available space restraints.
- The elevation of the groundwater table and its seasonal variations. A high water table would cause problems with groundwater control during construction of a basement, even without a flood event.
- The stratification of the subsurface materials, for both natural and fill soils. In general, borings should be drilled to a depth below the bottom of the floor slab that is at least two times as great as the depth of the bottom of the floor slab below the BFE.

- The engineering classification of the soils, for both natural and fill soils. This must be done in accordance with ASTM D2487, *Classification of Soils for Engineering Purposes*. This is the Unified Soil Classification System that is universally used throughout the United States. Local or county agricultural soil survey maps should not be used, because they do not give specific information about location and depth of soils, and their designations are not pertinent to civil engineering use.
- Subsurface conditions landward from the structure. This includes information about the location of the water table, whether it is higher or lower than the flood level, and information about any penetrations of the soil, such as ponds. Attention should be given to the possibility that higher ground, such as valley walls, could contribute to the groundwater level in the floodplain, either perennially or during periods of heavy rain.
- Information about any penetrations through the basement walls below the BFE, such as utility lines and other openings.
- Analysis of seepage quantity. The analysis can be made by the conservative simplified method described in Item 5 in the section titled Technical Background for the Simplified Approach (illustrated in Figure 11), or by the construction of a flow net that takes into account all of the boundary conditions more rigorously. A flow net may be required to permit analysis of uplift pressures. Uplift pressures may be more significant in laminated or stratified soil deposits.

Buildings in Existing Filled Areas

In evaluating buildings in existing filled areas, the two approaches already described—the simplified approach or the engineered basement option—can be used. If the simplified approach is used, all the requirements for the use of this approach must be met. Some possible means for evaluating whether these requirements are met include soil tests and investigations, including soil borings and hand augers; field records from the time the fill was placed; and soil surveys. If the requirements for the simplified approach are not met, a licensed soils engineer or geologist should perform a more detailed engineering analysis as described under Engineered Basement Option on page 19. More extensive soil investigations and testing may be required to complete the analysis.

The NFIP

The NFIP was created by Congress in 1968 to provide federally backed flood insurance coverage, because flood coverage was generally unavailable from private insurance companies. The NFIP is also intended to reduce future flood losses by identifying floodprone areas and ensuring that new development in these areas is adequately protected from flood damage. The NFIP is based on an agreement between the Federal government and participating communities that have been identified as floodprone. FEMA, through the Federal Insurance Administration (FIA), makes flood insurance available to the residents of a participating community, provided the community adopts and enforces adequate floodplain management regulations that meet the minimum NFIP requirements. The NFIP encourages communities to adopt floodplain management ordinances that exceed the minimum NFIP criteria set forth in Part 60 of the NFIP Floodplain Management Regulations (44 CFR 60). Included in the NFIP requirements, found under Title 44 of the U.S. Code of Federal Regulations, are minimum building design and construction standards for buildings located in SFHAs. Through their floodplain management

ordinances or laws, communities adopt the NFIP performance standards for new, substantially improved, and substantially damaged buildings in floodprone areas identified on FEMA's FIRMs.

Technical Bulletins

This publication is one of a series of Technical Bulletins that FEMA has produced to provide guidance concerning the building performance standards of the NFIP. These standards are contained in 44 CFR 60.3. The bulletins are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically, as necessary. The bulletins do not create regulations; rather they provide specific guidance for conforming with the minimum requirements of existing NFIP regulations. Users of the Technical Bulletins who need additional guidance concerning NFIP regulatory requirements should contact the Mitigation Division of the appropriate FEMA regional office or the local floodplain administrator. NFIP Technical Bulletin 0, the *User's Guide to Technical Bulletins*, lists the bulletins issued to date, provides a key word/subject index for the entire series, and lists addresses and telephone numbers for FEMA's 10 Regional Offices.

Ordering Information

Copies of FEMA Technical Bulletins can be obtained from the FEMA Regional Office that serves your area. In addition, Technical Bulletins and other FEMA publications can be ordered from the FEMA Publications Distribution Facility at 1-800-480-2520. The Technical Bulletins are also available at the FEMA web site at www.fema.gov.

Further Information

The following publications contain information related to the guidance presented in this bulletin:

American Society of Civil Engineers. 1998. SEI/ASCE 24-98, *Flood Resistant Design and Construction*.

Cedergren, H. R. 1977. *Seepage, Drainage and Flow Nets*. Wiley. New York.

Harr, M. E. 1977. *Mechanics of Particulate Media*. McGraw Hill. New York.

International Code Council. 2000. *International Building Code*. Birmingham, AL.

International Code Council. 2000. *International Residential Code*. Birmingham, AL.

U.S. Department of the Army, Corps of Engineers. 1986. EM 1110-2-1901, *Seepage Analysis and Control for Dams*. Washington, DC.

U.S. Department of the Army, Corps of Engineers. 1978. EM 1110-2-1913, *Design and Construction of Levees*. Washington, DC.

Glossary

Base Flood – The flood that has a 1-percent probability of being equaled or exceeded in any given year (also referred to as the 100-year flood).

Basement – Any area of a building having its floor subgrade (below ground level) on all sides.

Community – Any state or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has the authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Federal Emergency Management Agency (FEMA) – The independent Federal agency that, in addition to carrying out other activities, administers the NFIP.

Federal Insurance Administration (FIA) – The component of FEMA directly responsible for administering the flood insurance aspects of the NFIP.

Flood Insurance Rate Map (FIRM) – The insurance and floodplain management map issued by FEMA that identifies, on the basis of detailed or approximate analysis, areas of 100-year flood hazard in a community.

Floodprone area – Any land area susceptible to being inundated by flood water from any source.

Mitigation Directorate – The component of FEMA directly responsible for administering the flood hazard identification and floodplain management aspects of the NFIP.

New construction/structure – For floodplain management purposes, new construction means structures for which the start of construction commences on or after the effective date of a floodplain management regulation adopted by a community and includes subsequent improvements to the structure. For flood insurance purposes, these structures are often referred to as “post-FIRM” structures.

Special Flood Hazard Area (SFHA) – Area subject to inundation by the base flood, designated Zone A, A1-30, AE, AH, AO, V, V1-V30, or VE.

May 22, 2006

To: John M. Lamerato, Acting City Manager

From: Brian Murphy, Assistant City Manager/Services
Carol K. Anderson, Parks and Recreation Director

Subject: Agenda Item: Fee Waiver Policy for Military Personnel on Leave

Recommendation

The Parks and Recreation Advisory Board recommends the City Council adopt the Fee Waiver Policy for Active Military Personnel on Leave as outlined below.

Background

Eligibility: Troy residents who are active members of the U.S. Armed Forces, Reserve, or National Guard. "Active Service" shall mean full-time or part-time status in one of the branches of the U.S. military forces. Inactive status does not qualify.

Active members of the Armed Services, Reserve or National Guard who have returned to Troy for no longer than 30 days for either leave or furlough are eligible for fee waivers of the following:

- Community Center Fitness Areas
- Troy Family Aquatic Center
- Sylvan Glen and Sanctuary Lake Golf Courses (no more than eight free rounds)

Proof required:

- 1) U.S. Armed Forces Identification Card showing active status
AND
- 2) Authorized leave or furlough orders

Resolution # PR-2006-05-010

Moved by Hauff

Seconded by Dixon

Resolved, That in a show of support for active military residents, the Parks and Recreation Advisory Board recommends the waiver of fees for the Community Center, Troy Family Aquatic Center, Sylvan Glen and Sanctuary Lake golf courses.

Yes: All
No: None
MOTION CARRIED

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services

DATE: May 23, 2006

RE: Agenda Item: Request to Enter into Agreement to Place a Cell Tower at Station 6

Attached please find a letter from ETENCER, representing T-Mobile. T-Mobile is interested in placing an 80' to 85' cell tower at Station 6, and entering into a land lease agreement with the City of Troy.

Staff has reviewed the proposed tower to tentatively determine if the request would impede our use of the property, and would meet with the limits of the City ordinance. The suggested location, as presented in the attached documents, does not appear to impede with our current or future use of the property. It also appears that the request could meet the height-setback restrictions as outlined in Chapter 39. Additional information will be required of the requestor to make a final determination.

Absent any concerns from Council, City management will pursue an agreement for the placement of a cell tower at this location, provided that the request meets with the applicable conditions of Chapter 39.

ETENCER, PLLC
3033 Moon Lake Drive
West Bloomfield, MI 48323
248-514-8333
248-865-8829 Facsimile

May 15, 2006

Mr. Brian Murphy
Assistant City Manager
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

RE: Troy Fire Station, T-Mobile Tower Site # 4321

Dear Mr. Murphy:

As we have discussed and the Development Committee has reviewed; T-Mobile would like to lease a small parcel of land, approx. 400 square feet, to place an eighty (80') tower, and radio equipment cabinets at the base, on the Troy Fire Station at Coolidge and I-75. We believe we can meet the City ordinance of five times the height of the tower from residential with an eighty to eighty-five foot tower at this location. Upon surveying we will know the exact height we can make the tower.

If this meets with City Council's approval we can begin negotiating the lease and rent payments. The city can lease additional land to other telecom carriers for collocation on the tower, so that the city can make additional funds.

We will handle all aspects of obtaining approval and construction of the site; soil borings, survey, construction drawings, zoning and building permit. The lease is a long-term lease: an initial five-year term with five, five-year automatic renewals.

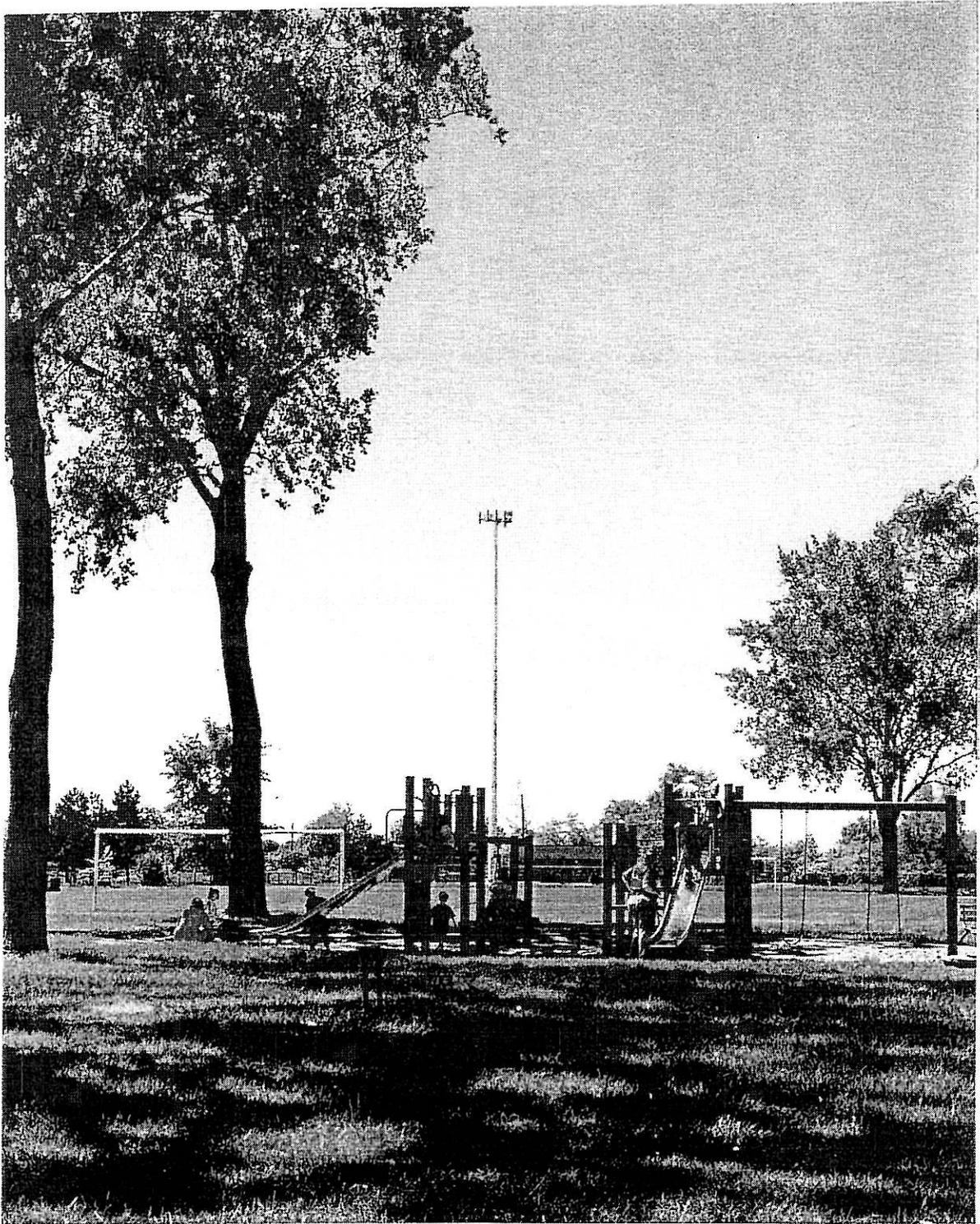
I will be in-touch with you to confirm the agenda this will be considered on, and will attend the meeting to answer any questions the City Council may have. In the meantime if you have any questions, please call me.

Sincerely,

Ellen Tencer
Ellen Tencer

Enclosure





The Tower in this photo is 120',
T-Mobile is proposing an 80' to 85' tower at the Fire Station.

May 22, 2006

To: John M. Lamerato, Acting City Manager 

From: Brian P. Murphy, Assistant City Manager/Services 
Steven Vandette, City Engineer 

Subject: Engineering Department Focus/Sustainable Stormwater Management

Most recently, the City of Troy has partnered with SEMCOG and neighboring communities to promote sustainable stormwater management. Through this effort, emerging technologies are being researched and promoted to regional developers, businesses and homeowners. Regional education efforts further this endeavor by focusing on cost-efficiency and environmentally sound techniques that benefit the entire Southeast Michigan region.

Land development and the handling of increased stormwater runoff can negatively impact our natural environment, but sustainable stormwater management is the conscious recognition of this issue, and a proactive approach to improvements in the quality and quantity of stormwater from new developments.

The Engineering Department is actively promoting Troy as an environmentally sustainable community through innovative stormwater management, ecologically sensitive decision-making, encouraging developers to undertake Low Impact Development (LID) techniques while consistently providing a beneficial service to both the natural and built environments in the City of Troy. It is the department's goal to constantly push the envelope of emerging technologies to ensure that the City of Troy strives to be, and remains, a desirable community in which to live, work, and play.

In the near future, City of Troy administration and the public (residents, developers, businesses) will see publications put out by the Engineering and Planning Departments that will educate on the "Hows and Whys of Sustainable Design Techniques", including the importance of them, installation, cost-savings and maintenance. Methods will include website information, posters, brochures, etc.

May 30, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Doug Smith, Real Estate and Development Director

SUBJECT: AGENDA ITEM – Disposal/Sale of Excess Property

City Council requested a review of our policies and procedures for the disposal or sale of excess property. I will be prepared to make a short presentation at the June 5, 2006 City Council Meeting including the following:

1. A review of the sections of Chapter 12 of the Troy City Charter governing purchases, contracts and leases and the process for selling surplus property.
2. A review of the 1985 City Council Resolution and current policies governing the disposal/sale of excess right-of-way (remnant parcels); and
3. Recommendations for amendments to City Council Resolution #85-254.

This overview is intended to generate a discussion with City Council with any final modifications or amendments to existing policy to be considered at a future meeting.

Attachments:

1. Chapter 12 of City Charter
2. Bid Proposal
3. Background memo on remnant parcel sales from February 1985
4. Redline copy and clean copy of recommended changes

CITY OF TROY CHARTER – CHAPTER 12 – PURCHASES – CONTRACTS - LEASES

CHAPTER 12 - PURCHASES - CONTRACTS – LEASES

Section 12.1 - Purchase and Sale of Property:

The City Manager shall be responsible for the purchase and sale of all City property.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of ten thousand dollars of all materials, supplies and public improvements except (a) in the employment of professional services and (b) when the City Manager shall determine that no advantage to the City would result.

In all sales or purchases in excess of ten thousand dollars, (a) the sales or purchases shall be approved by the Council, (b) competitive bids shall be obtained through a traditional sealed bid procedure or alternative methods, providing the method used preserves the integrity of the competitive process, except where the Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids, and (c) the requirements of Section 12.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications, unless the Council shall determine that the public interest will be better served by accepting a higher bid, sales shall be made to the bidder whose bid is most advantageous to the City.

The City Manager may make necessary purchases without sealed bid, prior council approval, and in excess of the limits provided in this chapter when an emergency, because of a natural disaster, civil disturbance or similar calamity, is officially declared. Any such purchases shall be affirmed at the next regularly scheduled council meeting.

All purchases and sales shall be evidenced by written contract or purchase order.

The City may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The City may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Council.

The purchase and sale of all city property shall be subject to the provisions of Section 6.12.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

Section 12.2 - Contracts

The authority to contract on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of statute and of this Charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.1

Any contract or agreement in an amount of one thousand dollars or more made with form or terms other than the standard city purchase order form shall before execution be submitted to the Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

CITY OF TROY CHARTER – CHAPTER 12 – PURCHASES – CONTRACTS - LEASES

Before any contract, agreement or purchase order obligating the City to pay an amount of one thousand dollars or more is executed the accounting officer of the City shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for purchase or construction being financed by an installment contract under authority of Section 11.2. Certification by the accounting officer of the City shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitation contained in this Section.

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 12.1

No compensation shall be paid to any contractor except in accordance with the terms of the contract. No contract shall be made with any person, firm or corporation in default to the City.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the City.

Section 12.3- Restriction on Powers to Lease Property:

Any agreement or contract for the renting or leasing or long term use of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the Council, but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

The transfer or assignment of any agreement or contract for such renting or leasing or long-term agreements exceeding three years for public property may be made only upon approval of the Council, but approval of such transfer shall not be subject to referendum.

Rentals, leases, long-term use agreements exceeding three years, and renewals thereof shall be for a fair consideration, as determined by the Council.



REAL ESTATE SALE

DRAFT

BID PROPOSAL INSTRUCTIONS, TERMS, AND CONDITIONS OF SALE

DATE: _____, 2005

ITB-COT

Sealed proposals to **FOR THE SALE OF CITY OF TROY OWNED PROPERTY LOCATED AT _____** will be received by the City of Troy at the office of the City Clerk, 500 W. Big Beaver Road, Troy, MI 48084 until _____ day, _____, 2005 at 10:00 AM, after which time they will be publicly opened and read in the Troy City Offices. **The City does NOT accept bid responses via fax transmission.**

MARK ENVELOPES: **ITB-COT** ON THE LOWER LEFT-HAND CORNER.

1. CHANGES OR ALTERATIONS TO BID DOCUMENTS INCLUDING SPECIFICATIONS MAY RESULT IN A BID BEING CONSIDERED NON-RESPONSIVE. The only authorized vendor changes to a bid document will be in the areas provided for a bidder's response, including the "Exceptions" section of the bid proposal. If a change or alteration to the documents is undetected and the bidder is awarded a sale, the original terms, conditions in the Authorized Version of the bid document will be applicable during the term of the contract.

The City of Troy shall accept NO CHANGES to the bid document made by a POTENTIAL BUYER unless those changes are set out in the "Exceptions" provision of the Authorized Version of the bid document. It is the potential buyer's responsibility to acquire knowledge of any changes, modifications or additions to the Authorized Version of the bid document. Any potential buyer who submits a bid and later claims it had no knowledge of any changes, modifications or additions made by the City of Troy to the Authorized Version of the bid document, shall be bound by the bid, including any changes, modifications or additions to the Authorized Version. If a bid is awarded to a buyer who claims that it had no knowledge of any changes, modifications or additions made by the City of Troy to the Authorized Version of the bid, and that buyer fails to accept the bid award, the City of Troy may pursue costs and expenses to re-bid the item from that buyer. The Authorized Version of the bid document shall be that bid document appearing on the MITN System with any amendments and updates.

The City of Troy officially distributes bid documents from the Purchasing Department or through the Michigan Intergovernmental Trade Network (MITN). Copies of bid documents obtained from any other source are not considered official copies. Only those potential buyers who obtain bid documents from either the Purchasing Department or the MITN system are guaranteed access to receive addendum information, if such information is issued. If you obtained this document from a source other than the sources indicated, it is recommended that you register on the MITN site, www.govbids.com, and obtain an official copy.

2. **BID (SALE) SURETY:** A cashier's check, certified check, or money order in the amount of 10% of the sale price must accompany the bid document to insure the sale offer. The check shall be made payable to the City of Troy. If the successful bidder does not consummate the purchase, the sale surety check tendered by the successful bidder will become the property of the City of Troy upon acceptance of the bid (offer) by resolution of the Troy City Council. If the purchase is consummated, the check will be applied to the balance due.

The three (3) highest bidder's bid (sale) surety will be held until sale award by the Troy City Council. All other bidders will have their bid deposits returned within 72 hours after the bid has been opened.

3. The City reserves the right to reject any or all bids, to waive any informality in the proposal received, and to accept any proposal or part thereof, which it shall deem to be most favorable to the interests of the City.
4. The successful bidder will be expected to close within 60 days of the sale. Terms: cashier's check, certified check, or money order made payable to the City of Troy.
5. All improvements on any of property sold by the City of Troy become the responsibility of the purchaser.
6. Bids (offers) less than the minimum indicated or offers with terms other than those stated will not be accepted.
7. The City of Troy will retain existing platted and recorded easement rights.
8. Property and structures will be purchased in an "as is" condition.
9. The Troy City Council retains final authority to approve or disapprove the sale of the parcel.
10. **VALUE:** The value of the property is to be established by an appraisal at the direction of the officials of the City of Troy.
11. **BROKERAGE FEE:** Proposals received for the sale of the property described above must state the total sale price to be paid to the City. The buyer shall pay any brokerage fee.
12. **TITLE INSURANCE:** Title insurance will be provided by the City of Troy in the amount of the selling price together with a warranty deed to the property at closing.

13. DESIGNATED CITY REPRESENTATIVE: _____, of the City of Troy Real Estate and Development Department, is the designated City representative for this sale.
14. ADDITIONAL INFORMATION: For additional information, information concerning a site visit, or questions concerning this sale contact: _____, at (248) 524-3498
15. The City of Troy will disclose all known information that is available concerning the property, and is not responsible for any information not disclosed that is unknown at the time of sale and later becomes an issue.
16. DISCLOSURE STATEMENT: Interested parties may review a disclosure statement regarding this property in the City of Troy Real Estate and Development Department, 500 W. Big Beaver Rd., Troy, MI 48084 (Upper Level) Monday through Friday, 8:30 a.m. to 4:00 p.m.
17. AWARD: The City of Troy reserves the right to award this bid to the highest responsible bidder meeting specifications, or in whatever manner is deemed to be in the City's best interest; to reject low bids that have major deviations from specifications; to accept a higher bid that has only minor deviations.
18. BID DEPOSIT AND FORFEITURE: The bid deposit of the highest bidder shall be forfeit if, after bid opening, a change in bid price or other provision of the bid is required by the bidder that is prejudicial to the interests of the City of Troy or fair competition.

SPECIAL INSTRUCTIONS

- All potential buyers are held to offer prices for 60 days or sale award, whichever comes first.
- Final sale results will be posted on the MITN website after award. Please register to see results - www.govbids.com.



**CITY OF TROY
REAL ESTATE SALE**

ITB-COT
Page 4 of 5

The undersigned proposes to buy the property describe below in accordance with the Terms and Conditions of the Sale that are to be considered an integral part of this proposal at the following price:

BIDDER'S NAME: _____



LEGAL DESCRIPTION OF PROPERTY TO BE SOLD:

ZONING INCLUDING BUILDING AND USE RESTRICTIONS:

FRONTAGE & ACCESS:

TOPOGRAPHY & DRAINAGE:

SIZE:

UTILITIES:

ENVIRONMENTAL CONCERNS:

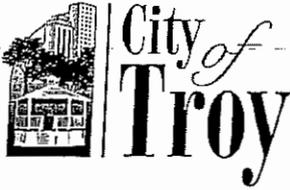
IMPROVEMENTS:

COVER:

MINIMUM BID: \$ _____

I hereby offer \$ _____ for the land described above, subject to the terms and conditions set forth in this bid proposal including all provisions of the section entitled *Instructions, Terms, and Conditions*. Enclosed with the bid proposal document is a bid surety in the form of a cashiers check, certified check, or money order, payable to the City of Troy in the amount of \$ _____, which represents ten percent (10%) of my offer. The balance of the bid will be made available within sixty (60) days of receiving written acceptance notice. I understand that if I am not the successful bidder my bid deposit will be returned to me within the timeframes indicated on page 2 of 5.





SIGNATURE PAGE

PRICES:

Prices shall remain firm for 60 days or bid award; whichever comes first.

AUTHORIZED SIGNATURE: _____

NOTE:

The undersigned has checked carefully the bid figures and understands that he/she shall be responsible for any error or omission in this bid offer and is in receipt of all addendum as issued.

BIDDER'S NAME: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
PHONE: (____) _____ FAX NUMBER: (____) _____
AUTHORIZED SIGNATURE: _____
TERMS: **As Stated** CHECK INCLUDED: _____
Email: _____

EXCEPTIONS:

Any exceptions, substitutions, deviations, etc. from the City specifications and this proposal must be stated below. The reason(s) for the exception, substitution, deviation, etc., are an integral part of this bid proposal.

ACKNOWLEDGEMENT:

I, _____, certify that I have read the *Instructions, Terms, and Conditions* (Pages 1, 2, and 3 of 5) and that the sale documents contained herein were obtained directly from the City's Purchasing Department or MITN website, www.govbids.com and is an official copy of the Authorized Version.

AUTHORIZED SIGNATURE: _____

U.S. FUNDS:

All prices quoted are to be in U. S. Currency.

February 20, 1985

TO: The Honorable Mayor and City Council

FROM: Frank Gerstenecker, City Manager

SUBJECT: Disposal of Remnant Parcels of Property Remaining After Right-of-Taking

Inquiry has been made to this office regarding the policy of the City of Troy in disposing of remnant parcels of land which remain in City ownership as excess right-of-way or remnant parcels remaining after required right-of-way is retained in City ownership. These situations occur with properties having depths which are too shallow to permit a buildable parcel given setback requirements, etc., after the right-of-way is removed from the parcel.

The disposal or sale of these remnant parcels may provide opportunity for the City Council to encourage better land use planning and development along street frontages where remnants are available for disposal. While it may appear to be in the best interest of the City to recover the highest possible payment for the remnant parcel, it also appears to be in the best interest of the community to dispose of the parcel in a manner which will augment good land use planning, zoning and controlled growth.

At locations where we find small, shallow lots, it can also be expected that if those properties are developed singly for non-residential purposes, then one may expect frequent curb cuts and associated driveways each generating traffic turning movement demands and the associated traffic hazards. In addition, one may expect to find compromised quality of construction in smaller non-residential buildings with the attendant premature obsolescence and deterioration.

With the foregoing considerations, the following resolution of policy is submitted for your review, questions, comments and suggestions.

Resolution to Establish Policy Governing
Disposal of Excess Right-of-Way, City of Troy, Michigan

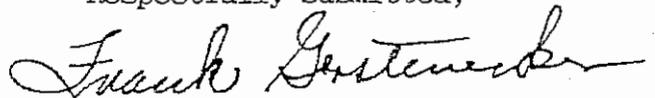
WHEREAS, the City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that . . . "in all sales or purchases in excess of \$3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids . . .";

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Troy that it is hereby declared that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager,
- (2) Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan to be without need for variances from any code of the City of Troy.
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use, and
- (4) Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy, and
- (5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy, and
- (6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality,
- (7) Is accompanied by a draft of proposed deed restrictions which will be imposed upon the owner of the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions.

Respectfully submitted,



Frank Gerstenecker
City Manager

RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

Resolution #85-254
Moved by Liebrecht
Supported by Stine

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that... "in all sales or purchases in excess of \$3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.
- (2) Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan shall not include variances from any code of the City of Troy.
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
- (4) Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy; and
- (5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and
- (6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;
- (7) Is accompanied by a draft of proposed deed restrictions which will be imposed upon the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

Yeas: All - 7

PROPOSED RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

Resolution #85-254
 Moved by Liebrecht
 Supported by Stine

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that... "in all sales or purchases in excess of \$3,000 \$10,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way or excess property is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.
- (2) Has submitted a conceptual site plan which has been drawn to sufficient detail to indicate any and all features such as setbacks, parking and access, storm water detention and building height, which are governed by codes of the City of Troy, ~~said site plan shall not include variances from any code of the City of Troy.~~
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
- (4) Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the Right of Way Division Real Estate & Development Department of the City of Troy; and
- ~~(5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and~~
- ~~(6)~~(5) During the site plan review, site plan is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;
- ~~(7)~~(6) Is accompanied by a draft of proposed deed restrictions prepared by the City of Troy which will be imposed upon the purchaser of the City-owned property, ~~the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions;~~ and
- (7) Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

Yeas: ~~All~~ 7

PROPOSED RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that..."in all sales or purchases in excess of \$10,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way or excess property is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.
- (2) Has submitted a conceptual site plan which has been drawn to sufficient detail to indicate any and all features such as setbacks, parking and access, storm water detention and building height, which are governed by codes of the City of Troy.
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
- (4) Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the Real Estate & Development Department of the City of Troy; and
- (5) During the site plan review, site plan is accompanied by architectural renderings of all buildings along with a description of building materials to permit evaluation of building quality;
- (6) Is accompanied by a draft of proposed deed restrictions prepared by the City of Troy which will be imposed upon the purchaser of the City-owned property; and
- (7) Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

STANDARD RESOLUTION

AGENDA ITEM – RESOLUTION TO APPROVE THE SALE OF CITY OWNED REMNANT PARCEL HAVING SIDWELL # _____ LOCATED IN SECTION ___, AT THE (LOCATION) - LOT ___, SUPERVISORS PLAT #__

Resolution #2006-06-

WHEREAS, The City Council may from time to time determine that the sale of certain parcels will best serve the public interest;

WHEREAS, The City Council may determine the public interest will best be served without obtaining sealed bids for the sale of a remnant parcel.

NOW THEREFORE BE IT RESOLVED, That the Troy City Council finds that the public interest will best be served without obtaining a sealed bid in accordance with Resolution 85-254 Policy Governing Disposal (Sales) of Excess City owned property and approve the sale of the remnant parcel having Sidwell #_____, described in Attachment “A” attached hereto, to_____, the appraised value as outlined in the Offer to Purchase, with conditions, plus closing costs;

BE IT FURTHER RESOLVED, That closing will take place when all conditions have been met; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the Agreement to Purchase and the Warranty Deed, on behalf of the City; and

BE IT FINALLY RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said documents, including all attachments, at the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to and made a part of the original Minutes of this meeting.

Yes:

No: